



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 5

NATURE CONSERVATION

CHAPTER 1

MARINE CONSERVATION ZONES

Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 1 applied (with modifications) by S.I. 1994/2716, reg. 36(3)(4) (as substituted (E.W.) (12.1.2010 for specified purposes, 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(2)(b)(i), [Sch. 11 para. 4\(1\)](#); S.I. 2014/3088, art. 2(b))
- C2** Pt. 5 Ch. 1 applied (with modifications) (E.W.) (1.4.2010 except so far as relating to 2009 c. 23, s. 134 for which purpose the amendment comes into force immediately after that provision comes into force, 1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2)(4) [\(a\)38\(3\)\(4\)](#) (with regs. 38(5), 125)
- C3** Pt. 5 Ch. 1 applied (with modifications) (E.W.) (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), regs. 1(2), [40\(3\)\(4\)](#)

Designation of zones

116 Marine conservation zones

- (1) The appropriate authority may by order designate any area falling within subsection (2) as a marine conservation zone (an “MCZ”).

Section 117 sets out the grounds on which such an order may be made.

- (2) An area falls within this subsection if—

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

- (a) it is an area of the sea within the seaward limits of the territorial sea adjacent to the United Kingdom;
 - (b) it is an area of the sea within the limits of the exclusive economic zone;
 - (c) it is an area of the sea bed or subsoil within the limits of the UK sector of the continental shelf (so far as not falling within an area mentioned in paragraph (b)).
- (3) But an area does not fall within subsection (2) if it is in—
- (a) the Scottish inshore region, or
 - (b) the Northern Ireland inshore region.
- (4) Section 118 makes further provision as to the areas that may be included in an MCZ.
- (5) For the purposes of this Chapter the appropriate authority is—
- (a) in relation to an area in Wales [^{F1}or the Welsh offshore region], the Welsh Ministers;
 - (b) in relation to an area in the Scottish offshore region, the Scottish Ministers;
 - (c) in any other case, the Secretary of State.
- [^{F2}(5A) The Welsh Ministers may not designate an area as an MCZ without the agreement of the Secretary of State if any part of the proposed MCZ lies in the Welsh offshore region.]
- (6) The Scottish Ministers may not designate any area as an MCZ without the agreement of the Secretary of State.
- (7) An MCZ designated by the Scottish Ministers under this section is to be known as a marine protected area.
- Any reference in this Act to an MCZ is, in relation to an MCZ designated by the Scottish Ministers, to be read as a reference to a marine protected area.
- (8) Until the coming into force of the first Order in Council made under section 41 (the exclusive economic zone), the reference in subsection (2)(b) to the exclusive economic zone is to be read as a reference to a renewable energy zone.

Textual Amendments

- F1** Words in s. 116(5)(a) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 47(2)(a)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)
- F2** [S. 116\(5A\)](#) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 47(2)(b)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)

Commencement Information

- I1** S. 116 partly in force; s. 116 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 116 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I2** S. 116 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(a)**

117 Grounds for designation of MCZs

- (1) The appropriate authority may make an order under section 116 if it thinks that it is desirable to do so for the purpose of conserving—
- (a) marine flora or fauna;

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- (b) marine habitats or types of marine habitat;
 - (c) features of geological or geomorphological interest.
- (2) The order must state—
- (a) the protected feature or features;
 - (b) the conservation objectives for the MCZ.
- (3) Any reference in this Chapter to the conservation objectives stated for an MCZ is a reference to the conservation objectives stated for the MCZ under subsection (2)(b).
- (4) The reference in subsection (1)(a) to conserving marine flora or fauna includes, in particular, a reference to conserving any species that is rare or threatened because of—
- (a) the limited number of individuals of that species, or
 - (b) the limited number of locations in which that species is present.
- (5) The references in subsection (1)(a) and (b) to conserving marine flora or fauna or habitat include references to conserving the diversity of such flora, fauna or habitat, whether or not any or all of them are rare or threatened.
- (6) Any reference to conserving a thing includes references to—
- (a) assisting in its conservation;
 - (b) enabling or facilitating its recovery or increase.
- (7) In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so.
- (8) The reference in subsection (7) to any social consequences of designating an area as an MCZ includes a reference to any consequences of doing so for any sites in that area (including any sites comprising, or comprising the remains of, any vessel, aircraft or marine installation) which are of historic or archaeological interest.

Commencement Information

- I3** S. 117 partly in force; s. 117 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 117 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I4** S. 117 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(a)**

118 Further provision as to orders designating MCZs

- (1) An order under section 116 must identify the boundaries of the area designated.
- (2) The boundary of an MCZ may be determined by, or by reference to, mean high water spring tide.
- (3) Any reference in subsection (2)(a) or (b) of section 116 to an area of sea includes a reference to any island in the sea, whether or not any part of it lies above mean high water spring tide.
- (4) If an MCZ includes an area falling within subsection (2)(a) of section 116 (“area A”), it may also include an area of the seashore lying above mean high water spring tide (“area B”) if—
- (a) area B adjoins area A, and
 - (b) any of the conditions in subsection (5) is satisfied.

Status: Point in time view as at 19/06/2020.

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- (5) The conditions are—
- (a) that the protected feature or features leading to the designation of area A is or are also present in area B;
 - (b) that area A is designated for the purpose of conserving marine flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
 - (c) that, without the inclusion of area B, the identification of the boundary of the MCZ (either in the order designating the area or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.
- (6) An order under section 116—
- (a) must designate an area of land (whether or not that land is covered by water), and
 - (b) in the case of an area falling within subsection (2)(a) or (b) of that section, may designate some or all of the water covering that land.

Commencement Information

- I5** S. 118 partly in force; s. 118 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 118 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I6** S. 118 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(a\)](#)

119 Consultation before designation

- (1) Before making an order under section 116, the appropriate authority must comply with subsections (2) to (9) of this section.
- This is subject to subsection (11).
- (2) The appropriate authority must publish notice of its proposal to make the order.
- (3) The notice under subsection (2) must—
- (a) be published in such manner as the appropriate authority thinks is most likely to bring the proposal to the attention of any persons who are likely to be affected by the making of the order;
 - (b) contain a statement of the terms of the proposed order.
- (4) The appropriate authority must consult any persons who the appropriate authority thinks are likely to be interested in, or affected by, the making of the order.
- (5) Where the appropriate authority is not the Secretary of State, the authority must consult the Secretary of State.
- (6) If the appropriate authority for an area other than Wales [^{F3}or the Welsh offshore region] considers that—
- (a) the making of the order may affect any activity which is or may be carried on in the Welsh zone, or
 - (b) any activity which is or may be carried on in the Welsh zone may affect any part of the proposed MCZ,
- the authority must consult the Welsh Ministers.

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- (7) If the appropriate authority for an area other than the Scottish offshore region considers that—
- (a) the making of the order may affect any activity which is or may be carried on in the Scottish zone, or
 - (b) any activity which is or may be carried on in the Scottish zone may affect any part of the proposed MCZ,
- the authority must consult the Scottish Ministers.
- (8) If the appropriate authority considers that—
- (a) the making of the order may affect any activity which is or may be carried on in the Northern Ireland zone, or
 - (b) any activity which is or may be carried on in the Northern Ireland zone may affect any part of the proposed MCZ,
- the authority must consult the Department of the Environment in Northern Ireland.
- (9) The Secretary of State must consult—
- ^{F4}(a)
 - (b) the Department of the Environment in Northern Ireland, if any part of the proposed MCZ lies in the Northern Ireland zone.
- (10) If the appropriate authority fails to make the order before the end of the period of 12 months beginning with the date on which notice was published under subsection (2), then anything done by the appropriate authority for the purposes of complying with subsections (2) to (9) of this section is, for those purposes, to be treated as not having been done.
- (11) In a case where the appropriate authority thinks that there is an urgent need to protect the area proposed to be designated, the authority need not comply with subsections (2) to (4).
- (12) In such a case, the order designating the area as an MCZ remains in force for a period not exceeding two years, unless the appropriate authority makes a further order before the end of that period confirming the designation.
- Before making such an order, the appropriate authority must comply with subsections (2) to (9) (and subsection (10) applies accordingly).

Textual Amendments

- F3** Words in s. 119(6) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 47(3)(a)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)
- F4** [S. 119\(9\)\(a\)](#) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), **ss. 47(3)(b)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)

Commencement Information

- I7** S. 119 partly in force; s. 119 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I8** S. 119 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(a)**

120 Publication of orders designating MCZs

- (1) This section applies where an order has been made under section 116.

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- (2) The appropriate authority must publish notice of the making of the order.
- (3) The notice under subsection (2) must—
 - (a) be published in such manner as the appropriate authority thinks is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected.
- (4) The appropriate authority must—
 - (a) make a copy of the order available for inspection at the address specified under subsection (3)(b) at all reasonable hours without payment;
 - (b) provide a copy of the order to any person who requests one.
- (5) The appropriate authority may charge a fee, not exceeding its costs, for providing a copy under subsection (4)(b).

Commencement Information

- I9** S. 120 partly in force; s. 120 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I10 S. 120 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(a\)](#)

121 Hearings by appropriate authority

- (1) This section applies where the appropriate authority has the function of deciding whether to make an order under section 116 designating an area as an MCZ.
- (2) The authority may, before making that decision, give to any person the opportunity of—
 - (a) appearing before and being heard by a person appointed for that purpose;
 - (b) providing written representations to such a person.
- (3) The authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (2).
- (4) A person appointed under subsection (2) must make a report to the authority of any oral or written representations made under that subsection.

Commencement Information

- I11** S. 121 partly in force; s. 121 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 121 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I12 S. 121 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(a\)](#)

122 Amendment, revocation and review of orders designating MCZs

- (1) An order under section 116 may be amended or revoked by a further order.
- (2) The appropriate authority for an area must review any order it has made under section 116 if the authority receives representations from—
 - (a) the appropriate authority for another area, or
 - (b) the Department of the Environment in Northern Ireland,

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that the order should be amended or revoked.

Commencement Information

- I13** S. 122 partly in force; s. 122 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 122 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I14** S. 122 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(a\)](#)

Duties relating to network

123 Creation of network of conservation sites

- (1) In order to contribute to the achievement of the objective in subsection (2), the appropriate authority must designate MCZs under section 116.
- (2) The objective is that the MCZs designated by the appropriate authority, taken together with any other MCZs designated under section 116 and any relevant conservation sites in the UK marine area, form a network which satisfies the conditions in subsection (3).
- (3) The conditions are—
 - (a) that the network contributes to the conservation or improvement of the marine environment in the UK marine area;
 - (b) that the features which are protected by the sites comprised in the network represent the range of features present in the UK marine area;
 - (c) that the designation of sites comprised in the network reflects the fact that the conservation of a feature may require the designation of more than one site.
- (4) For the purposes of subsection (2), the following are “relevant conservation sites”—
 - (a) any European marine site;
 - (b) the whole or part of any SSSI;
 - (c) the whole or part of any Ramsar site.
- (5) When complying with the duty imposed by subsection (1), the appropriate authority must have regard to any obligations under EU or international law that relate to the conservation or improvement of the marine environment.
- (6) Before the end of the period of 2 months beginning with the date on which this section comes into force, the appropriate authority must—
 - (a) prepare a statement setting out such principles relating to the achievement of the objective in subsection (2) as the authority intends to follow when complying with the duty imposed by subsection (1), and
 - (b) lay a copy of the statement before the appropriate legislature.
- (7) A statement prepared by the appropriate authority under this section may also set out other matters relating to the achievement of that objective which the authority intends to take into account when complying with the duty imposed by subsection (1).
- (8) The appropriate authority must—
 - (a) keep under review any statement it has prepared under this section, and
 - (b) if it considers it appropriate in consequence of a review, prepare a revised statement of the principles referred to in subsection (6) and lay a copy of it before the appropriate legislature.

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(9) In this section—

“the appropriate legislature” means—

- (a) in relation to the Secretary of State, Parliament;
- (b) in relation to the Welsh Ministers, the National Assembly for Wales;
- (c) in relation to the Scottish Ministers, the Scottish Parliament;

“European marine site” means any site which is—

- (a) a European marine site within the meaning of [^{F5}—
 - (i) the Conservation (Natural Habitats, &c) Regulations 1994 (S.I. 1994/2716), or
 - [^{F6}(ii) the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (see regulation 8), or]
- [^{F7}(b) a European offshore marine site within the meaning of the Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013),]

“ feature ” means anything falling within paragraphs (a) to (c) of section 117(1);

“ Ramsar site ” has the same meaning as in section 37A of the Wildlife and Countryside Act 1981 (c. 69);

“ SSSI ” means a site of special scientific interest, within the meaning of Part 2 of that Act.

Textual Amendments

- F5** Words in s. 123(9) renumbered (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#) , [reg. 1\(2\)](#) , [Sch. 6 para. 5\(3\)\(a\)](#) (with [reg. 125](#))
- F6** Words in s. 123(9) substituted (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#) , [reg. 1\(2\)](#) , [Sch. 6 para. 8\(2\)](#)
- F7** Words in s. 123(9) substituted (30.11.2017) by [The Conservation of Offshore Marine Habitats and Species Regulations 2017 \(S.I. 2017/1013\)](#) , [reg. 1](#) , [Sch. 4 para. 2\(2\)](#) (with [regs. 3](#) , [4\(2\)](#))

Modifications etc. (not altering text)

- C4** S. 123(3)(a) modified by [SI 2007/1842](#) , [reg. 6\(6\)](#) (as inserted (16.8.2012) by [The Offshore Marine Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2012 \(S.I. 2012/1928\)](#) , [regs. 1](#) , [3\(b\)](#))
- C5** S. 123(3)(a) modified by [SI 2010/490](#) [reg. 9A\(6\)](#) (as substituted (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#) , [regs. 1\(1\)](#) , [8](#))
- C6** S. 123(3)(a) modified (30.11.2017) by [The Conservation of Offshore Marine Habitats and Species Regulations 2017 \(S.I. 2017/1013\)](#) , [regs. 1](#) , [6\(6\)](#) (with [regs. 3](#) , [4\(2\)](#))
- C7** S. 123(3)(a) modified (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#) , [regs. 1\(2\)](#) , [10\(6\)](#) (with [regs. 3\(9\)](#) , [4](#) , [131](#))

Commencement Information

- I15** S. 123 partly in force; s. 123 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I16** S. 123 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#) , [art. 2\(a\)](#)

124 Report

- (1) Before the end of every relevant period, the appropriate authority must lay before the appropriate legislature a report setting out—

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- (a) the extent to which, in the opinion of the authority, the objective in section 123(2) has been achieved;
 - (b) any further steps which, in the opinion of the authority, are required to be taken in order to contribute to the achievement of that objective.
- (2) The report must also contain the following information—
- (a) the number of MCZs which the authority has designated during the relevant period;
 - (b) in relation to each such MCZ—
 - (i) the size of the MCZ, and
 - (ii) the conservation objectives which have been stated for the MCZ;
 - (c) the number of MCZs designated by the authority in which the following activities are prohibited or significantly restricted—
 - (i) any licensable marine activity;
 - (ii) fishing for or taking animals or plants from the sea;
 - (d) information about any amendments which the authority has made to any orders made under section 116;
 - (e) the extent to which, in the opinion of the authority, the conservation objectives stated for each MCZ which it has designated have been achieved;
 - (f) any further steps which, in the opinion of the authority, are required to be taken in relation to any MCZ in order to achieve the conservation objectives stated for it.
- (3) For the purposes of complying with its duty under this section, the appropriate authority for any area may direct the appropriate statutory conservation body for that area to carry out such monitoring of MCZs in that area as is specified in the direction.
- (4) A body that is given a direction under subsection (3) must comply with it.
- (5) In this section—
- “the appropriate legislature” means—
 - (a) in relation to the Secretary of State, Parliament;
 - (b) in relation to the Welsh Ministers, the National Assembly for Wales;
 - (c) in relation to the Scottish Ministers, the Scottish Parliament;
 - “licensable marine activity” has the same meaning as in Part 4;
 - “relevant period” means—
 - (a) the period beginning on the date on which this section comes into force and ending on 31 December 2012;
 - (b) each subsequent period of six years.

Modifications etc. (not altering text)

- C8** S. 124 modified by SI 2007/1842, reg. 6(6) (as inserted (16.8.2012) by [The Offshore Marine Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2012 \(S.I. 2012/1928\)](#), regs. 1, **3(b)**)
- C9** S. 124 modified by SI 2010/490 reg. 9A(6) (as substituted (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **8**)
- C10** S. 124 modified (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), regs. 1(2), **10(6)** (with regs. 3(9), 4)

Status: Point in time view as at 19/06/2020.

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Commencement Information

I17 S. 124 partly in force; s. 124 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

I18 S. 124 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(a\)](#)

Duties of public authorities

125 General duties of public authorities in relation to MCZs

- (1) This section applies to any public authority having any function the exercise of which is capable of affecting (other than insignificantly)—
 - (a) the protected features of an MCZ;
 - (b) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent.
- (2) Every public authority to which this section applies must (so far as is consistent with their proper exercise)—
 - (a) exercise its functions in the manner which the authority considers best furthers the conservation objectives stated for the MCZ;
 - (b) where it is not possible to exercise its functions in a manner which furthers those objectives, exercise them in the manner which the authority considers least hinders the achievement of those objectives.
- (3) If a public authority considers that any of its functions is such that the exercise of the function would or might significantly hinder the achievement of the conservation objectives for an MCZ, it must inform the appropriate statutory conservation body of that fact.
- (4) Subject to subsection (6), subsection (5) applies in any case where a public authority intends to do an act which is capable of affecting (other than insignificantly)—
 - (a) the protected features of an MCZ;
 - (b) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent.
- (5) If the authority believes that there is or may be a significant risk of the act hindering the achievement of the conservation objectives stated for the MCZ, the authority must notify the appropriate statutory conservation body of that fact.
- (6) Subsection (5) does not apply where—
 - (a) the appropriate statutory conservation body has given the authority advice or guidance under section 127 in relation to acts of a particular description,
 - (b) the act which the authority intends to do is an act of that description, and
 - (c) the advice or guidance has not ceased to apply.
- (7) Where the authority has given notification under subsection (5), it must wait until the expiry of the period of 28 days beginning with the date of the notification before deciding whether to do the act.
- (8) Subsection (7) does not apply where—
 - (a) the appropriate statutory conservation body notifies the authority that it need not wait until the end of the period referred to in that subsection, or
 - (b) the authority thinks that there is an urgent need to do the act.

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- (9) If a public authority considers that a relevant event has occurred, it must inform—
- (a) the relevant authority, and
 - (b) the appropriate statutory conservation body,
- of that fact.
- (10) A “relevant event” is any act—
- (a) in relation to which the public authority exercises functions,
 - (b) which the authority believes to be an offence, and
 - (c) which the authority considers will or may significantly hinder the achievement of the conservation objectives for an MCZ.
- (11) For the purposes of subsection (9) “relevant authority” means—
- (a) in relation to an MCZ in Wales [^{F8}or the Welsh offshore region], the Welsh Ministers;
 - (b) in relation to an MCZ in the Scottish offshore region, the Scottish Ministers;
 - (c) in relation to any other MCZ, the MMO.
- (12) In carrying out its duties under this section a public authority must have regard to any advice or guidance given by the appropriate statutory conservation body under section 127.
- (13) In this section—
- “act” includes omission;
 - “public authority” does not include a Northern Ireland Minister or Northern Ireland department.

Textual Amendments

F8 Words in s. 125(11)(a) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 47\(4\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(j\)](#)

Commencement Information

I19 S. 125 partly in force; s. 125 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

I20 S. 125 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088, art. 2\(a\)](#)

126 Duties of public authorities in relation to certain decisions

- (1) This section applies where—
- (a) a public authority has the function of determining an application (whenever made) for authorisation of the doing of an act, and
 - (b) the act is capable of affecting (other than insignificantly)—
 - (i) the protected features of an MCZ;
 - (ii) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent.
- (2) If the authority believes that there is or may be a significant risk of the act hindering the achievement of the conservation objectives stated for the MCZ, the authority must notify the appropriate statutory conservation body of that fact.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

- (3) Where the authority has given notification under subsection (2), it must wait until the expiry of the period of 28 days beginning with the date of the notification before deciding whether to grant authorisation for the doing of the act.
- (4) Subsection (3) does not apply where—
- (a) the appropriate statutory conservation body notifies the authority that it need not wait until the end of the period referred to in that subsection, or
 - (b) the authority thinks that there is an urgent need to grant authorisation for the doing of the act.
- (5) The authority must not grant authorisation for the doing of the act unless the condition in subsection (6) or the condition in subsection (7) is met.
- (6) The condition in this subsection is that the person seeking the authorisation satisfies the authority that there is no significant risk of the act hindering the achievement of the conservation objectives stated for the MCZ.
- (7) The condition in this subsection is that, although the person seeking the authorisation is not able to satisfy the authority that there is no significant risk of the act hindering the achievement of the conservation objectives stated for the MCZ, that person satisfies the authority that—
- (a) there is no other means of proceeding with the act which would create a substantially lower risk of hindering the achievement of those objectives,
 - (b) the benefit to the public of proceeding with the act clearly outweighs the risk of damage to the environment that will be created by proceeding with it, and
 - (c) the person seeking the authorisation will undertake, or make arrangements for the undertaking of, measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ.
- (8) The reference in subsection (7)(a) to other means of proceeding with an act includes a reference to proceeding with it—
- (a) in another manner, or
 - (b) at another location.
- (9) In a case falling within subsection (7), the authority must, if it has power to grant the authorisation subject to conditions, exercise that power so as to make it a condition of the authorisation that the measures mentioned in subsection (7)(c) are undertaken.
- (10) In carrying out its duties under this section a public authority must have regard to any advice or guidance given by the appropriate statutory conservation body under section 127.
- (11) In this section—
- “act” includes omission;
 - “authorisation” means any approval, confirmation, consent, licence, permission or other authorisation (however described), whether special or general;
 - “damage” includes the prevention of an improvement;
 - “public authority” does not include a Northern Ireland Minister or Northern Ireland department.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

Commencement Information

- I21** S. 126 partly in force; s. 126 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I22 S. 126 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(a)**

127 Advice and guidance by conservation bodies

- (1) The appropriate statutory conservation body may give advice and guidance as to—
- the matters which are capable of damaging or otherwise affecting any protected feature or features;
 - the matters which are capable of affecting any ecological or geomorphological process on which the conservation of any protected feature or features is (wholly or in part) dependent;
 - how any conservation objectives stated for an MCZ may be furthered, or how the achievement of any such objectives may be hindered;
 - how the effect of any activity or activities on an MCZ or MCZs may be mitigated;
 - which activities are, or are not, of equivalent environmental benefit (for the purposes of section 126(7)(c)) to any particular damage to the environment (within the meaning of that provision).
- (2) Advice or guidance may be given—
- either in relation to a particular MCZ or MCZs or generally;
 - either to a particular public authority or authorities or generally.
- (3) The appropriate statutory conservation body must give advice to a public authority if the authority requests it.
- (4) If the appropriate statutory conservation body for an area proposes to exercise its functions under this section in a manner which may affect an MCZ or MCZs in an area for which another body is the appropriate statutory conservation body, it must consult that other body before doing so.

Commencement Information

- I23** S. 127 partly in force; s. 127 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I24 S. 127 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(a)**

128 Failure to comply with duties etc

- (1) This section applies if, in the opinion of the appropriate statutory conservation body, a public authority has failed—
- to comply with the duty imposed by section 125(2) or the duty imposed by section 126(5);
 - to act in accordance with advice or guidance given by the appropriate statutory conservation body under section 127.
- (2) Where this section applies—
- the body may request from the authority an explanation for the failure, and
 - on such a request, the authority must provide such an explanation in writing.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

- (3) In this section “public authority” does not include a Northern Ireland Minister or Northern Ireland department.

Commencement Information

I25 S. 128 partly in force; s. 128 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

I26 S. 128 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(a\)](#)

Byelaws for protection of MCZs etc: England

129 Byelaws for protection of MCZs in England

- (1) The MMO may make one or more byelaws for the purpose of furthering the conservation objectives stated for an MCZ in England.
- (2) A byelaw under this section may be made so as to apply to any area in England.
- (3) The provision that may be made by a byelaw under this section includes, in particular, provision—
 - (a) prohibiting or restricting entry into, or any movement or other activity within, the MCZ by persons or animals;
 - (b) prohibiting or restricting entry into, or any movement or other activity within, the MCZ by vessels or (where appropriate) vehicles;
 - (c) restricting the speed at which any vessel may move in the MCZ or in any specified area outside the MCZ where that movement might hinder the conservation objectives stated for the MCZ;
 - (d) prohibiting or restricting the anchoring of any vessel within the MCZ;
 - (e) prohibiting or restricting the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the MCZ;
 - (f) prohibiting or restricting the doing of anything in the MCZ which would interfere with the sea bed or damage or disturb any object in the MCZ.
- (4) The provision that may be made by a byelaw under this section also includes provision prohibiting or restricting entry into, or any movement or other activity on, any part of the seashore that adjoins the MCZ by persons, animals or vehicles.
- (5) A byelaw under this section may provide for the MMO to issue permits authorising anything which would, apart from such a permit, be unlawful under the byelaw.
- (6) The MMO may attach to a permit under subsection (5) any condition which the MMO thinks appropriate to attach to that permit.
- (7) A byelaw under this section may be made subject to specified exceptions.
- (8) A byelaw under this section may make different provision for different cases, including (in particular)—
 - (a) different parts of the MCZ;
 - (b) different times of the year;
 - (c) different means or methods of carrying out any activity.
- (9) In this section “specified” means specified in the byelaw.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

Commencement Information

I27 S. 129 partly in force; s. 129 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

130 Byelaws: procedure

- (1) Before making a byelaw under section 129, the MMO must comply with subsections (2) to (7) of this section.

This is subject to subsection (11).

- (2) If the byelaw would or might affect any activity in Wales, the MMO must send a copy of a draft of the byelaw to the Welsh Ministers.
- (3) The MMO must place a copy of a draft of the byelaw in such place or places as the MMO thinks is or are likely to be most convenient for the purpose of enabling the draft to be inspected by persons likely to be affected by the making of the byelaw.
- (4) The MMO must provide a copy of a draft of the byelaw to any person who requests one.
- (5) The MMO may charge a fee, not exceeding its costs, for providing a copy under subsection (4).
- (6) The MMO must publish notice of its proposal to make the byelaw.
- (7) The notice under subsection (6) must—
 - (a) be published in such manner as the MMO thinks is most likely to bring the proposal to the attention of any persons who are likely to be affected by the making of the byelaw;
 - (b) state where the copy or copies of the draft byelaw have been placed by the MMO in accordance with subsection (3);
 - (c) state the time within which representations about the byelaw must be made to the MMO.
- (8) A byelaw made under section 129 does not have effect until it is confirmed by the Secretary of State; and a byelaw which is confirmed comes into force—
 - (a) on such date as may be determined by the Secretary of State, or
 - (b) if no such date is determined, one month after the date on which it is confirmed.
- (9) As soon as is reasonably practicable after the confirmation of a byelaw made under section 129, the MMO must publish notice of the making of the byelaw.
- (10) The notice under subsection (9) must—
 - (a) be published in such manner as the MMO thinks is most likely to bring the byelaw to the attention of any persons who are likely to be affected by the making of it;
 - (b) state that a copy of the byelaw may be inspected at the offices of the MMO.
- (11) Nothing in this section applies where the MMO thinks that there is an urgent need to protect an MCZ.

Status: Point in time view as at 19/06/2020.

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Commencement Information

I28 S. 130 partly in force; s. 130 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

131 Emergency byelaws

- (1) Where the MMO thinks that there is an urgent need to protect an MCZ, a byelaw made by it for that purpose has effect without being confirmed by the Secretary of State.
- (2) A byelaw that has effect by virtue of this section (an “emergency byelaw”)—
 - (a) comes into force on a date specified in the byelaw, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the byelaw.
- (3) The MMO must publish notice of the making of an emergency byelaw.
- (4) The notice under subsection (3) must—
 - (a) be published in such manner as the MMO thinks is most likely to bring the byelaw to the attention of any persons who are likely to be affected by the making of it;
 - (b) state that a copy of the byelaw may be inspected at the offices of the MMO;
 - (c) state that the Secretary of State has power to revoke the byelaw and that any person affected by the making of the byelaw may make representations to the Secretary of State.
- (5) The Secretary of State may revoke an emergency byelaw.
- (6) The MMO must keep under review the need for an emergency byelaw to remain in force.
- (7) The MMO may, by further byelaw, provide that an emergency byelaw is to remain in force for such period beyond that specified under subsection (2)(b) as is specified in the further byelaw.
- (8) The MMO may not make a byelaw under subsection (7) unless—
 - (a) it intends to make a byelaw under section 129 in respect of the MCZ in accordance with section 130 (“the permanent byelaw”), and
 - (b) it has, in respect of the permanent byelaw, complied with section 130(6).
- (9) A period specified under subsection (7) may not exceed 6 months.

Commencement Information

I29 S. 131 partly in force; s. 131 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

132 Interim byelaws

- (1) The MMO may make one or more byelaws for the purpose of protecting any feature in an area in England if the MMO thinks—
 - (a) that there are or may be reasons for the Secretary of State to consider whether to designate the area as an MCZ, and
 - (b) that there is an urgent need to protect the feature.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

- (2) In this Chapter “interim byelaw” means a byelaw made under subsection (1).
- (3) An interim byelaw must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question).
- (4) Subsections (2) to (9) of section 129 apply to an interim byelaw as they apply to a byelaw made under that section, except that any reference to an MCZ is to be read as a reference to the area to which the interim byelaw applies.
- (5) An interim byelaw—
 - (a) comes into force on a date specified in the byelaw, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the byelaw.
- (6) The MMO must publish notice of the making of an interim byelaw.
- (7) The notice under subsection (6) must—
 - (a) be published in such manner as the MMO thinks is most likely to bring the byelaw to the attention of any persons who are likely to be affected by the making of it;
 - (b) state that a copy of the byelaw may be inspected at the offices of the MMO;
 - (c) state that the Secretary of State has power to revoke the byelaw and that any person affected by the making of the byelaw may make representations to the Secretary of State.
- (8) The Secretary of State may revoke an interim byelaw.
- (9) The MMO must keep under review the need for an interim byelaw to remain in force.
- (10) The MMO may by further byelaw extend the period for which an interim byelaw remains in force; but an interim byelaw may not by virtue of this subsection remain in force for an aggregate period exceeding 12 months.
- (11) If, while an interim byelaw is in force, the Secretary of State gives notice of a proposal to make an order under section 116 designating any part of the area in question as an MCZ, the Secretary of State may direct that the interim byelaw is to remain in force—
 - (a) until the Secretary of State has decided whether to make the order under section 116;
 - (b) if the Secretary of State decides to make such an order, until that order comes into effect.
- (12) The Secretary of State must publish a direction under subsection (11) in such manner as the Secretary of State thinks is most likely to bring the direction to the attention of any persons who are likely to be affected by the making of it.
- (13) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.

Commencement Information

I30 S. 132 partly in force; s. 132 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

133 Further provision as to byelaws

- (1) This section applies to any byelaw made under section 129 or 132.
- (2) A byelaw to which this section applies is to be made under the common seal of the MMO.
- (3) If a byelaw to which this section applies will or may affect any activity in Wales, the MMO must send a copy of the byelaw to the Welsh Ministers.
- (4) The MMO must—
 - (a) make a copy of any byelaw to which this section applies available for inspection at its offices at all reasonable hours without payment;
 - (b) provide a copy of any such byelaw to any person who requests one.
- (5) The MMO may charge a fee, not exceeding its costs, for providing a copy under subsection (4)(b).
- (6) In the case of a byelaw made under section 129 in accordance with section 130, subsections (3) and (4) above apply only after the byelaw has been confirmed under section 130(8).
- (7) A byelaw to which this section applies may be amended or revoked by a further byelaw.

Commencement Information

I31 S. 133 partly in force; s. 133 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

Orders for protection of MCZs etc: Wales

134 Orders for protection of MCZs in Wales

- (1) The Welsh Ministers may make one or more orders for the purpose of furthering the conservation objectives stated for an MCZ in Wales.
- (2) An order under this section may be made so as to apply to any area in Wales.
- (3) Subsections (3), (4) and (7) to (9) of section 129 apply in relation to an order under this section as they apply in relation to a byelaw under that section.
- (4) An order under this section may provide for the Welsh Ministers to issue permits authorising anything which would, apart from such a permit, be unlawful under the order.
- (5) The Welsh Ministers may attach to a permit under subsection (4) any condition which the Welsh Ministers think appropriate to attach to that permit.
- (6) An order under this section may be made in respect of more than one MCZ; and in relation to any order so made any reference in this section (or in section 129 as applied by this section) to an MCZ is a reference to any or all of the MCZs in respect of which the order is made.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

Commencement Information

- I32** S. 134 partly in force; s. 134 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 134 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I33** S. 134 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

135 Consultation etc regarding orders under section 134

- (1) Before making an order under section 134, the Welsh Ministers must consult—
 - (a) the Secretary of State, and
 - (b) any other person whom they think fit to consult.
- (2) The Welsh Ministers must publish notice of the making of an order under section 134.
- (3) The notice under subsection (2) must—
 - (a) be published in such manner as the Welsh Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected.
- (4) Where the Welsh Ministers think that there is an urgent need to make an order under section 134 in order to protect an MCZ—
 - (a) subsection (1) does not apply, and
 - (b) the notice under subsection (2) must also state that any person affected by the making of the order may make representations to the Welsh Ministers.

Commencement Information

- I34** S. 135 partly in force; s. 135 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I35** S. 135 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

136 Interim orders

- (1) The Welsh Ministers may make one or more orders for the purpose of protecting any feature in an area in Wales if they think—
 - (a) that there are or may be reasons to consider whether to designate the area as an MCZ, and
 - (b) that there is an urgent need to protect the feature.
- (2) In this Chapter “interim order” means an order under subsection (1).
- (3) An interim order must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question).
- (4) Subsections (2) to (5) of section 134 apply to an interim order as they apply to an order under that section, except that any reference to an MCZ is to be read as a reference to the area to which the interim order applies.
- (5) An interim order—
 - (a) comes into force on a date specified in the order, and

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- (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (6) The Welsh Ministers must publish notice of the making of an interim order.
- (7) The notice under subsection (6) must—
 - (a) be published in such manner as the Welsh Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected;
 - (c) state that any person affected by the making of the order may make representations to the Welsh Ministers.
- (8) The Welsh Ministers must keep under review the need for an interim order to remain in force.
- (9) The Welsh Ministers may by further order extend the period for which an interim order remains in force.
- (10) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.

Commencement Information

- I36** S. 136 partly in force; s. 136 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 136 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I37** S. 136 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

137 Further provision as to orders made under section 134 or 136

- (1) This section applies to any order made under section 134 or 136.
- (2) The Welsh Ministers must send a copy of any order to which this section applies to the Secretary of State.
- (3) The Welsh Ministers must—
 - (a) make a copy of any order to which this section applies available for inspection at such place as they think fit for that purpose at all reasonable hours without payment;
 - (b) provide a copy of any such order to any person who requests one.
- (4) Subject to subsection (5), an order to which this section applies may make such provision amending, modifying or excluding any statutory provision of local application which has effect in the area to which the order relates as the Welsh Ministers think is necessary or expedient in consequence of the order.
- (5) An order to which this section applies may not amend, modify or exclude any statutory provision of local application which was made by the Secretary of State unless the Secretary of State consents.
- (6) An order to which this section applies may be amended or revoked by a further order.
- (7) In this section “statutory provision” means—
 - (a) provision of an Act of Parliament, or

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

- (b) provision of an instrument made under an Act of Parliament.

Commencement Information

- I38** S. 137 partly in force; s. 137 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 137 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I39 S. 137 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

Hearings

138 Hearings by Secretary of State or Welsh Ministers

- (1) This section applies where the Secretary of State has the function of—
- (a) deciding (under section 130(8)) whether to confirm a byelaw made under section 129;
 - (b) deciding (under section 131(5)) whether to revoke an emergency byelaw;
 - (c) deciding (under section 132(8)) whether to revoke an interim byelaw.
- (2) This section also applies where the Welsh Ministers have the function of—
- (a) deciding whether to make an order under section 134;
 - (b) deciding whether to make an interim order under section 136(1).
- (3) The Secretary of State or (as the case may be) the Welsh Ministers may, before making that decision, give to any person the opportunity of—
- (a) appearing before and being heard by a person appointed for that purpose;
 - (b) providing written representations to such a person.
- (4) The Secretary of State or (as the case may be) the Welsh Ministers may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (3).
- (5) A person appointed under subsection (3) must make a report to the Secretary of State or (as the case may be) the Welsh Ministers of any oral or written representations made under that subsection.

Commencement Information

- I40** S. 138 partly in force; s. 138 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 138 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I41 S. 138 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

Offences

139 Offence of contravening byelaws or orders

- (1) It is an offence for a person to contravene—
- (a) any byelaw made under section 129 or 132(1);
 - (b) any order made under section 134 or 136(1).

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

- (2) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) In this section “contravene” includes fail to comply.
- (4) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of England and Wales.

Commencement Information

I42 S. 139 partly in force; s. 139 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

I43 S. 139 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

140 Offence of damaging etc protected features of MCZs

- (1) A person is guilty of an offence under this section if—
 - (a) the person without lawful excuse does a prohibited act,
 - (b) at the time of doing that act, the person knows, or ought to have known, that the feature to which the act relates is in, or forms part of, an MCZ, and
 - (c) the act has significantly hindered, or may significantly hinder, the achievement of the conservation objectives stated for the MCZ.
- (2) For the purposes of subsection (1), a person does a prohibited act if the person—
 - (a) intentionally or recklessly kills or injures any animal in an MCZ which is a protected feature of that MCZ,
 - (b) intentionally picks or collects, or intentionally or recklessly cuts, uproots or destroys, any plant in an MCZ which is a protected feature of that MCZ,
 - (c) intentionally or recklessly takes anything from an MCZ which is, or forms part of, a protected feature of that MCZ, or
 - (d) intentionally or recklessly destroys or damages any habitat or feature which is a protected feature of an MCZ.
- (3) For the purposes of determining whether anything done by a person in relation to a protected feature is a prohibited act for the purposes of subsection (1), it is immaterial whether the person knew, or ought to have known, that the feature was a protected feature.
- (4) A person who is guilty of an offence under this section is liable—
 - (a) on summary conviction, to [^{F9}a fine not exceeding £50,000][^{F9}a fine];
 - (b) on conviction on indictment, to a fine.
- (5) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.
- (6) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.

Status: Point in time view as at 19/06/2020.

Changes to legislation: Marine and Coastal Access Act 2009, Part 5 is up to date with all changes known to be in force on or before 22 August 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)

Textual Amendments

- F9** Words in s. 140(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 43\(6\)](#) (with reg. 5(1))

Commencement Information

- I44** S. 140 partly in force; s. 140 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I45 S. 140 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

141 Exceptions to offences under section 139 or 140

- (1) A person is not guilty of an offence under section 139 or 140 if the act which is alleged to constitute the offence—
- (a) was done in accordance with section 125(2) by a public authority;
 - (b) was expressly authorised by an authorisation granted in accordance with section 126, or was necessarily incidental to such an act;
 - (c) was done in accordance with—
 - (i) a permit issued under section 129(5) or 134(4), or
 - (ii) a permit issued by the appropriate authority;
 - (d) was necessary in the interests of national security or the prevention or detection of crime, or was necessary for securing public health;
 - (e) was necessary for the purpose of securing the safety of any vessel, aircraft or marine installation;
 - (f) was done for the purpose of saving life.
- (2) Subsection (1)(e) does not apply where the necessity was due to the fault of the person or of some other person acting under the person's direction or control.
- (3) A person is not guilty of an offence under section 139 by reason of doing anything that is an offence under section 140.
- (4) It is a defence for a person who is charged with an offence under section 140 to show that—
- (a) the act which is alleged to constitute the offence was—
 - (i) an act done for the purpose of, and in the course of, sea fishing, or
 - (ii) an act done in connection with such an act,and
 - (b) the effect of the act on the protected feature in question could not reasonably have been avoided.
- (5) The Secretary of State may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (4).
- (6) Until the coming into force of the first Order in Council made under section 41 (the exclusive economic zone), nothing in section 140 applies to anything done in relation to an MCZ lying beyond the seaward limits of the territorial sea by a person on a third country vessel.
- (7) In this section—
“act” includes omission;

Status: Point in time view as at 19/06/2020.

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- “third country vessel” means a vessel which—
- (a) is flying the flag of, or is registered in, any State or territory (other than Gibraltar) which is not a member State, and
 - (b) is not registered in a member State.

Commencement Information

- I46** S. 141 partly in force; s. 141 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 141 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I47** S. 141 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

Fixed monetary penalties

142 Fixed monetary penalties

- (1) The appropriate authority for any area (other than the Scottish offshore region) may by order make provision to confer on any enforcement authority for that area the power by notice to impose a fixed monetary penalty on a person in relation to an offence under section 139.
- (2) Provision under this section may only confer such a power in relation to a case where the enforcement authority is satisfied beyond reasonable doubt that the person has committed the offence.
- (3) For the purposes of this Chapter a “fixed monetary penalty” is a requirement to pay to the enforcement authority a penalty of a prescribed amount.
- (4) The amount of the fixed monetary penalty that may be imposed in relation to an offence may not exceed level 1 on the standard scale.
- (5) In this section “prescribed” means prescribed in an order made under this section.

Commencement Information

- I48** S. 142 partly in force; s. 142 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 142 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I49** S. 142 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

143 Fixed monetary penalties: procedure

- (1) Provision under section 142 must secure the results in subsection (2).
- (2) Those results are that—
 - (a) where the enforcement authority proposes to impose a fixed monetary penalty on a person, the authority must serve on that person a notice of what is proposed (a “notice of intent”) which complies with subsection (3),
 - (b) the notice of intent also offers the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of a prescribed sum (which must be less than or equal to the amount of the penalty),
 - (c) if the person does not so discharge liability—

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- (i) the person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty, and
 - (ii) the enforcement authority must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty,
 - (d) where the enforcement authority decides to impose the fixed monetary penalty, the notice imposing it (“the final notice”) complies with subsection (5), and
 - (e) the person on whom a fixed monetary penalty is imposed may appeal against the decision to impose it.
- (3) To comply with this subsection the notice of intent must include information as to—
- (a) the grounds for the proposal to impose the fixed monetary penalty,
 - (b) the effect of payment of the sum referred to in subsection (2)(b),
 - (c) the right to make representations and objections,
 - (d) the circumstances in which the enforcement authority may not impose the fixed monetary penalty,
 - (e) the period within which liability to the fixed monetary penalty may be discharged, which must not exceed the period of 28 days beginning with the day on which the notice of intent is received, and
 - (f) the period within which representations and objections may be made, which must not exceed the period of 28 days beginning with the day on which the notice of intent is received.
- (4) Provision pursuant to subsection (2)(c)(ii)—
- (a) must secure that the enforcement authority may not decide to impose a fixed monetary penalty on a person where the authority is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence in relation to which the penalty is proposed to be imposed, and
 - (b) may include provision for other circumstances in which the enforcement authority may not decide to impose a fixed monetary penalty.
- (5) To comply with this subsection the final notice referred to in subsection (2)(d) must include information as to—
- (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment must be made,
 - (d) any early payment discounts or late payment penalties,
 - (e) rights of appeal, and
 - (f) the consequences of non-payment.
- (6) Provision pursuant to subsection (2)(e) must secure that the grounds on which a person may appeal against a decision of the enforcement authority include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (7) In this section “prescribed” means prescribed in an order made under section 142.

Status: Point in time view as at 19/06/2020.

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Commencement Information

- I50** S. 143 partly in force; s. 143 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 143 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I51** S. 143 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

144 Further provision about fixed monetary penalties

Schedule 10 (which makes further provision about fixed monetary penalties) has effect.

Commencement Information

- I52** S. 144 partly in force; s. 144 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I53** S. 144 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

Miscellaneous and supplemental

145 Application to the Crown

- (1) This Chapter is binding on the Crown and applies in relation to any Crown land as it applies in relation to any other land.

This is subject to subsection (2).

- (2) No contravention by the Crown of any provision of this Chapter is to make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may, on the application of the appropriate authority or any other authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), the provisions of this Chapter apply to persons in the public service of the Crown as they apply to other persons.
- (4) For the purposes of this section “Crown land” means land an interest in which—
- (a) belongs to Her Majesty in right of the Crown or in right of Her private estates,
 - (b) belongs to Her Majesty in right of the Duchy of Lancaster,
 - (c) belongs to the Duchy of Cornwall, or
 - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (5) In this section references to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

Commencement Information

- I54** S. 145 partly in force; s. 145 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I55** S. 145 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

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146 Consequential and transitional provision

- (1) Schedule 11 (which makes consequential amendments) has effect.
- (2) Schedule 12 (which makes transitional provision) has effect.

Commencement Information

- I56** S. 146 partly in force; s. 146 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
I57 S. 146 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

147 Interpretation of this Chapter

- (1) In this Chapter—

“animal” includes any egg, larva, pupa, or other immature stage of an animal;

“appropriate authority” has the meaning given by section 116(5);

“the appropriate statutory conservation body” means—

- (a) in respect of an area in England, Natural England,
- (b) in respect of an area in Wales, [^{F10}the Natural Resources Body for Wales],
- (c) in respect of an area outside the seaward limits of the territorial sea, the Joint Nature Conservation Committee;

“emergency byelaw” has the meaning given by section 131;

“enforcement authority” means, in relation to any area, any authority which has a function (whether or not statutory) of taking any action with a view to or in connection with the imposition of any sanction, criminal or otherwise, in a case where an offence under this Chapter is committed in that area;

“England” includes the English inshore region;

“interim byelaw” means a byelaw made under section 132(1);

“interim order” means an order made under section 136(1);

“marine installation” means any artificial island, installation or structure;

“MCZ” means a marine conservation zone designated by an order under section 116;

“protected feature”, in relation to an MCZ or proposed MCZ, means any flora, fauna, habitat or feature which is sought to be conserved by the making of the order designating the zone;

“sea” has the meaning given by section 322(1), except that it does not include any waters upstream of the fresh-water limit of estuarial waters;

“seashore” means—

- (a) the foreshore, that is to say, land which is covered and uncovered by the ordinary movement of the tide, and
- (b) any land, whether or not covered intermittently by water, which is in apparent continuity (determined by reference to the physical characteristics of that land) with the foreshore, as far landward as any natural or artificial break in that continuity;

“vehicles” includes—

- (a) bicycles and other non-motorised forms of transport, and
- (b) hovercraft;

“vessels” includes—

Status: Point in time view as at 19/06/2020.

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- (a) hovercraft,
 - (b) aircraft capable of landing on water, and
 - (c) any other craft capable of travelling on, in or under water, whether or not capable of carrying any person;
- “Wales” includes the Welsh inshore region.

- (2) In the definition of “sea” in subsection (1) “estuarial waters” means any waters within the limits of transitional waters, within the meaning of the Water Framework Directive (that is to say, Directive [2000/60/EC](#) of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy).

Textual Amendments

F10 Words in s. 147(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 443** (with Sch. 7)

Commencement Information

I58 S. 147 partly in force; s. 147 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)

I59 S. 147 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

CHAPTER 2

OTHER CONSERVATION SITES

148 Marine boundaries of SSSIs and national nature reserves

Schedule 13 (which amends the Wildlife and Countryside Act 1981 (c. 69) in relation to sites of special scientific interest and national nature reserves) has effect.

Commencement Information

I60 S. 148 partly in force; s. 148 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(ii)

I61 S. 148 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

Status:

Point in time view as at 19/06/2020.

Changes to legislation:

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