



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 3

MARINE PLANNING

CHAPTER 5

MISCELLANEOUS AND GENERAL PROVISIONS

Validity of documents under this Part

62 Validity of marine policy statements and marine plans

- (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.

Status: Point in time view as at 12/01/2010.

Changes to legislation: Marine and Coastal Access Act 2009, Chapter 5 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(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.

63 Powers of the court on an application under section 62

- (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;

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- (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

- (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,
- 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 12/01/2010.

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