Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 9

COASTAL ACCESS

The coastal access duty

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.