

Marine licences: changes to fees, exemptions and self-service licences

Consultation Dates: 20.06.2025-29.08.2025

To: Marine Licensing, Defra

Submitted by: Marine and Coastal Heritage Policy Team, Historic England

Historic England Consultation Questionnaire Response:

Please note the following question numbering reference system:

- **Grey bold number** = 'Consultation on marine licensing efficiencies' document reference number
- **[Online number]** = Online questionnaire reference number

New self-service activities:

Scientific instruments – risks to navigation

2a. [Online 6] *Do you agree with the proposed amendment to make tethered instruments a self-service activity?*

Yes

2b. [Online 7] *Do you agree with the proposed amendment to make instruments which reduce navigational clearance by more than 5% a self-service activity?*

Neither Agree nor Disagree

[Online 8] *Do you have any further comments you wish to make on this proposal?*

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Investigations for unexploded ordnance

3. [Online 9] *Do you agree with the proposed amendment to licensed activity management?*

Neither Agree nor Disagree

Do you have any further comments you wish to make on this proposal?

Historic England supports the retention of the need for a marine licence to conduct UXO investigations but accepts the case that low risk UXO investigations can move to self-service to

speed the regulatory process and better inform marine licence applications for the removal and detonation of UXOs.

We welcome confirmation that investigation of UXO by self-service would remain subject to standard method statement requirements for self-service licences (<https://www.gov.uk/government/publications/self-service-marine-licensing/method-statement-requirements>), including activities in the vicinity of heritage. However, some clarification of terms relating to self-service licences and their method statement requirements is warranted as the reference in the proposal to 'heritage designations' is unsatisfactory.

Heritage designations can only be applied in the territorial sea (i.e. inshore regions of UK Marine Area) not beyond (offshore regions), which is problematic in this instance because it would not apply to UXO investigations beyond the territorial sea. Historic England would prefer reference to be made to 'heritage assets' as defined in the UK Marine Policy Statement, or 'any site (including any site comprising, or comprising the remains of, any vessel, aircraft or marine structure) which is of historic or archaeological interest' as referred to by MCAA 2009. These terms apply throughout the UK Marine Area, inshore and offshore, and are therefore preferable to 'heritage designation' in this instance.

New exemptions:Removal of abandoned vessels**4. [Online 10] Do you agree with the proposed new exemption?**

No

Do you have any further comments you wish to make on this proposal?

Historic England is highly aware of the problems presented by some abandoned boats – especially modern recreational craft made largely of GRP and related materials – and accepts that there is a need to speed their removal from the marine environment. However, Historic England does not agree with the proposed exemption for the removal of abandoned vessels as currently framed because it provides insufficient protection for the remains of vessels that are heritage assets. If the scope of the proposed exemption is clarified and safeguards for vessels that are heritage assets are improved, then we would support a new exemption.

The consultation document applies the following definition for abandoned vessel: ‘any vessel left in a state of disrepair and left within the marine or coastal environment’. This would clearly encompass all historic wrecks and hulks, which represent our seafaring past over the millennia and are often highly significant and valued by local communities. In the UK there are strong traditions of investigating such vessels by volunteers and professionals alike. There are many examples – especially among hulks at the coast – that appear to be in an extreme state of disrepair but still have extraordinary histories and make an important contribution to our historic environment.

The consultation document states that the proposed exemption would be disapplied where the activity is likely to cause damage to features of archaeological or historical interest. However, the examples cited are all designations. Most vessels that are of archaeological or historical interest are not designated (and, beyond inshore regions, cannot be designated), hence the examples provided are insufficient and potentially misleading.

Historic England strongly advises further dialogue on:

- The definitions used in this exemption.
- The guidance and examples that accompany the exemption.
- The measures that are apply to the exemption, including prior consultation, method statements, conditions, and notification.

Maintenance of bridges or cantilevered structures

6. [Online 12] Do you agree with the proposed new exemption?

Yes

Do you have any further comments you wish to make on this proposal?

Historic England agrees with the proposed exemption, noting that the primary purpose of marine licensing in this instance relates to safety of navigation. However, it is essential that MMO guidance also makes it clear that exemption from a marine licence does not provide or imply exemption from other requirements and consents. Many bridges and cantilevered structures are heritage assets, including a significant proportion that are designated under heritage legislation. The activities described as maintenance in the consultation document ('installation of lights, signage, work to pathways, fencing, road surfacing, drainage etc.') include activities that may require statutory heritage consents (e.g. Scheduled Monument Consent; Listed Building Consent) or planning permission. It is therefore important that the limitations of the proposed marine licence exemption must be made abundantly clear to operators to avoid damage to heritage assets and potential criminal offences.

There is a potential parallel here with the consultation document's proposals with respect to harbour authority consent. Historic England suggests that consideration is given to adding a condition for notification of the intention to rely on the exemption for relevant authorities where the bridge or cantilevered structure is a heritage asset.

Coastal flood defence works

8. [Online 14] Do you agree with the proposed new exemption?

No

Do you have any further comments you wish to make on this proposal?

Historic England broadly supports this proposed exemption in the interests of improving efficiency and removing duplication. We acknowledge that LPAs consenting under the Town and Countryside Planning Act (TCPA) make provision for the historic environment in implementing heritage policies in the National Planning Policy Framework and local plans. Historic England has, however, two significant concerns: First, the scope of marine licensable activities is different to 'development' consented under the TCPA. Reliance on the TCPA alone in the intertidal zone (between the landward boundary of marine licensing and the seaward boundary of TCPA) may compromise environmental protections in that zone, contradicting the overall objective of these proposals. Second, the objective of this new exemption of removing unnecessary delays will only be met if reliance on TCPA is supported by adequate capacity and skills in LPAs consideration of applications in the intertidal zone.

Historic England's concerns on these points arise because intertidal zones often contain significant and sensitive heritage assets. These can be especially vulnerable to activities that are licensable but which may not be defined as development for the purposes of TCPA. These activities include activities associated with Nature-based Solutions (NbS) whose increased use in association with coastal flood defence works is increasingly favoured (for good reasons) in Flood and Coastal Risk Management (FCRM) approaches. NbS in the intertidal zone need not pose risks to heritage assets if they are implemented with due consideration, but such consideration – including assessment, evaluation and mitigation – is usually prompted by the consenting process. If otherwise licensable activities are not subject to consent because they are not considered to be development for the purposes of TCPA, then the important role that marine licensing plays in protecting the historic environment will be undermined.

Policies on the historic environment will be further undermined if this proposed exemption causes a deficit in heritage capacity and skills with respect to the significant and sensitive heritage assets located in the intertidal zone, including expertise in implementing NbS in ways that complement the historic environment rather than causing inadvertent damage.

Accordingly, Historic England suggests that the proposed exemption on coastal flood defence works applies only to activities that fall within the scope of development for the purposes of TCPA; and that marine licensable activities outside the scope of TCPA continue to require a marine licence. This would still remove all the current duplication, but it would also ensure that environmental protections are not compromised by activities that potentially fall between stools.

Furthermore, Historic England suggests that the new exemption is accompanied by measures to ensure adequate resources and skills, so that delays caused by duplication are not exchanged for delays caused by a lack of relevant capacity. Historic England would be very pleased to discuss with MMO actions on training and skills in the heritage sector (see <https://historicengland.org.uk/education/training-skills/training/>) to accompany the proposed exemption.

Amendments to existing exemptions

Scientific instruments – risks to marine mammals part A: geophysical surveys

9a. [Online 15] *Do you agree with the government's proposal to amend this exemption in the circumstances described?*

Yes

9b. [Online 16] *Do you think these activities should be brought into self-service licensing?*

Yes

[Online 17] *Do you have any further comments you wish to make on this proposal?*

Heritage assets often comprise below-ground or buried material: sub-bottom profiling is a vital means of locating, identifying, and characterising such buried material – including buried elements of shipwrecks; and buried deposits, surfaces and features associated with submerged prehistoric landscapes. Sub-bottom profiling also generates data that can be used in 3D visualisations to help explain to the public. Sub-bottom profiling is, therefore, an important type of survey for investigating the marine historic environment, which supports conservation, advances our understanding of the past, and enables public engagement.

Wherever possible, the heritage sector generally seeks to use geophysical data that is going to be (or has been) acquired for other purposes: our sector's effectiveness in re-using data helps reduce the requirement for new sub-bottom profiling. The MMO might like to consider what measures it can take to encourage collaboration between surveys and greater re-use of data to also reduce the need for additional sub-bottom profiling. Historic England would encourage MMO to consult with UK Centre for Seabed Mapping (<https://www.admiralty.co.uk/uk-centre-for-seabed-mapping>) on this topic.

Notwithstanding our sector's re-use of data, in some cases new sub-bottom profiling is required to address heritage needs both in the public sector and during development. Adding a condition on sub-bottom profiling to require the submission of activity noise data to the Marine Noise Registry will add to costs and administrative pressures in the heritage sector, but Historic England appreciates the need to better understand underwater noise levels.

We would suggest that as evidence accrues in the Marine Noise Registry, it is periodically reviewed so that the application of this condition tailored to equipment types, regional thresholds, or other patterns identified from the MNR.

Marine Management Organisation and Natural England marine protected area marker requirements

11. [Online 20] *Do you agree with the proposed amendment to this exemption?*

Yes

Do you have any further comments you wish to make on this proposal?

Historic England supports the expansion of the scope of this exemption so that relevant public authorities can place markers associated with the management of MPAs and HPMAs without a licence.

However, the expanded exemption should be subject to a condition that marker placing activities in the vicinity of any site of historic or archaeological interest is subject to a method statement agreed with Historic England, to avoid markers causing damage to heritage assets. Markers should not be attached directly to heritage assets as convenient anchor points.

Historic England suggests that the exemption on MPA marker requirements – or a parallel exemption – also makes provision for marker placing activities without a licence in areas designated under heritage legislation, such as Scheduled Monuments under the Ancient Monuments and Archaeological Areas Act (AMAA) 1979 and areas designated under the Protection of Wrecks Act (PWA) 1973. The exemption for marker placing activities within areas designated for heritage purposes should be limited to Historic England or persons carrying out activities licensed/consented under the relevant heritage legislation.

Harbour authority consent

12. [Online 21] *Do you agree with the proposed amendment to this exemption?*

Yes

Do you have any further comments you wish to make on this proposal?

Historic England has no comment on the substance of the amendment to this exemption, but we would like to propose parallel measures to exempt licensable activities on designated heritage assets where these activities are subject to consent under heritage legislation, to include notification of the intention to rely on the exemption and a copy of the consent provided under heritage legislation.

Most activities on wrecks designated under the PWA 1973 require a licence under that Act. Similarly, intrusive activities on Scheduled Monuments require Scheduled Monument Consent under the AMAA 1979. Introducing an exemption to remove the need for a licence from the MMO in these circumstances would avoid duplication. Such an exemption could also be conditional on any licensable activities outside the scope of heritage consent continuing to require a marine licence. Including conditions on notification and a copy of the licence would

ensure that MMO remains properly informed and assured as to marine licensable activities beyond the scope of heritage consenting.

Historic England works with the MMO to ease the burden of duplication on applicants for heritage consents that also require a marine licence, but both forms of consent are still currently required. An exemption for activities licensed under heritage legislation would be especially helpful insofar as most activities on designated marine heritage assets are by volunteer groups and/or directed at monitoring, site management, and research; introducing an exemption would facilitate this important work without any reduction in protection.

Removal of exemptions for Highly Protected Marine Areas

13a. [Online 22] *Do you agree with the proposals to disapply exemptions for certain activities which may have a significant effect on an HPMA (as listed in Annex A)?*

No

13b. [Online 23] *Should any of the following exemptions not be disapplied (as listed in Annex A)?*

- Diver trails within restricted areas

[Online 24] *Do you have any further comments you wish to make on this proposal (including any evidence of potential cost impacts)?*

Historic England is firmly of the view that the exemption on diver trails within restricted areas should not be disapplied to HPMA's as there are no restricted areas under PWA 1973 or AMAA 1979 in the three HPMA's designated to date. Furthermore, restricted areas cannot be designated through PWA 1973 and AMAA 1979 beyond the territorial sea: there will never be a restricted area under heritage legislation in an offshore HPMA to which this disapplication could apply.

Notwithstanding, Historic England believes that, in principle, this exemption should not be disapplied to any future circumstances where there is an area restricted under heritage legislation coinciding with a HPMA in inshore waters. Diver trails are intended to facilitate public access by divers to designated heritage assets, helping them to understand and appreciate significant archaeological remains directly for themselves. As the UK MPS states, 'The view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations' (HMG 2011 para. 2.6.6.3): diver trails are an important measure for delivering this policy (<https://historicengland.org.uk/campaigns/visit/protected-wrecks/dive-trails/>).

Restricted areas provide statutory protection to heritage assets: diver trails are only implemented where they will not damage the heritage asset; and implementation is itself

subject to consent under the relevant heritage legislation. Moreover, Historic England – as a public authority – is obliged to exercise its functions in a manner that furthers the conservation objective of HPMAs (as MCZs). Consequently, Historic England could not licence under heritage legislation the implementation of a diver trail in a HPMA if the diver trail may have a significant effect on the HPMA.

This proposed disapplication is intrinsically unnecessary and runs contrary to government policy on enabling public enjoyment of heritage assets.

Further changes to self-service activities or exemptions

14. [Online 25] *Are there further changes to self-service activities or exemptions that you would recommend?*

Removals – by hand

Historic England is of the view that the ‘Removals – by hand’ exemption should be made consistent with the ‘Marine Litter’ exemption. The ‘Marine Litter’ exemption includes the condition that ‘The exemption only applies if the activity is not likely to cause damage to features of archaeological or historic interest [or have significant effects on a marine protected area]’. There is currently no similar condition on the exemption for ‘Removals – by hand’.

Currently, this means that a marine licence is required to remove marine litter from a historic wreck, but not to remove (by hand) elements of the historic wreck itself. This inconsistency does not appear to match the MMO’s duties with respect to protecting the environment (see Note below).

The MMO’s guidance on the Historic Environment at <https://www.gov.uk/government/publications/marine-licensing-exempted-activities/marine-licensing-exempted-activities#common-conditions-for-exemptions> to which the condition on the ‘Marine Litter’ exemption refers would also be appropriate if the same condition is applied to the ‘Removals – by hand’ exemption.

Introducing consistent conditions would help to avoid the ‘Removals – by hand’ exemption being used to side-step the need for a marine licence where the intention is to carry out intrusive activities on sites of historic or archaeological interest – including removing any substance or object from the sea bed – that would otherwise be licensable.

Note: In making an order for exemptions, the MMO must have regard to the need to protect the environment (MCAA 2009 s. 74(4)) where ‘any reference to the environment includes a reference to any site (including any site comprising, or comprising the remains of, any vessel, aircraft or marine structure) which is of historic or archaeological interest’ (s. 115(2)).

Marine licensing guidance

Historic England is also of the view that current marine licensing guidance for recreational divers (<https://www.gov.uk/government/publications/marine-licensing-guidance-for-recreational-divers>) is inconsistent/confusing and warrants revision. Historic England would be pleased to discuss clarifications to this guidance with MMO.

As noted above, clarification of terms relating to self-service licences and their method statement requirements is also warranted.

Surveying of a dive site

The MMO's Recreational Dive Activity Table

(<https://www.gov.uk/government/publications/marine-licensing-guidance-for-recreational-divers/recreational-dive-activity-table>) contains the guidance 'A marine licence is not required to conduct surveys of shipwrecks, use survey lines or datums deployed for less than 24 hours', implying that use of survey lines or datums etc. deployed for more than 24 hours would require a licence. Installing survey lines and datums can represent a significant investment of dive time, and often there is a need for datums to remain fixed for the duration of a survey. Historic England would welcome dialogue with MMO on amendments to this guidance to facilitate surveys by recreational divers on sites of historic or archaeological interest that have a duration greater than 24 hours.

Description of transitional policy

Ability for primary advisers to charge for advice in support of marine licensing decisions

20. [Online 45] *Do you agree in principle with Defra providing a mechanism for primary advisers to recover costs when providing advice in support of marine licensing decisions?*

Yes

Do you have any further comments you wish to make on this proposal (including any evidence of potential cost impacts)?

Historic England supports the principle that primary advisers should be able to recover costs when providing advice to support the MMO in their decisions, as otherwise this creates a burden on primary advisers which must be recovered through Departmental Grant in Aid.

However, we note that the examples of primary advisers do not include Historic England. This is a notable omission given the amount of support that Historic England, in its role as a statutory adviser sponsored by DCMS, regularly provides to MMO to facilitate the delivery of programmes, projects and other activities on behalf of Defra.

We would encourage MMO to include Historic England expressly in its work to scope out this proposal. We would also encourage Defra to discuss with DCMS the development of a cost recovery mechanism for Historic England's advice in support of marine licensing decisions, as it does for other aspects of Defra work (notably as a delivery body for the Farming & Countryside Programme, in collaboration with Natural England and the Forestry Commission).