



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 4

MARINE LICENSING

CHAPTER 4

DELEGATION

98 Delegation of functions relating to marine licensing

- (1) The appropriate licensing authority for an area may make an order which—
 - (a) designates any of the delegable marine licensing functions which would (apart from any order under this section) be exercisable by or in relation to that authority or an enforcement authority for that area, and
 - (b) provides that those functions, instead of being so exercisable, are to be exercisable by or in relation to such person, acting on behalf of the licensing authority or (as the case may be) the enforcement authority, as is designated in the order.
- (2) The power to make an order under this section includes power to make provision in the order conferring on the person designated (“the delegate”), so far as acting on behalf of an enforcement authority, any power which the appropriate licensing authority may confer on an enforcement authority by an order under section 93 or 95 (fixed or variable monetary penalties).
- (3) An authority which makes an order under this section may do so only with the consent of the delegate.
- (4) The delegate—
 - (a) must comply with the order, and
 - (b) is to be taken to have all the powers necessary to do so.
- (5) In this section “delegable marine licensing functions” means—

Changes to legislation: Marine and Coastal Access Act 2009, Chapter 4 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) functions of a licensing authority under this Part, other than excepted functions;
 - (b) functions of an enforcement authority under this Part.
- (6) The excepted functions are functions under—
- (a) section 66(3) (altering the list of licensable marine activities);
 - (b) section 67(2) (making regulations regarding the fee for an application);
 - (c) section 69(6) (making regulations as to the procedure for applications);
 - [^{F1}(ca) section 72A(4) (making regulations regarding fees for monitoring, variation etc of licences for which the Welsh Ministers are the licensing authority);]
 - (d) section 73 (making regulations regarding appeals against licensing decisions under section 71);
 - (e) section 74(1) and (5) (making orders specifying activities which do not require a marine licence and consulting in relation to such orders);
 - (f) sections 93 and 95 (making orders conferring powers to impose civil sanctions);
 - (g) this section and section 100;
 - (h) section 101(3) (making regulations regarding the register);
 - [^{F2}(ha) section 107A(3) (making regulations regarding deposits payable on account of fees where the Welsh Ministers are the licensing authority);]
 - (hb) section 107B(5) (making regulations regarding payment of fees and deposits where the Welsh Ministers are the licensing authority);]
 - (i) section 108 (making regulations regarding appeals against certain notices).

Textual Amendments

F1 S. 98(6)(ca) inserted (E.W.) (1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 80(a)**, 88(3)(c); [S.I. 2017/504](#), art. 2

F2 S. 98(6)(ha)(hb) inserted (E.W.) (1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 80(b)**, 88(3)(c); [S.I. 2017/504](#), art. 2

Commencement Information

I1 S. 98 partly in force; s. 98 in force for specified purposes at Royal Assent see [s. 324\(1\)\(c\)](#)

I2 S. 98 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), **art. 3(2)(a)**

99 Orders under section 98: supplementary provisions

- (1) For so long as an order made under section 98 remains in force, the designated functions are exercisable by or in relation to the delegate acting on behalf of the licensing authority or, as the case may be, the enforcement authority (and are not exercisable by or in relation to the authority).
- (2) Subsection (1) is subject to any provision to the contrary which is included in the order.
- (3) An order under section 98 may include—
 - (a) such terms or conditions,
 - (b) such obligations or requirements,
 - (c) such financial provisions,
 as the authority making the order may determine.

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- (4) The provision that may be made under subsection (3) includes, in particular, provision (where appropriate) as to—
- (a) the manner in which the delegate is to exercise any of the functions;
 - (b) the form and manner in which licence applications must be made to the delegate;
 - (c) the persons to whom notice of an application should be published under section 68, and the circumstances in which such notice should not be published;
 - (d) matters (in addition to those set out in section 69) to which the delegate must have regard in determining licence applications;
 - (e) the circumstances in which the delegate must exercise the power to consult under section 69(4), and the persons who must or may be consulted;
 - (f) the form and content of any licence granted;
 - (g) appeals from any decision of the delegate (whether to the licensing authority or any other person);
 - (h) any other provision that may be made by virtue of section 69(6).
- (5) An order under section 98 may make different provision for different cases, different areas or different persons.
- (6) Where an order has been made under section 98 that a person other than the appropriate licensing authority is to grant licences—
- (a) that other person may (in accordance with subsections (1) to (3) and (7) of section 72) vary, suspend, revoke or transfer a licence granted before the making of the order, and
 - (b) any reference in those subsections to a licence granted by a licensing authority includes a reference to a licence granted by that other person.

Commencement Information

- I3** S. 99 partly in force; s. 99 in force for specified purposes at Royal Assent see [s. 324\(1\)\(c\)](#)
- I4** S. 99 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

100 Directions to persons as regards performance of delegated functions

- (1) This section applies where any functions are exercisable by or in relation to a person by virtue of an order made under section 98 by a licensing authority.
- (2) The authority may from time to time give directions to the person with respect to the performance of the functions.
- (3) A person to whom directions are given under this section must comply with the directions.
- (4) An authority which gives a direction under this section must publish the direction in a manner likely to bring the direction to the attention of persons likely to be affected by it.

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Commencement Information

I5 S. 100 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

Changes to legislation:

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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\(2\)\(a\)](#)