



GREENPEACE



February 2009

Parliamentary Briefing

Marine and Coastal Access Bill Amendment

Denotification of SSSIs (Schedule 13)

The organisations listed above are all members of Wildlife and Countryside Link's Marine Task Force¹, which has been campaigning for several years for improvements in marine conservation and better management of the marine area. We have been closely engaged in the Marine & Coastal Access Bill process from the outset.

Background

Schedule 13 to the Marine and Coastal Access Bill (enacted by clause 144) contains certain amendments to the Wildlife and Countryside Act 1981 (c.69) in relation to sites of special scientific interest and national nature reserves. Paragraph 9 of Schedule 13 amends Section 28D of the W&CA to cover the denotification of a SSSI on designation of the same area as an MCZ.

It is accepted that where SSSIs and MCZs overlap, the overlap between the features of these two designations may only be partial, such that some SSSI features of national importance may not be features of a coincident MCZ. In addition, it is not clear whether the features of Natura 2000 sites (Special Protection Areas classified under the Birds Directive and Special Areas of Conservation designated under the Habitats Directive) will be eligible as features of MCZs. Natura 2000 sites on land and in intertidal areas are underpinned by SSSIs, with the 'lists of operations requiring consent' associated with those SSSIs providing the mechanism via which the effects of management operations on the Natura 2000 sites are regulated.

Link is concerned at the prospect of denotification of SSSI land wherever a MCZ is designated over the same area, and we believe this raises a number of legislative complications and confusions. If MCZ designation over an area of SSSI led to the denotification of that part of the SSSI, we believe that sites could be left vulnerable in several ways:

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.

1. Features hitherto protected by the SSSI might be left unprotected if the SSSI were denotified, but the MCZ in its place was not designated specifically for the same features.
2. SSSIs and their features offer protection from developments on land and in intertidal areas due to the explicit link between the SSSI system and the Town and Country Planning System (SSSIs are a material consideration within the terrestrial planning system). There is no explicit link with the MCZ system, and therefore if an area of SSSI was designated as an MCZ and the SSSI denotified as a consequence, some clarity of protection from development under the terrestrial planning system would be lost.
3. Where a SSSI underpins a Natura 2000 site, the ability to regulate management activities that may adversely affect that Natura 2000 site would be lost if the area, or part of the area, were to be designated as an MCZ and subsequently the SSSI were to be denotified. Where a SSSI underpins a Natura 2000 site, the route by which the Habitats Regulations are applied to activities not requiring any other form of consent e.g. bait digging/cockling/wildfowling/grazing and other forms of saltmarsh management is via the “list of operations requiring consent”, and the explicit link between the Habitats Regulations and the Countryside Rights of Way Act (Regulation 19). There is no explicit link between the Habitats Regulations and MCZs.

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Annex – Amendments

Marine & Coastal Access Bill

House of Lords Committee Stage, February 2009

Clause	Schedule 13, paragraph 9 Denotification of SSSI on designation of area as MCZ
Amendment	Page 262, line 25: Leave out paragraph 9