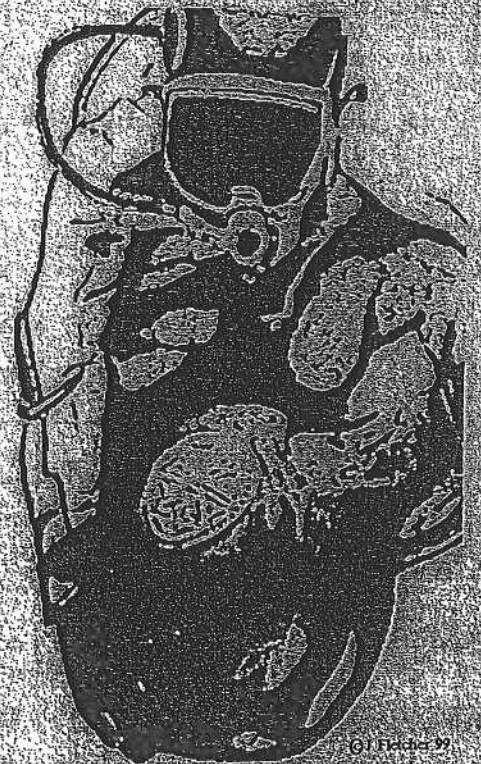


HERITAGE LAW AT SEA



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JOINT NAUTICAL
ARCHAEOLOGY
POLICY
COMMITTEE

HERITAGE LAW AT SEA

PROPOSALS FOR CHANGE

The proposals contained in this document for changing the legal structure securing protection of underwater cultural heritage have been compiled following extensive discussion and consultation by the Joint Nautical Archaeology Policy Committee. The JNAPC is particularly grateful to the British Sub Aqua Club, the Professional Association of Diving Instructors, and the Sub Aqua Association for their endorsement of these proposals.

The JNAPC was formed over twelve years ago from representatives of several bodies and individuals with an interest in preserving Britain's heritage and especially those parts which lie underwater. The JNAPC launched *Heritage at Sea* in May 1989 with the particular aim of raising awareness of Britain's underwater heritage and persuading government that underwater sites of historical importance should receive no less protection than those on land. Since then the JNAPC has published *Still at Sea*, a review of progress of *Heritage at Sea*, the *Code of Practice for Seabed Developers*, a leaflet for divers *Underwater Finds - What to Do* and the more detailed *Underwater Finds - Guidance for Divers*. Further details of the membership of the JNAPC are shown in Appendix 1.

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The cover illustration is by Joanne Fletcher, School of Legal Studies, University of Wolverhampton

Heritage Law At Sea

INTRODUCTION

It is now some 25 years since the Protection of Wrecks Act 1973 was enacted to provide a mechanism to safeguard wrecks considered to be of historical, archaeological or artistic importance and nearly 50 wrecks have been designated in that period. However, as the theory and practice of nautical archaeology continues to mature, awareness of the need for more comprehensive provision for the care of submerged archaeology is increasing. In particular, the disparity between the care afforded to important remains on land and those submerged in the territorial sea is becoming increasingly apparent.

In its consultation papers *Heritage at Sea* (May 1989) and *Still at Sea* (May 1993) the Joint Nautical Archaeology Policy Committee identified a number of deficiencies in the law and administration relating to nautical heritage. Recommendations made by the JNAPC in these papers have been influential in securing progress in a number of areas including Government support for compilation of information about submerged archaeology in the territorial sea; education of the diving community regarding conservation of wrecks; improvements in reporting mechanisms for historic material recovered from the sea; and greatly improved consultation in advance of damaging commercial seabed activities through production of a Code of Practice for Seabed Developers. This progress has been secured almost exclusively by administrative action or educational initiatives. While further progress can be achieved in this manner, new legislation is required to address the most significant needs. Foremost amongst these are improvements in the reporting of wreck, the management and physical protection of designated sites, the enhancement of public access to them, the elimination of uncertainties relating to rights in wreck and improving the transparency of the decision making process.

The JNAPC has concluded that the best course of action would be to build upon the existing legal structure, in collaboration with the diving community. Consequently the JNAPC is proposing further modifications to this structure, although such modifications would be quite extensive in certain areas. It is proposed that the existing provisions relating to the underwater cultural heritage in the Merchant Shipping Act 1995, the Protection of Wrecks Act 1973 and the Ancient Monuments and Archaeological Areas Act 1979 shall remain in force, except in so far as they are amended by the proposals in this document. A series of objectives for change are set out below. Each objective is accompanied by a statement of the problem that needs to be addressed, a proposed solution and an explanatory comment. The objectives are grouped in relation to the Merchant Shipping Act 1995, the Protection of Wrecks Act 1973, provisions relating to advice and information, and miscellany. It is envisaged that these proposals will provide a framework for a public debate as to the legal structure which will protect our nautical heritage into the 21st. century.

The JNAPC invites consideration of these proposals by interested parties and welcomes responses in writing by 30th June 2000 to:

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