

Wildlife and
Countryside

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Cyswllt Amgylchedd
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Parliamentary Briefing

Marine and Coastal Access Bill Amendment

Inshore Fisheries in Wales

June 2009

The organisations listed above are closely engaged in the Marine & Coastal Access Bill. We are also members of Wildlife and Countryside Link's Marine Task Force and/or Wales Environment Link's Marine Working Group¹, which have been campaigning for several years for comprehensive legislation for improved protection of marine wildlife and effective management of our seas.

Background

In 2008 the Welsh Assembly Government announced its intention to assume full responsibility for the management of inshore fisheries. Inshore Fisheries and Conservation Authorities (IFCAs) will therefore not be created in Wales, and the equivalent role is to be undertaken by Welsh Ministers. Link is disappointed that the Bill confers new powers on Welsh Ministers for managing inshore fisheries, but does not apply any duties.

Under the Bill as currently drafted, there will be no body in Wales with a statutory duty to manage inshore fisheries in a sustainable way. Welsh Ministers have a duty under the Government of Wales Act to prepare and report on a scheme setting out how they propose, in the exercise of their functions, to promote sustainable development ("the sustainable development scheme"). However, we have received legal advice that this is not equivalent to a specific duty to undertake a particular function – such as the management of inshore fisheries – in a sustainable way. Nor is it equivalent to a duty to report to the National Assembly for Wales on the delivery of this specific function. Although the current Fisheries Minister has made welcome policy commitments on fisheries, we consider duties in legislation to be more robust and crucially, longer lasting, applying to future Ministers and administrations as well as the current one. It is important to note that the National Assembly for Wales does not have the power to create legislation that would establish such duties for the Welsh Ministers – this can only be achieved through Westminster at present.

We do not find it acceptable that the level of certainty and accountability over inshore fisheries management should be any lower in Wales than in England. The Sustainability Committee of the National Assembly for Wales shares this concern. The Committee's report on the implications of the Marine Bill for Wales

¹ Wildlife and Countryside Link (WCL) 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. Wales Environment Link is WCL's sister coalition working in Wales by uniting bodies whose primary aims include the conservation, protection or quiet enjoyment of landscape, wildlife or amenity.

recommended that duties equivalent to those set out for IFCA should be placed on Welsh Ministers, and that the Bill should include requirements for Welsh Ministers to report regularly to the Assembly on the delivery of their marine functions.

We recognise it may not be appropriate to apply the same duties set out for IFCA – which are to be arms'-length bodies – to Welsh Ministers. The Annex to this briefing therefore sets out two alternative possible duties for Welsh Ministers. Both are intended to ensure that Welsh Ministers can be held to account by the National Assembly over the management of inshore fisheries in Wales. We consider the use of fisheries management tools to further the conservation objectives of Marine Conservation Zones to be an important element of sustainable fisheries, and therefore have reflected this in both duties (the IFCA have an explicit duty towards MCZs in clause 153).

Option 1 places a duty on Welsh Ministers to use their powers so as to ensure that inshore fisheries are sustainably managed, together with a duty to report to the National Assembly on a regular basis.

Option 2 makes a formal link to the Welsh Assembly Government's sustainable development scheme. Although this may not be as direct as the clear duty in Option 1, we believe that a regular reporting duty linked to the scheme should ensure the National Assembly can hold Welsh Ministers to account over the sustainability of inshore fisheries. This approach should also strengthen the role of the scheme in relation to fisheries management. Because it is linked to an existing duty on Welsh Ministers, this option may be more acceptable to WAG than Option 1.

Annex – Amendments

Marine & Coastal Access Bill House of Commons Committee Stage, June 2009

Option 1

Clause	New clause – Duty on Welsh Ministers in relation to management of inshore fisheries
Amendment	<p>After clause 180, insert</p> <p>N (1) In exercising their powers [under this Act or other Sea Fisheries Acts], Ministers shall seek to ensure that the exploitation of sea fisheries resources in Wales [and the Welsh Zone] is carried out in a sustainable way.</p> <p>(2) At intervals of no more than four² calendar years, Ministers shall make a report to the National Assembly for Wales on how they have discharged their powers in accordance with clause A.</p> <p>The first report of this kind shall be made within four calendar years of the enactment of this Act.</p> <p>A report made under this clause shall include:</p> <ul style="list-style-type: none">- An assessment of the extent to which the exploitation of sea fisheries resources in [Wales/Welsh waters] is carried out in a sustainable way- Actions the Minister has taken in order to seek to ensure that the conservation objectives of Marine Conservation Zones are furthered, insofar as these actions relate to fisheries management- Actions the Minister will take in the light of the assessment provided in the report, in pursuance of the objective in clause A- Any other matter relating to the management of sea fisheries resources that the Minister considers appropriate. <p>(3) The meaning “sea fisheries resources” and “exploitation” thereof in this section are the same as in section 152 of this Act.</p>

² Four years has been suggested here because the Bill also requires the Secretary of State to lay a report before Parliament on the conduct and operation of the IFCAs every four years.

Option 2

Clause	New clause – Duty on Welsh Ministers in relation to management of inshore fisheries
Amendment	<p>After clause 180, insert</p> <p>(N) (1) At regular intervals the Welsh Ministers shall report to the National Assembly for Wales on the way in which their powers pertaining to the management of sea fisheries resources have been discharged in accordance with the scheme produced under section 79 of the Government of Wales Act³, insofar as this applies to the management of the exploitation of sea fisheries resources.</p> <p>(2) A report made under this section shall include:</p> <ul style="list-style-type: none">- An assessment of the extent to which the exploitation of sea fisheries resources in Welsh waters is carried out in a sustainable way- Actions the Minister has taken in order to seek to ensure that the conservation objectives of Marine Conservation Zones are furthered, insofar as these actions relate to fisheries management- Actions the Minister will take in the light of the assessment provided in the report- Any other matter relating to the management of sea fisheries resources that the Minister considers appropriate. <p>(3) In this section “regular intervals” means intervals of no longer than four years, with the first interval being measured from the date of enactment of this Act.</p>

³ Section 79(1) of the Government of Wales Act 2006 states: The Welsh Ministers must make a scheme (“the sustainable development scheme”) setting out how they propose, in the exercise of their functions, to promote sustainable development.