

Changes to legislation: Marine and Coastal Access Act 2009, Part 3 is up to date with all changes known to be in force on or before 22 April 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

SCHEDULES

SCHEDULE 13

MARINE BOUNDARIES OF SSSIS AND NATIONAL NATURE RESERVES

Modifications etc. (not altering text)

- C1** Sch. 13 modified (22.4.2022) by [The East Anglia ONE North Offshore Wind Farm Order 2022 \(S.I. 2022/432\)](#), arts. 1(2), **31** (with arts. 40, 41)

PART 3

NATIONAL NATURE RESERVES

Marine boundaries of national nature reserves

- 10 (1) In section 35 of the 1981 Act (national nature reserves) after subsection (1) insert—
- “(1A) The land which may be declared to be a national nature reserve in England or Wales includes—
- (a) any land lying above mean low water mark;
 - (b) any land covered by estuarial waters.
- (1B) Where the area of land to which a declaration under subsection (1) relates includes land falling within subsection (1A)(a) or (b) (“area A”), it may also include land not falling within subsection (1A)(a) or (b) (“area B”) if—
- (a) area B adjoins area A, and
 - (b) any of the conditions in subsection (1C) is satisfied.
- (1C) The conditions are—
- (a) that the flora, fauna or features leading to the management of area A as a nature reserve is or are also present in area B;
 - (b) that the management of area A as a nature reserve is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
 - (c) that, without the inclusion of area B, the identification of the boundary of the land declared to be a national nature reserve (either in the declaration or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.
- (1D) The ministerial authority may issue guidance to the appropriate conservation body about the exercise of the power conferred by subsection (1B) to make a declaration in relation to land lying below mean low water mark.
- “The ministerial authority” has the meaning given by section 35A(12).”

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- (2) No declaration under subsection (1) of that section made before the coming into force of this paragraph may be questioned in legal proceedings on the ground that the area of land to which the declaration relates includes land lying below mean low water mark.

Commencement Information

- I1** Sch. 13 para. 10 partly in force; Sch. 13 para. 10 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(ii)
- I2** Sch. 13 para. 10 in force at 12.12.2014 in so far as not already in force by S.I. 2014/3088, art. 2(b)

Power to call in subtidal declarations of national nature reserves

11 After section 35 of the 1981 Act insert—

“35A Power to call in subtidal declarations

- (1) This section applies where—
- (a) the appropriate conservation body propose to declare land to be a national nature reserve under section 35(1), and
 - (b) the land to which the proposed declaration relates includes, by virtue of section 35(1B), land lying below mean low water mark (“the subtidal land”).
- (2) The appropriate conservation body may not declare the reserve unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.
- (3) At any time before the reserve is declared the ministerial authority may give notice to the appropriate conservation body that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), the appropriate conservation body may not declare the reserve until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
- (a) that the reserve (if declared) must include all of the subtidal land;
 - (b) that the reserve (if declared) must not include any of the subtidal land;
 - (c) that the reserve (if declared) must, or must not, include such part of that land as is specified in the direction;
 - (d) that the decision whether the reserve (if declared) should include the subtidal land is to be taken by the appropriate conservation body.
- (6) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
- (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
 - (b) providing written representations to such a person.

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- (7) A person appointed under subsection (6) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (8) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (6).
- (9) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (10) A statutory instrument containing regulations made under subsection (8) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) A statutory instrument containing regulations made under subsection (8) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this section “the ministerial authority” means—
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers.”

Commencement Information

- I3** Sch. 13 para. 11 partly in force; Sch. 13 para. 11 in force for specified purposes at Royal Assent see s. 324(1)(c); Sch. 13 para. 11 in force for further specified purposes on 12.1.2010 see s. 324(2)(b)(ii)
- I4** Sch. 13 para. 11 in force at 12.12.2014 in so far as not already in force by S.I. 2014/3088, art. 2(b)

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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. 72A(2A) inserted by [2023 c. 55 s. 232\(2\)\(d\)](#)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by [2023 c. 55 s. 232\(2\)\(f\)\(i\)](#)
- s. 72A(6)(a) words inserted by [2023 c. 55 s. 232\(2\)\(f\)\(ii\)](#)
- s. 72A(6)(b) and word inserted by [2023 c. 55 s. 232\(2\)\(f\)\(iii\)](#)
- Sch. 6 para. 1(2)(da) inserted by [2023 c. 55 Sch. 8 para. 31\(2\)\(a\)](#)