



Northern Ireland  
Assembly

**Committee for Culture, Arts and Leisure**

**OFFICIAL REPORT  
(Hansard)**

**Marine Bill: Departmental Briefing**

**3 May 2012**

# NORTHERN IRELAND ASSEMBLY

## Committee for Culture, Arts and Leisure

### Marine Bill: Departmental Briefing

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**Members present for all or part of the proceedings:**

Miss Michelle McIlveen (Chairperson)  
Mrs Brenda Hale  
Mr Michael McGimpsey  
Mrs Karen McKeivitt  
Mr Oliver McMullan  
Mr Robin Swann

**Witnesses:**

Ms Karen Simpson	Department of Culture, Arts and Leisure
Mr Colin Watson	Department of Culture, Arts and Leisure
Mr Michael McClure	Sport Northern Ireland

**The Chairperson:** I welcome Karen Simpson and Colin Watson from the Department of Culture, Arts and Leisure (DCAL), and Mike McClure from Sport NI. Good afternoon, and apologies for keeping you waiting. Colin, will you give us your briefing, and we can ask questions afterwards if members feel it is appropriate to do so?

**Mr Colin Watson (Department of Culture, Arts and Leisure):** Good afternoon. It is always a pleasure to attend the Committee. Most people here know me. I am Colin Watson, the director of sport and stadiums for the Department of Culture, Arts and Leisure. I am joined by Karen Simpson, the head of the inland fisheries branch in DCAL, and Mike McClure, who is the outdoor and recreation development officer in Sport Northern Ireland.

We are here to provide a briefing on the provisions in the Northern Ireland Marine Bill that are relevant to the Department of Culture, Arts and Leisure. I propose to outline briefly how the Bill will impact on DCAL, specifically on inland fisheries and sport. After that, we will be happy to take questions from members. I will rely heavily on my two colleagues to provide responses to questions about the more technical elements of the Bill.

As you know, the Marine Bill provides a new framework for the marine environment, based on a system of marine planning that will balance conservation, energy and needs, and improve the management of marine nature conservation and the streamlining of marine licensing for some electricity projects. The Bill will apply to the territorial sea and the seabed from the high water mark of the North of Ireland out to 12 nautical miles.

DCAL has responsibility for salmon, sea trout and eel fisheries. I stress that the responsibility is for fisheries in the marine environment. It should be noted that responsibility for migratory fish has components of ecological quality, biodiversity and marine and transitional waters, and rests with the Department of the Environment (DOE). DCAL has the fisheries, and the DOE looks after the fish. Since eel fisheries in the marine environment are illegal, DCAL's main area of responsibility for fisheries in the marine environment is the management of the coastal commercial salmon industry.

From a fisheries perspective, DCAL broadly supports the provisions in the Marine Bill on marine planning and protection. Our inland fisheries group is engaged with the interdepartmental marine co-ordination group and is content that the arrangements for interdepartmental consultation have proved effective to date.

From a sporting perspective, DCAL's strategy for sport, Sport Matters, sets the policy context for the development of sport and physical recreation in Northern Ireland. Sport Matters recognises that the natural environment here, including the marine environment, provides opportunities for a range of sporting and physical recreation activities. It also highlights the importance of outdoor recreation, including in the marine and coastal areas, for providing increased sports participation.

We therefore sought to encourage the Department of the Environment to take account of Sport Matters in the development of the legislation and to recognise the importance of the marine environment to a range of sporting activities. We recognise the fact that there is a need to balance the recreational use of the marine environment with the protection of that environment. We see the conservation and improvement of the natural environment, including the marine, as essential to providing quality sporting and recreational opportunities and, in that regard, DCAL supports the broad aims of the Bill. We have also encouraged the DOE to engage with Sport NI as the body best placed to advise on the Bill's operational implications for sport as a whole. The DOE has done so, and Sport NI has provided a response to the Committee for the Environment and copied it to the Committee for Culture, Arts and Leisure.

Accessibility to our coastline is one of the main areas that is covered in that response. Although England has developed a number of sections of accessible coastline, and the Welsh Assembly will launch its coastal path strategy this week, Northern Ireland lags behind in access to this element of our natural environment. Sport NI, in partnership with the NI Environment Agency, has been leading a series of public consultations on the development of an outdoor recreation action plan. Recurrent themes among the responses received include a lack of access and a limited number of walking and cycling routes.

The Marine Bill presents an opportunity to help to redress this situation and improve access to one of our showcase features — our shared coast. Like DCAL, Sport NI has broadly welcomed the legislation and its potential to protect the marine environment in the interests of sport.

Naturally, we have some concerns on the operational aspects. We are concerned that the implementation of any by-laws proposed in the Bill — for example, at clause 24 — would not unduly or unreasonably limit the opportunity for sporting activity in marine or coastal areas. It is extremely important that any proposed by-laws are consulted on fully before being created.

Finally, I should perhaps cover an area that has not been included in the Bill but has been the subject of much debate — that is, the management organisation that will be put in place. Although it is not fully defined, we would need to be consulted on what such an organisation will do. It is possible, for example, that whatever new organisation takes over could include migratory fish management for salmon and eels, which would bring it into the territory of salmon, sea trout and eel fisheries in both marine and freshwater environments. The freshwater environment falls into DCAL's remit. Whatever organisation is to be set up, there must be full consultation on how it will be taken forward and its potential impact on the management of our fisheries.

That concludes my opening remarks. I said that I would keep them short. We are happy to take members' questions.

**The Chairperson:** Thank you, Colin. Obviously, you broadly support the principles of the Bill. It looks to me as though the by-laws issue could create a problem.

From a constituency point of view, Strangford lough is instrumental to the people whom I represent. Leisure activity on the lough is a draw for tourism, and so on. What are the likely implications and restrictions that may be imposed on Strangford lough as a result of proposed by-laws?

**Mr Mike McClure (Sport Northern Ireland):** One concern is that the by-laws allow DCAL to prohibit or restrict entry or movement by vessels, vehicles and people. At present, there is a public right of navigation on the sea for any boat owner. Restriction of that could considerably inhibit access to the water for recreation. If, for example, a set of rare birds began to nest on one of the islands, could there be a considerable exclusion zone around that island? That would cause concerns for boat owners because it would be difficult for them to operate within the by-laws.

You have probably heard about the modiolus issue and the by-laws that were created for that situation. One restriction in the by-laws disallowed anchoring in the zone, which immediately restricted the ability of local yacht clubs to run their racing season, because they have to anchor mooring buoys to race around. They need only four buoys, but anchoring was limited, and, because of the by-laws, it took a long time to reach agreement to get the buoys in place. The difficulty is that DCAL is allowed to create by-laws, but we do not know what they would do. It is only when by-laws are created that a problem may arise.

**Mr Watson:** The devil is in the detail. Until such time as the detail is seen, we do not know what impact it will have. That is why we say that extensive consultation is required when the by-laws are being made, because that is where the detail will be.

**The Chairperson:** You mentioned that the DOE was encouraged to take account of Sport Matters. Do you believe that it has done so?

**Mr Watson:** I think so. The Bill's main principles are in keeping with what we are attempting to do through Sport Matters. In fact, it takes account of the recreation facilities, is built around them and is included. Again, much of what will come out of this will be in the by-laws, and until such time as we see them, we will not really know their full impact.

**Mr Swann:** Will DCAL's licensing of inshore salmon fishing be affected by the designation of marine conservation zones?

**Ms Karen Simpson (Department of Culture, Arts and Leisure):** Once again, it comes back to the detail of the by-laws. In theory, there could be a by-law for a particular marine conservation zone, which could have an impact on any commercial salmon fishing in that area. However, as the Bill currently stands, there is no indication that that would or would not be the case.

**Mr Swann:** I am sorry, Karen; you said commercial fishing, but could a by-law also affect recreational fishing?

**Ms Simpson:** Yes; recreational sea angling could also be affected.

**Mr Swann:** Could inland fishing be affected?

**Ms Simpson:** It comes up only to the mean high spring tide mark, so inland fisheries would not be included.

**Mr McClure:** A by-law prohibits or restricts:

*"the killing, taking, destruction, molestation or disturbance of animals".*

It is a concern that that could prohibit sea angling, which is a public right.

**Mr McMullan:** As you said, there are implications for recreation, but existing leases for sporting rights will be greatly affected by the Bill. Some sporting gun clubs, for example, have long leases. What are we going to do with those leases? There is a legal requirement; they are legal leases, and people have rented ground for the purpose. It is a big industry, and they have gun dogs, and so on. That is only one example, and I do not see that in the Bill. I see everything else there but that.

I am worried about that, and also about some of the wording in the Bill, such as "may" or "could" or "whenever the occasion arises", and so on. There is immunity in the Bill. The only way to challenge anything is through the High Court. How can a single man or a small club afford to go to the High Court? That needs to be sorted out, because if anyone has a concern or wants to take a case, it needs to be done somewhere other than the High Court. The fixed penalties that the Bill sets out range from a level 1 fine to a level 5 fine, but they are administered through the civil court, and, if people want to make an argument, they have to go the High Court. There is an awful difference between the courts that are used and with the availability of any legal redress by a single person or a small club.

**Mr Watson:** Yes, but that is an issue to be taken up with the DOE.

**Mr McMullan:** I disagree with you. With the greatest respect, it is an issue that you should be taking up, because it has to do with what you are here for today. I will go back to the sporting issue: what would happen to a gun club that had paid for leases and everything else?

**Mr McClure:** It is an interesting anomaly because the sporting rights of gun clubs do not fall under the remit of Sport Northern Ireland, because they do not take part in recognised sports. We look after activities such as small-bore target shooting. Wildfowling work underneath the Department of the Environment, so they relate to that Department rather than to DCAL. I know that they are called sporting clubs, but they are not recognised as such.

**Mr McMullan:** I am glad that you said that, because, with this Bill, we are seeing the buck being passed quite a lot. Before the Bill is finished, there will be so much passing the buck that passing the buck will end up as a sport. I went through this last night.

**Mr McClure:** I should point that I sit on the Strangford Lough and Lecale Partnership, representing sport and recreation, and representatives from the Joint Council of Wildfowling Associations for Strangford Lough are also on the partnership. Organisations such as the partnership will take account of the entire interests of the partners on that group.

**Mr McMullan:** They have not been consulted in this whole process.

**Mr McClure:** My understanding is that the wildfowling have submitted a response to the DOE.

**Mr McMullan:** They have not been consulted. Another issue is that, when we talk about the high and low water mark on the 12-nautical-mile limit, that does not take land erosion into consideration, which is occurring at a considerable rate. My party colleague brought up the fact that, in one instance, 32 acres had already been claimed by the sea in erosion. Is your 12-mile limit coming in or going out with land erosion?

**The Chairperson:** Again, Mr McMullan, you may need to make those comments to colleagues on the Committee for the Environment.

**Mr McMullan:** It impinges on fisheries.

**Ms Simpson:** As far as fisheries are concerned, there are no rights, as such, to fish in the marine environment. There are property rights, but if people have a property right to fish for salmon in the marine environment, they need a licence. There is a licensing system. I am not an expert on DOE responsibilities, but with regard to what may happen to other existing rights, I guess that it would be akin to the owner of fishing rights inland. Someone may purchase fishing rights to a particular water, but if, for conservation reasons, DCAL were to decide to introduce a new by-law, perhaps in the

introduction of a bag limit or by a different method, the owner of the fishing rights would be expected to implement that change.

**Mr McMullan:** Are you not liable up to the spring tide mark — the high water mark?

**Ms Simpson:** Yes, but you were enquiring about the effect —

**Mr McMullan:** — of land erosion.

**Ms Simpson:** No, about the effect that something being brought in under the Marine Bill would have on, for instance, an existing shooting lease. I imagine that it would be the same as the effect of DCAL bringing in a conservation measure for fishing on the owner of fishing rights.

**Mr McMullan:** Have you looked at the effect of land erosion as far as the high water mark?

**Ms Simpson:** DCAL's responsibility is for salmon and inland fisheries, so that issue is not important. Wherever the boundary is, we cover both environments.

**Mr McMullan:** It is not important?

**Ms Simpson:** Not on the fisheries aspect.

**Mr McMullan:** I think that it is very important if you look at the land erosion where your high water mark is. Do you not think that —

**Ms Simpson:** It is important in a wider context, but not for fisheries, because we cover both.

**Mr McMullan:** Does your remit not also include freshwater?

**Ms Simpson:** Yes, we cover both.

**Mr Watson:** So, given that we cover both the sea and the inland waterways anyway, it does not matter where the high tide mark is.

**Mr McMullan:** It is in this, you say?

**Mr Watson:** It is, yes.

**Mr McMullan:** This is the point that I am making. I am not getting at you, and you are quite right in what you said. That anomaly needs to be sorted.

**Mr Watson:** Yes, there needs to be a definition of what is high tide.

**Mr McMullan:** Exactly, because we are encroaching further on the present high tide marks. The costs of going to the High Court make it prohibitive for an individual or small grouping to take an action or solve a problem.

**The Chairperson:** Thank you for the presentation.

Are members content that we make representation to the Committee for the Environment based on the evidence that we have heard and the concerns that have been raised?

*Members indicated assent.*