



January 2009

Parliamentary Briefing

Marine and Coastal Access Bill Amendment

Ensuring MMO co-operation with Devolved Administrations

The organisations listed above are closely engaged in the Marine and Coastal Access Bill. We are also members of Wildlife and Countryside Link's Marine Task Force¹, which has been campaigning for years for improvements in marine conservation.

The purpose of this amendment to **Clause 2(2)** is to encourage debate on the need to ensure consistency and coordination between the MMO and Devolved Administrations. Where there are activities within the UK marine area delivered by devolved administrations, there is currently no requirement in the Bill for the MMO to coordinate with that Administration. This is important to ensure an ecosystem approach to marine resource management, and we believe that this urgently needs addressing under the MMO's general objective.

Marine activities are not restricted to political borders and therefore the management regime must reflect this. The organisations listed above believe that the management of the marine environment must occur at a regional seas scale and be coherent across borders. This amendment is particularly important for cross-border areas where there is a risk the Marine and Coastal Access Bill could complicate, rather than simplify management and licensing arrangements.

The issue of co-operation between the MMO and Devolved Administrations was raised by the Joint Committee on the Draft Marine Bill which made the following recommendation: "*The relationships between the MMO, the Welsh Assembly Government and the equivalent Scottish body should be formalised in the Bill.*" (Paragraph 203). It is also important to consider Northern Ireland in this context.

We have concerns that no such provision has been made, leaving the matter unresolved and requiring an explicit reference to be added. While clause 2 seeks to ensure a consistent and coordinated approach to marine management in the MMO area, there remains a gap in terms of the need for the MMO to co-operate with the activities of the equivalent bodies in the Administrations outside the MMO's area.

The MMO is to be the strategic delivery body for the UK marine area. We believe the MMO should be obliged to cooperate with devolved equivalents, through Memoranda of Understanding, to reach co-ordinated decisions for areas that have a mix of reserved and devolved functions.

¹ Wildlife and Countryside Link is a coalition of the UK's major environmental organisations working together for the conservation and protection of wildlife, the countryside and the marine environment.

Other options

The purpose of this amendment is to stimulate debate on how best to promote long term cooperation and coordination between the MMO and Devolved Administrations. We acknowledge that matters of devolved implementation of the Bill may be of a sensitive nature, so in light of these complexities, the amendment tabled is the minimum requirement we seek. However, we recognise that there are a number of alternative approaches that could be taken to address the issue.

Alternative Option 1 – Creation of joint bodies or regional fora

A strong approach would be to adopt the JNCC model for UK conservation bodies, as now set out in Part 2 of the Natural Environment and Rural Communities Act 2006. This involves the establishment of a *joint body [or bodies] with distinct functions to advise on matters of common concern* to all the conservation bodies and/or which affect the interests of the UK as a whole.

This type of approach was raised by the Joint Committee on the Draft Marine Bill: *“The Government consider cooperative approaches towards the Irish Sea, similar to those of existing regional seas commissions, involving the Devolved Administrations (and the governments of Ireland and the Isle of Man) to work together collectively to produce agreement on the coordination of spatial planning, fisheries and nature protection in the Irish Sea, the Solway Firth and Bristol Channel.”* (Paragraph 201).

The Government’s response to the Joint Committee’s report suggested that the forum of the British Irish Council may suit this purpose. While this Council is suitable forum for national collaboration, areas of multiple jurisdictions divided by administrative boundaries should be managed jointly, such as through regional fora.

Alternative Option 2 – Duty on the MMO and Devolved Administrations

Another approach would be to place duties on all relevant bodies to make joint arrangements across borders. This could be achieved through a duty to prepare memoranda that set out the agreed arrangements for a shared area. A similar provision can be found in section 52 of the Water Act 2003.

This option imposes duties on the MMO, the Welsh Assembly Government, the Scottish Government and the Northern Ireland Executive to make arrangements with each of the others with a view to promoting co-operation and consistency. This would include, for example, the sharing of information and consistency of treatment of matters such as licensing similar activities that cross the border area.

There should also be a requirement for such arrangements to be kept under review and for a copy of every memorandum (and revised memorandum) to be laid before each House of Parliament.

We believe that it is important to debate the points raised above to reach the best solution for UK seas. At the very least, we would like to see the amendment tabled below.

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Annex – Amendment

Marine & Coastal Access Bill

House of Lords Committee Stage, January 2009

Clause	Clause 2 General objective
Amendment	Page 2, line 11: Insert new subsection 2(2) 'The MMO shall co-operate with any existing body or body established in the United Kingdom with similar or the same functions as the MMO [by means of a Memorandum of Understanding], including in relation to areas where both bodies are exercising their respective functions.'