

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 8: Enforcement

Chapter 6: Miscellaneous and Supplementary

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 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.