

Information Note

Commencement of Certain Provisions of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* relating to protection of underwater cultural heritage

Introduction and summary

On 12 December 2024, further provisions of the [*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*](#) (the Act of 2023) came into operation.

In summary, these newly commenced provisions have implications for the law of salvage as it relates historic wrecks and underwater archaeological objects, and also for Irish citizens (and a range of specified other persons), and vessels operating in international waters if they intend to engage in activities directed at underwater cultural heritage. “Activities directed at underwater cultural heritage” means, in summary, intrusive activities directed at such heritage, as defined for the purposes of the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage. The provisions in question also require reporting of discoveries of underwater cultural heritage in international waters and regulate the import into the State of underwater cultural heritage found outside the State.

Continued operation of section 3 of the National Monuments (Amendment) Act 1987 (the Act of 1987)

It is important to note that the new legal provisions are in addition to the existing provisions of section 3 of the Act of 1987. The latter provides strong protection as matters stand for all wrecks over 100 years old and underwater archaeological objects situated in the internal waters, territorial seas and Contiguous Zone (see below for definition of the latter) of Ireland. Interference with, or diving on, such sites is prohibited without a licence and all finds of such material must be reported, as provided for in the Act of 1987. Section 3 of the Act of 1987 also provides for the making of Underwater Heritage Orders in respect of wrecks of heritage interest of any date and underwater archaeological objects. Section 3 of the Act of 1987 (and related provisions) will in due course be replaced by provisions of the Act of 2023, but the time being they remain fully in force.

The provisions of the Act of 2023

Key aspects of the provisions of the Act of 2023, which have now come into operation, include the following:

- **Section 134** excludes the following categories from the possibility of payment of non-contractual salvage rewards:
 - a wreck 100 or more years old, including any object removed from the wreck whether or not having been part of the wreck;
 - an archaeological object that is 100 or more years old; and

- a registered monument, including any object removed from the monument, whether or not having been part of the monument (wrecks will be able to be included in the Register of Monuments to be established under the Act of 2023).
- **Section 138** prohibits Irish citizens, residents, companies, other persons (including legal persons) based in the State and persons in charge of Irish vessels from engaging in activities directed at underwater cultural heritage situated beyond Ireland's Contiguous Zone (24-mile zone) but outside any other state's territorial seas or related areas as set out in the Act of 2024, other than in accordance with a licence issued under the Act, or an authorisation issued by a state which has ratified the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage. This restriction also covers (as set out in section 138) permitting such activities to take place.
- **Sections 139 and 142** also apply to the range of persons (both natural and legal persons) to which section 138 applies to. These sections require notice to be given to the Minister for Housing, Local Government and Heritage in the manner specified in the Act in certain circumstances, in particular the following:
 - Where underwater cultural heritage is discovered in an area beyond Ireland's 24 mile limit (in particular within Ireland's continental shelf or exclusive economic zone, in the area of the deep ocean defined as "the Area" under the 1982 UN Convention on the Law of the Sea, and within the continental shelf or exclusive economic zone of a state which has ratified the 2001 Convention;
 - Where a person intends to engage in an activity directed at underwater cultural heritage beyond Ireland's 24 mile limit (in the areas noted above) relying on an authorisation issued by a state which has ratified the 2001 Convention rather than a licence issued under the Act of 2024.

(Further information on these notice systems and a form for use in complying with them will issue in early 2025.)
- **Section 147** prohibits the import (in the circumstances set out in the section) into the State of underwater cultural heritage without a licence issued under the Act of 2024

The full list of provisions contained in the Commencement Order (S.I. No. 663 of 2024), can be found [here](#).

The above is provided for information only, and is not a legal interpretation.

National Monuments Service

Department of Housing, Local Government and Heritage

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