2013 CHAPTER 10

Part 2

Marine Planning

Marine plans

Marine plans for Northern Ireland inshore region

4.—(1) The Department may prepare a marine plan for an area (a "marine plan area") consisting of the whole or any part of the Northern Ireland inshore region.

(2) Where a marine policy statement governs marine planning for the Northern Ireland inshore region, the Department must seek to ensure that every part of that region is within an area for which a marine plan is in effect.

(3) A "marine plan" is a document which—

(a) has been prepared and adopted for a marine plan area by the Department in accordance with Schedule 1,

(b) states the policies of the relevant Northern Ireland departments (however expressed) for and in connection with the sustainable development of the area, and

(c) states that it is a marine plan prepared and adopted for the purposes of this section.

(4) A marine plan must identify (by means of a map or otherwise) the marine plan area for which it is a marine plan.

(5) Unless relevant considerations indicate otherwise, a marine plan must be in conformity—

(a) with any marine policy statement which governs marine planning for the marine plan area; and

(b) in the case of a plan for part of the Northern Ireland inshore region, with any marine plan in effect for the whole of that region.

(6) A marine plan must state whether it includes provision relating to retained functions.

(7) A marine plan may also include statements or information relating to policies contained in the plan.

(8) If to any extent a policy stated in a marine plan conflicts with any other statement or information in the plan, that conflict must be resolved in favour of the policy.

(9) A marine plan comes into effect when it has been published by the Department in accordance with Schedule 1.

(10) For the purposes of this Part a marine policy statement "governs marine planning" for an area if—

(a) it has been adopted by the Department under Schedule 5 to the 2009 Act,

(b) it has been published in accordance with paragraph 12 of that Schedule,

(c) it has not been replaced or withdrawn, and

(d) the Department has not withdrawn from it.

(11) For the purposes of this Part "the relevant Northern Ireland departments" are—

(a) the Department;

[F1](b) . . . . . .

[F1](c) . . . . . .

(d) the Department of Enterprise, Trade and Investment; and

(e) the Department for Regional Development.

Textual Amendments

F1 S. 4(11)(b)(c) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(3), **Sch. 6 para. 90** (with art. 9(2))

Amendment of marine plan

5.—(1) The Department may amend a marine plan.

(2) The provisions of this Part that relate to the preparation, adoption, publication and coming into effect of a marine plan also apply in relation to amendments of a marine plan.

(3) Any reference in this Act to a marine plan includes a reference to a marine plan as amended.

Withdrawal of marine plan

6.—(1) A marine plan may be withdrawn at any time, but only in accordance with the following provisions of this section.

(2) If, after consultation with the other relevant Northern Ireland departments, the Department decides to withdraw a marine plan—

(a) it is to publish notice of the withdrawal of the plan in the Belfast Gazette, and

(b) the marine plan is withdrawn as from the date on which the notice is so published.

(3) If at any time the Secretary of State decides to withdraw agreement previously given under paragraph 15(2) of Schedule 1 to a marine plan—

(a) the Secretary of State is to give notice of that decision to the Department,

(b) within 7 days of receiving that notice, the Department must publish notice of the withdrawal of the marine plan in the Belfast Gazette, and

(c) the marine plan is withdrawn as from the date on which the notice is so published.

(4) Where a marine plan is withdrawn under this section, the Department must—

(a) publish notice of the withdrawal of the marine plan on the Department's website; and

(b) take such further steps as it considers appropriate to secure that the withdrawal of the marine plan is brought to the attention of interested persons.

(5) In this section "interested persons" means—

(a) any persons appearing to the Department to be likely to be interested in, or affected by, the withdrawal of the marine plan, and

(b) members of the general public.

Duty to keep relevant matters under review

7.—(1) The Department must keep under review the matters which may be expected to affect the exercise of its functions relating to—

(a) the identification of areas which are to be marine plan areas, and

(b) the preparation, adoption, review, amendment or withdrawal of marine plans for those areas.

The reference in paragraph (b) to review is a reference to the functions of the Department under section 9.

(2) The matters include—

(a) the physical, environmental, social, cultural and economic characteristics of the Northern Ireland inshore region and of the living resources which the region supports;

(b) the purposes for which any part of the region is used;

(c) the communications, energy and transport systems of the region;

(d) any other considerations which may be expected to affect those matters.

(3) The matters also include—

(a) any changes which could reasonably be expected to occur in relation to any such matter;

(b) the effect that any such changes may have in relation to the sustainable development of the region, its natural resources, or the living resources dependent on the region.

(4) The reference in subsection (2)(a) to the cultural characteristics of the Northern Ireland inshore region includes a reference to characteristics of that region which are of a historic or archaeological nature.

Decisions affected by a marine plan

Decisions affected by a marine plan

8.—(1) A public authority must take any authorisation or enforcement decision in accordance with any appropriate marine plan, unless relevant considerations indicate otherwise.

(2) If a public authority takes an authorisation or enforcement decision otherwise than in accordance with any appropriate marine plan, the public authority must state its reasons.

(3) A public authority must have regard to any appropriate marine plan in taking any decision—

(a) which relates to the exercise of any function capable of affecting the whole or any part of the Northern Ireland inshore region, but

(b) which is not an authorisation or enforcement decision.

(4) An "authorisation or enforcement decision" is any of the following—

(a) the determination of any application (whenever made) for authorisation of the doing of any act which affects or might affect the whole or any part of the Northern Ireland inshore region,

(b) any decision relating to any conditions of such an authorisation,

(c) any decision about extension, replacement, variation, revocation or withdrawal of any such authorisation or any such conditions (whenever granted or imposed),

(d) any decision relating to the enforcement of any such authorisation or any such conditions,

(e) any decision relating to the enforcement of any prohibition or restriction (whenever imposed) on the doing of any act, or of any act of any description, falling within paragraph (a).

(5) In this section "authorisation" means any approval, confirmation, consent, licence, permission or other authorisation (however described), whether special or general.

(6) Subject to subsection (7), to the extent that the decision relates to a marine plan area, any marine plan which is in effect for that area is an appropriate marine plan.

(7) But in relation to the exercise of retained functions by a public authority a marine plan is only an appropriate marine plan if—

(a) it contains a statement under section 4(6) that it includes provision relating to retained functions,

(b) it was adopted with the agreement of the Secretary of State under paragraph 15(2) of Schedule 1, and

(c) it was prepared and adopted at a time when a marine policy statement was in effect which governed marine planning for the Northern Ireland inshore region.

Monitoring and reporting on marine plans

Monitoring of, and periodical reporting on, marine plans

9.—(1) For so long as a marine plan is in effect, the Department must keep under review—

(a) the effects of the policies in the marine plan;

(b) the effectiveness of those policies in securing that the objectives for which the marine plan was prepared and adopted are met;

(c) the progress being made towards securing those objectives;

(d) if a marine policy statement governs marine planning for the Northern Ireland inshore region, the progress being made towards securing that the objectives for which the marine policy statement was prepared and adopted are met in that region.

(2) The Department must from time to time prepare and publish a report on the matters kept under review pursuant to subsection (1).

(3) After publishing a report under subsection (2), the Department must—

(a) lay a copy of the report before the Assembly; and

(b) decide whether or not to amend or replace the marine plan.

(4) The first report under subsection (2) must be published before the expiration of 3 years beginning with the date on which the marine plan was adopted; and successive reports under that subsection must be published at intervals of no more than 3 years following the date of publication of the previous report.

(5) Any reference in this section to the replacement of a marine plan is a reference to—

(a) preparing and adopting, in accordance with the provisions of this Part, a fresh marine plan (whether or not for the identical marine plan area), and

(b) if the Department has not already done so, withdrawing the marine plan that is to be replaced.

(6) The Department must from time to time prepare and lay before the Assembly a report which—

(a) identifies any marine plans which the Department has prepared and adopted;

(b) describes any intentions the Department may have for the amendment of any marine plans which it has prepared and adopted;

(c) describes any intentions the Department may have for the preparation and adoption of any further marine plans.

(7) The first report prepared under subsection (6) must be laid before the Assembly before the expiration of the period of 6 years beginning with the date of the passing of this Act; and successive reports under that subsection must be laid at intervals of no more than 6 years following the laying of the previous report.

(8) No report under subsection (6) is required to be laid in a case where the period of 6 years following the laying of the previous report ends on or after 1st January 2030.

Validity of marine plans and amendments

Validity of marine plans

10.—(1) This section applies to—

(a) any marine plan,

(b) any amendment of a marine plan.

(2) Anything falling within the paragraphs of subsection (1) is referred to in this section as a “relevant document”.

(3) A relevant document must not be questioned in any legal proceedings, except in so far as is provided by the following provisions of this section.

(4) A person aggrieved by a relevant document may make an application to the High Court on any of the following grounds—

(a) that the document is not within the appropriate powers;

(b) that a procedural requirement has not been complied with.

(5) Any such application must be made not later than 12 weeks after the publication of the relevant document.

(6) In this section—

"the appropriate powers" means the powers conferred by sections 4 to 7 or Schedule 1;

"procedural requirement" means any requirement under the appropriate powers which relates to the preparation, adoption or publication of a relevant document.

Powers of the High Court on an application under section 10

11.—(1) This section applies in any case where an application under section 10 is made to the High Court.

(2) The court may make an interim order suspending the operation of the relevant document—

(a) wholly or in part,

(b) generally or as it affects a particular area;

and an interim order has effect until the proceedings are finally determined.

(3) Subsection (4) applies if the court is satisfied as to any of the following—

(a) that a relevant document is to any extent outside the appropriate powers;

(b) that the interests of the applicant have been substantially prejudiced by failure to comply with a procedural requirement.

(4) The court may—

(a) quash the relevant document;

(b) remit the relevant document to the Department.

(5) If the court remits the relevant document under subsection (4)(b), it may give directions as to the action to be taken in relation to the relevant document.

(6) Directions under subsection (5) may in particular—

(a) require the relevant document to be treated (generally or for specified purposes) as not having been adopted or published;

(b) require specified steps in the process that has resulted in the adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;

(c) require action to be taken by the Department.

(7) The court's powers under subsections (4) and (5) are exercisable in relation to the whole or any part of the relevant document.

(8) Expressions used in this section and in section 10 have the same meaning in this section as they have in that section.

Interpretation

Interpretation of this Part

12.—(1) In this Part—

"adopted"—

(a) in the case of a marine policy statement, is to be read in accordance with section 44 of, and paragraph 12 of Schedule 5 to, the 2009 Act;

(b) in the case of a marine plan, is to be read in accordance with section 4 of, and paragraph 15 of Schedule 1 to, this Act;

"marine plan" has the meaning given in section 4;

"marine plan area" has the meaning given in section 4;

"marine policy statement" is to be construed in accordance with sections 44 and 47 of the 2009 Act;

"the relevant Northern Ireland departments" has the meaning given in section 4(11);

"retained functions" has the meaning given in section 60 of the 2009 Act.

(2) Any reference in this Part to a marine policy statement governing marine planning for an area is to be construed in accordance with section 4(10).

Changes to legislation:
There are currently no known outstanding effects for the Marine Act (Northern Ireland) 2013, Part 2.