
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 196

The Tobermory Harbour Empowerment Order 2017

PART 4

MISCELLANEOUS AND GENERAL

Saving for Commissioners of Northern Lighthouses

36. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Commissioners of Northern Lighthouses.

Saving for other consents etc.

37. The carrying out of any works or operations pursuant to this Order is subject to the Company obtaining any consent, permission or licence required under any other enactment.

Crown rights

38.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to that generality, nothing in this Order authorises the Company or any licensee to take, use, enter upon or in any manner interfere with any land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

Saving for CMAL and the ferry operator

39.—(1) Where any exercise by the Company of its powers under article 4 (*power to maintain etc. the existing works*), article 5 (*power to dredge*), article 14 (*general byelaws*) or article 16 (*general directions to vessels*) is likely to impact materially on the regular operations of CMAL or the ferry operator within the harbour limits in connection with the operation of the relevant ferry services, the Company shall, prior to exercising such powers, consult with CMAL and the ferry operator and shall have due regard to any representations made by CMAL and/or the ferry operator.

(2) Except in the case of an emergency, special directions issued under article 18 (*special directions to vessels*) shall not apply to any ferry operated by the ferry operator in connection with the relevant ferry services.

(3) No ship, passenger or goods dues shall be levied by the Company in respect of any vessel, or any passengers or goods, on any vessel, which enters the harbour to take access to, and egress from, the ferry pier and slipway but the Company shall be entitled to levy ships, passengers and goods dues in respect of any vessel that (except in the case of emergency)—

- (a) anchors or moors in the harbour (other than at the ferry pier and slipway); or
- (b) otherwise uses any of the harbour premises,

prior to, or after, any use of the ferry pier and slipway.

(4) This article shall have no effect—

- (a) during any period in which the Company is the leaseholder of the ferry pier and slipway; and, otherwise,
- (b) following the date upon which the Company becomes the heritable proprietor of the ferry pier and slipway.

Saving for Calve Island

40.—(1) Nothing in this Order shall prejudice or derogate from—

- (a) the existing servitude right of way of the heritable proprietor of Calve Island for driving stock and for vehicular traffic to and from Calve Island over the ford (indicated with a red perch and a green perch shown north west of point 7 on the harbour map); or
- (b) any existing right of the heritable proprietor of Calve Island to maintain, free of any charge from the Company, the existing running line and buoy to the shoreline (shown marked as “Running Mooring” on the harbour map for identification);

(2) No ship, passenger or goods dues shall be levied by the Company in respect of—

- (a) the loading or unloading of domestic goods or livestock; or
- (b) the embarking or disembarking of non commercial passengers,

at the Aros Pier or the Calve Island Pier (both shown on the harbour map) by the heritable proprietor of Calve Island.