
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 233

**The Comhairle nan Eilean Siar
(Ardveinish) Harbour Revision Order 2000**

PART III

HARBOUR REGULATION

Wrecks and obstructions

Removal of obstructions other than vessels, vehicles or wrecks

36.—(1) Without prejudice to their powers under any other enactment (including one contained in this Order) the Comhairle may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of the harbour other than—

- (a) a vessel or vehicle; or
- (b) wreck within the meaning of Part IX of the Merchant Shipping Act 1995.

(2) If anything removed by the Comhairle under paragraph (1) is known to the Comhairle to be, or is so marked as to be readily identifiable as, the property of any person, the Comhairle shall within one month of its coming into their custody give notice, in accordance with paragraph (6), to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period vest in the Comhairle.

(3) If the ownership of anything removed by the Comhairle under paragraph (1), which is not so known or marked as referred to in paragraph (2) is not within 3 months of its coming into the custody of the Comhairle proved to their reasonable satisfaction, it shall vest in the Comhairle.

(4) The Comhairle may at such time and in such manner as they think fit dispose of anything which is of a perishable or obnoxious nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Comhairle under this article, and if it is sold the proceeds of sale shall be applied by the Comhairle in payment of the expenses incurred by them under this article in relation to the thing, and any balance—

- (a) shall be paid to any person who within 3 months from the time when the thing came into custody of the Comhairle proves to their reasonable satisfaction that he was the owner thereof at that time; or
 - (b) if within the said period no person proves ownership at the said time, shall vest in the Comhairle.
- (5) If anything removed under this article—
- (a) is sold by the Comhairle and the proceeds of sale are insufficient to reimburse them for the amount of the expenses incurred in the exercise of their powers of removal; or
 - (b) is unsaleable;

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the Comhairle may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Comhairle or who was the owner at the time of its abandonment or loss.

(6) A notice given under paragraph (2) shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Comhairle possession may be retaken at a place specified in the notice within the time specified therein, being not less than 14 days after the date when the notice is served.

(7) The Comhairle shall not under the powers of this article move anything placed or constructed by any person under the provisions of any enactment or of a consent or licence given or issued by the Comhairle thereunder.