



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 7 **E+W+S**

#### FISHERIES

### CHAPTER 3 **E+W+S**

#### MIGRATORY AND FRESHWATER FISH

##### *Byelaws*

#### 225 **Byelaws: emergency procedures** **E+W**

(1) In the Water Resources Act 1991 (c. 57), in section 210 (byelaw-making powers of the Agency) at the end insert—

“(3) Schedule 27 to this Act (emergency fisheries byelaws) shall have effect.”

(2) In that Act, after Schedule 26 insert—

“SCHEDULE 27 **E**  
**+W**

Section 210(3)

#### EMERGENCY FISHERIES BYELAWS

##### *Emergency fisheries byelaws*

1 (1) In this Schedule, “emergency fisheries byelaw” means a byelaw made under paragraph 6 of Schedule 25 to this Act (fisheries) in the circumstances in subparagraph (2) below.

(2) The circumstances are that—

*Status: Point in time view as at 01/10/2011.*

**Changes to legislation:** *Marine and Coastal Access Act 2009, Section 225 is up to date with all changes known to be in force on or before 15 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) the Agency considers that, because of any event or likely event, harm is occurring or is likely to occur to—
    - (i) any fish to which paragraph 6 of Schedule 25 to this Act applies or to the spawn, gametes or food of any such fish, or
    - (ii) the marine or coastal, or aquatic or waterside, environment,
  - (b) the Agency considers that the byelaw would prevent or limit that harm, or would be reasonably likely to do so,
  - (c) the Agency considers that for that purpose there is a need for the byelaw to come into force as a matter of urgency, and
  - (d) the event or the likelihood of the event could not reasonably have been foreseen.
- (3) Schedule 26 to this Act (procedure relating to byelaws made by the Agency) does not apply in relation to an emergency fisheries byelaw.
- (4) In sub-paragraph (2)(a), the reference to harm to the marine or coastal, or aquatic or waterside, environment is to—
- (a) harm to the natural beauty or amenity of marine or coastal, or aquatic or waterside, areas (including their geological or physiographical features) or to any features of archaeological or historic interest in such areas, or
  - (b) harm to flora or fauna which are dependent on or associated with the marine or coastal, or aquatic or waterside, environment.

#### *Commencement*

- 2 An emergency fisheries byelaw comes into force—
- (a) on the date specified in the byelaw, or
  - (b) if no date is so specified, on the day after that on which it is made.

#### *Notification of the appropriate national authority*

- 3 The Agency must, within 24 hours of making an emergency fisheries byelaw—
- (a) send a copy of the byelaw to the appropriate national authority, and
  - (b) explain to the appropriate national authority why the byelaw is being made as an emergency fisheries byelaw.

#### *Publication*

- 4 The Agency must publish notice of the making of an emergency fisheries byelaw (including a copy of the byelaw)—
- (a) in the London Gazette;
  - (b) where the byelaw has effect in Wales, in the Welsh language in such manner as the Agency thinks appropriate;
  - (c) in such other manner as it thinks appropriate for the purpose of bringing the byelaw to the attention of persons likely to be affected by it.

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#### *Amendment and revocation*

- 5 (1) If at any time the appropriate national authority is satisfied that an emergency fisheries byelaw would better serve to prevent or limit the harm referred to in paragraph 1(2)(a) above if it were amended, the authority must amend it accordingly.
- (2) If at any time the appropriate national authority is satisfied that an emergency fisheries byelaw is no longer needed in order to prevent or limit the harm referred to in paragraph 1(2)(a) above, the authority must revoke it.
- (3) The Agency must publish notice of an amendment or revocation under this paragraph as specified in paragraph 4(a) to (c) above.

#### *Expiry and extension*

- 6 (1) Subject to paragraph 7 below, an emergency fisheries byelaw expires (unless earlier revoked)—
  - (a) in accordance with provision made by the byelaw, or
  - (b) if the byelaw does not contain provision for its expiry, at the end of the period of twelve months beginning with the day on which it comes into force.
- (2) A byelaw may not under sub-paragraph (1)(a) above remain in force for longer than the period of twelve months beginning with the day on which it comes into force.
- 7 (1) The Agency may, at any time before an emergency fisheries byelaw expires, apply to the appropriate national authority for it to be extended.
- (2) On such an application, the appropriate national authority may extend the byelaw at any time before its expiry, provided the authority is satisfied that—
  - (a) the byelaw is still needed to prevent or limit the harm referred to in paragraph 1(2)(a) above, and
  - (b) the need for the extension could not reasonably have been avoided by the Agency.
- (3) A byelaw may be extended under sub-paragraph (2) above for such period not exceeding six months as the appropriate national authority may specify.
- (4) A byelaw may not be extended under sub-paragraph (2) above on more than one occasion.

#### *Availability*

- 8 (1) Every emergency fisheries byelaw shall be printed and deposited at one or more of the offices of the Agency, including (if there is one) at an office in the area to which the byelaw applies; and copies of the byelaw shall be available at those offices, at all reasonable times, for inspection by the public free of charge.
- (2) Every person shall be entitled, on application to the Agency and on payment of such reasonable sum as the Agency may determine, to be furnished with a copy of any emergency fisheries byelaw so deposited by the Agency.

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*Proof*

- 9 The production of a printed copy of an emergency fisheries byelaw purporting to be made by the Agency upon which is indorsed a certificate, purporting to be signed on its behalf, stating—
- (a) that the byelaw was made by the Agency, and
  - (b) that the copy is a true copy of the byelaw,
- shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

*“Appropriate national authority”*

- 10 In this Schedule “appropriate national authority” has the same meaning as in the Salmon and Freshwater Fisheries Act 1975.”

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**Commencement Information**

**II** S. 225 in force at 12.1.2010 by S.I. 2009/3345, art. 2, **Sch. para. 14**

**Status:**

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