EXPLANATORY MEMORANDUM TO

THE PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) (No.2) ORDER 2012

2012 No. 1807

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order designates an area around the wreck site of the vessel identified as *GAD8* (or *Goodwin and Sands 8*) as a restricted area under the Protection of Wrecks Act 1973 ("the 1973 Act").

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 1(1) of the 1973 Act provides that where the Secretary of State is satisfied that there is, or may prove to be, a vessel wrecked on or in the sea bed and that the site ought to be protected from unauthorised interference on account of the archaeological, historical or artistic importance of the vessel, or any objects contained or formerly contained in it which may be lying on the seabed in or near the wreck, he may by Order designate an area around the site as a restricted area. Under section 1(3) it is a criminal offence for a person to engage in certain activities in a restricted area, except under the authority of a licence issued by the Secretary of State.

4.2 Section 1(4) of the 1973 Act requires the Secretary of State to consult with such persons as he considers appropriate before making a designation order. English Heritage on behalf of the Secretary of State has carried out the necessary consultation.

4.3 The Committee should also be aware that the Secretary of State has exercised his powers under section 3 of the National Heritage Act 2002, to direct English Heritage to exercise certain of his administrative functions under the 1973 Act on his behalf, in relation to wrecks situated within UK territorial waters adjacent to England. The Secretary of State is advised by English Heritage on whether wreck sites should be designated.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Underwater cultural heritage is a devolved subject area, for which DCMS has responsibility in England. Currently 61 wreck sites around the UK coastline are designated under the Protection of Wrecks Act 1973**.**

7.2 The Order to which this Memorandum relates designates an area within a distance of 50 metres from a wreck site located in The Downs, 2.04km east of Deal, Kent, which is believed to contain the remains of a wreck identified as *GAD8*, as a restricted area.

7.3 The *GAD8* site appears to be the remains of an armed wooden sailing vessel dated to between 1650 and 1750. The remains of boats and ships of this date are rare and therefore expected to be of special interest.

- ***Consolidation***

7.4 The Instrument does not amend another instrument.

8. Consultation outcome

8.1 Views have been invited from all such persons and bodies as are considered appropriate, none of whom expressed any objection to the proposals to designate. These included MoD, Crown Estate and Receiver of Wreck.

9. Guidance

9.1 Details of all designated wreck sites are listed in Mariner Notices and Admiralty Charts issued by the UK Hydrographic Office as well as being published on the Receiver of Wreck website. Guidance on applying for licences to such sites may be found on the English Heritage website at http://www.english-heritage.org.uk/server/show/nav.1278.

10. Impact

10.1 The impact on business, charities or voluntary bodies is not significant.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument as no significant impact is foreseen on the private or voluntary sectors, or on the public sector.

11. Regulating small business

11.1 The legislation applies to small business because it applies to all sea users equally. It is not appropriate for the restrictions which apply within a restricted area to apply differently to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken, as with all applications for licences to undertake licensable activities in a restricted area is for the Secretary of State to consider each application on its merits, having taken into account all material considerations. No specific measures are taken to minimise the impact of the designation order on small business.

12. Monitoring & review

12.1 The condition of protected wreck sites in English waters is monitored as part of English Heritage's Heritage at Risk initiative. English Heritage receives reports from licensees and from inspections undertaken by the Government's contractor for archaeological services in support of the 1973 Act.

12.2 English Heritage is progressively implementing conservation statements and management plans for each of these sites.

13. Contact

13.1 Andrew Doidge at the Department for Culture, Media and Sport Tel: 0207 211 2364 or email andrew.doidge@culture.gsi.gov.uk can answer any queries regarding the instrument.