



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 6

#### MANAGEMENT OF INSHORE FISHERIES

### CHAPTER 1

#### INSHORE FISHERIES AND CONSERVATION AUTHORITIES

#### *Byelaws*

#### **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.

#### **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—

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- (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),
  - (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.

### **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.

### **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;

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- (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 the Conservation (Natural Habitats, &c) Regulations 1994 ([S.I. 1994/2716](#));
  - (e) a marine conservation zone designated by an order under section 116.
- (7) In this section “specified” means specified in the byelaw.

## **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—
  - (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.

## **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.

## **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.

## **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.

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- (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.