



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 1

THE MARINE MANAGEMENT ORGANISATION

CHAPTER 1

ESTABLISHMENT

1 The Marine Management Organisation

- (1) There is to be a body known as the Marine Management Organisation (“the MMO”).
- (2) The MMO is to have the functions conferred on it by or under this Act or any other enactment.
- (3) Schedule 1 contains further provisions about the MMO.
- (4) Schedule 2 contains minor and consequential amendments relating to the MMO.

2 General objective

- (1) It is the duty of the MMO to secure that the MMO functions are so exercised that the carrying on of activities by persons in the MMO’s area is managed, regulated or controlled—
 - (a) with the objective of making a contribution to the achievement of sustainable development (see subsections (2) and (4) to (11)),
 - (b) taking account of all relevant facts and matters (see subsection (3)), and
 - (c) in a manner which is consistent and co-ordinated (see subsection (12)).

Any reference in this Act to the MMO’s “general objective” is a reference to the duty imposed on the MMO by this subsection.

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- (2) In pursuit of its general objective, the MMO may take any action which it considers necessary or expedient for the purpose of furthering any social, economic or environmental purposes.
- (3) For the purposes of subsection (1)(b), the facts and matters that may be taken into account include each of the following—
- (a) scientific evidence, whether available to, or reasonably obtainable by, the MMO;
 - (b) other evidence so available or obtainable relating to the social, economic or environmental elements of sustainable development;
 - (c) such facts or matters not falling within paragraph (a) or (b) as the MMO may consider appropriate.

See also section 24 (powers of MMO in relation to research).

- (4) The Secretary of State is to give the MMO guidance as to the manner in which the MMO is to seek to secure that the contribution to the achievement of sustainable development mentioned in subsection (1)(a) is made (and see also section 38 (guidance)).
- (5) In preparing any such guidance the Secretary of State must take into consideration—
- (a) the functions of the MMO, and
 - (b) the resources available, or likely to be available, to the MMO.
- (6) A draft of any guidance proposed to be given under this section is to be laid before each House of Parliament.
- (7) Guidance is not to be given under this section until after the end of the period of 40 days beginning with—
- (a) the day on which a draft of the guidance is so laid, or
 - (b) if the draft is laid on different days, the later of the two days.
- (8) If, within that period, either House resolves that the guidance, the draft of which was laid before it, should not be given, the Secretary of State must not give that guidance.
- (9) In reckoning any period of 40 days for the purposes of subsection (7) or (8), no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
 - (b) both Houses are adjourned for more than four days.
- (10) The Secretary of State must publish, in such manner as the Secretary of State may determine, any guidance given to the MMO under this section.
- (11) The MMO must provide any person on request with a copy of the whole or any part of any such guidance.
- (12) In this section—
- “consistent and co-ordinated” includes taking into account the effect (if any) that decisions in respect of—
 - (a) any particular part of the MMO’s area, or
 - (b) the carrying on of any activity within that area,will have on any other part of that area or the carrying on of any other activity in that area;

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“evidence” includes predictions and other opinions resulting from the consideration of evidence by any person;

“the MMO’s area” means those parts of the UK marine area, or of the United Kingdom, where MMO functions are exercisable;

“MMO functions” means functions exercisable by or on behalf of the MMO.

3 Performance

- (1) The MMO is to use its best endeavours to meet such objectives as the Secretary of State may from time to time set with regard to the quality and effectiveness of its performance.
- (2) Subsection (6) of section 24 of the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#) (consultation) does not apply in relation to an order under subsection (2) of that section specifying regulatory functions of the MMO as functions to which sections 21 and 22 of that Act (principles and code of practice) apply.

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.
- (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

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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 transhipped from another vessel) is transferred to the MMO.

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- (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”.

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

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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.
- (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),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.

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- (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.
- (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—

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- (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”.

CHAPTER 3

AGREEMENTS INVOLVING THE MMO FOR THE EXERCISE OF FUNCTIONS

Powers to enter into agreements

14 Agreements between the Secretary of State and the MMO

- (1) The Secretary of State may enter into an agreement with the MMO authorising the MMO to perform any marine function of the Secretary of State—
- (a) either in relation to the UK marine area or in relation to specified parts of that area;
 - (b) subject to paragraph (a), either generally or in specified cases.
- “Specified” means specified in the agreement.

- (2) For the purposes of this Chapter, a “marine function” is any function which relates to, or whose exercise is capable of affecting, the whole or any part of the UK marine area.
- (3) For the purposes of this Chapter, any reference to a marine function of the Secretary of State includes a reference to a marine function exercisable by a person—
 - (a) authorised or appointed by the Secretary of State, or
 - (b) employed in the civil service of the State (but see subsection (4)).
- (4) For the purposes of subsection (3)(b), a person is not to be regarded as employed in the civil service of the State to the extent that the person is any of the following—
 - (a) the holder of an office in the Scottish Administration which is not a ministerial office (within the meaning of section 51 of the [Scotland Act 1998 \(c. 46\)](#));
 - (b) a member of the staff of the Scottish Administration (within the meaning of that section);
 - (c) a member of the staff of the Welsh Assembly Government (within the meaning of section 52 of the [Government of Wales Act 2006 \(c. 32\)](#)).
- (5) An agreement under this section—
 - (a) may be cancelled by the Secretary of State at any time, and
 - (b) does not prevent the Secretary of State from performing a function to which the agreement relates.
- (6) This section is subject to sections 17 and 18 (non-delegable functions and maximum duration of agreement).

15 Agreements between the MMO and eligible bodies

- (1) The MMO may, with the approval of the Secretary of State, enter into an agreement with an eligible body authorising the eligible body to perform any function of the MMO—
 - (a) either in relation to the UK marine area or in relation to specified parts of that area;
 - (b) subject to paragraph (a), either generally or in specified cases.
 “Specified” means specified in the agreement.
- (2) For the purposes of this Chapter, any reference to a function of the MMO includes a reference to a function exercisable by a person authorised, appointed or employed by the MMO.
- (3) The Secretary of State’s approval may be given—
 - (a) in relation to a particular agreement or in relation to a description of agreements;
 - (b) unconditionally or subject to conditions specified in the approval.
- (4) Subject to subsection (6), the Secretary of State—
 - (a) must review an agreement under this section no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and
 - (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (5) Subject to subsection (6), an agreement under this section may not be varied except—

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- (a) by agreement between the MMO and the eligible body, and
 - (b) with the approval of the Secretary of State.
- (6) An approval given under subsection (1) may provide that subsection (4) or (5) does not apply (or that both of them do not apply).
- (7) This section is subject to sections 17 and 18 (non-delegable functions and maximum duration of agreement).

16 Eligible bodies

- (1) In this Chapter “eligible body” means any body in the following list—
- (a) the Environment Agency;
 - (b) Natural England;
 - (c) any inshore fisheries and conservation authority;
 - (d) any local fisheries committee constituted by an order made, or having effect as if made, under section 1 of the [Sea Fisheries Regulation Act 1966 \(c. 38\)](#);
 - (e) any harbour authority.
- (2) The Secretary of State may by order amend subsection (1) so as to—
- (a) add any body or description of body to the list, or
 - (b) remove any body or description of body from it.
- (3) The Secretary of State may not exercise the power conferred by subsection (2)(a) unless satisfied that at least one of the purposes or functions of the body, or bodies of the description, to be added to the list is, or is related to or connected with, a marine function.
- (4) A body to be added to the list need not be a public body.

17 Non-delegable functions

- (1) An agreement may not authorise a body to which this section applies to perform a non-delegable function.
- (2) The bodies are—
- (a) the MMO;
 - (b) an eligible body.
- (3) The non-delegable functions are—
- (a) any function whose performance by the body would be incompatible with the purposes for which the body was established;
 - (b) any power of a Minister of the Crown to make or terminate appointments, other than appointments of persons for the purpose of enforcing any legislation other than this Act or subordinate legislation made under it;
 - (c) any power of a Minister of the Crown to lay reports or accounts;
 - (d) any power to make subordinate legislation, give directions or guidance or issue codes of practice (or to vary or revoke any of those things);
 - (e) any power to fix fees or charges, other than a power prescribed for the purposes of this section by an order made by the Secretary of State;
 - (f) any function of an accounting officer acting in that capacity;

- (g) except in relation to an agreement authorising a public body to perform functions—
 - (i) any power to enter, inspect, take samples or seize anything, and
 - (ii) any other power exercisable in connection with suspected offences;
- (h) any function of the Secretary of State under the [Water Industry Act 1991 \(c. 56\)](#) or under any subordinate legislation made under that Act.

18 Maximum duration of agreement

The maximum period for which an agreement may authorise the MMO or an eligible body to perform a function is 20 years.

Supplementary provisions

19 Particular powers

- (1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.
- (2) In subsection (3)—
 - “A” means the Secretary of State or the MMO;
 - “B” means—
 - (a) the MMO, if A is the Secretary of State;
 - (b) an eligible body, if A is the MMO.
- (3) A may, under an agreement, authorise B to perform a function even though, under the enactment or subordinate legislation conferring that function on A,—
 - (a) the function is conferred on A by reference to specified circumstances or cases and the same type of function is conferred on B in different specified circumstances or cases,
 - (b) the function is exercisable by A and B jointly,
 - (c) B is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or
 - (d) B is required to consent to the exercise of the function (whether generally or in specified circumstances).
- (4) An agreement may provide—
 - (a) for the performance of a function to be subject to the fulfilment of conditions;
 - (b) for payments to be made in respect of the performance of the function.
- (5) In the following provisions of this section “relevant body” means—
 - (a) the MMO;
 - (b) any eligible body.
- (6) A relevant body which is authorised under an agreement to perform a function—
 - (a) is to be treated as having power to do so;
 - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply,—
 - (i) authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf;

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- (ii) form a body corporate and authorise that body to perform the function on its behalf.
- (7) Where the eligible body is a harbour authority which is a local authority—
 - (a) subsection (6)(a) is subject to section 20(5), and
 - (b) section 20 applies in place of subsection (6)(b).
- (8) Subject to subsection (6)(b) and section 20, a relevant body which is authorised under an agreement to perform a function may not authorise any other body or person to perform that function.

20 Agreements with certain harbour authorities

- (1) This section applies where a harbour authority which is a local authority is authorised under an agreement to perform a function.
- (2) Subject to subsections (5) to (7), the function that the local authority is authorised to perform is to be treated as a function of the local authority for the purposes of—
 - (a) any power of a local authority to arrange for the discharge of the function jointly with another local authority (but only to the extent that each of the authorities is a harbour authority),
 - (b) any power of a local authority to arrange for the discharge of the function by any person mentioned in subsection (3), and
 - (c) any power of a person mentioned in subsection (3) to arrange for the discharge of a function by any other person mentioned there.
- (3) The persons are any committee, sub-committee, member, officer or employee of the local authority.
- (4) In subsection (3)—
 - (a) “committee” includes a joint committee of two or more local authorities which are harbour authorities and which include the local authority mentioned in subsection (1);
 - (b) “sub-committee” includes a sub-committee of any such joint committee;
 - (c) the reference to a member, officer or employee of the local authority includes a reference to a member, officer or employee of any local authority, or any of the local authorities, with which the local authority may have entered into arrangements for the joint discharge of functions which consist of or include functions which the local authority is authorised under an agreement to perform.
- (5) If the local authority is operating executive arrangements, the function is to be treated as a function of the local authority for the purposes of section 13 of the [Local Government Act 2000 \(c. 22\)](#) (provision for determining which functions of the authority are to be the responsibility of the executive and which are not).
- (6) If, in a case where the local authority is operating executive arrangements, the function is to any extent the responsibility of the executive of the local authority, then to that extent—
 - (a) subsection (2) does not apply, but
 - (b) the provisions mentioned in subsection (7) have effect.
- (7) The provisions are—

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- (a) sections 14 to 16 of the [Local Government Act 2000](#) (discharge of functions in the case of different types of executive arrangements);
 - (b) any regulations under section 17 or 18 of that Act (discharge of functions by executive of a type prescribed under section 11(5) of that Act, and discharge of functions by area committees);
 - (c) so far as relating to arrangements (including the appointment of joint committees) under section 101(5) of the [Local Government Act 1972 \(c. 70\)](#) which involve another local authority which is a harbour authority, any regulations under section 20 of the [Local Government Act 2000](#) (joint exercise of functions).
- (8) “Executive arrangements” and “executive” have the same meaning as in Part 2 of the [Local Government Act 2000](#).
- (9) An agreement may provide that the provisions of subsection (2) or those mentioned in subsection (7) do not apply (or do not apply to a specified extent).

21 Supplementary provisions with respect to agreements

- (1) An agreement, and any approval given by the Secretary of State under section 15, must be in writing.
- (2) The Secretary of State must arrange for a copy of an agreement to be published in a way that the Secretary of State thinks is suitable for bringing it to the attention of persons likely to be affected by it.
- (3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—
 - (a) requiring it to enter into an agreement;
 - (b) prohibiting it from entering into an agreement;
 - (c) requiring it to include, or prohibiting it from including, particular terms in an agreement;
 - (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of an agreement.
- (4) Schedule 15 to the [Deregulation and Contracting Out Act 1994 \(c. 40\)](#) (restrictions on disclosure of information) applies in relation to an authorisation by the MMO or an eligible body under this Chapter as it applies in relation to an authorisation under section 69 of that Act by an office-holder.

22 Interpretation of this Chapter

- (1) In sections 17 to 21 “agreement” means an agreement under section 14 or 15.
- (2) In this Chapter—
 - “eligible body” has the meaning given by section 16;
 - “local authority” means a local authority as defined in section 1(a) of the [Local Government Act 2000 \(c. 22\)](#);
 - “marine function” has the meaning given by section 14.

CHAPTER 4

MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

Applications for development consent

23 MMO’s role in relation to applications for development consent

- (1) The [Planning Act 2008 \(c. 29\)](#) is amended as set out in subsections (2) to (6).
- (2) In section 42 (duty to consult about proposed applications for orders granting development consent)—
 - (a) the existing provision is renumbered as subsection (1);
 - (b) in that subsection, after paragraph (a) insert—
 - “(aa) the Marine Management Organisation, in any case where the proposed development would affect, or would be likely to affect, any of the areas specified in subsection (2),”;
 - (c) after subsection (1) insert—
 - “(2) The areas are—
 - (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
 - (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
 - (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
 - (d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.”
- (3) In consequence of the amendments made by subsection (2) of this section—
 - (a) the heading to section 43 becomes “Local authorities for purposes of section 42(1)(b)”, and
 - (b) the heading to section 44 becomes “Categories for purposes of section 42(1)(d)”.
- (4) In section 55 (acceptance of applications), in subsection (5), in the definition of “local authority consultee”—
 - (a) for “section 42(b)” substitute “section 42(1)(b)”;
 - (b) for “section 42(c)” substitute “section 42(1)(c)”.
- (5) In section 56 (duty to notify persons of accepted applications)—
 - (a) in subsection (2), after paragraph (a) insert—
 - “(aa) the Marine Management Organisation, in any case where the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (2A),”;
 - (b) after subsection (2) insert—

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- “(2A) The areas are—
- (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
 - (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
 - (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
 - (d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.”
- (6) In section 102 (definition of “interested party” etc)—
- (a) in subsection (1), after paragraph (b) insert—
 - “(ba) the person is the Marine Management Organisation and the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (1A),”;
 - (b) after subsection (1) insert—
 - “(1A) The areas are—
 - (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
 - (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
 - (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
 - (d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.”
- (7) The Secretary of State must give guidance to the MMO as to the kind of representations which may be made by the MMO under—
- (a) Chapter 2 of Part 5 of the [Planning Act 2008 \(c. 29\)](#) (pre-application procedure), or
 - (b) Part 6 of that Act (deciding applications for orders granting development consent).

General powers and duties

24 Research

- (1) The MMO may (whether alone or with other bodies or persons)—
- (a) undertake research into any matter relating to its functions or its general objective, or

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- (b) commission or support (by financial means or otherwise) research into any such matter.
- (2) The MMO is to make the results of any such research available to any person on request.
- (3) Subsection (2) does not require the MMO to make available—
 - (a) any information that it could refuse to disclose in response to a request under—
 - (i) the [Freedom of Information Act 2000 \(c. 36\)](#), or
 - (ii) the Environmental Information Regulations 2004 (S.I. 2004/ 3391) or any regulations replacing those Regulations;
 - (b) any information whose disclosure is prohibited by any enactment.

25 Advice, assistance and training facilities

- (1) The MMO must provide the Secretary of State with such advice and assistance as the Secretary of State may request.
- (2) The MMO must, at the request of any public body, provide advice to that body on any matter which—
 - (a) is within the knowledge or experience of the MMO,
 - (b) relates to any of the functions of the MMO or to its general objective, and
 - (c) affects the performance by the public body of its functions.
- (3) The MMO may provide advice to any person on any matter relating to any of its functions or its general objective—
 - (a) at the request of that person, or
 - (b) if the MMO considers it appropriate to do so, on its own initiative.
- (4) The MMO may provide any person with—
 - (a) assistance, or
 - (b) the use of training facilities,as respects any matter of which the MMO has knowledge or experience.

26 Provision of information etc

- (1) The MMO may—
 - (a) publish documents or provide information about any matter relating to any of its functions or its general objective, or
 - (b) assist in the publication of such documents or the provision of such information.
- (2) Nothing in any other enactment imposing a duty or conferring a power on the MMO—
 - (a) to publish, or assist in the publication of, documents of a particular kind, or
 - (b) to provide, or assist in the provision of, information of a particular kind,is to be read as limiting the power conferred by subsection (1).

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27 Power to charge for services

- (1) The MMO may charge such fees in respect of the cost of providing its services as appear to it to be reasonable.
- (2) The fees that may be charged under this section include fees in respect of the cost of services provided by the MMO under any arrangements made between the MMO and the Welsh Ministers or a Northern Ireland department under—
 - (a) section 83 of the [Government of Wales Act 2006 \(c. 32\)](#), or
 - (b) section 28 of the [Northern Ireland Act 1998 \(c. 47\)](#).
- (3) For the purposes of this section, “services” includes, in particular, anything done under—
 - (a) section 2(11) (provision of copy of guidance);
 - (b) section 24(2) (making available the results of research);
 - (c) section 25(2), (3)(a) or (4) (advice, assistance and training facilities);
 - (d) section 26 (information).

28 Provision of information by the MMO to the Secretary of State

- (1) The MMO must provide the Secretary of State with all such information as the Secretary of State may reasonably require with respect to any of the following matters—
 - (a) the carrying out, or proposed carrying out, of the MMO’s functions;
 - (b) the MMO’s responsibilities generally.
- (2) Information required under this section is to be provided in such form and manner, and be accompanied or supplemented by such explanations, as the Secretary of State may require.
- (3) The information which the MMO may be required to provide under this section includes information which, although it is not in the possession of the MMO or would not otherwise come into the possession of the MMO, is information which it is reasonable to require the MMO to obtain.
- (4) A requirement for the purposes of this section—
 - (a) must be made in writing;
 - (b) may describe the information to be provided in such manner as the Secretary of State considers appropriate;
 - (c) may require the information to be provided on a particular occasion, in particular circumstances or from time to time.

29 Power to bring proceedings

- (1) The MMO may institute criminal proceedings in England, Wales or Northern Ireland.
- (2) The MMO may institute proceedings for the recovery of any monetary penalty imposed under this Act.
- (3) Subsection (2) is without prejudice to any other powers the MMO may have to institute proceedings.

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- (4) The MMO may designate under this subsection any of its employees who would not (apart from subsection (6)) be entitled to carry on, in relation to magistrates' court proceedings, an activity which constitutes—
- (a) the conduct of litigation, or
 - (b) the exercise of a right of audience falling within subsection (5).
- (5) The rights of audience are—
- (a) a right of audience in trials of summary offences;
 - (b) a right of audience in relation to any application for, or relating to, bail in criminal proceedings relating to a summary offence or an offence triable either way, unless (as matters stand at the time when the application is made) the offence is to be tried on indictment;
 - (c) a right of audience in relation to interlocutory applications and sentencing in proceedings relating to a summary offence or an offence triable either way;
 - (d) a right of audience in proceedings for the recovery of any sum of money.
- (6) Subject to any exceptions specified in the designation, a person designated under subsection (4) is entitled to carry on, in relation to magistrates' court proceedings, any activity specified in the designation which constitutes—
- (a) the conduct of litigation, or
 - (b) the exercise of a right of audience falling within subsection (5).
- (7) For the purposes of subsection (5), a trial—
- (a) begins with the opening of the prosecution case after the entry of a plea of not guilty, and
 - (b) ends with the conviction or acquittal of the accused.
- (8) In this section—
- “bail in criminal proceedings”—
 - (a) in relation to England and Wales, has the same meaning as in section 1 of the [Bail Act 1976 \(c. 63\)](#) (see subsection (1) of that section);
 - (b) in relation to Northern Ireland, means bail within the meaning of Part 2 of the Criminal Justice (Northern Ireland) Order 2003 ([S.I. 2003/1247 \(N.I. 13\)](#));
 - “conduct of litigation” has the meaning given by paragraph 4 of Schedule 2 to the [Legal Services Act 2007 \(c. 29\)](#);
 - “magistrates' court proceedings” means proceedings before a magistrates' court in England, Wales or Northern Ireland;
 - “right of audience” has the meaning given by paragraph 3 of Schedule 2 to the [Legal Services Act 2007](#).

30 Continuation of certain existing prosecutions

- (1) Any prosecution commenced by the Secretary of State before the appropriate commencement date—
- (a) for an offence in relation to any of the functions transferred to the MMO by or under Chapter 2 of this Part, or
 - (b) for an offence under the fisheries legislation (see subsections (2) and (3)),
- may be continued on or after that day by the MMO.

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- (2) In this section “the fisheries legislation” means—
- (a) any enactments relating to sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout (but see subsection (3));
 - (b) any enforceable EU restrictions and enforceable EU obligations relating to sea fishing.
- (3) “The fisheries legislation” does not include—
- (a) the [Salmon and Freshwater Fisheries Act 1975 \(c. 51\)](#);
 - (b) the [Salmon Act 1986 \(c. 62\)](#);
 - (c) byelaws made by the Environment Agency under Schedule 25 to the [Water Resources Act 1991 \(c. 57\)](#);
 - (d) the Scotland Act 1998 (Border Rivers) Order 1999 ([S.I. 1999/1746](#));
 - (e) byelaws made by an inshore fisheries and conservation authority under section 155.
- (4) In this section—
- “the appropriate commencement date” means—
- (a) in relation to an offence falling within paragraph (a) of subsection (1), the date on which the function to which the offence relates is transferred to the MMO;
 - (b) in relation to an offence falling within paragraph (b) of that subsection, the date on which section 1 comes into force;
- “enforceable EU obligation” means an obligation to which section 2(1) of the [European Communities Act 1972 \(c. 68\)](#) applies;
- “enforceable EU restriction” means a restriction to which section 2(1) of that Act applies.

31 Incidental powers

- (1) The MMO may do anything which appears to it to be incidental or conducive to the carrying out of its functions or the achievement of its general objective.
- (2) In particular, the MMO may—
- (a) enter into agreements;
 - (b) acquire or dispose of land or other property;
 - (c) subject to the restrictions imposed by sections 33 and 34, borrow money;
 - (d) subject to the approval of the Secretary of State, form bodies corporate or acquire or dispose of interests in bodies corporate;
 - (e) accept gifts;
 - (f) invest money.

Financial provisions

32 Grants

- (1) The Secretary of State may make payments by way of grant to the MMO.
- (2) Any payments under subsection (1) are to be—
- (a) of such amounts,

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- (b) at such times, and
 - (c) subject to such conditions (if any),
- as the Secretary of State may determine.

33 Borrowing powers

- (1) The MMO may borrow money, but only—
 - (a) in accordance with the following provisions of this section, and
 - (b) subject to section 34 (limit on borrowing).
- (2) The MMO may borrow such sums as it may require for meeting its obligations and carrying out its functions.
- (3) The MMO may borrow any such sums—
 - (a) from the Secretary of State, by way of loan, or
 - (b) from persons other than the Secretary of State, by way of overdraft or otherwise.
- (4) The MMO may borrow by virtue of subsection (3)(b) only if the Secretary of State consents.
- (5) Any consent under subsection (4) may be given subject to conditions.

34 Limit on borrowing

- (1) The aggregate amount outstanding in respect of the principal of sums borrowed by the MMO must not at any time exceed £20 million.
- (2) The Secretary of State may by order amend subsection (1) so as to substitute for the sum for the time being there specified such sum as may be specified in the order.
- (3) The sum specified in an order under subsection (2) must be a sum—
 - (a) greater than £20 million, but
 - (b) not greater than £80 million.
- (4) A statutory instrument containing an order under subsection (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

35 Government loans

- (1) The Secretary of State may lend money to the MMO.
- (2) A loan under this section may be made subject to such conditions as may be determined by, or in accordance with arrangements made by, the Secretary of State.
- (3) The conditions must include provision with respect to—
 - (a) repayment of the loan at such times, and by such methods, as the Secretary of State may from time to time determine, and
 - (b) payment of interest on the loan at such rates, and at such times, as the Secretary of State may from time to time determine.

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- (4) The Treasury may issue to the Secretary of State out of money provided by Parliament such sums as are necessary to enable the Secretary of State to make loans under this section.
- (5) The Secretary of State must, in respect of each financial year,—
 - (a) prepare an account of any sums lent or received in pursuance of this section during the year, and
 - (b) send that account to the Comptroller and Auditor General before the end of September in the following financial year.
- (6) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each account sent under subsection (5), and
 - (b) send a copy of the certified account and of the report to the Secretary of State as soon as possible;
 and the Secretary of State must lay before each House of Parliament a copy of the certified account and of the report.

36 Government guarantees

- (1) The Secretary of State may guarantee—
 - (a) the repayment of the principal of any sum borrowed by the MMO from a person other than the Secretary of State;
 - (b) the payment of interest on any such sum;
 - (c) the discharge of any other financial obligation in connection with any such sum.
- (2) A guarantee under subsection (1) may be given in such manner, and on such conditions, as the Secretary of State may think fit.
- (3) If a guarantee is given under subsection (1), the Secretary of State must lay a statement of the guarantee before each House of Parliament.
- (4) Where any sum is paid out for fulfilling a guarantee under this section, the Secretary of State must, as soon as reasonably practicable after the end of each financial year in the relevant period, lay before each House of Parliament a statement relating to that sum.
- (5) For the purposes of subsection (4), the relevant period is the period which—
 - (a) begins with the financial year in which the sum is paid out, and
 - (b) ends with the financial year in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- (6) If any sums are paid out in fulfilment of a guarantee under this section, the MMO must make to the Secretary of State—
 - (a) payments of such amounts as the Secretary of State may from time to time direct in or towards repayment of the sums so paid out, and
 - (b) payments of interest, at such rate as the Secretary of State may so direct, on what is outstanding for the time being in respect of sums so paid out.
- (7) Payments under subsection (6) are to be made—
 - (a) at such times, and
 - (b) in such manner,
 as the Secretary of State may from time to time direct.

Directions and guidance

37 Directions by the Secretary of State

- (1) The Secretary of State may give the MMO general or specific directions with respect to the exercise of any of the MMO's functions.
- (2) The Secretary of State may also give the MMO such general or specific directions as the Secretary of State considers appropriate for the implementation of any obligations of the United Kingdom under—
 - (a) the EU Treaties, or
 - (b) any international agreement to which the United Kingdom or the European Union is for the time being a party.
- (3) Before giving directions under this section, the Secretary of State must consult the MMO.
- (4) Consultation under subsection (3) is not required if the Secretary of State considers that there is an emergency.
- (5) The MMO must comply with any directions given to it under this section.
- (6) The Secretary of State must publish in the London Gazette notice of any directions given under this section.
- (7) The giving of any directions under this section must be publicised in such manner as the Secretary of State considers appropriate for the purpose of bringing the matters to which the directions relate to the attention of persons likely to be affected by them.
- (8) Copies of any directions given under this section are to be made available by the MMO to members of the public on payment of such reasonable fee as the MMO may determine.
- (9) Until the coming into force of Part 2 of the Schedule to the [European Union \(Amendment\) Act 2008 \(c. 7\)](#) the reference in subsection (2)(a) to the EU Treaties is to be read as a reference to the Community Treaties.

38 Guidance by the Secretary of State

- (1) The Secretary of State may give the MMO guidance with respect to the exercise of any of the MMO's functions.
- (2) The MMO must have regard to any guidance given to it under this Act by the Secretary of State.
- (3) Before giving any such guidance, the Secretary of State must consult—
 - (a) the MMO, and
 - (b) such other bodies or persons as the Secretary of State considers appropriate.

Transfer schemes etc

39 Transfer schemes

- (1) The Secretary of State may, in connection with the establishment of, or the transfer of any functions to, the MMO, make one or more schemes for the transfer to the MMO of designated property, rights or liabilities of any of the following—
 - (a) a Minister of the Crown,
 - (b) a government department,
 - (c) a statutory body.
- (2) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities of the MMO to any of the following—
 - (a) a Minister of the Crown,
 - (b) a government department,
 - (c) a statutory body.
- (3) In connection with the efficient management for public purposes of any property, rights or liabilities, the Secretary of State may at any time make one or more schemes for the transfer of—
 - (a) designated property, rights or liabilities of the Secretary of State to the MMO, or
 - (b) designated property, rights or liabilities of the MMO to the Secretary of State.
- (4) On the transfer date for any designated property, rights or liabilities, that property and those rights and liabilities are transferred and vest in accordance with the scheme.
- (5) In this section and Schedule 3—
 - “designated”, in relation to a scheme, means specified or described in, or determined in accordance with, the scheme;
 - “statutory body” means any body or person established by or under any enactment;
 - “transfer date”, in relation to any property, rights or liabilities, means a date specified by a scheme as the date on which the scheme is to have effect in relation to that property or those rights or liabilities.
- (6) Schedule 3 makes further provision relating to schemes under this section.

40 Interim arrangements

- (1) The Secretary of State may by notice require any of the following—
 - (a) a Minister of the Crown,
 - (b) a government department,
 - (c) a statutory body,to provide to the MMO on a temporary basis such staff, premises or other facilities as may be specified in the notice.
- (2) In this section “statutory body” means any body or person established by or under any enactment.