

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Menai Strait Fishery Order Management Association	Response from Menai Strait Fishery Order Management Association
EB 03	EB 03



Menai Strait Fishery Order Management Association

Porth Penrhyn, Bangor, LL57 4HN

Committee Clerk
Environment & Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

11th June 2015

By post and e-mail

Dear Sir / Madam

Consultation on the Environment (Wales) Bill

We are grateful for the opportunity to respond to the consultation on the Environment (Wales) Bill.

The Menai Strait Fishery Order Management Association is responsible for the administration of shellfish cultivation in the Menai Strait. The mussel farming industry in the eastern Menai Strait is the largest and most successful shellfish cultivation area in the UK, and it is based upon the legal framework established by the Sea Fisheries (Shellfish) Act 1967.

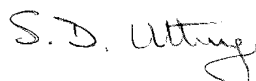
The shellfish farming industry in the Menai Strait provides dozens of skilled jobs and year-round employment for local people in this part of rural Wales; and it is also a multi-million pound industry that provides valuable export trade for Wales and the UK overall. Apart from these economic benefits, mussel farming here in the Menai Strait makes a valuable contribution to achieving the objectives of Welsh, UK and EU strategies for sustainable development of marine aquaculture. We are also very proud of the fact that this rural Welsh industry became the first shellfish farming operation in the world to be awarded a Marine Stewardship Council certificate.

Our response to the Bill is attached. In summary, we broadly welcome the proposed changes that the Environment (Wales) Bill will make to the Sea Fisheries (Shellfish) Act 1967. We feel that these changes will help to integrate this Act with the requirements of EC nature conservation legislation. We hope that this will address the concerns that have held up the creation of new Fishery Orders in Wales and that have stood to jeopardise delivery of the objectives of the *Welsh Marine and Fisheries Strategic Action Plan*. Overall, we congratulate the Welsh Government on the content of the Bill.

We have made comments on a few matters of detail and the interpretation of the proposed changes where we feel that these could bring further improvements. We are confident that you will be able to address these through minor amendments or by providing clarifications in supporting guidance and policy documents.

We hope that these comments are helpful. If we can be of any further assistance with this Bill, please do not hesitate to contact us.

Yours sincerely



SUE UTTING
Chair, MSFOMA

cc. Rhun Ap Iorwerth, A.M.

Consultation Questions for Inquiry into Environment (Wales) Bill

Part 1: Natural Resources Management

- Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?
- What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?
- Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?
- What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?
- Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

MSFOMA Response

We have no specific comments on this part of the Bill.

Part 2: Climate Change

- Do you agree with the proposals for the 2050 target?
- For your views as to whether the interim targets should be on the face of the Bill?
- Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?
- What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?
- Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?
- What should the role of an advisory body on climate change be?

MSFOMA Response

We have no specific comments on this part of the Bill.

Part 3: Carrier Bags

- Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?
- Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags on?
- Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

MSFOMA Response

We have no specific comments on this part of the Bill.

Part 4: Collection and Disposal of Waste

- For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?
- Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

- Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?
- What will the impacts of these waste proposals be for you or your organisation?
- Are there other waste proposals that you think should be included in the Bill?

MSFOMA Response

We have no specific comments on this part of the Bill.

Parts 5 & 6: Marine Licensing and Fisheries for Shellfish

- Do you agree with the proposals to introduce charges for further aspects of the marine license process? What will the impacts of these changes be for you?
- Do you agree with the proposals to give Welsh Ministers powers to include provisions in Several and Regulating Orders to secure protection of the marine environment?
- For your views on the proposals to give Welsh Ministers powers to issue site protection notices where harm may have been caused by the operation of a fisheries Order to a European marine site?
- Are there any other marine and fisheries provisions you would like to see included in the Bill?

MSFOMA Response

Marine Licensing

We have no specific comments on this part of the Bill.

Fisheries for Shellfish

Our responses to the different proposals are set out below:-

a) Provisions in Several & Regulating Orders to Protect the Marine Environment

We support the proposals to give powers to Welsh Ministers to include provisions for protecting European Marine Sites and "the marine environment" within Orders made under the Sea Fisheries (Shellfish) Act 1967.

We consider that some clarification is provided on the following points, either in the legislation or supporting documentation (such as policy guidance).

- **Marine environment – what is "appropriate" (§5A(1)(b))?** The option for the Minister to include provisions in an Order that are considered "appropriate" for protecting the marine environment will bring this Act into line with other fisheries Acts. However, whilst the scope of what may be "appropriate" and what may cause "harm" to a European Marine Site is well defined (for instance in the proposed §5F), the scope of what is "appropriate" for protecting the "marine environment" is not defined and thus open to interpretation. We feel that some clarification should be provided on this aspect of the Bill.

b) Site Protection Notices

We support the proposal that the Minister should be able to issue site protection notices and the associated procedures set out in §74 of the Bill (i.e. the proposed new §5B of the Sea Fisheries (Shellfish Act 1967).

We welcome the inclusion of an appeals procedure in response to site protection notices, and in particular that this procedure includes provision for the Tribunal to suspend a notice while determining an appeal, and ultimately to award compensation if the notice is cancelled.

- **Appeal against site protection notice** - the inclusion of an appeals procedure is a welcome precaution. We would suggest that it could be improved by some minor amendments:-
 - **Timeframes** for the appeals process could be included to give all parties a clear understanding of the schedule for submitting and hearing an appeal. These would provide both the Minister and any person bringing an appeal with some certainty about the process.
 - **Persons (§5C(2))** – the list of persons in the Bill could preclude the lessees in the Menai Strait Fishery from appealing against a site protect notice. This is because these lessees are not the Grantees of the Order (which is MSFOMA). If it is appropriate to give the licensed operators in a Regulating Order the right to appeal (2(b)), this right to appeal should also be granted to the lessees in a Several Order.
- **Supplementary Provisions (§5F(3))**. We can see no good reason why §5B *et seq* should not apply to existing Fishery Orders once the Bill is enacted. This provision could leave the Minister at risk of being unable to issue site protection notices, with the associated risks of infraction. It would seem a much better idea to apply these new measures with immediate effect to the established fisheries (all of which operate under management arrangements approved by Natural Resources Wales and which are thus highly unlikely to be the subject of such notices).

c) Other provisions

We would suggest that during this period of updating the Sea Fisheries (Shellfish) Act 1967, it could be useful to consider ensuring that §8 of the Shellfish Act and the procedures set out in Schedule I of the Act are compatible with modern times, where is it more effective to distribute notices and copies of the draft electronically rather than "*cause printed copies of the draft order to be published and circulated*" as presently required.

Part 7: Flood and Coastal Erosion and Land Drainage

- Do you agree with the proposals to replace the Flood Risk Management Wales committee with a Flood and Coastal Erosion Committee for Wales?
- Whether you agree with the proposal for powers to be given Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage?

MSFOMA Response

We have no specific comments on this part of the Bill.

Overarching Question

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

MSFOMA Response

We have no specific comments on this aspect of the Bill.

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)

MSFOMA Response

We consider that the Bill should bring benefits to the Welsh shellfish farming industry, as it seems to squarely address the problems that are considered to exist concerning the administration and regulation of shellfisheries in European Marine Sites. By creating clear and straightforward

provisions, the Bill should have a net benefit both to the industry, and to the Welsh Government department responsible for this area.

You may also want to consider:

- How accurate are the costs and benefits identified in the Regulatory Impact Assessment?
- Whether there are any costs or benefits you think may have been missed?
- What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?
- Do you think 10 years (2016-17 to 2025-26) is an appropriate time period over which to analyse the costs and benefits?
- The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?
- Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

MSFOMA Response

We would highlight that the proposed changes to the Sea Fisheries (Shellfish) Act 1967 will endure for more than 10 years, and that limiting the time period for assessing costs and benefits to a shorter period would fail to capture the full potential benefits for these aspects of the Bill.

MSFOMA
11 June 2015