Regulating the Sea

This book is the first ever written on English marine conservation regulation from a socio-legal perspective. The monograph presents an in-depth analysis of key aspects of Marine Protected Areas regulation in England, offering the reader access to an under-investigated field. Such regulatory mapping is complemented by an interdisciplinary treatment of the subject exploring the relationship between people and marine parks through central themes in environmental social sciences and regulatory theory, namely space, rationalisation, democracy and adaptation. Thus, the book is of interest to environmental lawyers and regulatory scholars but also to human geographers, environmental sociologists and political scientists. As the book provides critical reflections on current legal and regulatory structures, it contains valuable insights for policymakers and regulators. The book has a strong methodological basis drawing on in-depth desk-based research, complemented by primary qualitative research, conducted over a number of years.

Margherita Pieraccini is Professor of Law at the University of Bristol. She has been researching in the field of environmental law and socio-legal studies for over ten years, focussing on protected areas and commons in the UK and Italy. Her work crosses the boundaries between law and environmental social sciences.
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Regulating the Sea

A Socio-Legal Analysis of English Marine Protected Areas

MARGHERITA PIERACCINI
University of Bristol
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Preface and Acknowledgements

The seeds of this book were planted a long time ago, when I embarked on an Economic and Social Research Council (ESRC)-funded project (ES/K001043/1) from 2012 to 2015 to study the development of the UK marine protected areas (MPAs) network following the entry into force of the Marine and Coastal Access Act 2009. The research consisted in doctrinal analysis and in-depth primary qualitative research in selected case study areas across the UK. Some of the voices of the research participants, which were interviewed during that project, are reported in this book, especially in Chapter 5. Others, although not explicitly present here, have still been immensely valuable in helping me understanding what the real issues are, giving me a grounded perspective on the topic.

It was during the ESRC-funded project that I developed an interest in regulatory impact assessments too when exploring what went well and what went wrong in the designation of the first tranche of Marine Conservation Zones (MCZs). Hence, some of the background research for Chapter 3 can be traced back to that project, although the designation of new tranches in 2016 and 2019 demanded new research in regulatory impact assessments to provide an up-to-date picture. Whilst conducting the study and asking research participants about the designation of the new MCZs, I noticed that local regulators (the Inshore Fisheries Conservation Authorities) were preoccupied also with something else, that is, the management of fisheries within European Marine Sites, adopting a risk-based approach. This topic was beyond the scope of the ESRC project, so I investigated it in the following years, and the findings are presented in Chapter 4.

At the same time, marine conservation was experiencing political and ecological changes. Politically, the Brexit referendum in 2016, leading (slowly) to the UK departure from the European Union in 2020, was a cause of uncertainty for marine conservation law and regulation. Ecologically, climate change having impacts on marine ecosystems could not be left out of an analysis of marine conservation. It became interesting to explore the extent to which regulation was adapting to these ecological and political changes, as discussed in Chapters 7 and 8. Finally, in line with a long-standing interest of mine in environmental democracy, I decided to investigate key institutions contributing to it, as visible in Chapter 6.

Next to this regulatory analysis on English MPAs and a legal map presented in Chapter 2, the book attempts also to deliver a critical assessment of the
relationship between people and parks by drawing on the concepts of commons and commoning, which are introduced in Chapter 1 and then return throughout the book. This conceptual contribution and the theoretical bridges the book forges between legal and regulatory studies, on the one hand, and environmental social sciences, on the other, is what I hope will continue to be valuable to scholars now and in the future as, realistically, some of the laws discussed are likely to change rapidly. The law is stated as at 31 December 2021.

I would like to express my sincere gratitude to various people who have contributed in different ways to this study. Thanks go to all research participants who agreed to take part in semi-structured interviews with me both during the ESRC-funded project and more recently in May 2021, and thanks to the ESRC for funding the initial project and Dr Emma Cardwell for her research assistance for part of the ESRC project.

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- Marine and Coastal Access Act 2009
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Fisheries Act 2020
European Union (Withdrawal Agreement) Act 2021
Environment Act 2021

EU
Consolidated version of the Treaty of the Functioning of the European Union, OJ 2012 C 326/47

International
International Convention for the High Sea Fisheries of the North Pacific Ocean (Tokyo) 9 May 1952, in force 12 June 1953, 205 UNTS 65 (North Pacific Fisheries Convention)
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Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar) 2 February 1971, in force 21 December 1975, 996 UNTS 245 (Ramsar Convention)


## Abbreviations

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<td>Convention on Access to Information, Public Participation and Decision-Making and Access to Justice in Environmental Matters (full citation in the Table of Legislation)</td>
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<tr>
<td>BEIS</td>
<td>Department for Business, Energy and Industrial Strategy</td>
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<td>Biodiversity Convention</td>
<td>The Convention on Biological Diversity (full citation in the Table of Legislation)</td>
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<td>CJEU</td>
<td>Court of Justice of the European Union</td>
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<td>Climate Change Convention</td>
<td>United Nations Framework Convention on Climate Change (full citation in the Table of Legislation)</td>
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<tr>
<td>COP</td>
<td>Conference of the Parties</td>
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<td>CPR</td>
<td>Common-Pool Resource</td>
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<tr>
<td>DEFRA</td>
<td>Department of Environment Food and Rural Affairs</td>
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<td>EU</td>
<td>European Union</td>
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<td>Conservation of Habitats and Species Regulations 2017 (full citation in the Table of Legislation)</td>
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<td>HPMA</td>
<td>Highly Protected Marine Area</td>
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<td>HRA</td>
<td>Habitat Regulation Assessment</td>
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<td>IA</td>
<td>Impact Assessment</td>
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<td>IFCA</td>
<td>Inshore Fisheries Conservation Authority</td>
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<td>Abbreviation</td>
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<td>IPPC</td>
<td>Intergovernmental Panel on Climate Change</td>
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<td>IROPI</td>
<td>Imperative Reasons of Overriding Public Interest</td>
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<td>IUCN</td>
<td>International Union for the Conservation of Nature</td>
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<td>JNCC</td>
<td>Joint Nature Conservation Committee</td>
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<td>MCAA</td>
<td>Marine and Coastal Access Act</td>
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<td>MCZ</td>
<td>Marine Conservation Zone</td>
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<td>MMO</td>
<td>Marine Management Organisation</td>
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<td>MPA</td>
<td>Marine Protected Area</td>
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<td>MSFD</td>
<td>Marine Strategy Framework Directive (full citation in the Table of Legislation)</td>
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<td>NERC Act</td>
<td>Natural Environment and Rural Communities Act</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OEP</td>
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<td>RPC</td>
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<td>Sea Fisheries Committee</td>
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<td>Statutory Nature Conservation Bodies</td>
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<td>Special Protection Area</td>
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<td>Site of Special Scientific Interest</td>
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<td>Treaty on the Functioning of the European Union</td>
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<td>United Kingdom</td>
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<td>UNCLOS</td>
<td>United Nations Convention on the Law of the Sea (full citation in the Table of Legislation)</td>
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