

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 3: Marine Planning

Chapter 3: Delegation of Functions Relating to Marine Plans

Section 55: Delegation of functions relating to marine plans

175. This section enables a marine plan authority to direct another public body to carry out some of its marine planning functions, by giving it a direction. The Government's intention is that this power will be used to delegate functions of the Secretary of State to the Marine Management Organisation.
176. *Subsection (3)* requires the marine plan authority to obtain the public body's consent before making the direction. Since public bodies may generally only do things that they have specific powers to do, *subsection (4)* compels the public body to comply with the direction and states that it is taken to have any necessary powers to carry out the functions delegated to it.
177. *Subsections (5) to (7)* set out which functions may be delegated in this way. A marine plan authority may delegate any of the functions in Chapter 2 (apart from the "excepted functions") and the duty to monitor and report on the effects and effectiveness of marine plans in section 61. The functions in Chapter 2 which *may* be delegated include:
- preparing a marine plan for a marine plan area in accordance with the procedure in Schedule 6 (section 51);
 - amending a marine plan (section 52); and
 - keeping relevant matters under review (section 54).
178. The "excepted functions" which must be carried out by the marine plan authority and *may not* be delegated are:
- adopting a marine plan (paragraph 15 of Schedule 6); and
 - withdrawing a marine plan, or withdrawing agreement to a marine plan (section 53).
179. In addition, functions of the Secretary of State in his own capacity may not be delegated by a direction under this section (see *subsection (7)*). These functions include agreeing to the publication of statements of public participation and consultation drafts by the devolved administrations, and agreeing, or withdrawing agreement, to the adoption of their final marine plans.

Section 56: Directions under section 55: supplementary provisions

180. This section contains a number of additional rules about directions issued under section 55.

*These notes refer to the Marine and Coastal Access Act 2009
(c.23) which received Royal Assent on 12th November 2009*

181. *Subsection (1)* requires the authority to publish the direction in a way that will bring it to the attention of anyone likely to be interested in or affected by it.
182. Unless the marine plan authority has specified otherwise in the direction, *subsection (2)* prevents the authority from exercising the functions it has delegated, for as long as the direction is in force. *Subsection (3)* sets out how the marine plan authority may make exceptions to this rule.
183. *Subsection (4)* enables a marine plan authority to impose terms, conditions, obligations or requirements on the way a public body exercises any marine planning functions delegated to it, and also enables the terms of the delegation to make financial provisions (for example to enable the public body to receive funding for carrying out the functions).
184. *Subsection (5)* enables a marine plan authority to delegate its functions differently for different areas or cases or to different bodies.

Section 57: Directions to public bodies as regards performance of delegated functions

185. This section applies where a marine plan authority has delegated some of its planning functions by directions under section 55. It enables the marine plan authority to give further directions to a public body to which it has delegated functions, setting out how those functions should be performed.
186. *Subsection (3)* requires the marine plan authority to consult the public body before giving any directions under this section. *Subsection (4)* requires the public body to comply with any directions given to it, which must also be published by the marine plan authority in accordance with *subsection (5)*.