

**EXPLANATORY MEMORANDUM TO**  
**THE MERCHANT SHIPPING (UNITED KINGDOM WRECK CONVENTION AREA)**  
**ORDER 2015**

**2015 No. 172**

**1.** This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the Instrument**

2.1 The Order describes the United Kingdom's Wreck Removal Convention Area.

2.2 The area, which conforms to the Nairobi International Convention on the Removal of Wrecks 2007 (ICRW), comprises the United Kingdom, its territorial waters and its Exclusive Economic Zone (see paragraph 4.4 and 4.5 for definitions).

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

3.1 None

**4. Legislative Context**

4.1 In 2007 the International Maritime Organization (IMO), of which the UK is a State member, introduced the ICRW, to which the UK has acceded. The Convention fills a gap in the existing international legal framework by providing the first set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks. The ICRW provides the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine and coastal environment. It makes shipowners financially liable and requires them to take out insurance or provide other financial security to cover the costs of wreck removal.

4.2 The Wreck Removal Convention Act 2011 (the 2011 Act), which implements the ICRW in the UK, received Royal Assent in July 2011 but was not commenced because the ICRW had not entered into force internationally. The ICRW, the text of which is set out in the Schedule to the 2011 Act, will now enter into force internationally on 14 April 2015. In readiness for this, it is necessary to describe the UK's Convention area by an Order coming into force in time for the commencement of the Act.

4.3 The UK's Convention area is the area in which ICRW will be implemented by the UK. In accordance with the terms of the UK's accession to the Convention, the Convention area will comprise the UK, its territorial sea and its exclusive economic zone (EEZ).

4.4 The UK's EEZ was defined by the Exclusive Economic Zone Order 2013. An EEZ is a zone that extends up to 200 nautical miles from the outer limit of a coastal State's territorial sea. Within its EEZ a coastal State enjoys rights in relation to marine resources and jurisdiction with regards to the protection and preservation of the marine environment. This allows coastal States to enforce marine anti-pollution measures, derived from international Conventions such as the ICRW, beyond their territorial seas.

4.5 The UK's territorial sea is the sea zone established by the Territorial Sea Act 1987. It has a breadth of 12 miles measured from the baselines described in the Territorial Sea (Baselines) Order 2014.

4.6 The Wreck Removal Convention Act 2011 (Commencement) Order 2015 commences the 2011 Act sufficiently to enable this Order to be made and to enable the Merchant Shipping (Fees) Regulations 2015 to prescribe the fee to be charged by the Maritime and Coastguard Agency on applications for the issue of a wreck removal insurance certificate. The remainder of the Act will come into force on 14 April 2015.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The IMO reported that there were estimated to be almost 1,300 abandoned wrecks worldwide in 2007; and that these wrecks can cause a number of major problems. For example, depending on its location, a wreck may constitute a hazard to navigation, potentially endangering other vessels and their crews. Also, depending on the nature of the cargo, there is the potential for a wreck to cause substantial damage to the marine and coastal environments.

7.2 Prior to the commencement of the 2011 Act, the UK did not have powers to compel shipowners to remove all wrecks in either the UK's territorial sea or EEZ. Entry into force of the ICRW in the UK will provide the basis for such power as conferred by the 2011 Act and ensure that in most cases the Government will be able to recover its full costs, including those associated with any preventative action that may be taken to prevent pollution or other hazards emanating from the wreck, from the registered owner through a simplified regime of liability, compulsory insurance and direct action against the insurer.

7.3 The declaration of the UK's Convention area, as part of the commencement of the 2011 Act, will improve the UK's response to wrecks. It will ensure that the primary responsibility for the removal of a wreck that poses a hazard to navigation or the marine environment is placed on the shipowner, while providing the Secretary of State with the necessary powers to act through the Maritime and Coastguard Agency to direct Conservancy, Harbour and General Lighthouse Authorities to intervene, if the owner does not do so expeditiously.

7.4 The ICRW places liability on the registered owner of a ship for the costs of locating, marking and removing a wreck, unless the cause of the wreck was due to force majeure or was due to an act or omission of a third party.

## **8. Consultation outcome**

8.1 Industry and other stakeholders were consulted on the implementation of the ICRW as part of the draft Marine Navigation Bill, which was published on 5 May 2008.

8.2 Those responding were generally supportive of the proposals, including the proposal to extend application to the UK's territorial waters, subject to some minor drafting changes which were addressed in what subsequently became the Wreck Removal Convention Bill (a Government sponsored Private Member's Handout Bill), and which is now the 2011 Act.

## **9. Guidance**

9.1 No guidance is considered necessary.

## **10. Impact**

10.1 An Impact Assessment has been prepared which considered the regulatory impact of the implementation of the 2011 Act. The Impact Assessment presented an estimated Equivalent Annual Net Cost to Business (EANCB) of £0.12 million per year.

10.2 The impact on business is estimated to be of minimal cost because they are principally concerned with recovering the small cost incurred by the MCA in issuing certificates.

10.3 An Impact Assessment is attached to this Memorandum, and will be published alongside the Explanatory Memorandum at [www.legislation.gov.uk](http://www.legislation.gov.uk)

## **11. Regulating small business**

11.1 The measures defining the UK's Wreck Removal Convention Area do not regulate or deregulate small businesses.

11.2 The registered owner of any ship registered in, or entering or leaving port or terminal of, a State Party to the ICRW will be required to maintain insurance to cover liability for such costs. The insurance provisions in the ICRW will apply liability arising from all wrecks that fulfil the criteria of a hazard as defined in the ICRW. This liability will apply to all ships regardless of size. However, those ships over 300 gt and above are required to maintain compulsory insurance for this liability which will be enforced through a State Certification Scheme. This is not a requirement for ships under 300 gt.

## **12. Monitoring and review**

12.1 A review or sunset clause is not considered necessary for these measures.

## **13. Contact**

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