

# MARINE AND COASTAL ACCESS ACT 2009

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

#### *Schedule 5: Preparation of an Mps Or of Amendments of an Mps*

873. This Schedule sets out the procedure which must be followed when preparing or amending a marine policy statement (an “MPS”).
874. *Paragraph 2* defines certain terms used in this Schedule.
875. Under the Northern Ireland devolution settlement, functions are conferred upon departments, rather than the administration as a whole, or Ministers. Therefore *paragraph 3* requires that the Department of Environment in Northern Ireland consult with the other relevant Northern Ireland departments at certain points during the preparation or amendment of an MPS.
876. *Paragraphs 4 to 6* concern the preparation and publication of a ‘Statement of Public Participation’ (“SPP”) by the policy authorities engaged in preparing or amending the MPS. This must set out how and when the policy authorities intend to involve “interested persons” in the process (“interested persons” is defined in paragraph 4(4)).
877. The SPP must contain a timetable for the various stages of preparing the MPS or amendments, including how and when representations about the consultation draft (defined in *paragraph 8*) should be made. Since the draft MPS must be laid before the legislatures of the policy authorities involved in its preparation, the SPP must also set out the length of time the legislatures will have to consider the MPS and make any resolutions or recommendations about it.
878. Policy authorities must allow a reasonable period of time for each of the stages of the timetable.
879. Policy authorities must keep the SPP under review, and must amend it when necessary to address any problems with it and keep it up to date. They must then re-publish it as amended. They are obliged to take all reasonable steps to comply with the SPP.
880. *Paragraph 7* requires that the policy authorities carry out a sustainability appraisal of the policies proposed for inclusion in the MPS. *Sub-paragraph (2)* makes clear that the results of the appraisals are to influence which proposals the policy authorities take forward – they may only proceed with proposals if the results of the appraisals indicate that it is “appropriate” to do so. *Sub-paragraph (3)* requires the policy authorities to produce a report of the results of these appraisals, and *sub-paragraph (4)* requires that the sustainability appraisal report is published at the same time as the consultation draft. Marine plans are also subject to sustainability appraisal (see the notes on Schedule 6, paragraph 10 below).
881. *Paragraph 8* requires the policy authorities to prepare a “consultation draft” of the MPS (or amendments) and publish it so that “interested persons” are aware of it and may make representations about it. “Interested persons” is defined in sub-paragraph (4).

*These notes refer to the Marine and Coastal Access Act 2009  
(c.23) which received Royal Assent on 12th November 2009*

882. *Paragraph 9* permits any person to make representations about the consultation draft, but requires that such representations must be made in accordance with the SPP (see *paragraph 5*). If any representations are made, the policy authorities are required to consider them in the course of finalising the text of the MPS.
883. *Paragraph 10* sets out the procedure for laying the draft MPS before the legislatures of the administrations involved in its preparation. If any of the legislatures make resolutions or recommendations about the MPS, the relevant policy authority must respond to those resolutions or recommendations (and lay the response before the legislature).
884. If the policy authorities make any changes to the MPS or amendments between publishing the consultation draft and adopting the final text, *paragraph 11* requires that they publish a summary of those changes and the reasons for them alongside the final text.
885. *Paragraph 12* establishes that the policy authorities adopt the final text by deciding that that text should be published as the MPS, and then notifying the other policy authorities of their decision. As soon as possible after all the policy authorities have adopted the final text, they must jointly publish it. *Sub-paragraph (4)* provides that policy authorities which have not yet adopted the final text must be given a “reasonable interval” in which to do so before the MPS is published.
886. *Paragraph 13* provides that an MPS is still valid even if it is not adopted by all the policy authorities which were engaged in preparing it.