

**2011 No. 627**

**LICENSING (MARINE)**

**MARINE MANAGEMENT**

**The Marine Licensing (Delegation of Functions) Order 2011**

<i>Made</i> - - - -	<i>2nd March 2011</i>
<i>Laid before Parliament</i>	<i>8th March 2011</i>
<i>Coming into force</i> - -	<i>6th April 2011</i>

The Secretary of State, as the appropriate licensing authority under section 113(2)(a), (4)(a), (6)(a) and (8) of the Marine and Coastal Access Act 2009(a), makes the following Order in exercise of the powers conferred by sections 98(1) and 99(5) of that Act.

In accordance with section 98(3) of that Act, the Marine Management Organisation consents to the making of this Order.

**Citation and commencement**

1. This Order—

- (a) may be cited as the Marine Licensing (Delegation of Functions) Order 2011; and
- (b) comes into force on 6th April 2011.

**Application**

2.—(1) This Order applies in relation to any area, and any licensable marine activity carried on in that area, for which the Secretary of State is—

- (a) the appropriate licensing authority under section 113 of the Marine and Coastal Access Act 2009(b),
- (b) an enforcement authority under section 114 of that Act(c),

and references in this Order to “the licensing authority” or an “enforcement authority” are to be read accordingly.

(2) Nothing in this Order applies in relation to any excepted function within the meaning of section 98(6) of that Act.

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(a) 2009 c. 23.

(b) By virtue of section 113(2)(a), (4)(a), (6)(a) and (8) of the Marine and Coastal Access Act 2009, the Secretary of State is the appropriate licensing authority as respects anything done in the course of carrying on certain activities in the Scottish offshore region, Wales and the Welsh inshore region, Northern Ireland and the Northern Ireland inshore region, and in relation to any other area not mentioned in subsection (2), (4) or (6). See section 322(1) for definitions of those regions.

(c) The Secretary of State is an enforcement authority for the areas for which the Secretary of State is the appropriate licensing authority: see section 114(2) of that Act.

## Designation

3.—(1) The functions referred to in paragraph (3) are designated for the purposes of section 98(1)(a) of the Marine and Coastal Access Act 2009.

(2) But this is subject to paragraph (4).

(3) The functions are any function of the licensing authority and any function of an enforcement authority, as the case may be, under—

- (a) Part 4 of that Act (sections 65 to 115, and Schedules 7 to 9)(a);
- (b) the Marine Licensing (Exempted Activities) Order 2011(b);
- (c) the Marine Licensing (Register of Licensing Information) Regulations 2011(c);
- (d) the Marine Licensing (Application Fees) Regulations 2011(d).

(4) Paragraph (1) does not apply to any function so far as it relates to an activity falling within the subject matter of—

- (a) Part 6 of the Merchant Shipping Act 1995(e) (pollution etc);
- (b) the Petroleum Act 1998(f); or
- (c) Part 1 (gas importation or storage), 4 (provisions relating to oil and gas) or 4A (works detrimental to navigation) of the Energy Act 2008(g).

## Delegation to the Marine Management Organisation

4. The functions designated by article 3, instead of being exercisable by or in relation to the licensing authority or, as the case may be, an enforcement authority, are exercisable by or in relation to the Marine Management Organisation acting on behalf of the licensing authority or, as the case may be, the enforcement authority.

*Richard Benyon*

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

2nd March 2011

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- (a) Certain functions relating to national security under sections 68(7)(b), (8)(b), 70(8) and section 101(5)(a) are functions of the Secretary of State, rather than the licensing authority or an enforcement authority, and accordingly fall outside the scope of the designation under this Order.
  - (b) S.I. 2011/409.
  - (c) S.I. 2011/424.
  - (d) S.I. 2011/564.
  - (e) 1995 c. 21. Relevant amendments and repeals to provisions in Part 6 were made by the Merchant Shipping (Pollution) Act 2006 (c. 8); the Merchant Shipping and Maritime Security Act 1997 (c. 28); the Pollution Prevention and Control Act 1999 (c. 24); the Marine Safety Act 2003 (c. 16), and S.I. 2006/1244.
  - (f) 1998 c. 17. Relevant amending instruments are the Energy Act 2004 (c. 20), the Energy Act 2008 (c. 32), the Marine and Coastal Access Act 2009, S.I. 2000/1937, 2004/2043 and 2007/290.
  - (g) 2008 c. 32. In Part 1, sections 1 and 35(1) have been amended by section 41(8) of, and paragraph 5 of Schedule 4 to, the Marine and Coastal Access Act 2009. Part 4A was inserted by section 314(1) of that Act.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order delegates the exercise of certain functions of the Secretary of State as a licensing authority and an enforcement authority under the Marine and Coastal Access Act 2009 (“the 2009 Act”) to the Marine Management Organisation.

This Order does not apply to those functions of the licensing authority (mainly relating to the making of subordinate legislation) which are excepted functions and not delegable by virtue of section 98(5)(a) of the 2009 Act (article 2(2)).

Article 3 designates functions of the Secretary of State as licensing authority and an enforcement authority under Part 4 (marine licensing) of the 2009 Act (including functions under subordinate legislation made under that Part).

Article 3 does not designate functions relating to activities falling within the subject matter of Part 6 of the Merchant Shipping Act 1995; the Petroleum Act 1998, or Part 1, 4 or 4A of the Energy Act 2008 (article 3(4)).

Article 4 provides that the designated functions are exercisable by or in relation to the Marine Management Organisation acting on behalf of the licensing authority or the enforcement authority (instead of being exercisable by or in relation to such an authority). The licensing authority has the power to give directions to the Marine Management Organisation with respect to the performance of the delegated functions (see section 100 of the 2009 Act, which power is an excepted function).

A full impact assessment of the effects that this instrument will have on the costs of business, the voluntary sector and the public sector has been prepared, and copies are available from the Licensing Policy Team, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR, and from Defra’s website at [www.defra.gov.uk](http://www.defra.gov.uk).

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