

## **Explanatory Memorandum to The Marine Licensing (Exempted Activities) (Wales) (Amendment) Order 2026.**

This Explanatory Memorandum has been prepared by Marine Licensing Policy, Climate Change and Environmental Sustainability Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

### **Cabinet Secretary Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Marine Licensing (Exempted Activities) (Wales) (Amendment) Order 2026. I am satisfied that the benefits justify the likely costs.

**Huw Irranca-Davies MS**  
**Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs**

**3 February 2026**

## **PART 1**

### **1. Description**

This Welsh Statutory Instrument (WSI) updates the activities exempt from requiring a marine licence under Part 4 of the Marine and Coastal Access Act 2009 (“the Act”). It applies in relation to activities for which the Welsh Ministers are the appropriate licensing authority under section 113 of the Act.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

None.

### **3. Legislative background**

Under Part 4 of the Act, the Welsh Ministers are the appropriate licensing authority for Welsh waters (Welsh inshore and Welsh offshore regions).

Part 4 of the Act established the marine licensing process which regulates the activities specified in section 66 of that Act including deposits in the sea, on or under the seabed, removals of objects or substances from the seabed, dredging and construction works.

Section 74 of the 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 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.

This WSI is made using the Welsh Ministers powers under section 74 of the Act and follows the Senedd Annulment procedure.

### **4. Purpose and intended effect of the legislation**

The Welsh Government’s policy objective is to have a marine licensing process which is efficient, fair, proportionate, robust, and transparent, resulting in timely decisions.

An exemptions order helps to ensure marine licensing is enabling, pragmatic and proportionate by avoiding unnecessary regulatory burden upon low-risk activities or those activities which are already subject to regulatory control or activities which are required to respond to an emergency. Ensuring there is a focussed and fit for purpose set of exemptions will allow marine licensing resource to be directed towards assessing regulatory activities which are more complex and have the potential to cause a significant adverse effect upon the environment, human health, and sea users.

Exemption orders apply to any person wishing to undertake an exempted activity. An exemptions order is intended to have a positive impact on a wide

range of organisations, individuals, businesses and communities by removing the need to have a marine licence where the activity they wish to undertake is subject to an exemption. Exemptions are also intended to have a positive impact on regulators and any technical consultee who would usually advise on an application for a marine licence by removing the requirement to assess and comment on an application, thereby reducing the administrative burden, focusing time and effort on larger and more complex marine licence applications.

Having considered the legislative requirements for making an order under section 74 of the Act, the Welsh Government, in consultation with stakeholders has developed proposals to exempt a range of activities from the marine licensing process. These activities were screened applying the following policy criteria:

- Activity is considered low risk,
- Activity is already better regulated by the means, or
- Activity is required to deal with an emergency.

## **5. Consultation**

### *Pre-consultation engagement*

Marine licensing is a customer focussed process, the views and experiences of users of the marine licensing process informed the development of exemption proposals. Having regard to the Wellbeing of Future Generations Act ways of working, exemption proposals were developed collaboratively.

In 2020, consultants ABPmer carried out an initial exercise to review the 2011 Exemptions Order, engaging widely with key industries, environmental organisations, and customers of the process to inform its advice to the Welsh Government. ABPmer advice included a series of recommended changes to the 2011 Exemptions Order, including new activities that could be considered for an exemption in Welsh waters.

Building on the ABPmer advice, government scientists at the Centre for Environment, Fisheries and Aquaculture, Science (Cefas) undertook a detailed technical assessment of the recommended changes to the exempted activities, to provide an evidence base setting out the benefits, challenges, and risks of each exemption, current and new. To ensure its review was inclusive and considered a range of views, Cefas also engaged with a range of technical experts, including the Maritime Coastguard Agency, Trinity House, and Natural Resources Wales. The advice from Cefas was also informed by views from key sectors.

The advice from ABPmer and Cefas informed our final exemption proposals which were subject to a full and open public consultation.

### *Formal consultation*

A 12-week public consultation was carried out between October 2024 and January 2025 to gather views on the exemption proposals. In total 22 responses were received from a wide range of interested parties, including

users of the process and members of the public. A summary of responses to the consultation can be found [here](#). A further, targeted 4-week consultation was also carried out in May 2025 to seek views on four additional activities suggested for an exemption by respondents to the public consultation. No concerns were raised on the four additional exemptions through the consultation. All views have been considered in the drafting of the new WSI.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **6. Options**

The Welsh Government's objective is to have a fit for purpose marine licensing exemptions order. In line with the Act, activities can only be exempt through an order made under section 74 of the Act, therefore, the options available that could achieve the policy objective are limited to business as usual or introducing a new order. Both options are recommended, and the costs associated with these options are detailed below.

#### **a) Business as usual.**

The Welsh Ministers could retain the exemptions set out in the 2011 Exemptions Order with no amendments, updates or new exemptions. However, applying this option would mean the full list of exempted activities in Wales may not be fit for the future and will remain inconsistent with the exemption orders introduced for England, Scotland and Northern Ireland, potentially putting Wales at a disadvantage.

#### **b) Make new Order to update the Exempted Activities**

To ensure marine licensing delivers government objectives, remains proportionate and consistent with marine licence exemptions across the UK, where appropriate, the Welsh Ministers could use powers under section 74 of the Act to introduce an amending order to update the list of activities exempted by the 2011 Exemptions Order. An amending order would enable current exemptions to be retained with no changes, update the conditions for some existing exemptions to ensure it remains appropriate to exempt the activity and introduce new exempted activities.

### **7. Costs and benefits**

The costs and benefits of each option identified above are as follows:

#### **Option a) Business as usual**

The current activities that are exempt from requiring a marine licence have benefitted from an exemption since 2011. As exemptions remove the requirement for a person to obtain a marine licence and therefore to pay a fee, we do not hold any financial information on the cost savings that have occurred and would continue to apply if the current exemptions are maintained and remain unchanged.

However, this option would continue to result in a positive impact on any person wishing to undertake any activity currently identified by the 2011 Exempted Activities Order, as the exemption removes the requirement for a marine licence and therefore removes the costs associated with applying for a marine licence and any ongoing management costs to ensure compliance with the terms of a marine licence.

#### **Option b) Make an Order to update the Exempted Activities**

NRW has provided evidence to inform the RIA providing data from 2017 to 2023, covering the period when the Marine Licensing (Fees) (Wales) Regulations 2017 came into force. NRW's data relates to new exempted activities, where a marine licence application would be made if the exemption wasn't in place.

Based on NRW evidence for new exemptions, cost savings to any person, business or organisation wishing to undertake a new exempted activity will be approximately £25,300 per annum, based on the number of applications, number of variations and the cost for discharging licence conditions during a 6-year period (2017-2023). The savings will be made from not having to apply for a marine licence, to vary a licence or to discharge any licence conditions. It is anticipated organisations, businesses and individuals will also save costs associated with the preparation of a marine licence application. We are not able to quantify these costs as they are discrete to each organisation, business or individual and will depend on the licensable activity they wish to undertake, but we expect these will be small to moderate cost savings.

There will also be a positive impact for NRW. NRW have estimated that they have incurred costs of £38,000 per annum (calculated as the value of staff time, less the value of the application fee received) for marine licence applications during the period 2020-2023 in the areas now proposed for an exemption. The figure presented shows the value of staff time spent on processing applications where a new exemption is now being proposed. Therefore, while not expected to generate financial savings, introducing the new exemptions will free up case officer time to focus on the activities that remain subject to a marine licence.

Table 6 in Annex 1 shows a forecast of the anticipated cost-savings over a five-year appraisal period (which is assumed to start in 2025-26). The cost-savings over this period are estimated to total £316,500 (£295,800 in present value terms).

In addition to applicants and licence holders, it is also expected savings will be made by the technical bodies routinely consulted by NRW for advice on marine licence applications. Technical experts include for example, the Maritime Coastguard Agency, Trinity House and NRW advisors. Removing the requirement for their advice on certain applications will save these public bodies money where they are not currently able to charge or recover costs for providing advice. It will also free up the technical experts' time, enabling them to focus on licensable activity which are more complex and may significantly affect the environment, human health, or other sea users. It is not possible to quantify these costs as we do not hold the financial information which would be discrete to each technical expert. The cost savings realised will also vary as some technical experts, such as the Maritime Coastguard Agency and Trinity House may still need to advise any person wishing to undertake an exempted activity on navigational matters, for example, where the conditions of an exemption may require their advice for person, organisation or business to benefit from an exemption.

Following our assessment of potential impacts, exempting the activities proposed is not expected to have a detrimental impact of the environment or

economy of Wales. Overall, options a) and b) are intended to have positive economic impacts. A breakdown of the costs provided by NRW can be found at Annex 1.

## **8. Competition Assessment**

The purpose of an exempted activities order is to remove certain activities for the need for a marine licence, therefore reducing a regulatory and cost burden on any person wishing to undertake an exempted activity.

The competition filter test has been completed, and we do not expect any Exempted Activities Order made under Section 74 of the Act to have an adverse impact on competition in Wales or the competitiveness of Welsh businesses.

## **9. Post implementation review**

It is good practice to review activities exempt from requiring a marine licence to ensure it remains appropriate to continue exempting certain activities as the Welsh Ministers must have regard to the protection of the environment, human health and other sea users when exempting licensable activities.

We intend to review the exempted activities every 5 years.

## Annex 1

**Table 1. Costs paid by applicants between 2017-2023 where NRW received an application for new proposed exemptions.**

New Exemptions	Number of applications determined between 01/04/2017 - 31/12/2023							Total fees paid by applicants (2017-2023)
	2017	2018	2019	2020	2021	2022	2023	
Maintenance of ancillary assets related to existing bridges, cantilevered structures, including maintenance of jetties and piers.	0	1xBand 1 1xBand 2	0	2xBand 1	2xBand 1	1xBand 1	2xBand 1 1xBand 2	<b>£8,640</b>
Firework displays	1xBand 1	1xBand 1	0	0	0	0	0	<b>£1,200.00</b>
Seabed grab sampling	2xBand 1 1xBand 2	8xBand 1 1xBand 2	3xBand 1	0	2xBand 1	8xBand 1	1xBand 1	<b>£18,240.00</b>
Navigational maintenance dredging	1xBand 1 1xBand 2	0	0	0	2xBand 2	0	0	<b>£6,360.00</b>
Pontoons	2xBand 2	2xBand 2	0	2xBand 2	0	0	0	<b>£11,520.00</b>

Environmental Restoration Projects (habitat restoration).	0	0	1xBand 1	0	1xBand 2	0	0	<b>£2,520.00</b>
Upgrading of coastal, drainage and flood defence works	1xBand1 1xBand 2	0	1xBand 2	0	3xBand 2 2xBand 3	0	0	<b>£19,530</b>
Maintenance of coast protection, drainage and flood defence works	0	3xBand 1	1xBand 1	0	2xBand 1 1xBand 2 2x Band 3	1xBand 3	0	<b>£6,840</b>
Removal of windblown sand	0	3xBand 1	1xBand 1	0	1xBand 1	1xBand 1	1xBand 2	<b>£5,520.00</b>
Vibrocore sampling	0	1xBand3	1xBand2	1xBand1 2xBand2	0	2xBand2	3xBand1 2xBand3	<b>£16,950</b>
Trial pits	1xBand 1	6xBand 1 4xBand 2 2xBand 3	1xBand 1 2xBand 2	1xBand 2	2xBand 2	3xBand 2	1xBand 1	<b>£28,680</b>

Boreholes	1xBand 1	0	0	2xBand 2	3xBand 1	8xBand 1 4xBand 2 1xBand 3	7xBand 1 1xBand 3	<b>£30,210</b>
<b>Grand Total</b>								<b>£156,210 (ex VAT)</b>

- Band 1 fees calculated at £600 per application
- Band 2 fees calculated at £1,920 per application
- Band 3 fees calculated at £120 per hour

**Table 2. Costs to NRW for processing applications between 2020 - 2023.**

New Exemption	Hourly cost to NRW in calendar year, calculated @ £120/hr							
	2017	2018	2019	2020	2021	2022	2023	TOTAL
Maintenance of ancillary assets related to existing bridges, cantilevered structures, including maintenance of jetties and piers.	0	£1,200	0	£5,490	£3,630	£3,390	£8,940	<b>£21,450</b>
Seabed grab sampling.	No data	No data	No data	£0.00	£2,640.00	£13,140.00	£1,680.00	<b>£17,460.00</b>

Navigational maintenance dredging.	No data	No data	No data	£0.00	£8,130.00	£0.00	£0.00	<b>£8,130.00</b>
Upgrading of coastal, drainage and flood defence works	£1,380	0	£330.00	0	£14,040	0	0	<b>£15,750</b>
Maintenance of coastal, drainage and flood defence works	0	£1,748	£2,190	0	£9,030	0	0	<b>£12,968</b>
Removal of windblown sand	No data	No data	No data	£0.00	£2,790.00	£360.00	£1,590.00	<b>£4,740.00</b>
Vibrocore sampling	0	0	£3,120	£14,670	0	£11,640	£11,580	<b>£41,010</b>
Trial Pits	£1,920	£24,240	£8,160	£1,770	£9,060	10,980	£2,340	<b>£58,470</b>
Boreholes	£600	0	0	0	£5,460	£27,150	£22,740	<b>£55,950</b>
<b>Total cost calculated at £120 per hour:</b>								<b>£235,928</b>

**Table 3. Costs to Licence Holders and NRW associated with the discharge of Licence conditions.**

	<b>Number and Fixed Fee Cost</b>	<b>Total Cost</b>
Cost to Licence Holder (between 2017 – 2023)	8 x £480	<b>£3,840</b>
Cost to NRW (between 2020 - 2023)	7 x £480	<b>£3,360</b>

**Table 4. Costs to Licence Holders and to NRW relating to variations or the transfer of Marine Licences for activities proposed as a new exemption.**

Number of Variations/Transfer of licences		Cost to Licence Holder between 2017-2023	NRW Process Time/Hrs	Actual Cost to NRW (based on £120 per hour from 2020).
Variation 0 – no fee	3	No charge	25	<b>£2,970.00</b>
Variation 1 (Administrative change £240)	4	<b>£960.00</b>	8	<b>£960.00</b>
Variation 2 Complex changes - £120 per hour	5	<b>£2,790.00</b>	23.25	<b>£2,790.00</b>
Variation 3 Routine Change – fixed fee of £480	14	<b>£6,720</b>	59	<b>£7,080</b>
Transfers = included in variation figures	0	0	0	0
<b>Total</b>	<b>0</b>	<b>£10,470</b>		<b>£13,800</b>

**Table 5. Approximate annual cost savings to applicants and licence holders and costs incurred by NRW**

Activity	Cost saving to applicants/Licence Holder (between 2017 – 2023)	Costs incurred by NRW
Application	£156,210	£235,928
Discharge of licence condition	£3,840	£3,360
Licence Variation/Transfer	£10,470	£13,800
<b>Total</b>	£170,520	£253,088
	÷ 6.75 yrs	÷ 4 yrs
<b>Grand Total</b>	<b>£25,262</b>	<b>£63,272 - £25,262 (applicant fees) = £38,010</b>

**Table 6 Cost benefit expected over a 5-year period, applying the discount rate of 3.5%<sup>1</sup>**

Cost Benefit to	Year 1	Year 2	Year 3	Year 4	Year 5	Total (approx.)
Applicant	£25,300	£25,300	£25,300	£25,300	£25,300	£126,500
NRW	£38,000	£38,000	£38,000	£38,000	£38,000	£190,000
<b>Total</b>	<b>£63,300</b>	<b>£63,300</b>	<b>£63,300</b>	<b>£63,300</b>	<b>£63,300</b>	<b>£316,500</b>
<b>Present Value of cost-saving</b>	<b>£63,300</b>	<b>£61,200</b>	<b>£59,100</b>	<b>£57,100</b>	<b>£55,200</b>	<b>£295,800</b>

<sup>1</sup> [The Green Book \(2022\) - GOV.UK](#)

