

MARINE (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Marine (Scotland) Bill introduced in the Scottish Parliament on 29 April 2009. It has been prepared by the Scottish Government to satisfy Rule 9.3.3(c) of the Parliament's Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 25-EN.

POLICY OBJECTIVES OF THE BILL

2. Increasingly there are competing demands on Scotland's marine environment from fisheries, aquaculture, shipping, ports and harbours, recreational activity, conservation, dredging, oil and gas extraction and renewable energy. Some of these activities are controlled through licensing while fisheries are managed through the EU Common Fisheries Policy. However, there is little strategic overview of the use of the marine environment: licensing is designed to control the environmental impact of certain activities but it does not and cannot address conflicts that may arise between marine activities. The provisions in this Bill create a framework to manage the growing and competing demands for the use of marine resources in the seas around Scotland, integrating environmental and socio-economic considerations to maximise economic growth within sustainable environmental limits.

3. The main Parts of the Bill are:

- Part 2 creates a statutory marine planning framework with distinct national and regional structures. A national marine plan will identify national strategic objectives and priorities for the marine environment. The Bill provides powers for Ministers to create Scottish Marine Regions and to delegate regional planning functions. At a local level, marine planning will be implemented within Scottish Marine Regions by a partnership comprising local stakeholders or a public authority, leading to increased local transparency and accountability.
- Part 3 facilitates streamlining of marine licensing and marine consents and therefore a reduction in regulatory burden. Provisions identify licensable marine activities, and the licensing process, including specific factors to be taken into account during the determination of licence applications. This Part also provides for enforcement of licences and licence conditions and appeals.
- Part 4 contains provisions for the establishment of marine protected areas and the introduction of marine conservation orders as appropriate to the management of the

areas. The Part also provides for the Scottish Natural Heritage marine wildlife licensing functions under the Wildlife and Countryside Act 1981 to be transferred to the Scottish Ministers.

- Part 5 repeals the Conservation of Seals Act 1970 and introduces a licence regime appropriate for the management of seals in Scottish waters.
- Part 6 provides for a range of common enforcement powers applicable to the enforcement of both licensing and nature conservation provisions.
- Part 7 includes general provisions concerning matters such as Crown application, offences by bodies corporate, ancillary provision, and orders and regulations.

BACKGROUND

4. In recent years there has been a growing demand in Scotland for change in the management of Scotland's seas. Change that will deliver better stewardship of the seas, ensuring they provide enhanced opportunity for economic growth while continuing to provide existing benefits for future generations. The case for change was highlighted in two reports published in 2007.

5. The Environment and Rural Development Committee (ERDC) of the Scottish Parliament following its inquiry into the Marine Environment in 2007 (session 2) identified Scotland's marine environment as a "dynamic, robust and yet delicately balanced resource, with an immense economic and iconic value to Scotland". The Report¹ considered that "the value of the marine environment can be eroded through over-intensive, inappropriate, insensitive or cumulative impacts, or the failure to address pressures". The committee's report focused on how to effectively manage the pressures on the marine environment, recommending a new system of marine planning, a more integrated regulatory system for marine activities, the need for marine protected areas, further research and for a marine management organisation to simplify governance and not add to bureaucracy.

6. The Advisory Group on Marine and Coastal Strategy² (AGMACS), a marine stakeholder group formed to provide advice to Ministers on the application of principles of sustainable development to coastal and marine environments, also recommended changes to the legislative framework including marine planning. In addition, it recommended a three pillar approach to marine nature conservation (species conservation, policy and site protection), as well as a marine management organisation responsible for marine nature conservation and fisheries out to 200 nautical miles.

7. In January 2008, the Cabinet Secretary for Rural Affairs and the Environment convened the Sustainable Seas Task Force³ to input into the development of the Scottish Government's planned consultation on a Scottish Marine Bill, building on and taking forward the work of the

¹ Environment and Rural Development Committee Report on Inquiry into the Marine Environment <http://www.scottish.parliament.uk/business/committees/environment/reports-07/rar07-04-00.htm>

² Advisory Group on Marine and Coastal Strategy <http://www.scotland.gov.uk/Topics/Environment/16440/AGMACS>

³ Sustainable Seas Task Force membership: <http://www.scotland.gov.uk/Resource/Doc/1057/0056598.pdf>

ERDC and AGMACS. The Sustainable Seas Task Force represented a diversity of marine interests including fishing, aquaculture, conservation, industry, shipping and leisure.

8. *Sustainable Seas for All – a consultation on Scotland’s first marine bill*⁴ was launched on 14 July and closed on 6 October 2008. Proposals for consultation included:

- a new statutory marine planning system to balance conflicting use of marine resources and deliver Integrated Coastal Zone Management
- streamlined and rationalised licences for marine based activities and impacts to reduce the regulatory burden
- improved compliance monitoring and enforcement of licence regimes by reviewing and consolidating powers
- improved nature conservation based on a 3 pillar approach (species conservation, site protection and wider seas measures) and improved seal conservation measures
- Marine Scotland as a body responsible for improved stewardship of the seas
- development of marine science strategy to focus marine scientific effort

9. Responses showed broad general support for the vision of a framework as set out in the consultation document. Non-confidential responses⁵, an analysis of responses and the formal Scottish Government response to the consultation can be viewed on the Scottish Government website.

UK and international background

10. The proposals in the Bill reflect international trends towards greater management and stewardship of the seas. The EU Marine Strategy Framework Directive⁶ sets out a European wide approach to delivering better management of the seas, including descriptors of Good Environmental Status. This will require assessment and delivery of Good Environmental Status in the regional seas around Scotland. It also requires an integrated and planned approach to the management of the seas. The Bill proposes management tools which would be used to deliver the requirements of the Marine Strategy Framework Directive.

11. There are also a number of other international agreements where Scotland has a specific role to play in ensuring marine commitments are met. These include commitments under the World Summit on Sustainable Development, the Convention on Biological Diversity and the Oslo-Paris Convention for Protection of the Marine Environment of the North-East Atlantic (OSPAR). The marine nature conservation and marine planning proposals in the draft Bill will help Scottish Government to deliver it’s obligations in terms of an ecosystem approach and contribution to a network of Marine Protected Areas. The World Summit on Sustainable Development took place in Johannesburg, South Africa in 2002. It brought together

⁴ Sustainable Seas For All – a consultation on Scotland’s first marine bill: <http://www.scotland.gov.uk/marinebill>

⁵ Non- confidential responses to *Sustainable Seas for All – a consultation on Scotland’s first marine bill*: <http://www.scotland.gov.uk/Publications/2008/11/13100309/0>

⁶ EU Marine Strategy Framework Directive: <http://www.scotland.gov.uk/Topics/Environment/16440/msfd>

Governments, non-governmental organisations, businesses and others to focus on actions to achieve sustainable development. Governments agreed and reaffirmed a wide range of commitments and targets. One of the commitments was to develop and facilitate the use of diverse approaches and tools, including the establishment of representative networks of marine protected areas by 2012 consistent with international law and based on scientific information.

12. The UK Government has brought forward the Marine and Coastal Access Bill.⁷ This UK Bill proposes new powers on marine issues falling within the responsibility of the UK Parliament. The proposals in the Marine (Scotland) Bill are complementary to the UK Bill. Together with proposed legislation in Northern Ireland the proposals in the Bills provide for a framework of co-operation between the different administrations in the UK on marine matters. The UK Marine Policy Statement is to be an agreed high level statement of the policies and priorities for the seas around the UK involving Scottish, UK, Northern Irish and Welsh Ministers. Scottish Ministers can choose not to agree to the UK Marine Policy Statement. If agreed the Statement will guide decision making in all of Scotland's seas, including the Scottish in-shore area. It will be laid in the Scottish Parliament before adoption.

13. The UK Bill also includes proposals for Scottish Ministers to take on marine planning and conservation functions in the offshore area, under defined procedures. Again the detailed proposals in the Marine (Scotland) Bill are complementary to the proposals in the UK Bill. As far as possible the Scottish Government will aim to administer common processes in-shore and off-shore to minimise the administrative burden.

14. The marine licensing function had previously been executively devolved to Scottish Ministers and the UK Bill continues that approach. Scottish Ministers will be the licensing authority for the Scottish offshore region 12 to 200 nautical miles in the UK Bill and will deliver a licensing system for the area 0 to 12 nautical miles in the Scottish Marine Bill that is complimentary to the licensing system 12 to 200 nautical miles.

Management and Delivery

15. As well as the key elements of the Bill, a common feature of the reports of the AGMACS and ERDC reports was the need for a lead body to deliver sustainable management of Scotland's seas. The consultation document *Sustainable Seas for All* proposed Marine Scotland as a delivery body for marine policy to raise the profile of the coastal and marine area and act as a champion with integrated responsibility for the stewardship of Scotland's seas.

16. Responses to the consultation indicated strong support for Marine Scotland and for it to provide better integrated and streamlined delivery in the marine area. Having considered the responses, Scottish Ministers announced the formation of Marine Scotland which came into effect on 1 April 2009, integrating the resources and expertise of Scottish Government Marine Directorate, Fisheries Research Services and the Scottish Fisheries Protection Agency as a Directorate of Scottish Government with a distinct identity.

⁷ UK Marine and Coastal Access Bill: <http://www.defra.gov.uk/marine/legislation/index.htm>

17. Marine Scotland brings together policy, science and frontline delivery into a single organisation and will set the overall framework for marine activities in Scottish waters through marine planning. It will be responsible for other improvements to marine management contained in the Bill and for the implementation and enforcement of marine policy.

PART 2: MARINE PLANNING

18. Marine planning is a new formal process which will help to manage marine resources effectively and protect the environment. It will involve bringing together and clarifying policies for the marine environment. The Bill proposes a statutory marine planning system to manage the resource needs of different sectors for marine space. The planning system will provide a framework for decision making with better information on marine areas, reducing search costs and risk for developers while identifying and protecting key environmental sites. The formal planning process will provide a framework within which difficult questions about resource use and protection can be considered in a measured and objective fashion taking account of the diverse range of opinion on such projects. The Bill therefore seeks to balance resource use and resource protection generating faster sustainable economic growth but safeguarding Scotland's seas for future generations.

19. The policy is for a three tier approach to planning: the international level dealing with planning matters that go beyond Scotland; the Scotland level which will set out the national marine objectives; and the regional level within Scotland to deal with local planning. A national marine plan will set out strategic objectives for the marine environment in Scottish Waters. The plan will be developed to cover 0 to 200 nautical miles through legislation within the Scottish Bill and executive devolution provided through the UK Marine and Coastal Access Bill. The national marine plan will guide regional planning.

20. Statutory expression of marine planning links beyond Scotland are provided in the UK Marine and Coastal Access Bill. Through the Joint Ministerial Committee agreement⁸ the Scottish Ministers have agreed that, if they adopt the UK Marine Policy Statement (MPS) under the UK Marine and Coastal Access Bill, the MPS will be applicable to devolved functions in both the Scottish inshore and offshore regions (as well as to reserved functions in those regions). If the MPS is adopted by the Scottish Ministers, marine planning in the Scottish inshore region will therefore be guided by the MPS, allowing for joined up marine planning across the UK. As indicated above, the MPS will set out the high level objectives for contributing to the achievement of sustainable development in the UK marine area. Agreed high level objectives endorsed by all the UK administrations were published on 21 April.⁹ The agreement also provides for marine planning and conservation provisions to be applicable to reserved matters under a forthcoming Scotland Act order, with the approval of UK Ministers.

21. The Bill provides for the creation of a national marine plan in inshore waters and for regional marine plans. The Scottish Ministers will be responsible for the national marine plan

⁸ New Responsibilities:

<http://www.scotland.gov.uk/Topics/Environment/16440/marine-bill-consultation/newmarineresponsibilities>

⁹ Our Seas – a shared resource. High Level Marine Objectives

<http://www.scotland.gov.uk/Resource/Doc/1057/0080305.pdf>

which will guide planning and licensing in the Scottish inshore and offshore areas. It will be in conformity with any MPS which has been adopted by the Scottish Ministers.

22. Scottish Marine Regions will be essential to the delivery of greater local involvement and accountability in the management of the regional sea. The regional marine plans will be guided both by the national marine plan which will set out national priorities and objectives, and any MPS which has been adopted by the Scottish Ministers. The Bill sets out in detail how marine plans will be prepared. Ministers intend that marine plans are developed in an open, transparent and accountable way and have sought to create a mechanism to ensure maximum public participation in the planning process. Regional marine plans are to be compatible with adjacent regional marine plans and similarly with adjacent terrestrial plans. Ministers wish to consult on the characteristic and criteria that will be used to define a Marine Region and to ensure arrangements build on existing responsibilities and expertise. Scottish Government therefore has not identified the Scottish Marine Regions in the Bill which provides Ministers with order-making powers to define the boundaries of Scottish Marine Regions once the consultation is complete and decisions have been reached.

23. Stakeholder participation and engagement of the diversity of marine interests is a key component of marine policy, and this is reflected in the provisions within the Bill to consult on marine plans prior to formal adoption and to allow their review, amendment or withdrawal. To ensure that regional planning conforms with marine objectives, a regional plan can only be adopted once agreed by Scottish Ministers.

24. It is likely that marine plans will take two years to prepare and publish. Capacity and tools to implement marine planning are being developed based on experience of marine plan preparation through the non-statutory marine planning pilots of the Scottish Sustainable Marine Environment Initiative.¹⁰ The marine planning pilots are based in the Firth of Clyde, Shetland Islands and the Sound of Mull. All involve partnership working, have been testing new approaches to improve the sustainable management of Scotland's marine environment and have been developing voluntary marine spatial plans. Their implementation has been made possible through funding from the Scottish Government, SEPA, Scottish Natural Heritage, Crown Estate, local authorities and EC support. Each has been considering with stakeholders the vision for their seas, key priorities and policies, data issues and how the plan can guide future decisions. A marine plan for the Pentland Firth which is a potential key resource for marine renewables is also being developed. This experience will be drawn on in the preparation for planning at both the national and the marine region level. Further research on socio-economic and ecological objectives has been commissioned to support marine planning in Scottish waters.

25. Marine plans will provide certainty about Scottish Ministers' policy intentions as well as bringing together the characteristics, opportunities and constraints of the marine environment in one document. They will identify what activities are already going on. Developers will be able to know where they are likely to be able to carry out activities or where conditions or restrictions may be placed on what they do. Certainty will come from the fact that all operators and

¹⁰Scottish Sustainable Marine Environment Initiative
<http://www.scotland.gov.uk/Topics/Environment/16440/SSMEI>

regulators in the same area are guided by the same plan. This will ensure that decisions are made in a consistent way.

Delegation of Functions

26. The Scottish Ministers' policy is for regional marine planning functions to be delegated locally. The bodies responsible for local marine planning will be known as Marine Planning Partnerships. They may either be led by a lead public authority such as a local authority or by an unincorporated group of people. As previously explained, the Bill does not set out how many Scottish Marine Regions there should be or what their boundaries should be because this needs to be the subject of more detailed consideration.

27. It is envisaged that marine plans will be developed for different parts of Scotland on a phased basis with priority being given to areas where the competition for resources and development pressures are highest.

Integrated Coastal Zone Management

28. Scottish Ministers remain committed to Integrated Coastal Zone Management (ICZM)¹¹ as a strategic management process which aims to facilitate an integrated approach to the use, development and protection of resources across the intensively-used land/sea interface.

29. In 2002, the EU adopted a recommendation on ICZM¹² which lists eight principles, defining essential characteristics. These include a broad, holistic approach, a long-term view, flexibility, reflection of local characteristics, working with natural processes, inclusiveness and participatory, support and involvement of all relevant administrative bodies, and the use of a range of measures. Local Coastal Partnerships tasked with the delivery of ICZM currently exist for a number of estuaries and firths. Between 1993 and 2001 seven Management Strategies were developed with stakeholder participation.

30. The requirement in the Bill for regional marine plans to be compatible with adjacent regional marine plans and similarly with adjacent terrestrial plans provides a mechanism for delivering ICZM. Scottish Ministers intend to introduce a similar provision for terrestrial plans to be compatible with marine plans by way of planning regulations. Where required, Scottish Ministers may also use their power of direction in the Bill to ensure ICZM is delivered by those carrying out regional marine planning functions.

Decisions affected by marine plans

31. The benefits of better informed and more strategic decisions on resource use are recognised and it is intended that marine plans will achieve this by guiding activities within the marine environment. Once the marine plans come into effect, the Scottish Ministers and other public authorities must act in accordance with the marine plans when taking any authorisation or

¹¹ Integrated Coastal Zone Management: <http://ec.europa.eu/environment/iczm/home.htm#zone3>

¹² Recommendation of the European Parliament and the Council concerning the implementation of Integrated Coastal Zone Management in Europe
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:148:0024:0027:EN:PDF>

enforcement decision. In effect when Scottish Ministers or any other public body take licensing decisions these must be in accordance with the marine plan.

Monitoring and reporting

32. A suite of marine objectives, including socio-economic and ecosystem objectives will be included within national marine plans and reflected within regional plans ensuring a strategic component to marine planning is carried throughout the system. A feedback mechanism for monitoring delivery of objectives is important and so the Bill requires that the Scottish Ministers review the progress towards meeting the objectives set out in the national marine plan. If after review progress is not as expected, the marine plan can be amended or replaced. Reports on the national marine plan and regional plans must be published at least every 5 years.

Validity of marine plans

33. The Bill allows for any person aggrieved by a marine plan to make application to the Court of Session. This must be done no later than 6 weeks after the publication of the relevant document.

PART 3: MARINE LICENSING

34. The current licensing system seeks to protect the environment of the marine and coastal area from the impact of marine developments or to minimise the impact of those developments. The main change to the current licensing regime is the consolidation and modernisation of Part II of the Food and Environment Protection Act 1985 (FEPA) and Part II of the Coast Protection Act 1949 (CPA) by way of the new system for a single licence for activities currently requiring licensing under both regimes. FEPA was designed to control dumping at sea and protect the marine environment and the life that it supports, human health, and to prevent interference with legitimate uses of the seas from possible adverse impacts of new construction on the sea bed. CPA was designed to provide for safety of navigation following such construction. The Bill aims to achieve three objectives, firstly by bringing together FEPA, CPA and other pieces of legislation set out below to provide a simplified and streamlined way of getting a licence. By creating a common set of procedures Ministers hope to reduce the administrative burden involved in getting a licence.

35. Secondly, as part of the framework for planning and decision making in the marine area the new Marine Bill licence will play an important role in ensuring plans are adhered to. As paragraph 31 indicates, all authorisation and enforcement decisions must be taken in accordance with marine plans. Licensing decisions are authorisation and enforcement decisions. This wider framework will also allow more rounded consideration to be given to any licensing decision.

36. Licensing for most activities in the Scottish offshore region (12 to 200 nautical miles) will be executively devolved to Scottish Ministers by way of the UK Marine and Coastal Access Bill, and reflects the licensing proposals in the UK Bill. The final objective for the licensing elements of the Scottish Marine Bill is to deliver a common licensing system with the UK Bill ie. across the 12 nautical miles boundary. The Scottish Bill therefore reflects the changes proposed in the UK Bill as well as the changes to the licensing enforcement system proposed in the UK Bill.

Renewable Energy, Wildlife Licences and Aquaculture

37. Scottish Ministers intend to streamline the delivery of a range of licences. The Bill provides powers to allow Ministers to deliver a single consent to build each new renewable energy project. In addition the Bill provides that Scottish Ministers can deliver wildlife licences (including seal licences) and to further streamline the delivery of the marine licensing function.

38. The Bill seeks to provide a mechanism to reduce the regulatory burden faced by the aquaculture industry. The Bill provides Scottish local authorities with the ability to give up the development consent for marine fish farming. Where a local authority chose to give up the development consent for fish farming, then fish farming would become a licensable activity within their area.

Licensable Activities

39. The Bill sets out a list of licensable activities and, to enable Minister to respond to changes in the future, it provides a power to amend the list of licensable activities. The list of licensable activities reflects an amalgamation of the activities in the FEPA and CPA legislation. However Ministers have extended the list of licensable activities to include all forms of dredging which do not currently require licensing. The particular focus here is to regulate forms of dredging that leave spoil suspended in the water column. Dredge spoil suspended in the water column can be particularly damaging to shellfish and can have widespread environmental consequences.

Registration

40. As well as reducing the regulatory burden by simplifying licensing procedures, Ministers intend to reduce the burden by removing smaller projects from the licensing system. The Bill provides Ministers with a regulation making power to establish a specific environmental threshold below which activities would be considered to have minimal environmental impact and therefore not require a licence. Such activities that do not require a licence will require to be registered.

Enforcement

41. The Bill provides both for the issuing of a licence and for conditions to be attached to the licence. The licence and conditions are an essential element in the protection of the marine environment, human health and other legitimate uses of the sea. To ensure licences and licence conditions are followed, the Bill provides for a fine up to £50,000 or 2 years imprisonment on summary conviction of breaching the licence or licence condition. The Bill also provides Scottish Ministers with a series of options before court action. These include various notices as well as the ability to create a civil sanctions procedure by order-making powers.

PART 4: MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTED AREA

42. Enhanced nature conservation powers are necessary if the biological diversity of the seas around Scotland is to be protected, not only for its intrinsic value, but also to ensure marine

ecosystems continue to provide the economic, social and other benefits for people and their communities. As part of the broader agenda of sustainable economic growth, Scottish Ministers' policy, as expressed in the Marine (Scotland) Bill, is to improve the system of marine nature conservation using planning and management tools that deliver practical nature conservation at the ecosystem level and through focused improvements to protection of key locations and species.

43. Such improvements will involve identifying marine ecosystem objectives along with socio-economic objectives for our seas. Scottish Ministers intend to make use of the powers provided by the Bill to manage Scotland's seas in an integrated and coherent manner. Marine ecosystem and socio-economic objectives will assist and set the broad agenda for delivery through marine planning. However, the need to use specific, targeted measures to protect certain habitats and species considered in need of specific protection or management measures is also recognised.

44. The policy on which the conservation provisions of the Bill is based has been heavily informed by these drivers, the Scottish Parliament's Environment and Rural Development Committee's marine inquiry report, the advice of Advisory Group on Marine and Coastal Strategy and the Sustainable Seas Task Force. Following on from the recommendations of these forums, the consultation document *Sustainable Seas for All* proposed a three pillar approach to marine nature conservation, namely wider seas measures, species conservation measures and site protection.

45. The Bill's provisions include marine planning and licensing which will deliver conservation improvements under wider seas measures. With regards to improved species protection, significant improvements to the protection of seals are made by the Bill provisions. This is being accompanied by a review of existing species protection measures which may result in administrative improvements or amendments to existing wildlife legislation, namely the Wildlife and Countryside Act 1981 as deemed necessary. Finally, provisions for a new power to designate marine protected areas (MPAs) will further enhance site protection.

46. Currently, Scottish Ministers have limited powers to establish areas for marine protection, limited mainly to the fulfilment of EU requirements under Natura. The new MPA designation powers provided by the Bill support Scottish Ministers' policy, informed by the broad consensus within both AGMACS and the SSTF, to widen the circumstances in which MPAs can be designated. The new powers allow MPAs to be designated for the purpose of nature conservation and for demonstration and research purposes.

47. It is widely accepted that conservation MPAs can be a useful tool in protecting marine biodiversity, and there has been increasing interest in the role of MPA networks stemming from international agreements, in particular OSPAR and the World Summit on Sustainable Development. Scottish Ministers recognise the potential value of such networks and the new designation powers will enable Scotland to meet national priorities, contribute to networks in UK waters and allow Scotland to meet international commitments.

48. In line with Scottish Ministers' commitment to sustainable development, MPA designation powers extend to designation for demonstration and research purposes. It is

envisaged that these would be created for demonstrating or carrying out research into sustainable forms of marine management or investigating impacts of activities on the marine environment in order to inform and underpin future policy.

49. It is the policy of Scottish Ministers to use the Marine Bill to create MPA designation powers that complement the powers to establish and manage MPAs which are proposed in the UK Marine Bill for offshore waters adjacent to Scotland. All the administrations in the UK are committed to working together for better management of the seas and this includes designation and management of areas for marine protection as well as, where necessary, enforcement of provisions relating to MPAs.

50. Scotland has a strong coastal community, with approximately a fifth of the Scottish population living within one kilometre of the sea. The importance of the marine environment to these communities and the need to involve them in marine decision making is essential. Those communities who have an active interest in areas of the sea should be able to contribute to the process of identifying MPAs and therefore the Bill provides for communities to propose MPAs for nature conservation, demonstration or research purposes. It is envisaged that proposals will be based on scientific information and demonstrate value to the community and that national priorities are met.

51. A Historic MPA provision is also included in the Bill in order to improve the effectiveness of protection for Scotland's most important marine historic assets, for example historic shipwrecks. This follows extensive consideration of the case for reform of existing mechanisms since publication in 2004 by the Department for Culture, Media and Sport and the devolved administrations of the consultation document *Protecting the Marine Historic Environment, Making the System Work Better*¹³. In March 2008, Scottish Ministers consulted further as part of the Scottish Historic Environment Policy (SHEP) series.¹⁴ The Historic MPA power will replace use of scheduling (the Ancient Monuments and Archaeological Areas Act 1979) for underwater assets while section 1 of the Protection of Wrecks Act 1973 is to be repealed. Historic MPAs will work in much the same way as other types of MPA, allowing Scottish Ministers to better target protection according to the needs of each historic asset while delivering a more closely integrated approach to protection in general, with associated benefits for industry and sea-users in Scotland.

52. Historic MPAs will allow for protection of Scotland's most significant marine historic assets and such area of seabed as is considered necessary for the preservation of the asset(s). In order to better reflect the full range of historic assets that may be found on the seabed, the scope of what types of historic asset can be considered for designation has been broadened by comparison with existing mechanisms and will encompass not only built structures and the remains of wrecks and aircraft, but also artefact scatters and other material evidence of human activity. Designation is to be on the basis of national importance (the existing criterion for scheduling of monuments) as this will allow for all archaeological sites and monuments on land

¹³ Protecting Our Marine Environment: Making the System Work Better
<http://www.culture.gov.uk/images/consultations/44470DCMScompleteaccess1.pdf>

¹⁴ Scottish Historic Environment Policy: The Marine Historic Environment:
<http://www.historic-scotland.gov.uk/index/about/consultations/closedconsultations.htm>

and at sea in Scotland to be considered for designation against the same criterion. The Historic MPA mechanism, taken together with consideration for the marine historic environment within marine planning and licensing, accords with certain international commitments under the European Convention on the Protection of the Archaeological Heritage¹⁵ (the “Valletta Convention”).

53. To complement the powers in the Bill for MPA designation, criteria for site selection are being drawn up and guidance on the determination of national importance for Historic MPAs will be set out in the Scottish Historic Environment Policy. As a matter of policy, designation will follow due publicity and public consultation, but where there is an urgent need to establish an MPA then the requirements for full consultation can be suspended, but the designation will be time limited and more permanent designation of the site will follow the usual publicity and designation process laid down in the Bill.

54. In recognition of the social and economic benefits the marine environment offers individuals, communities and businesses alike, Scottish Ministers have adopted a policy of presumption of use within MPAs. However, the Bill makes provision for restriction of activities in and around MPAs should it be necessary to protect the key features or objectives of the site. Designation itself will not restrict or regulate marine activities, although at the time of MPA designation, it will automatically become an offence to damage the key features of a nature conservation MPA, to damage or disturb the historic asset, or remove whole or part of a Historic MPA without authorisation.

55. Where restriction of activities is necessary, it will be achieved through wider management approaches such as marine planning or specific protection via a marine conservation order (MCO). Scottish Ministers’ view of MCOs with regard to nature conservation and demonstration and research MPAs is that they are a tool, one of several, for the management and protection of MPAs. It is not Ministers’ policy to use MCOs automatically for every MPA. They will be used judiciously as and when the need for them arises, and according to the specific requirements of site protection. In some cases they may not be needed at all, because either the MPA is not under significant threat from any particular activities, or because other measures, such as planning restrictions, voluntary measures or management schemes are better suited. It is envisaged that only in rare cases will they be used to completely prevent an activity from taking place and in nature conservation and demonstration and research MPAs. For Historic MPAs, MCOs will be an important tool for managing investigations directed at the marine historic asset and on occasion, for example following the discovery of a historic shipwreck that is considered particularly vulnerable to looting, they may need to be used to manage access. MCOs will be made by statutory instrument. The MCO power will complement existing powers to control fisheries.

56. It is accepted that in some circumstances there may be a need to act quickly to protect a marine feature, such as the discovery of a threatened fragile or rare marine habitat. Powers will therefore be available to make an Urgent MCO where there is an urgent need to regulate an activity that could significantly impact on a marine feature. This will allow Scottish Ministers to suspend the usual publicity requirements prior to making the MCO. However the Urgent MCO

¹⁵ The European Convention on the Protection of the Archaeological Heritage (Revised) CETS No: 143 : <http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm>

will still be made by statutory instrument and be subject to Parliamentary scrutiny, and Scottish Ministers will still be required to publicise the MCO once it is made. This sort of MCO will be time limited to 12 months in the first instance. It is not the policy intention that the use of Urgent MCOs will be common.

57. An MCO may provide for Scottish Ministers to authorise activities which would otherwise be unlawful under the order and to attach conditions to the authorisation. This stems from the policy that management of MPAs should allow for flexibility, with due checks and balances, as part of holistic management and use of the seas.

58. Appropriate levels of fines have been set for cases where persons have been found guilty of damaging the key features of Nature Conservation or Historic MPAs, or for breaking the terms of MCOs for any type of site. This should meet the policy aim that deterrents should be robust enough to deter significant damage to MPAs which may be irreversible.

59. The Bill also provides for empowering public authorities to establish Management Schemes for the protection of Nature Conservation and Demonstration and Research MPAs. Also, public authorities exercising a function capable of significantly affecting an MPA will be duty bound to exercise their functions in a way that best furthers or least hinders the stated purpose(s) or objective(s) of the MPA. This stems from the need to empower local authorities with decision making roles relating to marine activities that could impact on MPAs, but also to clearly define their roles and responsibilities with respect to this.

60. Given the new powers to establish MPAs, the existing provisions in the Wildlife and Countryside Act 1981 for establishing Marine Nature Reserves will be repealed by the Bill. No Marine Nature Reserves have ever been designated in Scotland and in line with the general principle of removing redundant legislation, and the outdated statute provisions for establishing such reserves will be removed.

61. In keeping with the policy intent to modernise and streamline marine licensing to allow for better integration of marine licensing and decision making via Marine Scotland, SNH wildlife licensing functions in the Scottish marine area under the Wildlife and Countryside Act 1981 will be transferred to Scottish Ministers.

PART 5: CONSERVATION OF SEALS

62. There have been significant concerns about several aspects of the Conservation of Seals Act 1970 which is almost 40 years old and in need of updating. The Scottish Government worked through the Scottish Seals Forum,¹⁶ a diverse stakeholder group tasked with developing a co-ordinated approach to seal population management, to develop proposals for improvement which were set out in the consultation *Sustainable Seas for All*. The responses indicated a strong desire for changes to the current seals legislation showing support for increased protection for seals, especially in light of the recent decline in some common seal populations. However, there was also support for some form of limited seal management to continue to protect sustainable fisheries and fish farms from seal impacts. The Bill therefore seeks to provide additional

¹⁶Scottish Seals Forum: <http://www.scotland.gov.uk/Topics/Environment/Wildlife-Habitats/19887/20827>

protection for seals whilst permitting well-monitored local management of individual seals on an equal basis for all the relevant industry sectors.

63. A successful pilot scheme in Moray Firth (the Moray Firth Seal Management Plan¹⁷) has provided a framework for the Bill proposals for the management of seals. This is based on cooperation by the District Salmon Fishery Boards. It involves research and application of non-lethal deterrence. It also involves working with scientists who advise on permitted biological removal taking into account numbers of each species and using a Code of Practice for the humane control of seals. Bureaucracy is limited because licences are administered on a group basis, rather than individual operators.

64. The Bill provides a statutory framework for introducing similar arrangement throughout Scotland. It repeals the Conservation of Seals Act 1970 and replaces the offences under it with provision for an offence of killing, injuring or taking a seal. Derogations will permit limited killing or taking of seals under licence in certain circumstances such as the prevention of serious damage to fisheries, including netting stations, and fish farms. In addition to this, specific exceptions will permit killing or taking of seals without a licence in circumstances such as mercy killings or tending where animal welfare is a consideration.

65. The Bill provides for reporting and monitoring of seals killed or taken in certain circumstances, including under licence, in order to monitor the level of activity and control potential impacts on seal populations.

66. The Bill provides for a licensing regime to be administered by Scottish Ministers and describes the purposes for which licences may be granted. Extra protection is afforded to specific vulnerable seal populations by the introduction of additional licensing ‘tests’ which become necessary when management could impact on such populations. Provision is made for the possibility of charging for licences. Scottish Ministers expect to introduce this on a group basis following the model of the Moray Firth pilot to limit bureaucracy.

67. A seal licence has to specify the method of killing or taking to be used by the holder in consideration of animal welfare and in order to ensure that no prohibited methods of killing or taking are used.

68. The Scottish Ministers must consult the Natural Environment Research Council in certain circumstances to ensure that all seal management is informed by sound scientific advice¹⁸.

69. The Bill increases the penalties for offences against seals in line with those set out in other wildlife legislation, namely the Wildlife and Countryside Act 1981¹⁹ and the Conservation

¹⁷ The Moray Firth Seal Management Plan:

http://www.speyfisheryboard.com/uploads/pdfs/moray_firth_seal_plan.pdf

¹⁸ Natural Environment Research Council (NERC) Special Committee on Seals

<http://www.scotland.gov.uk/Topics/Environment/Wildlife-Habitats/19887/22139>

¹⁹ Wildlife and Countryside Act http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1981/cukpga_19810069_en_1

(Natural Habitats, &c.) Regulations 1994²⁰ to ensure that any penalty is appropriate to the seriousness of the nature of the offence committed.

70. The Bill makes provision in relation to the apprehension of offenders, powers of search and seizure, forfeitures, entry upon land and the giving of notices to ensure enforcement is made as practical as possible.

PART 6: ENFORCEMENT

71. While it is believed that the majority of marine activities are carried out in a responsible way, the right tools need to be available to deal with those operating without a licence or posing a risk to the environment, human health or breaking the terms of any nature conservation provisions. Modernisation of the enforcement powers to introduce a wider range of tools for enforcement from advice, statutory notices and monetary penalties, through to prosecution. The Bill provides for Scottish Ministers to appoint enforcement officers and gives those officers a set of common enforcement powers to enforce relevant marine legislation. Although the sections of the Bill that deal with enforcement may appear quite lengthy and detailed, their aims are simple. It is to ensure that marine enforcement officers in Scotland are able to effectively and properly carry out their enforcement activities. In terms of policy, the Scottish Government has considered it expedient that the powers of enforcement officers in Scotland should parallel those powers created under the UK Marine Bill for the UK marine enforcement officers. This is for better practical enforcement across the whole of the UK seas. In particular this paralleling of enforcement powers will be particularly useful because Scottish enforcement officers will be enforcing both within the 12 nautical mile zone, mostly under Scottish legislation, and outwith 12 nautical miles under UK legislation. This will meet the Scottish Government's policy which is, as far as possible in relation to cross border activities such as enforcement, to ensure a "seamless join".

72. As well as common enforcement powers there are specific provisions relating to enforcement of marine licensing and marine nature conservation provisions in the appropriate sections of the Bill. These are similar to UK Bill provisions and tailored to the requirements for these two areas of enforcement.

PART 7: GENERAL PROVISIONS

73. This Part deals with certain general matters. It deals with Crown application, in effect the Crown will be bound by the Bill. In addition it deals with bodies corporate, ancillary provisions, orders and regulations, interpretation, consequential modification and commencements.

ALTERNATIVE APPROACHES

74. As discussed in previous sections, the growing consensus for change to the management of Scotland's seas in recent years led consecutive forums to conclude that significant legislative and administrative reform was necessary. Retaining the status quo would not address the

²⁰ Conservation (Natural Habitats, &c.) Regulations 1994
http://www.opsi.gov.uk/si/si1994/uksi_19942716_en_1.htm

pressure and competition for marine resources in Scottish waters now recognised as a priority for the Scottish Government in conjunction with its commitments to sustainable economic growth.

75. In the absence of Scottish marine legislation, the commitment by the UK Government to legislate for UK waters, including 12 to 200 nautical miles around Scotland, would effectively result in Scottish territorial seas between 0 to 12 nautical miles becoming isolated as an unregulated zone. There would be little integration across jurisdictions resulting in lack of coherence of marine management policy and ineffective management.

76. In developing proposals for a Scottish Marine Bill, the Sustainable Seas Task Force, a stakeholder group representing a diversity of marine interests, considered marine planning, streamlined licensing and enforcement, marine nature conservation, improved data and science and a marine management organisation as the main areas to address to achieve sustainable management of Scotland's seas.

77. In a series of workshops, the Task Force considered each subject in detail with regards to how concerns could be best addressed, including alternatives to legislation. These discussions formed the basis for the Bill proposals and subsequently for the detailed provisions. The reports documenting the progress of proposals can be accessed on the Scottish Government webpage.²¹

78. Alternative options are discussed at length in the Full Regulatory Impact Assessment which will be published on the Scottish Government website.

Marine Planning

79. A system of marine planning is essential to manage the increasing and often competing demands on marine resources. In the absence of a statutory framework there would be little or no formal integrated planning of activities and Scottish Ministers would not be able to have a strategic approach to planning. This would result in the existing situation where conflicts and uncertainty about uses of the marine environment could result in costly delays, less efficient use of marine space and deterioration of the marine environment. Scottish Ministers, informed by reports of the Advisory Group on Marine and Coastal Strategy, the Scottish Parliament's Environment and Rural Affairs Committee, and the work of the Sustainable Seas Task Force, believe that a statutory marine planning system would be the most effective means of managing marine demands.

Marine Licensing

80. The current licensing regime involves many separate consents administered by multiple organisations/Government departments with different consultation requirements and processes. Continuation of the status quo is not in line with the intent of Scottish Ministers to streamline and rationalise licensing processes appropriate to modern business needs. The provision in the Bill will achieve simplification and streamlining and ultimately will lead to an integrated approach to marine licensing in Scottish seas from 0 to 200 nautical miles. The result will minimise the need for marine developers to make multiple licence applications to multiple

²¹ Sustainable seas Task Force – meeting documents

<http://www.scotland.gov.uk/Topics/Environment/Water/16440/SSTF/meetings>

bodies as currently occurs. Similar provisions exist within the UK Marine and Coastal Access Bill.

Marine Protection and Enhancement

81. The Scottish Government considered 3 main options in relation to nature conservation. These were: *no change*, *make better use of existing measures* or *implement new measures and policies*.

82. The option of *no change* was unacceptable to Scottish Ministers as it would not accord with its policy of providing, as part of a new framework for the management of Scotland's seas, a new power to actively manage our seas to achieve better nature conservation. Under this option the protection mechanisms under existing legislation would remain although these have limited application, and are generally regarded as insufficient. They are restricted to 3 nautical miles and the reserve arrangements are based on the voluntary approach and securing co-operation of all local interest groups. Neither would the *no change* option allow Scottish Ministers to fulfil their policies of working with the UK Government and other countries to meet OSPAR (Oslo-Paris Convention for the Protection of the marine environment of the North East Atlantic) and WSSD (World Summit on Sustainable Development) requirements.

83. Dependence on *making better use of existing measures* would pose a significant risk that it will not deliver Scottish Ministers' policies of establishing an effective network of MPAs as part of its overall commitment to Sustainable Economic Growth and international agreements.

84. The third option considered is *to implement new measures and policies* and Scottish Ministers believe this option will allow them to meet their policies of enhanced marine conservation and sustainable economic growth and development and while delivering sound management of Scotland's seas.

85. Scottish Ministers have considered alternative approaches to Historic MPAs. These include retention of existing historic environment site protection mechanisms, pursuing opportunities for change to marine heritage protection across the UK, or drafting of alternative provisions within the Scottish Marine Bill. Existing provisions are widely considered by key stakeholders to be either overly burdensome or ineffective at sea. Proposals for change in England and Wales were set out in a draft Heritage Protection Bill but Scottish Ministers opted to legislate on this devolved matter in the Scottish Parliament. Options considered as part of the Scottish Marine Bill included drafting of an alternative mechanism for historic environment site protection that would have been distinct from other approaches to conservation and, at the other extreme, full integration with nature conservation. The Historic MPA provision acknowledges the common ground that exists with nature conservation but it also reflects the differences. These include the characteristics of what is being protected, the international policy drivers that shape what is required in legislation, and the framework for delivering the provisions.

Conservation of Seals

86. The possibility of producing guidance on seals legislation was explored in the context of considering alternatives to legislating for enhanced seal conservation measures. The guidance

was unable to exceed the restrictions of the current legislation sufficiently to secure widespread support from the stakeholders. It therefore became essential to make changes in the legislation itself.

Enforcement

87. Scottish Ministers have chosen to pursue the policy option of modernising the enforcement powers with a view to streamlining and integrating enforcement powers and joining up with effective enforcement activity throughout UK seas. The only alternative to this would be to leave enforcement powers as they are. Doing so would not take on board the new requirements for enforcement of nature conservation and licensing regimes, and would not provide for integrated enforcement across UK waters. Scottish Ministers consider that there is therefore no effective alternative to modernising the enforcement regime to meet the requirements of the Scottish Marine Bill and cross-border working.

CONSULTATION

88. The Scottish Government held a public consultation on proposals for a Scottish Marine Bill between 14 July and 6 October 2008. *Sustainable Seas For All - a consultation on Scotland's first marine bill*²² provided an overview of the requirements for change and set out proposals to introduce streamlined marine licensing regimes and enforcement, a new statutory marine planning framework, improvements to nature conservation measures and integration of historic environment site protection, a marine management organisation (Marine Scotland), and measures to focus scientific effort, including socio-economic considerations, to underpin policy.

89. The consultation document was made available on the Scottish Government website and distributed to a wide range of stakeholders in hard copy.

90. A total of 9,135 responses were received, including 8,857 campaign responses from two main campaigns. All non confidential responses were published on the Scottish Government website²³.

Consultation events

91. A series of 21 public consultation events were undertaken around Scotland's coast and islands to disseminate information and seek feedback on the proposals. Most events took the form of a presentation with open questions and answers; four events included specific themed workshops. The events were hosted by Local Coastal Partnerships or arranged in conjunction with local authorities or Scottish Sustainable Marine Environment Initiatives. Reports of the comments expressed at the meetings were considered during the analysis of responses to the consultation.

²² Sustainable Seas For All – a consultation on Scotland's first marine bill: <http://www.scotland.gov.uk/marinebill>

²³ Non-confidential responses to *Sustainable Seas For All – a consultation on Scotland's first marine bill*: <http://www.scotland.gov.uk/Publications/2008/11/13100309/0>

Analysis of consultation responses

92. Scottish Government published *Analysis of Responses to the Public Consultation on the Scottish Marine Bill*²⁴ on the Scottish Government webpage on 23 January 2009. The Scottish Government's response to the consultation is also available.

93. The analysis demonstrated a high level of support for change to the management and legislative framework for managing Scotland's seas. A high number of respondents agreed that Scottish Ministers/Scottish Parliament should provide a framework to deliver a new system of marine planning, improvements to marine nature conservation and a streamlined and modernised marine licensing and consents system. Similarly there was broad support for a new structure, Marine Scotland to deliver the framework, and for better stewardship of the seas to be backed up by robust science and data. The latter two deliverables do not require to be legislated for.

Strategic Environmental Assessment

94. A Strategic Environmental Assessment of the consultation proposals was undertaken and the Environmental Report was published for public comment on 8 December 2008.²⁵

Regulatory Impact Assessment

95. A Partial Regulatory Impact Assessment (PRIA) was published for public comment on the 15 December 2008²⁶. A full Regulatory Impact Assessment will be published on the Scottish Government website.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

Equal opportunities

96. In the main this Bill enables future policies to be developed, rather than implements detailed policies directly. The most significant policies which the Bill provides for, such as a national marine plan, will be subject to future assessments.

97. The Bill is wide ranging and may affect a diversity of people with an interest in the marine environment. For the purposes of assessing impacts on equal opportunities, the target audience is considered in terms of the individuals within the sectors on which the Bill is likely to impact: fisheries, aquaculture, industry/transport, ports, recreation/tourism, and conservation.

98. While little empirical evidence is available which describes the composition of these groups according to age, disability, gender, race, sexual orientation or religion/belief, it is

²⁴ Analysis of Responses to the Public Consultation on the Scottish Marine Bill:
<http://www.scotland.gov.uk/Publications/2009/01/22160605/0>

²⁵ Scottish Marine Bill Strategic Environmental Assessment (SEA): Environmental Report (ER)
<http://www.scotland.gov.uk/Publications/2008/12/08085633/0>

²⁶ Scottish Marine Bill Partial Regulatory Impact Assessment
<http://www.scotland.gov.uk/Publications/2008/12/15093138/0>

generally accepted that interests such as fishing, aquaculture, shipping, ports and harbour operation affected by the Bill are dominated by able bodied men (religion/sexual orientation unknown).

99. Extensive consultation was undertaken on the proposals for a Scottish Marine Bill. This included assistance with the development of proposals by the Sustainable Seas Task Force, a series of consultation events attended by approximately 750 people, and an invitation to approximately 800 organisations and individuals to comment on the consultation document. Organisations approached included the Church of Scotland Offices, the Commission for Racial Equality, Scottish Disability Sport, Women's National Commission, Scottish Women's Rural Institute, Communities Scotland, Scottish Sports Council, Black and Minority Ethnic Elders Group, Age Concern (Scotland), SCVO Race Equality Development Unit and the Scottish Interfaith Council.

100. Many of these organisations declined to submit a response. No other respondents raised concerns regarding the impact of the proposals on persons defined by age, disability, gender, sexual orientation, or belief/religion.

101. In the majority of cases, future policies arising from the Bill are likely to affect the way in which marine activities are regulated and undertaken or else will determine the temporal or spatial location of activities. Policies seemingly affecting able bodied men disproportionately in industries such as fishing, aquaculture and marine industry in effect will have minimal tangible discriminatory impact on them as a defined group. On balance, such impacts are considered proportionate to the over arching and significant benefits the Bill will introduce in terms of sustainable management of marine resources.

102. An Equality Impact Assessment of the Bill has been carried out and will be published on the Scottish Government website²⁷

Human Rights

103. The Scottish Government considers the Bill to be compatible with the European Convention on Human Rights. Issues under Article 6 of the Convention arise relative to Part 3 of the Bill since decisions on granting, varying or revoking marine licences or on imposing civil penalties for breach of the licensing system may involve the determination of a person's civil rights. The Bill does, however, require a right of appeal to be provided under secondary legislation against any relevant decision, thus allowing compatibility with Article 6. The provisions of Part 6 concerning enforcement may give rise to issues concerning compatibility with Article 8 and Article 1 of Protocol 1. The provisions are not, however, significantly different from enforcement provisions in other fields and in the opinion of the Scottish Government they strike an appropriate balance between individual rights and the public interest in the prevention of crime.

²⁷ Scottish Government Equality Impact Assessments
<http://www.scotland.gov.uk/Topics/People/Equality/18507/EQIASearch>

Island communities

104. Industries such as fishing, aquaculture, and coastal recreation upon which many remote rural and island communities depend may potentially be affected by the Bill provisions for marine planning and nature conservation in terms of possible impact on temporal or spatial control of activities. However, social and economic objectives will be identified along with marine ecosystem objectives in a national marine plan; the Bill provides for public consultation on the national marine plan which in turn will influence local plans.

105. Local stakeholder participation in the local planning process is a key aim of the Bill. Local planning will be undertaken at a regional level with stakeholder consultation prior to adoption of regional marine plans. The Bill provides for delegation of planning functions to a public authority or an unincorporated group of people within Scottish Marine regions. The boundaries of Scottish Marine Regions will be identified by secondary legislation following consultation and will be subject to Regulatory Impact Assessment to determine impact on local marine stakeholders.

106. The combination of incorporating social, economic and ecosystem objectives into the marine plans and the provision for stakeholder involvement in local planning decisions will ensure that issues important to local communities are taken into account within the marine planning framework.

Local government

107. The Bill seeks to improve local accountability allowing local authorities and other local stakeholders to have a say in the management of their local seas. Within the marine planning framework, the Bill will provide for Scottish Marine Regions. Some local authorities are strongly placed to play a leading role within the appropriate Scottish Marine Region.

108. The Bill also provides for delegation of certain functions to public authorities. Further details are set out in paragraphs 26 and 27. Decisions by public authorities on marine matters will have to be in accordance with marine plans. In order to streamline licensing, the Bill provides local authorities with the ability to give up the aquaculture development consenting role if they choose to do so.

Sustainable development

109. The Scottish Government's purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth. It has defined sustainable economic growth as building a dynamic and growing economy that will provide prosperity and opportunities for all, while ensuring that future generations can enjoy a better quality of life too.

110. With a focus of ensuring an overall sustainable approach to managing the marine environment, the Bill contributes to achieving this purpose. It also contributes to the Greener Strategic Objective 'to improve Scotland's natural and built environment and the sustainable use

and enjoyment of it' and the National Outcome of valuing and enjoying the built and natural environment and protecting and enhancing it for future generations.

111. The Bill provisions aim to enhance the long-term viability and growth of the various marine industries and improve nature conservation measures to protect the natural resource upon which many industries and communities depend. The provisions for management of competing demands on marine resources and the reduction of regulatory burdens, whilst providing for enhanced protection of the marine environment, are discussed relative to Parts 2 to 5.

112. A key focus of the marine planning system is to ensure that Scotland's marine and coastal environment is clean, healthy, safe, productive and biologically diverse to meet the long term needs of people, nature and marine industries. Social and marine ecosystem factors will be taken into account alongside economic growth by the consideration of a series of nationally set objectives within the marine planning framework. These objectives will be founded on five guiding principles of sustainable development: living within environmental limits, ensuring a strong, healthy and just society, achieving a sustainable economy, promoting good governance and using science responsibly.

This document relates to the Marine (Scotland) Bill (SP Bill 25) as introduced in the Scottish Parliament on 29 April 2009

MARINE (SCOTLAND) BILL

POLICY MEMORANDUM

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