

SL(6)751 – The Marine Licensing (Exempted Activities) (Wales) (Amendment) Order 2026

Background and Purpose

This Order amends the Marine Licensing (Exempted Activities) (Wales) Order 2011 (“the 2011 Order”), which specifies licensable marine activities in respect of which a marine licence under Part 4 of the Marine and Coastal Access Act 2009 (“the 2009 Act”) is not required. It applies in relation to activities for which the Welsh Ministers are the appropriate licensing authority under section 113 of the 2009 Act.

Section 74 of the 2009 Act enables the licensing authority to make orders exempting, with or without conditions, activities from the need to have a marine licence under Part 4 of the 2009 Act. In deciding whether to make an order under section 74, the Welsh Ministers must consider the need to protect the environment, human health and to prevent interference with other legitimate uses of the sea and any other factor that the licensing authority considers relevant, including marine plan policies.

Part 1 of the Order contains the introductory provisions.

Part 2 of the Order amends existing exemptions from the requirement to hold a marine licence as set out in the 2011 Order by adding or amending exemptions and conditions relating to those exemptions.

Part 3 of the Order introduces new exemptions from the requirement to hold a marine licence.

Procedure

Senedd annulment procedure.

The Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

The following 2 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In article 3(b)(iii), the term “the 2009 Act” has been used in place of the full title of the Marine and Coastal Access Act 2009. However, article 3 of the 2011 Order defines this as “the Act”



and so the text in article 3(b)(iii) should instead read “the Act”. We note that there is a definition of “the 2009 Act” included in the preamble of the Order, however, it is not possible to define a term in the preamble for the operative provisions in the body of a statutory instrument.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In article 21, it may be beneficial for the reader if there was an explanation of “Highest Astronomical Tide” in a footnote, similarly to the explanations provided in footnotes 11 and 12.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 February 2026



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee