

Third Session Fourth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 13 of 1994

[L.S.]

AN ACT to secure the protection of wrecks in the Territorial Waters of Trinidad and Tobago and the sites of such wrecks from interference by unauthorized persons and for related purposes.

[Assented to 22nd August, 1994]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:—

1. This Act may be cited as the Protection of Wrecks Short title Act, 1994.

Interpretation

2. (1) In this Act—

“abandoned wreck” means any wreck which has remained continuously upon the sea bed within the limits of the waters of Trinidad and Tobago for a period of fifty years or more;

“export” means to take or cause to be taken out of Trinidad and Tobago;

“licence” means a licence granted by the Minister under section 5;

“Minister” means the Minister to whom the responsibility for shipping is assigned;

“Receiver” means the Principal Receiver of Wreck under section 320 of the Shipping Act;

“the sea” includes any estuary or arm of the sea;

“Trinidad and Tobago waters” means any part of the sea within the seaward limits of the Territorial Sea of Trinidad and Tobago and also means any part of a river within the ebb and flow of ordinary spring tides;

“wreck” includes cargo, equipment, stores and other objects, flotsam, jetsam, lagan and derelict found in the waters or on the shores of Trinidad and Tobago.

(2) In this Act references to the sea bed include any area submerged at high water of ordinary spring tides.

Protection of sites of historic wrecks

3. (1) If the Minister is satisfied with respect to any site in Trinidad and Tobago waters that—

(a) it is, or may prove to be, the site of a vessel lying wrecked on or in the sea bed; and

- (b) on account of the historical, archaeological or artistic importance of the vessel, or of any objects contained or formerly contained in it which may be lying on the sea bed in or near the abandoned wreck, the site ought to be protected from unauthorized interference,

he may by Order designate an area around the site as a restricted area.

(2) An Order under this section shall identify the site where the vessel lies or formerly lay, or is supposed to lie or have lain, and—

- (a) the restricted area shall be all within such distance of the site so identified as is specified in the Order, but excluding any area above the high water mark of ordinary spring tides; and
- (b) the distance specified for the purposes of paragraph (a) shall be such distance as is appropriate to ensure protection for the abandoned wreck.

(3) Subject to section 12, a person commits an offence if, in a restricted area, he does any of the following things otherwise than under the authority of a licence:

- (a) he tampers with, damages or removes any part of a vessel lying wrecked on or in the sea bed, or any object formerly contained in such a vessel; or
- (b) he carries out diving or salvage operations directed to the exploration of any abandoned wreck or to removing objects from it or from the sea bed, or uses equipment constructed or adapted for any purpose of diving or salvage operations; or

- (c) he deposits, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of an abandoned wreck, whether it so falls or not, would wholly or partly obliterate the site or obstruct access to it, or damage any part of the abandoned wreck,

and also commits an offence if he causes or permits any of those things to be done by others in a restricted area, otherwise than under the authority of such a licence.

(4) Before making an Order under this section, the Minister shall consult with such persons as he considers appropriate having regard to the purposes of the Order.

(5) The consultation referred to in subsection (4) may be dispensed with if the Minister is satisfied that the case is one in which an Order should be made as a matter of immediate urgency.

Property in
abandoned wreck

4. The claims of all persons to an abandoned wreck are barred and the property in such wreck is vested in the State.

Discovery of
abandoned wreck

5. A person who discovers an abandoned wreck within Trinidad and Tobago waters shall, within one month, notify the Receiver of same.

Removal of wreck
from Trinidad and
Tobago prohibited

6. A person shall not—

- (a) remove from Trinidad and Tobago waters; or
(b) export,

an abandoned wreck otherwise than under the authority of a licence granted under section 7.

Licences

7. (1) A licence granted by the Minister, shall be in writing and—

- (a) the Minister shall in respect of a restricted area grant licences only to persons who appear to him either—

- (i) to be competent, and properly equipped, to carry out salvage operations in a manner

appropriate to the historical, archaeological or artistic importance of any abandoned wreck which may be lying in the area and of any objects contained or formerly contained in the wreck; or

- (ii) to have any other legitimate reason for doing in the area that which can only be done under the authority of a licence;
- (b) may be subject to conditions or restrictions, and may be varied or revoked by the Minister at any time after giving not less than one week's notice to the licensee; and
- (c) anything done contrary to any condition or restriction of the licence shall be treated for the purposes of section 3(3) as done otherwise than under the authority of the licence.

(2) Where a person is authorized, by a licence to carry out diving or salvage operations, it is, subject to section 12, an offence for any other person to obstruct him, or cause or permit him to be obstructed, in doing anything which is authorised by the licence.

8. (1) If the Minister is satisfied with respect to a vessel lying wrecked in Trinidad and Tobago waters that—

- (a) because of anything contained in it, the vessel is in a condition which makes it a potential danger to life or property; and
- (b) on that account it ought to be protected from unauthorized interference,

he may by Order designate an area around the vessel as a prohibited area.

(2) An Order under this section shall identify the vessel and the place where it is lying and—

(a) the prohibited area shall be all within such distance of the vessel as is specified by the Order, excluding any area above high water mark of ordinary spring tide; and

(b) the distance specified for the purposes of paragraph (a) shall be such distance as is appropriate to ensure that unauthorized persons are kept away from the vessel.

(3) Subject to section 12, a person commits an offence if, without authority in writing granted by the Minister, he enters a prohibited area, whether on the surface or under water.

Orders subject to
negative resolution

9. An Order under section 3 or 8 shall be subject to a negative resolution of Parliament.

Revocation

10. The Minister shall revoke an Order if—

(a) in the case of an Order under section 3 designating a restricted area, he is of the opinion that there is not, or is no longer, any abandoned wreck in the area which requires protection under this Act;

(b) in the case of an Order under section 8 designating a prohibited area, he is satisfied that the vessel is no longer in a condition which makes it a potential danger to life or property.

Unlawful possession
of abandoned wreck

11. (1) A person shall not without lawful excuse keep in his possession an abandoned wreck.

(2) Notwithstanding any other written law, an abandoned wreck referred to in subsection (1) shall be forfeited to the State.

12. Nothing is to be regarded as constituting an ^{Acts of emergency, etc., not an offence} offence under this Act where it is done by a person—

- (a) in the course of any action taken by him for the sole purpose of dealing with an emergency of any description; or
- (b) in exercising, or seeing to the exercise of, functions conferred on him by or under an enactment or a body for which he acts; or
- (c) out of necessity due to stress of weather or navigational hazards.

13. Proceedings for an offence under this Act may be ^{Place of proceedings} taken and the offence may be treated as having been committed in the magisterial district located nearest to the Trinidad and Tobago waters within which the offence was committed.

14. A person guilty of an offence under sections 3(3), ^{Penalties} 5, 6, 7(2), 8(3) or 11(1) is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for three years.

Passed in the Senate this 19th day of July, 1994.

R. CUMBERBATCH
Acting Clerk of the Senate

Passed in the House of Representatives this 5th day of August, 1994.

N. COX
Acting Clerk of the House