Draft Order laid before Parliament under section 316(6) and (10) of the Marine and Coastal Access Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No.

ENVIRONMENTAL PROTECTION

LICENSING (MARINE)

MARINE POLLUTION

The Marine Licensing (Miscellaneous Provisions) (Amendment etc.) Order 2026

Made - - - - ***

Coming into force in accordance with article 1(1)

The Secretary of State, as the appropriate licensing authority under section 113(8) of the Marine and Coastal Access Act 2009(**a**), makes this Order in exercise of the powers conferred by sections 66(3), (3A) and (3B), 74(1), and 316(1) of that Act(**b**).

In deciding to make this Order, the Secretary of State has had regard to the matters mentioned in section 74(4) of that Act.

The Secretary of State has carried out consultation in accordance with section 74(5) of that Act.

In accordance with section 316(6) and (10) of that Act, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

(**a**) 2009 c. 23.
(**b**) Sections 66(3A) and (3B) were inserted by the Biodiversity Beyond National Jurisdiction Act 2026 (c. 6).

PART 1

Preliminary

Citation, commencement and extent

1.—(1) This Order may be cited as the Marine Licensing (Miscellaneous Provisions) (Amendment etc.) Order 2026 and comes into force on the date on which the Biodiversity Beyond National Jurisdiction Agreement(**a**) enters into force for the United Kingdom(**b**).

(2) This Order extends to the United Kingdom subject to paragraph (3).

(3) Any amendment made by this Order has the same extent as the provision amended.

Designation of activities

2.—(1) In accordance with section 66(3A) of the Marine and Coastal Access Act 2009, each of the licensable marine activities added to section 66(1) of that Act under article 4 is designated as an activity added in contemplation of the United Kingdom's obligations under Part 4 of the Biodiversity Beyond National Jurisdiction Agreement (environmental impact assessments).

(2) But an activity is not designated under paragraph (1) so far as it consists of doing anything in the course of laying or maintaining an offshore stretch of exempt submarine cable(**c**).

PART 2

Amendment of the Marine and Coastal Access Act 2009

Amendment of the Marine and Coastal Access Act 2009

3. The Marine and Coastal Access Act 2009 is amended in accordance with this Part.

Amendment to section 66 (licensable marine activities)

4.—(1) Section 66 is amended as follows.

(2) In subsection (1)—

(a) in item 2, after paragraph (b), insert as closing words "unless the deposit is carried out in an area beyond national jurisdiction.";

(b) in item 5, after "anywhere at sea", insert "except in an area beyond national jurisdiction";

(c) in item 12, after "anywhere at sea", insert ", except in an area beyond national jurisdiction,";

(d) after item 13, insert—

"14. To deposit any substance or object in an area beyond national jurisdiction either in the sea or on or under the sea bed from—

(**a**) "The Biodiversity Beyond National Jurisdiction Agreement" means the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, opened for signature at New York on 20 September 2023 (2023 CP 942).

(**b**) The Biodiversity Beyond National Jurisdiction Agreement entered into force on 17 January 2026, in accordance with article 68(1) of that Agreement. Under article 68(2), the Agreement shall enter into force for the United Kingdom on the thirtieth day following the deposit of its instrument of ratification, approval, acceptance or accession. It will be possible to find out the date on which the Agreement enters into force for the United Kingdom by referring to the relevant page on UK Treaties Online which can be found at this link: https://www.gov.uk/uk-treaties.

(**c**) See section 81(5) of the Marine and Coastal Access Act 2009 for the meaning of an "exempt" submarine cable.

(a) a British vessel, British aircraft or British marine structure, or

(b) a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft or British marine structure.

15. To deposit any substance or object in an area beyond national jurisdiction in the sea or on or under the sea bed where the person carrying on, or causing or permitting any other person to carry on, the deposit is a United Kingdom person.

16. To scuttle any vessel or floating container at sea in an area beyond national jurisdiction, if the scuttling is controlled from a British vessel, British aircraft or British marine structure.

17. To scuttle any vessel or floating container at sea in an area beyond national jurisdiction where the person carrying on, or causing or permitting any other person to carry on, the scuttling is a United Kingdom person.

18. To construct, alter or improve any works in an area beyond national jurisdiction either in or over the sea or on or under the sea bed, if—

(a) such activity is carried on or controlled from a British vessel or British marine structure, or

(b) the person carrying on, or causing or permitting any other person to carry on, such activity is a United Kingdom person.

19. To use a vessel, aircraft, marine structure or floating container to remove any substance or object from the sea bed in an area beyond national jurisdiction, if—

(a) the vessel, aircraft or marine structure is a British vessel, British aircraft or British marine structure,

(b) the floating container is controlled from a British vessel, British aircraft, or British marine structure, or

(c) the person carrying on, or causing or permitting any other person to carry on, the removal is a United Kingdom person.

20. To carry out any form of dredging in an area beyond national jurisdiction (whether or not involving the removal of any material from the sea or sea bed) if—

(a) the dredging is carried on or controlled from a British vessel or British marine structure, or

(b) the person carrying on, or causing or permitting any other person to carry on, the dredging is a United Kingdom person.

21. To deposit or use any explosive substance or article in an area beyond national jurisdiction either in the sea or on or under the sea bed, if—

(a) the deposit or use is made or carried out from a British vessel, British aircraft, or British marine structure,

(b) the deposit or use is made from a floating container controlled from a British vessel, British aircraft, or British marine structure, or

(c) the person carrying on, or causing or permitting any other person to carry on, the deposit or use is a United Kingdom person.

22. To incinerate any substance or object at sea in an area beyond national jurisdiction on—

(a) a British vessel or British marine structure, or

(b) a container floating in the sea, if the incineration is controlled from a British vessel, British aircraft or British marine structure.

23. To incinerate any substance or object at sea in an area beyond national jurisdiction where the person carrying on, or causing or permitting any other person to carry on, the incineration is a United Kingdom person.".

(3) In subsection (2)(a), for "item 9" substitute "items 9 and 20".

(4) In subsection (2)(b)—

(a) for "items 12 and 13" substitute "items 12, 13, 22 and 23";

(b) for "items 11 and 12" substitute "items 11, 12, 22 and 23".

(5) After subsection (2)(b), insert—

"(c) "United Kingdom person" has the same meaning that it has in section 27(1) of the Biodiversity Beyond National Jurisdiction Act 2026.".

(6) In subsection (3C)(**a**), for "In subsection (3A)" substitute "In this section".

Amendment to section 69 (determination of applications)

5. In section 69(2), after "item 7" insert "or item 18".

Amendment to section 71 (licences)

6. In section 71(5), after "item 7" insert "or item 18".

PART 3

Amendment of the Marine Licensing (Exempted Activities) Order 2011

Amendment of the Marine Licensing (Exempted Activities) Order 2011

7. The Marine Licensing (Exempted Activities) Order 2011(**b**) is amended in accordance with this Part.

Amendment to article 6 (interpretation of this Part)

8.—(1) Article 6 is amended as follows.

(2) In paragraph (1), at the end insert "except as otherwise provided".

(3) In paragraph (2)—

(a) for sub-paragraph (a) substitute—

"(a) a reference to a "deposit" is a reference to a deposit falling within—

(i) item 1 (deposit within the UK marine licensing area etc), 2 (deposit from British vessels etc anywhere at sea etc), 3 (deposit from vehicle, vessel etc loaded in United Kingdom except Scotland or the UK marine licensing area), 14 (deposit from British vessels etc in an area beyond national jurisdiction) or 15 (deposit in an area beyond national jurisdiction by a United Kingdom person), or

(ii) except as otherwise provided, item 10 (deposit of explosives within the UK marine licensing area etc) or 21 (deposit of explosives in an area beyond national jurisdiction etc);";

(**a**) Section 66(3C) was inserted by section 20(2) of the Biodiversity Beyond National Jurisdiction Act 2026.
(**b**) S.I. 2011/409; relevant amending instruments are S.I. 2013/526 and 2019/893.

(b) in sub-paragraph (b), at the end insert "or 20 (dredging in an area beyond national jurisdiction etc)";

(c) in sub-paragraph (c), at the end insert "or 19 (use of a vessel etc to remove substance or object from the sea bed in an area beyond national jurisdiction)";

(d) in sub-paragraph (d), at the end insert "or 18 (construction, alteration or improvement of works in an area beyond national jurisdiction etc)".

Amendment to article 16 (deposit of equipment to control, contain or recover oil etc)

9. In article 16(2), at the end insert "or 21".

Amendment to article 22 (deposits in the course of normal navigation or maintenance)

10. In article 22(2)(b), at the end insert "or 21".

Amendment to article 28 (dismantling of ships)

11. In article 28(2), at the end insert "or 21".

Amendment to article 34 (cables and pipelines – authorised emergency inspection and repair)

12. In article 34(3), after "item 10" insert "or 21".

Insertion of article 39, 40 and 41

13. After article 38 insert—

"Environmental impact assessments – areas beyond national jurisdiction

39.—(1) Article 4 applies to an activity—

(a) in relation to which a notice has been given under regulation 11(3B)(**a**) of the Marine Works (Environmental Impact Assessment) Regulations 2007(**b**) (a notice stating that an activity does not require an environmental impact assessment), or

(b) in relation to which a screening opinion has been given in accordance with paragraph 4A(2) of Schedule 2 to the Marine Works (Environmental Impact Assessment) Regulations 2007 stating that an environmental impact assessment is not required under regulation 8A(**c**) of those Regulations.

(2) But article 4 does not apply unless such activity falls within item 15, 17, 18, 19, 20, 21 or 23.

Activities specified in section 21 of the Marine (Scotland) Act 2010

40.—(1) Article 4 applies to an activity that falls within paragraph (2).

(2) An activity falls within this paragraph if—

(a) where the activity falls within item 14 or 15 (deposit in an area beyond national jurisdiction), the activity also falls within item 2 of the 2010 Act (deposit anywhere at sea from a vehicle loaded in Scotland etc);

(**a**) Regulation 11(3B) was inserted by section 21(6) of the Biodiversity Beyond National Jurisdiction Act 2026.

(**b**) S.I. 2007/1518; relevant amending instruments are S.I. 2011/735, S.S.I. 2017/115, S.I. 2017/588. Relevant amendments were also made by section 21 of the Biodiversity Beyond National Jurisdiction Act 2026.

(**c**) Regulation 8A and paragraph 4A(2) of Schedule 2 were inserted by section 21(4) and (8)(b) of the Biodiversity Beyond National Jurisdiction Act 2026.

(b) where the activity falls within item 16 or 17 (scuttling of a vessel etc in an area beyond national jurisdiction), the activity also falls within item 4 of the 2010 Act (scuttling of a vessel anywhere at sea if towed from Scotland etc);

(c) the activity is an incineration activity which falls within item 22 or 23 (incineration of any substance or object in an area beyond national jurisdiction), and the loading of the substance or object for incineration is an activity which falls within item 10 of the 2010 Act (to load a vehicle etc in Scotland with a substance or object for incineration anywhere at sea);

(d) the activity falls within item 11 of the 2010 Act (deposit in an area beyond national jurisdiction by a Scottish person) and does not fall within item 3 (deposit anywhere in the sea from a vehicle etc loaded in the United Kingdom);

(e) the activity falls within item 12 of the 2010 Act (scuttling of a vessel etc in an area beyond national jurisdiction by a Scottish person) and does not fall within item 6 (scuttling a vessel etc anywhere at sea if towed or propelled from the United Kingdom);

(f) the activity is an incineration activity which falls within item 17 of the 2010 Act (incineration of any substance or object in an area beyond national jurisdiction by a Scottish person), and the loading of the substance or object for incineration is not an activity which falls within item 13 (to load a vehicle etc in the United Kingdom with any substance or object for incineration anywhere at sea);

(g) the activity falls within item 13, 14, 15 or 16 of the 2010 Act (works activity, removal activity, dredging activity or deposit or use of explosives in an area beyond national jurisdiction by a Scottish person);

(h) the activity—

(i) falls within item 2 (deposit anywhere at sea except an area beyond national jurisdiction),

(ii) falls within item 2 of the 2010 Act (deposit anywhere at sea from a vehicle loaded in Scotland etc), and

(iii) does not occur within the UK marine licensing area;

(i) the activity—

(i) falls within item 5 (scuttling of a vessel etc anywhere at sea except an area beyond national jurisdiction),

(ii) falls within item 4 of the 2010 Act (scuttling of a vessel anywhere at sea if towed or propelled from Scotland etc), and

(iii) does not occur within the UK marine licensing area;

(j) the activity is an incineration activity—

(i) which falls within item 12 (incineration of any substance or object anywhere at sea except an area beyond national jurisdiction),

(ii) where the loading of the substance or object for incineration is an activity which falls within item 10 of the 2010 Act (to load a vehicle etc in Scotland with a substance or object for incineration anywhere at sea), and

(iii) which does not occur within the UK marine licensing area.

(3) In paragraph (2) a reference to a particular numbered item "of the 2010 Act" is a reference to that numbered item in section 21(1) of the Marine (Scotland) Act 2010(**a**) as that section has effect on the day on which this article comes into force.

Removal of submarine cables in areas beyond national jurisdiction

41.—(1) Article 4 applies to anything done in the course of removing an offshore stretch of exempt submarine cable in an area beyond national jurisdiction.

(2) But article 4 does not apply to an activity that falls within item 21.

(3) In this article, "exempt submarine cable" means a submarine cable that is exempt within the meaning of section 81(5) of the Act.".

PART 4

Amendment of the Marine Licensing (Register of Licensing Information) Regulations 2011

Amendment of the Marine Licensing (Register of Licensing Information) Regulations 2011

14. The Marine Licensing (Register of Licensing Information) Regulations 2011(**b**) are amended in accordance with this Part.

Amendment to regulation 6 (deposit of substances or objects)

15. In regulation 6(1), for "item 1, 2 or 3" substitute "item 1, 2, 3, 14 or 15".

Amendment to regulation 7 (scuttling)

16. In regulation 7(1), for "item 4, 5 or 6" substitute "item 4, 5, 6, 16 or 17".

Amendment to regulation 8 (construction, alteration or improvement of works)

17. In regulation 8(1), after "item 7" insert "or 18".

Amendment to regulation 9 (use of vehicle etc to remove substances or objects from sea bed)

18. In regulation 9(1), after "item 8" insert "or 19".

Amendment to regulation 10 (dredging)

19. In regulation 10(1), after "item 9" insert "or 20".

Amendment to regulation 11 (deposit or use of explosives)

20. In regulation 11(1), after "item 10" insert "or 21".

Amendment to regulation 12 (incineration or loading vehicle etc for incineration)

21. In regulation 12(1), for "item 11, 12 or 13" substitute "item 11, 12, 13, 22 or 23".

(**a**) 2010 asp 5, as it will be amended by the Marine Licensing (Miscellaneous Amendment) (Scotland) Order 2026 (S.S.I. 2026/172) on the date on which this instrument comes into force.
(**b**) S.I. 2011/424.

Parliamentary Under-Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Marine and Coastal Access Act 2009 (c. 23) ("the 2009 Act"), the Marine Licensing (Exempted Activities) Order 2011 (S.I. 2011/409) ("the 2011 Order"), and the Marine Licensing (Register of Licensing Information) Regulations 2011 (S.I. 2011/424) ("the 2011 Regulations").

Part 1 addresses preliminary matters. Article 2 provides that the licensable marine activities added to section 66(1) of the 2009 Act under article 4 are designated as activities added in contemplation of the United Kingdom's obligations under Part 4 of the Biodiversity Beyond National Jurisdiction Agreement, which relates to environmental impact assessments. Article 2(2) provides that the activities are not designated to the extent that they involve doing anything in the course of laying or maintaining an offshore stretch of exempt submarine cable. The meaning of an exempt submarine cable can be found in section 81(5) of the 2009 Act.

Part 2 amends Part 4 of the 2009 Act (marine licensing), in particular section 66 (licensable marine activities). Article 4 adds ten new licensable marine activities in areas beyond national jurisdiction (the "new activities") to the existing list of licensable marine activities in section 66(1). Under Article 1 of the Biodiversity Beyond National Jurisdiction Agreement, "Areas beyond national jurisdiction" means the high seas and the Area. The Area is defined in Article 1 of the United Nations Convention on the Law of the Sea (UNCLOS) as "the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction". The high seas are defined in Article 86 of UNCLOS as "all parts of the seas that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State". Article 4 also makes amendments to existing items 2, 5 and 12 of the list in section 66(1) so that they do not include activities carried on in areas beyond national jurisdiction (so as to avoid duplication with the new activities specified in items 14, 16 and 22). Article 4 also adds a definition of "United Kingdom person" to section 66 and amends existing definitions of "dredging" and "incineration" in that section to include new activities where relevant. Articles 5 and 6 make consequential amendments to the 2009 Act.

Part 3 amends the 2011 Order, which specifies licensable marine activities in respect of which a marine licence under Part 4 of the 2009 Act is not required, whether subject to conditions or otherwise. Article 8 amends the meaning of a "deposit", a "dredging activity", a "removal activity" and a "works activity" set out in article 6 of the 2011 Order, to ensure that the new activities are included in the definitions where relevant. Articles 9, 10, 11 and 12 make amendments to certain existing exemptions to make them unavailable where the activity falls within item 21 (deposit or use of explosives in an area beyond national jurisdiction etc). Article 13 creates three new exemptions from the need for a marine licence, by inserting articles 39, 40 and 41 into the 2011 Order. The insertion of article 39 creates an exemption where a notice has been issued under the Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518) stating that an environmental impact assessment is not required, or where a screening opinion has been issued stating that an environmental impact assessment is not required. This exemption only applies in relation to the new activities listed in items 15, 17, 18, 19, 20, 21 or 23. The insertion of article 40 exempts certain licensable marine activities specified in section 21(1) of the Marine (Scotland) Act 2010 (asp 5). The insertion of article 41 creates an exemption for the removal of an offshore stretch of exempt submarine cables in areas beyond national jurisdiction.

Part 4 makes amendments to the 2011 Regulations, which prescribe the particulars of the matters required by section 101 of the 2009 Act to be contained in the register of information maintained by the Secretary of State as a licensing authority. The amendments ensure that the existing provisions apply to the new activities where relevant.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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