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THE ABANDONED WRECK LAW (5 OF 1966)

(1997 Revision)

Consolidated with Law 35 of 1966.

Revised under the authority of the Law Revision Law (19 of 1975).

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Law 5 of 1966-14th March, 1966

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Consolidated and revised this 4th day of February, 1997.

ABANDONED WRECK LAW

(1997 Revision)

ARRANGEMENTS OF SECTIONS

1. Short title
2. Definitions
3. Property in abandoned wreck
4. Governor may enter into an agreement with prospector
5. Terms and conditions of agreement
6. Notice of agreements to be gazetted
7. Custody of abandoned wreck
8. Governor may appoint Commissioner of Wreck
9. Claims of owners to wreck
10. Penalty for unauthorised persons for prospecting, etc.
11. Warrant may issue in cases of concealment of wreck
12. Presumption where wreck found in possession of any person
13. Wreck and Salvage Law (1996 Revision) has no application to abandoned wreck

ABANDONED WRECK LAW

(1997 Revision)

1. This Law may be cited as the Abandoned Wreck Law (1997 Revision). Short title
2. In this Law- Definitions

“abandoned wreck” means a wreck which has remained continuously upon the sea bed within the limits of the islands for a period of fifty years and upwards before being brought to shore;

“prospector” means a person with whom the Governor has entered into an agreement under this Law and is deemed to include his agents, licensees and servants;

“salvage” includes all expenses properly incurred by the salvor in performance of salvage operations; and

“wreck” includes jetsam, flotsam, lagan and derelict found in, or on the shores of, the sea or tidal water.
3. All claims to abandoned wreck are barred and the property in such wreck is vested in Her Majesty in right of Her Government of the Islands except wreck found in any place where Her Majesty or any of Her Royal Predecessors has granted to any other person the right thereto. Property in abandoned wreck
4. (1) The Governor in Council may, in any case in which he deems it to be in the public interest so to do, enter into an agreement with any prospector licensing such prospector to prospect for, salve and bring to shore any abandoned wreck. Governor may enter into an agreement with prospector

(2) In any case where the Governor considers that the finder of abandoned wreck is not a suitable person to salve and bring it to shore or deems it to be in the public interest to enter into an agreement with the finder of any abandoned wreck under subsection (1), he may pay to such finder such reward as he may determine and may enter into an agreement with any suitable person to salve and bring to shore such abandoned wreck.

(3) Every agreement under this section shall be entered into between the Governor acting for and on behalf of the Government and the prospector concerned under their respective hands and seals.
5. (1) The Governor may, in any agreement made under section 4, grant to a prospector a licence (which may be exclusive) to prospect for, work, salve and bring to shore any abandoned wreck within any defined area of the sea bed within the limits of the Islands for such period as may be specified in such agreement. Terms and conditions of agreement

(2) Every such agreement-

- (a) shall specify what proportion of any abandoned wreck brought to shore (not being less than one half of the value of the whole of such wreck) shall be returned (subject to the terms thereof) to the prospector;
- (b) may provide that, at the option of the Governor, the Government shall retain all or any articles recovered upon payment to the prospector of the due percentage of the appraised value thereof; and
- (c) may specify what proportion, if any, of the agreed costs of salvage shall be payable by the prospector and by the Government respectively.

(3) It shall be a term of any such agreement that the prospector shall waive any right of salvage whatever which might otherwise arise in his favour in consequence of his bringing to shore any abandoned wreck found within the area specified in such agreement.

(4) It shall be a term of any such agreement that the prospector shall employ such methods and submit to such measures of inspection and supervision and shall employ such equipment in and about the salvage as may be required by the Governor.

(5) Every such agreement shall contain provisions for-

- (a) the revocation of the licence granted thereby;
- (b) the preservation of the abandoned wreck;
- (c) the arbitration of all questions and differences arising between the Governor and the prospector;
- (d) the interpretation of such agreement according to the laws of the Islands; and
- (e) all such other matters as appear to the Governor to be desirable in the interests of the Government.

Notice of agreements to be gazetted

6. Whenever the Governor has entered into an agreement under section 4 he shall cause notice thereof to be gazetted. Such notice shall contain a description of the wreck and of the marks or features, if any, by which it may be identified.

Custody of abandoned wrecks

7. (1) Whoever brings to shore within the Islands abandoned wreck, whether or not in pursuance of an agreement made under this Law, shall forthwith report it to the Governor and thereafter deposit it for safe custody in such place and manner as the Governor may, in writing, direct.

(2) Whoever fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for two years.

Governor may appoint Commissioner of Wreck

8. (1) If it appears to the Governor that any matter needs to be investigated concerning any wreck within the Islands or the recovery or possession of any

articles comprising the same, he may appoint, by instrument under his hand, a Commissioner of Wreck to investigate such matter and to submit a report thereon in writing.

(2) For the purpose of making investigations, the Commissioner of Wreck is invested with all the powers of a Magistrate including the power to subpoena witnesses, to take and receive evidence upon oath or affidavit, to permit interested parties (including the Governor) to be represented by an attorney-at-law, and to conduct the investigation either in public or in private as he deems fit.

9. (1) Whoever claims that -

- (a) any wreck is not abandoned wreck; and
- (b) he is the owner of such wreck,

Claims of owners to wrecks

may apply to the Grand Court by originating summons for a declaration of his rights in respect of such wreck, and such application shall be supported by such evidence as the Court may require.

(2) The Governor shall be a party to all applications under subsection (1) and a judge may direct such other persons to be served with summonses as he thinks fit.

(3) If the Court finds that any wreck is not abandoned and is the property of some person other than Her Majesty in right of Her Government of the Islands, the Court may award salvage to the person or persons responsible for the performance of the salvage operations in respect of such wreck.

(4) Any application under this section must be made within two months after the gazetting under section 6.

10. (1) No person other than a prospector acting under and in accordance with the terms of an agreement made under this Law shall, unless thereto specially authorised in writing by the Governor, work, take or bring to shore any abandoned wreck, and where, under the terms of any such agreement, an exclusive licence has been granted to a prospector in respect of a defined area of the sea bed, within the limits of the Islands, no person other than such prospector shall prospect for any abandoned wreck within such defined area.

Penalty for unauthorised persons prospecting, etc.

(2) Whoever contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for two years.

11. (1) If the Governor suspects or receives information that any abandoned wreck is secreted or in the possession of some person who is not the owner thereof, or that any such wreck is otherwise improperly dealt with, he may cause an application to be made to any Justice of the Peace for a search warrant, and that Justice may grant such a warrant, and a police officer of or above the rank of Inspector may, by virtue thereof, enter any house or other place, wherever situate,

Warrant may issue in cases of concealment of wreck

and also any vessel, and search for such wreck, and seize and detain any such wreck there found.

(2) If any such seizure of abandoned wreck is made in consequence of information given by any person to the Governor, the informer shall be entitled, by way of reward, to such sum not exceeding in any case fifty per cent of the value of such abandoned wreck as the Governor may allow.

Presumption where
wreck found in
possession of any person

12. All wreck found in the possession of any person within the Islands shall be deemed to be abandoned wreck until the contrary is proved to the satisfaction of a magistrate or the Commissioner of Wreck, and any person found in possession of abandoned wreck shall be presumed to have brought it ashore unless he has some satisfactory explanation of the manner in which it came into his possession.

Wreck and Salvage Law
(1996 Revision) has no
application to abandoned
wreck

13. The Wreck and Salvage Law (1996 Revision) has no application to abandoned wreck as defined in section 2.

Publication in consolidated and revised form authorised by the Governor in Council this 4th day of February, 1997.

Carmena H. Parsons
Clerk of the Executive Council.