

# MARINE AND COASTAL ACCESS ACT 2009

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

#### **Part 11: Supplementary Provisions**

##### ***Section 316: Regulations and Orders***

821. This section contains general provisions for making regulations and orders under the Act.

##### ***Section 317: Directions***

822. This section contains details for making directions under the Act.

##### ***Section 318: Offences by directors, partners, etc***

823. This section provides for individual liability in some cases where there is also corporate liability.

824. Where the offence has been committed by a Scottish firm, *subsection (4)* states that proceedings may be brought against an individual partner as well as the partnership.

##### ***Section 319: Disapplication of requirement for consent to certain prosecutions***

825. Section 3 of the Territorial Waters Jurisdiction Act 1878 provides that a person who is not a British subject may not be prosecuted for an indictable offence committed in the territorial sea without the consent of the Secretary of State. This section has the effect of disapplying section 3 of the 1878 Act in relation to proceedings for offences committed under the Act.

##### ***Section 320: Power to make transitional provisions and savings***

826. This section allows the Secretary of State to make, by order, transitional provisions and savings for any Part of the Act.

##### ***Section 321: Repeals***

827. Repeals are found in Schedule 22.

##### ***Section 322: Interpretation***

828. This section contains definitions of expressions used in the Act.

829. The term “public body” is not apt to include, and is not defined so as to include, Her Majesty, the Duchy of Lancaster or the Duchy of Cornwall. Similarly, in the definition of “public office holder”, “person holding... an office under the Crown” is not apt to include persons who are officers of Her Majesty in Her private capacity, officers of Her Household or officers of either the Duchy of Lancaster or the Duchy of Cornwall.

**Section 323: Extent**

830. This section sets out to which parts of the UK the provisions in the Act apply. This is different for different Parts of the Act.
831. The Act extends to England and Wales, whilst various provisions also extend to Scotland and Northern Ireland. The Act also in certain cases allows for orders to be made in respect of Channel Islands, the Isle of Man, or overseas territories.
832. [Part 1](#) (the Marine Management Organisation) provisions extend to the whole UK. However the functions of the MMO are for the most part not exercisable in relation to the territorial waters adjacent to Scotland.
833. [Part 2](#) allows for the designation of a UK EEZ and defines the UK marine area. It also provides for the designation of a Welsh zone. This Part extends to the whole of the UK.
834. Marine Planning (Part 3) extends to the whole of the UK, with responsibilities for each of the Secretary of State, the Welsh Ministers, the Scottish Ministers and the Department of the Environment (Northern Ireland). Functions relating to marine plans do not apply in relation to the Scottish inshore region or the Northern Ireland inshore region.
835. Licensing (Part 4) extends to the whole of the UK. It applies in all areas except territorial waters adjacent to Scotland, although provisions apply in different ways in different areas, in line with the existing devolution settlement.
836. The provisions of Chapter 1 of Part 5 (provisions relating to marine conservation zones) (other than Schedules 11 and 12 relating to consequential amendments and transitional provisions for MCZs) extend to the whole of the UK but are of no application in relation to the Scottish inshore region and the Northern Ireland inshore region, where the relevant administrations intend to bring forward provisions under their own legislation.
837. [Part 6](#) (inshore fisheries) extends to England and Wales, although inshore fisheries and conservation districts may only be established in England. The sections on the powers of IFC officers etc (sections 165, 166 and 186) also extend to Scotland.
838. [Part 7](#) (fisheries) extends to England and Wales, although sections 212 and 213 (crabs and lobsters) and 232 (keeping, introduction and removal of fish) also extend to Scotland. Measures to manage migratory and freshwater fisheries in that Part (Chapter 3) apply in England and Wales, the River Esk in Scotland but not the River Tweed in England. Section 232 applies to England and Wales and the catchment area of the Esk in Scotland.
839. In Part 8 (enforcement measures) Chapters 1 to 5 and section 295 (Application to the Crown) extend to the whole of the UK. Measures will apply in different areas in different ways in line with the existing devolution settlement and agreements between the different administrations.
840. Coastal access provisions (Part 9) extend to England and Wales but in general apply in relation to England only. However this Part also provides framework powers for the National Assembly for Wales to designate a coastal route in Wales.
841. [Part 10](#) (Miscellaneous) extends to the whole of the UK. The sections relating to Natural England under Part 10 (sections 311 and 312) apply in England only. The section relating to the Countryside Council for Wales (section 313) applies in Wales only. The section relating to navigation (section 314) applies in all UK waters with the exception of the Scottish inshore region, though it does provide for the Secretary of State to extend these provisions by order to the Scottish inshore region. The section relating to harbours (section 315) applies in England and Wales.

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

842. Finally, the supplementary provisions of the Act (Part 11) extend to the whole of the UK with the exception of the provisions relating to repeals (section 321 and Schedule 22) which generally have the same extent as the provisions being repealed.

***Section 324: Commencement***

843. This section prescribes when the different provisions in the Act will come into force. Part 3, certain parts of Parts 5 and 6, and Part 9 will come into force 2 months after the Act receives Royal Assent. Other Parts of the Act will come into effect on a date which will be set out in an order made by the Secretary of State or, in the case of certain provisions to the extent they relate to Wales, the Welsh Ministers. However, Ministers will be able to make orders and regulations under the Act from the date of Royal Assent, and certain provisions in Part 3 relating to the Marine Policy Statement also come into force on Royal Assent.

***Section 325: Short title***

844. This section gives the short title of the Act as the “Marine and Coastal Access Act 2009”.