Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 1

THE MARINE MANAGEMENT ORGANISATION

CHAPTER 3

AGREEMENTS INVOLVING THE MMO FOR THE EXERCISE OF FUNCTIONS

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).

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(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;
  - (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.

Commencement Information

I1 S. 19 in force at 12.1.2010 by S.I. 2009/3345, art. 2, **Sch. para. 2**

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);

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(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—

(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).

Commencement Information

I2 S. 20 in force at 12.1.2010 by S.I. 2009/3345, art. 2, **Sch. para. 2**

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;

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(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.

Commencement Information

I3 S. 21 in force at 12.1.2010 by S.I. 2009/3345, art. 2, **Sch. para. 2**

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.

Commencement Information

I4 S. 22 in force at 12.1.2010 by S.I. 2009/3345, art. 2, **Sch. para. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 72A(2A) inserted by 2023 c. 55 s. 232(2)(d)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by 2023 c. 55 s. 232(2)(f)(i)
- s. 72A(6)(a) words inserted by 2023 c. 55 s. 232(2)(f)(ii)
- s. 72A(6)(b) and word inserted by 2023 c. 55 s. 232(2)(f)(iii)
- Sch. 6 para. 1(2)(da) inserted by 2023 c. 55 Sch. 8 para. 31(2)(a)