EXPLANATORY MEMORANDUM TO

THE MARINE LICENSING (EXEMPTED ACTIVITIES AND FEES) (AMENDMENT) REGULATIONS 2026

2026 No. 1110

AND

THE MARINE LICENSING (NOTICES APPEALS) (AMENDMENT) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Stephen Morgan MP, Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Joly Macleod, Deputy Director for Domestic Marine at Marine and Fisheries Directorate, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Niamh Birchall at the Department for Environment, Food and Rural Affairs can be contacted by email at the following address with any queries regarding these instruments: marine.licensing@defra.gov.uk. Alternatively, the department can be contacted by telephone: 03459 335577.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The following instruments make changes to the marine licensing regime under the Marine and Coastal Access Act 2009 (c. 23, "the 2009 Act"). This is to improve the Marine Management Organisation's (MMO's) cost recovery as the licensing regulator and to make efficiencies to the licensing process.

4.2 The Marine Licensing (Exempted Activities and Fees) (Amendment) Regulations 2026 amend the Marine Licensing (Exempted Activities) Order 2011 (S.I. 2011/409, "2011 Order"). The 2011 Order specifies exemptions from the need for a marine licence. The amendments create new exemptions for low impact activities, make technical amendments to existing exemptions and remove existing exemptions so that activities that could negatively impact the environment will need a marine licence.

4.3 The Marine Licensing (Exempted Activities and Fees) (Amendment) Regulations 2026 also amend the Marine Licensing (Application Fees) Regulations 2014 (S.I.

2014/615, "the Fees Regulations"). The Fees Regulations prescribe the fees payable in relation to marine licence applications. The amendments update the existing application fees to improve MMO cost recovery and add in post-consent fees to replace those in the Public Bodies (Marine Management Organisation) (Fees) Order 2014 (S.I. 2014/2555, "MMO Fees Order").

4.4 The Marine Licensing (Notices Appeals) (Amendment) Regulations 2026 amend the Marine Licensing (Notices Appeals) Regulations 2011 (S.I. 2011/936, "the Appeals Regulations"), which provide for appeals to be made against certain marine licensing enforcement decisions. The amendments introduce further appeals provisions to replace those in the MMO Fees Order.

Where does the legislation extend to, and apply?

4.5 The extent of these instruments (that is, the jurisdiction(s) which the instruments form part of the law of) is the United Kingdom.

4.6 The territorial application of these instruments correspond to those areas, within the UK marine licensing area, and any other area, in respect of which the Secretary of State is the appropriate licensing authority for the purposes of section 113 of the 2009 Act.

4.7 The UK marine licensing area (defined in section 66(4) of the 2009 Act) covers all UK marine waters apart from Scottish inshore waters, where a separate regime applies. In addition, the Secretary of State is the appropriate licensing authority for certain activities wherever carried out, if they are activities carried out or controlled by UK persons or from British vessels, vehicles, aircraft, marine structures or floating containers or if the vessels etc. have been loaded in the UK[1].

4.8 The Secretary of State is the appropriate licensing authority:

(a) in relation to the Scottish offshore region, in respect of certain reserved matters specified in Schedule 5 to the Scotland Act 1998 (c. 46), and certain activities within the subject matter of Part 6 of the Merchant Shipping Act 1995 (c. 21);

(b) in relation to Wales, the Welsh inshore region and the Welsh offshore region, in respect of the exploration for, or production of, petroleum, certain defence activities (as defined in section 113(9)), and, in relation to the Welsh offshore region, certain activities within the subject matter of Part 6 of the Merchant Shipping Act 1995;

(c) in relation to Northern Ireland and the Northern Ireland inshore region, in respect of certain excepted matters by virtue of paragraph 4 of Schedule 2 to the Northern Ireland Act 1998 (c. 47) relating to the defence of the realm; and

(d) for the remainder of the UK marine licensing area.

5. Policy Context

What is being done and why?

5.1 The current marine licensing system was introduced by the 2009 Act to support the UK Government's vision to achieve and maintain clean, healthy, safe, productive and biologically diverse oceans and seas. The aim of marine licensing is to facilitate the

[1] Scottish Ministers are the licensing authority under the Scottish licensing regime for certain activities in areas beyond national jurisdiction which are carried on or controlled by Scottish persons or if the vessels etc. have been loaded in Scotland.

sustainable use of the marine environment, so that activities can be permitted whilst minimising any environmental impacts and preventing interference with other legitimate uses of the sea, such as risks to navigation.

5.2 As explained in section 4, the Secretary of State is the appropriate licensing authority for the English inshore and offshore regions, the Northern Ireland offshore region and in relation to certain activities in the other regions of the UK marine licensing area, as well as for certain activities which take place outside the UK marine licensing area. These functions are largely delegated to the MMO.

5.3 To ensure the marine licensing regime remains proportionate whilst effectively managing risks to the marine environment, Defra reviewed the regime and identified changes that are required. These are to marine licence exemptions, self-service activities (certain low-risk licensable activities which do not have to be assessed by the MMO) and fees. Amendments to legislation are required to achieve these changes.

5.4 Changes made by the Marine Licensing (Exempted Activities and Fees) (Amendment) Regulations 2026 include:

5.4.1 Adding two new exemptions for activities which are unlikely to conflict with sustainable development. These cover the maintenance of bridges or cantilevered structures, and the replacement of existing swinging moorings with eco-moorings (also known as advanced mooring systems) (new articles 23A and 25ZA of the 2011 Order, respectively).

5.4.2 Amending four existing exemptions to widen their scope, increase clarity or include the use of techniques and technologies capable of further reducing environmental impact. This includes expanding the in-water hull cleaning exemption (article 27A of the 2011 Order), the exemptions relating to installing or removing markers around marine protected areas (article 26), introducing a noise activity data reporting condition when sub-bottom profiling equipment is deposited in reliance on the exemption in article 17, and clarifying conditions for Harbour Authority consent (articles 25 and 25A).

5.5 Removing existing exemptions for activities where their continued exemption is likely to negatively impact the environment. This includes removing existing exemptions for the deposit of seismic airguns and for certain activities occurring in or near Highly Protected Marine Areas (HPMAs)[2] to prevent activities which could have impacts on the conservation objectives of these sites. Several exemptions are currently not available in certain marine protected areas, including in marine conservation zones which are designated from time to time under the 2009 Act. HPMAs are a sub-set of such zones with more stringent conservation objectives that allow the protection and full recovery of marine ecosystems.

[2] HPMAs are defined in the regulations as marine conservation zones from time to time designated by an Order made under section 116 of the 2009 Act, the title of which includes the words "Highly Protected Marine Area". Such areas are currently designated in Ministerial Orders 2023 Nos. 1,2 and 3 (the Dolphin Head Highly Protected Marine Area (Marine Conservation Zone) Designation Order 2023, the Allonby Bay Highly Protected Marine Area (Marine Conservation Zone) Designation Order 2023, and the North East of Farnes Deep Highly Protected Marine Area (Marine Conservation Zone) Designation Order 2023 respectively).

5.6 Adding four new self-service activities to improve consenting timeframes for low-risk activities. These apply to certain scientific instruments, detection of unexploded ordnance, removal of abandoned vessels and firework displays at sea.

5.7 The changes made by the Marine Licensing (Exempted Activities and Fees) (Amendment) Regulations 2026 will also improve the MMO's ability to recover costs incurred from marine licensing services. This will reduce reliance on Grant-in-Aid funding and further align with the government's objectives to set fee charges to fully recover costs.

5.8 Changes include:

5.8.1 Increasing the current MMO case officer hourly rate from £122 per hour to £155 per hour;

5.8.2 Amending and increasing the number of licence application fee bands (which are based on complexity of the application) to better reflect the different types of development which fall within standard licence applications and their associated costs;

5.8.3 Tethering fees to inflation to remove the need for future legislation to update fees;

5.8.4 Increasing the dredge and disposal levy fee from 1p to 3p and the current fee cap to £60,000 to allow for greater monitoring of dredged material disposal sites.

5.9 Additionally, the Fees Regulations are being amended so that they deal not only with licence application fees, but also with fees for post-consent activity, which is the variation, transfer and monitoring of licences. These post-consent fees were addressed in the MMO Fees Order, which is being revoked as part of this package of changes, and the relevant provisions of that Order are being inserted into the Fees Regulations, with updates to reflect the increased hourly rate referred to above and increases in the maximum fees payable for certain activities and other minor updates.

5.10 The changes to the Fees Regulations include the insertion of new regulations 4A, 4B and 5A, which reflect articles 4, 5 and 6 of the MMO Fees Order, and the insertion of Schedules 2 and 3, which reflect Schedules 1 and 2 to that Order.

5.11 The powers to deal with post-consent fees are inserted into the 2009 Act by section 232 of the Levelling-up and Regeneration Act 2023 (c. 55, "LURA"). That section (other than section 232(9)) is being brought into force by commencement regulations made under section 255(9)(a) of LURA shortly before these instruments are laid before Parliament. Section 232(9) revokes the MMO Fees Order, and that subsection is being brought into force by the commencement regulations on the same date as these instruments are due to come into force.

5.12 The Appeals Regulations provide for appeals to be made to the First-tier Tribunal against certain enforcement notices issued under Part 4 of the 2009 Act. The amendments made to Part 4 by LURA have the effect of introducing two new enforcement powers into Part 4: the power for the MMO to vary, suspend or revoke a marine licence for failure to pay a post-consent fee (section 72A(7)) and the power to take similar action in respect of a failure to pay a deposit (section 107A(4)). Section 108(2A) of the 2009 Act requires provision to be made by affirmative regulations for a person to appeal against such enforcement action.

5.13 The Marine Licensing (Notices Appeals) (Amendment) Regulations 2026 therefore amend the Appeals Regulations to make that provision.

What was the previous policy, how is this different?

5.14 A number of amendments are being made to marine licensing exemptions, self-service activities and fees. By design, these amendments change the marine licensing system so that it is more streamlined, cost-effective and proportionate to kickstart economic growth whilst promoting nature's recovery.

6. Legislative and Legal Context

How has the law changed?

6.1 The Marine Licensing (Exempted Activities and Fees) (Amendment) Regulations 2026 amend the 2011 Order and the Fees Regulations in the ways described in section 5 above.

6.2 The Marine Licensing (Notices Appeals) (Amendment) Regulations 2026 amend the Appeals Regulations as described in section 5 above. The amendments made by both instruments reflect the changes being made to the provisions of Part 4 of the 2009 Act by section 232 of LURA, which, as explained in section 5 above, is being brought into force by commencement regulations either shortly before these instruments are laid before Parliament, or – in the case of section 232(9) which revokes the MMO Fees Order – to coincide with the amendments made by these instruments coming into force.

Why was this approach taken to change the law?

6.3 The changes are achieved by way of amending existing secondary legislation. The changes are not considered sufficiently extensive to justify consolidation.

7. Consultation

Summary of consultation outcome and methodology

7.1 Defra conducted a 10-week public consultation on Marine licences: changes to fees, exemptions and self-service licences from 20 June to 29 August 2025. The consultation was hosted on the online platform Citizen Space and Defra also received email responses. 146 responses to the consultation were received from a range of marine industry sectors and environmental non-governmental organisations.

7.2 A summary of responses and government response was published on 7 October 2026[3].

7.3 Stakeholder responses to the consultation were mixed with differing levels of support for the different proposals. Many of the changes to exemptions and self-service activities were generally well-received. The proposals were amended to address valid concerns. For example necessary protections were put in place to minimise environmental or navigational impacts or impacts on other activities through making removal of abandoned vessels and deposit of fireworks self-service activities rather than exemptions. Otherwise, the consultation response explains why any requested changes were not required.

7.4 Many responses either opposed or were neutral on changes to marine licensing fees. Whilst changes to the MMO's fees are needed to improve cost recovery and ensure the MMO is sustainably funded, the consultation response provided additional detail on the basis for the new fees. Proposals were amended where necessary and measures

[3] https://www.gov.uk/government/consultations/marine-licences-changes-to-fees-exemptions-and-self-service-licences

were outlined outside these instruments to improve MMO performance. Respondents also raised concerns about the increase to the dredge and disposal levy. To address these concerns, the dredge and disposal levy cap is being increased to £60,000 rather than removed entirely.

8. Applicable Guidance

8.1 Statutory guidance will not be provided for this secondary legislation. The MMO will update their marine licensing guidance for applicants for when the changes come into effect.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for these instruments. A De Minimis Assessment (DMA) has been produced because the Equivalent Annual Net Direct Cost to Business is estimated at £0.81m, considerably below the £10m threshold.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is low. Increased fees will result in direct costs to businesses, charities or voluntary bodies requiring a marine licence. Making activities exempt or self-service will reduce costs for those undertaking the activities in scope, whilst measures removing or limiting exemptions will increase costs for those undertaking the activities in scope.

9.3 The legislation does impact small or micro businesses. Small and micro businesses (SMBs) are expected to form part of the population affected by the marine licensing regime, alongside larger commercial operators, public bodies, charities and other organisations. However, exempting small and micro businesses from marine licensing requirements would risk undermining the environmental objectives of the regime, as the potential impacts of a marine activity are determined by the nature and location of the activity rather than the size of the organisation undertaking it. The policy seeks to minimise burden through the creation of new exemptions and self-service activities.

9.4 The impact on the public sector is expected to be positive, as the policy is partly designed to increase the public sector cost recovery rates for marine licences. Improved cost recovery is expected to reduce reliance on government funding for marine licensing services, while exemptions, self-service activities and changes to licensing requirements are expected to improve regulatory efficiency and support better monitoring and oversight of marine activities.

9.5 Environmental impacts: The policy is expected to have positive environmental impacts overall, although these impacts have not been monetised due to evidence limitations. Environmental benefits are expected from reducing risks associated with certain activities, improving monitoring and oversight through licensing and self-service processes, encouraging a more proportionate licensing approach to lower-impact practices such as eco-moorings, and ensuring additional protections apply within Highly Protected Marine Areas.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through regular engagement with the MMO and stakeholders to understand if unintended consequences occur or if the proposed changes are no longer deemed sufficient in future. Defra will regularly review the marine licensing regime, including exemptions and self-service licences, to ensure the licensing system remains proportionate and effectively manages environmental risks. The MMO will review the fees and fee bands annually to confirm whether the bands are set at the correct level. The MMO and Cefas will review dredge and disposal fees annually to ensure they are raising what is required for an evidence-based monitoring plan whilst supporting growth. The MMO and Cefas will also review the dredge and disposal monitoring plan after three years to determine whether it is achieving its intended objectives.

10.2 These instruments do not include a statutory review clause given the limited consequences of the policy and the review processes outlined above.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Fees have not increased since 2018, or 2014 in some instances, and so have not been able to fully recover costs for the chargeable services provided by the MMO as costs have risen with inflation. Therefore these amendments will increase fees in line with current MMO costs, with fees then set to rise in line with inflation on an annual basis to remove the need for future legislation to update fees.

12. European Convention on Human Rights

12.1 Stephen Morgan MP, Parliamentary Under-Secretary of State at the Department for Environment Food and Rural Affairs has made the following statement regarding Human Rights: “In my view the provisions of The Marine Licensing (Notices Appeals) (Amendment) Regulations 2026 are compatible with the Convention rights.”

12.2 As the Marine Licensing (Exempted Activities and Fees) (Amendment) Regulations 2026 are subject to negative procedure and do not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 These instruments are not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).