

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 8: Enforcement

Chapter 6: Miscellaneous and Supplementary

Enforcement of Community rules

Section 293: Enforcement of Community rules

723. This section amends section 30 of the Fisheries Act 1981.
724. Section 30(1) is amended so that it applies both to enforceable Community restrictions and enforceable Community obligations. These restrictions and obligations are directly applicable and enforceable against all fishing boats within British Fishery Limits, and also English and Welsh boats outside those limits and persons in England and Wales.
725. The general power in section 30(2) for the Secretary of State to make by order provision to enforce Community obligations and restrictions is extended to English and Welsh fishing boats anywhere in the world and to persons of a specified description (specified within the order) on board fishing boats anywhere in the world. Persons on board Scottish or Northern Ireland fishing boats are excluded.
726. *Section 30* is further amended so that an Order in Council may be made extending the application of section 30(1) and (2) to any Isle of Man or Channel Islands fishing boat outside British Fishery Limits.

Administrative penalty schemes

Section 294: Administrative penalty schemes

727. This section introduces powers for the Secretary of State (in relation to England or vessels outside the Welsh zone) or the Welsh Ministers (in relation to Wales or vessels within the Welsh Zone) to apply Fixed Administrative Penalties (FAPs) to domestic fisheries offences, namely offences which do not originate in Community law. The vast majority of fisheries offences are breaches of Community law for which FAPs are available using existing powers made under section 30(2) of the Fisheries Act 1981.
728. The FAP scheme will complement the existing criminal system rather than replace it, as a person will be under no obligation to pay the penalty if he wishes to have the matter dealt with in court in the usual way. The scheme will be used to address fisheries offences such as offences under the Sea Fisheries Act 1868, the Sea Fish (Conservation) Act 1967, the Sea Fisheries Act 1968, the Fishery Limits Act 1976 and the British Fishing Boats Act 1983, including any offences in any of the orders made under these Acts. An order to make provision to apply FAPs may apply in relation to England and Wales, any vessels within British Fishery Limits other than the Scottish zone, Northern Ireland zone and the territorial sea adjacent to the Isle of Man, Jersey and Guernsey, and

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

any English or Welsh fishing boats wherever they may be. *Subsection (6)* also provides that Her Majesty may by Order in Council provide for this scheme to apply to any Isle of Man or Channel Islands fishing boats which are outside British Fishery Limits.

729. The section sets out detail of the provision which may be made in the order, including the content of the penalty notice, who may issue a notice, the minimum and maximum amount of the penalty and matters as to payment.

Crown application

Section 295: Application to the Crown

730. The provisions in Chapters 1 to 5 of this Part apply to the Crown. Contravention of any provision of Chapter 5 will not make the Crown criminally liable.