

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 3: Marine Planning

Chapter 2: Marine Plans

Section 49: Marine planning regions

153. This section identifies each of the component “regions” within the UK marine area for the purposes of identifying who will be responsible for planning in that region.

Section 50: Marine plan authorities

154. This section sets out which marine plan authorities are to have responsibility for the different regions of the UK marine area, as defined in section 49.
155. There is no marine plan authority under the Act for the Scottish inshore region or the Northern Ireland inshore region. That is because Scotland and Northern Ireland will be making their own provision for marine planning in those regions under their devolved legislative powers.

Section 51: Marine plans for marine plan areas

156. This section provides for the creation of marine plans, and sets out certain basic requirements as to their content and the way in which they are to be prepared.
157. *Subsection (1)* allows a marine plan authority to prepare marine plans for “marine plan areas” within its region.
158. *Subsection (2)* places a duty on marine plan authorities to seek to ensure that marine plans are prepared for all parts of regions where the MPS “governs marine planning” (see paragraph 162 below).
159. *Subsection (3)* defines a marine plan. Like the definition of an MPS in section 44, marine plans are defined by reference to who creates them, the process they must follow, and the content. *Subsection (3)* requires that marine plans must:
- be prepared and adopted by the marine plan authority for the marine planning region in which the marine plan area lies;
 - be prepared in accordance with the process set out in Schedule 6; and
 - state the marine plan authority’s policies for contributing to the sustainable development of the marine plan area.
160. *Subsection (5)* requires that a marine plan must identify the area to which it applies – this may be through a map or chart, or by other means.

161. *Subsection (6)* specifies that a marine plan must be in conformity with any MPS which “governs marine planning” for that marine plan area, unless relevant considerations indicate otherwise. Marine plans are intended to set out how the policies and objectives stated in the MPS apply at the local level, based on information about specific activities and processes taking place in that area. This ensures that there is a close link between the general policy in the MPS and how it is applied to specific situations in plans.
162. *Subsection (7)* explains when an MPS “governs marine planning”. The MPS must have been adopted by the policy authority which is also the marine plan authority for the marine planning region which includes the area of the plan, must not have been replaced or withdrawn and that policy authority must not have withdrawn from the plan.
163. *Subsection (8)* requires a marine plan prepared by a devolved administration to state whether it includes provision relating to “retained functions” (that is, powers and duties which have not been devolved: see section 60 for the meaning of these terms).
164. *Subsection (9)* provides that a marine plan may also contain supporting statements and information, and *subsection (10)* provides for any conflict between the policies in the marine plan and any supporting information to be resolved in favour of the plan. See the notes on section 44 above for further explanation.
165. *Subsection (11)* states that a marine plan comes into effect when it has been adopted and published in accordance with Schedule 6. Once a marine plan comes into effect in this way, it has a legal effect on decisions which affect the UK marine area (see sections 58 to 60).

Section 52: Amendment of marine plan

166. This section enables a marine plan authority to amend a marine plan. An amendment to a marine plan must be prepared and adopted in accordance with Schedule 6 in exactly the same way as the original plan. Where a marine plan is amended, *subsection (2)* provides that any reference in the Act to a marine plan include a reference to a marine plan as amended.

Section 53: Withdrawal of marine plan

167. Like an MPS, if the marine plan authority comes to the conclusion that there is a problem with the plan which it does not want to, or cannot, rectify by making an amendment – for instance if it decides that the plan must cease effect immediately – a marine plan may be withdrawn.
168. When a marine plan authority decides to withdraw a marine plan, it must publish a notice in the appropriate Gazette(s). For plans in the English or Welsh inshore regions, this is the London Gazette. For all offshore plans, notices must be published in the London, Edinburgh and Belfast Gazettes.
169. This section also allows the Secretary of State to withdraw his agreement to a plan prepared by any of the other marine plan authorities (if his agreement was required to the plan’s adoption). If he decides to withdraw his agreement to the plan, he must give notice to the marine plan authority, which then has 7 days to withdraw the plan (by publishing a notice in the appropriate Gazette(s)).
170. The marine plan authority must also bring the withdrawal to the attention of anyone likely to be interested in or affected by it, as well as members of the general public.

Section 54: Duty to keep relevant matters under review

171. This section requires the marine plan authorities to keep under review matters which may affect their functions of identifying marine plan areas, and preparing plans for them. This is to ensure that marine plan authorities stay up-to-date with what is

*These notes refer to the Marine and Coastal Access Act 2009
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happening in their region of the marine area, which they need to know about in order to make effective planning decisions in their region.

172. *Subsection (2)* sets out a non-exhaustive list of the kinds of things which a marine plan authority ought to keep under review.
173. *Subsection (3)* requires an authority, on a review, to consider how the matters described in *subsection (2)* might be expected to change, and the effect that any such changes might have on the authority's region and its sustainable development.
174. *Subsection (4)* makes clear that the reference in *subsection (1)* to "cultural" includes "historical and archaeological" characteristics.