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Statutory Instrument

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MERCHANT SHIPPING (WRECK DISCOVERIES AND SUNKEN MILITARY CRAFT) REGULATIONS, 2025

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Merchant Shipping Act

(Act 2024–28)

MERCHANT SHIPPING (WRECK DISCOVERIES AND SUNKEN MILITARY CRAFT) REGULATIONS, 2025

The Minister, in exercise of the powers conferred on him by section 1476 of the *Merchant Shipping Act*, makes the following Regulations:

Citation

1. These Regulations may be cited as the *Merchant Shipping (Wreck Discoveries and Sunken Military Craft) Regulations, 2025*.

Definitions

2. In these Regulations,

"abandoned shipwreck" means a shipwreck that has remained continuously upon the seabed within the exclusive economic zone limits of Barbados waters for a period of 50 years or more;

"associated contents" means

(a) in relation to an abandoned shipwreck, the equipment, cargo, remains, personal effects or other contents of the shipwreck; and

(b) in relation to a sunken military craft,

(i) the equipment, cargo and contents of the craft that are within its debris field; or

(ii) the remains and personal effects of the crew and passengers of the craft that are within its debris field;

"*in rem*" means a claim or suit against a vessel or other maritime property;

"sunken military craft" means all or any portion of

(a) a sunken warship, naval auxiliary ship or other vessel that was owned or operated by a government on military non-commercial service when it sank;

(b) a sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; or

(c) the associated contents of a craft referred to in sub-paragraph *(a)* or *(b)*, if title to it has not been abandoned or transferred by the government concerned; and

"underwater cultural heritage" has the meaning assigned to it in the United Nations Educational, Scientific and Cultural Organization's Convention on the Protection of Underwater Cultural Heritage, 2001.

Purpose

3. The purpose of these Regulations is to

(a) protect historic shipwrecks in Barbados waters from unauthorized salvors and treasure hunters;

(b) protect recent shipwrecks that are classified as culturally or scientifically significant from unauthorized salvors and treasure hunters;

(c) protect and preserve from unauthorized disturbance all sunken military craft that are owned by the Barbados government, wherever located around the world, including foreign military craft that lie within Barbados waters;

(d) ensure the proper management of authorized excavations of shipwreck discoveries;

(e) generally protect underwater cultural heritage in the form of shipwrecks; and

(f) provide for related matters.

Application

4. These Regulations apply to

(a) historic shipwrecks;

(b) recent shipwrecks classified as culturally or scientifically significant;

(c) sunken military craft owned by the Government of Barbados, wherever such craft may be; and

(d) sunken foreign military craft in Barbados waters.

PART II

ABANDONED SHIPWRECKS

Prohibition on removal of abandoned shipwreck

5.(1) Subject to paragraph (2), no person shall remove a shipwreck or any associated contents that are abandoned in Barbados waters.

(2) A person wishing to remove an abandoned shipwreck or associated contents from an abandoned shipwreck shall obtain an Underwater Cultural Heritage Permit from the Minister responsible for Underwater Cultural Heritage.

(3) An applicant for an Underwater Cultural Heritage permit shall

(a) submit a written shipwreck excavation proposal to

(i) the Minister responsible for Underwater Cultural Heritage;

(ii) the Minister responsible for Shipping; and

(iii) the Barbados Museum and Historical Society;

(b) provide details on the find;

(c) outline the manner in which the find will be recovered, should permission for excavation and recovery be granted;

(d) specify the intended uses of the excavated find; and

(e) provide any other information requested by the Minister responsible for Underwater Cultural Heritage.

Issuance of permit

6.(1) In deciding whether to grant an Underwater Cultural Heritage permit for the excavation of a shipwreck, the following factors shall be considered:

(a) the ecological, educational, scientific and cultural value of the shipwreck;

(b) the educational and recreational opportunities afforded by the shipwreck to divers and other interest groups;

(c) the value to coastal and marine tourism provided by the shipwreck;

(d) the importance of the shipwreck as a habitat for marine life;

(e) whether the cultural, educational or other value of the shipwreck will be enhanced if excavated, restored and re-purposed; and

(f) any other relevant factors.

(2) On receipt of all relevant documentation, the Minister responsible for Underwater Cultural Heritage may issue the applicant with an Underwater Cultural Heritage Permit, after

(a) consultation with

(i) the Minister responsible for Shipping;

(ii) the Coastal Zone Management Unit;

(iii) the Environmental Protection Department;

(iv) the Barbados Museum and Historical Society; and

(v) the Barbados Coast Guard; and

(b) taking into consideration the factors referred to in paragraph (1).

(3) An Underwater Cultural Heritage Permit shall include

(a) marine environmental protection requirements;

(b) any maritime cultural heritage preservation requirements specified by the Barbados Museum and Historical Society;

(c) requirements relating to participation by local professional divers in the excavation venture;

(d) requirements relating to the sharing, post-excavation, of monetary and non-monetary benefits derived from the find with Barbados; and

(e) any other relevant conditions.

(4) The application and permit fees for a Underwater Cultural Heritage Permit shall be paid to the Minister responsible for Underwater Cultural Heritage.

Validity of permit

7.(1) An Underwater Cultural Heritage Permit remains valid for a period of 6 months.

(2) An Underwater Cultural Heritage Permit in respect of a find for which the permit was originally granted may be extended on written request to the Minister responsible for Underwater Cultural Heritage.

Limits on shipwreck excavation activities

8.(1) An Underwater Cultural Heritage Permit issued in relation to one shipwreck discovery shall not be used in respect of a subsequent shipwreck discovery by the same discoverer.

(2) Where a subsequent shipwreck is discovered and the discoverer desires to excavate the find, the discoverer shall submit a new shipwreck excavation proposal under regulation 5(3).

(3) On receipt of the new shipwreck excavation proposal, the Minister responsible for Underwater Cultural Heritage shall consult with

(a) the Minister responsible for Shipping;

(b) the Coastal Zone Management Unit;

(c) the Environmental Protection Department;

(d) the Barbados Museum and Historical Society; and

(e) the Barbados Coast Guard.

(4) On completion of consultation under paragraph (3), the Minister responsible for Underwater Cultural Heritage may

(a) vary the Underwater Cultural Heritage Permit initially issued in relation to the first shipwreck and extend it to include the subsequently discovered shipwreck; or

(b) issue a separate Underwater Cultural Heritage Permit in respect of the subsequently discovered shipwreck;

and may attach relevant conditions to the varied permit or separately issued permit.

(5) The fee to vary an initially issued Underwater Cultural Heritage Permit to include a subsequently discovered shipwreck shall be paid to the Minister responsible for Underwater Cultural Heritage.

Additional shipwreck excavation requirements

9.(1) The following shall be provided to the Coastal Zone Management Unit:

(a) environmental impact assessment documentation on the site, prior to excavation;

(b) environmental quality monitoring reporting in relation to minimizing impacts on adjacent seabed areas, based on environmental quality monitoring performed during excavation;

(c) GIS and GPS mapping data reports, based on GIS and GPS mapping onsite, post-excavation and recovery, to ensure proper documentation for marine spatial planning considerations and potential future area designation; and

(d) any other information requested by the Coastal Zone Management Unit or Environmental Protection Department.

(2) The Coastal Zone Management Unit shall collaborate with the Environmental Protection Department in relation to any excavation activities.

PART III

SUNKEN MILITARY CRAFT

Title to sunken military craft

10. The right, title and interest of Barbados in and to a Barbados sunken military craft

(a) shall not be extinguished except by an express divesture of title by the Government of Barbados; and

(b) is not extinguished by the passage of time, regardless of when the military craft sank.

Unauthorized activities directed at sunken military craft

11.(1) No person shall engage in, or attempt to engage in, any activity directed at a sunken military craft that disturbs, removes, or injures the craft, except

(a) as authorized under a Sunken Military Craft Permit issued by the Headquarters of the Barbados Defence Force;

(b) as authorized by a merchant shipping notice; or

(c) as authorized in writing by the Headquarters of the Barbados Defence Force.

(2) No person shall possess, disturb, remove or injure a sunken military craft in contravention of

(a) this regulation;

(b) a merchant shipping notice; or

(c) any other statutory instrument that applies under another applicable law.

Conditions – sunken military craft permit

12.(1) A Sunken Military Craft Permit shall have attached to it such terms and conditions as may be relevant.

(2) The Headquarters of the Barbados Defence Force shall specify to an applicant the fees payable in respect of a Sunken Military Craft Permit.

Limitations

13. This Part does not apply to actions taken by, or under the direction of, the Government of Barbados.

Foreign persons

14. This Part applies to an action by a person who is not a citizen, national or resident alien of Barbados, in accordance with

(a) generally recognized principles of international law;

(b) an agreement between Barbados and the foreign country of which the person is a citizen; or

(c) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between Barbados and the foreign vessel or aircraft that applies to the individual.

Application to foreign craft

15. At the request of a foreign state, the Headquarters of the Barbados Defence Force, in consultation with the Minister responsible for National Security, may enforce the requirements of this Part, or those set out in a merchant shipping notice, with respect to a sunken military craft of that foreign state located in Barbados waters.

Agreements with foreign countries – sunken military craft

16. The Minister responsible for National Security, in consultation with the Minister responsible for Foreign Affairs, may negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with these Regulations.

PART IV

MISCELLANEOUS

Application of law of salvage and finds to PART II

17.(1) A court shall apply the requirements relating to salvage under the *Merchant Shipping Act, 2024* (Act 2024-28) to ensure that a person who discovers and salvages a wreck is compensated in his salvage efforts in relation to the shipwreck discovery.

(2) A salvage award to a person who discovers and salvages a wreck does not vest title of the shipwreck in the salvor, and title in the shipwreck remains vested in the Government of Barbados.

(3) A court shall apply the law of finds on a case-by-case basis in shipwreck discovery, particularly where

(a) the owners of the property have expressly and publicly abandoned their property; and

(b) no person makes a claim to the property; and

(c) the salvor has reduced the abandoned property to his possession.

(4) Where a successful claim based on the law of finds is made, the title to the shipwreck vests in the discoverer.

Non-application of law of salvage and finds to Part III

18.(1) The law of finds shall not apply to

(a) a Barbados sunken military craft, wherever located; or

(b) a foreign sunken military craft located in Barbados waters.

(2) No salvage rights or awards shall be granted in respect of

(a) a Barbados sunken military craft, unless express written permission is granted by the Government of Barbados; or

(b) a foreign sunken military craft located in Barbados waters, unless express written permission is granted by the relevant foreign state.

Offences

19. A person who contravenes a provision of these Regulations commits an offence and is liable on summary conviction to a fine of $100 000.

Continuing contraventions

20. Each day that a person continues to contravene these Regulations or a condition of a permit issued under these Regulations constitutes a separate offence for which the person is liable on summary conviction to a fine of $1 000 per day that the contravention continues.

***In rem* liability**

21. A vessel used to contravene these Regulations shall be liable on a judgment *in rem* to a fine of $150 000.

Other relief

22.(1) If there is an imminent risk of a disturbance of, removal of, or injury to a shipwreck to which Part II applies or a sunken military craft to which Part III applies, or if there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the relevant authority, may seek such relief as may be necessary to abate the risk or the actual disturbance, removal or injury and to return or restore the sunken military craft.

(2) The High Court shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

Limitations

23. An action to enforce a contravention of these Regulations or of the conditions of a permit issued under these Regulations shall not be brought more than 8 years after the date on which

(a) all the facts material to the right of action are known or should have been known; and

(b) the defendant became subject to the jurisdiction of a court of competent jurisdiction in Barbados or an administrative forum.

Liability for damages

24. A person who engages in an activity that contravenes these Regulations or the conditions of a permit issued under these Regulations and that disturbs, removes or injures a Barbados sunken military craft shall pay the Government of Barbados enforcement costs and damages resulting from the disturbance, removal or injury.

Included Damages

25. Damages referred to in regulation 24 may include

(a) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of a sunken military craft that is disturbed, removed or injured in contravention of these Regulations or of the conditions of a permit issued under these Regulations; and

(b) the cost of retrieving, from the site where the sunken military craft was disturbed, removed or injured, information of an archaeological, historical or cultural nature.

Relationship to international law

26.(1) Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by these Regulations, nothing in these Regulations is intended to affect

(a) an activity that is not directed at a sunken military craft; or

(b) the traditional high seas freedoms of navigation, including

(i) the laying of submarine cables and pipelines;

(ii) the operation of vessels;

(iii) fishing; or

(iv) any other internationally lawful uses of the sea related to such freedoms.

(2) These Regulations and any merchant shipping notice made in relation to these Regulations shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which Barbados is a party.

International law of capture or prize

27. Nothing in these Regulations is intended to alter the international law of capture or prize with respect to shipwrecks or sunken military craft.

Authorities of Barbados Defence Force

28. Nothing in these Regulations is intended to preclude or limit the application of any other law enforcement authorities of the Barbados Defence Force.

Prior delegations and authorizations

29. Nothing in these Regulations invalidates any prior delegation or authorization that is consistent with these Regulations.

Criminal law

30. Nothing in these Regulations is intended to prevent Barbados from pursuing criminal sanctions for the plundering of wrecks, the larceny of Government property, or the violation of any applicable criminal law.

Made by the Minister this 23rd day of April, 2025.

G.P.I. GOODING-EDGHILL

Minister responsible for Shipping