

EXPLANATORY MEMORANDUM TO
THE PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) (NO.4) ORDER
2006

2006 No. 1392

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 HMS Resolution wreck site as a restricted area under the Protection of Wrecks Act 1973.

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

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 archaeological, historical or artistic importance of the vessel, or 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 interfere with a designated wreck site, except under the authority of a licence issued by the Secretary of State.

4.2 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 carried out the necessary consultation.

4.3 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 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 Receiver of Wreck website.

7.2 The Order to which this Memorandum relates designates the Resolution wreck site as a restricted area. This site was discovered in Norman's Bay, East Sussex, in the spring of 2005. Following an assessment of the site by the Department's diving contractor (Wessex Archaeology) in September 2005, English Heritage consider the archaeological remains to be those of a large warship dating between 1600 and 1800. The initial interpretation of the site is that it may be the wreck of HMS Resolution, a 70-gun third rate vessel that sank during the Great Storm of 1703.

7.3 This designation was the subject of a consultation that was conducted by English Heritage on behalf of the Department, pursuant to section 1(4) of the Protection of Wrecks Act 1973. This consultation was circulated to interested stakeholders including maritime organisations and Government Departments for their comments. As all respondents were in agreement with the consultation's proposals, this order can now be laid before Parliament to ensure the protection of this wreck.

7.4 The site is understood to be one of archaeological and historical importance. The *in situ* survival of shipwreck material dating from the 17th and 18th centuries is unusual. Large sections of the hull of the vessel are preserved below a mound of ballast, which is a particularly exceptional occurrence. If the wrecked vessel is indeed the Resolution, it will be a rare well-preserved example of only three third rate vessels built by noted maritime architect Sir Anthony Deane. Relatively few wooden warships have been designated and even fewer have been subject to formal archaeological investigation. Therefore, the indications are that this wreck has the potential to be of increased archaeological and historical importance than is considered at present. The site currently appears to be stable, however, Norman's Bay is easily accessible, and hence the site is vulnerable to uncontrolled salvage and damage whilst it remains undesignated.

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

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