EXPLANATORY MEMORANDUM TO THE

PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) ORDER 2005

2005 No. 1974

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. Description

This Order designates the wreck site of the West Bay wreck as a restricted area under the Protection of Wrecks Act 1973.

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

The Order breaches the rule that statutory instruments subject to the negative procedure should normally be laid, and copies provided to the Committee, 21 days before the instrument comes into force. The reason for this is, as the preamble to the Order makes clear, is that the case is one in which the Order needs to be made a matter of immediate urgency (see policy background below). If the Department were to observe the 21 day rule, there is a danger that the site may be damaged and that artefacts from the wreck site will be removed and irretrievably lost before the Order comes into force.

4. Legislative Background

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

4.2 The Secretary of State is satisfied that site in the West Bay area meets this criteria and that the site should be protected from unauthorised interference.

4.3 Section 1(4) requires the Secretary of State to consult with such persons as she considers appropriate before making a designation order unless she is satisfied that the order should be made as a matter of immediate urgency. The Secretary of State has made this Order as a matter of immediate urgency, and therefore has only carried out a partial consultation at this time.

4.4 The Committee should also be aware that the Secretary of State has exercised her powers under section 3 of the National Heritage Act 2002, to direct English Heritage to exercise administrative functions under the 1973 Act on her behalf, in relation to wrecks situated within UK territorial waters adjacent to England. The

Secretary of State is advised by a non-statutory advisory committee, the Advisory Committee on Historic Wreck Sites (ACHWS), on whether wreck sites should be designated.

5. Extent

This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 Underwater cultural heritage is a devolved subject area, for which DCMS has responsibility in England. There are over 50 designated wreck sites around the UK coastline. Wreck sites are normally designated by order on a individual basis, but details of all the designated 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. English Heritage and DCMS will be updating their own websites in due course to provide full details of all these sites so that divers and other sea users are fully aware of the whereabouts of protected sites.

7.2 The Order to which this Memorandum relates designates the site of the West Bay wreck as a restricted area. The site appears to have been found in 2004. The presence of a bronze gun on the site suggests that the site may not have previously been known to divers local to Bridport and West Bay, Dorset. However now knowledge of this site is in the public domain, it is understood that a number of local divers wish to salvage material from the site principally the bronze gun. There has been an expression of interest from several individuals regarding this item.

7.3 The site is understood to be one of archaeological and historical importance. Preliminary conclusions as to the archaeological character of the site are that it represents the remains of a small merchant sailing vessel, possibly of pre-1750 origin, perhaps even dating to the Seventeenth century. The survival of pre-1750 century shipwreck material *in situ* is unusual. A bronze gun surviving *in situ* on a wreck site is extremely unusual because of the prevailing salvage ethos of significant elements of the recreational and commercial diving communities. A large quantity of iron bars (probably carried as cargo), a small iron gun and a small anchor which would provide us with important information regarding the maritime history of this era have also been found at the site.

7.4 The Order has been made on an emergency basis, without a full consultation having taken place. This is because of the threat of damage to the site or of artefacts being removed from the site by divers now that the site is becoming increasingly exposed and its location has been made public. A full consultation will take place after the site has been designated and the designation may be reviewed if necessary.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument, as it has no significant impact on business, charities or voluntary bodies.

9. Contact

Leila Al Kazwini at the Department for Culture, Media and Sport. Tel: 020 7211 2376 or e-mail: Leila.Alkazwini@culture.gsi.gov.uk can answer any queries regarding the instrument.