

Wildlife & Countryside Link is calling for comprehensive legislation to achieve better protection for marine wildlife and effective management of our seas

Wildlife and
Countryside



Marine Bill Parliamentary Bulletin

Making sure the Marine Bill is effective

Date: November 2008

Wildlife and Countryside Link (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. The UK's seas are extraordinarily rich in wildlife, but they are poorly protected compared to our terrestrial environment. Link has been leading the campaign for a UK Marine Bill to provide effective protection for our marine species and habitats and to bring coherence to the current plethora of marine legislation governing our seas.

With increasing pressure on our seas, the health of marine wildlife in decline and the entire marine ecosystem threatened by climate change, we require effective and strong legislation at the earliest opportunity.

This is the sixth in Link's series of bulletins for parliamentarians on the UK Marine Bill, and this bulletin seeks to outline our key asks for the forthcoming Marine Bill.

Background

New legislation to protect the marine environment was a manifesto commitment in 2005. In April 2008, the draft Marine Bill was published for public consultation and pre-legislative scrutiny. In May, Gordon Brown included a "Marine and Coastal Access Bill" in his draft legislative programme for 2008/9. Link welcomes these developments but now calls on the Government to include the Marine Bill in the Queen's Speech on 3 December and introduce a strong Bill into Parliament at the earliest opportunity. We anticipate the publication of a Scottish Marine Bill in Spring 2009, and urge officials and Ministers in all four countries to work together to ensure coherence across borders and implementation of the ecosystem approach.

Link welcomes many of the proposals in the Government's recently published Command Paper "Taking forward the Marine Bill", particularly the commitment to include a statutory duty on the Secretary of State and Welsh Ministers to designate a network of Marine Conservation Zones. However, we believe that there are a range of improvements that still need to be made to ensure that the final Bill is fit for purpose to deliver its aims and objectives.

Nature Conservation

Robust nature conservation measures to protect our seas

- 1 Remove reference to socio-economic considerations in the designation process.** We believe that Marine Conservation Zones (MCZs) should be identified using scientific criteria alone, and that the network design must be scientific and rigorous. We therefore call for the removal of clause 106(5) of the Bill.
- 2 Strengthen duties on public authorities so that they are required to "consult", rather than "notify", the statutory nature conservation bodies (SNCBs) when, in exercising their functions, they might damage an MCZ.** Public authorities should also be required to "take account of" any advice received from the SNCB, rather than "have regard to".
- 3 Include a requirement for management schemes to be produced for all designated MCZs.** While these schemes might vary considerably in the level of detail, it is important to develop a management framework for each MCZ. This process should be led by the relevant SNCB.
- 4 Include a duty on the SNCBs to define an MCZ's conservation objectives prior to designation.** Where strict protection would further conservation objectives, the site should be highly protected.
- 5 Include a general offence in the Bill that covers intentional and reckless damage or disturbance.** Link welcomes the Government's plans to include a general offence of damage to an MCZ, but believes that this should be strengthened.
- 6 Extend the power to use Conservation Orders to manage unregulated activities impacting MCZs beyond 12 nautical miles.** The full suite of protective powers should be available for all MCZs, with the power to make Conservation Orders extended throughout the area that MCZs can be designated. The Bill should also confer a power on the MMO and Welsh Ministers to issue Conservation Orders outside MCZs, to ensure protection and management of biodiversity throughout the whole marine area.

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This bulletin is supported by the following organisations:



Marine Management Organisation

A stronger Marine Management Organisation (MMO)

- 1 **Strengthen the general objective of the MMO so that it is responsible for “furthering” sustainable development of UK seas.**
- 2 **The MMO should have responsibility for all reserved marine licensing functions.** However, if the Government is going to insist on the Infrastructure Planning Commission (IPC), proposed under the Planning Bill, having responsibility for some marine projects (the largest ports and larger offshore windfarms), the MMO must be a statutory consultee to the IPC and there must be a requirement for the IPC to make its decisions in accordance with the Marine Policy Statement.
- 3 **The MMO must have strong working links with Welsh Ministers and its equivalent bodies in Scotland and Northern Ireland.** This is essential to manage the interface between reserved and devolved functions, and to secure joined-up, ecosystem-based management across borders throughout UK seas.

Marine Planning

A robust UK-wide planning system

- 1 **The Marine Policy Statement (MPS), not just marine plans, should be subject to Strategic Environmental Assessment (SEA) and Sustainability Appraisal.** As the MPS will have such an important role in directing marine plans, Link believes that it should also be subject to thorough assessment.
- 2 **The Bill should include a duty to produce and adopt plans throughout UK waters.** Link believes that there should be a duty on marine planning authorities to produce and adopt marine plans throughout UK waters. Without this, the Bill risks resulting in only a handful of local marine plans being developed.

- 3 **The Bill should have a requirement to conduct an independent investigation of marine plans.** Link believes that independent investigation of marine plans should be mandatory as for the equivalent Examination in Public on land.

Marine Licensing

Effective licensing based on all the information available

- 1 **There should be a requirement for all exempt activities to be recorded to ensure that cumulative effects can be monitored and that planning and licensing decisions can be based on full information.** We believe that a record of all marine activities is required so that decision makers are in possession of the full facts and can assess cumulative impacts.
- 2 **There should be a requirement for relevant “experts” to be consulted on all licences, and their advice to be taken account of.** This would ensure that all relevant experts, e.g. the statutory nature conservation bodies are consulted where applications impact on their area of responsibility.
- 3 **Definitions for the terms “serious harm” and “serious interference” should be included in the Bill.** Lack of definitions could result in uncertainty leading to either legal challenge whenever enforcement tools are used or result in no enforcement action being taken. We believe that enforcement tools should be available where there has been or is likely to be any harm or interference.

Marine Fisheries

Improved fisheries management and conservation

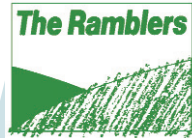
- 1 **Confer all the necessary powers on the Welsh Assembly Government.** WAG must be given the necessary powers and duties to enable it to deliver the same improvements to inshore fisheries management in Wales as will be possible for England, even though Inshore Fisheries and Conservation Authorities (IFCAs) will not be created in Wales.

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- Strengthen Government duties towards conservation under the Sea Fisheries (Wildlife Conservation) Act 1992, and (for specific powers) Section 5A of the Sea Fish (Conservation) Act 1967.** The UK and Welsh Assembly Governments will still have considerable power and influence in the management of inshore fisheries (even in England where IFCA's are to be created) and therefore need strong duties towards conservation.
- Include a duty on the IFCA's to further the conservation of coastal and marine fauna and flora.** Link believes the IFCA's need a strong conservation duty to signal a significant change of culture from the existing Sea Fisheries Committees. They must be adequately funded for this new work.
- Provide more detail to formalise the proposed membership structure of the IFCA's.** Link would like to see more of the detail provided in the Policy Paper on the proposed membership structure for the IFCA's translated across into the Bill. It is important to ensure that there is more than minimal marine environmental expertise on each IFCA committee.
- Comprehensive guidance for the IFCA's must be published at the earliest possible opportunity.** Detailed guidance must be produced for the IFCA's, covering execution of their duties, scope and use of their byelaw-making powers, and co-ordination between IFCA's (e.g. by establishment of an Association). It would be most useful if this guidance was made available in time to inform discussions during the passage of the Bill through Parliament.

Coastal access

Improved access alongside environmental benefits

- More environmental enhancement and habitat restoration programmes.** At the same time as supporting the Government's vision for the creation of a coastal long distance route and a coastal margin alongside, Link calls for more steps to deliver environmental enhancement and habitat restoration programmes, as part of Natural England's Outline Scheme. Restrictions or deviations to the route may also be needed at sensitive habitats and wildlife sites such as estuaries and saltmarsh.
- Greater control on dogs.** With the greater risk of disturbance to wildlife in coastal environments, notably for ground nesting birds and over wintering shoreline birds, a greater level of restrictions on dogs will be needed in many locations along the coast beyond close control.
- Funding for access management.** With many highlighting that the current level of funding proposed may not be sufficient, extra funding needs to be provided both for long term management and to allow Natural England to deliver the wider environmental benefits implied in the Government's vision.

For more information about Link's Marine Bill campaign, please contact **Joanna Butler at Link on 020 7820 8600 (joanna@wcl.org.uk)**. You can also find out more about our Marine Bill campaign at: www.wcl.org.uk