

Marine and Coastal Access Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 108 as first printed for the Commons.]

Clause 7

- 1 Page 6, line 6, leave out from “read,” to “under” in line 7 and insert “in relation to the exercise by the MMO of functions”

Clause 21

- 2 Page 15, line 1, after “by” insert “the MMO or”

Clause 51

- 3 Page 29, line 34, leave out subsection (2) and insert –
“(2) Where an MPS governs marine planning for a marine planning region, the marine plan authority for the region must seek to ensure that every part of the region is within an area for which a marine plan is in effect.”

Clause 141

- 4 Page 96, line 11, at end insert –
“(4A) The Secretary of State may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (4).”

Clause 160

- 5 Page 108, line 29, at end insert –
“() Regulations under this section may make different provision for cases where an IFC authority has entered into an agreement under section (*Power to enter into agreements with eligible bodies*) authorising a body to perform any of the authority’s functions relating to byelaws.”

Clause 166

- 6 Page 110, line 22, leave out “by the authority for the district” and insert “under section 155 for the district (or having effect as if so made)”

After Clause 166

7 Insert the following new Clause –

“Power to enter into agreements with eligible bodies

- (1) The authority for an IFC district may, with the approval of the Secretary of State, enter into an agreement with an eligible body authorising the eligible body to perform any function of the IFC authority –
 - (a) either in relation to the district or in relation to specified parts of that district;
 - (b) subject to paragraph (a), either generally or in specified cases.
 “Specified” means specified in the agreement.
- (2) For the purposes of this section and sections (*Eligible bodies*), (*Variation, review and cancellation of agreements under section (Power to enter into agreements with eligible bodies)*), (*Agreements under section (Power to enter into agreements with eligible bodies): particular powers*) and (*Supplementary provisions with respect to agreements under section (Power to enter into agreements with eligible bodies)*) –
 - (a) any reference to a function of an IFC authority includes a reference to a function exercisable by a person authorised, appointed or employed by the IFC authority;
 - (b) any reference to an agreement is to an agreement under this section.
- (3) The Secretary of State’s approval may be given –
 - (a) in relation to a particular agreement or in relation to a description of agreements;
 - (b) unconditionally or subject to conditions specified in the approval.
- (4) An agreement under this section may not authorise an eligible body to perform any of the following functions –
 - (a) any function whose performance by the body would be incompatible with the purposes for which the body was established;
 - (b) functions under section 171 (accounts).
- (5) An agreement under this section does not prevent the IFC authority from performing a function to which the agreement relates.
- (6) The maximum period for which an agreement under this section may authorise an eligible body to perform a function is 20 years.”

8 Insert the following new Clause –

“Eligible bodies

- (1) In this Chapter “eligible body”, in relation to an agreement entered into by the authority for an IFC district, means any body in the following list –
 - (a) the authority for any IFC district that adjoins the district;
 - (b) the Environment Agency.
- (2) The Secretary of State may by order amend subsection (1) so as to –
 - (a) add any body or description of body to the list, or

- (b) remove any body or description of body from it.
- (3) The Secretary of State may not exercise the power conferred by subsection (2)(a) unless—
 - (a) the body, or every body of the description, to be added to the list is a public body, and
 - (b) the Secretary of State is satisfied that at least one of the purposes or functions of the body, or bodies of the description, to be added to the list is, or is related to or connected with, an inshore marine function.
- (4) In this section “inshore marine function” means any function which relates to, or whose exercise is capable of affecting, the whole or any part of the English inshore region.”

9 Insert the following new Clause—

“Variation, review and cancellation of agreements under section (*Power to enter into agreements with eligible bodies*)

- (1) Subject to subsection (3), the Secretary of State—
 - (a) must review an agreement no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and
 - (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (2) Subject to subsection (3), an agreement may not be varied except—
 - (a) by agreement between the IFC authority and the eligible body, and
 - (b) with the approval of the Secretary of State.
- (3) An approval given under section (*Power to enter into agreements with eligible bodies*)(1) may provide that subsection (1) or (2) of this section does not apply (or that both of them do not apply).”

10 Insert the following new Clause—

“Agreements under section (*Power to enter into agreements with eligible bodies*): particular powers

- (1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.
- (2) An IFC authority may, under an agreement, authorise an eligible body to perform a function even though, under the enactment or subordinate legislation conferring that function on the IFC authority,—
 - (a) the function is conferred on the IFC authority by reference to specified circumstances or cases and the same type of function is conferred on the eligible body in different specified circumstances or cases,
 - (b) the function is exercisable by the IFC authority and the eligible body jointly,
 - (c) the eligible body is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or

- (d) the eligible body is required to consent to the exercise of the function (whether generally or in specified circumstances).
- (3) An agreement may provide—
 - (a) for the performance of a function to be subject to the fulfilment of conditions;
 - (b) for payments to be made in respect of the performance of the function.
- (4) Any eligible body which is authorised under an agreement to perform a function—
 - (a) is to be treated as having power to do so;
 - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply, authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf.
- (5) Subject to subsection (4)(b), an eligible body which is authorised under an agreement to perform a function may not authorise any other body or person to perform that function.
- (6) Section 177 (exemption from liability) applies in relation to any function which an eligible body is authorised under an agreement to perform as if the reference to an IFC authority were a reference to the eligible body.”

11 Insert the following new Clause—

“Supplementary provisions with respect to agreements under section (*Power to enter into agreements with eligible bodies*)

- (1) An agreement under section (*Power to enter into agreements with eligible bodies*), and any approval given by the Secretary of State under that section, must be in writing.
- (2) An IFC authority which has entered into an agreement with an eligible body must arrange for a copy of the agreement to be published in a way that the IFC authority thinks is suitable for bringing it to the attention of persons likely to be affected by it.
- (3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—
 - (a) requiring it to enter into an agreement under section (*Power to enter into agreements with eligible bodies*);
 - (b) prohibiting it from entering into such an agreement;
 - (c) requiring it to include, or prohibiting it from including, particular terms in such an agreement;
 - (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of such an agreement.
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c. 40) (restrictions on disclosure of information) applies in relation to an authorisation by an IFC authority or an eligible body under section (*Power to enter into agreements with eligible bodies*) or (*Agreements under section (Power to enter into agreements with eligible bodies): particular powers*) of this Act as if

applies in relation to an authorisation under section 69 of that Act by an office-holder.”

Clause 181

- 12 Page 115, line 9, at end insert –
““eligible body” has the meaning given by section (*Eligible bodies*);”

Clause 197

- 13 Page 124, leave out from beginning of line 11 to “subsection” in line 12 and insert –
“(1) Section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) (power to make orders as to fisheries for shellfish) is amended as set out in subsections (1A) and (1B).

(1A) In”

- 14 Page 124, line 14, at end insert –
“(1B) Omit subsection (4) (certain consents required for orders made in relation to land belonging to Crown etc).”

- 15 Page 124, line 14, at end insert –
“() In Schedule 1 to that Act (provisions with respect to making of orders under section 1), in paragraph 6 –
(a) the existing provision is renumbered as sub-paragraph (1), and
(b) after that sub-paragraph insert –
“(2) Where the proposed order relates to any portion of the sea shore belonging to Her Majesty in right of the Crown, the appropriate Minister shall also have regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961.””

After Clause 197

- 16 Insert the following new Clause –

“Variation etc of orders as a result of development

In section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) (power to make orders as to fisheries for shellfish), for subsection (6) substitute –

- “(6) Any order made under this section may be varied or revoked by a subsequent order made under this section.
(7) Subject to subsection (8) below, subsections (1) to (5) above shall apply in relation to any such subsequent order and to an application for such an order as they apply in relation to an original order made under this section and to an application for such an order.
(8) Subsection (7) above does not apply in the case of any order made by virtue of subsection (10) below.

- (9) Subsection (10) applies in any case where it appears to the appropriate Minister that—
- (a) permission has been granted for the carrying out of any development in, on or over any portion of the sea shore to which an order made under this section relates (the “affected area”), and
 - (b) as a result of the development, it will be impossible or impracticable to exercise any right of several fishery or of regulating a fishery conferred by the order in the affected area.
- (10) In any such case, the appropriate Minister may —
- (a) vary the order so that the area to which the order relates no longer includes the affected area, or
 - (b) if the affected area comprises the whole or the greater part of the area to which the order relates, revoke the order.
- (11) The provision that may be made by an order made by virtue of subsection (10) above includes—
- (a) provision requiring the owners of the affected area to pay compensation to any persons who, at the time of the making of the order, are entitled to a right of several fishery in any part of the affected area by virtue of an order under this section;
 - (b) provision for the amount of any such compensation to be specified in, or determined in accordance with provision made by, the order (including provision for or in connection with the appointment of a person to make such determination).
- (12) Before making an order by virtue of subsection (10) above, the appropriate Minister must consult—
- (a) any persons who are entitled to a right of several fishery or a right of regulating a fishery in any part of the affected area by virtue of an order under this section, and
 - (b) the owners or reputed owners, lessees or reputed lessees and occupiers, if any, of the affected area.
- (13) The appropriate Minister may require the owners of the affected area to provide him with such information relating to the development as he may reasonably require for the purpose of deciding whether to make an order by virtue of subsection (10) above.
- (14) In this section “development” has the same meaning as in the Town and Country Planning Act 1990.””

Clause 310

17 Page 216, line 7, at end insert—
“() section 141(4A);”

Clause 318

- 18 Page 222, line 45, at end insert –
“() in Part 3 (marine planning) –
(i) paragraphs 4(1) to (4), 5 and 6 of Schedule 5 (statement of public participation relating to MPS) and, so far as relating to those paragraphs, paragraphs 1 and 2 of that Schedule;
(ii) sections 44(1)(b) and (5) and 45(4), so far as relating to those paragraphs;”
- 19 Page 223, line 7, at beginning insert “So far as not already brought into force by virtue of subsection (1),”

Clause 319

- 20 Page 223, line 41, leave out subsection (2)

Schedule 4

- 21 Page 236, leave out lines 21 to 23 and insert –
“(1) The Energy Act 2008 (c. 32) is amended as follows.
(2) In section 1 (exploitation of areas outside the territorial sea for gas importation and storage), for subsection (5) substitute –”
- 22 Page 236, line 32, at end insert –
“() In section 35 (interpretation of Chapter 3), in subsection (1), for the definition of “Gas Importation and Storage Zone” substitute –
““Gas Importation and Storage Zone” is to be read in accordance with section 1(5);”.”
- 23 Page 236, leave out from beginning of line 35 to end of line 8 on page 237

Schedule 5

- 24 Page 239, line 12, at end insert “(including the carrying out of the sustainability appraisal under paragraph 7)”

Schedule 13

- 25 Page 273, line 7, at end insert –
“() After subsection (6) (when notification ceases to have effect) insert –
“(6A) Subsection (6)(b) does not apply in a case where notice has been given to Natural England under section 28CB(3).””

Schedule 16

- 26 Page 283, line 22, leave out “21” and insert “22”

Schedule 22

- 27 Page 323, line 20, column 2, at beginning insert –

| “Section 1(4).”

28 Page 324, line 15, column 2, leave out “21” and insert “22”