

# Marine and Coastal Access Act 2009

# **2009 CHAPTER 23**

#### PART 6

## MANAGEMENT OF INSHORE FISHERIES

#### **CHAPTER 3**

#### INSHORE FISHERIES IN WALES

## 189 Power of Welsh Ministers in relation to fisheries in Wales

- (1) [F1The] Welsh Ministers may by order make any provision in relation to Wales which the authority for an IFC district may make for that district by a byelaw made under section 155.
- - (3) In this section—
    - "authority for an IFC district" has the same meaning as in Chapter 1 of this Part;
    - "Wales" has the same meaning as in the Government of Wales Act 2006 (c. 32).

# **Textual Amendments**

- F1 Word in s. 189(1) substituted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), Sch. 10 para. 28(a) (with Sch. 4 para. 31)
- F2 S. 189(2) omitted (23.1.2021) by virtue of Fisheries Act 2020 (c. 22), s. 54(4)(d), Sch. 10 para. 28(b) (with Sch. 4 para. 31)

## **Commencement Information**

II S. 189 partly in force; s. 189 in force for specified purposes at Royal Assent see s. 324(1)(c)

Changes to legislation: Marine and Coastal Access Act 2009, Chapter 3 is up to date with all changes known to be in force on or before 27 May 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) View outstanding changes

#### 190 Offences

- (1) A person who contravenes any provision of an order made under section 189 is guilty of an offence under this section.
- (2) Where any vessel is used in contravention of any provision of an order made under section 189, the master, the owner and the charterer (if any) are each guilty of an offence under this section.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to [F3 a fine].
- (4) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of England and Wales.
- (5) No contravention by the Crown of this section is to make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (6) Despite subsection (5), this section applies to persons in the public service of the Crown as it applies to other persons.
- (7) In this section "contravention" includes failure to comply; and "contravene" is to be read accordingly.

#### **Textual Amendments**

F3 Words in s. 190(3) substituted (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(8) (with reg. 5(1))

## 191 Powers of court following conviction

- (1) This section applies where a person is convicted of an offence under section 190.
- (2) The court by which the person is convicted may order the forfeiture of—
  - (a) any fishing gear used in the commission of the offence;
  - (b) any sea fisheries resources in respect of which the offence was committed.
- (3) The power conferred by subsection (2) to order the forfeiture of any sea fisheries resources includes power to order the forfeiture of any container in which the resources are being kept.
- (4) The court may, instead of ordering the forfeiture of any fishing gear or any sea fisheries resources, order the person to pay a sum of money representing the value of the fishing gear or resources.
- (5) In a case where the offence involved the breach of a condition of a permit granted by the Welsh Ministers, the court may—
  - (a) suspend the permit, or
  - (b) disqualify the person from holding or obtaining any such permit relating to any activity to which that permit related,

for such period as the court thinks fit.

Document Generated: 2024-05-27

Changes to legislation: Marine and Coastal Access Act 2009, Chapter 3 is up to date with all changes known to be in force on or before 27 May 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) View outstanding changes

(6) In this section "sea fisheries resources" has the same meaning as in Chapter 1 of this Part (see section 153).

# 192 Power to provide services for purposes of enforcement

- (1) The Welsh Ministers may—
  - (a) enter into arrangements with any person who is entitled to a right of regulating a fishery conferred by an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) for the provision of services that are required by the person in connection with the enforcement of any provision made by or under the order;
  - (b) enter into arrangements with—
    - (i) any person who is entitled to a right of several fishery conferred by an order under that section, or
    - (ii) any person who owns a private shellfish bed (within the meaning of that Act),

for the provision of services that are required by the person in connection with the enforcement of any provision of, or any rights conferred by, section 7 of that Act.

(2) The terms and conditions upon which arrangements under subsection (1) are made may include provision for the making of payments to the Welsh Ministers by the person or body to whom the services are provided.

#### 193 Miscellaneous amendments

- (1) Section 2 of the Coast Protection Act 1949 (c. 74) (constitution of coast protection boards) is amended as set out in subsections (2) and (3).
- (2) In subsection (2), after paragraph (b) insert—
  - "(ba) the Welsh Ministers, in relation to any powers or duties they have in relation to fishing and fisheries in any part of the area;".
- (3) In subsection (8)(a), after "Sea Fish Industry Act 1951," insert " or the Welsh Ministers,".
- (4) In section 27(1) of the Wildlife and Countryside Act 1981 (c. 69) (interpretation of Part 1), in paragraph (c) of the definition of "authorised person", for "by any" substitute "by—
  - (i) the Welsh Ministers, in relation to things done for purposes relating to fishing or fisheries in the Welsh inshore region (within the meaning of the Marine and Coastal Access Act 2009);
  - (ii) any".

## **Changes to legislation:**

Marine and Coastal Access Act 2009, Chapter 3 is up to date with all changes known to be in force on or before 27 May 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. View outstanding changes

# Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 72A(2A) inserted by 2023 c. 55 s. 232(2)(d)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by 2023 c. 55 s. 232(2) (f)(i)
- s. 72A(6)(a) words inserted by 2023 c. 55 s. 232(2)(f)(ii)
- s. 72A(6)(b) and word inserted by 2023 c. 55 s. 232(2)(f)(iii)
- Sch. 6 para. 1(2)(da) inserted by 2023 c. 55 Sch. 8 para. 31(2)(a)