

**EXPLANATORY MEMORANDUM TO
THE ENGLISH COAST (ISLE OF WIGHT) ORDER 2014**

2014 No. 1940

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order is made under sections 300(2)(b) and (5) of the Marine and Coastal Access Act 2009 (“the 2009 Act”) and specifies that the coast of the Isle of Wight is now to be treated as part of the English coast for the purposes of the Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 A new right of access to the English coast is provided for in Part 9 of the 2009 Act. The 2009 Act amends both Part 4 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) to provide for the designation of a coastal long distance route, and Part 1 of the Countryside and Rights of Way Act 2000 (“the CROW Act”) to provide a right of access to the route and to coastal land linked to the route.

4.2 Section 300(2) of the 2009 Act states that an island is “excluded” unless it is either an “accessible island” or an island specified by the Secretary of State by Order. The 2009 Act defines an island as “accessible” if it is possible to walk to that island from the mainland of England (or from another “accessible island”) across the foreshore or by means of a bridge, tunnel or causeway, even if it is only possible to walk to the island at certain times, or during certain periods, only. The Isle of Wight is not an “accessible island”, and so is only capable of not being “excluded” if it is specified in an Order.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales (given the effect of section 323 of the 2009 Act), though it has practical application only in relation to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Part 9 of the 2009 Act aims to improve public access to and enjoyment of the English coastline, providing secure and consistent rights for people to enjoy the coast with confidence and certainty. It will do this by making a coastal margin available for access around the coast of England. Within this margin people will be able to walk along the length of the English coast (subject to some exceptions), and in addition will have access to wider areas of suitable coastal land such as beaches, cliffs, rocks and dunes, for open-air recreation on foot.

7.2 The coastal access duty under section 296 of the 2009 Act may be applied in relation to the Isle of Wight by means of an Order made by the Secretary of State under section 300(2)(b) of that Act provided the Secretary of State is satisfied “that the coast of the island is of sufficient length to enable the establishment of one or more long-distance routes along its length capable of affording the public an extensive journey on foot” (see section 300(5) of the 2009 Act). The Isle of Wight has a coastline of about 70 miles, and the Secretary of State considers that this condition as to the length of the coast is satisfied.

7.3 The new right of coastal access under the 2009 Act was first implemented on a stretch of the English coast at Weymouth Bay on 29 June 2012. The right of access also came into effect on 11 April 2014 for a stretch of the coast in Durham, Hartlepool and Sunderland and for a stretch of the coast in Cumbria. In addition Natural England is working on delivering coastal access on further stretches around the English coast as part of a medium-term plan over the next 5 - 7 years. Natural England is aiming to deliver coastal access on 1,930 km of the English coast (about 40% of the total) over the next years up to 2020/21.

7.4 Natural England will develop future proposals for the next stretches of the English coast including the Isle of Wight in accordance with the prioritisation criteria set out in the Coastal Access Scheme which sets out the approach Natural England will take in discharging its coastal access duty under the 2009 Act.

8. Consultation outcome

8.1 On 11 December 2013 the Department for Environment, Food and Rural Affairs published a consultation which sought views on whether the Government should make an Order so that the coastal access duty under the 2009 Act would apply in relation to the coast of the Isle of Wight. The 6 week consultation ran to 24 January 2014. This followed a similar consultation published by the Department in 2012.

8.2 A total of 2,958 responses to the consultation were received from organisations (71) and individuals (2,887) including 2,557 emails made in response to a campaign emanating from the Ramblers. Of the total number of respondents 2,904 (98% of the total number) said that they supported the making of an Order with 42 respondents (1.4% of the total) saying that they did not.

8.3 A summary of the consultation responses is available at <https://www.gov.uk/government/consultations/coastal-access-isle-of-wight>

9. Guidance

9.1 Natural England will develop proposals for a coastal route on the Isle of Wight in accordance with the Coastal Access Scheme which sets out the approach it will take in discharging its coastal access duty under the 2009 Act. The Scheme was first approved by the Secretary of State in March 2010. A revised Scheme was approved by the Secretary of State in July 2013 and laid before Parliament.

10. Impact

10.1 A separate Impact Assessment has not been prepared in respect of this Order because the assumptions underlying the Order were reflected in the Impact Assessment which was prepared for the 2009 Act. The Impact Assessment is available at <http://archive.defra.gov.uk/environment/marine/documents/legislation/marine-ia-0410.pdf>

11. Regulating small business

11.1 The 2009 Act applies to any small business whose land or premises falls within the coastal margin on the Isle of Wight. Although no special provision has been made for small business there will be some costs where the business may be affected by the route, including costs where the business participates in Natural England's consultation on the line of the route.

12. Monitoring & review

12.1 The 2009 Act and the Coastal Access Scheme include a detailed procedure for consultation by Natural England with owners, local authorities and local organisations on its proposals for a coastal route and coastal margin for a stretch of the English coast. Following consultation on its proposals for the Isle of Wight Natural England will submit a coastal access report to the Secretary of State on a proposed route on which representations may be made. In addition those people with a relevant interest in the land - as set out in section 55J of the 1949 Act (inserted by section 302 of the 2009 Act) – will be able to make an objection to Natural England's report. An objection will be then referred to an "appointed person" (Schedule 1A to the 1949 Act, as inserted by Schedule 19 to the 2009 Act) who will consider the objection and make a report and recommendations to the Secretary of State.

12.2 Once Natural England's coastal access report has been approved by the Secretary of State, in the light of the report and any recommendations made by the "appointed person", the right of access for that stretch of the English coast will come into effect on an appointed date by way of an Order made by the Secretary of State under section 3A(10) of the CROW Act (inserted by section 303(5) of the 2009 Act).

13. Contact

Richard Hepburn at the Department for Environment, Food and Rural Affairs, Tel: 0117 372 3553 or email: richard.hepburn@defra.gsi.gov.uk can answer any queries regarding the order.