



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 3 U.K.

MARINE PLANNING

CHAPTER 1 U.K.

MARINE POLICY STATEMENT

44 Marine policy statement U.K.

- (1) For the purposes of this Act a “marine policy statement” (an “MPS”) is a document—
 - (a) in which the policy authorities that prepare and adopt it state general policies of theirs (however expressed) for contributing to the achievement of sustainable development in the UK marine area,
 - (b) which has been prepared and adopted by those authorities in accordance with Schedule 5, and
 - (c) which states that it has been prepared and adopted for the purposes of this section.
- (2) An MPS may also include statements or information relating to policies contained in the MPS.
- (3) If to any extent a policy stated in an MPS conflicts with any other statement or information in the MPS, that conflict must be resolved in favour of the policy.
- (4) In this Part “policy authority” means any of the following—
 - (a) the Secretary of State;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers;
 - (d) the Department of the Environment in Northern Ireland.

Status: Point in time view as at 01/04/2015.

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- (5) Any reference in this Part to an MPS being adopted by any policy authorities is a reference to the final text of the MPS being adopted by those authorities in accordance with Schedule 5.

Commencement Information

- II** S. 44 wholly in force at 12.1.2010; s. 44(1)(b)(5) in force for specified purposes at Royal Assent see s. 324(1)(a)(ii); s. 44 in force in so far as not already in force at 12.1.2010 see s. 324(2)(a)

45 Preparation and coming into effect of statement **U.K.**

- (1) An MPS may only be prepared by—
- all the policy authorities, acting jointly,
 - the Secretary of State and any one or more other policy authorities, acting jointly, or
 - the Secretary of State.
- (2) An MPS must not be prepared by the Secretary of State acting alone under subsection (1)(c) unless the Secretary of State has first invited each of the other policy authorities to participate in the preparation of an MPS.
- (3) A later MPS replaces an earlier MPS, whether or not the later MPS is prepared and adopted by the same policy authorities that prepared and adopted the earlier MPS.
- (4) An MPS comes into effect when it has been published in accordance with Schedule 5.

Commencement Information

- I2** S. 45 wholly in force at 12.1.2010; s. 45(4) in force for specified purposes at Royal Assent see s. 324(1)(a)(ii); s. 45 in force in so far as not already in force at 12.1.2010 see s. 324(2)(a)

46 Review of statement **U.K.**

The policy authorities that prepared and adopted an MPS must review the MPS whenever they consider it appropriate to do so.

47 Amendment of statement **U.K.**

- (1) An MPS may be amended from time to time by the policy authorities which prepared and adopted it.
- (2) Any amendment of an MPS must be prepared and adopted in accordance with Schedule 5.
- (3) Any amendment of an MPS comes into effect when it has been published in accordance with that Schedule.
- (4) Any reference in this Part to an amendment of an MPS being adopted by any policy authorities is a reference to the final text of the amendment being adopted by those authorities in accordance with that Schedule.
- (5) Any reference in this Act to an MPS includes a reference to an MPS as amended.

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48 Withdrawal of, or from, statement **U.K.**

- (1) If any of the policy authorities that prepared and adopted an MPS—
 - (a) comes to the conclusion that it desires to withdraw from the MPS, and
 - (b) publishes notice of that conclusion in each of the Gazettes,the authority is to be regarded as having withdrawn from the MPS as from the date on which the notice is so published.
- (2) Before arranging to publish any such notice, the policy authority must inform each of the other policy authorities that it intends to do so.
- (3) If the Secretary of State withdraws from an MPS, the MPS is withdrawn as from the date of the Secretary of State's withdrawal.
- (4) If any other policy authority withdraws from an MPS, then, as from the date of the authority's withdrawal, the authority is to be treated for the purposes of this Part as if it were not one of the policy authorities which adopted and published the MPS.
- (5) If the Secretary of State withdraws from an MPS, the Secretary of State must take such further steps as the Secretary of State considers appropriate to secure that the withdrawal of the MPS is brought to the attention of interested persons.
- (6) If any other policy authority withdraws from an MPS, it must take such further steps as it considers appropriate to secure that its withdrawal from the MPS is brought to the attention of interested persons.
- (7) An MPS which is withdrawn by virtue of subsection (3) ceases to have effect as from the date of the withdrawal.
- (8) Where a policy authority withdraws from an MPS, or an MPS is withdrawn by virtue of the withdrawal of the Secretary of State, the withdrawal does not affect—
 - (a) the continuing validity or effect of any marine plan for any marine plan area, or
 - (b) until such time as a new MPS governs marine planning for a marine plan area, the construction of any marine plan for that marine plan area.
- (9) In this section—
 - “the Gazettes” means—
 - (a) the London Gazette,
 - (b) the Edinburgh Gazette, and
 - (c) the Belfast Gazette;
 - “interested persons” means—
 - (a) any persons appearing to the policy authority to be likely to be interested in, or affected by, the withdrawal of or from the MPS;
 - (b) members of the general public.

CHAPTER 2 **U.K.**

MARINE PLANS

49 Marine planning regions **U.K.**

- (1) The UK marine area comprises the following marine planning regions—

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- (a) the English inshore region;
- (b) the English offshore region;
- (c) the Scottish inshore region;
- (d) the Scottish offshore region;
- (e) the Welsh inshore region;
- (f) the Welsh offshore region;
- (g) the Northern Ireland inshore region;
- (h) the Northern Ireland offshore region.

(2) The definitions of those regions can be found in section 322.

50 Marine plan authorities **U.K.**

- (1) There is to be a marine plan authority for each marine planning region other than—
 - (a) the Scottish inshore region;
 - (b) the Northern Ireland inshore region.
- (2) The marine plan authority for each marine planning region is as follows—
 - (a) for the English inshore region, the Secretary of State;
 - (b) for the English offshore region, the Secretary of State;
 - (c) for the Scottish offshore region, the Scottish Ministers;
 - (d) for the Welsh inshore region, the Welsh Ministers;
 - (e) for the Welsh offshore region, the Welsh Ministers;
 - (f) for the Northern Ireland offshore region, the Department of the Environment in Northern Ireland.
- (3) References to a marine plan authority's region are to be construed accordingly.

51 Marine plans for marine plan areas **U.K.**

- (1) A marine plan authority may prepare a marine plan for an area (a “marine plan area”) consisting of the whole or any part of its marine planning region.
- (2) Where an MPS governs marine planning for a marine planning region, the marine plan authority for the region must seek to ensure that every part of the region is within an area for which a marine plan is in effect.
- (3) A “marine plan” is a document which—
 - (a) has been prepared and adopted for a marine plan area by the appropriate marine plan authority in accordance with Schedule 6,
 - (b) states the authority's policies (however expressed) for and in connection with the sustainable development of the area, and
 - (c) states that it is a marine plan prepared and adopted for the purposes of this section.
- (4) For the purposes of this section “the appropriate marine plan authority” in the case of any marine plan area is the marine plan authority in whose region the marine plan area lies.
- (5) A marine plan must identify (by means of a map or otherwise) the marine plan area for which it is a marine plan.

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- (6) A marine plan must be in conformity with any MPS which governs marine planning for the marine plan area unless relevant considerations indicate otherwise.
- (7) For the purposes of this Part, an MPS “governs marine planning” for an area if—
 - (a) it has been adopted by the policy authority which is the marine plan authority whose region consists of or includes the area,
 - (b) it has been published in accordance with paragraph 12 of Schedule 5,
 - (c) it has not been replaced or withdrawn, and
 - (d) the policy authority mentioned in paragraph (a) has not withdrawn from it.As respects paragraphs (c) and (d), see also section 48(8) (effect of withdrawal of, or from, an MPS).
- (8) Unless prepared and adopted by the Secretary of State, a marine plan must state whether it includes provision relating to retained functions (see sections 59 and 60).
- (9) A marine plan may also include statements or information relating to policies contained in the plan.
- (10) If to any extent a policy stated in a marine plan conflicts with any other statement or information in the plan, that conflict must be resolved in favour of the policy.
- (11) A marine plan comes into effect when it has been published by the marine plan authority that prepared and adopted it in accordance with Schedule 6.

52 Amendment of marine plan **U.K.**

- (1) A marine plan may be amended from time to time by the marine plan authority for the marine planning region in which the marine plan area lies.
- (2) The provisions of this Part that relate to the preparation, adoption, publication and coming into effect of a marine plan also apply in relation to amendments of a marine plan.
- (3) Any reference in this Act to a marine plan includes a reference to a marine plan as amended.

53 Withdrawal of marine plan **U.K.**

- (1) A marine plan may be withdrawn at any time, but only in accordance with the following provisions of this section.
- (2) In this section—
 - (a) subsection (3) has effect where a marine plan authority decides to withdraw a marine plan;
 - (b) subsection (4) has effect where the Secretary of State decides to withdraw agreement to a marine plan;
 - (c) subsections (5) and (6) make supplementary provision.
- (3) If a marine plan authority decides to withdraw a marine plan—
 - (a) it is to publish notice of the withdrawal of the plan in each appropriate Gazette, and
 - (b) the marine plan is withdrawn as from the date on which the notice is so published.

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- (4) If at any time the Secretary of State decides to withdraw agreement previously given under paragraph 15 of Schedule 6 to a marine plan—
- (a) the Secretary of State is to give notice of that decision to the marine plan authority,
 - (b) within 7 days of receiving that notice, the marine plan authority must publish notice of the withdrawal of the marine plan in each appropriate Gazette, and
 - (c) the marine plan is withdrawn as from the date on which the notice is so published.
- (5) Where a marine plan is withdrawn under this section, the marine plan authority must take such further steps as it considers appropriate to secure that the withdrawal of the marine plan is brought to the attention of interested persons.
- (6) In this section—
- “appropriate Gazette” means—
- (a) the London Gazette, if the marine plan is for a marine plan area in the English inshore region or the Welsh inshore region;
 - (b) in any other case, each of the Gazettes;
- “the Gazettes” means—
- (a) the London Gazette;
 - (b) the Edinburgh Gazette; and
 - (c) the Belfast Gazette;
- “interested persons” means—
- (a) any persons appearing to the marine plan authority to be likely to be interested in, or affected by, the withdrawal of the marine plan, and
 - (b) members of the general public.

54 Duty to keep relevant matters under review **U.K.**

- (1) A marine plan authority must keep under review the matters which may be expected to affect the exercise of its functions relating to—
- (a) the identification of areas which are to be marine plan areas, and
 - (b) the preparation, adoption, review, amendment or withdrawal of marine plans for those areas.

The reference in paragraph (b) to review is a reference to the functions of the marine plan authority under section 61.

- (2) The matters include—
- (a) the physical, environmental, social, cultural and economic characteristics of the authority's region and of the living resources which the region supports;
 - (b) the purposes for which any part of the region is used;
 - (c) the communications, energy and transport systems of the region;
 - (d) any other considerations which may be expected to affect those matters.
- (3) The matters also include—
- (a) any changes which could reasonably be expected to occur in relation to any such matter;
 - (b) the effect that any such changes may have in relation to the sustainable development of the region, its natural resources, or the living resources dependent on the region.

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- (4) The reference in subsection (2)(a) to the cultural characteristics of the authority's region includes a reference to characteristics of that region which are of a historic or archaeological nature.

CHAPTER 3 U.K.

DELEGATION OF FUNCTIONS RELATING TO MARINE PLANS

55 Delegation of functions relating to marine plans U.K.

- (1) A marine plan authority may give directions under this section.
- (2) A direction under this section is a direction which—
- (a) designates any of the delegable marine plan functions which would (apart from directions under this section) be exercisable by or in relation to the authority, and
 - (b) directs that those functions, instead of being so exercisable, are to be exercisable by or in relation to such public body, acting on behalf of the authority, as is designated in the direction.
- (3) An authority which gives a direction under this section may do so only with the consent of the public body.
- (4) The public body—
- (a) must comply with the direction, and
 - (b) is to be taken to have all the powers necessary to do so.
- (5) In this section “delegable marine plan functions” means—
- (a) functions under Chapter 2 of this Part (marine plans), and
 - (b) functions under section 61 (monitoring etc of implementation), other than excepted functions.
- (6) The “excepted functions” are the following functions of a marine plan authority—
- (a) deciding under paragraph 15 of Schedule 6 whether to publish a marine plan or any amendment of a marine plan;
 - (b) deciding under section 53 whether to withdraw a marine plan.
- (7) No direction may be given under this section in respect of any of the following functions of the Secretary of State—
- (a) deciding under paragraph 5 of Schedule 6 whether to give agreement to a statement of public participation;
 - (b) deciding under paragraph 7 of that Schedule whether to give agreement to a revised statement of public participation;
 - (c) deciding under paragraph 11 of that Schedule whether to give agreement to a consultation draft;
 - (d) deciding under paragraph 15 of that Schedule whether to give agreement to a marine plan;
 - (e) deciding under section 53 whether to withdraw agreement previously given under that paragraph to a marine plan.

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56 Directions under section 55: supplementary provisions **U.K.**

- (1) An authority which gives a direction under section 55 must publish the direction in a way calculated to bring the direction to the attention of persons likely to be interested in or affected by it.
- (2) For so long as a direction given and published under that section remains in force, the designated functions are exercisable by or in relation to the public body acting on behalf of the authority (and are not exercisable by or in relation to the authority).
- (3) Subsection (2) is subject to any provision to the contrary which—
 - (a) is made by the direction, or
 - (b) is included in a direction under section 57.
- (4) A direction under section 55 may include—
 - (a) such terms or conditions,
 - (b) such obligations or requirements,
 - (c) such financial provisions,
 as the authority giving the direction may determine.
- (5) Directions under section 55 may make different provision for different cases, different areas or different public bodies.

57 Directions to public bodies as regards performance of delegated functions **U.K.**

- (1) This section applies where any functions are exercisable by or in relation to a public body by virtue of a direction given under section 55 by an authority.
- (2) The authority may from time to time give directions to the public body with respect to the performance of the functions.
- (3) Before giving any such directions, the authority must consult the public body.
- (4) A public body to which directions are given under this section must comply with the directions.
- (5) An authority which gives a direction under this section must publish the direction in a manner likely to bring the direction to the attention of persons likely to be interested in or affected by it.

CHAPTER 4 **U.K.**

IMPLEMENTATION AND EFFECT

Decisions affected by an MPS or marine plan

58 Decisions affected by marine policy documents **U.K.**

- (1) A public authority must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents, unless relevant considerations indicate otherwise.

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- (2) If a public authority takes an authorisation or enforcement decision otherwise than in accordance with the appropriate marine policy documents, the public authority must state its reasons.
- (3) A public authority must have regard to the appropriate marine policy documents in taking any decision—
- (a) which relates to the exercise of any function capable of affecting the whole or any part of the UK marine area, but
 - (b) which is not an authorisation or enforcement decision.
- (4) An “authorisation or enforcement decision” is any of the following—
- (a) the determination of any application (whenever made) for authorisation of the doing of any act which affects or might affect the whole or any part of the UK marine area,
 - (b) any decision relating to any conditions of such an authorisation,
 - (c) any decision about extension, replacement, variation, revocation or withdrawal of any such authorisation or any such conditions (whenever granted or imposed),
 - (d) any decision relating to the enforcement of any such authorisation or any such conditions,
 - (e) any decision relating to the enforcement of any prohibition or restriction (whenever imposed) on the doing of any act, or of any act of any description, falling within paragraph (a),
- but does not include any decision on an application for an order granting development consent under the Planning Act 2008 (c. 29) (in relation to which subsection (3) has effect accordingly).
- (5) In section 104(2) of the Planning Act 2008 (matters to which Panel or Council must have regard in deciding application for order granting development consent) after paragraph (a) insert—
- “(aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;”.
- (6) In this section—
- “act” includes omission;
 - “appropriate marine policy document” is to be read in accordance with section 59;
 - “authorisation” means any approval, confirmation, consent, licence, permission or other authorisation (however described), whether special or general.

59 The appropriate marine policy documents **U.K.**

- (1) This section has effect for the purpose of determining what are the appropriate marine policy documents for a public authority taking a decision falling within subsection (1) or (3) of section 58.
- (2) For that purpose—
- (a) subsection (3) has effect, subject to subsection (4), for determining whether any marine plan is an appropriate marine policy document, and

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- (b) subsection (5) has effect for determining whether an MPS is an appropriate marine policy document.
- (3) To the extent that the decision relates to a marine plan area, any marine plan which is in effect for that area is an appropriate marine policy document.
- (4) A marine plan for an area in a devolved marine planning region is an appropriate marine policy document in relation to the exercise of retained functions by a public authority only if—
 - (a) it contains a statement under section 51(8) that it includes provision relating to retained functions,
 - (b) it was adopted with the agreement of the Secretary of State under paragraph 15(2) of Schedule 6, and
 - (c) it was prepared and adopted at a time when an MPS was in effect which governed marine planning for the marine planning region.
- (5) Any MPS which is in effect is an appropriate marine policy document for each of the following public authorities—
 - (a) any Minister of the Crown;
 - (b) any government department;
 - (c) if a devolved policy authority has adopted the MPS, the devolved policy authority and any primary devolved authority related to it;
 - (d) any non-departmental public authority, so far as carrying out functions in relation to the English inshore region or the English offshore region;
 - (e) any non-departmental public authority, so far as carrying out retained functions in relation to a devolved marine planning region;
 - (f) any non-departmental public authority, so far as carrying out secondary devolved functions in relation to a marine planning region whose marine plan authority is a policy authority which adopted the MPS.
- (6) For the purposes of subsection (5)(f)—
 - (a) the Scottish Ministers are to be treated as if they were the marine plan authority for the Scottish inshore region, and
 - (b) the Department of the Environment in Northern Ireland is to be treated as if it were the marine plan authority for the Northern Ireland inshore region.
- (7) In this section—
 - “adopted”, in relation to an MPS, means adopted and published in accordance with Schedule 5 (but see also section 48(4));
 - “Counsel General” means the Counsel General to the Welsh Assembly Government;
 - “devolved marine planning region” means any marine planning region other than—
 - (a) the English inshore region, and
 - (b) the English offshore region;
 - “devolved policy authority” means—
 - (a) the Scottish Ministers;
 - (b) the Welsh Ministers;
 - (c) the Department of the Environment in Northern Ireland;
 - “First Minister” has the same meaning as in the Government of Wales Act 2006 (c. 32);

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“non-departmental public authority” means any public authority other than—

- (a) a Minister of the Crown or government department;
- (b) the Scottish Ministers;
- (c) the Welsh Ministers, the First Minister or the Counsel General;
- (d) a Northern Ireland Minister or a Northern Ireland department;

“Northern Ireland Minister”—

- (a) has the same meaning as in the Northern Ireland Act 1998 (c. 47), but
- (b) includes a reference to the First Minister and the deputy First Minister, within the meaning of that Act;

“primary devolved authority”, in relation to a devolved policy authority, means—

- (a) in the case of the Welsh Ministers, the First Minister or the Counsel General;
- (b) in the case of the Department of the Environment in Northern Ireland, a Northern Ireland Minister or a Northern Ireland department;

“retained functions” is defined for the purposes of this Part in section 60;

“secondary devolved functions” has the same meaning as in section 60.

60 Meaning of “retained functions” etc **U.K.**

(1) For the purposes of this Part, the functions of a public authority which are “retained functions” as respects any marine planning region are those functions of the public authority which, as respects that region, are not any of the following—

- (a) Scottish Ministerial functions (see subsection (2));
- (b) Welsh Ministerial functions (see subsection (2));
- (c) Northern Ireland government functions (see subsection (2));
- (d) secondary devolved functions (see subsection (3));
- (e) relevant ancillary functions (see subsection (5)).

(2) In this section—

“Northern Ireland government functions” means—

- (a) any functions exercisable by a Northern Ireland Minister or a Northern Ireland department, other than joint functions and concurrent functions (see subsection (9));
- (b) any concurrent functions, so far as exercised by a Northern Ireland Minister or a Northern Ireland department;
- (c) the function exercised by a Northern Ireland Minister or a Northern Ireland department when exercising a joint function;

“Scottish Ministerial functions” means—

- (a) any functions exercisable by the Scottish Ministers, other than joint functions and concurrent functions;
- (b) any concurrent functions, so far as exercised by the Scottish Ministers;
- (c) the function exercised by the Scottish Ministers when exercising a joint function;

“Welsh Ministerial functions” means—

- (a) any functions exercisable by the Welsh Ministers, the First Minister or the Counsel General, other than joint functions and concurrent functions;

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- (b) any concurrent functions, so far as exercised by the Welsh Ministers, the First Minister or the Counsel General;
- (c) the function exercised by the Welsh Ministers, the First Minister or the Counsel General when exercising a joint function.

(3) “Secondary devolved functions” means—

- (a) as respects the Scottish inshore region or the Scottish offshore region, any secondary devolved Scottish functions;
- (b) as respects the Welsh inshore region or the Welsh offshore region, any secondary devolved Welsh functions;
- (c) as respects the Northern Ireland inshore region or the Northern Ireland offshore region, any secondary devolved Northern Ireland functions.

See subsection (4) for the definition of each of those descriptions of secondary devolved functions.

(4) In this section—

“secondary devolved Northern Ireland functions” means any of the following—

- (a) any functions exercisable by a Northern Ireland non-departmental public authority;
- (b) any functions exercisable by any other non-departmental public authority, so far as relating to transferred or reserved matters (within the meaning of the Northern Ireland Act 1998 (c. 47));

“secondary devolved Scottish functions” means any of the following—

- (a) any functions exercisable by a Scottish non-departmental public authority;
- (b) any functions exercisable by any other non-departmental public authority, so far as not relating to reserved matters (within the meaning of the Scotland Act 1998 (c. 46));

“secondary devolved Welsh functions” means any of the following—

- (a) any functions exercisable by a Welsh non-departmental public authority;
- (b) any functions conferred or imposed on a non-departmental public authority by or under a Measure or Act of the National Assembly for Wales;
- (c) any functions exercisable by a non-departmental public authority, so far as relating to matters within the legislative competence of the National Assembly for Wales;

but the definitions in this subsection are subject to subsection (6) (which excludes certain functions in relation to which functions are exercisable by a Minister of the Crown or government department).

(5) “Relevant ancillary functions” means any functions exercisable by a non-departmental public authority in relation to any of the following—

- (a) a Scottish Ministerial function;
- (b) a Welsh Ministerial function;
- (c) a Northern Ireland government function;
- (d) a secondary devolved function;

but this subsection is subject to subsection (6).

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- (6) Where functions are exercisable by a Minister of the Crown or government department in relation to a function of a non-departmental public authority, the function of the non-departmental public authority is not—
- (a) a secondary devolved Scottish function;
 - (b) a secondary devolved Welsh function;
 - (c) a secondary devolved Northern Ireland function;
 - (d) a relevant ancillary function;
- but this subsection is subject to subsection (7).
- (7) Functions are not to be regarded as exercisable by a Minister of the Crown or government department in relation to functions of a non-departmental public authority merely because—
- (a) the agreement of a Minister of the Crown or government department is required to the exercise of a function of the non-departmental public authority;
 - (b) a Minister of the Crown or government department must be consulted by the non-departmental public authority, or by a primary devolved authority, about the exercise of a function of the non-departmental public authority;
 - (c) a Minister of the Crown or government department may exercise functions falling within subsection (8) in relation to functions of the non-departmental public authority.
- (8) The functions mentioned in subsection (7)(c) are—
- (a) functions under section 2(2) of the European Communities Act 1972 (c. 68);
 - (b) functions by virtue of section 57(1) of the Scotland Act 1998 (c. 46) ([^{F1}EU] obligations) or under section 58 of that Act (international obligations);
 - (c) functions under section 26 or 27 of the Northern Ireland Act 1998 (c. 47) (international obligations and quotas for international obligations);
 - (d) functions by virtue of section 80(3) of, or paragraph 5 of Schedule 3 to, the Government of Wales Act 2006 (c. 32) ([^{F1}EU] obligations) or under section 82 of that Act (international obligations etc);
 - (e) functions under section 152 of that Act (intervention in case of functions relating to water etc).
- (9) In this section—
- “concurrent function” means a function exercisable concurrently with a Minister of the Crown or government department;
- “Counsel General” means the Counsel General to the Welsh Assembly Government;
- “devolved policy authority” means—
- (a) the Scottish Ministers;
 - (b) the Welsh Ministers;
 - (c) the Department of the Environment in Northern Ireland;
- “First Minister” has the same meaning as in the Government of Wales Act 2006 (c. 32);
- “joint function” means a function exercisable jointly with a Minister of the Crown or government department;
- “non-departmental public authority” has the same meaning as in section 59;
- “Northern Ireland Minister”—
- (a) has the same meaning as in the Northern Ireland Act 1998 (c. 47), but

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(b) includes a reference to the First Minister and the deputy First Minister, within the meaning of that Act;

“Northern Ireland non-departmental public authority” means any non-departmental public authority so far as exercising functions in relation to which functions are exercisable by a Northern Ireland Minister or a Northern Ireland department;

“primary devolved authority” means any of the following—

- (a) the Scottish Ministers;
- (b) the Welsh Ministers, the First Minister or the Counsel General;
- (c) a Northern Ireland Minister or a Northern Ireland department;

“Scottish non-departmental public authority” means any non-departmental public authority so far as exercising functions in relation to which functions are exercisable by the Scottish Ministers;

“Welsh non-departmental public authority” means any non-departmental public authority so far as exercising functions in relation to which functions are exercisable by the Welsh Ministers, the First Minister or the Counsel General.

Textual Amendments

- F1** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011](#) (S.I. 2011/1043), [arts. 3, 6](#) (with art. 3(2)(3)4(2)6(4)6(5))

Monitoring and reporting

61 Monitoring of, and periodical reporting on, implementation **U.K.**

- (1) This section makes provision for and in connection with imposing the following duties on a marine plan authority—
- (a) where it has prepared and adopted a marine plan, a duty to keep the matters specified in subsection (3) under review for so long as the marine plan is in effect (see subsections (2) and (3));
 - (b) in any such case, a duty to prepare and publish, and lay a copy of, a report on those matters at intervals of not more than 3 years (see subsections (4) to (9));
 - (c) in any case, a duty to prepare, and lay, at intervals of not more than 6 years ending before 1st January 2030, a report on—
 - (i) any marine plans it has prepared and adopted,
 - (ii) its intentions for their amendment, and
 - (iii) its intentions for the preparation and adoption of any further marine plans,
 (see subsections (10) to (13)).
- (2) For so long as a marine plan is in effect, the marine plan authority must keep under review each of the matters in subsection (3).
- (3) The matters are—
- (a) the effects of the policies in the marine plan;
 - (b) the effectiveness of those policies in securing that the objectives for which the marine plan was prepared and adopted are met;

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- (c) the progress being made towards securing those objectives;
 - (d) if an MPS governs marine planning for the marine plan authority's region, the progress being made towards securing that the objectives for which the MPS was prepared and adopted are met in that region.
- (4) The marine plan authority must from time to time prepare and publish a report on the matters kept under review pursuant to subsection (2).
- (5) Where the marine plan authority publishes a report under subsection (4), the authority must lay a copy of the report before the appropriate legislature.
- (6) After publishing a report under subsection (4), the marine plan authority must decide whether or not to amend or replace the marine plan.
- (7) The first report under subsection (4) must be published before the expiration of 3 years beginning with the date on which the marine plan was adopted.
- (8) After the publication of the first report under subsection (4), successive reports under that subsection must be published at intervals of no more than 3 years following the date of publication of the previous report.
- (9) Any reference in this section to the replacement of a marine plan is a reference to—
 - (a) preparing and adopting, in accordance with the provisions of this Part, a fresh marine plan (whether or not for the identical marine plan area), and
 - (b) if the marine plan authority has not already done so, withdrawing the marine plan that is to be replaced.
- (10) Each marine plan authority must from time to time prepare and lay before the appropriate legislature a report which—
 - (a) identifies any marine plans which the authority has prepared and adopted;
 - (b) describes any intentions the authority may have for the amendment of any marine plans which it has prepared and adopted;
 - (c) describes any intentions the authority may have for the preparation and adoption of any further marine plans.
- (11) The first report prepared under subsection (10) by each marine plan authority must be laid before the appropriate legislature before the expiration of the period of 6 years beginning with the date of the passing of this Act.
- (12) After a marine plan authority has prepared and laid its first report under subsection (10), it must prepare and lay successive reports under that subsection at intervals of no more than 6 years following the laying of the previous report.
- (13) No report under subsection (10) is required to be laid in a case where the period of 6 years following the laying of the previous report ends on or after 1st January 2030.
- (14) For the purposes of this section, the “appropriate legislature” is—
 - (a) in the case of the Secretary of State, Parliament;
 - (b) in the case of the Scottish Ministers, the Scottish Parliament;
 - (c) in the case of the Welsh Ministers, the National Assembly for Wales;
 - (d) in the case of the Department of the Environment in Northern Ireland, the Northern Ireland Assembly.

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CHAPTER 5 **U.K.**

MISCELLANEOUS AND GENERAL PROVISIONS

Validity of documents under this Part

62 **Validity of marine policy statements and marine plans** **U.K.**

- (1) This section applies to—
 - (a) any MPS,
 - (b) any amendment of an MPS,
 - (c) any marine plan,
 - (d) any amendment of a marine plan.
- (2) Anything falling within the paragraphs of subsection (1) is referred to in this section as a “relevant document”.
- (3) A relevant document must not be questioned in any legal proceedings, except in so far as is provided by the following provisions of this section.
- (4) A person aggrieved by a relevant document may make an application to the appropriate court on any of the following grounds—
 - (a) that the document is not within the appropriate powers;
 - (b) that a procedural requirement has not been complied with.
- (5) Any such application must be made not later than 6 weeks after the publication of the relevant document.
- (6) In this section—

“the appropriate court” means—

 - (a) the High Court, if the relevant document is a marine plan, or an amendment of a marine plan, for an area within the English inshore region or the Welsh inshore region;
 - (b) in any other case, any superior court in the United Kingdom;

“the appropriate powers” means—

 - (a) in the case of an MPS or an amendment of an MPS, the powers conferred by Chapter 1 of this Part;
 - (b) in the case of a marine plan or an amendment of a marine plan, the powers conferred by—
 - (i) Chapter 2 of this Part, or
 - (ii) section 55 (delegation);

“procedural requirement” means any requirement—

 - (a) under the appropriate powers, or
 - (b) in directions under section 55 or 57,

which relates to the preparation, adoption or publication of a relevant document;

“superior court in the United Kingdom” means any of the following—

 - (a) the High Court;
 - (b) the Court of Session.

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63 Powers of the court on an application under section 62 **U.K.**

- (1) This section applies in any case where an application under section 62 is made to a court.
- (2) The court may make an interim order suspending the operation of the relevant document—
 - (a) wholly or in part,
 - (b) generally or as it affects a particular area.An interim order has effect until the proceedings are finally determined.
- (3) Subsection (4) applies if the court is satisfied as to any of the following—
 - (a) that a relevant document is to any extent outside the appropriate powers;
 - (b) that the interests of the applicant have been substantially prejudiced by failure to comply with a procedural requirement.
- (4) The court may—
 - (a) quash the relevant document;
 - (b) remit the relevant document to a body or person with a function relating to its preparation, adoption or publication.
- (5) If the court remits the relevant document under subsection (4)(b), it may give directions as to the action to be taken in relation to the relevant document.
- (6) Directions under subsection (5) may in particular—
 - (a) require the relevant document to be treated (generally or for specified purposes) as not having been adopted or published;
 - (b) require specified steps in the process that has resulted in the adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;
 - (c) require action to be taken by a body or person with a function relating to the preparation, adoption or publication of the document (whether or not the body or person to whom the document is remitted);
 - (d) require action to be taken by one body or person to depend on what action has been taken by another body or person.
- (7) The court's powers under subsections (4) and (5) are exercisable in relation to the whole or any part of the relevant document.
- (8) Expressions used in this section and in section 62 have the same meaning in this section as they have in that section.

Interpretation and Crown application

64 Interpretation and Crown application of this Part **U.K.**

- (1) In this Part—

“adopted” is to be read—

 - (a) in the case of an MPS, in accordance with section 44 and paragraph 12 of Schedule 5,
 - (b) in the case of a marine plan, in accordance with section 51 and paragraph 15 of Schedule 6,

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and related expressions are to be construed accordingly;

“marine plan” has the meaning given in section 51;

“marine plan area” is to be read in accordance with section 51;

“marine plan authority” is to be read in accordance with section 50;

“marine planning region” is to be read in accordance with section 49;

“policy authority” has the meaning given in section 44;

“retained functions” has the meaning given in section 60.

- (2) Any reference in this Part to an MPS governing marine planning for an area is to be construed in accordance with section 51(7).
- (3) This Part binds the Crown.

Status:

Point in time view as at 01/04/2015.

Changes to legislation:

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