

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Schedule 9: Licensing: Transitional Provision Relating to Part 4

Parts 2 and 3: Coast Protection Act 1949; Food and Environment Protection Act 1985

946. These two Parts provide that all consents under the Coast Protection Act 1949 and FEPA licences issued before the commencement of the marine licensing provisions are to be considered as if they were marine licences granted under the Act. Additionally, applications for CPA consent and FEPA licences currently under consideration by the licensing authority at the time of commencement of the marine licensing provisions are to be considered by the licensing authority as applications for a marine licence. No additional fees will be required. Any information held by an authority in a register of information that it maintained under section 14 of FEPA must be transferred to the register of information that that authority will maintain under section 101 of the Act.

Paragraph 8: Channel Islands and British Overseas Territories

947. This paragraph provides that an Order in Council under section 26 of FEPA that was in force before the commencement date will remain in force, and may be revoked, amended or re-enacted, as if that section had not been repealed. In addition, if it appears that provision with respect to the licensing of marine activities has been made in the law of any of the Channel Islands or any British overseas territory, and that that provision was made otherwise than by virtue of an Order in Council under section 323 of the Act extending provisions of the Act, any provisions of Part 2 or 4 of FEPA as they have effect as part of the law of that territory may be repealed by Order in Council.

Paragraph 9: Dredging

948. Dredging that involves moving sediment around the sea (as opposed to lifting it out of the sea and taking it to a deposition site) was not licensable under FEPA or the Coast Protection Act 1949. Plough and hydrodynamic dredging are two examples of this. Under the Act these types of dredging need a marine licence. This paragraph delays the requirement for a marine licence for such dredging activities by one year from the date of commencement of the marine licensing functions of the Act. Any order made under section 320 that makes further transitional arrangements may specify additional types of dredging activity that are subject to the one-year grace period.

Paragraph 10: Water Resources Act 1991

949. This paragraph provides that the amendment made by section 82 of the Act applies to any application for consent under section 109 of the Water Resources Act 1991 made, but not determined, by the time of commencement of the marine licensing provisions of the Act.

*These notes refer to the Marine and Coastal Access Act 2009
(c.23) which received Royal Assent on 12th November 2009*

***Paragraphs 11 and 12: Electronic Communications Code: England and Wales;
Electronic Communications Code: Scotland***

950. The Act repeals the requirement for operators to seek approval under the Electronic Communications Code for tidal works (see Part 2 of the Repeals Schedule). These paragraphs provide that approvals granted under paragraph 11 of the Electronic Communications Code before that repeal are to be considered as marine licences, in England and Wales, and FEPA licences, in Scotland. Additionally, applications for approval currently under consideration by the licensing authority at the time of the repeal are to be considered by the licensing authority as applications for a marine licence, in England and Wales, and FEPA licences, in Scotland.

***Paragraph 13: Direction under section 58(1)(c) of the Government of Wales Act
2006***

951. This paragraph provides that before the Secretary of State exercises functions under any of the sections specified in *sub-paragraph (2)* in “Welsh controlled waters”, as defined by paragraph 4 of Schedule 3 to the Government of Wales Act 2006, then the Secretary of State must consult the Welsh Ministers. This provision may be amended, modified or repealed by any further Order in Council made under section 58(1)(c) of the Government of Wales Act 2006.