

**EXPLANATORY MEMORANDUM TO
THE PROTECTION OF WRECKS (DESIGNATION) (ENGLAND) ORDER 2009**

2009 No. 2394

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. **Purpose of the instrument**
 - 2.1 This Order designates an area around the wreck site of the vessel called the *Anne* as a restricted area under the Protection of Wrecks Act 1973 (“the 1973 Act”).
3. **Matters of special interest to the [Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments]**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 Section 1(1) of the 1973 Act provides that where the Secretary of State is satisfied that there is, or may prove to be, a vessel wrecked on or in the sea bed 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, he 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 engage in certain activities in a restricted area, except under the authority of a licence issued by the Secretary of State.
 - 4.2 The site around the *Anne* wreck is currently designated by the Protection of Wrecks (Designation No.1) Order 1992 and the Secretary of State continues to be satisfied that the *Anne* site meets the designation criteria set out above. This Order revokes the existing order and replaces it with a new designation order that sets out new coordinates of the site and extends the size of the restricted area following the provision of more accurate information.
 - 4.3 Section 1(4) of the 1973 Act requires the Secretary of State to consult with such persons as he considers appropriate before making a designation order. The Secretary of State has carried out the necessary consultation.
 - 4.4 The Committee should also be aware that the Secretary of State has exercised his powers under section 3 of the National Heritage Act 2002, to direct English Heritage to exercise certain of his administrative functions under the 1973 Act on his 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. Territorial Extent and Application

5.1 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

- ***What is being done and why***

7.1 Underwater cultural heritage is a devolved subject area, for which DCMS has responsibility in England. Currently 63 wreck sites around the UK coastline are designated under the Protection of Wrecks Act 1973.

7.2 The Order to which this Memorandum relates re-designates the wreck site located in an inter-tidal area off the coast of Pett Level in Rye Bay, East Sussex, believed to contain the remains of the *Anne*, as a restricted area.

7.3 The *Anne* was a third rate 70-gun ship-of-the-line built at Chatham Dockyard and launched in 1678. She was built on the order of Samuel Pepys as part of a construction program to regenerate the English Navy.

7.4 The site of the wreck of the *Anne* was originally designated as a restricted area in 1974. The position of the centre of the site was corrected in 1992 by way of a re-designation under the Protection of Wrecks (Designation No.1) Order 1992. However, aerial photography and magnetometer surveys conducted in 2008 by English Heritage have better defined its probable extent and provided up-dated GPS coordinates of its location. The effect of this Order is to move the centre of the designated area to a position west of its current location, and to extend the circular protected area around these co-ordinates from a 75m to a 100m radius, thereby allowing the whole of the known site to be protected.

- ***Consolidation***

7.5 The Instrument does not amend another instrument.

8. Consultation outcome

8.1 Views have been invited from the current licensee of the *Anne*, the licensee of nearby protected wreck sites, and from ACHWS members and observers, none of whom expressed any objection to the proposals.

9. Guidance

9.1 Details of all designated wreck 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. Guidance on applying for licences to such sites may be found on the English Heritage website at <http://www.english-heritage.org.uk/server/show/nav.1278>.

10. Impact

10.1 The impact on business, charities or voluntary bodies is not significant.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument as no significant impact is foreseen on the private or voluntary sectors, or on the public sector.

11. Regulating small business

11.1 The legislation applies to small business because it applies to all sea users equally. It is not appropriate for the restrictions which apply within a restricted area to apply differently to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken, as with all applications for licences to undertake licensable activities in a restricted area is for the Secretary of State to consider each application on its merits, having taken into account all material considerations. No specific measures are taken to minimise the impact of the designation order on small business.

12. Monitoring & review

12.1 The condition of protected wreck sites in English waters is monitored as part of English Heritage's Heritage at Risk initiative. The ACHWS also receives reports from licensees and from inspections undertaken by the Government's contractor for archaeological services in support of the 1973 Act.

12.2 English Heritage is progressively implementing conservation statements and management plans for each of these sites.

13. Contact

John Tallantyre at the Department for Culture, Media and Sport tel: 0207 211 2373 or e-mail: John.Tallantyre@culture.gsi.gov.uk can answer any queries regarding the instrument.