

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Terminology describing marine areas

23. There are a number of existing terms which are used throughout the Act to describe different parts of the UK marine area. These are set out below. The Act also defines additional terms to refer to specific parts of the UK marine area.

Baseline

24. The marine area around the UK coast is sub-divided into a number of zones. These are measured from a “baseline”. This is usually the low water mark around the coast. But there may be straight baselines across the mouths of bays, and all rocks, reefs etc above the sea at low water but submerged at other times extend the baseline if they are within 12 nautical miles (“nm”) of the mainland or an island. The UK baseline is delineated in the Territorial Waters Order in Council 1964 (as amended by the [Territorial Sea \(Amendment\) Order 1998, SI 1998/2564](#)).

Internal Waters

25. Marine waters to the landward side of the baseline are known as internal waters.

Territorial Sea

26. The UK territorial sea is defined by the Territorial Sea Act 1987 as the sea extending 12nm from the baseline. For the most part the territorial sea of the UK does not adjoin that of any other state. Where it does do so in the [English Channel, the Territorial Sea \(Limits\) Order 1989 \(SI 1989/482\)](#) sets out the limits of the territorial sea in the Straits of Dover in accordance with an agreement between the UK and France. In relation to the delineation of the territorial sea between the UK and the Republic of Ireland, the situation is more complex, with no boundary having been agreed between the two states. Instead arrangements have been put in place under the Belfast Agreement for joint management of the Loughs that form the border (the Foyle, Carlingford and Irish Lights Commission’s Loughs Agency).
27. Within the territorial sea, the UK has jurisdiction for the sea itself, the seabed subjacent and the air above. This is subject to the right of innocent passage by ships of all other states.
28. Parts of the UK territorial sea form part of Scotland, Northern Ireland and Wales for the purpose of exercising devolved functions. The Scotland Act 1998 defines “Scotland” as including so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland (section 126(1)). Similarly, section 98 of the Northern Ireland Act 1998 defines Northern Ireland as including so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Northern Ireland. The Government of Wales Acts 1998 and 2006 provide that “Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea (see section 158(1) of the 2006

Act). The extent of the “English” territorial sea is normally assumed to be that part of the territorial sea that has not been assigned to another part of the United Kingdom but was defined in section 32M of the Electricity Act 1989, inserted by section 37 of the Energy Act 2008.

UK Continental Shelf

29. References to areas of the sea within the UK sector of the continental shelf are always references to the area of sea outside the UK territorial sea but within an area specified in an order having effect under section 1(7) of the Continental Shelf Act 1964. Rights in the continental shelf extend to mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species.

British Fishery Limits

30. British fishery limits currently extend 200 nm from the baseline. Similar to the apportioning of the territorial seas, Scotland and Northern Ireland have their own areas within the British fishery limits, known as the Scottish and Northern Ireland Zones. The Northern Ireland Zone is defined as being the sea within British fishery limits which is adjacent to Northern Ireland. This may be thought of as being the area of British fishery limits lying between the territorial sea around Northern Ireland and that of the Isle of Man. The Act amends the definition of British fishery limits in the Fishery Limits Act 1976 by reference to the exclusive economic zone (EEZ) to be designated under Part 2.
31. The Scottish Zone is defined as that part of the sea within the British fishery limits established under the Fishery Limits Act 1976 which is adjacent to Scotland. The boundaries of both the Northern Ireland Zone and the Scottish Zone are defined by Order in Council.
32. This Act also includes provision for the designation of a Welsh Zone for fisheries matters. This will be defined by Order in Council but may be thought of as comprising that part of the sea within British fishery limits which is adjacent to Wales.

Renewable Energy Zone/ UK pollution zone

33. The Renewable Energy Zone was declared under section 84 of the Energy Act 2004. It extends up to a maximum of 200 nautical miles from the baseline. The UK has claimed exclusive rights in this area with respect to production of energy from water or winds, within an area to be designated by Order in Council. The UK has also claimed rights in relation to a similar area (the UK pollution zone) in relation to the protection and preservation of the marine environment, under the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996. As in the case of British fishery limits, the Act amends this legislation so that these zones are designated by reference to the exclusive economic zone as declared under Part 2 of the Act.

Exclusive Economic Zone

34. This Act includes a section allowing an Exclusive Economic Zone to be declared by Order in Council. This will occur once the precise boundaries of the Zone are finally determined following negotiations with neighbouring States. By their nature, such zones are capable of extending to 200nm from baselines and it may be expected that the extent of the zone will be similar to that adopted for the existing zones (or indeed British fishery limits).

Other terminology

35. “Inland waters” is a term usually used to refer to freshwater rivers, lakes, streams and groundwaters.