



Historic England

Marine Licensing and England's Historic Environment



Summary

Marine Licensing, as relevant to England, is delivered by the Marine Management Organisation (MMO), and came into effect in April 2011. The purpose of marine licensing is to help protect the marine environment including archaeological and historic sites in the UK marine area. As an advisor to the MMO, Historic England participates in a wide range of Marine Licensing consultations, which include activities directed at heritage assets on the foreshore and at sea around England.

This advice note is aimed at members of the general public and those wishing to undertake a project directed at an archaeological or historic site in England in the marine and coastal area. This advice details where to find relevant information on marine licensing, the types of activities that require a marine licence and those activities that are exempt. It also sets out further information on what is required to support a marine licence application with regard to a project design.

This document updates the English Heritage advice note Marine Licensing and Underwater and Foreshore Archaeology (2012).

This guidance note has been prepared by Historic England's Marine Planning Unit. Acknowledgement is made to the Marine Management Organisation for their contribution in the production of this guidance document.

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www.HistoricEngland.org.uk/advice/

Front cover

17th-century rudder carving at the Swash Channel wreck, Dorset.
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Figure 1
Happisburgh beach's failing sea defences.

1 Introduction

The [Marine and Coastal Access Act 2009](#) (MCAA 2009) established a new marine licensing system which came into force on 6 April 2011. The purpose of marine licensing is to help protect the marine environment including archaeological and historic sites in the UK marine area.

The UK marine area, defined in [Section 42](#) of the MCAA, includes any estuary, river or channel up to the limit of tidal influence and the area below Mean High Water Springs out to the Limit of the UK sector of the continental shelf. To note this is only applicable to the English area of the UK Territorial Sea (out to 12 nautical miles) and the adjacent UK marine area which is not the responsibility of any other UK Devolved Administration.

[The Marine Management Organisation](#) (MMO) carries out licensing and enforcement functions under the MCAA Part 4, on behalf of the Secretary of State in the English inshore and offshore areas. Historic and archaeological sites within the marine environment are an extremely rich source of knowledge about our past, whether or not they are afforded statutory protection by heritage protection legislation. These sites may include submerged and intertidal prehistoric remains including palaeo-landscapes, shipwrecks and aircraft wrecks, foreshore fish traps, and ports and harbours, as well as the legacy of coastal military defences, all of which contribute to historic landscape and seascape character.

In addition to its cultural importance, the historic environment is an asset of social and economic value. However, heritage assets are an irreplaceable resource and can be vulnerable to a wide range of human activities and natural processes.

The historic environment has therefore been recognised by UK Government policy such as the [UK Marine Policy Statement 2011](#). This policy sets the direction for the preparation of marine plans and marine licensing and states the need for marine cultural heritage assets to be protected, conserved, and managed according to their significance.

Furthermore, within [Sections 69](#) and [115](#) of the MCAA it states that in determining a marine licence application the appropriate licensing authority, which for England is the MMO, “must have regard to the need to protect the environment”, inclusive of “any site (including any site comprising, or comprising the remains of, any vessel, aircraft or marine structure) which is of historic or archaeological interest”.

2 About Marine Licences

When considering the types of activities you will be undertaking on a wreck site or area that is of historic or archaeological interest we encourage you to look at a list of marine licensable activities found in [Section 66](#) of the MCAA, (Licensable marine activities).

2.1 Do you need a Marine Licence?

If you are unsure whether a marine license is required you must contact the MMO licensing team in Newcastle-Upon-Tyne directly (see the [Where to Get Advice](#) section within this document for contact details). As a brief outline some activities used in the process of archaeological investigations that usually do require a marine licence include:

- using a rope, chain or lifting bag to recover objects powered by a vessels winch or crane;
- to carry out any form of dredging, including excavation using a water dredge or airlift, other than hand only dredging (ie fanning); and
- deploy and leave marker buoys for more than 28 days.

It is important to note that failure to obtain the appropriate licence or breach of a condition held on a licence is an offence with a potential fine of up to a maximum of £50,000 in the Magistrate's Court or a fine and/or imprisonment of up to two years on indictment.



Figure 2
New Harbour, Rye, East Sussex.

2.2 When you don't need a Marine Licence

Some activities are exempt from licensing control by virtue of either the Marine Licensing (Exempted Activities) Order 2011 or the [Marine Licensing \(Exempted Activities\) \(Amendment\) Order 2013](#).

These exemptions include:

- shot lines, which are considered by the MMO as temporary markers (see below) (Amendment) Order 2013;
- temporary markers deployed for less than 24 hours are exempt and no notification or licence is required. If left unattended in excess of 24 hours and less than 28 days, a notification to the MMO is required. If left in place for more than 28 days a licence is required;
- samples, such as cores or sediment samples taken for testing or analysis are exempt under exemption article 17A of the 2011 order provided all conditions are met. For sampling to be considered exempt, each sample must be less than 1 cubic metre and notification must be provided to the MMO.

In most cases the exemptions have important restrictions attached to them. If you are carrying out an exempted activity you will need to ensure that you are aware of those restrictions and have complied with them.

Notifications can be done via the MMO [‘Exemptions’](#) webpage.

2.3 When does an exemption not apply?

It is also important to note that some exemptions to Marine Licensing for activities do not apply if they're going to significantly impact a designated European marine site, a Ramsar site or a Marine Conservation Zone (MCZ) in England.

The list of exemptions include:

- Article 17 (Scientific instruments etc)
- Article 17A (Samples for testing or analysis)
- Article 17B (Accidental deposits – removal activity)
- Article 18A (Navigational dredging)
- Article 26A (Temporary markers)

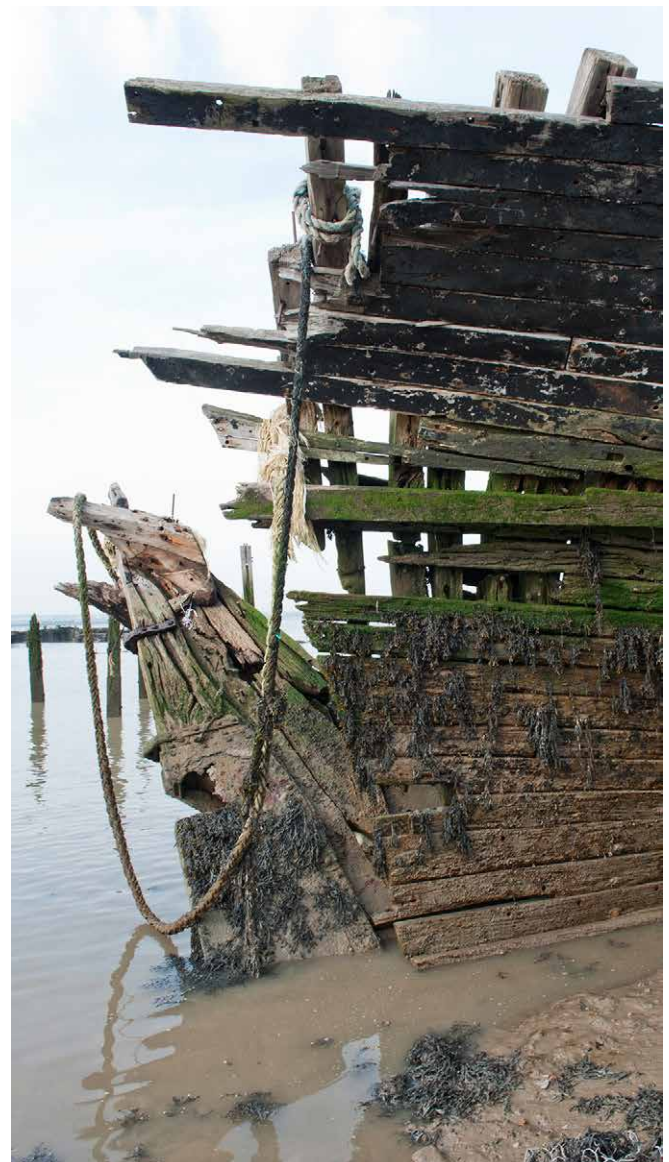


Figure 3
The wreck of the Danish cargo vessel *Hans Egede*, beached at Cliffe, Kent.

3 Historic England's Role

As a primary advisor, it is Historic England's role to provide independent advice to the MMO during the marine licensing process on applications that may have an impact on the historic environment as relevant to England.

Historic England provides advice to the MMO on a range of projects and activities:

- within the framework of our [Conservation Principles](#);
- in reference to the [UK Marine Policy Statement](#); and
- in accordance with the [Protection of the Underwater Rules annexed to the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage](#);

3.1 Designated and Scheduled sites

If you have authorisation from Historic England on behalf of the Secretary of State for the Department of Culture, Media and Sport, to carry out certain activities on a designated or scheduled heritage asset (eg an historic shipwreck site designated under the Protection of Wrecks Act 1973 or a Scheduled Monument), you must also contact the MMO to check if a marine licence is also necessary. If the MMO confirms that a marine licence is required you should contact Historic England's Marine Planning Unit on how to approach the application process.

3.2 Other consents in England

On the foreshore, consent will be needed from the owner, who may be The Crown Estate or another person or organisation. In the first instance it is advisable to contact The Crown Estate. Consent may be required from other seabed owners such as the Duchy of Cornwall or Harbour Authorities.

Consent from The Crown Estate may also be required for intrusive works on the seabed within 12 nautical miles of the coast as well as some works outside 12 nautical miles. The Crown Estate should be contacted at consents@thecrownestate.co.uk for further information or clarification as to whether consent for small works is required.

Should the activity you are planning to undertake occur within a Site of Special Scientific Interest (SSSI) consent from Natural England may be needed. Information on SSSI consents, which are a legal requirement, can be found on [Natural England's website](#).

4 Marine Licence Application Advice

If you require a Marine Licence, applications can be submitted through the [MMO's website](#). The online application form will guide you through the process, detailing what information and supporting documentation is required.

When planning to undertake an archaeological project, within the English part of the UK Marine Area, we encourage you to also contact the MMO before you submit a Marine Licence application (see Further Information for contact details).

It is important to be aware that marine licence can cover:

- an entire project, encapsulating multiple activities;
- several years, eg for the life of the project; and
- multiple sites.

Marine licences can also be:

- varied and extended (after the licence has been issued, should your project over-run or include a wider geographical area); or
- issued to enable activities to be carried out with a degree of flexibility.

However, sufficient information must be provided to support such an application and early discussion with the MMO's licensing team in Newcastle is essential.

There are no statutory timescales for the determination of a marine licence application although the MMO aims to determine a marine licence within a period of 13 weeks. It is therefore important that in planning an archaeological project, where a marine licence is likely to be required, you leave sufficient time for the application to be processed.

There is a fee applicable for a marine licence application. Please see the MMO website www.gov.uk/government/publications/marine-licensing-fees for more information.

4.1 Information to include

The MMO will advise you about pre-application Marine Licence preparation. For some licensable activities directed at historic and archaeological sites within the marine environment (designated or non-designated), Historic England encourages applicants to produce a project design to describe what the project is hoping to achieve.

In summary a Project Design template should include the following:

Project background

- Summary of the site/area under investigation, with a location map or position.
- Introduction to the organisation, group or individual(s) conducting the project.

Method statement

- Outline techniques for recording, excavation, recovery and first aid conservation.

Legislation and ownership

- Check the background to the site and its status of ownership.
- Provide information in regard to the declaration of shipwreck material to the Receiver of Wreck under Part 9 of the Merchant Shipping Act 1995.

Aims and objectives

- What will the project 'achieve' or 'enable'? Phrasing such aim(s) as questions or splitting them into sections (eg research, outreach or management) as appropriate may also be helpful. It is worth noting that Aims and Objectives should not be confused with tasks (see below).

Historical background

- Information about the vessel or the area you are investigating.
- History of investigation (ie a timeline of how the site was found, by whom, a record of any finds recovered, and information from the most recent surveys).
- Historic England's maritime record available via [PastScape](#) is a key source of information.



Figure 4
Excavation on the beach, Happisburgh, Norfolk.

The project location

- Provide a geographical location of the site.
- Provide a description of the site and if it is located in any nature conservation area (eg SSSI, MCZ, Special Conservation Area etc.).

Business case

- If you are seeking funding from an independent body or organisation it is important to include a business case. This will outline the economic, social and cultural reasoning for the project including the registered museum taking possession of any artefacts being recovered.

Financial resources

- Provide evidence of sufficient funding to complete the full range of activities included in the Project Design.

Project team

- Outline skills and capabilities of members of the team that will contribute to the execution of a successful project.

Project tasks

- Provide a task breakdown with deadlines where possible and clearly identify the activities that will require Marine Licence consent.

Standards (best practice) and guidance

- Use of Institute for Archaeologists guidance.
- Introduction to Standards and Guidance in Archaeological Practice website.

Reporting

- Describe the method of documenting the project where applicable.



Figure 5
Treenails at the Swash Channel wreck, Dorset.
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Further information about how to prepare a project design is set out in two Historic England publications:

- www.HistoricEngland.org.uk/images-books/publications/morphe-project-managers-guide/ MoRPHE (Management of Research Projects in the Historic Environment) Project Managers' Guide, 2009; and
- www.HistoricEngland.org.uk/images-books/publications/morphe-project-planning-note-8/ MoRPHE Project Planning Note: 8 Marine Investigation, 2014.

5 Where to Get Advice

5.1 Maritime advice

Marine and Coastal Access Act 2009: www.legislation.gov.uk/ukpga/2009/23/contents

MMO Licensing: www.gov.uk/marine-licensing-application-process

You can call the MMO at the Newcastle-Upon-Tyne head office on 0300 123 1032 or you can email: marine.consents@marinemanagement.org.uk and email them specifically on exemption questions to: exemptions@marinemanagement.org.uk.

Historic England and Marine Planning: www.HistoricEngland.org.uk/advice/planning/marine-planning/marine-historic-environment/

Historic England – Assessing England’s Protected Wreck Sites, Guidance Note for Divers and Archaeologists: www.HistoricEngland.org.uk/images-books/publications/underwater-finds-guidance-for-divers/

To contact the Historic England Marine Planning Unit, please do so via the customer services e-mail address: <mailto:customers@HistoricEngland.org.uk> or customers@HistoricEngland.org.uk

Historic England’s maritime record is available via www.pastscape.org.uk

For more advice from regional Historic England offices please see overleaf.



Figure 6
One of 19 17th- or 18th-century cast iron cannon,
Gun Rocks, Farne Islands, Northumberland.
Wessex Archaeology, © Crown Copyright

5.2 Contact Historic England

East Midlands

2nd Floor, Windsor House
Cliftonville
Northampton NN1 5BE
Tel: 01604 735400
Email: eastmidlands@HistoricEngland.org.uk

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Historic England

We are the public body that looks after England's historic environment. We champion historic places, helping people understand, value and care for them.

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