



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 8

ENFORCEMENT

CHAPTER 6

MISCELLANEOUS AND SUPPLEMENTARY

Enforcement of Community rules

293 Enforcement of Community rules

- (1) Section 30 of the Fisheries Act 1981 (c. 29) (enforcement of Community rules) is amended as follows.
- (2) In subsection (1)—
 - (a) after “enforceable Community restrictions” insert “, and enforceable [^{F1}EU] obligations,”;
 - (b) for paragraph (a) substitute—
 - “(a) if any fishing boat within British fishery limits—
 - (i) fishes in contravention of any such restriction, or
 - (ii) fails to comply with any such obligation,the master, the owner and the charterer (if any) are each guilty of an offence;”;
 - (c) after paragraph (a) insert—
 - “(aa) if any English or Welsh fishing boat outside British fishery limits—
 - (i) fishes in contravention of any such restriction, or
 - (ii) fails to comply with any such obligation,

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- the master, the owner and the charterer (if any) are each guilty of an offence;
- (ab) if any person in England or Wales—
- (i) fishes in contravention of any such restriction, or
 - (ii) fails to comply with any such obligation, that person is guilty of an offence;”;
- (d) in paragraph (b), for “such offences” substitute “offences under paragraph (a), (aa) or (ab) of this subsection”;
- (e) in paragraph (c), after “restrictions” insert “and obligations”.
- (3) After subsection (2) insert—
- “(2ZA) The provision that may be made by an order made under subsection (2) by the Secretary of State includes—
- (a) provision applying to English or Welsh fishing boats outside British fishery limits;
 - (b) provision applying to persons of a specified description on board any fishing boat, other than a Scottish or Northern Ireland fishing boat, outside British fishery limits.
- In this subsection “specified” means specified in the order.”
- (4) After subsection (2A) insert—
- “(2B) Her Majesty may by Order in Council provide for subsection (1) or (2) above to apply, with or without modifications, to any fishing boat within subsection (2C) below that is outside British fishery limits as it applies to any English or Welsh fishing boat outside those limits.
- (2C) A fishing boat is within this subsection if—
- (a) it is registered under the law of the Isle of Man or any of the Channel Islands; or
 - (b) it is wholly owned by persons qualified for the purposes of the law relating to the registration of vessels in the Isle of Man or any of the Channel Islands to own fishing vessels which are entitled to be registered as such under that law.”

(5) In subsection (3), insert at the appropriate places the following definitions—

““English fishing boat” means—

 - (a) a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging; or
 - (b) a fishing boat which is wholly owned by persons qualified to own British ships for the purposes of that Part, other than—
 - (i) a Welsh, Scottish or Northern Ireland fishing boat,
 - (ii) a fishing boat within subsection (2C) above, or
 - (iii) a fishing boat registered in any country or territory other than the United Kingdom, the Isle of Man or any of the Channel Islands;”;

““Northern Ireland fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and

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whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;”;

“ “Scottish fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of that Act and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;”;

“ “Welsh fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of that Act and whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.”

Textual Amendments

F1 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [arts. 3, 6](#) (with [art. 3\(2\)\(3\)4\(2\)6\(4\)6\(5\)](#))

Commencement Information

I1 S. 293 partly in force; s. 293 in force for specified purposes at Royal Assent see s. 324(1)(c)

I2 S. 293 in force at 12.1.2010 in so far as not already in force by [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 24](#)

Administrative penalty schemes

294 Administrative penalty schemes

- (1) The appropriate national authority for any area may by order make provision to confer on any enforcement authority for that area the power to issue penalty notices for offences within subsection (2).
- (2) The offences referred to in subsection (1) are offences relating to sea fishing, other than—
 - (a) an offence under section 30 of the Fisheries Act 1981 (c. 29) or any order made under that section;
 - (b) an offence under regulations made under section 2(2) of the European Communities Act 1972 (c. 68).
- (3) A penalty notice is a notice offering the opportunity, by payment of a specified sum of money, to discharge any liability to be convicted of the offence to which the notice relates.
- (4) The provision that may be made by an order under subsection (1) includes—
 - (a) provision prescribing the offences in relation to which penalty notices may be issued;
 - (b) provision as to circumstances in which penalty notices may be issued;
 - (c) provision as to the content and form of penalty notices;
 - (d) provision as to how the amount of any penalty that may be specified in a penalty notice is to be determined;
 - (e) provision for the issuing of guidance by the appropriate national authority as to matters to be taken into account when making such a determination;
 - (f) provision prescribing the minimum or maximum amount of any penalty;

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- (g) provision about the payment of penalties, including provision as to the period within which any penalty must be paid;
 - (h) provision for and in connection with the withdrawal of penalty notices;
 - (i) provision as to circumstances in which proceedings for an offence may be commenced after the payment of a penalty in relation to that offence.
- (5) An order under subsection (1) may apply in relation to—
- (a) England;
 - (b) Wales;
 - (c) any vessels in waters within British fishery limits, other than—
 - (i) the Scottish zone,
 - (ii) the Northern Ireland zone, and
 - (iii) the territorial sea adjacent to the Isle of Man, Jersey and Guernsey;
 - (d) any English or Welsh fishing boats, wherever they may be.
- (6) Her Majesty may by Order in Council provide for this section to apply, with or without modifications, to any fishing boat within subsection (7) that is outside British fishery limits as it applies to any English or Welsh fishing boat outside those limits.
- (7) A fishing boat is within this subsection if—
- (a) it is registered under the law of the Isle of Man or any of the Channel Islands, or
 - (b) it is wholly owned by persons qualified for the purposes of the law relating to the registration of vessels in the Isle of Man or any of the Channel Islands to own fishing vessels which are entitled to be registered as such under that law.
- (8) In this section—
- “appropriate national authority” means—
- (a) in relation to Wales or vessels within the Welsh zone, the Welsh Ministers;
 - (b) in relation to England or vessels outside the Welsh zone, the Secretary of State;
- “enforcement authority” means, in relation to any area, any authority which has a function (whether or not statutory) of taking any action with a view to or in connection with the imposition of any sanction, criminal or otherwise, in a case where an offence within subsection (2) is committed in that area;
- “England” includes the English inshore region;
- “English fishing boat” means—
- (a) a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (c. 21) and whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging, or
 - (b) a fishing boat which is wholly owned by persons qualified to own British ships for the purposes of that Part, other than—
 - (i) a Welsh, Scottish or Northern Ireland fishing boat,
 - (ii) a fishing boat within subsection (7) above, or
 - (iii) a fishing boat registered in any country or territory other than the United Kingdom, the Isle of Man or any of the Channel Islands;
- “fishing boat” means any vessel that is being used for fishing or for any activity relating to fishing;

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“Northern Ireland fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (c. 21) and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“Scottish fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;

“sea fishing” includes fishing for or taking shellfish;

“shellfish” includes crustaceans and molluscs of any kind;

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

“Wales” includes the Welsh inshore region;

“Welsh fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

Commencement Information

I3 S. 294 partly in force; s. 294 in force for specified purposes at Royal Assent see s. 324(1)(c)

I4 S. 294 in force at 12.1.2010 in so far as not already in force by S.I. 2009/3345, art. 2, Sch. para. 24

Crown application

295 Application to the Crown

(1) The provisions of Chapters 1 to 5 of this Part are binding on the Crown.

This is subject to subsection (2).

(2) No contravention by the Crown of any provision of Chapter 5 is to make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), the provisions of Chapters 1 to 5 of this Part apply to persons in the public service of the Crown as they apply to other persons.

Commencement Information

I5 S. 295 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 24

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 72A(2A) inserted by [2023 c. 55 s. 232\(2\)\(d\)](#)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by [2023 c. 55 s. 232\(2\)\(f\)\(i\)](#)
- s. 72A(6)(a) words inserted by [2023 c. 55 s. 232\(2\)\(f\)\(ii\)](#)
- s. 72A(6)(b) and word inserted by [2023 c. 55 s. 232\(2\)\(f\)\(iii\)](#)
- Sch. 6 para. 1(2)(da) inserted by [2023 c. 55 Sch. 8 para. 31\(2\)\(a\)](#)