
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 296

**The Caledonian Maritime Assets (East
Loch Tarbert) Harbour Revision Order 2019**

PART 4

HARBOUR REGULATION

Removal of obstructions other than vessels, vehicles or wreck

37.—(1) Without affecting its powers under this Order or any other enactment CMAL may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of a harbour area other than—

- (a) a vehicle,
 - (b) a vessel (within the meaning of section 255 of the 1995 Act) which is sunk, stranded or abandoned or any article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of such a vessel, or
 - (c) wreck within the meaning of section 255 of the 1995 Act.
- (2) If anything removed by CMAL under paragraph (1)—
- (a) at the relevant time is known to CMAL as the property of any person,
 - (b) becomes known to CMAL as the property of any person within the period of 3 months from the relevant time, or
 - (c) is marked as to be readily identifiable as the property of any person,

CMAL shall within one month of the relevant time or, in a case falling within paragraph (b), of the time that the property becomes known to CMAL as the property of any person give notice, in accordance with paragraph (7), to that person.

(3) 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 CMAL.

- (4) If anything is removed by CMAL under paragraph (1) and —
- (a) its ownership is not known or does not become known or it is not marked as mentioned in paragraph (2)(a), (b) or (c), and
 - (b) its ownership is not proved to the reasonable satisfaction of CMAL within the period of 3 months from the relevant time,

it shall vest in CMAL at the end of that period.

(5) CMAL may at such time and in such manner as it thinks 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 CMAL under this article, and if it is sold the proceeds of sale shall be applied by CMAL in payment of the expenses incurred by it under this article in relation to the thing, and any balance—

- (a) shall be paid to any person who within the period of 3 months from the relevant time proves to the reasonable satisfaction of CMAL that that person was the owner of the thing at that time, or
 - (b) if within the said period no person proves ownership at the said time, shall vest in CMAL.
- (6) If anything removed under this article—
- (a) is sold by CMAL and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred in the exercise of its powers of removal, or
 - (b) is unsaleable,

CMAL 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 CMAL or who was the owner at the time of its abandonment or loss.

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

(8) CMAL 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 CMAL.

(9) In this article “the relevant time” is the time at which any thing comes into the custody of CMAL under this article.