STATUTORY RULES OF NORTHERN IRELAND

2011 No. 80

ENVIRONMENTAL PROTECTION

MARINE LICENSING

The Marine Licensing (Appeals) Regulations (Northern Ireland) 2011

Laid before the Assembly in draft

Made - - - -	*22nd March 2011*
Coming into operation	*6th April 2011*

The Department of the Environment, as the appropriate licensing authority under section 113(6)(b) of the Marine and Coastal Access Act 2009(**1**), makes these Regulations in exercise of the powers conferred by sections 73, 108 and 316(1) of that Act.

Citation and commencement

1. These Regulations may be cited as the Marine Licensing (Appeals) Regulations (Northern Ireland) 2011 and come into operation on 6th April 2011.

Application

2. These Regulations apply in relation to Northern Ireland and the Northern Ireland inshore region, and any licensable marine activity carried on in Northern Ireland or the Northern Ireland inshore region, for which the Department of the Environment is—

(a) the appropriate licensing authority (and references in these Regulations to "the licensing authority" are to be read accordingly); or

(b) an appropriate enforcement authority (and references in these Regulations to the "enforcement authority" are to be read accordingly)(**2**).

(**1**) 2009 c. 23.

(**2**) Under sections 113(6)(a) and 114(2) of the Act the Secretary of State is, respectively, the licensing authority and the enforcement authority in respect of anything done in the course of carrying on any activity which relates to a matter which is an excepted matter, by virtue of paragraph 4 of Schedule 2 to the Northern Ireland Act 1998 (c.47) (defence of the realm etc.) in Northern Ireland and the Northern Ireland inshore region.

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

"the Act" means the Marine and Coastal Access Act 2009; and

"Appeals Commission" means the Water Appeals Commission for Northern Ireland as specified in Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006(**4**).

Appeals against marine licensing decisions and enforcement notices

4. A person who has—

(a) applied for a marine licence and a decision on that application has been taken by the licensing authority under section 71 of the Act (refusal of licence or grant subject to conditions etc.);

(b) been issued with a notice by the licensing authority under section 72 of the Act(notice varying, suspending or revoking a marine licence or extending a period of suspension); or

(c) been issued with an enforcement notice,

may by notice appeal to the Appeals Commission.

Powers of the Appeals Commission

5.—(1) Except as otherwise provided for in these Regulations, any appeal under regulation 4 shall be determined in accordance with Articles 292 (Water Appeals Commission) and 293 (Procedure of the Appeals Commission) of the Water and Sewerage Services (Northern Ireland) Order 2006.

(2) Before determining any appeal under regulation 4, the Appeals Commission shall, if either the appellant or the licensing or enforcement authority (as the case may be) so desires, afford to each of them an opportunity of appearing before and being heard by the Appeals Commission.

(3) The Appeals Commission may in respect of an appeal under regulation 4(a)—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision in whole or in part; or

(c) where the Appeals Commission quashes a decision under sub-paragraph (b), direct the licensing authority—

(i) to grant a marine licence; or

(ii) to grant a marine licence on such terms or subject to such conditions as the Appeals Commission may direct.

(4) The Appeals Commission may in respect of an appeal under regulation 4(b) or (c)—

(a) quash the notice, vary the terms of the notice or uphold the notice; or

(b) take such steps as the licensing authority or enforcement authority (as appropriate) could take in relation to the act or omission giving rise to the notice.

Appeals – further provisions

6.—(1) The enforcement notice referred to in regulation 4(c) is—

(a) a compliance notice issued under section 90 of the Act;

(**3**) 1954 c. 33 (N.I.).
(**4**) S.I. 2006/3336 (N.I.21)