

Marine licensing – guidance for recreational divers

Introduction

This is a guide to the legal requirement under the Marine and Coastal Access Act 2009 (MCAA)¹ for a marine licence for certain activities and how those licensing requirements might affect the broad types of recreational diving that occur within the UK.

The MCAA means that a licence is required for many activities that involve depositing or removing a substance or object in the UK Marine Area. Broadly, this is the area below the mean high water springs mark and in any tidal river to the extent of the tidal influence. This guidance is written with respect to English waters and further guidance with respect to Scotland, Wales and Northern Ireland will be available.

This guidance is for recreational divers, and aims to clarify their obligations under the MCAA. However you should be aware that there is other relevant legislation. For example, if “at work” you need to follow the relevant HSE Approved Code of Practice (ACOPS); and if you recover any object from the seabed you must report it to the Receiver of Wreck in addition to meeting licence requirements.

The relevant legislation includes:

- The Protection of Wrecks Act 1973
- The Diving at Work regulations 1997, including the HSE ACOPS
- The Merchant Shipping Act (1995)
- The Ancient Monuments and Archaeological Areas Act 1979
- The Protection of Military Remains Act 1986

It is your responsibility to make sure that you are complying with these and any other relevant legislation such as any nature conservation designations. You may also need to seek permission for your activities from the seabed owner. In England, this is often The Crown Estate or the Duchy of Cornwall and the Duchy of Lancaster.

The MMO marine licensing team encourage early engagement in the marine licensing process. They would be happy to talk to you about whether the activity you are planning requires a marine licence or exemptions notification.

You can call them on 0300 123 1032 or you can email marine.consents@marinemanagement.org.uk

The parts of the MCAA most relevant to recreational divers

Section 66 of the MCAA lists the types of activity that are licensable. The activities most relevant to recreational divers are those related to deposits and removals. The relevant parts of the Act are:

Under section 66(1)(3) it is a licensable activity;

To deposit any substance or object within the UK marine licensing area, either in the sea or on or under the sea bed, from –

- a) any vehicle, vessel, aircraft or marine structure,
- b) any container floating in the sea
- c) any structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.

Under section 66(1)(8) it is a licensable activity;

To use a vehicle, vessel marine structure or floating container to remove any substance or object from the sea bed within the UK marine licensing area.

Under section 66(9) it is a licensable activity;

To carry out any form of dredging within the UK marine licensing area (whether or not involving the removal of any material from the sea or sea bed). “Dredging” includes using any device to move any material (whether or not suspended in water) from one part of the sea or sea bed to another part.

However, to provide a guide for divers, we have set out the types of regular diving related activities that do and do not require a marine licence.

Activities relevant to recreational divers that do not require a marine licence

- **Shot Lines.** The MMO consider that shot lines can be considered as temporary markers. Temporary markers (deployed and left unattended in excess of 24 hours and less than 28 days) are exempt but require notification to the MMO. Temporary markers (or shot lines) deployed for less than 24 hours are exempt and no notification is required. Temporary markers (or shot lines) deployed for more than 28 days require a marine licence.
- **Temporary Marker Buoys.** The MMO considers that marker buoys deployed in excess of 24 hours and less than 28 days are exempt from requiring a marine licence, but notification is required. Marker buoys deployed for more than 28 days require a marine licence.
- **Temporary Moorings.** The MMO consider that a marine licence would be required for any temporary mooring laid by a dive boat. A single licence application for temporary moorings can be made to cover multiple sites and for extended periods of time provided sufficient evidence is supplied with the application for a full assessment to be made.
- **Surface Marker buoys (SMBs and DSMBs).** You do not need a licence to deploy either delayed surface marker buoys (DSMB) or permanently inflated surface marker buoys (SMB) to mark the position of divers.
- **Lifting bags.** Lifting bags of less than 100kg total lifting capacity for the object may be used without a marine licence to recover items that have been on the seabed for less than 12 months, such as shot weights, datums, lost diving equipment etc.
- **Emergency situations.** You do not need a licence to use any distress flare, smoke float or similar pyrotechnic substance, provided that it is either a genuine emergency, or you are training for an emergency situation.
- **Survey lines and datums.** You do not need a licence for survey lines and datums deployed by hand.

- **Diver trails on Protected Wrecks.** A marine licence is not required for placing, securing or removing signage or other identifying markers by hand relating to diver trails on a protected wreck. The exemption does not cover moorings, which are dealt with above and consent is required as a named diver under the Protection of Wrecks Act 1973.
- **Marine litter picks.** The collection of contemporaneous marine litter using lifting bags or by hand (to a weight limit <100kg) does not require a marine licence.

If you need to notify the MMO, you can do this via the [online form](#) on the MMO website.

Activities relevant to recreational divers that do require a marine license

The MCAA requires a licence for many activities that involve depositing or removing a substance or object in the UK marine area.

Marine licences can;

- cover multiple sites or activities;
- be issued for several years at a time, e.g. for the life of a project;
- be varied and extended; and
- be issued to enable activities to be carried out with a degree of flexibility.

MMO can also include any site of historic or archaeological interest in its definition of 'environment' in marine license decision-making, including the wrecks or remains of any vessels, aircraft, and marine structures.

When considering an application for a marine licence, the MMO will act in accordance with government policy statements, any relevant marine plans and guidance and with the principles of sustainable development, namely:

- achieving a sustainable marine economy;
- ensuring a strong, healthy and just society;
- living within environmental limits;
- promoting good governance; and
- using sound science responsibly.

They will also follow the principles of better regulation and aim to be transparent, accountable, proportionate, consistent and targeted in our actions. They will consult with a range of appropriate bodies when assessing applications. These could include the Health and Safety Executive, English Heritage, and the Maritime and Coastguard Agency amongst others. They will take account of responses, and will make the final decision based on the evidence available, taking a risk-based approach.

The Government's aim is for the MMO marine licensing function to operate on a 100% cost recoverable basis. A system of fees and charges applies to all [applications](#).

The MMO has a compliance and enforcement strategy which is available on their [website](#).

The MMO will consider any applications for [emergency licences](#) on a case-by-case basis. This could potentially include the securing of any site (including any site comprising, or comprising the remains of, any vessel, aircraft or marine structure).