
STATUTORY INSTRUMENTS

1988 No. 2304

The Newport (Isle of Wight) Harbour Revision Order 1988

Protection of Crown interests in wrecks

12. Without prejudice to section 741 of the Act of 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty, as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906(1)) the powers conferred on the Council by sections 530 and 532 of the Act of 1894 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 sub-paragraph (b) of paragraph (2) of this article 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, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Council 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 Council to exercise in relation to any vessel referred to in sub-paragraph (b) of paragraph (1) of this article any of the powers under sections 530 and 532 of the Act of 1894 other than the power of lighting and buoying and, except in a case which is in the opinion of the Council 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 Transport 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 the Council 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 except in such a case as aforesaid;

and where, in any such case as aforesaid, the Council proceed to exercise those powers without the consent and before the expiration of the period mentioned in sub-paragraph (a) of this paragraph or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by sub-paragraph (a) of paragraph (1) of article 11 (Powers with respect to disposal of wrecks) of this Order:

Provided that—i

- (i) the Council shall not be required to give notice under this paragraph in respect of any vessel in respect of which they have received a consent under sub-paragraph (b) of paragraph (1)

of this article, 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 sub-paragraph (b) of paragraph (1) of the said article 11 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 for the time being be approved by the Secretary of State for Transport for the purposes of this proviso.

(3) Without prejudice to the powers of sale conferred on the Council by the said section 530, the Council shall hold and dispose of any wreck within the meaning of Part IX of the Act of 1894 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 Council 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 Council under that section.

(4) Any limitation on the powers of the Council in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) of this article shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the Act of 1894.