

COMMITTEE FOR THE ENVIRONMENT

MARINE BILL

POST COMMITTEE STAGE UPDATE 1

Departmental Amendments to Marine Bill

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Our Ref: ENV348

29 October 2012

Dear Member

**Departmental Amendments to the Marine Bill
post Committee Stage update**

On 11 October 2012 the Committee for the Environment was advised that the Minister for the Environment would, subject to the Executive's agreement, be moving three additional amendments to the Marine Bill at Consideration Stage.

The purpose of these amendments is as follows:

- **Clause 23** (Failure to comply with duties, etc) – to apply a time limit of 28 days, or such longer period as the Department may allow, to the period within which a public authority must write to the Department when it has failed to comply with its duties.
- **Schedule 1, paragraph 13** (Independent investigation) – to apply a time limit of within 6 months of appointment, or such longer period as the Department may approve, to the period by which an independent person must report on a consultation draft of a marine plan.
- **New clause 1A** (Arrangements to promote co-ordination of functions in Northern Ireland inshore region) – to propose a Departmental amendment in place of the Committee's amendment recommended in paragraph 73 of its 'Report on the Marine Bill' (NIA 57/11-15).

The rationale behind the first two amendments is simply to ensure that the process does not ordinarily remain open ended in either case, while providing for some flexibility, dependent on the circumstances.

The Committee considered the introduction of a time limit to Clause 23 during Committee Stage of the Bill but based on the Departmental guidance provided at that stage, concluded that flexibility was preferable and that internal requirements for public authorities to respond to queries would have been adequate. (Paragraph 284 Report on the Marine Bill)

With regard to the 3rd amendment the Department indicates that it is supportive of principle of the Committee's amendment but needs to address the following technical issues while retaining the purpose of the amendment:

- refers to "the Department" (DOE) entering into arrangements with "the Northern Ireland Environment Agency", which is itself part of DOE and indivisible from it
- refers to "policy development" and "implementation relating to marine functions", both of which are unspecific, and, in any case, not all of the listed bodies may have implied powers in those areas; and
- provides a definition of "marine functions" which is not inclusive of other marine functions such as marine licensing under the Marine and Coastal Access Act 2009.

The details of the proposed amendments have been provided in the attached annex.

The Committee sought feedback on these proposals from all stakeholders that had submitted a written response to the call for evidence on the Bill. The Committee considered the responses on 25 October 2012 and is satisfied that all three proposed amendments are acceptable.

The Committee will therefore be supporting these amendments at Consideration Stage of the Marine Bill and will not submit its own amendment for a new clause for arrangements to promote co-ordination of policy development and implementation relating to marine functions.

Yours Sincerely



Anna Lo
Chairperson to the Committee for the Environment

Cc Éilis Haughey
Roisin Kelly

Marine Bill

Proposed additional amendments to be moved at Consideration Stage

By the Minister of the Environment

Clause 23, Page 16, Line 37

Leave out paragraphs (a) and (b) and insert—

- ‘(a) the Department must request from the public authority an explanation for the failure; and
- (b) the public authority must provide the Department with such an explanation in writing within the period of 28 days from the date of the request under paragraph (a) or such longer period as the Department may allow.’

Schedule 1, Page 36, Line 35

At end insert—

- “() report on the proposal within the period of 6 months from the date of that person’s appointment, or such longer period as the Department may approve;”

New clause

After clause 1 insert—

‘Arrangements to promote co-ordination of functions in Northern Ireland inshore region

.—(1) The Department may enter into arrangements with a relevant public authority designed to promote the effective co-ordination of the exercise by the parties to the arrangements of their respective functions in the Northern Ireland inshore region.

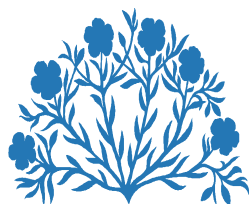
(2) The Department shall keep arrangements made under this section under review.

(3) The Department shall—

- (a) within one year of the date on which this Act receives Royal Assent publish details of any arrangements made under this section; and
- (b) within three years of the date on which this Act receives Royal Assent lay before the Assembly a report on the effectiveness of arrangements made under this section.

(4) For the purposes of this section “the relevant public authorities” are—

- (a) the Department of Agriculture and Rural Development;
- (b) the Department of Culture, Arts and Leisure;
- (c) the Department of Enterprise, Trade and Investment;
- (d) the Department for Regional Development;
- (e) the Agri-Food and Biosciences Institute;
- (f) the Foyle, Carlingford and Irish Lights Commission.’



**Northern Ireland
Assembly**

COMMITTEE FOR THE ENVIRONMENT

MINUTES OF PROCEEDINGS

**THURSDAY 11 OCTOBER 2012,
ROOM 30, PARLIAMENT BUILDINGS**

Present: Ms Anna Lo (Chairperson)
Mr Simon Hamilton (Deputy Chairperson)
Mr Cathal Boylan
Mrs Dolores Kelly
Lord Morrow
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Gavin Ervine (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Mr Francie Molloy
Mr Barry McElduff

The meeting began in public session at 10:18am

7. Marine Bill

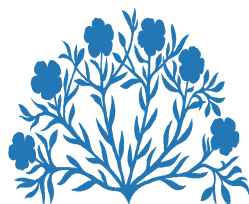
The Chairperson informed members that they had been provided with a Departmental reply to Committee queries on displacement, a note of Anglo- North Irish Fish Producers Organisation comments on amendments and NI Marine Taskforce comments on the Committee report.

Agreed: That a copy of the reply is forwarded to ANIFPO and NIMTF asking, in light of the new information, if they feel an amendment to cover displacement is necessary.

The Chairperson informed members that they had been provided with three proposed Departmental amendments which, subject to Executive clearance, will come forward at Consideration Stage. The third amendment is in relation to the Committee's own amendment to promote the coordination of marine functions. The Department proposes to bring forward an amended version for technical reasons.

Agreed: That a copy of the proposed Departmental amendments is forwarded to those stakeholders who responded to the original Committee consultation on the Bill, asking for their comments.

Anna Lo, MLA
Chairperson, Committee for the Environment
18 October 2012
[EXTRACT]



**Northern Ireland
Assembly**

COMMITTEE FOR THE ENVIRONMENT

MINUTES OF PROCEEDINGS

**THURSDAY 25 OCTOBER 2012,
SENATE CHAMBER, PARLIAMENT BUILDINGS**

Present: Mr Simon Hamilton (Deputy Chairperson)
Mr Cathal Boylan
Mr Tom Elliott
Mrs Dolores Kelly
Mr Barry McElduff
Mr Francie Molloy
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Gavin Ervine (Clerical Supervisor)
Ms Antoinette Bowen (Clerical Officer)

Apologies: Ms Anna Lo (Chairperson)
Lord Morrow

The meeting began in public session at 10:02am with the Deputy Chairperson in the Chair.

5. Marine Bill

The Chairperson informed members that they had been provided with replies from both the Anglo North Irish Fish Producers Organisation and the Northern Ireland Marine Task Force on displacement. Members have also been provided with an extract from ANIFPO's response to the Committee's call for evidence on the Marine Bill.

Agreed: That a draft amendment to cover displacement is prepared by the Bill Clerk for consideration at the next meeting.

Agreed: That a letter is sent to the Department requesting a briefing from officials at the meeting on 8 November 2012. Also ask the Department if it has any areas in mind for MCZ designation at this stage.

The Chairperson informed members that they had been provided with replies from stakeholders on the three proposed Departmental amendments.

Agreed: That a letter is sent to all MLAs informing them that the Department has proposed three new amendments for the Marine Bill and that the Committee will not be tabling their amendment at Consideration Stage of the Bill.

Anna Lo, MLA
Chairperson, Committee for the Environment
8 November 2012
[EXTRACT]

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Town Parks
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BT1 4NN

Mrs Alex McGarel
Clerk to the Environment Committee
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Telephone: 028 9025 6022

Email: privateoffice.assemblyunit@doeni.gov.uk

Your reference:

Our reference:

Date: 8 October 2012

Dear Alex,

I am writing to advise you that the Minister has decided, subject to the Executive's agreement, to move additional amendments to the Marine Bill at Consideration Stage.

The precise wording of these amendments is provided in the attached annex, and are in relation to:

- **Clause 23 (Failure to comply with duties, etc)** – where the Minister has indicated that a time limit should apply. This means that a public authority will now be obliged to write to the Department within a period of 28 days, or such longer period as the Department may allow;
- **Schedule 1, paragraph 13 (Independent investigation)** – where the Minister has indicated that a time limit should apply. This means that an independent person must now report on a consultation draft of a marine plan within 6 months of appointment, or such longer period as the Department may approve; and
- **New clause 1A (Arrangements to promote co-ordination of functions in Northern Ireland inshore region)** – where the intention would be to propose a Departmental amendment in place of the Committee's amendment recommended in paragraph 73 of its 'Report on the Marine Bill' (NIA 57/11-15).

The rationale behind the first two amendments is simply to ensure that the process does not ordinarily remain open ended in either case, while providing for some flexibility, dependent on the circumstances.

The Department considers it necessary to propose the amendment on a new clause for the reason that the Committee's amendment:

- refers to "the Department" (DOE) entering into arrangements with "the Northern Ireland Environment Agency", which is itself part of DOE and indivisible from it;

- refers to “policy development” and “implementation relating to marine functions”, both of which are unspecific, and, in any case, not all of the listed bodies may have implied powers in those areas; and
- provides a definition of “marine functions” which is not inclusive of other marine functions such as marine licensing under the Marine and Coastal Access Act 2009 (c.23).

Therefore, the purpose of the Department’s proposed amendment would be to address these issues by enabling “the Department” and “the relevant public authorities” (as amended) to enter into arrangements to promote the effective co-ordination of the exercise of all their respective functions in the Northern Ireland inshore region.

I trust this information is of assistance, but should you require anything further please contact me directly. The Minister is also considering a further series of amendments and will update the Committee in due course.

Yours sincerely,

Helen Richmond
DALO
[by e-mail]

Marine Bill

Proposed additional amendments to be moved at Consideration Stage

By the Minister of the Environment

Clause 23, Page 16, Line 37

Leave out paragraphs (a) and (b) and insert—

- ‘(a) the Department must request from the public authority an explanation for the failure; and
- (b) the public authority must provide the Department with such an explanation in writing within the period of 28 days from the date of the request under paragraph (a) or such longer period as the Department may allow.’

Schedule 1, Page 36, Line 35

At end insert—

- “() report on the proposal within the period of 6 months from the date of that person’s appointment, or such longer period as the Department may approve;”

New clause

After clause 1 insert—

‘Arrangements to promote co-ordination of functions in Northern Ireland inshore region

.—(1) The Department may enter into arrangements with a relevant public authority designed to promote the effective co-ordination of the exercise by the parties to the arrangements of their respective functions in the Northern Ireland inshore region.

(2) The Department shall keep arrangements made under this section under review.

(3) The Department shall—

- (a) within one year of the date on which this Act receives Royal Assent publish details of any arrangements made under this section; and
- (b) within three years of the date on which this Act receives Royal Assent lay before the Assembly a report on the effectiveness of arrangements made under this section.

(4) For the purposes of this section “the relevant public authorities” are—

- (a) the Department of Agriculture and Rural Development;
- (b) the Department of Culture, Arts and Leisure;
- (c) the Department of Enterprise, Trade and Investment;
- (d) the Department for Regional Development;
- (e) the Agri-Food and Biosciences Institute;
- (f) the Foyle, Carlingford and Irish Lights Commission.’

From: Tommy Mayne (Northern Ireland) [<mailto:Tommy.Mayne@basc.org.uk>]
Sent: 19 October 2012 11:59
To: Bowen, Antoinette
Cc: Conor O'Gorman (Policy); laura.morrison@basc.org.uk
Subject: FW: Committee for the Environment - NI Marine Bill

Good morning Antoinette, please find below BASC Northern Ireland's response to your email of 12 October past.

BASC has no objection to the Amendments contained in your email of 12 October below, however, my colleague Laura has been in contact with Gavin Ervine this morning, in relation to a Departmental response to BASC's email of 6th June. That email contained a number of questions highlighted in yellow below, which to date remain unanswered.

1. **What extent will the byelaws for the protection of Marine Conservation Zones (MCZ), proposed under Clause 24 of the Bill, restrict the activities of sporting, wildfowling and sea angling interests.**

Clause 24 gives the Department the power to make byelaws for the protection of features of an MCZ. Byelaws will be site specific and made on a case-by-case basis. Draft Byelaws will be subject to full public consultation and stakeholder engagement which is specific to the site and activity under consideration.

It is envisaged that most MCZs will be designated primarily for the protection of seabed features and as such any related byelaws will have little impact on the sporting, wildfowling and sea angling interests.

BASC has previously received correspondence from the Department dated 22 June 2011, stating that *"they did not think the Marine Bill would have any impact on wildfowling activities"* which shows that the Department's view has changed somewhat. BASC therefore requests that the Department clarify the phrase "little impact"?

BASC further requests an assurance from the Department that MCZ's and other highly protected areas contained within MCZ's (such as reference areas) will have NO impact on wildfowling or access to wildfowling opportunity, or sea angling interests. BASC also seeks confirmation that in designating MCZ's the Department will take into account the social, economic and "cultural" consequences of doing so.

2. **In relation to Clause 24(2), the Committee would like clarification of the reference to the potential for byelaws to apply to "any other part of Northern Ireland".**

The reference to 'any other part of Northern Ireland' is to cover the situation where an MCZ might include sandbanks, rocks and islands whether or not these are ever covered by the sea at any time. These features would therefore be considered an 'area of Northern Ireland' and **not part of the 'inshore region'**. Islands excluded from an MCZ would be identified in the designation order.

BASC seeks further clarification from the Department in relation to Clause 24 (2) and we would ask for an assurance from the Department that the above byelaws will not be applied to areas such as Lough Neagh and Lough Erne which are not part of the "inshore region". Furthermore, BASC asks the Department to give a number of examples where the phrase "any other part of Northern Ireland" would be applied?

3. **Will protection for a habitat or species provided under an MCZ take precedence over protection already provided by the Wildlife and Natural Environment Act (WANE).**

No. It is envisaged that both pieces of primary legislation will complement each other, but will not duplicate or have preference status. It is anticipated that MCZs will primarily be designated for seabed features i.e. habitats, as opposed to mobile marine species such as Seahorses and Seals which are fully protected under the WANE Act.

4. **Will the designation of MCZs be evidence based particularly in relation to Clause 12(5) specifying that an MCZ can be designated on the grounds of conserving flora, fauna or habitat “whether or not all of them are rare or threatened”.**

The Department's policy on the designation of MCZS in the Northern Ireland Inshore Region will be based upon the use of the best available science. All site boundaries and conservation objectives will be flexible to allow for changing circumstances or additional scientific or other information.

BASC seeks clarification of the Department's definition of “best available science”
BASC seeks an assurance from the Department that the “flexibility” of site boundaries and conservation objectives will be subject to full stakeholder consultation and engagement

5. **In relation to Clause 39(b), members would like to know the extent of this clause.**

In general MCZs will be designated below Mean High Water Spring Tide (MHWST). However there may be occasions where an MCZ may extend landward of this line if the designated feature continued or was required to protect the feature(s). This would include, but not be exclusive to, geological features and coastal process (i.e. Sandbanks/dunes). All proposed MCZ designations will be subject to full consultation and take account of other activities or interests.

BASC requests that the Department provide a number of examples of locations where such a scenario might arise.

As the Department has failed to respond to BASC's initial email of 6th June I would be very grateful if the Committee could now consider these points and respond at the earliest opportunity.

Many thanks

Tommy Mayne

Director
BASC Northern Ireland

Tommy Mayne
Director
BASC Northern Ireland

From: ashley-graham [<mailto:ashley@caireland.org>]

Sent: 19 October 2012 11:33

To: Bowen, Antoinette

Subject: RE: Committee for the Environment - NI Marine Bill - feedback to email of 12.10.12

Importance: High

Dear Antoinette

Lyall Plant has asked me to advise you that Countryside Alliance Ireland is happy with the proposals as detailed below.

Kind regards

Ashley Graham

On behalf of Lyall Plant, Chief Executive

Countryside Alliance Ireland

T: NI 028 9263 9911

T: Rol 01690 3610



Mrs Alex McGarel
Clerk to the Environment Committee
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

16 October 2012

Dear Mrs McGarel,

Additional Amendments to the Marine Bill at Consideration Stage

Thank you for providing information on the additional amendments to the Marine Bill proposed by the Department of the Environment to be moved at Consideration Stage and for the opportunity to comment upon those draft amendments.

The Institute for Archaeologists (IfA) understands the rationale for these amendments which do not undermine the substance of IfA's earlier submission to the Environment Committee. The Institute does not object to them.

The Institute is pleased to learn that the Minister is also considering a further series of amendments and hopes that those amendments will include the introduction of historic marine protected areas within Northern Ireland's inshore region as advocated in its evidence.

In the meantime, if there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

Tim Howard LLB, Dip Prof Arch
Policy Advisor



In relation to the suggested additional clauses to the NI Marine Bill the NIMTF position is as follows

Clause 23, Page 16, Line 37

Leave out paragraphs (a) and (b) and insert—

- ‘(a) the Department must request from the public authority an explanation for the failure; and
- (b) the public authority must provide the Department with such an explanation in writing within the period of 28 days from the date of the request under paragraph (a) or such longer period as the Department may allow.’

The NIMTF acknowledges the rewording of this.

Schedule 1, Page 36, Line 35

At end insert—

- “() report on the proposal within the period of 6 months from the date of that person’s appointment, or such longer period as the Department may approve;”

The NIMTF does not object to this change

New clause

After clause 1 insert—

‘Arrangements to promote co-ordination of functions in Northern Ireland inshore region

.—(1) The Department may enter into arrangements with a relevant public authority designed to promote the effective co-ordination of the exercise by the parties to the arrangements of their respective functions in the Northern Ireland inshore region.

(2) The Department shall keep arrangements made under this section under review.

(3) The Department shall—

- (a) within one year of the date on which this Act receives Royal Assent publish details of any arrangements made under this section; and
- (b) within three years of the date on which this Act receives Royal Assent lay before the Assembly a report on the effectiveness of arrangements made under this section.

(4) For the purposes of this section “the relevant public authorities” are—

- (a) the Department of Agriculture and Rural Development;
- (b) the Department of Culture, Arts and Leisure;
- (c) the Department of Enterprise, Trade and Investment;
- (d) the Department for Regional Development;
- (e) the Agri-Food and Biosciences Institute;
- (f) the Foyle, Carlingford and Irish Lights Commission.’

The NIMTF position on the co-ordination of marine functions has always been the creation of a independent single unitary authority such as a Northern Ireland Marine Management

Organisation and it is our position that the arrangements currently considered through the Bill will not achieve the coherence that a unitary authority with the powers to fully oversee marine governance matters in Northern Ireland would.

From: Caroline Price [<mailto:Caroline.Price@rya.org.uk>]
Sent: 15 October 2012 16:17
To: Bowen, Antoinette
Cc: Maeve Bell; ronnie_browne@hotmail.com
Subject: RE: Committee for the Environment - NI Marine Bill

Dear Antoinette,

Many thanks for consulting the RYA and RYANI on the proposed amendments to the Marine Bill at Consideration stage.

We note the proposed amendments and are generally supportive of the proposals. We have no further comments to offer at this stage.

We would be pleased to be consulted on any further amendments that may be tabled during the passage of the Bill through the Assembly.

Kind regards

Caroline

Caroline Price

Planning and Environmental Advisor
Royal Yachting Association

T: 02380 604222 | **M:** 07795 564386 | **E:** caroline.price@rya.org.uk



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