



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 1

#### THE MARINE MANAGEMENT ORGANISATION

### CHAPTER 4

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

##### *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
  - (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.

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## **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).

## **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.
- (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

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- (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.
- (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;

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- (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.