EXPLANATORY MEMORANDUM TO

THE PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) ORDER 2013

2013 No. 1636

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 an unknown wooden merchant sailing vessel dated to the mid to late 19th century 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, the site of a vessel lying 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 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 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 she 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 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 certain of her administrative functions under the 1973 Act on her behalf in relation to wrecks situated within UK territorial waters adjacent to England. As a result, 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 the Department for Culture, Media and Sport has responsibility in England. Currently 62 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 75 metres from the wreck site of an unknown sailing vessel located in Thorness Bay, off the north coast of the Isle of Wight, as a restricted area.

7.3 The wreck site appears to comprise the remains of a wooden merchant sailing vessel dated to the mid to late 19th century and includes a coherent ship's structure with framing, inner and outer planking and numerous fixtures and fittings. There were also many small finds scattered over the site which were associated with aspects of shipboard life and technology as well as possible material associated with the ship's cargo or provisions. This site is extremely unusual as it appears to offer an almost complete assemblage of a merchant sailing ship from the mid to late 19th century. Without intervention, the wreck site is increasingly vulnerable to salvage and loss.

• ***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. These were the local planning authority, Wrecks Information Service, Navigation Directorate, Marine Management Organisation, United Kingdom Hydrographic Office, Nautical Archaeological Society, Southern Inshore Fisheries, Professional Boatmans Association, British Sub-Aqua Club, Crown Estate, Natural England, the Receiver of Wreck and Halcrow Group.

8.2 Eight responses were received and all either supported or raised no objections to the proposal to designate. However, the Halcrow Group, Crown Estate and the Marine Management Organisation highlighted that a proposed electricity cable would pass within the suggested 100m designated site radius. The area of the wreck site is shown to cover an area of 30m by 10m and so the designated area has been reduced to a radius of 75m to avoid inclusion of the proposed electricity cable. A re-consultation on the reduced designation area was undertaken and the only respondent was the Navigation Directorate who confirmed they had no objections.

9. Guidance

9.1 Details of all designated wreck sites in English waters are listed in the National Heritage List for England hosted by English Heritage as well as being published in Mariner Notices and Admiralty Charts issued by the UK Hydrographic Office and 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/professional/advice/our-planning-role/consent/protected-wreck-sites/applying-for-licensing/

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, voluntary or public sectors.

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 programme. 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 protected wreck sites.

13. Contact

John Tallantyre at the Department for Culture, Media and Sport Tel: 0207 211 2373 or email: John.Tallantyre@culture.gsi.gov.uk can answer any queries regarding the instrument.