

**Changes to legislation:** Marine and Coastal Access Act 2009, Schedule 5 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

## SCHEDULES

### SCHEDULE 5

Sections 44 and 47

#### PREPARATION OF AN MPS OR OF AMENDMENTS OF AN MPS

##### Modifications etc. (not altering text)

- C1** Sch. 5: functions made exercisable jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 4 (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 4 para. 4** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(p))

##### *Introductory*

- 1 Before any policy authorities publish a relevant document, they must comply with the requirements imposed by the following provisions of this Schedule.

##### Commencement Information

- II** Sch. 5 para. 1 wholly in force at 12.1.2010; Sch. 5 para. 1 in force for specified purposes at Royal Assent see s. 324(1)(a)(i); Sch. 5 para. 1 in force in so far as not already in force at 12.1.2010 see s. 324(2)(a)

##### *Interpretation*

- 2 (1) In this Schedule—
- “consultation draft” is to be read in accordance with paragraph 8;
  - “the final text” means that draft of the relevant document which is adopted by the relevant authorities and published by them under paragraph 12 as the relevant document;
  - “the relevant authorities” means the policy authorities that publish the relevant document;
  - “relevant document” means—
    - (a) an MPS, or
    - (b) amendments of an MPS;
  - “SPP” means a statement of public participation under paragraph 4.
- (2) In this Schedule—
- (a) any reference to each, some or any of the relevant authorities is a reference to those authorities separately,
  - (b) any other reference to the relevant authorities is a reference to those authorities acting jointly.

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#### **Commencement Information**

- I2** Sch. 5 para. 2 wholly in force at 12.1.2010; Sch. 5 para. 2 in force for specified purposes at Royal Assent see s. 324(1)(a)(i); Sch. 5 para. 2 in force in so far as not already in force at 12.1.2010 see s. 324(2)(a)

#### *Consultation in Northern Ireland*

- 3 (1) If one of the relevant authorities is the Department of the Environment in Northern Ireland, that Department must consult the other relevant Northern Ireland departments—
- (a) during the preparation of the consultation draft, and
  - (b) during the settling of the final text.
- (2) For the purposes of this paragraph, the relevant Northern Ireland departments are those Northern Ireland departments which have functions in relation to the whole or any part of the UK marine area.

#### *Statement of public participation*

- 4 (1) The relevant authorities must prepare and publish a statement of public participation (an “SPP”).
- (2) An SPP is a statement of the policies settled by the relevant authorities for or in connection with the involvement of interested persons in the preparation of the relevant document.
- (3) The relevant authorities must publish the SPP in a way calculated to bring it to the attention of interested persons.
- (4) In this paragraph “interested persons” means—
- (a) any persons appearing to the relevant authorities to be likely to be interested in, or affected by, policies proposed to be included in the relevant document, and
  - (b) members of the general public.
- (5) Each of the relevant authorities must take all reasonable steps to comply with the SPP.

#### **Commencement Information**

- I3** Sch. 5 para. 4 wholly in force at 12.1.2010; Sch. 5 para. 4(1)-(4) in force at Royal Assent see s. 324(1)(a)(i); Sch. 5 para. 4 in force in so far as not already in force at 12.1.2010 see s. 324(2)(a)

#### *Further provision about the content of an SPP*

- 5 (1) An SPP must include a proposed timetable.
- (2) The proposed timetable must include such provision as the relevant authorities consider reasonable for each of the following—
- (a) the preparation and publication of a consultation draft under paragraph 8 (including the carrying out of the sustainability appraisal under paragraph 7);
  - (b) the making of representations about the consultation draft;

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- (c) the consideration of representations under paragraph 9 and the settling of the final text;
  - (d) the adoption and publication of the relevant document.
- (3) An SPP may include provision for or in connection with the holding of public meetings about the consultation draft.
- (4) An SPP must include provision about the making of representations under paragraph 9 about the consultation draft, including provision about—
  - (a) the manner in which representations may be made;
  - (b) the time within which representations must be made.
- (5) An SPP must state the period which it is proposed will be allocated for legislative scrutiny of the consultation draft under paragraph 10 (resolution or recommendations by appropriate legislative body or committee).

#### *Review and revision of an SPP*

- 6
  - (1) The relevant authorities must keep the SPP under review.
  - (2) If at any time the relevant authorities consider it necessary or expedient to revise the SPP, they must do so.
  - (3) Where the relevant authorities revise the SPP, they must publish it as revised.
  - (4) Any reference in this Schedule to an SPP includes a reference to an SPP as revised.

#### *Sustainability appraisal*

- 7
  - (1) The relevant authorities must carry out an appraisal of the sustainability of their proposals for inclusion in the relevant document.
  - (2) The relevant authorities may proceed with those proposals only if they consider that the results of the appraisal indicate that it is appropriate to do so.
  - (3) The relevant authorities must publish a report of the results of the appraisal.
  - (4) The report is to be published when the relevant authorities publish the consultation draft under paragraph 8.

#### *Preparation and publication of a consultation draft*

- 8
  - (1) The relevant authorities must prepare and publish a draft of the proposed relevant document (the “consultation draft”).
  - (2) The relevant authorities must publish the consultation draft in such manner as they consider appropriate.
  - (3) They must also take such steps as they consider appropriate to secure that the proposals contained in the consultation draft are brought to the attention of interested persons.
  - (4) In sub-paragraph (3) “interested persons” means—
    - (a) any persons appearing to the relevant authorities to be likely to be interested in, or affected by, policies proposed to be included in the relevant document, and

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- (b) members of the general public.

*Representations about the consultation draft*

- 9 (1) Any person may make representations about the consultation draft.
- (2) Any such representations are to be made in accordance with the SPP.
- (3) If any representations are made about the consultation draft, the relevant authorities must consider them in the course of settling the final text.

*The appropriate legislative procedure*

- 10 (1) A policy authority must not adopt the final text unless it has complied with the requirements of this paragraph.
- (2) The policy authority must lay a copy of the consultation draft before the appropriate legislature.
- (3) The appropriate legislature is—
- (a) in the case of the Secretary of State, Parliament;
  - (b) in the case of the Scottish Ministers, the Scottish Parliament;
  - (c) in the case of the Welsh Ministers, the National Assembly for Wales;
  - (d) in the case of the Department of the Environment in Northern Ireland, the Northern Ireland Assembly.
- (4) If during the period allocated to it for legislative scrutiny of the consultation draft—
- (a) an appropriate legislative body makes a resolution with regard to the consultation draft, or
  - (b) an appropriate legislative committee makes recommendations with regard to the consultation draft,
- sub-paragraph (5) applies.
- (5) The policy authority must lay before the appropriate legislature a statement setting out the policy authority's response to the resolution or recommendations.
- (6) The period allocated to an appropriate legislative body or appropriate legislative committee for legislative scrutiny of the consultation draft is such period as the policy authority may specify.
- (7) The policy authority must specify the period allocated for legislative scrutiny of the consultation draft on or before the day on which a copy of that draft is laid before the appropriate legislature under sub-paragraph (2).
- (8) In this paragraph—
- “appropriate legislative body” means—
    - (a) in the case of the Secretary of State, either House of Parliament;
    - (b) in the case of any other policy authority, the appropriate legislature;
  - “appropriate legislative committee” means—
    - (a) in the case of the Secretary of State, a committee of either House of Parliament;
    - (b) in the case of any other policy authority, a committee of the appropriate legislature.

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*Differences between the consultation draft and the final text*

- 11 (1) This paragraph applies if there are any differences between—
- (a) the proposed policies, statements and information contained in the consultation draft, and
  - (b) the policies, statements and information contained in the final text.
- (2) When the relevant authorities publish the relevant document, they must also publish—
- (a) a summary of the differences, and
  - (b) a statement of the reasons for them.

*Adoption and publication of the relevant document*

- 12 (1) A policy authority adopts the final text by—
- (a) deciding that the final text is to be published as the relevant document, and
  - (b) giving notice of that decision to each of the other policy authorities.
- (2) The relevant document is to be published by the relevant authorities, acting jointly, as soon as reasonably practicable after the final text has been adopted by each of them.
- (3) If the final text has been adopted by one or more, but not all, of the policy authorities, the authorities that have not adopted the final text must be allowed a reasonable period in which to do so before the relevant document is published.

*Validity of document where policy authority participates in preparation but does not adopt*

- 13 (1) If any policy authority—
- (a) participates to any extent in the preparation of a relevant document, but
  - (b) does not adopt the final text,
- sub-paragraph (2) applies.
- (2) The participation of the policy authority in the preparation of the relevant document does not affect the validity of—
- (a) the relevant document, or
  - (b) the adoption of that document by any of the other policy authorities.

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