

ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Marine licensing

293. **Part 6** of the Act amends Part 4 of the Marine and Coastal Access Act 2009 (the 2009 Act). Part 4 of the 2009 Act establishes a marine licensing regime. Section 65 of the 2009 Act provides that licensable marine activities cannot be carried out except in accordance with a marine licence granted by the appropriate licensing authority. Section 113(4) of that Act defines the appropriate licensing authority in relation to Wales and the Welsh inshore region. For the definition of Welsh inshore region see section 322 of the 2009 Act. Except as provided by section 113(4)(a) of the 2009 Act the Welsh Ministers are the appropriate licensing authority in relation to Wales and the Welsh inshore region. Part 6 of the Act makes amendments which apply where the Welsh Ministers are the appropriate licensing authority.
294. Part 4 of the 2009 Act confers functions on the Welsh Ministers as the appropriate licensing authority. These functions include the power to grant, vary, suspend or revoke a marine licence pursuant to sections 71 and 72 of the 2009 Act. Part 6 of the Act will supplement existing charging powers at section 67 of the 2009 Act so as to enable the Welsh Ministers where they are the appropriate licensing authority, to charge fees for a broad range of applications and activities that they undertake.

Section 76 – Advice and assistance in relation to marine licensing

295. **Section 76** inserts section 67A into the 2009 Act which enables the licensing authority, to provide advice or other assistance and to recover the reasonable costs of doing so. An example of where this power might be used is the provision and recovery of costs relating to pre-application advice and assistance.

Section 77 - Fees for monitoring, variation etc. of marine licences

296. **Section 77** inserts section 72A into the 2009 Act. This enables the Welsh Ministers, as the appropriate licensing authority, to charge fees for monitoring activities authorised by a marine licence and to charge fees for applications for the variation, transfer, suspension and revocation of a marine licence. The Welsh Ministers, as the appropriate licensing authority, may also charge fees towards the reasonable expenses of investigations, examinations or tests necessary or expedient to determine certain applications. The Welsh Ministers, as licensing authority, may refuse to proceed with applications if fees are not paid or, for certain fees, by notice vary, suspend or revoke a marine licence.

Section 78 - Further provision about payment of fees

297. **Section 78** inserts sections 107A and 107B into the 2009 Act which provide for certain practical arrangements relating to the payment of fees. This includes, enabling the Welsh Ministers, as the appropriate licensing authority, to charge deposits, require payment in advance and waive or reduce fees. The Welsh Ministers, as the appropriate

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licensing authority, have similar powers for non payment of deposits as for non payment of fees under section 77.

Section 79 – Appeal against variation etc. of marine licence for non-payment of fee or deposit

298. **Section 79** amends section 108 of the 2009 Act (Appeals against notices) to provide that the Welsh Ministers must by regulations make provision for persons to be able to appeal against a notice issued as a result of a non-payment of a fee or a deposit.

Section 80 - Exceptions from power to delegate marine licensing authority functions

299. **Section 80** amends section 98(6) of the 2009 Act. Section 98(1) of the 2009 Act enables the Welsh Ministers to delegate certain appropriate licensing authority functions to another person. Section 98(6) of the 2009 Act lists excepted functions that cannot be delegated. Section 80 of the Act amends that list by adding the functions of making regulations relating to fees and deposits which have been conferred by sections 77 and 78 of the Act. As a result, those regulation-making functions cannot be delegated pursuant to section 98(1) of the 2009 Act.