

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Summary of the Act

12. **Part 1** establishes an independent body, the Marine Management Organisation (MMO). The MMO is to discharge a number of marine functions on behalf of UK Government. Its general objective is to do this with the objective of making a contribution to the achievement of sustainable development, taking into account all relevant facts and matters and any effect that decisions in one area will have on any other area. As a Non-Departmental Public Body (NDPB), the MMO will report formally to Parliament through the Secretary of State. It is intended that the MMO will be given responsibility for drawing up marine plans for the purposes of the new planning regime. It will also administer marine environmental licensing and harbours regimes on behalf of the Secretary of State, manage marine fisheries, undertake nature conservation functions and use enforcement powers set out in Part 8 of this Act to enforce fisheries, licensing and nature conservation legislation.
13. **Part 2** defines the UK marine area, used by subsequent Parts of the Act to describe areas where activities take place. It also allows an Exclusive Economic Zone to be designated (see paragraph 34) and creates the Welsh zone, the boundaries of which are to be set by an order made by the Secretary of State or an Order in Council made by Her Majesty. Functions relating to fisheries will be transferred to the Welsh Ministers in relation to the Welsh zone. Other provisions in the Act make provision for certain other functions to be conferred on the Welsh Ministers in relation to the Welsh zone (for example, drawing up marine plans).
14. **Part 3** introduces a new system of marine planning. At present, marine policy is developed sector by sector, which makes it difficult for decision-makers and users of the sea to know what the relative priorities are. The planning provisions provide for the preparation of a Marine Policy Statement to articulate the priorities and objectives of the UK Government, the Welsh Assembly Government, the Scottish Executive and the Department of the Environment in Northern Ireland in their marine areas. It also provides for the preparation of marine plans for the UK marine area which take account of the Marine Policy Statement.
15. The marine licensing provisions in Part 4 will replace the licensing and consent controls currently exercised under Part II of the Food and Environment Protection Act 1985 and Part II of the Coast Protection Act 1949 (excluding Scottish inshore region). This Part also removes the consent requirements of the electronic communications code set out in Schedule 2 to the Telecommunications Act 1984. The considerations built into these regimes are merged into the new regime, with some modifications. This Part amends the relationship between marine licensing and certain other legislation governing activities in the marine area, including the Petroleum Act 1998 and the Electricity Act 1989. Additionally, it provides for the mechanisms and powers for enforcing the licensing regime.

16. **Part 5** of the Act provides a power, across most of UK waters, to designate new Marine Conservation Zones (“MCZs”), in place of the current power under the Wildlife and Countryside Act 1981 to designate Marine Nature Reserves. Existing Marine Nature Reserves will be converted into MCZs. There will be a duty to designate MCZs so as to contribute to a UK network of marine sites, MCZs complementing the Natura 2000 network of European sites, Sites of Special Scientific Interest and wetlands protected under the Ramsar Convention. This will help the Government to fulfil the UK’s commitment, under the Convention for the Protection of the Marine Environment of the North East Atlantic (OSPAR), to establish an ecologically coherent network of marine protected areas. The Act provides for new duties on public bodies to exercise their functions in ways that further the conservation objectives set for MCZs, and not to authorise activities or development which carry a significant risk of hindering those conservation objectives. There will also be powers to make byelaws or orders, and interim byelaws or orders, to protect sites, and potential sites, from otherwise unregulated activities which may cause harm.
17. **Part 6** changes the legislation relating to the establishment, organisation and responsibilities of Sea Fisheries Committees, establishing in England new bodies called Inshore Fisheries and Conservation Authorities (IFCAs). It imposes on IFCAs duties in relation to fisheries and nature conservation, and confers on them the power to make byelaws. The membership and funding arrangements of IFCAs are also set out.
18. **Part 7** contains several Chapters amending existing legislation relating to marine and freshwater fisheries. It amends the Sea Fish (Conservation) Act 1967 to provide new powers in relation to the regulation of commercial and recreational fishing. It also amends the Sea Fisheries (Shellfish) Act 1967 to modify the way that Several and Regulating Orders, which are used to establish and manage shellfisheries, are made and operated. In addition, this Part amends legislation relating to migratory and freshwater fish. It gives new powers to the Environment Agency to conserve and manage migratory fish, including powers to make emergency byelaws to respond to unforeseen threats to fish stocks and powers to introduce a new regulatory system for the movement of live fish where necessary to protect national and local biodiversity. This Part also modifies the fishing licensing regime, introduces an authorisation regime for some fishing activities, and deals with offences relating to fishing and with the powers and duties of the Environment Agency. Finally, this Part repeals some redundant fisheries legislation.
19. **Part 8** provides for the appointment of enforcement officers and for a set of common enforcement powers for enforcing requirements across licensing, nature conservation and fishing in the marine area. It provides new powers that may be exercised for the purposes of enforcing sea fisheries legislation.
20. **Part 9** introduces new powers to extend recreational access to the English coast and to enable the creation, as far as is possible, of a continuous route around the coast wide enough to allow unconstrained passage on foot and recreational space. It also contains provisions enabling the National Assembly for Wales to create a coastal path around the Welsh coast.
21. **Part 10** amends legislation in relation to Natural England and the Countryside Council for Wales and modifies the regime governing harbours set out in the Harbours Act 1964. It also introduces navigational controls into the Energy Act 2008 in lieu of those currently contained in the Coast Protection Act 1949.
22. The final Part of the Act, Part 11, contains supplementary provisions including commencement arrangements and repeals.