



January 2009

Parliamentary Briefing

Marine and Coastal Access Bill Amendment

Exemptions for Dredging – Briefing seeking clarity regarding Clause 72

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.

Clarifying the exemptions for certain dredging activities

This amendment is proposing the removal of clause 72 '*Exemptions for certain dredging etc activities*' because we believe that the mechanism proposed is ambiguous and contains a number of gaps, and as such does not deliver the Government's stated aims for this clause. Despite this clause having been redrafted following pre-legislative scrutiny, it still does not adequately deal with our concerns. Therefore, we would like to use this amendment to highlight the areas we are concerned about and ask the Government to rethink and redraft its proposal with these concerns in mind.

We concede that with proper environmental safeguards and assessments (see our separate briefing and proposed amendments to clause 71 on exemptions), regularly occurring, repetitive activities such as harbour maintenance dredging and associated deposit might be exempted "*where [Government] can show that it has a low or negligible impact on the environment*"². However, we still question the need to have a separate clause to exempt dredging and deposit of the dredged materials by or on behalf of a harbour authority from requiring a licence. Under clause 75 of the Bill, provision is made for the Marine & Coastal Access Act licensing procedures and Harbours Act procedures to come together and so the application procedure for dredging in ports need not be cumbersome. (However, see our separate briefing and proposed amendment regarding the drafting of clause 75.)

We note that the Government's associated policy paper "*Marine and Coastal Access Bill – Policy Document*" (page 32, para 10) envisages that the proposed exemptions under this clause are for harbour 'maintenance' dredging only. However, as currently drafted, this clause makes no such distinction and includes all dredging activities. We believe that this may be poor drafting as the policy document states that the intention is

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.

² Government's associated policy paper, "*Marine and Coastal Access Bill – Policy Document*" (Dec 2008), page 33, para 11.

to exempt 'maintenance' dredging, therefore, this clause must be amended to ensure it relates to maintenance dredging only.

Furthermore, if this clause exempts maintenance dredging activities under local or Harbours Acts from requiring a Marine & Coastal Access Act licence, we believe that this will negate the new provisions in clause 63(1)(9) which ensures that all forms of dredging irrespective of the method or technology used are to be subject to regulation. This was one of the new areas of the Marine & Coastal Access Bill, that plugged a well known gap in the existing legislation. Explanatory note 190 gives further detail regarding the proposal to include all forms of marine dredging using clause 63(1)(9), highlighting that this is one new provision in relation to the list of licensable activities. We believe that the exemption, as currently drafted in s72, would allow the existing gap in the legislation to be retained for certain dredging techniques as they would not be covered by clause 63(1)(9) of the Marine & Coastal Access Bill.

With the above comments in mind, we want Government to remove this clause and redraft it completely avoiding the above mentioned gaps and irregularities.

For further information please contact Danny Stone, Parliamentary Officer, RSPB, on 07989 502004 or danny.stone@rspb.org.uk, or Hazel Phillips, Head of Public Affairs, The Wildlife Trusts on 020 7803 4293 or hphillips@wildlifetrusts.org, or Melissa Moore, Senior Policy Officer, Marine Conservation Society on 07793 118386 or melissa.moore@mcsuk.org

Annex – Amendments

Marine & Coastal Access Bill

House of Lords Committee Stage, January 2009

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| Clause | Clause 72 Exemptions for certain dredging etc activities |
| Amendment | The above-named Lords give notice of their intention to oppose the Question that Clause 72 stand as part of the Bill |