

EXPLANATORY MEMORANDUM TO
THE PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) (No.7) ORDER
2006

2006 No. 2535

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 re-designates the *St Anthony* 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**

The Order breaches the rule that statutory instruments subject to the negative procedure should normally be laid, and copies provided to the Committee, 21 days before the instrument comes into force. The reason for this is that the case is one in which the Order needs to be made as a matter of immediate urgency (see policy background below). If DCMS were to observe the 21 day rule, there is a danger that the site may be subjected to further uncontrolled salvage before the Order comes into force.

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 The site is currently designated by the Protection of Wrecks (Designation No.1 Order) 1982, and the Secretary of State continues to be satisfied that the wreck of the *St Anthony* meets the designation criteria set out above. This Order corrects the position and size of the restricted area following the provision of more accurate information and varies the 1982 Order to exclude reference to the *St Anthony*.

4.3 Section 1(4) of the Protection of Wrecks Act 1973 requires the Secretary of State to consult with such persons as she considers appropriate before making a designation order. Although this Order is being made on an emergency basis, and the consultation requirement may be dispensed with in an emergency, the Secretary of State has nevertheless carried out a full consultation of appropriate persons. However, the length of the consultation period has been reduced to take account of the emergency nature of the re-designation.

4.4 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 58 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 re-designates the *St Anthony* wreck site as a restricted area. In May 2005, DCMS' contractor (Wessex Archaeology) reported that wreck material from the *St Anthony* site lies beyond the current restricted area. This unprotected portion of the site is vulnerable to uncontrolled interference. Relocating the centre of the restricted area around the site to the south east of its current position and increasing the radius of the area to 150 metres will thus ensure protection of the entire site. English Heritage and the Advisory Committee on Historic Wreck Sites are aware that wreck material has already been recovered from the unprotected area of the site and have therefore recommended that the site be re-designated as a matter of urgency.

7.3 Once the new coordinates had been determined, this re-designation was the subject of a consultation that was conducted by English Heritage on behalf of DCMS, 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. All but one respondent were in agreement with the consultation's proposals. The objections raised have been considered by the Secretary of State and this Order can now be laid before Parliament to ensure the continued protection of this wreck.

7.4 The wreck of the *St Anthony* was discovered in 1981 and designated the following year. The vessel was a Portuguese merchant vessel which sank in 1527 off Gunwalloe, Cornwall. The *St Anthony* was carrying a varied cargo which included copper and silver ingots. The loss of the vessel and the following disagreements between survivors and local inhabitants over salvage of the wreck were documented and add to the significance of the wreck. Furthermore, the survival of shipwreck

material dating before 1750 is rare, and although the structure of the ship has been lost to erosion, artefacts, including one cannon, remain at the site.

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.