



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 5 **U.K.**

#### NATURE CONSERVATION

### CHAPTER 1 **U.K.**

#### MARINE CONSERVATION ZONES <sup>[F1]</sup> AND MANAGEMENT OF SEA FISHERIES]

*Orders for <sup>[F1]</sup>marine conservation: Wales and the Welsh offshore region]*

#### Textual Amendments

- F1** Words in s. 134 cross-heading substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\), s. 54\(4\)\(d\), Sch. 10 para. 16](#) (with [Sch. 4 para. 31](#))

#### **134 Orders for protection of MCZs in Wales **U.K.****

- (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.

*Status: Point in time view as at 23/01/2021.*

**Changes to legislation:** *Marine and Coastal Access Act 2009, Cross Heading: Orders for marine conservation: Wales and the Welsh offshore region is up to date with all changes known to be in force on or before 19 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) 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.

**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)

**Commencement Information**

- I1** 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)
- I2** S. 134 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), art. 2(b)

**[<sup>F2</sup>134A Orders relating to exploitation of sea fisheries resources: Wales U.K.**

- (1) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in Wales for the purposes of conserving—
- (a) marine flora or fauna, or
  - (b) marine habitats or types of marine habitat.
- (2) An order under this section may be made so as to apply to any area in Wales.
- (3) An order under this section must specify the flora or fauna, or habitat or type of habitat, for the conservation of which the order is made.
- (4) The provision that may be made by an order under this section includes provision that prohibits, restricts or otherwise interferes with the exercise of—
- (a) a right of several fishery;
  - (b) any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent or by prescription or immemorial usage.
- (5) But the Welsh Ministers may make an order that prohibits, or significantly restricts or interferes with, a right referred to in subsection (4), only if the person who enjoys the right consents.
- (6) Subsection (5) does not apply in relation to the exercise of such a right in relation to—
- (a) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981,
  - (b) a national nature reserve declared in accordance with section 35 of that Act,
  - (c) a Ramsar site, within the meaning of section 37A of that Act,
  - (d) a European marine site, within the meaning of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), or
  - (e) an MCZ.
- (7) See also section 134C (supplementary).

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#### Textual Amendments

**F2** Ss. 134A-134C inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 17** (with [Sch. 4 para. 31](#))

### **134B Orders relating to exploitation of sea fisheries resources: Welsh offshore region** **U.K.**

- (1) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Welsh offshore region for the purposes of conserving—
  - (a) marine flora or fauna,
  - (b) marine habitats or types of marine habitat, or
  - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Welsh offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) See also section 134C (supplementary).

#### Textual Amendments

**F2** Ss. 134A-134C inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 17** (with [Sch. 4 para. 31](#))

### **134C Orders under sections 134A and 134B: supplementary** **U.K.**

- (1) The provision that may be made by an order under section 134A or 134B includes, in particular, provision falling within any of the Heads set out in subsections (2) to (4).
- (2) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
  - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
  - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
  - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (3) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Welsh Ministers, including—
  - (a) provision for the charging of fees for permits;
  - (b) provision enabling conditions to be attached to a permit;
  - (c) provision enabling the Welsh Ministers to limit the number of permits issued by them.
- (4) Head 3 is—
  - (a) provision prohibiting or restricting the use of vessels of specified descriptions;

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- (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
  - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
  - (d) provision for determining whether such items are items of a specified description.
- (5) An order under section 134A or 134B may be made—
- (a) subject to specified exceptions or conditions;
  - (b) so as to cease to have effect after a specified period.
- (6) An order under section 134A or 134B may make different provision for different cases, including in particular—
- (a) different times of the year,
  - (b) different means or methods of carrying out an activity, and
  - (c) different descriptions of sea fisheries resources.
- (7) In this section “specified” means specified in the order.]

#### Textual Amendments

**F2** Ss. 134A-134C inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), [Sch. 10 para. 17](#) (with [Sch. 4 para. 31](#))

### 135 Consultation etc regarding orders under section 134 <sup>[F3]</sup>, 134A or 134B] **U.K.**

- (1) Before making an order under section 134 <sup>[F4]</sup> or 134A], the Welsh Ministers must consult—
- (a) the Secretary of State, and
  - (b) any other person whom they think fit to consult.
- <sup>[F5]</sup>(1A) Before making an order under section 134B the Welsh Ministers must—
- (a) consult the Secretary of State,
  - (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO,
  - (c) if the order would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, consult the Scottish Ministers,
  - (d) if the order would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and
  - (e) consult 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 <sup>[F6]</sup>, 134A or 134B].
- (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.

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- (4) Where the Welsh Ministers think that there is an urgent need to make an order under section 134 [F7, 134A or 134B]—
- [F8(a) subsections (1) and (1A) do not apply in relation to the making of that order, 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.

#### Textual Amendments

- F3** Words in s. 135 heading inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 18(2)** (with [Sch. 4 para. 31](#))
- F4** Words in s. 135(1) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 18(3)** (with [Sch. 4 para. 31](#))
- F5** S. 135(1A) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 18(4)** (with [Sch. 4 para. 31](#))
- F6** Words in s. 135(2) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 18(5)** (with [Sch. 4 para. 31](#))
- F7** Words in s. 135(4) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 18(6)(a)** (with [Sch. 4 para. 31](#))
- F8** S. 135(4)(a) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 18(6)(b)** (with [Sch. 4 para. 31](#))

#### Commencement Information

- I3** S. 135 partly in force; s. 135 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I4** 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 **U.K.**

- (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.

[F9(1A) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Welsh offshore region for the purpose of protecting any feature in an area in that region 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) [F10 or (1A)].
- (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 [F11 an order made under subsection (1)] 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.

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- [<sup>F12</sup>(4A) Section 134C applies to an order made under subsection (1A) as it applies to an order made under section 134A or 134B.]
- (5) An interim order—
    - (a) comes into force on a date specified in the order, and
    - (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.

#### Textual Amendments

- F9** S. 136(1A) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 19(2)** (with [Sch. 4 para. 31](#))
- F10** Words in s. 136(2) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 19(3)** (with [Sch. 4 para. 31](#))
- F11** Words in s. 136(4) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 19(4)** (with [Sch. 4 para. 31](#))
- F12** S. 136(4A) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 19(5)** (with [Sch. 4 para. 31](#))

#### Commencement Information

- I5** 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)
- I6** 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 [<sup>F13</sup>134A, 134B] or 136 **U.K.**

- (1) This section applies to any order made under section 134 [<sup>F14</sup>, 134A, 134B or 136(1) or (1A)].
- (2) The Welsh Ministers must send a copy of any order to which this section applies to the Secretary of State [<sup>F15</sup>and (in the case of an order under section 134B) to any person consulted under section 135(1A)].

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

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#### Textual Amendments

- F13** Words in s. 137 heading inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 20(2)** (with [Sch. 4 para. 31](#))
- F14** Words in s. 137(1) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 20(3)** (with [Sch. 4 para. 31](#))
- F15** Words in s. 137(2) inserted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 20(4)** (with [Sch. 4 para. 31](#))
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#### Commencement Information

- I7** 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)
- I8** S. 137 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

**Status:**

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**Changes to legislation:**

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