
EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers on the Department of the Environment, as an enforcement authority under section 114(2) of the Marine and Coastal Access Act 2009 (“the Act”), powers to impose fixed monetary penalties and variable monetary penalties in relation to certain offences under the Act.

Part 1 of this Order contains introductory provisions, and definitions (see section 115(1) of the Act for further relevant definitions).

Part 2 contains provisions relating to fixed monetary penalties. Article 4 confers power on the enforcement authority to impose such a penalty in relation to an offence under section 85(1) of the Act (breach of requirement for, or conditions of, a marine licence). Article 5 deals with notices of intent and Article 6 provides for making payments to discharge liability where such notices have been served. Articles 7 and 8 deal with making representations and objections, and giving final notices imposing penalties. Articles 9 and 10 make provision for early payment discount, payment dates and late payment penalties. Article 11 contains provisions restricting the combination of a fixed monetary penalty with other sanctions available under the Act, and Article 12 sets out rights of appeal.

Part 3 contains provisions relating to variable monetary penalties. Article 13 confers power on the enforcement authority to impose a variable monetary penalty in relation to offences under sections 85(1), 89(1) and 92(3)(b) (failure to comply with a remediation notice) of the Act. Article 14 deals with notices of intent, Article 15 deals with making representations and objections, and Article 16 contains provisions relating to offering and accepting undertakings. There are provisions for giving final notices imposing penalties (Article 17), setting out payment dates (Article 18) and restricting the combination of a variable monetary penalty with other sanctions (Article 19). Article 20 sets out rights of appeal against the imposition of a variable monetary penalty. Article 21 confers on the enforcement authority a power to require a person on whom a variable monetary penalty is imposed to pay costs incurred by the enforcement authority, and Article 22 gives a right of appeal.

Part 4 sets out requirements relating to publication of guidance (Articles 23 and 24) and enforcement action (Article 25). Paragraph 10 of Schedule 7 to the Act sets out further publication requirements for guidance relating to the enforcement of offences for which civil sanctions can be imposed. Copies of the guidance referred to are available from the Marine Assessment and Licensing Team, Northern Ireland Environment Agency, Department for Environment, 17 Antrim Road, Lisburn, Co Antrim, BT28 3AL and from the Agency’s website at www.ni-environment.gov.uk.

Part 5 contains general provisions. Articles 26 and 27 deal with the recovery of payments and for paying certain monies received into the Consolidated Fund. Article 28 contains further provisions relating to appeals (all appeals are to the Water Appeals Commission). Article 29 contains provisions relating to the service of notices, and Article 30 contains provisions relating to the withdrawal of amendment of final notices.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Marine Policy Team, Department of the Environment, Millenium House, 17-25 Great Victoria Street, Belfast, BT2 7BN and from the Department of the Environment website, www.doeni.gov.uk.