
STATUTORY INSTRUMENTS

2003 No. 2496

MERCHANT SHIPPING
CASUALTIES, WRECK AND SALVAGE

The Protection of Wrecks (RMS Titanic) Order 2003

Made - - - - 29th September 2003

Laid before Parliament 1st October 2003

Coming into force in accordance with article 1(2)

The Secretary of State for Transport, in exercise of the powers conferred upon him by section 24(1) and (2) of the Merchant Shipping and Maritime Security Act 1997(1), hereby makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Protection of Wrecks (RMS Titanic) Order 2003.

(2) This Order shall come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the Agreement concerning the shipwrecked vessel RMS Titanic enters into force in respect of the United Kingdom.

(3) Articles 8 and 9 do not apply to Scotland.

Interpretation

2. In this Order—

“the Agreement” means the Agreement concerning the shipwrecked vessel RMS Titanic(2);

“artifacts” means the cargo of RMS Titanic and other contents, including those associated objects that are scattered in its vicinity and any portion of the hull; and

“relevant authorisation” means an authorisation granted by the appropriate authority of a State Party to the Agreement (other than the United Kingdom) in accordance with the provisions of that Agreement.

(1) 1997 c. 28.
(2) Cm 5798.

Designated area

3. For the purposes of this Order “the designated area” means the area within one kilometre of the point 41° 43–84'N 49° 57–23'W.

Restrictions as respects designated area

4.—(1) A person shall not in the designated area carry out any of the activities set out in paragraph (2), or cause or permit any other person to carry out any of those activities—

- (a) without a licence granted by the Secretary of State in accordance with the provisions of this Order,
- (b) contrary to any requirement, condition or restriction of such a licence, or
- (c) without, or contrary to any provision of, a relevant authorisation.

(2) The activities referred to in paragraph (1) are as follows—

- (a) entry into the hull sections of RMS Titanic, including entry using equipment constructed or adapted for any purpose of diving or salvage operations;
- (b) activities aimed at the artifacts from RMS Titanic found outside the hull of RMS Titanic (other than activities relating to the conservation or curation of artifacts).

Licences for projects in designated area

5.—(1) The Secretary of State may grant a licence to authorise a project to carry out the activities described in article 4(2).

(2) The Secretary of State shall grant a licence only in relation to a project which—

- (a) is justified by educational, scientific or cultural interests, including the need to protect the integrity of RMS Titanic and/or its artifacts from a significant threat, and
- (b) complies with the Rules Concerning Activities Aimed at the RMS Titanic and/or its Artifacts contained in the Schedule to this Order.

(3) The Secretary of State shall grant a licence only after he has provided copies of the application for the licence to the relevant national authorities of the other State Parties to the Agreement and taken into account any comments received from those authorities within 90 days following the provision of those copies.

(4) A licence granted under this article—

- (a) shall require the project to be carried out in accordance with the Rules Concerning Activities Aimed at the RMS Titanic and/or its Artifacts contained in the Schedule to this Order,
- (b) shall contain a condition that non-intrusive public access consistent with the Agreement shall not be precluded by the activities licensed, and
- (c) may contain such other conditions and restrictions as the Secretary of State considers appropriate.

(5) Subject to the same conditions as apply as respects the granting of a licence, the Secretary of State may vary a licence.

Offences

6.—(1) A person who contravenes article 4(1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

(2) Any person who knowingly contravenes any requirement, condition or restriction of a licence granted under article 5 which relates to the conservation, curation or keeping together of artifacts, or relating to the provision of public access to artifacts, shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

(3) Any person who knowingly contravenes any requirement, condition or restriction of a licence granted under article 5 which relates to the reporting of the results to the Secretary of State and the publication of the results shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

Offences: further provisions

7.—(1) Where an offence under this Order which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) For this purpose “director”, in relation to any body corporate whose affairs are managed by its members, means any member of the body.

(3) Where an offence under this Order committed by a Scottish partnership or unincorporated association (other than a partnership) is proved to have been committed with the consent of or connivance of, or to be attributable to neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management and control of the association, he (as well as the partnership) shall be guilty of the offence and liable to be proceeded against and punished accordingly.

8.—(1) In any proceedings for an offence under this Order, a document signed by or on behalf of the Secretary of State stating whether or not a relevant authorisation has been granted, and (where such an authorisation has been granted) its terms, shall be admissible as evidence for the purposes of determining whether activities have been carried out without, or contrary to any provision of, such an authorisation.

(2) Nothing in paragraph (1) makes a document admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.

(3) Nothing in paragraph (1) makes a document admissible as evidence in proceedings for an offence—

- (a) unless a copy of it has, not less than seven days before the hearing or trial, been served on the person charged with the offence, or
- (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the prosecutor requiring attendance at the trial of the person who signed the document.

(4) Where the proceedings mentioned in paragraph (1) are proceedings before a magistrates' court inquiring into an offence as examining justices this article shall have effect with the omission of—

- (a) paragraph (2), and
- (b) in paragraph (3), sub-paragraph (b) and the word “or” immediately preceding it.

9.—(1) A document required by article 8(3)(a) to be served on a person charged with an offence under this Order may be served on that person—

- (a) by delivering it to him;

- (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at his proper address.
- (2) If the person charged with an offence is the master of a ship the document may be served—
- (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship;
 - (b) where there is no master, on—
 - (i) the managing owner of the ship; or
 - (ii) if there is no managing owner, on any agent of the owner; or
 - (iii) where no such agent is known or can be found, by fixing a copy of the document on the outside of the ship in a position in which it may reasonably be expected to be seen.
- (3) A document required by article 8(3)(a) to be served on a person charged with an offence under this Order may—
- (a) in the case of a body corporate, be served on the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on a partner or person having the control or management of the partnership business.
- (4) For the purposes of this article and of section 7 of the Interpretation Act 1978⁽³⁾ (service of documents by post) in its application to this article, the proper address of any person on whom a document under article 8(1) is to be served shall be his last known address, except that—
- (a) in the case of a body corporate or its secretary or clerk it shall be the address of the registered or principal office of that body;
 - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office in the United Kingdom.

Enforcement powers

10.—(1) The powers conferred by this article are conferred in relation to any ship which is in United Kingdom waters and any United Kingdom ship which is in international waters.

(2) A person appointed by the Secretary of State to be an inspector under section 256(1) or (6) of the Merchant Shipping Act 1995⁽⁴⁾, and any commissioned naval officer, shall be a person authorised by the Secretary of State in accordance with this Order.

(3) A person so authorised by the Secretary of State may at any reasonable time board and search any ship if he has reason to suspect that this Order is not complied with, and may take possession of and detain anything found in the course of that search for so long as is necessary for all or any of the following purposes—

- (a) to examine it,
- (b) to ensure that it is not tampered with before his examination of it is completed,
- (c) to ensure that it is available for use as evidence in any proceedings for an offence under this Order.

⁽³⁾ 1978 c. 30.

⁽⁴⁾ 1995 c. 21.

Signed by authority of the Secretary of State for Transport

29th September 2003

David Jamieson
Parliamentary Under Secretary of State,
Department for Transport

SCHEDULE

Article 5(2)

RULES CONCERNING ACTIVITIES AIMED AT THE RMS TITANIC AND/OR ITS ARTIFACTS

General principles

1. The preferred policy for the preservation of RMS Titanic and its artifacts is in situ preservation.
2. Activities shall avoid disturbance of human remains.
3. Activities utilising non-destructive techniques and non-intrusive surveys and sampling shall be preferred to those involving recovery or excavation aimed at RMS Titanic and/or its artifacts.
4. Activities shall have the minimum adverse impact on RMS Titanic and its artifacts.
5. Persons undertaking these activities shall ensure proper recording and dissemination to the public of historical, cultural and archaeological information.

Project design

6. Activities shall be the object of a project design that shall include—
 - (a) the objectives of the project;
 - (b) a general description of the methodology and techniques to be employed;
 - (c) a description of the anticipated funding;
 - (d) a provisional timetable for completion of the project;
 - (e) the composition, qualifications and responsibilities of the anticipated team;
 - (f) the proposal for or results of all preliminary work;
 - (g) if applicable, plans for post-field work;
 - (h) if applicable, a conservation and curation plan;
 - (i) a documentation programme;
 - (j) a safety policy;
 - (k) if applicable, arrangements for collaboration with museums and other institutions;
 - (l) report preparation, contents, and dissemination;
 - (m) if applicable, the anticipated disposition of archives, including artifacts; and
 - (n) if applicable, a programme for publication.
7. If unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended. Amendments to the project design shall require a new authorisation to be issued.
8. Each project shall be carried out in accordance with its project design.

Funding

9. Projects shall be designed to ensure adequate funding in advance to complete all stages of the project including the curation, conservation and documentation of any recovered artifacts, and the preparation and dissemination of the report.
10. The project design shall include contingency plans that will ensure conservation of recovered artifacts and supporting documentation in the event of any interruption of anticipated funding.

11. The project design shall demonstrate an ability to fund the project through to completion.

12. Project funding shall not require the sale of artifacts or other material recovered or the use of any strategy that will cause artifacts and supporting documentation to be irretrievably dispersed.

Duration—timetable

13. Adequate time shall be assured in advance to complete all stages of the project, including the curation, conservation and documentation of any recovered artifacts, and the preparation and dissemination of the report.

14. The project design shall include contingency plans that will ensure conservation of artifacts and supporting documentation in the event of any interruption in the anticipated timetable.

Objectives, methodology and techniques

15. The project design shall include the objectives, proposed methodology and techniques.

16. The methodology shall comply with the project objectives and with the general principles set out in paragraphs 1 to 5 above.

Professional qualifications

17. Projects shall only be undertaken under the guidance of and in the presence of qualified technical and/or professional experts with experience appropriate to the objectives. The project shall not commence until the identity, qualifications, experience and responsibilities of the team members have been notified to and approved by the Secretary of State or by the relevant national authority of another State Party to the Agreement.

18. All persons on the project team shall be—

- (a) qualified and have demonstrated experience appropriate to their project roles; and
- (b) fully briefed and understand the work required.

Preliminary work

19. The project design shall include—

- (a) an assessment that evaluates the vulnerability of RMS Titanic and artifacts to damage by the proposed activities; and
- (b) a determination that the benefits of the project outweigh the potential risk of damage.

20. The assessment shall also include background studies and relevant bibliography of available historical and archaeological evidence, and environmental consequences of the proposed project for the long-term stability of RMS Titanic and artifacts.

Documentation

21. Projects shall be thoroughly documented in accordance with professional archaeological standards current at the time the project is to be undertaken.

22. Documentation shall include, as a minimum, the systematic and complete recording of the provenance of artifacts moved or removed in the course of the project, field notes, plans, sections, photographs and recording in other media.

Status: This is the original version (as it was originally made).

Artifact conservation

23. The project design shall include a conservation plan that provides for treatment of the artifacts in transit and in the long term.

24. Conservation shall be carried out in accordance with professional standards current at the time the project is to be undertaken.

Safety

25. All persons on the team shall work according to a safety policy prepared according to professional and legal requirements and set out in the project design.

Reporting

26. Interim reports shall be made available according to a timetable set out in the project design, and provided to the Secretary of State and to the relevant authority of another State Party to the Agreement.

27. Reports shall include—

- (a) an account of the objectives;
- (b) an account of the methodology and techniques employed;
- (c) an account of the results achieved; and
- (d) recommendations concerning conservation of any artifacts removed during the course of the project.

Curation of project collection

28. The project collection, including any artifacts recovered during the course of the project and a copy of all supporting documentation, shall be kept together and intact in a manner that provides for public access, curation and its availability for educational, scientific, cultural and other public purposes.

29. Arrangements for curation of the project collection shall be agreed before any project commences, and shall be set out in the project design.

30. The project collection shall be curated according to professional standards current at the time the project is to be undertaken.

Dissemination

31. Projects shall provide for public education and popular presentation of the results.

32. A final synthesis shall be provided to relevant national authorities and made available to the public as soon as possible, having regard to the complexity of the project.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the Agreement between the United Kingdom, the United States of America, Canada and the Republic of France, concerning the shipwrecked vessel RMS Titanic (Cm 5798). The date of the coming into force of the Agreement will be published in the London, Edinburgh and Belfast Gazettes.

Article 3 of the Order designates the area in which lies the wreck of RMS Titanic, and article 4 prohibits any diving or salvage operations from being carried out in the designated area without a licence. Article 5 of the Order makes provision for the granting of licences by the Secretary of State, in accordance with the rules set out in the Schedule. Article 6 makes it a criminal offence to contravene the prohibition in article 4 and licence conditions imposed under Article 5, and Articles 7 to 10 make further provision regarding offences and enforcement.