



## 2013 CHAPTER 10

### Part 3

#### Marine protection

##### *Byelaws*

##### **Byelaws for protection of MCZs**

**26.—**(1) The Department may make byelaws for the purpose of furthering the conservation objectives stated for an MCZ.

(2) Byelaws under this section may be made so as to apply to any area in the Northern Ireland inshore region or in any other part of Northern Ireland.

(3) The provision that may be made by byelaws under this section includes, in particular, provision—

- (a) prohibiting or restricting entry into, or any movement or other activity within, the MCZ by persons or animals;
- (b) prohibiting or restricting entry into, or any movement or other activity within, the MCZ by vessels or (where appropriate) vehicles;
- (c) restricting the speed at which any vessel may move in the MCZ or in any specified area outside the MCZ where that movement might hinder the conservation objectives stated for the MCZ;
- (d) prohibiting or restricting the anchoring of any vessel within the MCZ;
- (e) prohibiting or restricting the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the MCZ;
- (f) prohibiting or restricting the doing of anything in the MCZ which would interfere with the sea bed or damage or disturb any object in the MCZ.

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(4) The provision that may be made by byelaws under this section also includes provision prohibiting or restricting entry into, or any movement or other activity on, any part of the seashore that adjoins the MCZ by persons, animals or vehicles.

(5) Byelaws under this section may provide for the Department to issue permits authorising anything which would, apart from such a permit, be unlawful under the byelaws.

(6) The Department may attach to a permit under subsection (5) any condition which the Department thinks appropriate to attach to that permit.

(7) Byelaws under this section may be made subject to specified exceptions.

(8) Byelaws under this section may make different provision for different cases, including (in particular)—

- (a) different parts of the MCZ;
- (b) different times of the year;
- (c) different means or methods of carrying out any activity.

(9) In this section “specified” means specified in the byelaws.

#### **Byelaws: procedure**

**27.—**(1) Subject to subsection (10), before making any byelaws under section 26, the Department must comply with subsections (2) to (6).

(2) The Department must place a copy of a draft of the byelaws in such place or places as the Department thinks is or are likely to be most convenient for the purpose of enabling the draft to be inspected by persons likely to be affected by the making of the byelaws.

(3) The Department must provide a copy of a draft of the byelaws to any person who requests one.

(4) The Department may charge a fee, not exceeding its costs, for providing a copy under subsection (3).

(5) The Department must publish notice of its proposal to make the byelaws.

(6) The notice under subsection (5) must—

- (a) be published in such manner as the Department thinks is most likely to bring the proposal to the attention of any persons who are likely to be affected by the making of the byelaws;
- (b) state where the copy or copies of the draft byelaws have been placed by the Department in accordance with subsection (2);
- (c) state the time within which representations about the byelaws must be made to the Department.

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(7) Byelaws made under section 26 do not have effect until they are confirmed by the Secretary of State; and byelaws which are confirmed come into operation—

- (a) on such date as may be determined by the Secretary of State, or
- (b) if no such date is determined, one month after the date on which they are confirmed.

(8) As soon as is reasonably practicable after the confirmation of byelaws made under section 26, the Department must publish notice of the making of the byelaws.

(9) The notice under subsection (8) must—

- (a) be published in such manner as the Department thinks is most likely to bring the byelaws to the attention of any persons who are likely to be affected by the making of the byelaws;
- (b) state that a copy of the byelaws may be inspected at the offices of the Department.

(10) Nothing in this section applies where the Department thinks that there is an urgent need to protect an MCZ.

### **Emergency byelaws**

**28.—**(1) Where the Department thinks that there is an urgent need to protect an MCZ, byelaws made by it for that purpose have effect without being confirmed by the Secretary of State.

(2) Byelaws that have effect by virtue of this section (“emergency byelaws”) —

- (a) come into operation on a date specified in the byelaws, and
- (b) remain in operation (unless revoked) for such period, not exceeding 12 months, as is specified in the byelaws.

(3) The Department must publish notice of the making of emergency byelaws.

(4) The notice under subsection (3) must—

- (a) be published in such manner as the Department thinks is most likely to bring the byelaws to the attention of any persons who are likely to be affected by the making of the byelaws;
- (b) state that a copy of the byelaws may be inspected at the offices of the Department;
- (c) state that the Secretary of State has power to revoke the byelaws and that any person affected by the making of the byelaws may make representations to the Secretary of State.

(5) The Secretary of State may revoke emergency byelaws.

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(6) The Department must keep under review the need for emergency byelaws to remain in operation.

(7) The Department may, by further byelaws, provide that emergency byelaws are to remain in operation for such period beyond that specified under subsection (2)(b) as is specified in the further byelaws.

(8) The Department may not make byelaws under subsection (7) unless—

(a) it intends to make byelaws under section 26 in respect of the MCZ in accordance with section 27 (“the permanent byelaws”), and

(b) it has, in respect of the permanent byelaws, complied with section 27(5).

(9) A period specified under subsection (7) may not exceed 6 months.

### **Interim byelaws for MCZ**

**29.—**(1) The Department may make byelaws for the purpose of protecting any feature in an area in Northern Ireland if the Department thinks—

(a) that there are or may be reasons for the Department to consider whether to designate the area as an MCZ, and

(b) that there is an urgent need to protect the feature.

(2) In this Part “interim byelaws” means byelaws made under subsection (1).

(3) Interim byelaws must contain a description of the boundaries of the area to which they apply (which must be no greater than is necessary for the purpose of protecting the feature in question).

(4) Subsections (2) to (9) of section 26 apply to interim byelaws as they apply to byelaws made under that section, except that any reference to an MCZ is to be read as a reference to the area to which the interim byelaws apply.

(5) Interim byelaws—

(a) come into operation on a date specified in the byelaws, and

(b) remain in operation (unless revoked) for such period, not exceeding 12 months, as is specified in the byelaws.

(6) The Department must publish notice of the making of interim byelaws.

(7) The notice under subsection (6) must—

(a) be published in such manner as the Department thinks is most likely to bring the byelaws to the attention of any persons who are likely to be affected by the making of the byelaws;

(b) state that a copy of the byelaws may be inspected at the offices of the Department;

(c) state that the Secretary of State has power to revoke the byelaws and that any person affected by the making of the byelaws may make representations to the Secretary of State.

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(8) The Secretary of State may revoke interim byelaws.

(9) The Department must keep under review the need for interim byelaws to remain in operation.

(10) The Department may by further byelaws extend the period for which interim byelaws remain in operation; but interim byelaws may not by virtue of this subsection remain in operation for an aggregate period exceeding 12 months.

(11) If, while interim byelaws are in operation, the Department gives notice of a proposal to make an order under section 13 designating any part of the area in question as an MCZ, the Department may direct that interim byelaws are to remain in operation—

- (a) until the Department has decided whether to make the order under section 13;
- (b) if the Department decides to make such an order, until that order comes into effect.

(12) The Department must publish a direction under subsection (11) in such manner as the Department thinks is most likely to bring the direction to the attention of any persons who are likely to be affected by the making of it.

(13) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.

### **Byelaws: supplementary**

**30.**—(1) This section applies to byelaws made under section 26 or 29.

(2) The Department must—

- (a) make a copy of any byelaws to which this section applies available for inspection at its offices at all reasonable hours without payment;
- (b) provide a copy of any such byelaws to any person who requests one.

(3) The Department may charge a fee, not exceeding its costs, for providing a copy under subsection (2)(b).

(4) In the case of byelaws made under section 26 in accordance with section 27, subsections (2) and (3) apply only after the byelaws have been confirmed under section 27(7).

(5) Byelaws to which this section applies are not statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

### **Hearings**

**31.**—(1) This section applies where the Secretary of State has the function of—

- (a) deciding (under section 27(7)) whether to confirm byelaws made under section 26;

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- (b) deciding (under section 28(5)) whether to revoke emergency byelaws;
  - (c) deciding (under section 29(8)) whether to revoke interim byelaws.
- (2) This section also applies where the Department has the function of—
- (a) deciding whether to make byelaws under section 26;
  - (b) deciding whether to make interim byelaws under section 29.
- (3) The Secretary of State or (as the case may be) the Department may, before making that decision, give to any person the opportunity of—
- (a) appearing before and being heard by a person appointed for that purpose;
  - (b) providing written representations to such a person.
- (4) The Department may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (3).
- (5) A person appointed under subsection (3) must make a report to the Secretary of State or (as the case may be) the Department of any oral or written representations made under that subsection.

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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. 20(11) inserted by [S.I. 2019/112 reg. 2\(2\)\(b\)](#)
- s. 38(7)(a) words substituted by [S.I. 2019/112 reg. 2\(3\)\(a\)](#)
- s. 38(7)(b) words substituted by [S.I. 2019/112 reg. 2\(3\)\(b\)](#)