



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 4 **U.K.**

MARINE LICENSING

Modifications etc. (not altering text)

- C1** Pt. 4 excluded (E.W.S.) (11.3.2015) by [The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 \(S.I. 2015/318\)](#), arts. 1, **8(6)** (with arts. 40, 41, Pt. 2 para. 4(2), Pt. 2 para. 4(3), Pt. 2 para. 19, Pt. 4 para. 3, Pt. 4 para. 4, Pt. 4 para. 16, Sch. 12 paras. 4, 9(2), 10)
- C2** Pt. 4 excluded (E.W.S.) (26.8.2015) by [The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 \(S.I. 2015/1592\)](#), arts. 1, **8(7)** (with arts. 40, 41)
- C3** Pt. 4 modified (E.W.S.) (7.9.2016) by [The Hornsea Two Offshore Wind Farm Order 2016 \(S.I. 2016/844\)](#), arts. 1(2), **36** (with arts. 37, 38)
- C4** Pt. 4 modified (E.W.S.) (15.9.2016) by [The River Humber Gas Pipeline Replacement Order 2016 \(S.I. 2016/853\)](#), arts. 1, **39** (with art. 43)

CHAPTER 1 **U.K.**

MARINE LICENCES

Modifications etc. (not altering text)

- C5** Pt. 4 Ch. 1 modified (E.W.S.) (15.8.2013) by [The North Blyth Biomass Power Station Order 2013 \(S.I. 2013/1873\)](#), arts. 1, **27** (with art. 30)
- C6** Pt. 4 Ch. 1 modified (E.W.S.) (6.8.2014) by [The Rampion Offshore Wind Farm Order 2014 \(S.I. 2014/1873\)](#), arts. 1, 11, **Sch. 13 Pt. 2 Sch. 14 Pts. 2** (with arts. 12, 13, Pt. 2 para. 6, Pt. 3 para. 5, Pt. 4 para. 4, Pt. 5 para. 4, Sch. 12 paras. 19)

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

65 Requirement for licence **U.K.**

- (1) No person may—
- (a) carry on a licensable marine activity, or
 - (b) cause or permit any other person to carry on such an activity,
- except in accordance with a marine licence granted by the appropriate licensing authority.
- (2) Subsection (1) is subject to any provision made by or under sections 74 to 77 (exemptions).

Commencement Information

II S. 65 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

66 Licensable marine activities **U.K.**

- (1) For the purposes of this Part, it is a licensable marine activity to do any of the following—

1. 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, or
 - (c) any structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.
2. To deposit any substance or object anywhere in the sea or on or under the sea bed from—
 - (a) a British vessel, British aircraft or British marine structure, or
 - (b) a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft or British marine structure.
3. To deposit any substance or object anywhere in the sea or on or under the sea bed from a vehicle, vessel, aircraft, marine structure or floating container which was loaded with the substance or object—
 - (a) in any part of the United Kingdom except Scotland, or
 - (b) in the UK marine licensing area.
4. To scuttle any vessel or floating container in the UK marine licensing area.
5. To scuttle any vessel or floating container anywhere at sea, if the scuttling is controlled from a British vessel, British aircraft or British marine structure.
6. To scuttle any vessel or floating container anywhere at sea, if the vessel or container has been towed or propelled, for the purpose of that scuttling,—
 - (a) from any part of the United Kingdom except Scotland, or
 - (b) from the UK marine licensing area, unless the towing or propelling began outside that area.

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7. To construct, alter or improve any works within the UK marine licensing area either—
 - (a) in or over the sea, or
 - (b) on or under the sea bed.
8. To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the sea bed within the UK marine licensing area.
9. 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).
10. To deposit or use any explosive substance or article within the UK marine licensing area either in the sea or on or under the sea bed.
11. To incinerate any substance or object on any vehicle, vessel, marine structure or floating container in the UK marine licensing area.
12. To incinerate any substance or object anywhere at sea on—
 - (a) a British vessel or British marine structure, or
 - (b) a container floating in the sea, if the incineration is controlled from a British vessel, British aircraft or British marine structure.
13. To load a vehicle, vessel, aircraft, marine structure or floating container in any part of the United Kingdom except Scotland, or in the UK marine licensing area, with any substance or object for incineration anywhere at sea.

(2) In subsection (1)—

- (a) in item 9, “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;
- (b) in items 12 and 13, “incineration” means the combustion of a substance or object for the purpose of its thermal destruction (and in items 11 and 12 “incinerate” is to be read accordingly).

(3) The appropriate licensing authority for any area may by order amend subsection (1) so as to add any activity to, or remove any activity from, the list of licensable marine activities as it has effect in that area.

(4) For the purposes of this Part “the UK marine licensing area” consists of the UK marine area, other than the Scottish inshore region.

Commencement Information

I2 S. 66 partly in force; s. 66 in force for specified purposes at Royal Assent see s. 324(1)(c)

I3 S. 66 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

67 Applications **U.K.**

- (1) The appropriate licensing authority may require an application for a marine licence—
 - (a) to be made in such form as the authority may determine;
 - (b) to be accompanied by a fee.

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- (2) The fee that may be charged under subsection (1)(b) is to be determined by, or in accordance with, regulations made by the appropriate licensing authority.
- (3) A licensing authority may—
 - (a) determine different forms for different descriptions of applications;
 - (b) provide for different fees for different descriptions of applications.
- (4) The appropriate licensing authority may require an applicant—
 - (a) to supply such information,
 - (b) to produce such articles, and
 - (c) to permit such investigations, examinations and tests,
 as in the opinion of the authority may be necessary or expedient to enable it to determine the application.
- (5) If the appropriate licensing authority carries out any investigation, examination or test (whether or not by virtue of subsection (4)(c)) which in its opinion is necessary or expedient to enable it to determine an application, the authority may require the applicant to pay a fee towards the reasonable expenses of that investigation, examination or test.
- (6) If an applicant fails to comply with a requirement made by the appropriate licensing authority under this section, the authority may—
 - (a) refuse to proceed with the application, or
 - (b) refuse to proceed with it until the failure is remedied.

Commencement Information

I4 S. 67 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

[^{F1}67A Advice and other assistance from the Welsh Ministers E+W]

- (1) This section applies where the Welsh Ministers are the appropriate licensing authority.
- (2) The licensing authority may provide advice or other assistance to any person who requests it in connection with—
 - (a) an application which the person proposes to make to the licensing authority for a marine licence, or
 - (b) any other matter in respect of which the licensing authority exercises functions under this Part.
- (3) The licensing authority may charge fees in respect of the reasonable costs incurred by it in connection with the provision of advice or other assistance under subsection (2).]

Textual Amendments

F1 S. 67A inserted (E.W.) (1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 76, 88\(3\)\(c\)](#); [S.I. 2017/504](#), [art. 2](#)

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68 Notice of applications **U.K.**

- (1) Having received an application for a marine licence, the appropriate licensing authority must—
 - (a) publish notice of the application, or
 - (b) require the applicant to publish notice of it.
- (2) Publication under subsection (1) must be in such manner as the authority thinks is best calculated to bring the application to the attention of any persons likely to be interested in it.
- (3) If the activity in respect of which the application is being made is proposed to be carried on wholly or partly within the area of a local authority in England, Wales or Northern Ireland, the appropriate licensing authority must give notice of the application, or require the applicant to give notice of the application, to that local authority (whether or not notice has been published under subsection (1)).
- (4) The appropriate licensing authority must not proceed with an application unless—
 - (a) notice has been published under subsection (1) (but see subsection (7)), and
 - (b) notice has been given under subsection (3) to any local authority to which notice of the application is required to be given by virtue of that subsection (but see subsection (8)).
- (5) If the appropriate licensing authority—
 - (a) publishes notice of an application, in pursuance of subsection (1)(a), or
 - (b) gives notice of an application to a local authority, in pursuance of subsection (3),the licensing authority may require the applicant to pay a fee towards the reasonable expenses of doing so.
- (6) If an applicant fails to comply with a requirement made by the authority under subsection (5), the authority may—
 - (a) refuse to proceed with the application, or
 - (b) refuse to proceed with it until the failure is remedied.
- (7) Subsection (1) does not apply in the case of any particular application if—
 - (a) the authority considers that notice of the application should not be published, or
 - (b) the Secretary of State certifies that in the opinion of the Secretary of State publication of notice of the application would be contrary to the interests of national security.
- (8) Subsection (3) does not apply in the case of any particular application and any particular local authority if—
 - (a) the appropriate licensing authority considers that notice of the application should not be given to the local authority, or
 - (b) the Secretary of State certifies that in the opinion of the Secretary of State it would be contrary to the interests of national security to give notice of the application to the local authority.
- (9) In this section “local authority” means—

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- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council;
- (c) in relation to Northern Ireland, a district council.

Modifications etc. (not altering text)

C7 S. 68 excluded by 2008 c. 29, s. 149A(5) (as inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 4\(2\)](#) (with s. 111); S.I. 2011/556, art. 3(2)(a))

Commencement Information

I5 S. 68 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

69 Determination of applications **U.K.**

- (1) In determining an application for a marine licence (including the terms on which it is to be granted and what conditions, if any, are to be attached to it), the appropriate licensing authority must have regard to—
 - (a) the need to protect the environment,
 - (b) the need to protect human health,
 - (c) the need to prevent interference with legitimate uses of the sea,
 and such other matters as the authority thinks relevant.
 - (2) In the case of an application for a licence to authorise such activities as are mentioned in item 7 in section 66(1), the appropriate licensing authority must have regard (among other things) to the effects of any use intended to be made of the works in question when constructed, altered or improved.
 - (3) The appropriate licensing authority must have regard to any representations which it receives from any person having an interest in the outcome of the application.
 - (4) A licensing authority may—
 - (a) from time to time consult any person or body it thinks fit as to the general manner in which the licensing authority proposes to exercise its powers in cases involving any matter in which that person or body has particular expertise;
 - (b) in relation to any particular application, consult any person or body which has particular expertise in any matter arising in relation to that application.
 - (5) If the appropriate licensing authority consults any person or body under subsection (4) (b), it must give the applicant the opportunity to make representations to the licensing authority about any observations made by the person or body.
- [^{F2}(5A) Regulation 3 of the Electronic Communications and Wireless Telegraphy Regulations 2011 makes provision about the time within which certain applications under this section for the granting of rights to install facilities must be determined.]
- (6) A licensing authority may by regulations make further provision as to the procedure to be followed in connection with—
 - (a) applications to it for marine licences, and
 - (b) the grant by it of such licences.

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- (7) The provision that may be made by virtue of subsection (6) includes (in particular) provision as to—
- (a) the period within which any function is to be exercised (including when that period is to begin and how it is to be calculated);
 - (b) notifying the applicant of any licensing determination.

Textual Amendments

- F2** S. 69(5A) inserted (E.W.) (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 101** (with Sch. 3 para. 12)

Modifications etc. (not altering text)

- C8** S. 69(3) excluded by 2008 c. 29, s. 149A(5) (as inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 4(2)** (with s. 111); S.I. 2011/556, art. 3(2)(a))
- C9** S. 69(5) excluded by 2008 c. 29, s. 149A(5) (as inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 4(2)** (with s. 111); S.I. 2011/556, art. 3(2)(a))

Commencement Information

- I6** S. 69 partly in force; s. 69 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I7** S. 69 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), **art. 3(2)(a)**

70 Inquiries **U.K.**

- (1) The appropriate licensing authority may cause an inquiry to be held in connection with the determination of an application for a marine licence.
- (2) Subsection (1) is subject to the following provisions of this section.
- (3) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (c. 70) apply to any inquiry which the Secretary of State or the Welsh Ministers may cause to be held under subsection (1) as they apply to inquiries under that section.
- (4) Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) apply to any inquiry which the Scottish Ministers may cause to be held under subsection (1) as they apply to inquiries under that section.
- (5) Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to any inquiry which the Department of the Environment in Northern Ireland may cause to be held under subsection (1) as it applies to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act.
- (6) Where—
 - (a) an inquiry is caused by a licensing authority to be held under subsection (1), and
 - (b) in the case of some other matter required or authorised to be the subject of an inquiry (“the other inquiry”), it appears to the relevant authority or authorities that the matters are so far cognate that they should be considered together,the relevant authority or authorities may direct that the two inquiries be held concurrently or combined as one inquiry.

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- (7) In subsection (6) “the relevant authority or authorities” means the licensing authority or, where causing the other inquiry to be held is the function of some other person or body, the licensing authority and that other person or body acting jointly.
- (8) If, in the case of any particular application, the Secretary of State certifies that it would in the opinion of the Secretary of State be contrary to the interests of national security—
- (a) if an inquiry under subsection (1) were to be held, or
 - (b) if any members of the public, or any specified persons, were to be admitted to the inquiry or some specified part of it,
- the inquiry is not to be held or, as the case may be, the public is not, or those persons are not, to be admitted to the inquiry or that part of it.
- (9) In subsection (8) “specified” means—
- (a) specified in the certificate, or
 - (b) of a description specified in the certificate.

Modifications etc. (not altering text)

C10 S. 70(6): functions made exercisable jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 4 (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 4 para. 4** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(p))

Commencement Information

I8 S. 70 in force at 6.4.2011 by [S.I. 2011/556](#), **art. 3(2)(a)**

71 Licences **U.K.**

- (1) The appropriate licensing authority, having considered an application for a marine licence, must—
- (a) grant the licence unconditionally,
 - (b) grant the licence subject to such conditions as the authority thinks fit, or
 - (c) refuse the application.
- (2) The conditions that may be attached to a licence under subsection (1)(b) may relate to—
- (a) the activities authorised by the licence;
 - (b) precautions to be taken or works to be carried out (whether before, during or after the carrying out of the authorised activities) in connection with or in consequence of those activities.
- (3) Those conditions include, in particular, conditions—
- (a) that no activity authorised by the licence be carried out until the authority or some other specified person has given such further approval of the activity as may be specified;
 - (b) as to the provision, maintenance, testing or operation of equipment for measuring or recording specified matters relating to any activity authorised by the licence;
 - (c) as to the keeping of records or the making of returns or giving of other information to the authority;

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- (d) for the removal, at the end of a specified period, of any object or works to which the licence relates;
 - (e) for the carrying out, at the end of a specified period, of such works as may be specified for the remediation of the site or of any object or works to which the licence relates;
 - (f) that any activity authorised by the licence must take place at a specified site, whether or not in the UK marine licensing area.
- (4) A licence may provide—
- (a) that it is to expire unless the activity which it authorises is begun or completed within a specified period;
 - (b) that it is to remain in force indefinitely or for a specified period of time (which may be determined by reference to a specified event).
- (5) A licence authorising such activities as are mentioned in item 7 in section 66(1) may provide that the conditions attached to it are to bind any other person who for the time being owns, occupies or enjoys any use of the works in question (whether or not the licence is transferred to that other person).
- (6) A licensing authority must not grant a licence to carry on any activity which is contrary to international law.
- (7) In this section “specified” means specified in the licence in question.

Commencement Information

19 S. 71 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

72 Variation, suspension, revocation and transfer **U.K.**

- (1) A licensing authority may by notice vary, suspend or revoke a licence granted by it if it appears to the authority that there has been a breach of any of its provisions.
- (2) A licensing authority may by notice vary, suspend or revoke a licence granted by it if it appears to the authority that—
 - (a) in the course of the application for the licence, any person either supplied information to the authority that was false or misleading or failed to supply information, and
 - (b) if the correct information had been supplied the authority would have, or it is likely that the authority would have, refused the application or granted the licence in different terms.
- (3) A licensing authority may by notice vary, suspend or revoke a licence granted by it if it appears to the authority that the licence ought to be varied, suspended or revoked—
 - (a) because of a change in circumstances relating to the environment or human health;
 - (b) because of increased scientific knowledge relating to either of those matters;
 - (c) in the interests of safety of navigation;
 - (d) for any other reason that appears to the authority to be relevant.
- (4) A suspension under subsection (1), (2) or (3) is for such period as the authority specifies in the notice of suspension.

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- (5) A licensing authority may by further notice extend the period of a suspension.
- (6) But a licence may not by virtue of this section be suspended for a period exceeding 18 months.
- (7) On an application made by a licensee, the licensing authority which granted the licence—
- (a) may transfer the licence from the licensee to another person, and
 - (b) if it does so, must vary the licence accordingly.
- (8) A licence may not be transferred except in accordance with subsection (7).

Modifications etc. (not altering text)

- C11** S. 72 applied in part (E.W.S.) (20.2.2013) by [The Kentish Flats Extension Order 2013 \(S.I. 2013/343\)](#), art. 1, **Sch. 2 para. 2(5)** (with arts. 13, 14)
- C12** S. 72 applied (with modifications) (E.W.S.) (7.7.2014) by [The East Anglia ONE Offshore Wind Farm Order 2014 \(S.I. 2014/1599\)](#), art. 1, **Sch. 10 para. 5**, Sch. 11 para. 5 (with arts. 37, 38, Sch. 9 paras. 19)
- C13** S. 72 applied (with modifications) (E.W.S.) (6.8.2014) by [The Rampion Offshore Wind Farm Order 2014 \(S.I. 2014/1873\)](#), art. 1, **Sch. 13 para. 5**, Sch. 14 para. 5 (with arts. 12, 13, Sch. 12 Pt. 1 para. 19, Pt. 2 para. 6, Pt. 3 para. 5, Pt. 4 para. 4, Pt. 5 para. 4,)
- C14** S. 72 applied (with modifications) (E.W.S.) (26.9.2014) by [The Burbo Bank Extension Offshore Wind Farm Order 2014 \(S.I. 2014/2594\)](#), art. 1, **Sch. 2 para. 5**, Sch. 3 para. 5
- C15** S. 72 applied (in part) (E.W.) (28.11.2014) by [The Walney Extension Offshore Wind Farm Order 2014 \(S.I. 2014/2950\)](#), art. 1, **Sch. 10 para. 3(6)** (with arts. 38, 39)
- C16** S. 72 applied in part (with modifications) (E.W.S.) (31.12.2014) by [The Hornsea One Offshore Wind Farm Order 2014 \(S.I. 2014/3331\)](#), art. 1, **Sch. 8 para. 2(5)**, Sch. 9 para. 2(5), Sch. 10 para. 2(6), Sch. 11 para. 2(8) (with arts. 37, 38)
- C17** S. 72 applied (with modifications) (E.W.S.) (7.8.2015) by [The Preesall Underground Gas Storage Facility Order 2015 \(S.I. 2015/1561\)](#), art. 1, **Sch. 7 para. 5** (with art. 44)
- C18** S. 72 applied (with modifications) (E.W.S.) (7.9.2016) by [The Hornsea Two Offshore Wind Farm Order 2016 \(S.I. 2016/844\)](#), art. 1(2), **Sch. 8 para. 2(5)**, Sch. 9 para. 2(7), Sch. 10 para. 2(5), Sch. 11 para. 2(7) (with arts. 37, 38)
- C19** S. 72 applied (with modifications) (27.9.2016) by [The Triton Knoll Electrical System Order 2016 \(S.I. 2016/880\)](#), art. 1(2), **Sch. 9 para. 4** (with arts. 39, 40, Sch. 8 para. 19)
- C20** S. 72 applied (with modifications) (E.W.S.) (29.8.2017) by [The East Anglia THREE Offshore Wind Farm Order 2017 \(S.I. 2017/826\)](#), art. 1, **Sch. 10 para. 7**, Sch. 11 para. 7, Sch. 12 para. 7, Sch. 13 para. 7, Sch. 14 para. 7, Sch. 15 para. 7 (with arts. 36, 37, Sch. 8 para. 34)
- C21** S. 72(7)(8) excluded (E.W.S.) (11.3.2015) by [The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 \(S.I. 2015/318\)](#), arts. 1, **8(10)** (with arts. 40, 41, Pt. 2 para. 4(2), Pt. 2 para. 4(3), Pt. 2 para. 19, Pt. 4 para. 3, Pt. 4 para. 4, Pt. 4 para. 16, Sch. 12 paras. 4, 9(2), 10)
- C22** S. 72(7)(8) excluded (E.W.S.) (26.8.2015) by [The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 \(S.I. 2015/1592\)](#), arts. 1, **8(7)** (with arts. 40, 41)
- C23** S. 72(7)(8) excluded (E.W.S.) by S.I. 2014/2950, art. 5 (as substituted (28.7.2016) by [The Walney Extension Offshore Wind Farm \(Amendment\) Order 2016 \(S.I. 2016/810\)](#), arts. 1, **2(2)**)
- C24** S. 72(7)(8) excluded (E.W.S.) (10.8.2016) by [The York Potash Harbour Facilities Order 2016 \(S.I. 2016/772\)](#), arts. 1, **8(10)** (with arts. 35, 36)
- C25** S. 72(7)(8) excluded (E.W.S.) (27.9.2016) by [The Triton Knoll Electrical System Order 2016 \(S.I. 2016/880\)](#), arts. 1(2), **5(6)** (with arts. 39, 40, Sch. 8 para. 19)

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Commencement Information

I10 S. 72 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

[^{F3}72A Further fees chargeable where the Welsh Ministers are the appropriate licensing authority **E+W**

- (1) This section applies where the Welsh Ministers are the appropriate licensing authority in relation to a marine licence granted under this Part.
- (2) The licensing authority may require the licensee to pay a fee for—
 - (a) monitoring an activity authorised by the licence,
 - (b) assessing and interpreting the results of any monitoring of an activity authorised by the licence, or
 - (c) dealing with an application by the licensee for a variation, suspension, revocation or transfer of the licence under section 72.
- (3) In subsection (2) “monitoring”, in relation to a licence, means monitoring carried out for the purposes of enabling the licensing authority to determine—
 - (a) the environmental, economic or social consequences of any activity authorised by the licence, or
 - (b) whether the licensee is complying with any conditions attached to that licence.
- (4) The fees that may be charged under subsection (2) are to be determined by or in accordance with regulations made by the licensing authority.
- (5) Regulations under subsection (4) may provide for different fees for different cases.
- (6) If the licensing authority carries out any investigation, examination or test which in its opinion is necessary or expedient to enable it to determine an application by a licensee for a variation, suspension, revocation or transfer of a licence under section 72, the authority may require the licensee to pay a fee towards the reasonable expenses of that investigation, examination or test.
- (7) If a licensee fails to comply with a requirement to pay a fee charged under subsection (2)(a) or (b), the licensing authority may by notice vary, suspend or revoke the licence.
- (8) The suspension of a licence under subsection (7) continues in effect until the fee is paid (but this is subject to any provision made under section 108(3)(b) in relation to notices under that subsection).
- (9) If a licensee who has applied for a variation, suspension, revocation or transfer of a licence under section 72 fails to comply with a requirement to pay a fee charged under this section in connection with that application, the licensing authority may—
 - (a) refuse to proceed with the application, or
 - (b) refuse to proceed with it until the failure is remedied.]

Textual Amendments

F3 S. 72A inserted (E.W.) (24.2.2017 for specified purposes) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 77\(1\), 88\(3\)\(c\)](#) (with [s. 77\(2\)](#)); [S.I. 2017/152](#), [art. 2\(a\)](#)

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

73 Appeals against licensing decisions **U.K.**

- (1) The appropriate licensing authority must by regulations make provision for any person who applies for a marine licence to appeal against a decision under section 71.
 - (2) The regulations required by subsection (1) must come into force on the day on which this Part comes into force.
 - (3) Regulations under this section may include—
 - (a) provision as to the procedure to be followed with respect to an appeal;
 - (b) provision for or in connection with suspending or varying any condition subject to which the licence was granted, pending determination of the appeal;
 - (c) provision as to the powers of any person to whom the appeal is made;
 - (d) provision as to how any sum payable in pursuance of a decision of that person is to be recoverable.
- [^{F4}(4) The duty in subsection (1) does not apply in relation to a decision under section 71 to which section 73A applies.]

Textual Amendments

- F4** S. 73(4) inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(2)**

Commencement Information

- I11** S. 73 partly in force; s. 73 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I12** S. 73 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), **art. 3(2)(a)**

[^{F5}73A Proceedings for questioning certain decisions under sections 70 and 71 **U.K.**

- (1) If a person is aggrieved by a decision of the Scottish Ministers to which this section applies, and wishes to question the validity of the decision on either of the grounds mentioned in subsection (2), the person (the “aggrieved person”) may make an application to the Inner House of the Court of Session under this section.
- (2) The grounds are that—
 - (a) the decision is not within the powers of the Scottish Ministers under this Part,
 - (b) one or more of the relevant requirements have not been complied with in relation to the decision.
- (3) This section applies to—
 - (a) a decision to cause, or not to cause, an inquiry to be held under section 70(1) in connection with the Scottish Ministers’ determination of an application for a marine licence to carry on an activity in respect of which a generating station application must also be made, and
 - (b) a decision under section 71 in relation to an application for a marine licence to carry on such an activity.
- (4) An application under this section must be made within the period of 6 weeks beginning with the date on which the decision to which the application relates is taken.
- (5) On an application under this section, the Inner House of the Court of Session—
 - (a) may suspend the decision until the final determination of the proceedings,

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- (b) may quash the decision either in whole or in part if satisfied that—
- (i) the decision in question is not within the powers of the Scottish Ministers under this Part, or
 - (ii) the interests of the aggrieved person have been substantially prejudiced by failure to comply with any of the relevant requirements in relation to the decision.

(6) In this section—

“generating station application” means an application for consent under section 36 of the Electricity Act 1989 (consent for the construction etc. of generating stations) which falls (or would fall) to be granted by the Scottish Ministers;

“the relevant requirements”, in relation to a decision to which this section applies, means the requirements of this Act, or of any order or regulations made under this Part, which are applicable to that decision.]

Textual Amendments

F5 Ss. 73A, 73B inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(3)**

Modifications etc. (not altering text)

C26 S. 73A excluded (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(3)**

[^{F5}**73B** Applications under section 73A: requirement for permission **U.K.**

- (1) No proceedings may be taken in respect of an application under section 73A(1) unless the Inner House of the Court of Session has granted permission for the application to proceed.
- (2) The Court may grant permission under subsection (1) for an application to proceed only if it is satisfied that—
 - (a) the applicant can demonstrate a sufficient interest in the subject matter of the application, and
 - (b) the application has a real prospect of success.
- (3) The Court may grant permission under subsection (1) for an application to proceed—
 - (a) subject to such conditions as the Court thinks fit, or
 - (b) only on such of the grounds specified in the application as the Court thinks fit.]

Textual Amendments

F5 Ss. 73A, 73B inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(3)**

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CHAPTER 2 **U.K.**

EXEMPTIONS AND SPECIAL CASES

Exemptions

74 Exemptions specified by order **U.K.**

- (1) The appropriate licensing authority for an area may by order specify, as regards that area, activities—
 - (a) which are not to need a marine licence;
 - (b) which are not to need a marine licence if conditions specified in the order are satisfied.
- (2) The conditions that may be specified in an order under this section include conditions enabling the authority to require a person to obtain the authority's approval before the person does anything for which a licence would be needed but for the order.
- (3) Approval under subsection (2) may be—
 - (a) without conditions;
 - (b) subject to such conditions as the authority considers appropriate.
- (4) In deciding whether to make an order under this section, the appropriate licensing authority must have regard to—
 - (a) the need to protect the environment,
 - (b) the need to protect human health,
 - (c) the need to prevent interference with legitimate uses of the sea,
 and such other matters as the authority thinks relevant.
- (5) A licensing authority must consult such persons as the authority considers appropriate as to any order the authority contemplates making under this section.

Commencement Information

I13 S. 74 partly in force; s. 74 in force for specified purposes at Royal Assent see s. 324(1)(c)

I14 S. 74 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

75 Exemptions for certain dredging etc activities **U.K.**

- (1) A marine licence is not needed for a dredging or spoil disposal activity if
 - ^[F6](a) the conditions in subsection (2) are met^[F7], and
 - (b) where the activity involves the disposal or recovery of waste materials, the additional conditions in subsection (2A) are met]
- (2) The conditions are—
 - (a) that the activity is undertaken by or on behalf of a harbour authority, and
 - (b) that the activity is authorised by, and carried out in accordance with, any legislation falling within subsection (3).
- ^[F8](2A) The additional conditions are—
 - (a) that the activity involves the relocation of sediments inside surface waters,

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- (b) that the activity is for the purpose of—
- (i) managing waters or waterways,
 - (ii) preventing floods,
 - (iii) mitigating the effects of floods or droughts, or
 - (iv) land reclamation, and
- (c) that it is proved to the satisfaction of the appropriate licensing authority for the area in which the activity is to be undertaken that the sediments are not hazardous waste.]
- (3) The legislation is—
- (a) any local Act,
 - (b) any order under section 14 or 16 of the Harbours Act 1964 (c. 40),
 - (c) any order under section 1 of the Harbours Act (Northern Ireland) 1970 (c. 1 (N.I.)), or
 - (d) section 10(3) of that Act.
- (4) In this section—
- “dredging or spoil disposal activity” means—
- (a) any dredging operation, or
 - (b) the deposit of any dredged materials that result from an exempt dredging operation;
- “exempt dredging operation” means a dredging operation for which a marine licence is not needed by virtue of this section.
- [^{F9}(5) Any expression used in subsection (1)(b) or (2A) and also in [^{F10}Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste][^{F11}, as last amended by Council Regulation (EU) 2017/997,] has the same meaning as in that Directive.]

Textual Amendments

- F6** Words in s. 75(1) renumbered as s. 75(1)(a) (6.4.2011) by [Marine and Coastal Access Act 2009 \(Amendment\) Regulations 2011 \(S.I. 2011/405\)](#), regs. 1, **2(2)(a)**
- F7** S. 75(1)(b) and word inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(Amendment\) Regulations 2011 \(S.I. 2011/405\)](#), regs. 1, **2(2)(b)**
- F8** S. 75(2A) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(Amendment\) Regulations 2011 \(S.I. 2011/405\)](#), regs. 1, **2(3)**
- F9** S. 75(5) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(Amendment\) Regulations 2011 \(S.I. 2011/405\)](#), regs. 1, **2(4)**
- F10** Words in s. 75(5) substituted (3.8.2016) by [The Waste \(Meaning of Recovery\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/738\)](#), regs. 1(1), **3**
- F11** Words in s. 75(5) inserted (17.9.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) Regulations 2018 \(S.I. 2018/942\)](#), regs. 1(2), **6**

Modifications etc. (not altering text)

- C27** S. 75(3) modified (13.3.2019) by [The Port of Tilbury \(Expansion\) Order 2019 \(S.I. 2019/359\)](#), arts. 1, **43(1)(4)** (with arts. 55, 56)

Commencement Information

- I15** S. 75 in force at 6.4.2011 by [S.I. 2011/556](#), art. **3(2)(a)**

Status: Point in time view as at 01/04/2019.

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76 Dredging in the Scottish zone **U.K.**

- (1) Nothing in this Part applies to anything done, in the exercise of a function falling within subsection (2), in relation to the extraction of minerals by dredging in the Scottish zone.
- (2) The functions are—
 - (a) any function under ^{F12}EU law (within the meaning given by section 126(9) of the Scotland Act 1998 (c. 46));
 - (b) any of Her Majesty's prerogative and other executive functions which is exercisable on behalf of Her Majesty by the Scottish Ministers.

Textual Amendments

F12 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [arts. 3, 6](#) (with [art. 3\(2\)\(3\)4\(2\)6\(4\)6\(5\)](#))

Commencement Information

I16 S. 76 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

77 Oil and gas activities and carbon dioxide storage **U.K.**

- (1) Nothing in this Part applies to any of the following—
 - (a) anything done in the course of carrying on an activity for which a licence under section 3 of the Petroleum Act 1998 (c. 17) or section 2 of the Petroleum (Production) Act 1934 (c. 36) (licences to search for and get petroleum) is required;
 - (b) anything done for the purpose of constructing or maintaining a pipeline as respects any part of which an authorisation (within the meaning of Part 3 of the Petroleum Act 1998) is in force;
 - (c) anything done for the purpose of establishing or maintaining an offshore installation (within the meaning of Part 4 of the Petroleum Act 1998 (c. 17));
 - (d) anything done in the course of carrying on an activity for which a licence under section 4 or 18 of the Energy Act 2008 (c. 32) is required (gas unloading, storage and recovery, and carbon dioxide storage).
- (2) For the purposes of subsection (1)(a) or (d), activities are to be regarded as activities for which a licence of the description in question is required if, by virtue of such a licence, they are activities which may be carried on only with the consent of the Secretary of State or another person.
- (3) Subsection (1)(d) does not apply in relation to anything done in the course of carrying on an activity for which a licence under section 4 of the Energy Act 2008 is required in, under or over any area of sea—
 - (a) which is within the Welsh inshore region or the Northern Ireland inshore region, or
 - (b) which is within both the Scottish offshore region and a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).
- (4) Subsection (1)(d) does not apply in relation to anything done in, under or over any area of sea within the Welsh inshore region or the Northern Ireland inshore region in

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the course of carrying on an activity for which a licence under section 18 of the Energy Act 2008 (c. 32) is required.

Commencement Information

I17 S. 77 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Special provisions in certain cases

78 Special procedure for applications relating to harbour works **U.K.**

- (1) This section has effect in cases where—
- (a) a person who proposes to carry on an activity must first make an application for a marine licence to carry on that activity (the “marine licence application”), and
 - (b) a related application for a harbour order (the “harbour order application”) is or has been made by the person, or the harbour order authority has reason to believe that it will be so made.
- (2) A “related application for a harbour order” is an application for an order under section 14 or 16 of the Harbours Act in relation to—
- (a) the activity for which the marine licence is required, or
 - (b) other works to be undertaken in connection with that activity.
- (3) In any case where—
- (a) both the marine licence application and the harbour order application have been made,
 - (b) the harbour order authority decides (with the agreement of the Welsh Ministers, if they are the marine licence authority and the Secretary of State is the harbour order authority) that the two applications are to be considered together, and
 - (c) the harbour order authority has given notice of that decision to the applicant, the two applications are to be considered together.
- (4) Subsection (5) applies in any case where—
- (a) one of the applications has been received but not the other,
 - (b) the harbour order authority decides (with the agreement of the Welsh Ministers, if they are the marine licence authority and the Secretary of State is the harbour order authority) that the two applications are to be considered together, and
 - (c) the harbour order authority has given notice of that decision to the applicant.
- (5) In any such case—
- (a) the application that has been received is not to be considered until the other application has also been received,
 - (b) the two applications are to be considered together, and
 - (c) the condition in subsection (3)(b) is to be regarded as satisfied by virtue of subsection (4)(b),
- but this is subject to any provision that may be made by virtue of subsection (6)(c) or (d) [^{F13}or (6A)(b)].

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(6) [^{F14}Subject to subsection (6B),] The Secretary of State may by order do any of the following—

- (a) make provision falling within subsection (7) for cases where subsection (3) applies;
- (b) make provision falling within subsection (7) for cases where subsection (5) applies;
- (c) make provision falling within subsection (7) or (8) for cases where the harbour order authority (with the agreement of the Welsh Ministers, if they are the marine licence authority and the Secretary of State is the harbour order authority) comes to the conclusion that the marine licence application is not going to be made;
- (d) make provision falling within subsection (7) or (8) for cases where the harbour order authority comes to the conclusion that the harbour order application is not going to be made.

[^{F15}(6A) The Welsh Ministers may by regulations—

- (a) make provision falling within subsection (7) for cases where—
 - (i) the Welsh Ministers are both the marine licence authority and the harbour order authority, and
 - (ii) they have decided that the two applications are to be considered together and have given notice of that decision to the applicant;
- (b) make provision falling within subsection (7) or (8) for cases where—
 - (i) the Welsh Ministers are both the marine licence authority and the harbour order authority, and
 - (ii) they have concluded that one of the applications is not going to be made.

(6B) The Secretary of State may not make provision under this section for cases where the Welsh Ministers are both the marine licence authority and the harbour order authority.]

(7) The provision that may be made by virtue of this subsection is—

- (a) provision that such procedural provisions of this Part as are specified in the order are not to apply to the marine licence application;
- (b) provision that such procedural provisions of the Harbours Act as are so specified are to apply to that application instead;
- (c) provision modifying the provisions of the Harbours Act in their application by virtue of paragraph (b).

(8) The provision that may be made by virtue of this subsection is provision modifying—

- (a) such procedural provisions of this Part as are specified in the order, or
- (b) such procedural provisions of the Harbours Act as are specified in the order.

(9) In this section—

“the harbour order authority” means—

- (a) the Secretary of State, in any case where the harbour order application falls (or would fall) to be determined by the Secretary of State;
- (b) the Welsh Ministers, in any case where the harbour order application falls (or would fall) to be determined by the Welsh Ministers;

“the Harbours Act” means the Harbours Act 1964 (c. 40);

“the marine licence authority” means—

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- (a) the Secretary of State, in any case where the marine licence application falls (or would fall) to be made to the Secretary of State;
 - (b) the Welsh Ministers, in any case where the marine licence application falls (or would fall) to be made to the Welsh Ministers;
- “procedural provisions” means any provisions for or in connection with the procedure for determining an application.

Textual Amendments

- F13** Words in s. 78(5) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 80\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)
- F14** Words in s. 78(6) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 80\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)
- F15** S. 78(6A)(6B) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 80\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(r\)](#)

Commencement Information

- I18** S. 78 partly in force; s. 78 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I19** S. 78 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

79 Special procedure for applications relating to certain electricity works U.K.

- (1) This section has effect in cases where a person who proposes to carry on an activity must first make both—
 - (a) an application for a marine licence to carry on that activity (the “marine licence application”), and
 - (b) a related application for a generating station consent (the “generating station application”).
- (2) A “related application for a generating station consent” is an application for a consent under section 36 of the Electricity Act (consent for construction etc of generating stations) in relation to—
 - (a) the activity for which the marine licence is required, or
 - (b) other works to be undertaken in connection with that activity.
- (3) In any case where—
 - (a) both the marine licence application and the generating station application have been made,
 - (b) the generating station authority decides (with the agreement of the Welsh Ministers, if they are the marine licence authority and the Secretary of State is the generating station authority) that the two applications are to be considered together, and
 - (c) the generating station authority has given notice of that decision to the applicant,the two applications are to be considered together.
- (4) Subsection (5) applies in any case where—
 - (a) one of the applications has been received but not the other,
 - (b) the generating station authority decides (with the agreement of the Welsh Ministers, if they are the marine licence authority and the Secretary of State is

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the generating station authority) that the two applications are to be considered together, and

- (c) the generating station authority has given notice of that decision to the applicant.

(5) In any such case—

- (a) the application that has been received is not to be considered until the other application has also been received,
- (b) the two applications are to be considered together, and
- (c) the condition in subsection (3)(b) is to be regarded as satisfied by virtue of subsection (4)(b),

but this is subject to any provision that may be made by virtue of subsection (6)(c) or (d) [^{F16}or (6A)(b)].

(6) [^{F17}Subject to subsection (6B),] the Secretary of State may by order do any of the following—

- (a) make provision falling within subsection (7) for cases where subsection (3) applies;
- (b) make provision falling within subsection (7) for cases where subsection (5) applies;
- (c) make provision falling within subsection (7) or (8) for cases where the generating station authority (with the agreement of the Welsh Ministers, if they are the marine licence authority and the Secretary of State is the generating station authority) comes to the conclusion that the marine licence application is not going to be made;
- (d) make provision falling within subsection (7) or (8) for cases where the generating station authority comes to the conclusion that the generating station application is not going to be made.

[^{F18}(6A) The Welsh Ministers may by regulations—

- (a) make provision falling within subsection (7) for cases where—
 - (i) the Welsh Ministers are both the marine licence authority and the generating station authority, and
 - (ii) they have decided that the two applications are to be considered together and have given notice of that decision to the applicant;
- (b) make provision falling within subsection (7) or (8) for cases where—
 - (i) the Welsh Ministers are both the marine licence authority and the generating station authority, and
 - (ii) they have concluded that one of the applications is not going to be made.

(6B) The Secretary of State may not make provision under this section for cases where the Welsh Ministers are both the marine licence authority and the generating station authority.]

(7) The provision that may be made by virtue of this subsection is—

- (a) provision that such procedural provisions of this Part as are specified in the order are not to apply to the marine licence application;
- (b) provision that such procedural provisions of the Electricity Act as are so specified are to apply to that application instead;

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- (c) provision modifying the provisions of the Electricity Act in their application by virtue of paragraph (b).
- (8) The provision that may be made by virtue of this subsection is provision modifying—
- (a) such procedural provisions of this Part as are specified in the order, or
- (b) such procedural provisions of the Electricity Act as are specified in the order.
- (9) In this section—
- “the Electricity Act” means the Electricity Act 1989 (c. 29);
- “generating station authority” means—
- (a) the Secretary of State, in any case where the generating station application falls (or would fall) to be determined by the Secretary of State;
- (b) the Scottish Ministers, in any case where the generating station application falls (or would fall) to be determined by the Scottish Ministers;
- (c) [^{F19}the Welsh Ministers, in any case where the generating station application falls (or would fall) to be determined by the Welsh Ministers;]
- “the marine licence authority” means—
- (a) the Secretary of State, in any case where the marine licence application falls (or would fall) to be made to the Secretary of State;
- (b) the Scottish Ministers, in any case where the marine licence application falls (or would fall) to be made to the Scottish Ministers;
- (c) the Welsh Ministers, in any case where the marine licence application falls (or would fall) to be made to the Welsh Ministers;
- “procedural provisions” means any provisions for or in connection with the procedure for determining an application.

Textual Amendments

- F16** Words in s. 79(5) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 81\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 5\(b\)](#)
- F17** Words in s. 79(6) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 81\(3\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 5\(b\)](#)
- F18** S. 79(6A)(6B) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 81\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 5\(b\)](#)
- F19** Words in s. 79(9) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 81\(5\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 5\(b\)](#)

Commencement Information

- I20** S. 79 partly in force; s. 79 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I21** S. 79 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

[^{F20}79A Special procedure for applications relating to certain electricity works (Northern Ireland) **U.K.**

- (1) This section has effect in cases where a person who proposes to carry on an activity must first make both—

Status: Point in time view as at 01/04/2019.

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- (a) an application to the Department of the Environment in Northern Ireland (“the Department”) for a marine licence to carry on that activity (the “marine licence application”), and
 - (b) a related application for a generating station consent (the “generating station application”).
- (2) A “related application for a generating station consent” is an application to DETI for a consent under Article 39 of the Electricity Order (consent for construction, etc. of generating stations) in relation to—
- (a) the activity for which the marine licence is required, or
 - (b) other works to be undertaken in connection with that activity.
- (3) In any case where—
- (a) both the marine licence application and the generating station application have been made,
 - (b) DETI decides (with the agreement of the Department) that the two applications are to be considered together, and
 - (c) DETI has given notice of that decision to the applicant,
- the two applications are to be considered together.
- (4) Subsection (5) applies in any case where—
- (a) one of the applications has been received but not the other,
 - (b) DETI decides (with the agreement of the Department) that the two applications are to be considered together, and
 - (c) DETI has given notice of that decision to the applicant.
- (5) In any such case—
- (a) the application that has been received is not to be considered until the other application has also been received,
 - (b) the two applications are to be considered together, and
 - (c) the condition in subsection (3)(b) is to be regarded as satisfied by virtue of subsection (4)(b),
- but this is subject to any provision that may be made by virtue of subsection (6)(c) or (d).
- (6) The Department may by order do any of the following—
- (a) make provision falling within subsection (7) for cases where subsection (3) applies;
 - (b) make provision falling within subsection (7) for cases where subsection (5) applies;
 - (c) make provision falling within subsection (7) or (8) for cases where DETI (with the agreement of the Department) comes to the conclusion that the marine licence application is not going to be made;
 - (d) make provision falling within subsection (7) or (8) for cases where DETI comes to the conclusion that the generating station application is not going to be made.
- (7) The provision that may be made by virtue of this subsection is—
- (a) provision that such procedural provisions of this Part as are specified in the order are not to apply to the marine licence application;

Status: Point in time view as at 01/04/2019.

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- (b) provision that such procedural provisions of the Electricity Order as are so specified are to apply to that application instead;
 - (c) provision modifying the provisions of the Electricity Order in their application by virtue of paragraph (b).
- (8) The provision that may be made by virtue of this subsection is provision modifying—
- (a) such procedural provisions of this Part as are specified in the order, or
 - (b) such procedural provisions of the Electricity Order as are specified in the order.
- (9) In this section—
- “ DETI ” means the Department of Enterprise, Trade and Investment in Northern Ireland;
 - “ the Electricity Order ” means the Electricity (Northern Ireland) Order 1992;
 - “ procedural provisions ” means any provisions for or in connection with the procedure for determining an application.]

Textual Amendments

F20 S. 79A inserted (N.I.) (18.9.2013) by [Marine Act \(Northern Ireland\) 2013 \(c. 10\)](#), **ss. 42, 49** (with **ss. 1(1), 46(3), 47**)

80 Electronic communications apparatus **U.K.**

- (1) A licensing authority must not grant a marine licence to carry on any activity which amounts to or involves the exercise of a right conferred by paragraph 11 of the Electronic Communications Code unless it is satisfied that adequate compensation arrangements have been made.
- (2) For the purposes of subsection (1) “adequate compensation arrangements” are adequate arrangements for compensating any persons—
- (a) who appear to that authority to be owners of interests in the tidal water or lands on, under or over which the right is to be exercised,
 - (b) for any loss or damage sustained by those persons in consequence of the activity being carried on.
- (3) In paragraph 11 of the Electronic Communications Code omit—
- (a) sub-paragraphs (3) to (10);
 - (b) in sub-paragraph (11), the definition of “remedial works”.
- (4) In this section “the Electronic Communications Code” means the code set out in Schedule 2 to the Telecommunications Act 1984 (c. 12).

Commencement Information

I22 S. 80 in force at 6.4.2011 by [S.I. 2011/556](#), **art. 3(2)(a)**

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

81 Submarine cables on the continental shelf **U.K.**

- (1) Nothing in this Part applies to anything done in the course of laying or maintaining an offshore stretch of exempt submarine cable.
- (2) Where subsection (1) has effect in relation to part (but not the whole) of an exempt submarine cable—
 - (a) the appropriate licensing authority must grant any application made to it for a marine licence for the carrying on of a licensable marine activity in the course of laying any inshore stretch of the cable, and
 - (b) nothing in this Part applies to anything done in the course of maintaining any inshore stretch of the cable.
- (3) A licensing authority has the same powers to attach conditions to a marine licence required to be granted by virtue of subsection (2) as it has in relation to a marine licence not required to be so granted.
- (4) In the application of this section in relation to any cable—

“inshore stretch” means any of the cable which is laid, or proposed to be laid, within the seaward limits of the territorial sea;

“offshore stretch” means any of the cable which is laid, or proposed to be laid, beyond the seaward limits of the territorial sea.
- (5) For the purposes of this section a submarine cable is “exempt” unless it is a cable constructed or used in connection with any of the following—
 - (a) the exploration of the UK sector of the continental shelf;
 - (b) the exploitation of the natural resources of that sector;
 - (c) the operations of artificial islands, installations and structures under the jurisdiction of the United Kingdom;
 - (d) the prevention, reduction or control of pollution from pipelines.
- (6) In this section—

“natural resources” means—

 - (a) the mineral and other non-living resources of the sea bed and subsoil, together with
 - (b) living organisms belonging to sedentary species;

“living organisms belonging to sedentary species” means organisms which, at the harvestable stage, are either—

 - (a) immobile on or under the sea bed, or
 - (b) unable to move except in constant physical contact with the sea bed or the subsoil.

Commencement Information

123 S. 81 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

82 Structures in, over or under a main river **U.K.**

- (1) Section 109 of the Water Resources Act 1991 (c. 57) (structures in, over or under a main river) is amended as follows.
- (2) After subsection (6) insert—

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “(7) Subsections (1) to (3) above shall not apply to any work if—
- (a) carrying out the work is a licensable marine activity,
 - (b) the Agency considers that, in view of the terms and conditions that will be included in the marine licence, the provisions of those subsections may be dispensed with, and
 - (c) the Agency issues a notice to that effect to the applicant for the marine licence.
- (8) In subsection (7) above “licensable marine activity” and “marine licence” have the same meaning as in Part 4 of the Marine and Coastal Access Act 2009.”.

Commencement Information

I24 S. 82 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

83 Requirements for Admiralty consent under local legislation **U.K.**

- (1) If, in the case of any particular work,—
- (a) a marine licence is needed for the carrying out of the work,
 - (b) Admiralty consent for the carrying out of the work would also be required (apart from this subsection) by virtue of any local legislation, and
 - (c) the Secretary of State considers that, in view of the need for a marine licence, the requirement for Admiralty consent for the carrying out of the work may be dispensed with, and issues a notice to that effect,
- the requirement for Admiralty consent does not apply in relation to that work.
- (2) In subsection (1)—
- “Admiralty consent” means the consent of the Admiralty, whether alone or jointly with any other government department;
- “local legislation” means—
- (a) a local Act, or
 - (b) any such Act and any notice given and published by the Admiralty under section 9 of the Harbours Transfer Act 1862 (c. 69).

Commencement Information

I25 S. 83 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

84 Byelaws for flood defence and drainage purposes **U.K.**

- (1) Schedule 25 to the Water Resources Act 1991 (c. 57) (byelaw making powers of the Environment Agency) is amended as follows.
- (2) In paragraph 5 (byelaws for flood defence and drainage purposes) after subparagraph (3) insert—
- “(3A) If, in any particular case,—
- (a) a marine licence is needed for the carrying on of any activity,

Status: Point in time view as at 01/04/2019.

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- (b) before that activity may be carried on, the consent of the Agency would also be required (apart from this sub-paragraph) by virtue of any byelaw under this paragraph, and
- (c) the Agency considers that, in view of the terms and conditions that will be included in the marine licence, the requirement for the consent of the Agency may be dispensed with, and issues a notice to that effect,

the requirement for the consent of the Agency does not apply in relation to the carrying on of that activity.”

“(3B) In sub-paragraph (3A) “marine licence” has the same meaning as in Part 4 of the Marine and Coastal Access Act 2009.”.

Commencement Information

I26 S. 84 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

CHAPTER 3 **U.K.**

ENFORCEMENT

Modifications etc. (not altering text)

C28 Pt. 4 Ch. 3 applied (E.W.S.) (10.8.2016) by [The York Potash Harbour Facilities Order 2016 \(S.I. 2016/772\)](#), [art. 1](#), [Sch. 5 para. 8](#) (with arts. 35, 36)

Offences

85 Breach of requirement for, or conditions of, a licence **U.K.**

- (1) A person who—
 - (a) contravenes section 65(1), or
 - (b) fails to comply with any condition of a marine licence, commits an offence.
- (2) A person who is bound by a condition of a licence by virtue of section 71(5) is not to be taken as having failed to comply with the condition unless the requirements of subsection (3) are satisfied.
- (3) The requirements are that—
 - (a) the appropriate licensing authority has served the person with a notice under this subsection which specifies the condition together with a period (which must be a reasonable period, in all the circumstances of the case) within which the person must comply with the condition, and
 - (b) the person has failed to comply with the condition within that period.
- (4) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction, to [^{F21}a fine not exceeding £50,000][^{F21}a fine];

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Textual Amendments

F21 Words in s. 85(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 43(2)** (with reg. 5(1))

Commencement Information

I27 S. 85 in force at 6.4.2011 by [S.I. 2011/556](#), **art. 3(2)(a)**

86 Action taken in an emergency **U.K.**

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to prove that—
- the activity was carried out for the purpose of securing the safety of a vessel, aircraft or marine structure, or for the purpose of saving life, and
 - the person took steps within a reasonable time to inform the appropriate licensing authority of the matters set out in subsection (2).
- (2) The matters are—
- the fact that the activity was carried out,
 - the locality and circumstances in which it was carried out, and
 - any substances or objects concerned.
- (3) A person does not have the defence provided by subsection (1) if the court is satisfied that the activity was neither—
- necessary for any purpose mentioned in subsection (1)(a), nor
 - a reasonable step to take in the circumstances.
- (4) A person does not have the defence provided by subsection (1) if the court is satisfied that—
- the activity was necessary for one of those purposes, but
 - the necessity was due to the fault of the person or of some other person acting under the person's direction or control.

Modifications etc. (not altering text)

C29 S. 86 excluded (24.8.2017) by [The National Grid \(Richborough Connection Project\) Development Consent Order 2017 \(S.I. 2017/817\)](#), art. 1, **Sch. 9 para. 18** (with art. 22)

Commencement Information

I28 S. 86 in force at 6.4.2011 by [S.I. 2011/556](#), **art. 3(2)(a)**

87 Electronic communications: emergency works **U.K.**

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to prove that—

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) for the purposes of paragraph 23 of the Electronic Communications Code (undertaker's works), the person is the operator or a relevant undertaker, and
 - (b) the activity was carried out for the purpose of executing emergency works, within the meaning of that Code.
- (2) In this section “the Electronic Communications Code” means the code set out in Schedule 2 to the Telecommunications Act 1984 (c. 12).

Commencement Information

I29 S. 87 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

88 Activity licensed by another State **U.K.**

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to which subsection (2) applies to prove that subsections (3) and (4) are satisfied in respect of that activity.
- (2) This subsection applies to any activity which—
- (a) falls within item 2, 5 or 12 in section 66(1), and
 - (b) is carried on outside the UK marine licensing area.
- (3) This subsection is satisfied if—
- (a) in the case of an activity falling within item 2 in subsection (1) of section 66, the vessel, aircraft, marine structure or floating container (as the case may be) was loaded in a Convention State, or in the national or territorial waters of a Convention State, with the substances or objects deposited;
 - (b) in the case of an activity falling within item 5 in that subsection, the vessel scuttled was towed or propelled from a Convention State, or from the national or territorial waters of a Convention State, to the place where the scuttling was carried out;
 - (c) in the case of an activity falling within item 12 in that subsection, the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or objects incinerated.
- (4) This subsection is satisfied if the activity was carried on—
- (a) in pursuance of a licence issued by the responsible authority in the Convention State concerned, and
 - (b) in accordance with the provisions of that licence.
- (5) For the purposes of this section—
- “Convention State” means a state which is a party to the London Convention, the London Protocol or the OSPAR Convention;
 - “the London Convention” means the Convention on the Prevention of Maritime Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;
 - “the London Protocol” means the Protocol to the London Convention agreed at London in November 1996;

Status: Point in time view as at 01/04/2019.

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“the OSPAR Convention” means the Convention for the Protection of the Marine Environment of the North-East Atlantic concluded at Paris in September 1992.

- (6) The references in subsection (5) to the London Convention, the London Protocol and the OSPAR Convention are to them as they have effect from time to time.
- (7) The Secretary of State may by order amend subsections (5) and (6) in such manner as the Secretary of State considers appropriate for the purpose of giving effect to any international agreement which has been ratified by the United Kingdom and which alters the provisions of, or replaces, those Conventions or that Protocol.

Commencement Information

- I30** S. 88 partly in force; s. 88 in force for specified purposes at Royal Assent see s. 324(1)(c)
I31 S. 88 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

89 Information **U.K.**

- (1) A person who, for any of the purposes set out in subsection (2),—
 - (a) makes a statement which is false or misleading in a material particular, knowing the statement to be false or misleading,
 - (b) makes a statement which is false or misleading in a material particular, being reckless as to whether the statement is false or misleading, or
 - (c) intentionally fails to disclose any material particular,commits an offence.
- (2) The purposes are—
 - (a) the purpose of procuring the issue, variation or transfer of a licence, or
 - (b) the purpose of complying with, or purporting to comply with, any obligation imposed by the provisions of this Part or the provisions of a licence.
- (3) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

Commencement Information

- I32** S. 89 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Enforcement notices

90 Compliance notice **U.K.**

- (1) If it appears to an enforcement authority that subsections (3) and (4) are satisfied in relation to a person carrying on an activity in its area, it may issue a compliance notice to that person.
- (2) A compliance notice is a notice requiring a person to take such steps (falling within subsection (5)(b)) as are specified in it.

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) This subsection is satisfied if a person holding a marine licence—
- (a) has carried on, or is carrying on, a licensable marine activity under that licence, and
 - (b) in carrying on that activity has failed, or is failing, to comply with a condition of the licence.
- (4) This subsection is satisfied if the carrying on of the activity has not caused, and is not likely to cause, any of the following—
- (a) serious harm to the environment;
 - (b) serious harm to human health;
 - (c) serious interference with legitimate uses of the sea.
- (5) A compliance notice must—
- (a) state the enforcement authority's grounds for believing that subsections (3) and (4) are satisfied;
 - (b) require the person to take such steps as the authority considers appropriate to ensure that the condition in question is complied with;
 - (c) state the period before the end of which those steps must be taken.

Commencement Information

I33 S. 90 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

91 Remediation notice **U.K.**

- (1) If it appears to an enforcement authority that each of subsections (3) to (5) is satisfied in relation to a person carrying on an activity in its area, it may issue a remediation notice to that person.
- (2) A remediation notice is a notice requiring a person to do either or both of the following—
- (a) to take such steps (falling within subsection (7)(b)) as are specified in it;
 - (b) to pay to the enforcement authority such sums (falling within subsection (7)(c)) as are specified in it.
- (3) This subsection is satisfied if a person has carried on, or is carrying on, a licensable marine activity.
- (4) This subsection is satisfied if the carrying on of the activity has involved, or involves, the commission of an offence under section 85(1).
- (5) This subsection is satisfied if the carrying on of the activity has caused, or is causing or is likely to cause, any of the following—
- (a) harm to the environment;
 - (b) harm to human health;
 - (c) interference with legitimate uses of the sea.
- (6) Before issuing a remediation notice, the enforcement authority must consult the person to whom it is proposed to be issued as to the steps or, as the case may be, the sum to be specified in the notice.
- (7) A remediation notice—

Status: Point in time view as at 01/04/2019.

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- (a) must state the enforcement authority's grounds for believing that each of subsections (3) to (5) is satisfied;
 - (b) may require the person to take such remedial or compensatory steps as the authority considers appropriate;
 - (c) may require the person to pay a sum representing the reasonable expenses of any remedial or compensatory steps taken, or to be taken, by the enforcement authority or the appropriate licensing authority (whether or not under section 106);
 - (d) must state the period before the end of which those steps must be taken or, as the case may be, that sum must be paid.
- (8) In subsection (7)(b) and (c) “remedial or compensatory steps” means steps taken (or to be taken) for any one or more of the purposes mentioned in subsection (9) (whether or not the steps are to be taken at or near the place where the harm or interference mentioned in subsection (5) has been, is being, or is likely to be, caused or the activity in respect of which the notice is issued is or has been carried on).
- (9) The purposes are—
- (a) protecting the environment;
 - (b) protecting human health;
 - (c) preventing interference with legitimate uses of the sea;
 - (d) preventing or minimising, or remedying or mitigating the effects of, the harm or interference mentioned in subsection (5);
 - (e) restoring (whether in whole or in part) the condition of any place affected by that harm or interference to the condition, or a condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred;
 - (f) such purposes not falling within the preceding paragraphs as the enforcement authority considers appropriate in all the circumstances of the case.

Commencement Information

I34 S. 91 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

92 Further provision as to enforcement notices **U.K.**

- (1) A compliance notice or remediation notice—
- (a) must be served on any person carrying on, or in control of, the activity to which the notice relates, and
 - (b) if a marine licence has been granted in relation to that activity, may also be served on the licensee.
- (2) An enforcement authority may by a further notice—
- (a) revoke a compliance notice or remediation notice;
 - (b) vary a compliance notice or remediation notice so as to extend the period specified in accordance with section 90(5)(c) or, as the case may be, section 91(7)(d).
- (3) A person who fails to comply with—
- (a) a compliance notice, or

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- (b) a remediation notice,
commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to [^{F22}a fine not exceeding £50,000][^{F22}a fine];
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (5) A sum specified in a remediation notice by virtue of section 91(7)(c) is recoverable as a civil debt.

Textual Amendments

F22 Words in s. 92(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 43\(3\)](#) (with reg. 5(1))

Commencement Information

I35 S. 92 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Civil sanctions

93 Fixed monetary penalties **U.K.**

- (1) The appropriate licensing authority for any area may by order make provision to confer on the appropriate enforcement authority for that area the power by notice to impose on a person in relation to an offence under this Part a fixed monetary penalty.
- (2) Provision under this section may only confer such a power in relation to a case where the enforcement authority is satisfied beyond reasonable doubt that the person has committed the offence.
- (3) For the purposes of this Part a “fixed monetary penalty” is a requirement to pay to the enforcement authority a penalty of a prescribed amount.
- (4) The amount of the fixed monetary penalty that may be imposed in relation to an offence may not exceed the maximum amount [^{F23}(if any)] of the fine that may be imposed on summary conviction for that offence.
- (5) In this section “prescribed” means prescribed in an order made under this section.

Textual Amendments

F23 Words in s. 93(4) inserted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 5 para. 15](#) (with reg. 5(1))

Commencement Information

I36 S. 93 partly in force; s. 93 in force for specified purposes at Royal Assent see s. 324(1)(c)

I37 S. 93 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Status: Point in time view as at 01/04/2019.

Changes to legislation: Marine and Coastal Access Act 2009, Part 4 is up to date with all changes known to be in force on or before 22 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

94 Fixed monetary penalties: procedure **U.K.**

- (1) Provision under section 93 must secure the results in subsection (2).
- (2) Those results are that—
 - (a) where the enforcement authority proposes to impose a fixed monetary penalty on a person, the authority must serve on that person a notice of what is proposed (a “notice of intent”) which complies with subsection (3),
 - (b) the notice of intent also offers the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of a prescribed sum (which must be less than or equal to the amount of the penalty),
 - (c) if the person does not so discharge liability—
 - (i) the person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty, and
 - (ii) the enforcement authority must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty,
 - (d) where the enforcement authority decides to impose the fixed monetary penalty, the notice imposing it (“the final notice”) complies with subsection (5), and
 - (e) the person on whom a fixed monetary penalty is imposed may appeal against the decision to impose it.
- (3) To comply with this subsection the notice of intent must include information as to—
 - (a) the grounds for the proposal to impose the fixed monetary penalty,
 - (b) the effect of payment of the sum referred to in subsection (2)(b),
 - (c) the right to make representations and objections,
 - (d) the circumstances in which the enforcement authority may not impose the fixed monetary penalty,
 - (e) the period within which liability to the fixed monetary penalty may be discharged, which must not exceed the period of 28 days beginning with the day on which the notice of intent is received, and
 - (f) the period within which representations and objections may be made, which must not exceed the period of 28 days beginning with the day on which the notice of intent is received.
- (4) Provision pursuant to subsection (2)(c)(ii)—
 - (a) must secure that the enforcement authority may not decide to impose a fixed monetary penalty on a person where the authority is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence in relation to which the penalty is proposed to be imposed, and
 - (b) may include provision for other circumstances in which the enforcement authority may not decide to impose a fixed monetary penalty.
- (5) To comply with this subsection the final notice referred to in subsection (2)(d) must include information as to—
 - (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment must be made,
 - (d) any early payment discounts or late payment penalties,

Status: Point in time view as at 01/04/2019.

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- (e) rights of appeal, and
 - (f) the consequences of non-payment.
- (6) Provision pursuant to subsection (2)(e) must secure that the grounds on which a person may appeal against a decision of the enforcement authority include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (7) In this section “prescribed” means prescribed in an order made under section 93.

Commencement Information

I38 S. 94 partly in force; s. 94 in force for specified purposes at Royal Assent see s. 324(1)(c)

I39 S. 94 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

95 Variable monetary penalties **U.K.**

- (1) The appropriate licensing authority for any area may by order make provision to confer on the appropriate enforcement authority for that area the power by notice to impose on a person in relation to an offence under this Part a variable monetary penalty.
- (2) Provision under this section may only confer such a power in relation to a case where the enforcement authority is satisfied beyond reasonable doubt that the person has committed the offence.
- (3) For the purposes of this Part a “variable monetary penalty” is a penalty of such amount as the enforcement authority may in each case determine.

Commencement Information

I40 S. 95 partly in force; s. 95 in force for specified purposes at Royal Assent see s. 324(1)(c)

I41 S. 95 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

96 Variable monetary penalties: procedure **U.K.**

- (1) Provision under section 95 must secure the results in subsection (2).
- (2) Those results are that—
 - (a) where the enforcement authority proposes to impose a variable monetary penalty on a person, the enforcement authority must serve on that person a notice (a “notice of intent”) which complies with subsection (3),
 - (b) that person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the penalty,
 - (c) after the end of the period for making such representations and objections, the enforcement authority must decide whether to impose a penalty and, if so, the amount of the penalty,
 - (d) where the enforcement authority decides to impose a penalty, the notice imposing it (the “final notice”) complies with subsection (6), and
 - (e) the person on whom a penalty is imposed may appeal against the decision as to the imposition or amount of the penalty.

Status: Point in time view as at 01/04/2019.

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- (3) To comply with this subsection the notice of intent must include information as to—
- (a) the grounds for the proposal to impose the penalty,
 - (b) the right to make representations and objections,
 - (c) the circumstances in which the enforcement authority may not impose the penalty, and
 - (d) the period within which representations and objections may be made, which may not be less than the period of 28 days beginning with the day on which the notice of intent is received.
- (4) Provision pursuant to subsection (2)(c)—
- (a) must secure that the enforcement authority may not decide to impose a penalty on a person where the enforcement authority is satisfied that the person would not, by reason of any defence raised by that person, be liable to be convicted of the offence in relation to which the penalty is proposed to be imposed, and
 - (b) may include provision for other circumstances in which the enforcement authority may not decide to impose a penalty.
- (5) Provision under subsection (2)(c) must also include provision for—
- (a) the person on whom the notice of intent is served to be able to offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any person affected by the offence,
 - (b) the enforcement authority to be able to accept or reject such an undertaking, and
 - (c) the enforcement authority to take any undertaking so accepted into account in its decision.
- (6) To comply with this subsection the final notice referred to in subsection (2)(d) must include information as to—
- (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment must be made,
 - (d) any early payment discounts or late payment penalties,
 - (e) rights of appeal, and
 - (f) the consequences of non-payment.
- (7) Provision pursuant to subsection (2)(e) must secure that the grounds on which a person may appeal against a decision of the enforcement authority include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the amount of the penalty is unreasonable;
 - (d) that the decision was unreasonable for any other reason.

Commencement Information

I42 S. 96 partly in force; s. 96 in force for specified purposes at Royal Assent see s. 324(1)(c)

I43 S. 96 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Status: Point in time view as at 01/04/2019.

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97 Further provision about civil sanctions **U.K.**

Schedule 7 (which makes further provision about civil sanctions) has effect.

Commencement Information

I44 S. 97 in force at 6.4.2011 by [S.I. 2011/556](#), art. 3(2)(a)

CHAPTER 4 **U.K.**

DELEGATION

98 Delegation of functions relating to marine licensing **U.K.**

- (1) The appropriate licensing authority for an area may make an order which—
 - (a) designates any of the delegable marine licensing functions which would (apart from any order under this section) be exercisable by or in relation to that authority or an enforcement authority for that area, and
 - (b) provides that those functions, instead of being so exercisable, are to be exercisable by or in relation to such person, acting on behalf of the licensing authority or (as the case may be) the enforcement authority, as is designated in the order.
- (2) The power to make an order under this section includes power to make provision in the order conferring on the person designated (“the delegate”), so far as acting on behalf of an enforcement authority, any power which the appropriate licensing authority may confer on an enforcement authority by an order under section 93 or 95 (fixed or variable monetary penalties).
- (3) An authority which makes an order under this section may do so only with the consent of the delegate.
- (4) The delegate—
 - (a) must comply with the order, and
 - (b) is to be taken to have all the powers necessary to do so.
- (5) In this section “delegable marine licensing functions” means—
 - (a) functions of a licensing authority under this Part, other than excepted functions;
 - (b) functions of an enforcement authority under this Part.
- (6) The excepted functions are functions under—
 - (a) section 66(3) (altering the list of licensable marine activities);
 - (b) section 67(2) (making regulations regarding the fee for an application);
 - (c) section 69(6) (making regulations as to the procedure for applications);
 - [^{F24}(ca) section 72A(4) (making regulations regarding fees for monitoring, variation etc of licences for which the Welsh Ministers are the licensing authority);]
 - (d) section 73 (making regulations regarding appeals against licensing decisions under section 71);
 - (e) section 74(1) and (5) (making orders specifying activities which do not require a marine licence and consulting in relation to such orders);

Status: Point in time view as at 01/04/2019.

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- (f) sections 93 and 95 (making orders conferring powers to impose civil sanctions);
- (g) this section and section 100;
- (h) section 101(3) (making regulations regarding the register);
- [^{F25}(ha) section 107A(3) (making regulations regarding deposits payable on account of fees where the Welsh Ministers are the licensing authority);
- (hb) section 107B(5) (making regulations regarding payment of fees and deposits where the Welsh Ministers are the licensing authority);]
- (i) section 108 (making regulations regarding appeals against certain notices).

Textual Amendments

F24 S. 98(6)(ca) inserted (E.W.) (1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 80(a)**, 88(3)(c); [S.I. 2017/504](#), **art. 2**

F25 S. 98(6)(ha)(hb) inserted (E.W.) (1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 80(b)**, 88(3)(c); [S.I. 2017/504](#), **art. 2**

Commencement Information

I45 S. 98 partly in force; s. 98 in force for specified purposes at Royal Assent see s. 324(1)(c)

I46 S. 98 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), **art. 3(2)(a)**

99 Orders under section 98: supplementary provisions **U.K.**

- (1) For so long as an order made under section 98 remains in force, the designated functions are exercisable by or in relation to the delegate acting on behalf of the licensing authority or, as the case may be, the enforcement authority (and are not exercisable by or in relation to the authority).
- (2) Subsection (1) is subject to any provision to the contrary which is included in the order.
- (3) An order under section 98 may include—
 - (a) such terms or conditions,
 - (b) such obligations or requirements,
 - (c) such financial provisions,as the authority making the order may determine.
- (4) The provision that may be made under subsection (3) includes, in particular, provision (where appropriate) as to—
 - (a) the manner in which the delegate is to exercise any of the functions;
 - (b) the form and manner in which licence applications must be made to the delegate;
 - (c) the persons to whom notice of an application should be published under section 68, and the circumstances in which such notice should not be published;
 - (d) matters (in addition to those set out in section 69) to which the delegate must have regard in determining licence applications;
 - (e) the circumstances in which the delegate must exercise the power to consult under section 69(4), and the persons who must or may be consulted;
 - (f) the form and content of any licence granted;

Status: Point in time view as at 01/04/2019.

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- (g) appeals from any decision of the delegate (whether to the licensing authority or any other person);
 - (h) any other provision that may be made by virtue of section 69(6).
- (5) An order under section 98 may make different provision for different cases, different areas or different persons.
- (6) Where an order has been made under section 98 that a person other than the appropriate licensing authority is to grant licences—
- (a) that other person may (in accordance with subsections (1) to (3) and (7) of section 72) vary, suspend, revoke or transfer a licence granted before the making of the order, and
 - (b) any reference in those subsections to a licence granted by a licensing authority includes a reference to a licence granted by that other person.

Commencement Information

I47 S. 99 partly in force; s. 99 in force for specified purposes at Royal Assent see s. 324(1)(c)

I48 S. 99 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

100 Directions to persons as regards performance of delegated functions **U.K.**

- (1) This section applies where any functions are exercisable by or in relation to a person by virtue of an order made under section 98 by a licensing authority.
- (2) The authority may from time to time give directions to the person with respect to the performance of the functions.
- (3) A person to whom directions are given under this section must comply with the directions.
- (4) An authority which gives a direction under this section must publish the direction in a manner likely to bring the direction to the attention of persons likely to be affected by it.

Commencement Information

I49 S. 100 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

CHAPTER 5 **U.K.**

SUPPLEMENTARY

Register

101 Register **U.K.**

- (1) Each licensing authority must maintain, as respects activities in relation to which it is the appropriate licensing authority and licences for those activities, a register of licensing information.

Status: Point in time view as at 01/04/2019.

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- (2) The register must contain prescribed particulars of or relating to—
 - (a) applications for licences;
 - (b) licences granted;
 - (c) variations of licences;
 - (d) revocations of licences;
 - (e) information supplied in connection with any licence in pursuance of any provision of this Part;
 - (f) convictions for any offence under this Part;
 - (g) any other action taken to enforce any provision of this Part;
 - (h) occasions on which any remedial action has been taken;
 - (i) such other matters relating to licences or the licensable marine activities as may be prescribed.
- (3) The register must be maintained in accordance with regulations made by the appropriate licensing authority.
- (4) Each licensing authority must make arrangements—
 - (a) for its register to be available for inspection at all reasonable times by members of the public free of charge;
 - (b) for copies of entries in its register to be supplied, on request, to members of the public on payment of a reasonable charge.
- (5) Information must not appear in the register if—
 - (a) the Secretary of State determines that its disclosure in the register would be contrary to the interests of national security, or
 - (b) the appropriate licensing authority determines that its disclosure in the register would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate commercial interest.
- (6) The appropriate licensing authority must review a determination to exclude information under subsection (5)(b) every four years.
- (7) On a review under subsection (6) the authority must include the information in the register unless, on the application of any person to whom the information relates, the authority determines that it should continue to be excluded.
- (8) Where information of any description is excluded from a register by virtue of subsection (5)(b), a statement must be entered in the register indicating the existence of information of that description.
- (9) In this section “prescribed” means prescribed in regulations made under this section.

Commencement Information

I50 S. 101 partly in force; s. 101 in force for specified purposes at Royal Assent see s. 324(1)(c)

I51 S. 101 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Status: Point in time view as at 01/04/2019.

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Stop notices and emergency safety notices

102 Notice to stop activity causing serious harm etc **U.K.**

- (1) If it appears to an enforcement authority that subsections (3) and (4) are satisfied in relation to a person carrying on an activity in its area, it may issue a stop notice to that person.
- (2) A stop notice is a notice prohibiting a person from carrying on an activity specified in the notice.
- (3) This subsection is satisfied if a person is carrying on, or is likely to carry on, a licensable marine activity (whether or not in accordance with a marine licence).
- (4) This subsection is satisfied if the carrying on of the activity to be specified in the notice—
 - (a) is causing, or is likely to cause, any of the effects in subsection (5), or
 - (b) is creating, or is likely to create, an imminent risk of any of those effects.
- (5) The effects are—
 - (a) serious harm to the environment;
 - (b) serious harm to human health;
 - (c) serious interference with legitimate uses of the sea.
- (6) A stop notice (in addition to specifying the activity to which it relates)—
 - (a) must state the enforcement authority's grounds for believing that subsections (3) and (4) are satisfied;
 - (b) must state the date and time from which the prohibition is to take effect (which may be a time on the date of the notice but must allow a period for compliance which is reasonable in all the circumstances of the case);
 - (c) may require the person to take such steps as the authority considers appropriate to ensure that the cessation of the activity takes place safely.
- (7) Except in a case falling within subsection (9), a stop notice—
 - (a) ceases to have effect at the end of the period of 7 days (or such shorter period as may be specified in the notice) beginning with the date on which the prohibition takes effect, but
 - (b) may be renewed for a period specified in a further notice.
- (8) A stop notice may be renewed more than once under subsection (7)(b), but not so that it has effect for an aggregate period exceeding 35 days.
- (9) If a stop notice relating to a licensable marine activity is issued to a person who does not hold a marine licence authorising that activity, the stop notice may remain in force until such time (if any) as such a licence is granted to that person.

Commencement Information

I52 S. 102 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

103 Further provision as to stop notices **U.K.**

- (1) Any stop notice issued by an enforcement authority—

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- (a) must be served on any person carrying on, or in control of, the activity to which the notice relates, and
 - (b) if a marine licence has been granted in relation to that activity, may also be served on the licensee.
- (2) An enforcement authority may by a further notice—
- (a) revoke a stop notice;
 - (b) vary a stop notice so as to substitute a later date for the date specified in accordance with section 102(6)(b).
- (3) A person who fails to comply with a stop notice commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to ^[F26]a fine not exceeding £50,000^[F26]a fine];
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Textual Amendments

F26 Words in s. 103(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 43\(4\)](#) (with reg. 5(1))

Commencement Information

I53 S. 103 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

104 Emergency safety notices **U.K.**

- (1) This section applies if it appears to an enforcement authority that serious interference with legitimate uses of the sea is occurring, or is likely to occur, in its area as a result of—
 - (a) any works for the carrying out of which a marine licence is or was needed, or
 - (b) any substantial and unforeseen change in the state or position of any such works.
- (2) The enforcement authority may issue a notice (an “emergency safety notice”) to any person who is in control of the works to which the notice relates.
- (3) By issuing an emergency safety notice to a person, the enforcement authority imposes on that person such requirements as are prescribed in the notice with respect to any of the matters specified in subsection (4).
- (4) Those matters are—
 - (a) the provision of lights, signals or other aids to navigation;
 - (b) the stationing of guard ships.
- (5) An emergency safety notice (in addition to specifying the requirements which it imposes)—
 - (a) must state the enforcement authority's grounds for believing that serious interference with legitimate uses of the sea is occurring or is likely to occur,

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- (b) must state the date and time from which the requirements are to take effect (which may be a time on the date of the notice but must allow a period for compliance which is reasonable in all the circumstances of the case), and
- (c) may require the person to take such steps as the authority considers appropriate to ensure that compliance with the requirements takes place safely.

Commencement Information

I54 S. 104 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

105 Further provision as to emergency safety notices **U.K.**

- (1) An emergency safety notice issued by an enforcement authority must be served on each of the following—
 - (a) if a marine licence has been granted authorising the carrying out of the works, the licensee,
 - (b) if there is in effect a stop notice which relates to the works, any person on whom the stop notice was served.
- (2) An enforcement authority may by a further notice—
 - (a) revoke an emergency safety notice;
 - (b) vary an emergency safety notice so as to substitute a later date for the date specified in accordance with section 104(5)(b).
- (3) A person who fails to comply with an emergency safety notice commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
 - (a) on summary conviction, to [^{F27}a fine not exceeding £50,000][^{F27}a fine];
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Textual Amendments

F27 Words in s. 105(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\), reg. 1\(1\), Sch. 4 para. 43\(5\)](#) (with [reg. 5\(1\)](#))

Commencement Information

I55 S. 105 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

Other powers

106 Power to take remedial action **U.K.**

- (1) This section applies if it appears to the appropriate licensing authority for an area that a licensable marine activity has been carried on in its area otherwise than under a licence and in accordance with its conditions.
- (2) The authority may carry out any works that appear to it to be necessary or expedient for any one or more of the following purposes—

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- (a) protecting the environment;
 - (b) protecting human health;
 - (c) preventing interference with legitimate uses of the sea;
 - (d) preventing or minimising, or remedying or mitigating the effects of, any harm or interference falling within subsection (3);
 - (e) restoring (whether in whole or in part) the condition of any place affected by any such harm or interference to the condition, or a condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred.
- (3) The harm or interference mentioned in subsection (2)(d) and (e) is any of the following which has been, is being, or is likely to be, caused by the carrying on of the licensable marine activity—
- (a) harm to the environment;
 - (b) harm to human health;
 - (c) interference with legitimate uses of the sea.

Commencement Information

I56 S. 106 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

107 Power to test, and charge for testing, certain substances **U.K.**

- (1) A licensing authority may, at the request of any person, conduct tests for the purpose of ascertaining the probable effect on the marine environment of using any of the following substances—
- (a) any marine chemical treatment substance;
 - (b) any marine oil treatment substance;
 - (c) any marine surface fouling cleaner.
- (2) In this section—
- “marine chemical treatment substance” means any substance used or intended to be used for treating chemicals—
- (a) on the surface of the sea or of the sea bed;
 - (b) in the case of a wash-off substance, on any surface of a marine structure;
- “marine oil treatment substance” means any substance used or intended to be used for treating oil on the surface of the sea;
- “marine surface fouling cleaner” means any substance used or intended to be used for removing surface fouling matter—
- (a) from the surface of the sea or of the sea bed;
 - (b) in the case of a wash-off substance, from any surface of a marine structure or vessel at times when the structure or vessel is in the sea or on the sea bed;
- “surface fouling matter” means any fouling, and includes, in particular,—
- (a) any algae;
 - (b) any surface oil or chemical residue;
- “surface oil or chemical residue” means any residual matter on a surface after the removal, or substantial removal, of any oil or chemical (whether by natural processes, or by treatment, or in any other way);

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“wash-off substance”, in relation to a marine structure or vessel, means any substance which, if used on a surface of the marine structure or vessel, will or might (whether in whole or to a significant extent)—

- (a) be removed from that surface, and
- (b) be deposited in the sea,

whether by natural processes, or by treatment, or in any other way.

- (3) A licensing authority may recover any expenses reasonably incurred in conducting any tests under subsection (1) from any person at whose request those tests were conducted.

Commencement Information

I57 S. 107 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

^{F28} **107A Deposits on account of fees payable to the Welsh Ministers** **E+W**

- (1) This section applies where the Welsh Ministers are the appropriate licensing authority.
- (2) Where a person is required to pay a fee to the licensing authority under this Part, the licensing authority may require the person to pay a deposit on account of the fee.
- (3) The amount that a person may be required to pay under subsection (2) is to be determined by or in accordance with regulations made by the licensing authority.
- (4) If a licensee fails to comply with a requirement to pay a deposit charged under subsection (2) on account of a fee charged under section 72A(2)(a) or (b), the licensing authority may by notice vary, suspend or revoke the licence.
- (5) The suspension of a licence under subsection (4) continues in effect until the deposit is paid (but this is subject to any provision made under section 108(3)(b) in relation to notices under that subsection).
- (6) If a person who has applied for a licence under section 67 or for a variation, suspension, revocation or transfer of a licence under section 72 fails to comply with a requirement to pay a deposit charged under subsection (2) in connection with that application, the licensing authority may—
 - (a) refuse to proceed with the application, or
 - (b) refuse to proceed with it until the failure is remedied.

Textual Amendments

F28 S. 107A - S. 107B inserted (E.W.) (24.2.2017 for specified purposes) by [Environment \(Wales\) Act 2016 \(anaw 3\), ss. 78, 88\(3\)\(c\); S.I. 2017/152, art. 2\(b\)](#)

107B Supplementary provision about fees payable to the Welsh Ministers **E+W**

- (1) This section applies where the Welsh Ministers are the appropriate licensing authority.
- (2) When making provision under section 67(2) or 72A(4) about fees payable in respect of a type of application to the licensing authority or in respect of an activity of the licensing authority, the licensing authority must decide what provision to make by

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reference to the expected costs of dealing with that type of application or of carrying out that activity.

- (3) The licensing authority may require a fee charged by it under this Part to be payable in advance of the activity to which the fee relates being carried out.
- (4) The licensing authority may waive or reduce a fee.
- (5) The licensing authority may by regulations make provision about how and when a fee or deposit charged by it under this Part is to be paid.
- (6) A fee or deposit charged under this Part may be recovered by the licensing authority as a civil debt (in addition to any other action that may be taken by the licensing authority).]

Textual Amendments

F28 S. 107A - S. 107B inserted (E.W.) (24.2.2017 for specified purposes) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 78, 88\(3\)\(c\)](#); [S.I. 2017/152](#), [art. 2\(b\)](#)

Appeals against notices under this Part

108 Appeals against notices **U.K.**

- (1) The appropriate licensing authority must by regulations make provision for any person to whom a notice is issued under section 72, 90, 91, 102 or 104 to appeal against that notice.
- (2) The regulations required by subsection (1) must come into force on the day on which this Part comes into force.
- [^{F29}(2A) The Welsh Ministers must by regulations make provision for any person to whom a notice is issued under section 72A(7) or 107A(4) to appeal against that notice.]
- (3) Regulations under this section may include—
 - (a) provision as to the procedure to be followed with respect to an appeal;
 - (b) provision suspending the notice pending determination of the appeal;
 - (c) provision as to the powers of any person to whom the appeal is made;
 - (d) provision as to how any sum payable in pursuance of a decision of that person is to be recoverable.

Textual Amendments

F29 S. 108(2A) inserted (E.W.) (24.2.2017 for specified purposes, 1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 79, 88\(3\)\(c\)](#); [S.I. 2017/152](#), [art. 2\(c\)](#); [S.I. 2017/504](#), [art. 2](#)

Commencement Information

I58 S. 108 partly in force; s. 108 in force for specified purposes at Royal Assent see s. 324(1)(c)
I59 S. 108 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

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Offences: supplementary provision

109 General defence of due diligence U.K.

- (1) In any proceedings for an offence under this Part, it is a defence for the person charged (“the defendant”) to prove that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) The defence provided by subsection (1) is to be taken to be established if the defendant—
 - (a) acted under an employer's instructions,
 - (b) did not know and had no reason to suppose that the acts done constituted a contravention of the provision in question, and
 - (c) took all such steps as reasonably could be taken to ensure that no offence would be committed.
- (3) The defence provided by subsection (1) is to be taken to be established if the defendant—
 - (a) acted in reliance on information supplied by another person,
 - (b) did not know and had no reason to suppose that the information was false or misleading, and
 - (c) took all such steps as reasonably could be taken to ensure that no offence would be committed.
- (4) Subsections (2) and (3) do not affect the generality of subsection (1).
- (5) If in any case the defence provided by subsection (1) involves the allegation that the commission of the offence was due to—
 - (a) an act or default of another person (other than the giving of instructions to the defendant by an employer), or
 - (b) reliance on information supplied by another person,
 the defendant is not, without leave of the court, entitled to rely on that defence unless the requirement in subsection (6) is satisfied.
- (6) The requirement is that—
 - (a) at least seven clear days before the hearing, and
 - (b) if the defendant has previously appeared before a court in connection with the alleged offence, within one month of the first such appearance,
 the defendant has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in the defendant's possession.

Commencement Information

I60 S. 109 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

110 Offences: jurisdiction U.K.

Proceedings for an offence under this Part may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.

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Commencement Information

I61 S. 110 in force at 6.4.2011 by S.I. 2011/556, art. 3(2)(a)

F³⁰ Fees

Textual Amendments

F30 S. 110A and cross-heading inserted (12.7.2016) by Energy Act 2016 (c. 20), ss. 76(2), 84(2)

110A Fees: oil and gas activities for which marine licence needed **U.K.**

- (1) The Secretary of State may charge fees in connection with carrying out functions under this Part, so far as relating to oil and gas activities for which a marine licence is needed.
- (2) The fees are to be determined by or in accordance with regulations made by the Secretary of State.
- (3) The regulations may authorise the fees to be determined by or in accordance with a scheme made by the Secretary of State.
- (4) If the regulations provide for determining fees in connection with functions of the Secretary of State under section 67, the fees are to be those provided for by the regulations, and not those (if any) provided for by regulations under section 67(2) or determined under section 67(5).
- (5) “Oil and gas activities” are activities which relate to operations regulated under any of the provisions listed in subsection (6).
- (6) The provisions are—
 - (a) section 2 of the Petroleum (Production) Act 1934 (searching and boring for, and getting, petroleum);
 - (b) Part 1 of the Petroleum Act 1998 (searching and boring for, and getting, petroleum);
 - (c) Part 3 of the Petroleum Act 1998 (submarine pipelines);
 - (d) Part 4 of the Petroleum Act 1998 (abandonment of offshore installations);
 - (e) Part 1 of the Energy Act 2008 (gas importation and storage);
 - (f) Part 4 of the Energy Act 2008 (oil and gas).
- (7) See Chapter 1 for when a marine licence is needed for activities.]

Application to the Crown

111 Application to the Crown **U.K.**

- (1) The provisions of this Part bind the Crown.

This is subject to the following provisions of this section.
- (2) No contravention by the Crown of any provision of this Part is to make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may, on the

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application of the appropriate licensing authority or any other authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

- (3) Despite subsection (2), the provisions of this Part apply to persons in the public service of the Crown as they apply to other persons.
- (4) The Secretary of State may certify that it appears to the Secretary of State that, as respects—
 - (a) any Crown land specified in the certificate, and
 - (b) any powers of entry so specified which are exercisable in relation to that land, it is necessary or expedient that, in the interests of national security, the powers should not be exercisable in relation to the land.
- (5) If the Secretary of State issues a certificate under subsection (4), the powers specified in the certificate are not exercisable in relation to the land so specified.
- (6) For the purposes of subsection (4) “Crown land” means land held or used by or on behalf of the Crown.
- (7) Nothing in this section is to be taken as in any way affecting Her Majesty in her private capacity or in right of Her Duchy of Lancaster, or the Duke of Cornwall.

Commencement Information

I62 S. 111 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Consequential and transitional provision

112 Amendments and transitional provision **U.K.**

- (1) Schedule 8 (which makes minor and consequential amendments) has effect.
- (2) Schedule 9 (which makes transitional provision) has effect.

Commencement Information

I63 S. 112(1) in force at 1.4.2010 for specified purposes by [S.I. 2010/298](#), [art. 2](#), [Sch. para. 10](#)

I64 S. 112(1) in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

I65 S. 112(2) in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Interpretation

113 The appropriate licensing authority **U.K.**

- (1) This section has effect for determining who is the appropriate licensing authority for any area (and any licensable marine activity carried on in that area).
- (2) In relation to the Scottish offshore region, the appropriate licensing authority is—
 - (a) the Secretary of State, as respects anything done in the course of carrying on an activity falling within subsection (3);

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- (b) except as provided by paragraph (a), the Scottish Ministers.
- (3) The activities are—
- (a) any activity relating to a matter which is a reserved matter by virtue of Section D2 (oil and gas) of Schedule 5 to the Scotland Act 1998 (c. 46) (but see also section 77 above (this Part not to apply to certain oil and gas etc activities));
 - (b) any activity relating to a matter which is a reserved matter by virtue of paragraph 9 in Part 1 of that Schedule (defence);
 - (c) any activity falling within the subject matter of Part 6 of the Merchant Shipping Act 1995 (c. 21) (pollution etc).
- (4) In relation to Wales^[F31], the Welsh inshore region and the Welsh offshore region], the appropriate licensing authority is—
- (a) the Secretary of State, as respects anything done in the course of carrying on an activity falling within subsection (5);
 - (b) except as provided by paragraph (a), the Welsh Ministers.
- (5) The activities are—
- (a) any activity concerning or arising from the exploration for, or production of, petroleum (but see also section 77 (this Part not to apply to certain oil and gas etc activities));
 - (b) any defence activity other than an excepted activity.
- ^[F32](c) in relation to the Welsh offshore region, any activity falling within the subject-matter of Part 6 of the Merchant Shipping Act 1995 (pollution etc).]
- Subsection (9) supplements this subsection.
- (6) In relation to Northern Ireland and the Northern Ireland inshore region, the appropriate licensing authority is—
- (a) the Secretary of State, as respects anything done in the course of carrying on an activity falling within subsection (7);
 - (b) except as provided by paragraph (a), the Department of the Environment in Northern Ireland.
- (7) The activities are any activities which relate to a matter which is an excepted matter by virtue of paragraph 4 of Schedule 2 to the Northern Ireland Act 1998 (c. 47) (defence of the realm etc).
- (8) In relation to any area not mentioned in subsection (2), (4) or (6), the appropriate licensing authority is the Secretary of State.
- (9) In subsection (5)—
- “defence activity” means any activity relating to—
- (a) the defence of the realm;
 - (b) the naval, military or air forces of the Crown, including reserve forces;
 - (c) visiting forces;
 - (d) international headquarters and defence organisations;
 - (e) trading with the enemy and enemy property;
- “excepted activity” means the exercise of civil defence functions by any person otherwise than as a member of—
- (a) any force or organisation referred to in paragraphs (b) to (d) of the definition of “defence activity”, or

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- (b) any other force or organisation established or maintained for the purposes of, or for purposes connected with, the defence of the realm; “petroleum” has the same meaning as in Part 3 of the Petroleum Act 1998 (c. 17) (see section 28(1) of that Act).

Textual Amendments

- F31** Words in s. 113(4) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 46\(2\)\(a\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(j\)](#)
- F32** S. 113(5)(c) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 46\(2\)\(b\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(j\)](#)

Commencement Information

- I66** S. 113 partly in force; s. 113 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I67** S. 113 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

114 Meaning of “enforcement authority” **U.K.**

- (1) This section has effect for determining who is an enforcement authority for any area.
- (2) For the purposes of sections 90 to 97 and 102 to 105 (and any other provisions of this Part so far as relating to those sections) the appropriate licensing authority for any area is an enforcement authority for that area.
- (3) For the purposes of sections 90, 92 (so far as relating to section 90) and 102 to 105 (and any other provisions of this Part (except sections 91 and 93 to 97) so far as relating to those sections) each of the following persons is also an enforcement authority—
 - (a) in relation to the relevant enforcement area (within the meaning of section 236), any marine enforcement officer (as defined in section 235);
 - (b) in relation to the relevant enforcement area (within the meaning of section 240), any person appointed under section 240;
 - (c) in relation to the relevant enforcement area (within the meaning of section 241), any person appointed under section 241;
 - (d) in relation to the Scottish offshore region, any person appointed under section 242.
- (4) A person is an enforcement authority by virtue of subsection (3) (so far as relating to the sections specified in that subsection) only to the extent that the person may exercise powers for the purposes of enforcing this Part.

Commencement Information

- I68** S. 114 in force at 6.4.2011 by [S.I. 2011/556, art. 3\(2\)\(a\)](#)

115 Interpretation of this Part **U.K.**

- (1) In this Part—

“appropriate enforcement authority”, in the case of any area and any provision of this Part, means any authority which is an enforcement authority for that area for the purposes of that provision;

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- “the appropriate licensing authority” has the meaning given by section 113;
- “British aircraft” means an aircraft registered in the United Kingdom;
- “British marine structure” means a marine structure owned by or leased to an individual residing in, or a body corporate incorporated under the law of, any part of the United Kingdom;
- “British vessel” means a vessel—
- (a) which is registered in the United Kingdom,
 - (b) which falls within section 1(1)(d) of the Merchant Shipping Act 1995 (c. 21) (small ships), or
 - (c) which is exempt from registration under section 294 of that Act;
- “compliance notice” means a notice issued under section 90;
- “emergency safety notice” means a notice issued under section 104;
- “enforcement authority” has the meaning given by section 114;
- “fixed monetary penalty” has the meaning given by section 93(3);
- “licensable marine activity” is to be read in accordance with section 66;
- “licensing authority” means—
- (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) the Scottish Ministers;
 - (d) the Department of the Environment in Northern Ireland;
- “marine licence” means a licence granted under this Part;
- “marine structure” means a platform or other artificial structure at sea, other than a pipeline;
- “remediation notice” means a notice issued under section 91;
- “stop notice” means a notice issued under section 102;
- “the UK marine licensing area” has the meaning given by section 66(4);
- “variable monetary penalty” has the meaning given by section 95(3);
- “vessel” includes—
- (a) hovercraft, and
 - (b) any other craft capable of travelling on, in or under water, whether or not self-propelled.

- (2) In this Part 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.

Commencement Information

- 169** S. 115 partly in force; s. 115 in force for specified purposes at Royal Assent see s. 324(1)(c)
- 170** S. 115 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

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