



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 6

#### MANAGEMENT OF INSHORE FISHERIES

#### CHAPTER 1

##### INSHORE FISHERIES AND CONSERVATION AUTHORITIES

##### *Inshore fisheries and conservation districts and authorities*

#### **149 Establishment of inshore fisheries and conservation districts**

- (1) The Secretary of State may by order establish inshore fisheries and conservation districts.
- (2) An inshore fisheries and conservation district (an “IFC district”) is an area that consists of—
  - (a) one or more local authority areas in England that include part of the seashore, and
  - (b) such part of the English inshore region lying seawards from that part of the seashore as is specified in the order establishing the district.
- (3) Before making an order establishing an IFC district the Secretary of State must consult—
  - (a) the council for every local authority area that would, if the order were made, fall within the IFC district established by the order,
  - (b) the Environment Agency,
  - (c) Natural England,
  - (d) the MMO,
  - (e) the authority for any existing IFC district that would, if the order were made, adjoin the IFC district established by the order,

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- (f) the Welsh Ministers, in a case where, if the order were made, the IFC district established by the order would adjoin the Welsh inshore region, and any other person likely to be affected by the making of the order.

#### Commencement Information

**II** S. 149 partly in force; s. 149 in force for specified purposes at Royal Assent see s. 324(1)(c)

VALID FROM 01/10/2010

#### 150 Inshore fisheries and conservation authorities

- (1) There is to be an inshore fisheries and conservation authority (an “IFC authority”) for every IFC district established under section 149.
- (2) Any reference in this Chapter to the authority for an IFC district is a reference to the IFC authority for that district.
- (3) An authority for an IFC district is—
  - (a) a committee of the council for the local authority area falling within the district;
  - (b) where there is more than one local authority area falling within the district, a joint committee of the councils for those local authority areas.

#### 151 Membership and proceedings of IFC authorities

- (1) An order under section 149 establishing an IFC district must provide for the IFC authority for the district to consist of—
  - (a) persons who are members of a relevant council,
  - (b) persons appointed by the MMO, and
  - (c) other persons.
- (2) The persons appointed as members of the authority for the district by virtue of subsection (1)(b) must comprise—
  - (a) persons acquainted with the needs and opinions of the fishing community of the district, and
  - (b) persons with knowledge of, or expertise in, marine environmental matters.
- (3) The Secretary of State may by order amend subsection (2) so as to—
  - (a) add descriptions of persons who may be appointed by virtue of subsection (1)(b) as members of an IFC authority;
  - (b) vary or remove any descriptions added by virtue of paragraph (a).

An order under this subsection may make such other amendments of this section as appear to the Secretary of State to be necessary in consequence of the order.
- (4) An order under section 149 establishing an IFC district must specify the number of members of the authority for the district.
- (5) The order must also specify—

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- (a) the number of members falling within paragraph (a), and the number of members falling within paragraph (b), of subsection (1);
  - (b) in a case where there is more than one relevant council for the IFC district established by the order, the number of members to be appointed from each council (which may, in the case of any particular council, be none);
  - (c) the number of members falling within paragraph (c) of subsection (1) and the person or persons by whom they are to be appointed.
- (6) An order under section 149 establishing an IFC district may also include provision about—
- (a) how a member of the authority for the district is to be appointed;
  - (b) qualification and disqualification for membership of the authority;
  - (c) the conduct of members of the authority;
  - (d) the appointment of a member of the authority as the chair of the authority;
  - (e) the holding and vacation of office as a member, or as chair, of the authority (including the circumstances in which a person ceases to hold office or may be removed or suspended from office);
  - (f) re-appointment as a member, or as chair, of the authority;
  - (g) the validity of acts and proceedings of a person appointed as a member of the authority in the event of disqualification or lack of qualification;
  - (h) the validity of proceedings of the authority in the event of a vacancy in membership or of a defect in the appointment of a member;
  - (i) procedure to be followed by the authority;
  - (j) the delegation by the authority of any of its functions to a sub-committee, member or employee of the authority;
  - (k) the payment by the authority of allowances to a member and the reimbursement by it of a member's expenses.
- (7) The following provisions (which make provision about proceedings of local authority committees and joint committees) have effect in relation to the authority for an IFC district subject to provision made by the order establishing the district—
- (a) sections 100A to 100D, 104 and 106 of, and paragraphs 39 to 43 of Schedule 12 to, the Local Government Act 1972 (c. 70);
  - (b) section 13 of the Local Government and Housing Act 1989 (c. 42);
  - (c) Chapter 1 of Part 3 of the Local Government Act 2000 (c. 22).
- (8) In this section—
- “the fishing community” means all persons with any sort of interest in the exploitation of sea fisheries resources or in fisheries for such resources;
  - “marine environmental matters” means—
    - (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas, or
    - (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal environment.
- (9) Until the date of the coming into force of section 1, the reference in subsection (1)(b) to the MMO is to be read as a reference to the Secretary of State.

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Any person appointed by the Secretary of State as a member of an IFC authority is, on and after that date, to be treated as if appointed by the MMO.

**Commencement Information**

**I2** S. 151 partly in force; s. 151 in force for specified purposes at Royal Assent see s. 324(1)(c)

**152 Amendment or revocation of orders under section 149**

- (1) The Secretary of State may amend or revoke an order made under section 149.
- (2) Before amending or revoking an order made under section 149 the Secretary of State must consult—
  - (a) the authority for the IFC district established by the order,
  - (b) the council for every local authority area that falls within the IFC district established by the order,
  - (c) the Environment Agency,
  - (d) Natural England,
  - (e) the MMO,
  - (f) the authority for any IFC district that adjoins the IFC district established by the order,
  - (g) the Welsh Ministers, in a case where the IFC district established by the order adjoins the Welsh inshore region,
 and any other person likely to be affected by the amendment or revocation of the order.

**Commencement Information**

**I3** S. 152 partly in force; s. 152 in force for specified purposes at Royal Assent see s. 324(1)(c)

VALID FROM 01/04/2011

*Main duties*

**153 Management of inshore fisheries**

- (1) The authority for an IFC district must manage the exploitation of sea fisheries resources in that district.
- (2) In performing its duty under subsection (1), the authority for an IFC district must—
  - (a) seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,
  - (b) seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation,

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- (c) take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
  - (d) seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.
- (3) The Secretary of State may give guidance to the authority for an IFC district with respect to the performance of its duty under subsection (1).
- (4) The Secretary of State must give every IFC authority guidance as to how the authority is to perform its duty under subsection (1) so as to make a contribution to the achievement of sustainable development.
- (5) In performing its duty under subsection (1), the authority for an IFC district must have regard to any guidance given to it by the Secretary of State.
- (6) Before giving any such guidance the Secretary of State must consult—
  - (a) every IFC authority to which the Secretary of State is proposing to give guidance, and
  - (b) such other bodies or persons as the Secretary of State considers appropriate.
- (7) In preparing any such guidance the Secretary of State must take into consideration—
  - (a) the functions of IFC authorities,
  - (b) functions which are exercisable in IFC districts by other bodies and persons, and
  - (c) the resources available, or likely to be available, to each IFC authority to which the Secretary of State is proposing to give guidance.
- (8) The Secretary of State must publish, in such manner as the Secretary of State may determine, any guidance given to IFC authorities by virtue of subsection (4).
- (9) An IFC authority that has been given any such guidance must provide any person on request with a copy of the whole or any part of any such guidance.
- (10) In this Chapter “sea fisheries resources” means any animals or plants, other than fish falling within subsection (11), that habitually live in the sea, including those that are cultivated in the sea.
- (11) The fish referred to in subsection (10) are—
  - (a) salmon, trout, eels, lampreys, smelt and shad;
  - (b) any other fish of a kind which migrates from fresh to salt water, or from salt to fresh water, in order to spawn;
  - (c) any freshwater fish.

In this subsection “eels”, “freshwater fish”, “salmon”, “smelt” and “trout” have the same meanings as in the Salmon and Freshwater Fisheries Act 1975 (c. 51) (see section 41 of that Act).
- (12) Any reference in this Chapter to the “exploitation” of sea fisheries resources is a reference to any activity relating to the exploitation of such resources, whether carried out for commercial purposes or otherwise, including—
  - (a) fishing for, taking, retaining on board, trans-shipping, landing, transporting or storing such resources,
  - (b) selling, displaying, exposing or offering for sale or possessing such resources, and

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- (c) introducing such resources to the sea or cultivating such resources.

#### **154 Protection of marine conservation zones**

- (1) The authority for an IFC district must seek to ensure that the conservation objectives of any MCZ in the district are furthered.
- (2) Nothing in section 153(2) is to affect the performance of the duty imposed by this section.
- (3) In this section—
  - (a) “MCZ” means a marine conservation zone designated by an order under section 116;
  - (b) the reference to the conservation objectives of an MCZ is a reference to the conservation objectives stated for the MCZ under section 117(2)(b).

### *Byelaws*

VALID FROM 01/04/2011

#### **155 Power to make byelaws**

- (1) For the purposes of performing the duty imposed by section 153 or the duty imposed by section 154, the authority for an IFC district may make byelaws for that district.
- (2) Byelaws made under this section must be observed within the district for which they are made.
- (3) A byelaw made under this section does not have effect until it is confirmed by the Secretary of State.  
  
This is subject to section 157 (emergency byelaws).
- (4) The Secretary of State may confirm a byelaw without modification or with such modifications as are agreed to by the IFC authority that made the byelaw.
- (5) Before confirming a byelaw, the Secretary of State may cause a local inquiry to be held.

VALID FROM 01/04/2011

#### **156 Provision that may be made by byelaw**

- (1) The provision that may be made by a byelaw under section 155 includes provision falling within any one or more of the Heads set out in—
  - (a) subsection (3) (prohibition or restriction of exploitation of sea fisheries resources),
  - (b) subsection (4) (permits),
  - (c) subsection (5) (vessels, methods and gear),
  - (d) subsection (6) (protection of fisheries for shellfish),

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- (e) subsection (7) (monitoring of exploitation of resources);
  - (f) subsection (8) (information).
- (2) In the following provisions of this section “specified” means specified in the byelaw.
- (3) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
- (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
  - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
  - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (4) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by an IFC authority, including—
- (a) provision for the charging of fees for permits;
  - (b) provision enabling conditions to be attached to a permit;
  - (c) provision enabling an IFC authority to limit the number of permits issued by it.
- (5) Head 3 is—
- (a) provision prohibiting or restricting the use of vessels of specified descriptions;
  - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
  - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
  - (d) provision for determining whether such items are items of a specified description.
- (6) Head 4 is provision for and in connection with the protection of fisheries for shellfish, including—
- (a) provision requiring shellfish the removal or possession of which is prohibited by or in pursuance of any Act to be re-deposited in specified localities;
  - (b) provision for the protection of culch and other material for the reception of the spat or young of shellfish;
  - (c) provision requiring such material to be re-deposited in specified localities;
  - (d) provision constituting, within an IFC district, a district of oyster cultivation for the purposes of subsection (2)(c) of section 16 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) (which prohibits the sale of oysters between certain dates);
  - (e) provision directing that section 17(2) of that Act (which affords a defence to a person charged with an offence under that section) does not apply.
- (7) Head 5 is provision for and in connection with the monitoring of exploitation of sea fisheries resources, including—
- (a) provision requiring vessels to be fitted with specified equipment;

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- (b) provision requiring vessels to carry on board specified persons, or persons of a specified description, for the purpose of observing activities carried out on those vessels;
  - (c) provision requiring specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources to be marked in such manner as may be specified.
- (8) Head 6 is provision requiring persons involved in the exploitation of sea fisheries resources in an IFC district to provide the authority for the district with specified information.

VALID FROM 01/04/2011

### 157 Emergency byelaws

- (1) A byelaw that is made by an IFC authority in the circumstances described in subsection (2) has effect without being confirmed by the Secretary of State.
- (2) The circumstances are that—
  - (a) the IFC authority considers that there is an urgent need for the byelaw, and
  - (b) the need to make the byelaw could not reasonably have been foreseen.
- (3) A byelaw that has effect by virtue of this section (an “emergency byelaw”)—
  - (a) comes into force on a date specified in the byelaw, and
  - (b) remains in force (unless revoked or extended) for such period, not exceeding 12 months, as is specified in the byelaw.
- (4) An IFC authority may, with the written approval of the Secretary of State, extend the period for which an emergency byelaw is to remain in force.
- (5) An IFC authority—
  - (a) may extend that period only once;
  - (b) may not extend that period by more than 6 months.
- (6) The Secretary of State may not give the approval referred to in subsection (4) unless satisfied that—
  - (a) during the period for which the emergency byelaw has been in force, the IFC authority has used its best endeavours to make a byelaw that will make the emergency byelaw unnecessary, and
  - (b) there would be a significant and adverse effect on the marine environment if the approval was not given.
- (7) An IFC authority must within 24 hours of making an emergency byelaw notify the Secretary of State of it.



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VALID FROM 01/04/2011

## 158 Byelaws: supplementary provision

- (1) The power to make byelaws under section 155 includes power to make different provision for different cases or different circumstances, including (in particular)—
  - (a) different parts of an IFC district;
  - (b) different times of the year;
  - (c) different descriptions of sea fisheries resources.
- (2) The power to make byelaws under section 155 also includes—
  - (a) power to provide for exceptions or conditions;
  - (b) power to provide for a byelaw to cease to have effect after a specified period.
- (3) Subject to subsection (5), the provision that may be made by a byelaw under section 155 includes provision that prohibits, restricts or otherwise interferes with the exercise of a right to which subsection (4) applies.
- (4) This subsection applies to—
  - (a) any right of several fishery;
  - (b) any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent, or by prescription or immemorial usage.
- (5) An IFC authority may make a byelaw that prohibits, or significantly restricts or interferes with, the exercise of a right to which subsection (4) applies only if the person who enjoys the right consents.
- (6) Subsection (5) does not apply in relation to the exercise of such a right in relation to any of the following sites—
  - (a) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981 (c. 69);
  - (b) a national nature reserve declared in accordance with section 35 of that Act;
  - (c) a Ramsar site, within the meaning of section 37A of that Act;
  - (d) a European marine site, within the meaning of [<sup>F1</sup>the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) (see regulation 8)];
  - (e) a marine conservation zone designated by an order under section 116.
- (7) In this section “specified” means specified in the byelaw.

### Textual Amendments

- F1** Words in s. 158(6)(d) substituted (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), [Sch. 6 para. 5\(4\)](#) (with reg. 125)

## 159 Power of Secretary of State to amend or revoke byelaws

- (1) If the Secretary of State is satisfied that any provision made by a byelaw under section 155 is unnecessary, inadequate or disproportionate, the Secretary of State may by order—

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- (a) revoke the byelaw, or
  - (b) amend the byelaw so as to restrict its application.
- (2) Before amending or revoking a byelaw under this section, the Secretary of State must—
- (a) notify the IFC authority that made the byelaw, and
  - (b) consider any objection made by it.
- (3) Before amending or revoking a byelaw under this section, the Secretary of State may cause a local inquiry to be held.
- (4) An order made under this section must be published in such manner as the Secretary of State may by regulations provide.
- (5) Nothing in this section affects the power of an IFC authority by virtue of section 14 of the Interpretation Act 1978 (c. 30) to amend or revoke any byelaw that it has made.

**Commencement Information**

**I4** S. 159 partly in force; s. 159 in force for specified purposes at Royal Assent see s. 324(1)(c)

**160 Byelaws: procedure**

- (1) The Secretary of State may make regulations about the procedure to be followed by an IFC authority in relation to byelaws.
- (2) The provision that may be made in regulations under this section includes—
  - (a) provision about steps to be taken, including consultation with persons or bodies specified, or of a description specified, in the regulations, before a byelaw may be made or revoked;
  - (b) provision about obtaining confirmation of a byelaw;
  - (c) provision about any procedure for making or revoking emergency byelaws;
  - (d) provision treating a byelaw that extends the period for which an emergency byelaw is to remain in force as if it were an emergency byelaw;
  - (e) provision for and in connection with the publication of byelaws;
  - (f) provision requiring any byelaws made for an IFC district to be displayed in that district in such manner as the regulations may specify;
  - (g) provision for copies of byelaws to be supplied to persons on request;
  - (h) provision for and in connection with keeping byelaws under review, including provision for and in connection with the consideration of any representations made in relation to byelaws;
  - (i) provision about steps to be taken by an IFC authority where a byelaw is amended or revoked by the Secretary of State.
- (3) Regulations under this section may make different provision for cases where an IFC authority has entered into an agreement under section 167 authorising a body to perform any of the authority's functions relating to byelaws.

**Commencement Information**

**I5** S. 160 partly in force; s. 160 in force for specified purposes at Royal Assent see s. 324(1)(c)

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VALID FROM 01/04/2011

## 161 Inquiries

- (1) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (c. 70) (local inquiries: evidence and costs) apply, with the modifications described in subsection (2) of this section, to any inquiry under section 155(5) or section 159(3) as they apply to inquiries under section 250 of that Act.
- (2) The modifications are—
  - (a) references in section 250 of the Local Government Act 1972 to the person appointed to hold the inquiry are to be read as references to the Secretary of State;
  - (b) references in that section to the Minister causing an inquiry to be held are to be read as references to the Secretary of State;
  - (c) subsection (3) of that section applies as if for the words from “a fine” to the end there were substituted “ a fine not exceeding level 1 on the standard scale ”;
  - (d) references in subsection (4) of that section to a local authority or a party to the inquiry are to be read as references to the IFC authority that made the byelaw to which the inquiry relates.

VALID FROM 01/04/2011

## 162 Evidence of byelaws

- (1) The production of a signed copy of any byelaw made under section 155 is conclusive evidence of the byelaw and of the fact that it has been made and has effect in accordance with provision made by or under this Chapter.
- (2) In subsection (1) “signed” means—
  - (a) in the case of an emergency byelaw, signed by a person who—
    - (i) is a member or officer of the IFC authority that made the byelaw, and
    - (ii) is authorised by the authority for that purpose;
  - (b) in the case of any other byelaw, signed by or on behalf of the Secretary of State.
- (3) A copy of a byelaw purporting to be signed as mentioned in subsection (2) is to be treated as having been properly signed unless the contrary is shown.

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VALID FROM 01/04/2011

## *Offences*

### **163 Offences**

- (1) A person who contravenes any byelaw made under section 155 is guilty of an offence under this section.
- (2) Where any vessel is used in contravention of any byelaw made under section 155, the master, the owner and the charterer (if any) are each guilty of an offence under this section.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding £50,000.
- (4) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of England and Wales.
- (5) In this section “contravention” includes failure to comply; and “contravene” is to be read accordingly.

### **164 Powers of court following conviction**

- (1) This section applies where a person is convicted of an offence under section 163.
- (2) The court by which the person is convicted may order the forfeiture of—
  - (a) any fishing gear used in the commission of the offence;
  - (b) any sea fisheries resources in respect of which the offence was committed.
- (3) The power conferred by subsection (2) to order the forfeiture of any sea fisheries resources includes power to order the forfeiture of any container in which the resources are being kept.
- (4) The court may, instead of ordering the forfeiture of any fishing gear or any sea fisheries resources, order the person to pay a sum of money representing the value of the fishing gear or resources.
- (5) In a case where the offence involved the breach of a condition of an IFC authority permit, the court may—
  - (a) suspend the permit, or
  - (b) disqualify the person from holding or obtaining any IFC authority permit relating to any activity to which that permit related,  
for such period as the court thinks fit.
- (6) In subsection (5) “IFC authority permit” means a permit granted by an IFC authority.

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## Enforcement

VALID FROM 01/10/2010

### 165 Inshore fisheries and conservation officers

- (1) An IFC authority may appoint persons to be inshore fisheries and conservation officers (“IFC officers”).
- (2) The carrying out of any functions of an IFC officer by a person appointed by an IFC authority under this section is subject to any limitations specified by the authority in relation to that person.
- (3) In this Chapter any reference to the IFC district for which an officer has been appointed is a reference to the district of the IFC authority that appointed the officer.

### 166 Powers of IFC officers

- (1) An IFC officer appointed for an IFC district has the powers referred to in subsection (3) for the purposes of enforcing—
  - (a) any byelaws made under section 155 for the district (or having effect as if so made);
  - (b) sections 1 to 3, 5 and 6 of the Sea Fish (Conservation) Act 1967 (c. 84) and any orders made under any of those sections;
  - (c) any provision made by or under an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) conferring a right of regulating a fishery;
  - (d) any provision of, or any rights conferred by, section 7 of that Act;
  - (e) any byelaws made under section 129 or 132 of this Act;
  - (f) section 140 of this Act.
- (2) The Secretary of State may by order amend subsection (1).
- (3) The powers are—
  - (a) the common enforcement powers conferred by this Act;
  - (b) the powers conferred by sections 264, 268, 269 and 284.
- (4) Subject to subsection (9), the powers which an IFC officer has for the purposes referred to in subsection (1) may be exercised—
  - (a) in the IFC district for which the officer has been appointed;
  - (b) in any IFC district adjoining that district;
  - (c) in any other place in England and Wales, in relation to an offence which the officer reasonably believes has been committed within the IFC district for which the officer has been appointed;
  - (d) in relation to any vessel in waters within British fishery limits, excluding the Scottish zone and the Northern Ireland zone, which the officer reasonably believes has been involved in the commission of an offence within the IFC district for which the officer has been appointed;
  - (e) in relation to any vessel or vehicle in Scotland or the Scottish zone which has been pursued there in accordance with subsection (5).
- (5) A vessel or vehicle is pursued in accordance with this subsection if—

**Status:** Point in time view as at 12/11/2009. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Marine and Coastal Access Act 2009, Part 6 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) immediately before the pursuit of the vessel or vehicle commences—
    - (i) the vessel or vehicle is in the IFC district for which the officer has been appointed, or
    - (ii) in the case of a vessel operating together with one or more other vessels to carry out a single activity, any of those vessels is in that district,
  - (b) before the pursuit of the vessel or vehicle commences, a signal is given for it to stop, and
  - (c) the pursuit of the vessel or vehicle is not interrupted.
- (6) The signal referred to in subsection (5)(b) must be given in such a way as to be audible or visible from the vessel or vehicle in question.
- (7) For the purposes of subsection (5)(c), pursuit is not interrupted by reason only of the fact that—
- (a) the method of carrying out the pursuit, or
  - (b) the identity of the vessel, vehicle or aircraft carrying out the pursuit,
- changes during the course of the pursuit.
- (8) Nothing in this section affects any right of hot pursuit which an IFC officer may have under international law.
- (9) The powers which an IFC officer has for the purposes referred to in subsection (1) may not be exercised in relation to any warship belonging to Her Majesty and forming part of Her Majesty's armed forces.

#### Commencement Information

**I6** S. 166 partly in force; s. 166 in force for specified purposes at Royal Assent see s. 324(1)(c)

#### *Power to delegate functions*

VALID FROM 01/04/2011

#### **167 Power to enter into agreements with eligible bodies**

- (1) The authority for an IFC district may, with the approval of the Secretary of State, enter into an agreement with an eligible body authorising the eligible body to perform any function of the IFC authority—
- (a) either in relation to the district or in relation to specified parts of that district;
  - (b) subject to paragraph (a), either generally or in specified cases.
- “Specified” means specified in the agreement.
- (2) For the purposes of this section and sections 168 to 171—
- (a) any reference to a function of an IFC authority includes a reference to a function exercisable by a person authorised, appointed or employed by the IFC authority;
  - (b) any reference to an agreement is to an agreement under this section.
- (3) The Secretary of State's approval may be given—

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- (a) in relation to a particular agreement or in relation to a description of agreements;
  - (b) unconditionally or subject to conditions specified in the approval.
- (4) An agreement under this section may not authorise an eligible body to perform any of the following functions—
- (a) any function whose performance by the body would be incompatible with the purposes for which the body was established;
  - (b) functions under section 176 (accounts).
- (5) An agreement under this section does not prevent the IFC authority from performing a function to which the agreement relates.
- (6) The maximum period for which an agreement under this section may authorise an eligible body to perform a function is 20 years.

## 168 Eligible bodies

- (1) In this Chapter “eligible body”, in relation to an agreement entered into by the authority for an IFC district, means any body in the following list—
- (a) the authority for any IFC district that adjoins the district;
  - (b) the Environment Agency.
- (2) The Secretary of State may by order amend subsection (1) so as to—
- (a) add any body or description of body to the list, or
  - (b) remove any body or description of body from it.
- (3) The Secretary of State may not exercise the power conferred by subsection (2)(a) unless—
- (a) the body, or every body of the description, to be added to the list is a public body, and
  - (b) the Secretary of State is satisfied that at least one of the purposes or functions of the body, or bodies of the description, to be added to the list is, or is related to or connected with, an inshore marine function.
- (4) In this section “inshore marine function” means any function which relates to, or whose exercise is capable of affecting, the whole or any part of the English inshore region.

### Commencement Information

I7 S. 168 partly in force; s. 168 in force for specified purposes at Royal Assent see s. 324(1)(c)

VALID FROM 01/04/2011

## 169 Variation, review and cancellation of agreements under section 167

- (1) Subject to subsection (3), the Secretary of State—



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- (a) must review an agreement no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and
  - (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (2) Subject to subsection (3), an agreement may not be varied except—
- (a) by agreement between the IFC authority and the eligible body, and
  - (b) with the approval of the Secretary of State.
- (3) An approval given under section 167(1) may provide that subsection (1) or (2) of this section does not apply (or that both of them do not apply).

VALID FROM 01/04/2011

#### **170 Agreements under section 167: particular powers**

- (1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.
- (2) An IFC authority may, under an agreement, authorise an eligible body to perform a function even though, under the enactment or subordinate legislation conferring that function on the IFC authority,—
  - (a) the function is conferred on the IFC authority by reference to specified circumstances or cases and the same type of function is conferred on the eligible body in different specified circumstances or cases,
  - (b) the function is exercisable by the IFC authority and the eligible body jointly,
  - (c) the eligible body is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or
  - (d) the eligible body is required to consent to the exercise of the function (whether generally or in specified circumstances).
- (3) An agreement may provide—
  - (a) for the performance of a function to be subject to the fulfilment of conditions;
  - (b) for payments to be made in respect of the performance of the function.
- (4) Any eligible body which is authorised under an agreement to perform a function—
  - (a) is to be treated as having power to do so;
  - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply, authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf.
- (5) Subject to subsection (4)(b), an eligible body which is authorised under an agreement to perform a function may not authorise any other body or person to perform that function.
- (6) Section 182 (exemption from liability) applies in relation to any function which an eligible body is authorised under an agreement to perform as if the reference to an IFC authority were a reference to the eligible body.



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VALID FROM 01/04/2011

### **171 Supplementary provisions with respect to agreements under section 167**

- (1) An agreement under section 167, and any approval given by the Secretary of State under that section, must be in writing.
- (2) An IFC authority which has entered into an agreement with an eligible body must arrange for a copy of the agreement to be published in a way that the IFC authority thinks is suitable for bringing it to the attention of persons likely to be affected by it.
- (3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—
  - (a) requiring it to enter into an agreement under section 167;
  - (b) prohibiting it from entering into such an agreement;
  - (c) requiring it to include, or prohibiting it from including, particular terms in such an agreement;
  - (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of such an agreement.
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c. 40) (restrictions on disclosure of information) applies in relation to an authorisation by an IFC authority or an eligible body under section 167 or 170 of this Act as it applies in relation to an authorisation under section 69 of that Act by an office-holder.

VALID FROM 01/10/2010

### *Other powers and duties of IFC authorities*

VALID FROM 01/04/2011

### **172 Development, etc of fisheries**

- (1) An IFC authority may take such steps as it considers necessary or expedient for or in connection with the development of any fishery for any sea fisheries resources.
- (2) Subject to any provision made by or under any Act, the power conferred by subsection (1) includes power to stock or restock a public fishery for any sea fisheries resources.
- (3) Nothing in this Chapter is to be taken as preventing an IFC authority from making an application for, or being the grantee of, an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) (orders as to fisheries for shellfish).

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VALID FROM 01/04/2011

### **173 Provision of services by IFC authorities**

- (1) An IFC authority may enter into arrangements with another person or body for the provision by the authority of services that are required by the person or body in connection with the exercise of the person's or body's functions.
- (2) The power conferred by subsection (1) includes—
  - (a) power to enter into arrangements with any person who is entitled to a right of regulating a fishery conferred by an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 for the provision of services that are required by the person in connection with the enforcement of any provision made by or under the order;
  - (b) power to enter into arrangements with—
    - (i) any person who is entitled to a right of several fishery conferred by an order under that section, or
    - (ii) any person who owns a private shellfish bed (within the meaning of that Act),
 for the provision of services that are required by the person in connection with the enforcement of any provision of, or any rights conferred by, section 7 of that Act.
- (3) The terms and conditions upon which arrangements under subsection (1) are made may include provision for the making of payments to the authority by the person or body to whom the services are provided.

### **174 Duty of co-operation**

The authority for an IFC district must take such steps as it considers appropriate to co-operate with—

- (a) the authority for every IFC district adjoining that district,
- (b) the Welsh Ministers, in a case where that district adjoins the Welsh inshore region, and
- (c) any other public authority that exercises functions relating to—
  - (i) the regulation of activities carried on in any part of the sea lying within that district, or
  - (ii) enforcement in that part of the sea.

VALID FROM 01/04/2011

### **175 Information**

- (1) Every IFC authority must collect such statistics relating to the exploitation of sea fisheries resources within its district as it considers necessary for the purposes of performing its duty under section 153.
- (2) Every IFC authority must provide the Secretary of State with such information as the Secretary of State may reasonably require about—

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- (a) proceedings of the IFC authority;
- (b) sea fisheries within the authority's district;
- (c) the effect of the exploitation of sea fisheries resources in that district on the marine environment.

#### **176 Accounts**

- (1) An IFC authority must keep proper accounts and proper records in relation to the accounts.
- (2) The accounts of an IFC authority that by virtue of section 150(3) is a joint committee of councils must be made up yearly to 31st March.

#### **177 Annual plan**

- (1) Before the beginning of each financial year every IFC authority must make and publish a plan setting out the authority's main objectives and priorities for the year.
- (2) The IFC authority must send a copy of its plan to the Secretary of State.

VALID FROM 01/04/2011

#### **178 Annual report**

- (1) As soon as is reasonably practicable after the end of each financial year, every IFC authority must prepare a report on its activities in that year.
- (2) A report under this section must be in such form and contain such information as the Secretary of State may require.
- (3) A report under this section must be published in such manner as the Secretary of State may require.
- (4) The IFC authority must send a copy of the report to the Secretary of State.

#### **179 Supplementary powers**

- (1) An IFC authority may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of any of its other functions.
- (2) In particular it may—
  - (a) acquire or dispose of land or other property;
  - (b) enter into arrangements with other IFC authorities for the establishment of a body to co-ordinate the activities of those authorities which are party to the arrangements.
- (3) But an IFC authority has no power to borrow money.

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VALID FROM 01/10/2010

*Miscellaneous and supplemental*

**180 Expenses of IFC authorities**

- (1) The expenses incurred by the authority for an IFC district are to be defrayed by the relevant council or councils.
- (2) Where there is more than one relevant council for an IFC district, each council must pay such portion of the expenses incurred by the authority for the district as is specified in, or determined in accordance with, the order establishing the district.  
  
The order may provide for the portion of the expenses payable by a relevant council to be calculated by reference to any circumstances whatsoever.
- (3) Accordingly, section 103 of the Local Government Act 1972 (c. 70) (expenses of joint committees) does not apply in relation to an IFC authority.
- (4) The total amount of an IFC authority's expenses to be defrayed under subsection (1) for any particular financial year may be vetoed by a vote of those members of the IFC authority who are members of a relevant council.

**181 IFC authority as party to proceedings**

An IFC authority is capable (despite being an unincorporated body) of—

- (a) making contracts;
- (b) bringing proceedings under this Act in its own name;
- (c) bringing or defending any other proceedings in its own name.

**182 Exemption from liability**

- (1) No person who is a member or employee of an IFC authority is to be liable for anything done (or omitted to be done) in, or in connection with, the discharge or purported discharge of the authority's functions.
- (2) Subsection (1) does not apply if the act or omission is shown to have been in bad faith.
- (3) The reference in subsection (1) to an employee of an IFC authority does not include any IFC officer acting as such an officer.  
  
(For provision exempting such officers from liability, see section 291.)

VALID FROM 01/04/2011

**183 Report by Secretary of State**

- (1) As soon as is reasonably practicable after the end of every relevant four-year period, the Secretary of State must lay before Parliament a report about the conduct and operation of the authorities for any IFC districts in existence during the whole or part of that period.

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- (2) In this section “relevant four-year period” means—
- (a) the period of four years beginning with the day on which the Secretary of State first made an order under section 149;
  - (b) each subsequent period of four years.

#### **184 Minor and consequential amendments**

Schedule 14 (which contains minor and consequential amendments relating to IFC authorities) has effect.

VALID FROM 01/04/2011

#### **185 Application to the Crown**

- (1) This Chapter is binding on the Crown and applies in relation to any Crown land as it applies in relation to any other land.  
This is subject to subsection (2).
- (2) No contravention by the Crown of any provision of this Chapter is to make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), the provisions of this Chapter apply to persons in the public service of the Crown as they apply to other persons.
- (4) For the purposes of this section “Crown land” means land an interest in which—
  - (a) belongs to Her Majesty in right of the Crown or in right of Her private estates,
  - (b) belongs to Her Majesty in right of the Duchy of Lancaster,
  - (c) belongs to the Duchy of Cornwall, or
  - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (5) In this section references to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

#### **186 Interpretation of this Chapter**

- (1) In this Chapter—
  - “authority for an IFC district” is to be read in accordance with section 150(2);
  - “eligible body” has the meaning given by section 168;
  - “IFC authority” means an inshore fisheries and conservation authority (see section 150);
  - “IFC district” means an inshore fisheries and conservation district (see section 149);
  - “IFC officer” means an inshore fisheries and conservation officer (see section 165);

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“local authority area” means—

- (a) a county, a London borough or a metropolitan district,
- (b) a non-metropolitan district comprised in an area for which there is no county council,
- (c) the City of London, or
- (d) the Isles of Scilly;

“the marine environment” includes—

- (a) geological or physiographical features of marine or coastal areas;
- (b) features of archaeological or historic interest in such areas;
- (c) flora and fauna which are dependent on, or associated with, a marine or coastal environment;

“master” includes, in relation to any vessel, the person for the time being in command or charge of the vessel;

“relevant council”, in relation to an IFC district, means the council for a local authority area falling within the district;

“sea fisheries resources” has the meaning given by section 153;

“seashore” means the shore and bed of the sea;

“shellfish” includes crustaceans and molluscs of any kind;

“vessel” includes any ship or boat or any other description of vessel used in navigation.

- (2) Any reference in this Chapter to the exploitation of sea fisheries resources is to be read in accordance with section 153(12).

## CHAPTER 2

### LOCAL FISHERIES COMMITTEES

VALID FROM 01/04/2010

#### **187 Abolition of local fisheries committees**

The Sea Fisheries Regulation Act 1966 (c. 38), which provides for the establishment of sea fisheries districts and local fisheries committees, is repealed.

#### **188 Power to make consequential or transitional provision, etc**

- (1) The appropriate national authority may by order make such incidental, consequential, supplemental or transitional provision or savings as appear to the authority to be necessary or expedient in consequence of the repeal of the Sea Fisheries Regulation Act 1966 (“the 1966 Act”).
- (2) The provision that may be made by an order under this section includes—
  - (a) provision for and in connection with the transfer of any staff, property, rights or liabilities of a local fisheries committee to such bodies or persons (including the authority making the order) as may be specified;

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- (b) provision about byelaws made by a local fisheries committee or a body having the powers of such a committee, including—
    - (i) in so far as any provision of any such byelaw in force at the time of the making of the order could have been made under some other enactment, provision for that provision to have effect as if comprised in subordinate legislation made by a specified body or person under that enactment;
    - (ii) provision as to the area to which any provision having effect by virtue of sub-paragraph (i) applies;
  - (c) provision about the local fisheries committee for any sea fisheries district lying partly in England and partly in Wales, including—
    - (i) provision for that part of the district lying in England or (as the case may be) Wales to be treated as if it were a sea fisheries district created under section 1 of the 1966 Act, and
    - (ii) provision for the committee to continue in being as a local fisheries committee for the district established by virtue of sub-paragraph (i), with such changes to its constitution as appear to the authority making the order to be necessary or expedient;
  - (d) provision amending, repealing or revoking any provision of this Act or any other enactment passed or made before, or in the same Session as, this Act.
- (3) The provision that may be made by virtue of subsection (2)(a) includes—
- (a) provision for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in, or determined in accordance with, the order;
  - (b) provision for the transfer of any property, rights or liabilities, whether or not otherwise capable of being transferred or assigned, including any rights conferred by an order made under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83);
  - (c) provision for an order under this section providing for the transfer of property, rights or liabilities to have effect in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order.
- (4) The reference in subsection (2)(a) to property of a local fisheries committee includes a reference to—
- (a) any property held on behalf of such a committee;
  - (b) any property of a relevant local authority held for the purposes of such a committee.
- (5) In subsection (2)(d) “enactment” includes an enactment comprised in subordinate legislation.
- (6) In this section—
- “appropriate national authority” means—
    - (a) in relation to sea fisheries districts in England, or any part of a sea fisheries district lying in England, the Secretary of State;
    - (b) in relation to sea fisheries districts in Wales, or any part of a sea fisheries district lying in Wales, the Welsh Ministers;
  - “England” includes the English inshore region;

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“local fisheries committee” means a local fisheries committee constituted by an order made, or having effect as if made, under section 1 of the 1966 Act;

“relevant local authority” means—

- (a) in the case of a local fisheries committee that is a committee of a county, county borough or metropolitan district council, that council;
- (b) in the case of a local fisheries committee that is a joint committee of two or more such councils, any of those councils;

“specified” means specified in the order;

“Wales” includes the Welsh inshore region.

#### Commencement Information

**18** S. 188 partly in force; s. 188 in force for specified purposes at Royal Assent see s. 324(1)(c)

### CHAPTER 3

#### INSHORE FISHERIES IN WALES

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

- (1) Subject to subsection (2), the Welsh Ministers may by order make any provision in relation to Wales which the authority for an IFC district may make for that district by a byelaw made under section 155.
- (2) To the extent that the Welsh Ministers have power, apart from this section, to make provision of the kind referred to in subsection (1) (whether by order or otherwise), subsection (1) does not apply.
- (3) In this section—
  - “authority for an IFC district” has the same meaning as in Chapter 1 of this Part;
  - “Wales” has the same meaning as in the Government of Wales Act 2006 (c. 32).

#### Commencement Information

**19** S. 189 partly in force; s. 189 in force for specified purposes at Royal Assent see s. 324(1)(c)

VALID FROM 12/01/2010

#### **190 Offences**

- (1) A person who contravenes any provision of an order made under section 189 is guilty of an offence under this section.
- (2) Where any vessel is used in contravention of any provision of an order made under section 189, the master, the owner and the charterer (if any) are each guilty of an offence under this section.



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- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding £50,000.
- (4) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of England and Wales.
- (5) No contravention by the Crown of this section is to make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (6) Despite subsection (5), this section applies to persons in the public service of the Crown as it applies to other persons.
- (7) In this section “contravention” includes failure to comply; and “contravene” is to be read accordingly.

VALID FROM 12/01/2010

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

- (1) This section applies where a person is convicted of an offence under section 190.
- (2) The court by which the person is convicted may order the forfeiture of—
  - (a) any fishing gear used in the commission of the offence;
  - (b) any sea fisheries resources in respect of which the offence was committed.
- (3) The power conferred by subsection (2) to order the forfeiture of any sea fisheries resources includes power to order the forfeiture of any container in which the resources are being kept.
- (4) The court may, instead of ordering the forfeiture of any fishing gear or any sea fisheries resources, order the person to pay a sum of money representing the value of the fishing gear or resources.
- (5) In a case where the offence involved the breach of a condition of a permit granted by the Welsh Ministers, the court may—
  - (a) suspend the permit, or
  - (b) disqualify the person from holding or obtaining any such permit relating to any activity to which that permit related,for such period as the court thinks fit.
- (6) In this section “sea fisheries resources” has the same meaning as in Chapter 1 of this Part (see section 153).

VALID FROM 12/01/2010

### **192 Power to provide services for purposes of enforcement**

- (1) The Welsh Ministers may—

**Status:** Point in time view as at 12/11/2009. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Marine and Coastal Access Act 2009, Part 6 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) enter into arrangements with any person who is entitled to a right of regulating a fishery conferred by an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) for the provision of services that are required by the person in connection with the enforcement of any provision made by or under the order;
  - (b) enter into arrangements with—
    - (i) any person who is entitled to a right of several fishery conferred by an order under that section, or
    - (ii) any person who owns a private shellfish bed (within the meaning of that Act),
 for the provision of services that are required by the person in connection with the enforcement of any provision of, or any rights conferred by, section 7 of that Act.
- (2) The terms and conditions upon which arrangements under subsection (1) are made may include provision for the making of payments to the Welsh Ministers by the person or body to whom the services are provided.

VALID FROM 12/01/2010

### 193 Miscellaneous amendments

- (1) Section 2 of the Coast Protection Act 1949 (c. 74) (constitution of coast protection boards) is amended as set out in subsections (2) and (3).
- (2) In subsection (2), after paragraph (b) insert—
  - “(ba) the Welsh Ministers, in relation to any powers or duties they have in relation to fishing and fisheries in any part of the area;”.
- (3) In subsection (8)(a), after “Sea Fish Industry Act 1951,” insert “ or the Welsh Ministers, ”.
- (4) In section 27(1) of the Wildlife and Countryside Act 1981 (c. 69) (interpretation of Part 1), in paragraph (c) of the definition of “authorised person”, for “by any” substitute “by—
  - (i) the Welsh Ministers, in relation to things done for purposes relating to fishing or fisheries in the Welsh inshore region (within the meaning of the Marine and Coastal Access Act 2009);
  - (ii) any”.

**Status:**

Point in time view as at 12/11/2009. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Marine and Coastal Access Act 2009, Part 6 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.