

Diving on Wrecks over 100 years Old

All wrecks over 100 years old are protected under Section 3(4) of the *National Monuments Act 1987* (as amended). Section 3 (4) of the 1987 Act provides that a person shall not dive on, damage, or generally interfere with, any wreck which is more than one hundred years old or an archaeological object which is lying on, in or under the sea bed or on or in land covered by water except in accordance with a licence issued by the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs under Section 3 (5) of the Act.

Therefore a licence is required to dive on any protected wreck site OR for deliberate searches for underwater archaeological objects. The Minister may, at her discretion, grant or refuse to grant a licence and may make a licence subject to such conditions as she thinks fit and which are specified in the licence.

Obligations in relation to the discovery of a wreck or archaeological object

Section 3 (6) of the 1987 Act (as amended) also provides that a person finding a wreck over one hundred years old must within four days make a report of the find to the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs or the Garda Síochaná. Section 3 (6) of the 1987 Act (as amended) also provides that a person finding an archaeological object which is lying on, in or under the sea bed or on or in land covered by water must within four days make a report of the find to the Director of the National Museum of Ireland. As clarified in a recent High Court judgement in relation to the wreck of the *Lusitania* (Judge Herbert, 2005), a wreck can equally be considered to be an archaeological object within the meaning of the act. As no time restrictions apply to the definition of archaeological 'object' under the National Monuments Acts, all objects recovered or discovered should be reported to the relevant authorities.

The National Monuments Service advises the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs on the issuing of licences under Section 3 (5) of the 1987 Act. The National Monuments Service also archives and follows up on reports of finds of wreck over one hundred years old.

The Use of Metal Detectors and Detection Devices

To prevent damage to our archaeological heritage by the unauthorised use of metal detectors, the National Monuments Acts 1930 to 2004 regulates the use

of metal detectors for archaeological purposes within the State and in its territorial waters.

Unless you have formally applied for and received consent in writing from the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs under the National Monuments Acts, it is against the law:

- To be in possession of a detection device in, or at the site of, a monument subject to a Preservation Order, or a monument in the ownership or guardianship of the Minister or a local authority, or a monument entered in the Register of Historic Monuments, or a monument included in the Record of Monuments and Places or a restricted area;
- To use a detection device for the purpose of searching for archaeological objects anywhere within the State or its territorial waters, including on wrecks.

The penalty for an offence in relation to the above is a fine of up to €63,486 and/or up to 3 months imprisonment.

The onus is on the person, e.g. a diver or person in possession of a detection device, to prove their innocence under this legislation.

Licence Application Forms

Licence Application forms to dive a wreck may be obtained from National Monuments Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Room G50, Custom House, Dublin 1 or online at <https://www.archaeology.ie/sites/default/files/media/publications/nms-3-06-dive-survey-licence-application-form.doc>

Receiver of Wrecks (Revenue Officer)

All wrecks are owned by somebody. It is a statutory obligation under the Merchant Shipping (Salvage and Wreck) Act 1994 that all material, including objects, recovered from any wreck or wreck material, including objects, from the sea shall be declared to the relevant Receiver of Wreck. The Receiver will then make enquiries with a view to establishing the ownership of the wreck or wreck related material. All undeclared material or objects recovered from the sea is classified as stolen goods and the individual responsible can be charged

with theft. The relevant legislation forbids the boarding of any wreck without the permission of the owner or master.