



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 4

#### MARINE LICENSING

### CHAPTER 3

#### ENFORCEMENT

#### *Civil sanctions*

#### **96 Variable monetary penalties: procedure**

- (1) Provision under section 95 must secure the results in subsection (2).
- (2) Those results are that—
  - (a) where the enforcement authority proposes to impose a variable monetary penalty on a person, the enforcement authority must serve on that person a notice (a “notice of intent”) which complies with subsection (3),
  - (b) that person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the penalty,
  - (c) after the end of the period for making such representations and objections, the enforcement authority must decide whether to impose a penalty and, if so, the amount of the penalty,
  - (d) where the enforcement authority decides to impose a penalty, the notice imposing it (the “final notice”) complies with subsection (6), and
  - (e) the person on whom a penalty is imposed may appeal against the decision as to the imposition or amount of the penalty.
- (3) To comply with this subsection the notice of intent must include information as to—
  - (a) the grounds for the proposal to impose the penalty,
  - (b) the right to make representations and objections,

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**Changes to legislation:** Marine and Coastal Access Act 2009, Section 96 is up to date with all changes known to be in force on or before 23 April 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

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- (c) the circumstances in which the enforcement authority may not impose the penalty, and
  - (d) the period within which representations and objections may be made, which may not be less than the period of 28 days beginning with the day on which the notice of intent is received.
- (4) Provision pursuant to subsection (2)(c)—
- (a) must secure that the enforcement authority may not decide to impose a penalty on a person where the enforcement authority is satisfied that the person would not, by reason of any defence raised by that person, be liable to be convicted of the offence in relation to which the penalty is proposed to be imposed, and
  - (b) may include provision for other circumstances in which the enforcement authority may not decide to impose a penalty.
- (5) Provision under subsection (2)(c) must also include provision for—
- (a) the person on whom the notice of intent is served to be able to offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any person affected by the offence,
  - (b) the enforcement authority to be able to accept or reject such an undertaking, and
  - (c) the enforcement authority to take any undertaking so accepted into account in its decision.
- (6) To comply with this subsection the final notice referred to in subsection (2)(d) must include information as to—
- (a) the grounds for imposing the penalty,
  - (b) how payment may be made,
  - (c) the period within which payment must be made,
  - (d) any early payment discounts or late payment penalties,
  - (e) rights of appeal, and
  - (f) the consequences of non-payment.
- (7) Provision pursuant to subsection (2)(e) must secure that the grounds on which a person may appeal against a decision of the enforcement authority include the following—
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the amount of the penalty is unreasonable;
  - (d) that the decision was unreasonable for any other reason.

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**Commencement Information**

- 11** S. 96 partly in force; s. 96 in force for specified purposes at Royal Assent see [s. 324\(1\)\(c\)](#)
- 12** S. 96 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

**Changes to legislation:**

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**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\(2\)\(a\)](#)