



Harbours Act 1964

1964 CHAPTER 40

[^{F1}Delegation of certain functions

Textual Amendments

- F1** Ss. 42A, 42B and cross-heading inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 3\(1\)](#); S.I. 2009/3345, art. 2, Sch. para. 26

42A Power to make orders delegating functions

- (1) The relevant authority may by order provide for such of the delegable functions as are designated in the order to be exercisable by such person as is designated in the order.
- (2) An authority may make an order under subsection (1) only with the consent of the person designated in it (“the delegate”).
- (3) The delegate—
 - (a) must comply with the order, and
 - (b) is to be taken to have all the powers necessary to do so.
- (4) For so long as an order under subsection (1) remains in force, the functions designated in the order—
 - (a) are exercisable by the delegate acting on behalf of the authority, and
 - (b) are not exercisable by the authority.This subsection is subject to subsections (5) and (6).
- (5) The delegate must obtain the consent of the relevant authority before exercising any function under—
 - (a) section 15;
 - (b) section 15A;
 - (c) section 18.
- (6) Subsection (4)(b) does not apply to any function under—

Changes to legislation: Harbours Act 1964, Cross Heading: Delegation of certain functions is up to date with all changes known to be in force on or before 22 March 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) section 15;
 - (b) section 15A;
 - (c) section 18.
- (7) If a function is, by virtue of an order under subsection (1), exercisable by a person, any reference in this Act to the relevant authority is to be read, so far as relating to that function or the exercise of it, as a reference to that person.
- [Subsection (7) does not apply to a reference in paragraph 20A of Schedule 3 to the ^{F2}(7A) Secretary of State or the Welsh Ministers.]
- (8) An order under subsection (1) may make different provision for different cases, different areas or different persons.
- (9) The delegable functions are functions under the following sections—
- (a) section 14 (making harbour revision orders, except as mentioned in paragraph (b) below);
 - (b) section 15 (making harbour revision orders for limited purposes for securing harbour efficiency);
 - (c) section 15A (making orders varying powers of appointment in the constitutions of harbour authorities);
 - (d) section 16 (making harbour empowerment orders);
 - (e) section 18 (confirming or making harbour reorganisation schemes);
 - (f) section 60 (making orders amending Acts of local application).
- (10) In this section “the relevant authority”, in relation to any delegable function, means the authority by whom (apart from any order under subsection (1)) the function is exercisable.

Textual Amendments

- F2** [S. 42A\(7A\)](#) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), [Sch. 1 para. 4](#) (with [Sch. 6 paras. 1, 2\(2\)](#))

42B Directions as to 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 42A by a relevant 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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[^{F3}42C Consent of Welsh Ministers required for certain orders and schemes

- (1) This section applies to any harbour revision order or harbour empowerment order which makes provision excluding, modifying or repealing—
 - (a) any provision of the Marine and Coastal Access Act 2009 in so far as it applies to Wales;
 - (b) any instrument made under that Act by the Welsh Ministers;
 - (c) any statutory provision of local application made by the Welsh Ministers.
- (2) This section also applies to any harbour reorganisation scheme which makes provision repealing or amending any statutory provision of local application made by the Welsh Ministers.

[The references in subsections (1)(c) and (2) to a statutory provision of local application ^{F4}(2A) do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.]

- (3) The Secretary of State must notify the Welsh Ministers of any intention to make an order or scheme to which this section applies.
- (4) The order or scheme must not include any provision falling within subsection (1) or, as the case may be, (2) if, within the prescribed period beginning with the date of the notification under subsection (3), the Welsh Ministers refuse their consent to the inclusion of that provision in the order or scheme.
- (5) In this section “prescribed period” means such period as is prescribed in an order made by the Secretary of State for the purposes of this section.

Textual Amendments

- F3** Ss. 42C, 42D inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 4](#); S.I. 2009/3345, art. 2, Sch. para. 26
- F4** [S. 42C\(2A\)](#) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 37\(1\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(g)

42D Consent of Secretary of State required for certain orders and schemes

- (1) This section applies to any harbour revision order or harbour empowerment order which makes provision excluding, modifying or repealing—
 - (a) any provision of the Marine and Coastal Access Act 2009 in so far as it applies to England;
 - (b) any instrument made under that Act by the Secretary of State;
 - (c) any statutory provision of local application made by the Secretary of State.
- (2) This section also applies to any harbour reorganisation scheme which makes provision repealing or amending any statutory provision of local application made by the Secretary of State.

[The references in subsections (1)(c) and (2) to a statutory provision of local application ^{F5}(2A) do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.]

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- (3) The Welsh Ministers must notify the Secretary of State of any intention to make an order or scheme to which this section applies.
- (4) The order or scheme must not include any provision falling within subsection (1) or, as the case may be, (2) if, within the prescribed period beginning with the date of the notification under subsection (3), the Secretary of State refuses consent to the inclusion of that provision in the order or scheme.
- (5) In this section “prescribed period” means such period as is prescribed in an order made by the Secretary of State for the purposes of this section.]

Textual Amendments

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- F5** [S. 42D\(2A\)](#) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 37\(2\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(g)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified by [2023 c. 8 s. 9\(7\)](#)