



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 1

#### THE MARINE MANAGEMENT ORGANISATION

### CHAPTER 2

#### TRANSFER OF FUNCTIONS TO THE MMO

##### *Sea Fish (Conservation) Act 1967*

#### **4 Licensing of fishing boats**

- (1) The Secretary of State's function of granting licences under section 4 of the [Sea Fish \(Conservation\) Act 1967 \(c. 84\)](#) (licensing of fishing boats) is transferred to the MMO.
- (2) In subsection (1)(a) of that section (power by order to prohibit fishing unless authorised by a licence granted by one of the Ministers) the reference to one of the Ministers is to be read as including a reference to the MMO instead of a reference to the Secretary of State.
- (3) In the following provisions of that section—
  - (a) subsection (6) (conditions of licence),
  - (b) subsection (7) (powers to require information),
  - (c) subsection (9) (power to vary, revoke or suspend a licence),
  - (d) subsection (10) (power to make a refund on variation, revocation or suspension),

any reference to the Minister granting a licence, or to the Minister who granted a licence, is to be read, in the case of licences granted or treated as granted by the Secretary of State or the MMO, as a reference to the MMO.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) In the application of subsection (8) of that section (power to issue limited number of licences) in relation to the licensing powers of the MMO under that section, the reference to the Ministers is to be read as a reference to the MMO.
- (5) In any orders made under that section, any reference which includes a reference to the Secretary of State is to be read, as respects any area where the MMO exercises functions under or by virtue of that section, as including instead a reference to the MMO.
- (6) After subsection (11) of that section insert—
- “(11A) As respects any function under this section, other than a function of making an order,—
- (a) the Marine Management Organisation may make arrangements for the function to be exercised on its behalf by the Scottish Ministers, and
- (b) the Scottish Ministers may make arrangements for the function to be exercised on their behalf by the Marine Management Organisation.
- An arrangement under this subsection does not affect a person’s responsibility for the exercise of the function.
- (11B) A person exercising a function on behalf of another by virtue of subsection (11A) above may charge that other such fees as the person considers reasonable in respect of the cost of doing so.”.
- (7) The grant, variation, revocation or suspension of a licence under that section by or on behalf of the Secretary of State before the coming into force of this section has effect as from the coming into force of this section as the grant, variation, revocation or suspension of the licence by the MMO.
- (8) Where a decision to grant, vary, revoke or suspend a licence under that section—
- (a) has been taken by or on behalf of the Secretary of State before the coming into force of this section, but
- (b) has not been notified in accordance with regulations under section 4B of the [Sea Fish \(Conservation\) Act 1967 \(c. 84\)](#),
- the decision has effect as from the coming into force of this section as a decision taken by the MMO.
- (9) Where, before the coming into force of this section, an application for a licence under section 4 of that Act, or for the variation of such a licence,—
- (a) has been made to the Secretary of State or a person acting on behalf of the Secretary of State, but
- (b) has not been determined or withdrawn,
- the application is to be treated as from the coming into force of this section as an application made to the MMO.

## 5 **Restrictions on time spent at sea: appeals**

In section 4AA(5) of the [Sea Fish \(Conservation\) Act 1967](#) (duty to vary licence to give effect to determination of tribunal on appeal) the reference to the Minister who granted the licence is to be read, in the case of licences granted or treated as granted by the Secretary of State or the MMO, as a reference to the MMO.

## 6 Trans-shipment licences for vessels

- (1) The Secretary of State’s function of granting licences under section 4A of the [Sea Fish \(Conservation\) Act 1967 \(c. 84\)](#) (licences for the receiving by a vessel of fish trans-shipped from another vessel) is transferred to the MMO.
- (2) In subsection (1) of that section (power by order to prohibit trans-shipping of fish unless authorised by a licence granted by one of the Ministers) the reference to one of the Ministers is to be read as including a reference to the MMO instead of a reference to the Secretary of State.
- (3) In the following provisions of that section—
  - (a) subsection (6) (conditions of licence),
  - (b) subsection (7) (powers to require information),
  - (c) subsection (10) (power to vary, revoke or suspend a licence),
  - (d) subsection (11) (power to make a refund on variation, revocation or suspension),any reference to the Minister granting a licence, or to the Minister who granted a licence, is to be read, in the case of licences granted or treated as granted by the Secretary of State or the MMO, as a reference to the MMO.
- (4) In the application of subsection (9) of that section (power to issue limited number of licences) in relation to the licensing powers of the MMO under that section, the reference to the Ministers is to be read as a reference to the MMO.
- (5) In any orders made under that section, any reference which includes a reference to the Secretary of State is to be read, as respects any area where the MMO exercises functions under or by virtue of that section, as including instead a reference to the MMO.
- (6) The grant, variation, revocation or suspension of a licence under that section by or on behalf of the Secretary of State before the coming into force of this section has effect as from the coming into force of this section as the grant, variation, revocation or suspension of the licence by the MMO.
- (7) Where a decision to grant, vary, revoke or suspend a licence under that section—
  - (a) has been taken by or on behalf of the Secretary of State before the coming into force of this section, but
  - (b) has not been notified in accordance with regulations under section 4B of the [Sea Fish \(Conservation\) Act 1967](#),the decision has effect as from the coming into force of this section as a decision taken by the MMO.
- (8) Where, before the coming into force of this section, an application for a licence under section 4A of that Act, or for the variation of such a licence,—
  - (a) has been made to the Secretary of State or a person acting on behalf of the Secretary of State, but
  - (b) has not been determined or withdrawn,the application is to be treated as from the coming into force of this section as an application made to the MMO.
- (9) The heading to the section is to be “Licensing of vessels receiving trans-shipped fish”.

---

*Status: This is the original version (as it was originally enacted).*

---

## 7 Regulations supplementary to sections 4 and 4A

In any regulations made under section 4B of the [Sea Fish \(Conservation\) Act 1967 \(c. 84\)](#) any reference to the Secretary of State, or which includes a reference to the Secretary of State, is to be read, in relation to the exercise by the MMO of functions under or by virtue of section 4 or 4A of that Act (licensing of fishing boats and trans-shipment licences for vessels), as a reference to the MMO or, as the case may be, as including instead a reference to the MMO.

## 8 Exemptions for operations for scientific and other purposes

- (1) The functions of the Secretary of State under subsections (1) to (4) of section 9 of the [Sea Fish \(Conservation\) Act 1967](#) (exemption of certain things done under the authority of one of the Ministers) are transferred to the MMO.
- (2) In that section, after subsection (6) insert—
  - “(6A) The Secretary of State may make regulations with respect to applications to the Marine Management Organisation for authority under this section.
  - (6B) The provision that may be made in any such regulations includes provision as to—
    - (a) the manner in which, and time before which, any such application is to be made, and
    - (b) the charging of a reasonable fee by the Marine Management Organisation for dealing with an application.
  - (6C) The power to make regulations under this section shall be exercisable by statutory instrument.
  - (6D) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) Any authority granted or treated as granted by the Secretary of State under that section before the coming into force of this section is to have effect as from the coming into force of this section as an authority granted by the MMO.

### *Nature conservation*

## 9 Licences to kill or take seals

- (1) The Secretary of State’s functions of granting and revoking licences under section 10 of the [Conservation of Seals Act 1970 \(c. 30\)](#) (power to grant licences) are transferred to the MMO.
- (2) Any licences—
  - (a) granted by the Secretary of State under that section before the coming into force of this section, and
  - (b) having effect in relation to the whole or any part of England or the English inshore region,
 are to have effect as from the coming into force of this section as licences granted by the MMO.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) Any application for a licence under that section in relation to the whole or any part of England or the English inshore region which was made, but not determined or withdrawn, before the coming into force of this section is to be treated as an application made to the MMO after the coming into force of this section.

## **10 Wildlife and Countryside Act 1981**

- (1) Section 16 of the [Wildlife and Countryside Act 1981 \(c. 69\)](#) (power to grant licences) is amended as follows.
- (2) After subsection (8) insert—
- “(8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), “the appropriate authority” means the Marine Management Organisation.”.
- (3) In subsection (9) (meaning of “the appropriate authority”) at the beginning insert “Except as provided by subsection (8A),”.
- (4) At the end of the section insert—
- “(12) In this section—
- (a) “the restricted English inshore region” means so much of the English inshore region as lies to seaward of mean low water mark;
- (b) “the English inshore region” has the meaning given by section 322 of the Marine and Coastal Access Act 2009.”.
- (5) To the extent that an application for a licence under section 16 of the [Wildlife and Countryside Act 1981](#) which was made, but not determined or withdrawn, before the coming into force of this section relates to the restricted English inshore region, the application is to be treated as an application made to the MMO after the coming into force of this section.

## **11 Sea Fisheries (Wildlife Conservation) Act 1992**

In section 1(1) of the [Sea Fisheries \(Wildlife Conservation\) Act 1992 \(c. 36\)](#) (conservation in the exercise of sea fisheries functions) after “the Minister or Ministers” insert “or the Marine Management Organisation”.

### *Generating and renewable energy installations*

## **12 Certain consents under section 36 of the Electricity Act 1989**

- (1) The electricity consent functions of the Secretary of State are transferred to the MMO.
- (2) The electricity consent functions are functions under any of the following sections of the Electricity Act—
- (a) section 36(1), (5) and (7) (giving consent for construction etc of generating stations, and prosecuting breaches of that requirement),
- (b) section 36A (making declarations extinguishing etc public rights of navigation), and
- (c) section 36B (duties in relation to navigation),

---

*Status: This is the original version (as it was originally enacted).*

---

so far as relating to any generating station that meets the requirements of subsections (3) and (4).

- (3) The generating station must be in waters which are subject to regulation under section 95 of the [Energy Act 2004 \(c. 20\)](#), other than—
  - (a) any area of Scottish waters, or
  - (b) any area of waters in a Scottish part of a Renewable Energy Zone.
- (4) The generating station must have a capacity such that the construction or extension of the generating station would not be a nationally significant infrastructure project (within the meaning given by sections 14 and 15 of the [Planning Act 2008 \(c. 29\)](#)).
- (5) In accordance with subsection (1), any reference in the following provisions to the Secretary of State is to be read, so far as relating to the exercise of an electricity consent function of the Secretary of State, as a reference to the MMO—
  - (a) Schedule 8 to the Electricity Act (procedure), except paragraphs 1(3), 2(3) and 3(1), and the modifications of paragraph 4 made by paragraph 7A(5)(a)(ii) and (b), of that Schedule;
  - (b) paragraph 1(2) of Schedule 9 to that Act (preservation of amenity);
  - (c) regulations 71 to 74 of the Conservation (Natural Habitats, &c) Regulations 1994 ([S.I. 1994/2716](#)) (adaptation of planning and other controls);
  - (d) the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 ([S.I. 2000/1927](#)).
- (6) Paragraph 1(4) of Schedule 8 to the Electricity Act (payment of sums into Consolidated Fund) does not apply to sums received by the MMO by virtue of this section.
- (7) In consequence of the provision made by this section, insert the subsection set out in subsection (8)—
  - (a) into section 36 of the Electricity Act, after subsection (1B) as subsection (1C), and
  - (b) into each of sections 36A and 36B of that Act, after subsection (1) as subsection (1A).
- (8) The subsection is—
 

“This section is subject to section 12 of the Marine and Coastal Access Act 2009 (which transfers certain functions of the Secretary of State to the Marine Management Organisation).”.
- (9) In this section “the Electricity Act” means the [Electricity Act 1989 \(c. 29\)](#).
- (10) In this section, the following expressions have the same meaning as in section 95 of the [Energy Act 2004](#)—
  - “Renewable Energy Zone”;
  - “Scottish part”, in relation to a Renewable Energy Zone;
  - “Scottish waters”.

### **13 Safety zones: functions under section 95 of the Energy Act 2004**

- (1) The functions of the Secretary of State specified in subsection (2) are transferred to the MMO.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) Those functions are any functions of the Secretary of State under section 95 of the [Energy Act 2004 \(c. 20\)](#) (safety zones around renewable energy installations), so far as relating to any renewable energy installation that meets the requirements of subsections (3) and (4).
- (3) The renewable energy installation must be in waters subject to regulation under section 95 of the [Energy Act 2004](#), other than—
  - (a) any area of Scottish waters, or
  - (b) any area of waters in a Scottish part of a Renewable Energy Zone.
- (4) The renewable energy installation must have a capacity such that the construction or extension of the installation would not be a nationally significant infrastructure project (within the meaning given by sections 14 and 15 of the [Planning Act 2008 \(c. 29\)](#)).
- (5) In accordance with subsection (1), any reference in the following provisions to the Secretary of State is to be read, so far as relating to the exercise of any function falling within subsection (2), as a reference to the MMO—
  - (a) section 95 of the [Energy Act 2004](#),
  - (b) Schedule 16 to that Act (procedure for declaring safety zones),but this is subject to the exceptions in subsection (6).
- (6) Those exceptions are the following provisions of Schedule 16 to the [Energy Act 2004](#) (which relate to regulations made by the Secretary of State)—
  - paragraph 3(2)(b);
  - in paragraph 4(1), the words preceding paragraph (a);
  - paragraph 4(1)(b);
  - paragraph 4(2);
  - paragraph 6(2)(b) and (6).
- (7) In section 95 of the [Energy Act 2004](#), after subsection (1) insert—

“(1A) This section is subject to section 13 of the Marine and Coastal Access Act 2009 (which transfers certain functions of the Secretary of State to the Marine Management Organisation).”.
- (8) In this section, the following expressions have the same meaning as in section 95 of the [Energy Act 2004](#)—
  - “renewable energy installation”;
  - “Renewable Energy Zone”;
  - “Scottish part”, in relation to a Renewable Energy Zone;
  - “Scottish waters”.