
STATUTORY INSTRUMENTS

2007 No. 3463

The Maryport Harbour Revision Order 2007

PART 4

Further Powers as to Management and Regulation of Harbour

Protection of Crown interests in wrecks

26.—(1) Without prejudice to section 308 of the Merchant Shipping Act 1995 (which relates to the exemption from that Act to vessels belonging to Her Majesty) as modified by any Order in Council made under section 308 of that Act, the powers conferred on the Authority 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) in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty 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 of Her Majesty's ships of war under the direction and control of the Secretary of State for Defence.

(2) Paragraph (1)(b) shall not apply if the powers in question are exercised 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 (3)(b).

(3) Subject to paragraphs (4) and (5), the Authority shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Transport of any decision of the Authority to exercise in relation to any vessel any of the powers conferred by the said section 252 other than the power of lighting and buoying and, except in a case which is in the opinion of the Authority a case of emergency, shall not proceed with the exercise of those powers—

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for Transport before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Authority a direction by the Secretary of State for Defence or the Secretary of State for Transport that those powers shall not be exercised in relation to that vessel.

(4) Where the Authority exercise their powers under section 252 in relation to any vessel referred to in paragraph (1) without the consent and before the expiry of the period mentioned in paragraph (3) (a), they shall not in the exercise of those powers use any explosives.

(5) If, before the expiry of the period referred to in paragraph (3), a direction is served on the Authority, they shall comply with that direction, and they shall not exercise the power of sale conferred by section 252 or the power conferred by paragraph (2) of article 25.

(6) The Authority shall not be required to give notice under paragraph (3) in respect of any vessel in respect of which they have received a consent under paragraph (2), but any direction such as is referred to in paragraph (3)(b) accompanying that consent shall be deemed for the purposes of paragraph (3) and of paragraph (3) of article 25 to have been duly served under paragraph (3)(b).

(7) The prohibition on the use of explosives imposed by paragraph (3) shall not apply to the use for cutting away the superstructure of a vessel or the use of such small explosive charges as may for the time being be approved by the Secretary of State for Transport for the purposes of this paragraph.

(8) Without prejudice to the powers of sale conferred on the Authority by the said section 252, the Authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1995 raised, removed or recovered under that section, 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 the Authority 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 the Authority under that section.

(9) Any limitation on the powers of the Authority in relation to any vessel arising by virtue of paragraph (1) or paragraph (3) shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Trinity House by section 253 of the said Act of 1995.