

Assented to in Her Majesty's name and on Her Majesty's behalf this      day of      , 2014.

Mark Capes  
Governor



**ST HELENA  
NO. OF 2014**

Enacted.....  
Date of Commencement.....  
Published in the Gazette.....

**A BILL  
FOR  
AN ORDINANCE**

**to protect the marine archaeological heritage of St Helena, including sites of wrecks, from interference by unauthorised persons; and for connected purposes.**

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Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

**Citation and commencement**

1. This Ordinance may be cited as the Protection of Wrecks and Marine Archaeological Heritage Ordinance, 2014, and shall come into force on .....

**Interpretation**

2. For purposes of this Ordinance—  
“**bait fishing**” means fishing for bait fish, including species of *Decapterus* and *Scomber japonicas*;  
“**certified diver**” means a person with an internationally recognised scuba diving qualification;  
“**heritage sector of St Helena**” comprises the St Helena Government, St Helena Museum, St Helena National Trust, the Heritage Society and any other recognised heritage body on St Helena;

**“permanent anchor point”** means a rope and marker buoy which has been fixed to the wreck, or attached to a block on the seabed near the wreck, in a specific position;

**“protected artefact”** means—

- (a) any object made by a human being, especially but not restricted to those objects generally regarded by the heritage sector of St Helena as being of cultural or historical interest;
- (b) any environmental object that has been altered or refashioned by human beings (referred to as ‘ecofacts’ and include, but not limited to, perforated cowry-shells used as beads or perforated bird bones used as whistles or flutes);
- (c) any natural object, unaltered by human beings but not native to the area, that has acquired cultural value by virtue of having been transported to the area by human beings.

**“protected wreck”** means a wreck listed in the Schedule;

**“restricted area”** means an area referred to in section 3;

**“site of wreck”** means an area which once contained a wreck but from which the wreck is now lost to erosion or some other destructive force;

**“St Helena resident diver”** means a certified diver who is lawfully on St Helena and who has been, or intends to remain, lawfully on the island for a period longer than six months;

**“territorial sea”** means the territorial sea of St Helena as determined in the St Helena and Dependencies (Territorial Sea) Order 1989.

### **Determination of sites of historic wrecks**

**3. (1)** The site of any protected wreck listed in the Schedule shall be a restricted area for purposes of this Ordinance.

**(2)** The Governor in Council may amend the Schedule by Order to add wrecks or sites of wrecks in the territorial sea based on historical or archaeological importance of the artefact or wreck, or of any objects contained or formerly contained in a wreck which may be lying on the sea bed or near the wreck and which should be protected from unauthorised interference.

**(3)** The restricted area around any protected wreck shall be a radius of 100 metres centred on the position specified in the Schedule, but does not include any area above the high water mark.

### **Restrictions on wrecks, areas of marine archaeological interest and protected artefacts**

**4. (1)** No person shall, without written authority granted by the Chief Environmental Officer—

- (a) penetrate any protected wreck, tamper with, damage or remove any part of a protected wreck, or any object formerly contained in such wreck;
- (b) deposit anything within a restricted area so as to fall to the sea bed which would, if it were to fall on the site of a wreck (whether it so falls or not), wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck;
- (c) pump sand in any area of the seabed or water within a restricted area;
- (d) anchor any vessel within a restricted area otherwise than at a permanent anchor point, subject to any further restrictions under the Harbours Ordinance;
- (e) conduct any spearfishing or fishing activities (other than bait fishing) within a restricted area;

- (f) scuba dive within a restricted area unless such person is a St Helena resident diver or is accompanied by a St Helena resident diver.
- (2) No person shall, without written authority granted by the Governor, tamper with, damage or remove any protected artefact within the territorial sea.
- (3) Nothing is to be regarded as constituting an offence under subsection (1) where it is done by a person—
  - (a) in the course of any action taken for the sole purpose of dealing with an emergency of any description; or
  - (b) in exercising, or seeing to the exercise of, functions conferred by or under any legislation; or
  - (c) out of necessity due to stress of weather or navigational hazards where immediate action is required to avoid imminent danger.
- (4) A person guilty of an offence under subsection (1) shall be liable on conviction to a maximum fine of £20,000 or imprisonment for a period not exceeding five years, or both.

**Regulations**

- 5. (1) The Governor in Council may make regulations for carrying into effect the provisions of this Ordinance.
- (2) Regulations under subsection (1) may—
  - (a) make provision for scuttling of vessels or shipwrecks for purpose of creating artificial reefs having regard to the potential tourism benefit but subject to implementing steps to avoid damage to sensitive marine habitats; and
  - (b) prescribe provisions which require any person, who is convicted of an offence under this Ordinance which has resulted in any damage or pollution of the environment, to take measures to clean up or rehabilitate the environment.

**SCHEDULE**

Name of Wreck	Location
Papanui	15°55.350 S and 005°43.200 W
Spangereid	15°55.380 S and 005°43.220 W
Darkdale	15°55.086 S and 005°43.394 W
Witte Leeuw (White Lion)	15°55.048 S and 005°43.205 W
Bedgellet	15°56.735 S and 005°45.281 W
Frontier and Portzic	15°56.224 S and 005°44.640 W
Atlantic Rose	15°55.764 S and 005°43.832 W

**EXPLANATORY NOTE**

*(This note is not part of the Ordinance)*

This Ordinance makes provision for the protection of wrecks and other historical and archeological heritage in St Helena waters.