

# MARINE AND COASTAL ACCESS ACT 2009

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

#### **Part 6: Management of Inshore Fisheries**

##### *Chapter 3: Inshore Fisheries in Wales*

##### *Section 189: Power of Welsh Ministers in relation to fisheries in Wales*

490. Section 189(1) provides that, subject to *subsection (2)*, the Welsh Ministers may by order make any provision which IFC authorities may make by byelaw under section 155. *Subsection (2)* provides that, to the extent that the Welsh Ministers already have the power to make such provision, *subsection (1)* does not apply. In other words, section 189 confers power on the Welsh Ministers to make any provision by order which the IFC authorities may make by byelaw, but only to the extent that the Welsh Ministers do not already have the power to make such provision.
491. The Welsh Ministers' power to make orders under section 189 will be exercisable by statutory instrument (section 316(3)) and such orders will be subject to annulment in pursuance of a resolution of the National Assembly for Wales (section 316(8) and (10)), that is, negative resolution procedure.

##### *Section 190: Offences*

492. **Section 190** provides that it is an offence for a person or vessel to contravene any provision of an order made under section 189. The maximum penalties for contravening an order made under section 189 are, on summary conviction, a fine not exceeding £50,000.

##### *Section 191: Powers of court following conviction*

493. **Section 191** confers various powers on the court following conviction of a person for an offence under section 190.
494. More particularly, section 191 enables the court, following conviction, to:
- order the forfeiture of –
    - a) any fishing gear used in the commission of the offence,
    - b) any sea fisheries resources (including any container in which they are kept) in respect of which the offence was committed; or
  - order the offender to pay a sum of money representing the value of such fishing gear or resources.
495. Where there has been a breach of the conditions of a permit granted by the Welsh Ministers, the court may suspend the permit or disqualify the person from holding or

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

obtaining any such permit relating to any activity to which that permit related. A permit may be suspended or disqualified for such period as the court sees fit.

***Section 192: Power to provide services for purposes of enforcement***

496. This section provides for the Welsh Ministers to enter into arrangements, with or without charge, with third parties (private fishery owners and grantees of several and regulating orders) for marine enforcement officers to undertake enforcement activities within those third party fisheries.

***Section 193: Miscellaneous amendments***

497. This section amends the Coast Protection Act 1949 to include the Welsh Ministers as representatives on Coast Protection Boards in relation to any powers or duties that they have in relation to fishing and fisheries. It also amends the Wildlife and Countryside Act 1981 to allow the Welsh Ministers to authorise the killing of wild birds for purposes relating to fishing or fisheries (as IFCA's will have similar powers).