EXPLANATORY MEMORANDUM TO

THE PROTECTION OF WRECKS (RMS TITANIC) (AMENDMENT) ORDER 2021

2021 No. 470

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this Order is to amend the Protection of Wrecks (RMS Titanic) Order 2003 (S.I. 2003/2496) ("the 2003 Order") to confirm that activities aimed at conserving or curating artefacts found outside of the hull of the wreck of the Titanic are covered by the requirement for a licence. This is in accordance with the terms of the Agreement concerning the shipwrecked vessel RMS Titanic ("the International Agreement", Cm. 5798) which came into force on 18th November 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is England, Wales, Scotland and Northern Ireland. It applies on board all United Kingdom ships (whether they are in UK waters or anywhere else in the world) and on board non-United Kingdom ships in UK waters.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The International Agreement was negotiated between the United Kingdom, the United States of America, France and Canada. Article 11(2) of the International Agreement provides that the agreement would come into force when two States indicated their consent to be bound. The United Kingdom signed the International Agreement and indicated consent to be bound in 2003. Subsequently, the United States of America

deposited their signed Instrument of Acceptance and the International Agreement entered into force on 18th November 2019. This was duly notified in the London, Edinburgh and Belfast Gazettes in accordance with Article 1(2) of the 2003 Order.

6.2 The 2003 Order implements the requirements of the International Agreement in the United Kingdom. It was made and laid before Parliament in 2003 but, in accordance with article 1(2) of the Order, did not come into force until the International Agreement entered into force.

7. Policy background

What is being done and why?

7.1 Article 4 of the International Agreement requires each State to regulate through a system of project authorisations: "(a) entry into the hull sections of RMS Titanic…;" and "(b) activities aimed at the artifacts from the RMS Titanic found outside of the hull of the wreck…". This requirement is implemented in the United Kingdom via article 4 of the 2003 Order which provides that specified activities carried out in the designated area around the wreck of the RMS Titanic must not be carried out (a) without a licence granted by the Secretary of State, (b) contrary to any requirement, condition or restriction of such a licence; or (c) without, or contrary to any provision of, a relevant authorisation.

7.2 Article 4(2)(b) implies that activities aimed at conserving or curating artefacts found outside the hull of the wreck do not need a licence. This does not comply with the terms of the International Agreement.

7.3 This amendment addresses that small section of wording which confuses the purpose of the 2003 Order.

7.4 Although the amendment itself is unlikely to garner media attention, the licensing regime as a whole may lead to media attention due to the notoriety of the wreck.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are currently no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 It was not deemed necessary for the Department to consult on this amendment because its aim is to ensure that the obligations contained in the International Agreement are properly implemented by removing the inconsistency created by the original wording of article 4(2)(b) of the 2003 Order.

11. Guidance

11.1 No guidance will be issued in relation to the effect of this instrument because it does not make changes that affect businesses or others.

11.2 Under the requirements of the 2003 Order, organisations wishing to undertake expeditions which would engage the International Agreement will need to apply to the

Secretary of State for a licence. Each case will be considered on its merits against the requirements of the International Agreement.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact is foreseen. Given her location and depth, the number of organisations or companies with the technical expertise to reach the wreck of the RMS Titanic is exceptionally small and the regulatory cost and burdens created by this amendment are negligible.

13. Regulating small business

13.1 The legislation will not have a significant impact on activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Robert Courts MP, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, has made the following statement:

"Having had regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 and the Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that it is not appropriate to make provision for review in this instrument because it would be disproportionate, taking into account the economic impact of the legislation, to include provision for review".

15. Contact

15.1 Jemma Snoxell at the Department for Transport Tel: 0300 300 3000 or email: maritimesafety@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Stephen Benzies, Deputy Director for Maritime Operations, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robert Courts MP, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.