



GREENPEACE



February 2009

## Parliamentary Briefing

# Marine and Coastal Access Bill Amendment

### Inshore Fisheries in Wales

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 Group<sup>1</sup>, which have 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

In 2008 the Welsh Assembly Government decided to assume full responsibility for the management of inshore fisheries. Inshore Fisheries and Conservation Authorities 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.

#### Duties for sustainable management and the protection of MCZs

Under the Marine Bill there will be no authority with an explicit duty to manage inshore fisheries in Wales, let alone to undertake such management in a comprehensive, sustainable way. We believe that a duty on Welsh fisheries managers will be important in ensuring accountability, and in helping stakeholders understand the context for Ministers' decisions. The IFCAs' duty to manage the exploitation of sea fisheries resources is defined broadly, to encompass activities related to fishing such as bait digging; the Bill must be clear that Welsh Ministers also have this broad remit, which is not present in pre-existing fisheries Acts.

Furthermore, the legislation does not provide clarity as to the relative status of conservation objectives and fisheries in Marine Conservation Zones in Wales, whereas for England it is clear that the conservation objectives will take priority. Thus

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<sup>1</sup> 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.

we are concerned that the basis for protection of MCZs in Wales will be less robust than that in England.

The Annex to this briefing suggests that equivalent duties to those set out for IFCA in s149 and 150 be applied to Welsh Ministers.

#### Powers for Welsh Ministers to use the Marine Act provisions

Welsh Ministers are given the power to make any provision in relation to Wales (by order) which an IFCA can make (by byelaw), *except* to the extent that the Welsh Ministers have powers in other legislation to make equivalent provisions. We believe that this will be highly confusing to both regulators and users and could lead to legal challenges holding up the regulatory process, as Welsh Ministers have fisheries management powers under a number of existing Acts and there are substantial overlaps between these and the IFCA provisions. We are also concerned that the use of IFCA-equivalent powers could be excluded even where they would be more effective or appropriate than a pre-existing power. The Annex to this briefing therefore suggests a simple amendment to allow Welsh Ministers to use IFCA-equivalent powers whenever appropriate.

#### Information duty and reporting requirement

Other duties of IFC authorities include a duty to gather statistics relating to the exploitation of sea fisheries resources, as necessary to fulfil the inshore management function, as well as a duty to report yearly on fisheries management activities. We believe these duties will be important to the effectiveness and accountability of inshore fisheries management. We suggest equivalent duties to these should also be applied in Wales.

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## Annex – Amendments

### Marine & Coastal Access Bill

House of Lords Committee Stage, February 2009

Clause	New clause (n) – Duties of Welsh Ministers in relation to management of inshore fisheries
Amendment	<p>Insert new clause before clause 180, as follows</p> <p><u>(1) The Welsh Ministers shall manage the exploitation of sea fisheries in Wales.</u></p> <p><u>(2) In performing their duty under subsection (1), the Welsh Ministers must:</u></p> <p><u>(a) seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way.</u></p> <p><u>(b) seek to balance the social and economic benefits of exploiting sea fisheries resources in that way with the protection of need to protect the marine environment from, and of the promotion of promote its recovery from, the effects of such exploitation including past exploitation.</u></p> <p><u>(c) seek to further the conservation and enhancement of marine flora and fauna in the district, and</u></p> <p><u>(d) seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district</u></p> <p><u>(3) In this Chapter:</u></p> <p><u>(a) “sea fisheries resources” means any animals or plants, other than fish falling within subsection (7), that habitually live in the sea or the seashore, including those that are cultivated in the sea, and</u></p> <p><u>(b) “marine flora and fauna” includes flora and fauna (including birds) which are dependant on, or associated with a marine or coastal environment for part or all of their lives or whilst migrating.</u></p> <p><u>(4) The fish referred to in subsection (3) are –</u></p> <p><u>(a) salmon, trout, eels, lampreys, smelt and shad;</u></p> <p><u>(b) any other fish of a kind which migrates from fresh to salt water, or from salt to fresh water, in order to spawn;</u></p> <p><u>(c) any freshwater fish.</u></p> <p><u>In this subsection “eels”, “freshwater fish”, “salmon” and “trout” have the same meanings as in the Salmon and Freshwater Fisheries Act 1975 (c.51) (see section 41 of that Act).</u></p> <p><u>(5) Any reference in this Chapter to the “exploitation” of sea fisheries resources is a reference to any activity relating to the exploitation of such resources, whether carried out for commercial purposes or otherwise, including –</u></p> <p><u>(a) fishing for, taking, retaining on board, trans-shipping, landing, transporting or storing such resources,</u></p> <p><u>(b) selling, displaying, exposing or offering for sale or possessing such resources, and</u></p> <p><u>(c) introducing such resources to the sea or cultivating such resources.</u></p>

<b>Clause</b>	<b>New clause (n+1) – Protection of marine conservation zones</b>
<b>Amendment</b>	<p>Insert new clause before 180</p> <p><u>(1) In managing the exploitation of sea fisheries resources the Welsh Ministers must seek to ensure that the conservation objectives of any MCZ in Wales are furthered.</u></p> <p><u>(2) Nothing in section n (2)* is to affect the performance of the duty imposed by this section.</u></p> <p><u>(3) In this section –</u></p> <p><u>(a) “MCZ” means a marine conservation zone designated by an order under section 113;</u></p> <p><u>(b) the reference to the conservation objectives of an MCZ is a reference to the conservation objectives stated for the MCZ under section 114 (2)(b).</u></p> <p>* A reference to the suggested new clause immediately above.</p>
<b>Clause</b>	<p>Clause 180 – Power of Welsh Ministers in relation to fisheries in Wales</p> <p>Page 105, line 7:</p> <p>Leave out subclause (2)</p>
<b>Clause</b>	<b>New clause – Information</b>
<b>Amendment</b>	<p>Insert a new clause after s184</p> <p>The Welsh Ministers must collect such statistics relating to the exploitation of sea fisheries resources as they consider necessary for the purposes of performing the duties under [n] and [n+1]</p>
<b>Clause</b>	<b>New clause – Annual report</b>
<b>Amendment</b>	<p>Insert a new clause after s184</p> <p>Each year the Welsh Ministers must publish a report on their activities in relation to managing inshore fisheries resources in that year and lay it before the National Assembly</p>