

Quick guide

The Marine Act

May 2011

1. What is the *Marine Act*?

The *Marine and Coastal Access Act 2009*¹ (referred to as the *Marine Act*) outlines provisions for better management of the seas and is the first piece of UK legislation to consider the marine environment as a whole. The *Marine Act* makes provision for UK offshore (12-200 nautical miles) and English and Welsh inshore (0-12 nautical miles) waters. It aims to ensure **clean, healthy, safe, productive and biologically diverse** oceans and seas, by putting in place better systems for delivering sustainable development of the marine and coastal environment.²

The *Marine Act* consists of 11 parts covering: the creation of a **Marine Management Organisation** (MMO) to deliver marine functions in England (and the UK for non-devolved matters); **marine planning**; **marine licensing**; **Marine Conservation Zones** (MCZs); **management of fisheries** and fishing; **enforcement**; and **coastal access**. The *Marine Act* contains an amendment to the *Government of Wales Act 2006* to create the **Welsh Zone**, which is defined as the sea adjacent to Wales that goes as far out as the British fishery limits (200 nautical miles or the median line between two countries).

2. What is Marine Planning?

The UK marine environment was previously managed and regulated on a sector-by-sector basis. Wales Environment Link (WEL) report that “uncoordinated and at times reactive decision has resulted in limited progress towards sustainable development, and contributed to the continuing decline in marine biodiversity.”³

Marine Planning (also referred to as Marine Spatial Planning), required under Part 3 of the *Marine Act*, provides and sets the direction for a more **coherent policy framework** for the **sustainable development** of the UK marine environment.⁴

¹ [The Marine and Coastal Access Act 2009](#) (chapter 23)

² Research Service Research Paper 09/2345, [Marine and Coastal Access Bill](#), July 2009 [Accessed 30 March 2011]

³ Wales Environment Link, Marine Spatial Planning Wales Briefing Sheet, n.d.

⁴ Welsh Assembly Government, [Sustainable Development for Welsh Seas: Our Approach to Marine Planning in Wales](#), 16 February 2011 [Accessed 28 March 2011]

Marine Policy Statement⁵

The UK administrations jointly prepared and adopted a **Marine Policy Statement (MPS)** in March 2011. The MPS provides a framework for the preparation of regional Marine Plans, setting out the key activities which the Marine Plans must consider and outlining the potential social, economic and environmental impacts of each activity e.g. fisheries and tourism.

Marine Plans⁶

Marine Plans will set out **how the MPS will be implemented** and identify priorities for each region. On the 16 February 2011 the Welsh Government launched a consultation to seek views on the development of marine planning in Wales. The Welsh Government intends to prepare and implement national **Marine Plans for the inshore and offshore** regions of the Welsh Zone **by 2012/2013**. Planning will also take place on a sub-national level **within** these Marine Plans to allow for more detailed regional or local planning. In its consultation, the Welsh Government is seeking views on a regional planning approach for some or all of the marine area, and a local planning approach for 'activity hotspots'. The national Marine Plans will be amended where necessary to incorporate the sub-national plans.

Prior to adoption, both the national offshore and inshore plans must be agreed by the Welsh Ministers. The offshore plan (and inshore plan if it relates to non-devolved matters) must also be agreed by the UK Government. There is no legal requirement for the National Assembly for Wales to scrutinise Marine Plans prior to their adoption. However every six years the Welsh Ministers will be required to lay reports on the implementation of the Welsh Marine Plans before the Assembly. **All authorisation and enforcement decisions** that affect or might affect the marine area **must be in accordance with the Marine Plans** or, where a Marine Plan is not yet adopted, the MPS.

3. What is Marine Licensing?

Marine licensing manages the demands placed on marine resources by activities such as construction works, dredging and aggregate extraction.⁷ The new marine licensing system will come into force in Wales on the **6 of April 2011**⁸ under Part 4 of the *Marine Act*, replacing existing licensing and permissions regimes and providing a wider range of tools for more **effective and fairer enforcement**.⁹ In doing so the system will **protect the**

⁵ HM Government, *UK Marine Policy Statement*, March 2011 [Accessed 28 March 2011]

⁶ Welsh Assembly Government, *Sustainable Development for Welsh Seas: Our Approach to Marine Planning in Wales*, 16 February 2011 [Accessed 28 March 2011]

⁷ Wales Environment Link, Marine Licensing Wales Briefing Sheet, n.d.

⁸ Welsh Assembly Government, Jane Davidson (Minister for the Environment, Sustainability and Housing), *Update on the Marine Programme in Wales*, Cabinet Written Statement, 18 March 2011 [Accessed 29 March 2011]

⁹ Welsh Assembly Government, *Secondary legislation under the Marine and Coastal Access Act 2009: Part 4, Marine Licensing*, 27 September 2010 [Accessed 30 March 2011]

environment and human health, and prevent interference with legitimate uses of the sea.¹⁰ The Welsh Government's Marine Consents Unit (MCU) will be responsible for enforcement and administering licenses in Welsh inshore regions, except for the oil and gas industry and defence which will be the responsibility of the Secretary of State. The MMO, created under Part 1 of the *Marine Act*, will be responsible for licensing in offshore regions throughout the UK.¹¹

A number of activities are exempt from marine licensing including the use of scientific equipment, some dredging, shipping and navigation. Although some of these activities are regulated under other Acts (e.g. the *Petroleum Act 1998* and the *Merchant Shipping Act 1995*),¹² WEL are calling for additional controls on exempted activities to ensure they do not significantly impact on the marine environment, for example by requiring proposals for exemption to be supported by an environmental assessment of the activity.¹³

4. What are Marine Conservation Zones?

The MPS states that the **'UK administrations are committed to completing an ecologically coherent network of Marine Protected Areas (MPAs) by 2012'**.¹⁴ However, current MPA designations (e.g. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)) apply to a limited range of marine species and habitats only and a study conducted by the Marine Life Information Network for Britain and Ireland (MarLIN) found that the designations **do not protect the full range of biodiversity in Welsh seas**.¹⁵

Part 5 of the *Marine Act* makes provision for the creation of MCZs. MCZs can be designated for **all habitats and species**, and together with other types of MPAs will fulfil the UK's commitment to create an ecologically coherent network of MPAs by 2012.¹⁶

The Welsh MPAs network

Currently over **36 per cent** of Welsh territorial seas are designated MPAs including eleven SACs, ten SPAs and a Marine Nature Reserve (Skomer Island). The **Welsh Government's Marine Conservation Zone Project Wales** will identify and create MCZs in Wales' inshore region, initially intending to designate **three or four Highly Protected Marine Conservation Zones (HPMCZs)**.¹⁷ **The entire marine environment within HPMCZs will be protected** from all extraction and deposits of marine resources (living or non-living) as well

¹⁰ [*The Marine and Coastal Access Act 2009*](#) (chapter 23)

¹¹ Welsh Assembly Government, [*Secondary legislation under the Marine and Coastal Access Act 2009: Part 4, Marine Licensing*](#), 27 September 2010 [Accessed 30 March 2011]

¹² *ibid*

¹³ Wales Environment Link, Marine Licensing in Wales Briefing Sheet, n.d.

¹⁴ HM Government, [*UK Marine Policy Statement*](#), March 2011 [Accessed 28 March 2011]

¹⁵ Marine Life Information Network for Britain and Ireland (MarLIN), [*Protecting nationally important marine biodiversity in Wales: Report to Wales Environment Link*](#), November 2008 [Accessed 30 March 2011]

¹⁶ Defra, [*Marine and Coastal Access Bill - Policy Document*](#), December 2008 [Accessed 30 March 2011]

¹⁷ Welsh Assembly Government, [*Marine Conservation Zone Project - Wales: Site Selection Guidance for Highly Protected Marine Conservation Zones*](#), March 2011 [Accessed 1 April 2011]

as disturbance caused by other activities.¹⁸ HPMCZs have been shown in other countries to ‘provide the greatest level of benefit to biodiversity of any kind of marine protected area’.¹⁹

Based on the Project’s site selection guidance, which was published in March 2011 following public consultation, **6-12 potential HPMCZs** will be identified in June-September 2011. These potential sites will be subject to two rounds of consultation and refinement. The consultation will seek information on activities taking place within potential sites, how they impact on the sites, and how HPMCZ designation would conflict with and displace these activities. According to the site selection guidance:

Each site will be looked at on its own merits. However in general, where an area is considered to offer a unique contribution to ecosystem functioning, greater weight is likely to be attached to ecological considerations. Where there is a choice of alternative areas which are equally suitable on ecological grounds, socio-economic factors could be more significant in deciding which areas may be designated as a HPMCZ.²⁰

The final MCZ recommendations will be presented to Welsh Ministers in July-September 2012 and, following a final consultation period, a decision will be made in **March-June 2013**.²¹

The English MPAs network

A lower percentage of the UK’s waters (4 per cent)²² and English inshore waters (24 per cent)²³ are designated MPAs than Welsh inshore waters. The **UK Government’s Marine Conservation Zone Project**, led by Natural England and the Joint Nature Conservation Committee (JNCC), is responsible for identifying MCZs in the **English inshore** region and **English and Welsh offshore** regions.

Natural England and JNCC’s guidance for the MCZ Project, published in July 2010, states that ‘The engagement of stakeholders is a core principle of the MCZ recommendation process’.²⁴ Four regional projects have been gathering data on the marine environment and working with stakeholders to identify potential MCZ sites. The Welsh offshore region is covered by the Irish Sea Conservation Zones (ISCZ) and Finding Sanctuary (Southwest region) projects. Finding Sanctuary states that:

Finding Sanctuary is fundamentally about shared decision making. From the earliest planning stages, we are working closely with stakeholders to explore where MCZs could best be located, identifying possible areas of conflict and finding ways of working around them. Identifying Marine Conservation Zones that provide maximum benefits to nature and

¹⁸ *ibid*

¹⁹ Countryside Council for Wales and Welsh Assembly Government, *Selecting and implementing Highly Protected Marine Reserves in Wales*, 2008 [Accessed 30 March 2011]

²⁰ Welsh Assembly Government, *Marine Conservation Zone Project – Wales: Site Selection Guidance for Highly Protected Marine Conservation Zones*, March 2011 [Accessed 1 April 2011]

²¹ *ibid*

²² UK Marine Protected Area Centre, *Frequently Asked Questions*, Webpage [Accessed 1 April 2011]

²³ Natural England, *Marine Protected Areas*, 24 March 2011 [Accessed 1 April 2011]

²⁴ Natural England and Joint Nature Conservation Committee, *Project Delivery Guidance on the process to select Marine Conservation Zones*, July 2010 [Accessed 1 April 2011]

minimise the impact to stakeholders is central to the success of Finding Sanctuary.²⁵

In February 2011 the third iteration of recommended MCZ sites for each region was submitted to the Science Advisory Panel (SAP), who will ensure the sites adhere to the Project's Ecological Network Guidance. Over **100 potential MCZs with varying degrees of protection** were recommended, 10²⁶ of which are in the ISCZ region and 54²⁷ in the Finding Sanctuary region.^{28,29} The final recommendations are to be submitted to Defra by November 2011 and will be subject to further public consultation prior to a decision being made by the **end of 2012**.³⁰

5. How will the *Marine Act* affect fisheries?

The Welsh Government has been responsible for fisheries management and enforcement out to 12 nautical miles since 2008. With the creation of the Welsh Zone in Part 2 of the *Marine Act*, **control for these functions was extended** to the British fishery limits.³¹ Parts 6 and 7 of the *Marine Act* make provisions for fisheries management, **amending a number of Acts and widening the powers** of Welsh Ministers and the Environment Agency Wales to regulate and enforce fishery activity. The Welsh Government now has full responsibility for the management and enforcement of sea fisheries in Wales, taking over the work of the South Wales Sea Fisheries Committee and the Welsh part of the North-Western Waters Regional Advisory Council. The Welsh Government states that this is an important step in the improvement of fisheries management as it will engender a more 'hands on' approach.³² In England the Sea Fisheries Committees have been replaced by ten Inshore Fisheries and Conservation Authorities, managed by the MMO.³³

According to Defra the *Marine Act will benefit fisheries*, for example by protecting fish stocks, improving the licensing system, preventing illegal fishing (IUU) and reducing the administrative burden.³⁴ According to Richard Benyon, UK Government Minister for Natural Environment and Fisheries, the **Marine Policy Statement will not be detrimental to fishing communities** as this would be contrary to policy on fisheries and food security.³⁵ However, **fishing will be excluded within HPMCZs in Wales**.³⁶

²⁵ Finding Sanctuary, *About us*, Website [Accessed 1 April 2011]

²⁶ Irish Sea Conservation Zones, *Third Progress Report Summary*, 11 March 2011 [Accessed 1 April 2011]

²⁷ Finding Sanctuary, *Third progress report summary*, February 2011 [Accessed 1 April 2011]

²⁸ Balanced Seas, *Third Progress Report*, 28 February 2011 [Accessed 1 April 2011]

²⁹ Net Gain, *Progress Report for the 3rd Iteration Submission to the Science Advisory Panel*, February 2011 [Accessed 1 April 2011]

³⁰ Defra, *Marine Conservation Zones (MCZs)*, 24 March 2011 [Accessed 1 April 2011]

³¹ Wales Environment Link, Marine Fisheries in Wales Briefing Sheet, n.d.

³² Research Service Research Paper 10/062, *Reform of the Common Fisheries Policy 2012*, September 2010 [Accessed 31 March 2011]

³³ Marine Management Organisation, *Inshore fisheries management*, Website [Accessed 31 March 2011]

³⁴ Defra, *Factsheet: what the Act means for industry*, 13 November 2009 [Accessed 30 March 2011]

³⁵ Environment, Food and Rural Affairs Committee, *The Marine Policy Statement: Second Report of session 2010-2011*, 25 January 2011 [Accessed 29 March 2011]

³⁶ Welsh Assembly Government, *Marine Conservation Zone Project - Wales: Site Selection Guidance for Highly Protected Marine Conservation Zones*, March 2011 [Accessed 1 April 2011]

6. Does the Coastal Access element affect Wales?

Part 9 of the *Marine Act* makes provision to ensure public access to the coast in England and confers **additional powers on Welsh Ministers to improve coastal access in Wales**. The **Wales Coastal Access Improvement Programme** has been in place in Wales since 2007³⁷ and on the 5 May 2012, Wales is set to become the **first country in the world** with a formal trail around its entire coast.³⁸

Further information

For further information on aspects of The Marine Act, please contact **Nia Seaton** (Nia.Seaton@wales.gov.uk), Members' Research Service.

For further information on the topics below, double click on the links.

- Welsh Government [Marine and Coastal Access Act 2009](#) website
- Research Service [Marine and Coastal Access Bill](#) research paper
- Research Service [Marine Policy Statement](#) quick guide
- Research Service [Reform of the Common Fisheries Policy 2012](#) research paper
- The [Marine Conservation Zone Project Wales](#) website
- The UK Government's [Marine Conservation Zone Project](#) website

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³⁷ Countryside Council for Wales, [Visiting the Coast](#), Website [Accessed 30 March 2011]

³⁸ Welsh Assembly Government, Jane Davidson (Minister for Environment, Sustainability and Housing), [Opening of the Wales Coast Path](#), Cabinet Written Statement, 30 March 2011 [Accessed 1 April 2011]