

EXPLANATORY MEMORANDUM TO
PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) (NO.2) ORDER 2004
2004 No.3249

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**
 - 2.1 This Order designates the wreck site of the Holland no. 5 submarine as a restricted area under the Protection of Wrecks Act 1973.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
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 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. 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). 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 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**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**

Not Applicable.

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 an 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 Maritime and Coastguard Agency 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 Holland no. 5 submarine as a restricted area. This submarine is considered to be of historical importance. It was the last of a group of five submarines commissioned by the Admiralty for trial purposes, and was launched in 1902. It contributed to the development of submarine technology and included the first use of a periscope. The Department has been advised that there is a risk of vandalism to the wreck if the site is not designated.

7.3 The proposed designation was the subject of a consultation conducted on behalf of DCMS by English Heritage, and is supported by the ACHWS. As a result of the consultation, the area to be restricted was reduced from a 300m to a 200m radius in order to avoid inclusion of the path of a telecommunications cable to which access was required.

8. Impact

8.1 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.