



January 2009

Parliamentary Briefing

Marine and Coastal Access Bill Amendment

Strengthening the provisions whereby a Marine Policy Authority can 'opt out' of or withdraw from the Marine Policy Statement (MPS)

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 Force¹, which has been campaigning for several years for improvements in marine conservation.

Background

(i) Stronger provisions where a Marine Policy Authority 'opts out' of the MPS

As drafted, clause 43 enables individual Administrations to 'opt out' of jointly preparing and adopting an MPS with the Secretary of State and the other Devolved Administrations. While we acknowledge that it may be difficult to draft the MPS, we believe that there must be an incentive in the legislation for the Administrations to reach agreement on the document and show political buy-in.

At the very least there should be carefully prescribed circumstances in clause 43 as to when 'opt-out' is acceptable. At present, the opt-out is subject to no constraints with the only concession being that the Secretary of State must not prepare an MPS unilaterally unless he has first invited the other policy authorities (i.e. Devolved Administrations) to be involved. Therefore, there is no incentive on the Administrations to focus on obtaining agreement. At the very least, where an Administration does opt out, it should be required to publish its rationale.

(ii) Stronger provisions where a Marine Policy Authority withdraws from the MPS

The ease at which a policy authority can withdraw from an MPS under the provisions in clause 46 is alarming. If the Secretary of State decides to withdraw, the MPS itself is withdrawn. The fact that the policy authorities can withdraw from the MPS and, in the case of the Secretary of State, have the MPS itself withdrawn so easily, it begs the question as

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.

to what benefit the MPS is likely to have. The MPS is a central part of the new marine planning system. If a policy authority has agreed to it in the first place, then the overriding principle ought to be that the authority should stand by it. We believe that the Bill should prescribe circumstances in clause 46 to demonstrate that attempts have been made to resolve the matter prior to withdrawal from the MPS. The policy authority that is withdrawing should be required to publish a rationale along with the notice in clause 46(1)(b). There should also be a prescribed time limit between notification of the other policy authorities and publication of the notice to allow negotiation/discussion between the policy authorities to try to avert any withdrawal. Similar procedures are needed regarding the withdrawal of marine plans under Clause 51.

Annex – Amendments

Marine & Coastal Access Bill House of Lords Committee Stage, January 2009

(i) Stronger provisions where a Marine Policy Authority 'opts out' of the MPS

Clause	Clause 43 Preparation and coming into force of statement
Amendment	page 22, lines 19: at end insert new subsection -- “(2A) Where a policy authority, as defined in subsection 42(4), decides not to prepare an MPS jointly with the other policy authorities, they must publish notice in each of the Gazettes (as defined in 46(9)) of their intention not to prepare an MPS and provide their reasons.”

(ii) Stronger provisions where a Marine Policy Authority withdraws from the MPS

Clause	Clause 46 Withdrawal of, or from, statement
Amendment	page 23, line 4: at end insert — “(c) publishes their reasons for withdrawal,” page 23, line 6, at end insert: “(1A) Before withdrawing from an MPS, the policy authority must be able to show that they have first tried to solve the issue <i>via</i> an amendment to the MPS under section 45.” page 23, line 8: at end insert “, allowing 3 months for consultation with the other policy authorities to try and avert withdrawal”