



FALKLAND ISLANDS

Protection of Wrecks Ordinance 1977

(ORDINANCE No. 12 OF 1977)

ARRANGEMENT OF SECTIONS

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FALKLAND ISLANDS

Protection of Wrecks Ordinance 1977

AN ORDINANCE To secure the protection of wrecks in territorial waters and sites of such wrecks, from interference by unauthorised persons; and for connected purposes.

[DATE OF COMMENCEMENT: 11TH JULY 1977]

1 Short title

This Ordinance may be cited as the Protection of Wrecks Ordinance 1977.

2 Interpretation

In this Ordinance-

" Falkland Islands waters " means any part of the sea within the seaward limits of the territorial waters of the Falkland Islands and includes any part of a river within the ebb and flow of ordinary spring tides;

[Revision w.e.f. 31/07/2017]

"sea" includes any estuary or arm of the sea; and reference to the sea bed includes any area submerged at high water of ordinary spring tides.

3 Protection of sites of historic wrecks

(1) If the Governor is satisfied with respect to any site in Falkland Islands waters that-

[Revision w.e.f. 31/07/2017]

- (a) it is, or may prove to be, the site of a vessel lying wrecked on or in the sea bed; and
- (b) on account of the historical, archaeological or artistic importance of the vessel, or of any objects contained or formerly contained in it which may be lying on the sea bed in or near the wreck, the site ought to be protected from unauthorized interference,

he may by order designate an area round the site as a restricted area.

(2) An order under this section shall identify the site where the vessel lies or formerly lay, or is supposed to lie or have lain, and

- (a) the restricted area shall be all within such distance of the site (so identified) as is specified in the order, but excluding any area above high water mark of ordinary spring tides; and
- (b) the distance specified for the purposes of paragraph (a) shall be whatever the Governor thinks appropriate to ensure protection for the wreck.

(3) Subject to section 5, a person commits an offence if, in a restricted area, he does any of the following things otherwise than under the authority of a licence granted by the Governor:

- (a) he tampers with, damages or removes any part of a vessel lying wrecked on or in the sea bed, or any object formerly contained in such a vessel; or
- (b) he carries out diving or salvage operations directed to the exploration of any wreck or to removing objects from it or from the sea bed, or uses equipment constructed or adapted for any purpose of diving or salvage operations; or
- (c) he deposits, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of a wreck (whether it so falls or not), would wholly or partly obliterate the site, or obstruct access to it, or damage any part of the wreck;

and also commits an offence if he causes or permits any of these things to be done by others in a restricted area, otherwise than under the authority of such a licence.

(4) Before making an order under this section, the Governor shall consult with such persons as he considers appropriate having regard to the purposes of the order; but this consultation may be dispensed with if he is satisfied that the case is one in which an order should be made as a matter of immediate urgency.

(5) A licence granted by the Governor for the purposes of subsection (3) shall be in writing and-

- (a) the Governor shall in respect of a restricted area grant licences only to persons who appear to him either-
 - (i) to be competent, and properly equipped, to carry out salvage operations in a manner appropriate to the historical, archaeological or artistic importance of any wreck which may be lying in the area, and of any objects contained or formerly contained in a wreck; or
 - (ii) to have any other legitimate reason for doing in the area that which can only be done under the authority of a licence;
- (b) a licence may be granted subject to conditions or restrictions, and may be varied or revoked by the Governor at any time after giving not less than one week's notice to the licensee; and
- (c) anything done contrary to any condition or restriction of a licence shall be treated for the purposes of subsection (3) as done otherwise than under the authority of the licence.

(6) Where a person is authorized, by a licence of the Governor granted under this section, to carry out diving or salvage operations, it is an offence for any other person to obstruct him, or cause or permit him to be obstructed, in doing anything which is authorized by the licence, subject however to section 5 below.

4 Prohibition on approaching dangerous wrecks

(1) If the Governor is satisfied with respect to a vessel lying wrecked in Falkland Islands waters that-

[Revision w.e.f. 31/07/2017]

- (a) because of anything contained in it, the vessel is in a condition which makes it a potential danger to life or property; and
- (b) on that account it ought to be protected from unauthorized interference,

he may by order designate an area round the vessel as a prohibited area.

(2) An order under this section shall identify the vessel and the place where it is lying and-

- (a) the prohibited area shall be all within such distance of the vessel as is specified by the order, excluding any area above the high water mark of ordinary spring tides; and
- (b) the distance specified for the purposes of paragraph (a) shall be whatever the Governor thinks appropriate to ensure that unauthorized persons are kept away from the vessel.

(3) Subject to section 5, a person commits an offence if, without authority in writing granted by the Governor, he enters a prohibited area, whether on the surface or under water.

5 Saving

Nothing is to be regarded as constituting an offence under this Ordinance where it is done by a person-

- (a) in the course of any action taken by him for the sole purpose of dealing with an emergency of any description; or
- (b) in exercising or seeing to the exercise of functions conferred by or under an enactment on him; or
- (c) out of necessity due to stress of weather or navigational hazards.

6 Penalties

A person who commits an offence under section 3 or section 4 is liable on summary conviction to a fine not exceeding level 6 on the standard scale.

[S. 2/Ord. 6/78/w.e.f. 17/7/78 and Revision w.e.f. 31/07/2017.]