



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 4

#### MARINE LICENSING

### CHAPTER 2

#### EXEMPTIONS AND SPECIAL CASES

##### *Exemptions*

#### **74 Exemptions specified by order**

- (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,

*Status: Point in time view as at 07/09/2016.*

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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

- I1** S. 74 partly in force; s. 74 in force for specified purposes at Royal Assent see s. 324(1)(c)  
**I2** 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

- (1) A marine licence is not needed for a dredging or spoil disposal activity if
- [<sup>F1</sup>(a) the conditions in subsection (2) are met][<sup>F2</sup>, 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).

[<sup>F3</sup>(2A) The additional conditions are—

- (a) that the activity involves the relocation of sediments inside surface waters,
- (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.

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[<sup>F4</sup>(5) Any expression used in subsection (1)(b) or (2A) and also in [<sup>F5</sup>Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste] has the same meaning as in that Directive. ]

#### Textual Amendments

- F1** 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)**
- F2** 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)**
- F3** 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)**
- F4** 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)**
- F5** 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**

#### Commencement Information

- I3** S. 75 in force at 6.4.2011 by [S.I. 2011/556](#), **art. 3(2)(a)**

## 76 Dredging in the Scottish zone

- (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—
- any function under [<sup>F6</sup>EU] law (within the meaning given by section 126(9) of the Scotland Act 1998 (c. 46));
  - any of Her Majesty's prerogative and other executive functions which is exercisable on behalf of Her Majesty by the Scottish Ministers.

#### Textual Amendments

- F6** 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

- I4** 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

- (1) Nothing in this Part applies to any of the following—
- 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;
  - 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;

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- (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 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

**I5** 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**

- (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

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- 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).
- (6) 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.
- (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—

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- (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—
- (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.

#### Commencement Information

- I6** S. 78 partly in force; s. 78 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I7** 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

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

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- (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).
- (6) 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.
- (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;
  - (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;
  - “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;

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- (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.

#### Commencement Information

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

### [<sup>F7</sup>79A Special procedure for applications relating to certain electricity works (Northern Ireland)

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



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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;
  - (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

- F7** 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

- (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—

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- (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

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

### 81 Submarine cables on the continental shelf

- (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;

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“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

**I11** 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

(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—

“(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

**I12** 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

(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

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- (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**

**I13** 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**

(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 sub-paragraph (3) insert—

“(3A) If, in any particular case,—

- (a) a marine licence is needed for the carrying on of any activity,
- (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**

**I14** S. 84 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

**Status:**

Point in time view as at 07/09/2016.

**Changes to legislation:**

Marine and Coastal Access Act 2009, Chapter 2 is up to date with all changes known to be in force on or before 05 September 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.