



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 9

#### COASTAL ACCESS

##### *The coastal access duty*

#### **296 The coastal access duty**

- (1) Natural England and the Secretary of State must exercise the relevant functions in order to secure the following objectives.
- (2) The first objective is that there is a route for the whole of the English coast which—
  - (a) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
  - (b) (except to the extent that it is completed by ferry) passes over land which is accessible to the public.
- (3) The second objective is that, in association with that route (“the English coastal route”), a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with that route or otherwise, except to the extent that the margin of land is relevant excepted land.
- (4) The duty imposed on Natural England and the Secretary of State by subsection (1)—
  - (a) is referred to in this Part as the coastal access duty, and
  - (b) is to be discharged by them in such stages and within such period as appear to them to be appropriate.
- (5) For the purposes of this section, land is accessible to the public if it is—
  - (a) land which is available to the public for the purposes of open-air recreation, by virtue of provision made under section 3A of the CROW Act and subject to any exclusions or restrictions imposed by or under Part 1 of that Act (access to the countryside),

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*Status: This is the original version (as it was originally enacted).*

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- (b) land in England which, for the purposes of section 1(1) of that Act, is treated by section 15(1) of that Act as being accessible to the public apart from that Act, or
  - (c) excepted land in England which is accessible to the public by virtue of any enactment or rule of law (other than a military lands byelaw).
- (6) Nothing in this section requires Natural England or the Secretary of State, in discharging the coastal access duty so far as it relates to the objective in subsection (3), to exercise functions so as to secure that any land becomes land within subsection (5) (b) or (c).
- (7) For the purposes of the coastal access duty, a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only.
- (8) In this section—
- “the 1949 Act” means the [National Parks and Access to the Countryside Act 1949 \(c. 97\)](#);
  - “the CROW Act” means the [Countryside and Rights of Way Act 2000 \(c. 37\)](#);
  - “excepted land” has the same meaning as in Part 1 of the CROW Act;
  - “military lands byelaw” means a byelaw under section 14 of the [Military Lands Act 1892 \(c. 43\)](#) or section 2 of the [Military Lands Act 1900 \(c. 56\)](#);
  - “relevant excepted land” means excepted land other than land within subsection (5)(c);
  - “the relevant functions” means—
    - (a) in relation to Natural England—
      - (i) its functions under this Part, Part 4 of the 1949 Act (long-distance routes) and Part 1 of the CROW Act (access to the countryside), and
      - (ii) such of its other functions as it considers it appropriate to exercise for the purpose of securing the objectives in subsections (2) and (3), and
    - (b) in relation to the Secretary of State—
      - (i) the Secretary of State’s functions under this Part, Part 4 of the 1949 Act and Part 1 of the CROW Act, and
      - (ii) such of the Secretary of State’s other functions as the Secretary of State considers it appropriate to exercise for the purpose of securing the objectives in subsections (2) and (3).

## **297 General provision about the coastal access duty**

- (1) In discharging the coastal access duty, Natural England and the Secretary of State must comply with the requirements of this section.
- (2) They must have regard to—
- (a) the safety and convenience of those using the English coastal route,
  - (b) the desirability of that route adhering to the periphery of the coast and providing views of the sea, and
  - (c) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.

- (3) They must aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land.
- (4) For this purpose a person has a relevant interest in land if the person—
  - (a) holds an estate in fee simple absolute in possession in the land,
  - (b) holds a term of years absolute in the land, or
  - (c) is in lawful occupation of the land.

## **298 The coastal access scheme**

- (1) Natural England must—
  - (a) prepare a scheme setting out the approach it will take when discharging the coastal access duty, and
  - (b) submit the scheme to the Secretary of State.
- (2) The Secretary of State may—
  - (a) approve the scheme, with or without modifications, or
  - (b) reject the scheme and give Natural England a notice requiring it to prepare and submit a new scheme under subsection (1).
- (3) The scheme must be submitted to the Secretary of State within the period of 12 months beginning with the day on which this section comes into force or, in a case within subsection (2)(b), within the period specified in the notice.
- (4) Natural England may, with the approval of the Secretary of State, revise a scheme approved under this section.
- (5) A scheme approved under this section (and any revised scheme) must set out the approach Natural England will take when deciding, for the purposes of section 55A(4) of the 1949 Act, whether it would be appropriate for an access authority to carry out any preliminary activity (within the meaning of section 55A(3) of that Act).
- (6) The Secretary of State must lay before Parliament a copy of the scheme approved under this section and, where that scheme is revised, a copy of the revised scheme.
- (7) Before preparing or revising a scheme under this section, Natural England must consult such persons as it considers appropriate.
- (8) Natural England must, as soon as reasonably practicable, publish in such manner as it considers appropriate—
  - (a) the scheme approved by the Secretary of State, and
  - (b) where that scheme is revised, the revised scheme.
- (9) In discharging the coastal access duty, Natural England must act in accordance with the scheme approved under this section (or, where that scheme has been revised, the revised scheme).
- (10) Until such time as there is an approved scheme under this section, Natural England may not prepare or submit a report under section 51 or 55 of the 1949 Act (report containing proposals for long-distance routes) pursuant to the coastal access duty.
- (11) Nothing in subsection (10) prevents Natural England from surveying any land in connection with the preparation of such a report.

**299 Review of the coastal access scheme**

- (1) Where a scheme has been approved under section 298, Natural England may, from time to time, review the scheme (as revised from time to time under that section).
- (2) At least one review must be completed within the period of 3 years beginning with the day on which a scheme is first approved under section 298(2).
- (3) Natural England must publish a report of each review under this section as soon as reasonably practicable after the review is completed.

**300 The English coast**

- (1) In this Part “the English coast” means the coast of England adjacent to the sea, including the coast of any island (in the sea) comprised in England (other than an excluded island).
- (2) An island is “excluded” if it is neither—
  - (a) an accessible island, nor
  - (b) an island specified by the Secretary of State by order for the purposes of this paragraph.
- (3) An island is “accessible” if it is possible to walk to the island from the mainland of England, or from another island within subsection (2)(a) or (b), across the foreshore or by means of a bridge, tunnel or causeway.
- (4) For the purposes of subsection (3), it is possible to walk to an island even if it is possible to do so at certain times, or during certain periods, only.
- (5) An island may be specified by an order under subsection (2)(b) only if the Secretary of State is satisfied that the coast of the island is of sufficient length to enable the establishment of one or more long-distance routes along its length capable of affording the public an extensive journey on foot.
- (6) For the purposes of the objective in section 296(2) (the English coastal route), the means of access to an accessible island is (to the extent that it would not otherwise be the case) to be regarded as part of the English coast.
- (7) This section is subject to section 307 (Isles of Scilly).

**301 River estuaries**

- (1) This section applies in a case where the continuity of any part of the English coast is interrupted by a river.
- (2) Natural England may exercise its functions as if the references in the coastal access provisions to the sea included the relevant upstream waters of the river.
- (3) For this purpose “the relevant upstream waters”, in relation to a river, means—
  - (a) the waters from the seaward limit of the estuarial waters of the river upstream to the first public foot crossing, or
  - (b) if Natural England so decides, the waters from the seaward limit of the estuarial waters of the river upstream to such limit, downstream of the first public foot crossing, as may be specified by it.

- (4) When exercising any power conferred by subsection (2) or (3), Natural England must have regard to the following matters (in addition to the matters mentioned in section 297(2))—
- (a) the nature of the land which would, for the purposes of this Part, become part of the coast of England if Natural England exercised the power in subsection (2) in respect of the relevant upstream waters for the limit under consideration;
  - (b) the topography of the shoreline adjacent to those waters;
  - (c) the width of the river upstream to that limit;
  - (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
  - (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
  - (f) whether it is desirable to continue the English coastal route to a particular physical feature (whether of the landscape or otherwise) or viewpoint;
  - (g) the existence of a ferry by which the public may cross the river.
- (5) Anything done pursuant to subsection (2) (including any decision under subsection (3)(b)) is to be regarded as done pursuant to, and for the purpose of discharging, the coastal access duty.
- (6) Subsections (1) to (5) apply in relation to the Secretary of State as they apply in relation to Natural England.
- (7) A decision by Natural England to exercise a power conferred by subsection (2) or (3) in relation to a river—
- (a) is without prejudice to any decision by the Secretary of State (by virtue of subsection (6)) as to whether or not to exercise such a power in relation to the river, and
  - (b) does not affect the requirements of subsection (4) (as they apply by virtue of subsection (6)) or of section 297(2) and (3), in relation to such a decision by the Secretary of State.
- (8) In this section—
- “coastal access provisions” means—
    - (a) this Part (other than this section), and
    - (b) sections 55A to 55J of the 1949 Act;
  - “excepted land” has the same meaning as in Part 1 of the CROW Act;
  - “public foot crossing”, in relation to a river, means a bridge over which, or tunnel through which, there is a public right of way, or a public right of access, by virtue of which the public are able to cross the river on foot.