
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 202

**Scottish Natural Heritage (Rum)
Harbour Empowerment Order 1999**

PART III

HARBOUR REGULATION

Protection of Crown interest in wrecks

25.—(1) Without prejudice to sections 308 and 309 of the Act of 1995, the powers conferred on Scottish Natural Heritage by section 252 of that Act shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (2)(b) below, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel to which section 308 or section 309 of the Act of 1995 applies but which, at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
 - (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) Scottish Natural Heritage shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for the Environment, Transport and the Regions of any decision of Scottish Natural Heritage to exercise in relation to any vessel referred to in paragraph (1)(b) above any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of Scottish Natural Heritage a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for the Environment, Transport and the Regions, before the expiration of a period of 14 days from the giving of the notice; or
- (b) if, before the expiration of the said period there is served on Scottish Natural Heritage a direction by the Secretary of State for Defence or the Secretary of State for the Environment, Transport and the Regions that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case Scottish Natural Heritage proceeds to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) above or after a direction has been served on it as aforesaid, it shall not in the exercise of those powers use any explosives and if, before the expiration of that period such a direction is served on them, shall not be entitled

to exercise the power of sale conferred by section 252 of the Act of 1995 or the power conferred by paragraph (2) of article 24 (powers with respect to disposal of wrecks) above:

Provided that—

- (i) Scottish Natural Heritage shall not be required to give notice under this paragraph in respect of any vessel in respect of which it has received a consent under paragraph (1) (b) above, but any direction such as is referred to in sub paragraph (b) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of paragraph (3) of article 24 (powers with respect to disposal of wrecks) to have been duly served under sub paragraph (b) of this paragraph;
- (ii) the prohibition on the use of explosives imposed by this paragraph shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may from time to time be approved by the Secretary of State for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on Scottish Natural Heritage by section 252 of the Act of 1995, Scottish Natural Heritage shall hold and dispose of any wreck within the meaning of Part IX of that Act, raised, removed or recovered under section 252, and any surplus proceeds of sale within the meaning of that section in accordance with such directions (if any) as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property Scottish Natural Heritage shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by Scottish Natural Heritage under that section.

(4) Any limitation on the powers of Scottish Natural Heritage in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) above shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Commissioners of Northern Lighthouses by section 253 of the Act of 1995.