



National Heritage Act 2002

2002 CHAPTER 14

Underwater archaeology

1 New functions relating to underwater archaeology

- (1) Amend section 33 of the National Heritage Act 1983 (c. 47) (general functions of the Historic Buildings and Monuments Commission for England) as follows.
- (2) In subsection (8), in the definition of “ancient monument”, after “site” insert “ (including any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof) ”.
- (3) After that subsection insert—
 - “(9) In this section references to ancient monuments in England include ancient monuments in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England.
 - (10) For this purpose the Secretary of State may, by order, determine (or make provision for determining) any boundary between—
 - (a) the parts of the United Kingdom territorial waters which are to be treated as adjacent to England, and
 - (b) those which are not.
 - (11) The power to make an order under subsection (10) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

2 Amendments consequential on section 1

- (1) In section 34 of the National Heritage Act 1983 (c. 47) (Commission to exercise certain ministerial functions)—
 - (a) in subsection (3), after “site” insert “ (including any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof) ”; and

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(b) after that subsection insert—

“(3A) In this section references to ancient monuments in England include ancient monuments in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England; and an order under section 33(10) applies for the purposes of this subsection as it applies for the purposes of section 33(9).”

(2) In section 17 of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46) (agreement concerning ancient monuments and land in their vicinity), after subsection (9) insert—

“(10) References in this section to an ancient monument situated in England include any such monument situated in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England; and an order under section 33(10) of the National Heritage Act 1983 (orders determining limits of waters adjacent to England) applies for the purposes of this subsection as it applies for the purposes of section 33(9) of that Act.”

(3) In section 24 of that Act (expenditure by Secretary of State or local authority on acquisition and preservation of ancient monuments, etc), after subsection (3A) insert—

“(3AA) The reference in subsection (3A) above to a monument situated in England includes any monument situated in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England; and an order under section 33(10) of the National Heritage Act 1983 (orders determining limits of waters adjacent to England) applies for the purposes of this subsection as it applies for the purposes of section 33(9) of that Act.”

3 Exercise of certain ministerial functions

(1) This section applies to any administrative function exercisable by the Secretary of State (whether by virtue of an enactment or otherwise) in relation to any ancient monument which is in, on or under the seabed within the seaward limits of the United Kingdom territorial waters.

(2) If the Secretary of State directs the Historic Buildings and Monuments Commission for England (established by section 32 of the National Heritage Act 1983) to exercise functions to which this section applies and which are specified in the direction, in relation to any ancient monument or class of ancient monument so specified, the Commission shall exercise them on his behalf in such manner as he may from time to time direct.

(3) In this section “ancient monument” means any structure, work, site (including any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof) or area which in the opinion of the Secretary of State is, or may be, of historic, architectural, traditional, artistic or archaeological interest.

(4) This section does not apply to—

(a) a function of making regulations or other instruments of a legislative character;

(b) a function to which section 34 of the National Heritage Act 1983 (c. 47) (power to authorise Commission to exercise certain functions of management exercisable by the Secretary of State in respect of England) applies.

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- (5) In relation to any matter as respects which the Commission act by virtue of a direction under this section, the Commission shall enjoy the same privileges, immunities and exemptions as those enjoyed in relation to that matter by the Secretary of State.
- (6) Paragraph 2(1) of Schedule 3 to the National Heritage Act 1983 (Commission not to be regarded as servant or agent of the Crown) is subject to subsection (5).
- (7) Any direction given under this section shall be in writing.
- (8) Any power conferred by this section to give a direction shall include a power to vary or revoke the direction.
- (9) The Commission shall comply with any direction given under this section.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(2)(b) word repealed by [S.I. 2015/2006 \(N.I.\) art. 81\(1\)\(a\)](#)
- s. 1(2)(d) and word inserted by [S.I. 2015/2006 \(N.I.\) art. 81\(1\)\(b\)](#)
- s. 2(8)(a)(b) substituted by [S.I. 2015/2006 \(N.I.\) art. 80\(2\)](#)
- s. 17(1) words substituted by [S.I. 2015/2006 \(N.I.\) art. 80\(3\)](#)
- s. 19(4)(za) inserted by [S.I. 2015/2006 \(N.I.\) art. 81\(2\)](#)

Commencement Orders yet to be applied to the National Heritage Act 2002

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2005/3255 art. 2](#) commences (2004 c. 33)