

MARINE AND COASTAL ACCESS ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 3: Marine Planning

Chapter 5: Miscellaneous and General Provisions

Validity of documents under this part

Section 62: Validity of marine policy statement and marine plans

- 214. This section sets out how people may challenge the content of marine policy documents (or amendments to them) in court. *Subsection (3)* provides that such challenges may only be brought in accordance with this section.
- 215. *Subsection (4)* provides that the only grounds for challenge to a “relevant document” are that the document is not within the appropriate powers, or that a procedural requirement has not been complied with (see *subsection (6)* for definitions of “appropriate powers” and “procedural requirement”). Only a person aggrieved by a relevant document may bring a challenge against it.
- 216. *Subsection (5)* requires that any such challenges are brought within 6 weeks of the adoption of the relevant document.
- 217. *Subsection (6)* identifies the appropriate court for bringing challenges in different parts of the UK, and defines “appropriate powers” and “procedural requirement”.

Section 63: Powers of the court on an application under section 62

- 218. This section sets out the powers of a court hearing a challenge to the validity of a marine policy document.
- 219. *Subsection (2)* enables a court to make an interim order, suspending the operation of all or part of a document until the legal proceedings are over.
- 220. *Subsection (3)* sets out the conditions which must be satisfied before the court may grant any of the remedies set out in *subsection (4)*. The court must be satisfied either that the marine plan authority (or its delegate) acted outside or beyond the relevant powers in relation to the document, or that the applicant has been substantially prejudiced by a failure to meet a procedural requirement.
- 221. If the court is satisfied that one of the conditions in *subsection (3)* has been met, *subsection (4)* enables the court either to quash the document or remit it (in effect, send it back) to a person or body involved in its preparation, adoption or publication.
- 222. *Subsections (5) and (6)* then enable the court to give directions relating to whether the document should be treated as adopted or published and to procedural or other steps which should be taken to ensure that whatever was wrong with the document is put

*These notes refer to the Marine and Coastal Access Act 2009
(c.23) which received Royal Assent on 12th November 2009*

right, without necessarily having to start the whole preparation process again from the beginning.

- 223. *Subsection (7)* states that the court is able to quash or remit only part of a relevant document, or the whole document.
- 224. *Subsection (8)* refers back to the definitions used in section 62.

Interpretation and Crown application

Section 64: Interpretation and Crown application of this Part

- 225. This section sets out how certain terms used within Part 3 of the Act should be interpreted and states that the Crown is bound by the planning provisions.