

# Leaflet 10: Legacy Shipwrecks

**Part 1: Directive.** This part provides the direction that **must** be followed in accordance with statute or policy mandated by Defence or on Defence by central Government.

**Part 2: Guidance.** This part provides the guidance and best practice that **should** be followed and will help you to keep to this policy.

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## Amendment Record

1. Amendments will be staffed by D-LUCC&S together with the leading areas, relevant subject matter experts and key stakeholders.

Version No	Date	Text Affected	Authority
0.1	Feb 22	Creation of 2021DIN06-005	D HS&EP
0.2	July 23	Conversion and publication into JSP format	D-LUCC&S
0.3	Jan 23	D-LUCC&S and SALMO comments incorporated	D-LUCC&S
1.0	Feb 24	Final published	D-LUCC&S

## Terms and Definitions

Pollution of the environment	Pollution for the purpose of this leaflet means the release of fuels, lubricants, chemicals and other substances from a Defence shipwreck which can cause harm to people or any other living organisms supported by the environment.
Defence shipwreck	Means a post-1870 Defence shipwreck owned by the Ministry of Defence (MOD). For the purpose of this leaflet, it shall be defined as: <ul style="list-style-type: none"> <li>a. all Defence shipping that sank during peace or war time.</li> <li>b. commercially-owned sunken ships which were: <ul style="list-style-type: none"> <li>• taken up from trade in direct support of war fighting; or</li> <li>• operated by military crews.</li> </ul> </li> </ul>

Harm	Means harm to the health of living organisms or other interference with the ecological systems of which they form part <sup>1</sup> .
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## Must and should

2. Where this chapter says ‘**must**’, this means that the action is a compulsory requirement and where this chapter says ‘**should**’, this means that the action is not a compulsory requirement but is considered best practice to comply with the policy.

## Part 1: Directive

3. This part sets out instructions that must be followed by law, or in line with Defence policy or Government policy.

### Introduction

4. The sinking of a ship does not cause the ownership of the vessel to cease; it remains the property and liability of the owner. MOD has a worldwide inventory of over 5,700 post-1870 Defence shipwrecks and military cargos. A significant number are believed to still contain oil and ammunition which, were they to escape, have the potential to cause major environmental harm and / or safety concerns. In addition, many Defence shipwrecks and commercially owned sunken ships contain potentially hazardous MOD-owned military cargos. Environmentally safe and responsible management of these wrecks and cargos is therefore imperative.

5. MOD is responsible for over 5,700 Defence shipwrecks and military cargos via Salvage and Marine Operations (SALMO)’s Wreck Management Programme (WMP). Without sound environmental management these shipwrecks pose a risk to the environment, particularly marine life as shipwrecks can contain significant volumes of oil, ammunition, and other substances potentially hazardous to marine and human life. This leaflet addresses the risks posed by Defence shipwrecks and details ways in which Defence manages these risks. The aim is to:

- a. ensure the protection of the environment by minimising the risk of pollution from hazardous materials, substances, unexploded ordnance and munitions on board or emanating from Defence shipwrecks; and
- b. inform Defence departments of their duties and responsibilities to ensure the MOD is able to manage its Defence shipwrecks in an environmentally safe and responsible manner.

6. This part provides the Defence policy on the environmental management of Defence shipwrecks. It details the process and the responsibilities of Navy Command, Director for Levelling Up, Union, Climate Change and Sustainability (D-LUCC&S) and Defence Equipment and Support (DE&S) SALMO for managing the risk. The WMP provides the mechanism by which DE&S SALMO manages MOD wrecks.

7. In summary, the policy outlines a risk-based approach to assess pollution risk and potential harm to the environment from these shipwrecks and gives Navy Command the discretion to set the level of assessment to be undertaken.

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<sup>1</sup> Environmental Protection Act 1990.

8. This policy is sponsored by D-LUCC&S, whose contact email address is [SPO-LUCCS@mod.gov.uk](mailto:SPO-LUCCS@mod.gov.uk).

9. This leaflet is subject to further revision in line with a wider review of Joint Service Publication (JSP) 418, Management of Environmental Protection in Defence.

## Legislation

10. **UK Inshore Waters.** Within UK inshore waters, Marine Protected Areas (MPA), are designated under the Conservation of Habitats and Species Regulations 2017<sup>2</sup>, from which there is no Defence derogation, disapplication or exemption (DED). MOD is a competent authority under these regulations and therefore '(...) must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the (*Habitats and Wild Bird*) Directives', for example, by restoring and maintaining '(...) natural habitats and species (...) at a favourable conservation status (...)'<sup>3</sup>. Habitats and species protected and any management measures to ensure maintenance at / restoration to favourable conservation status are promulgated in the form of conservation objectives for each MPA.

11. **Outside UK Inshore Waters.** Outside of UK waters, and within the UK Exclusive Economic Zone (EEZ), the Conservation of Offshore Marine Habitats and Species Regulations 2017 apply to Defence in the same manner as the Conservation of Habitats and Species Regulations 2017 in UK inshore waters. The Nairobi International Convention on the Removal of Wrecks also applies. This is implemented in the UK by the Wreck Removal Convention Act 2011. The Convention is relevant to signatory States' EEZ. There is a disapplication for warships and any other ship owned or operated by a state used on Government non-commercial service.

12. The Secretary of State's (SofS's) policy statement on Health, Safety and Environmental Protection (HS&EP) mandates that 'where Defence has Derogations, Exemptions, or Dis-applications from HS&EP legislation, or where other circumstances indicate the need for Defence regulation of activities, we maintain Departmental arrangements that produce outcomes that are, so far as reasonably practicable, at least as good as those required by UK legislation'. These Departmental arrangements include the DSA02 Regulations sets; in this case the most pertinent is the DSA02-DMR – Defence Maritime Regulations for Health, Safety and Environmental Protection.

13. The United Nations Convention of the Law of the Sea (UNCLOS) places a duty on signatory states at Article 194(1) to 'take (...) all measures consistent with the Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source'. States are expected to comply with UNCLOS by enacting appropriate domestic legislation.

14. The UK is a signatory state to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78). This convention was developed by the International Maritime Organization (IMO) with an objective to minimize pollution of the oceans and seas, including oil pollution. MARPOL has been incorporated into domestic law by the Merchant Shipping (Prevention of Oil

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<sup>2</sup> A transposition of the Habitats Directive 1992 and Wild Bird Directives 2009 (as amended) into UK law, extending to UK inshore waters. These Directives are transposed into UK law in the UK offshore environment, by the Conservation of Offshore Marine Habitats and Species Regulations 2017.

<sup>3</sup> Habitats Directive 1992.

Pollution) Regulations 2019. It does not apply to any warship, naval auxiliary, or other ship owned or operated by the State and used, for the time being, only on government non-commercial service.

15. Wrecks lying in other countries' waters may be subject to the legislation of those countries and this must be researched and adhered to during the assessment, survey and intervention of each overseas wreck. SofS's policy statement on HS&EP provides that overseas, we will comply with the laws of Host States, where they apply to us, and in circumstances where such requirements fall short of UK requirements, we will apply UK standards so far as it is reasonably practicable to do so.

## Roles and Responsibilities

16. In summary:

- a. **DE&S SALMO** is accountable for assessing the risk and executing remediation activity as directed by Navy Command.
- b. **Navy Command** is accountable for operationally managing shipwrecks and ensuring a global emergency oil spill response service appropriate and commensurate to the oil pollution risk posed by Defence shipwrecks is on contract.
- c. **D-LUCC&S** is the lead for presenting business cases to the Permanent Secretary as chair of the Defence Safety and Environment Committee (DSEC) (or other executive decision-making body) to obtain funding for remediation activity, where this remediation activity is outside the budgetary provision for wrecks funded by Navy Command.

## Review and amendments

17. This chapter has been reviewed by the Functional Delivery Group (Environment) and approved by the DSEC. The D-LUCC&S team will review it at least once a year. Any suggestions for amendments should be sent to [SPO-LUCCS@mod.gov.uk](mailto:SPO-LUCCS@mod.gov.uk).

## Policy Statements

18. Defence has established the following policy statements to provide direction on the environmental management of Defence shipwrecks and military cargos, which must be followed.

19. **Policy Statement 1.** A register of Defence shipwrecks with the potential to cause pollution of the environment **must** be maintained.

20. **Policy Statement 2.** The risk of pollution of the environment from Defence shipwrecks **should** be assessed.

21. **Policy Statement 3.** Where the assessment indicates a Defence shipwreck risk causing *harm* to the environment and can be remediated operationally and safely, remediation activity **should** be undertaken.

**Policy Statement 1**

A register of Defence shipwrecks with the potential to cause pollution of the environment **must** be maintained.

22. **DE&S SALMO** is responsible for maintaining a register of Defence shipwrecks with the potential to cause pollution of the environment, on behalf of Navy Command.

**Policy Statement 2**

The risk of pollution of the environment from Defence shipwrecks **should** be assessed.

23. **Navy Command** is responsible for funding and directing top level day to day wreck portfolio management:

- a. setting the level and timescale for the assessment of the risk of pollution of the environment from Defence shipwrecks.
- b. providing funding for DE&S SALMO for Defence shipwreck management.

24. **DE&S SALMO** is responsible for:

- a. managing the wrecks risk assessment process.
- b. assessing the risk of harm to the environment from Defence shipwrecks, as funded by Navy Command, in accordance with (IAW) the SALMO wrecks management methodology (see the SALMO Register of Shipwrecks section in this document).

**Policy Statement 3**

Where the assessment indicates a Defence shipwreck risk causing *harm* to the environment which can be remediated operationally and safely, remediation activity **should** be undertaken.

25. **D-LUCC&S** is responsible for:

- a. based on the assessment provided by Navy Command, with advice from DE&S SALMO, developing the business case for any remediation activity that is outside Navy Command budgetary provision for Defence shipwrecks.
- b. presenting the business case to the Permanent Secretary via the DSEC (or other executive decision-making body) to obtain funding for the remediation activity. Depending on the assessment of the potential environmental harm this business case may be to either:
  - (1) establish a funding line in the next Annual Budget Cycle (ABC); or
  - (2) seek the provision of funds on a contingent basis.

26. **Navy Command** is responsible for:

- a. ensuring that measures are in place to execute remediation activity to address harm to the environment from a Defence shipwreck.

- b. informing D-LUCCS when reactive response to a Defence shipwreck situation is beyond available resources and contingency funding is necessary.

27. **DE&S SALMO** is responsible for executing remediation activity to address any imminent or confirmed harm to the environment from a Defence shipwreck, as directed by Navy Command and funded via D-LUCC&S.

## Part 2: Guidance

28. This part provides the guidance and best practice that should be followed and will help you keep to this policy.

### Retention of Records

29. All records should be kept where relevant in accordance with JSP418 Leaflet 11 Document Retention and [JSP 441 - Information, Knowledge, Digital and Data in Defence](#).

### Related Documents

30. The following documents should be consulted in conjunction with this leaflet:

- a. JSP 751 - Joint Casualty and Compassionate Policy and Procedures.
- b. [DSA02-DMR - Defence Maritime Regulations for Health, Safety and Environmental Protection](#).
- c. [Health, Safety and Environmental Protection in Defence - Policy Statement by the Secretary of State for Defence](#).

31. **Other Defence Publications.**

- a. Protection and Management of Historic Defence wrecks outside UK Territorial Waters.

32. **External Legislation and Guidance.**

- a. United Nations Convention on the Law of the Sea (UNCLOS) 1982.
- b. Nairobi International Convention on the Removal of Wrecks 2007.
- c. The Wreck Removal Convention Act 2011.
- d. Protection of Military Remains Act 1986.
- e. Protection of Wrecks Act 1973.
- f. Ancient Monuments and Archaeological Areas Act 1979.
- g. The Merchant Shipping Act 1995.
- h. The Marine and Coastal Access Act 2009.

- i. The Conservation of Habitats and Species Regulations 2017.
- j. The Conservation of Offshore Marine Habitats and Species Regulations 2017.
- k. The Marine (Scotland Act) 2010.
- l. The Marine Act (Northern Ireland) 2013.

## **SALMO Register of Shipwrecks**

33. The register comprises a prioritised list of Defence shipwrecks managed by SALMO under the WMP. The list is held in perpetuity and is reviewed and updated as new information becomes available. The point of contact for enquiries related to the register is the SALMO Wreck Manager (DES SALMO-Wrk-Mgr).

### **Wreck Management Methodology**

34. All Defence shipwrecks are initially subject to a Historic Desk Based Assessment (H-DBA) covering potential pollution, explosive or other hazardous risks. This assessment is based on the information contained in the UKHO wreck database and the SALMO register of shipwrecks, supplemented with any other information available from reputable sources.

35. The WMP assessment process has initially categorised each Defence shipwreck to prioritise their future management. The assignment is based on the type of vessel, its role at the time it was lost and the date at which it was lost and distinguishes those that are likely to pose the highest risk.

36. Following this initial assignment each Defence shipwreck is researched to determine what it was carrying at the time of loss and the likelihood of it retaining pollutants at the present day to identify and prioritise those meriting on-site investigation and remediation. The management of Defence shipwrecks will change if historical research indicates that a Defence shipwreck was not carrying pollutants at the time of loss, more data are gathered revealing that the condition of the Defence shipwreck is such that pollutants are unlikely to remain, or an intervention on the Defence shipwreck that removes safety and / or environmental risks.

37. In risk assessing the Defence shipwrecks, the following factors shall be considered:

- a. amount and type of fuel onboard the vessel at the time of sinking.
- b. quantity of explosives onboard at the time of sinking.
- c. cargo or hazardous materials contained within the wreck.
- d. the heritage value of the wreck.
- e. prevailing weather, currents and tidal streams.
- f. depth of water.
- g. proximity to:

- (1) environmentally sensitive areas such as Sites of Special Scientific Interest (SSSI) or MPA.
- (2) areas of population.
- (3) areas of leisure activity.
- (4) areas of commercial activity.
- (5) shipping traffic.
- (6) heritage assets.
- (7) politically sensitive areas.

38. On site surveys are managed by SALMO. The scope of the survey must be matched to the known hazards of the Defence shipwreck. Following an on-site survey, a report is written and added to the SALMO register of shipwrecks. This survey report is then used to reassess the risk category of the Defence shipwreck.

39. Where a survey and reassessment of the risk category shows that a Defence shipwreck poses an undesirable risk, a wreck management plan is written that details the measures that should be taken to manage the risk. The level of detail in this management plan will be proportionate to the level of risk associated with the Defence shipwreck.

40. If the on-site survey and reassessment of the risk shows the risk is intolerably high and cannot be managed, a Defence shipwreck intervention will be required.

41. The aim of intervention is to minimise the safety and environmental risk and the methodology of achieving this will be tailored to the individual Defence shipwreck. Removing the potential hazard from the shipwreck is the preferred method wherever possible.

42. Any items removed from the shipwreck should be reported to the Receiver of Wreck as required by the Merchant Shipping Act 1995.

43. Following a Defence shipwreck intervention, the risk assessment will be reviewed. In all cases where an intervention has taken place a management plan must be written.

### **Remediation Activities outside of Environmental Risk Assessment Process**

44. There are certain instances whereby remediation activities are required outside of the established framework for environmental risk assessments.

45. In certain instances, SALMO may be obliged to carry out work on a Defence shipwreck at short notice driven by non-environmental factors such as political direction or social concerns. For example, when another government requires remediation of a Defence shipwreck or military cargo lying in its territorial waters. Such work may be undertaken in addition to any programmed activity.



46. In these cases, SALMO will engage with relevant stakeholder such as the Foreign, Commonwealth and Development Office (FCDO) before conducting any work on a Defence shipwreck or military cargo in non-UK territorial waters.

47. Funding for remediation activity of this kind that is outside the budgetary provision for Defence shipwrecks or military cargos by Navy Command will be sought consistent with the Policy Statements.

48. When pollution of the environment is deemed to be imminent or is confirmed to be occurring, a further assessment of the potential environmental harm may be required before elevating the risk to the DSEC or other executive decision-making bodies via D-LUCC&S.

49. Based on the assessment of this potential environmental harm, balanced against the safety risk, the socio-political risk and the operational feasibility of undertaking remediation, a business case will be put forward by D-LUCC&S to the Permanent Secretary via the DSEC (or other executive decision-making body) to obtain departmental level funding for the remediation.