

Marine (Scotland) Bill

1st Marshalled List of Amendments for Stage 2

Comments by Scottish Environment LINK (in red font)

The Bill will be considered in the following order—

Sections 1 to 5	Schedule 1
Sections 6 to 41	Schedule 2
Sections 42 to 122	Schedule 3
Sections 123 to 146	Schedule 5
Section 147	Schedule 4
Section 148	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

After section 2

Peter Peacock

97 After section 2, insert—

<PART

GENERAL DUTIES

Sustainable development

In exercising any function that affects the Scottish marine area under this Act or any other enactment—

- (a) the Scottish Ministers, and
- (b) public authorities,

must act in the way best calculated to further the achievement of sustainable development, so far as is consistent with the purpose of the function concerned.>

LINK strongly supports the 5 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) and we believe that these principles should underpin the entire bill. At present the only reference to sustainable development is in relation to marine planning in Part 2 (Sections 3(2) and 7(3)). **LINK supports this amendment.**

Peter Peacock

113 After section 2, insert—

<Protection and enhancement of health of Scottish marine area

- (1) In exercising any function that affects the Scottish marine area under this Act or any other enactment—
 - (a) the Scottish Ministers, and

(b) public authorities,

must act in the way best calculated to protect and enhance the health of the Scottish marine area, so far as is consistent with the purpose of the function concerned.

- (2) Such actions must have regard to any obligations under EU or international law that relate to the conservation or improvement of the marine environment.>

As recognised by the committee in the Stage 1 Report, the state of Scotland's seas is a serious concern. The Marine (Scotland) Bill provides an opportunity to strengthen the legal position by placing a duty on Scottish Ministers and all relevant public authorities to have regard to the need to protect and enhance the health of the Scottish marine area. The proposed amendment confers such a duty and therefore **LINK supports this amendment.**

Peter Peacock

99 After section 2, insert—

<Delivery of marine ecosystem objectives

In exercising any function that affects the Scottish marine area under this Act or any other enactment—

- (a) the Scottish Ministers, and
(b) public authorities,

must act in the way best calculated to deliver marine ecosystem objectives, so far as is consistent with the purpose of the function concerned.>

A healthy, well functioning, marine environment is the foundation of all economic and social benefits arising from Scotland's seas. Marine ecosystem objectives relate to the health of marine species, habitats and ecosystems. In the Stage 1 Report the committee recognised that were the duty to maintain and improve the health of the Scottish marine area to be inserted in the Bill, there would also be a need for indicators as to what factors constitute a healthy marine environment. LINK agrees that measurable environmental targets and indicators are required and supports marine ecosystem objectives as the ideal mechanism to achieve this aim. **LINK supports this amendment.**

RobinHarper

100 After section 2, insert—

<Application of precautionary principle

In exercising any function that affects the Scottish marine area under this Act or any other enactment—

- (a) the Scottish Ministers, and
(b) public authorities,

must apply the precautionary principle, so far as is consistent with the purpose of the function concerned.>

Management is often based on incomplete knowledge. Marine planning has a particularly important role in assessing how multiple uses of the marine ecosystem can proceed with the smallest practical impacts. The science available will almost always be perceived as incomplete, particularly in the most sensitive or contested areas, Management decisions must be based on advice utilising best available science and, when the advice is uncertain about the consequences of human activities, the precautionary principle, a general principle of EU environmental law, must be applied. **LINK supports this amendment.**

Peter Peacock

112 After section 2, insert—

<Mitigation of and adaptation to climate change

In exercising any function that affects the Scottish marine area under this Act, the Climate Change (Scotland) Act 2009 (asp 12), or any other enactment—

- (a) the Scottish Ministers, and
- (b) public authorities,

must act in a way best calculated to mitigate, and adapt to, climate change so far as is consistent with the purpose of the function concerned.>

The proposed amendment places a general duty on Scottish Ministers to act in the best way calculated to mitigate and adapt to climate change. LINK believes that a general duty of this sort is the best way to incorporate the need to mitigate and adapt to climate change in the Bill. Therefore, should this amendment be accepted we do not believe that it is necessary to further amend the bill to include climate change mitigation, particularly in Part 3. **LINK supports this amendment.**

Section 3

Elaine Murray

1 In section 3, page 1, line 24, leave out from <may> to <area,> in line 2 on page 2 and insert <must prepare and adopt in accordance with schedule 1 a national marine plan for the Scottish marine area.

() The Scottish Ministers may>

The proposed amendment confers a duty on Scottish Ministers to prepare and adopt a national marine plan whilst allowing discretion as to plan coverage for regional marine plans. **LINK supports this amendment.**

Liam McArthur

2 In section 3, page 2, line 7, after <policies> insert <and programmes>

National and regional marine plans should not only include the Scottish Ministers' policies, but also programmes designed to meet these policies. A similar approach was recently adopted in the Climate Change (Scotland) Act 2009. **LINK supports this amendment.**

John Scott

19 In section 3, page 2, line 7, leave out <(however expressed)>

We do not understand the purpose of the inclusion of '(however expressed)' in Section 3(2). **LINK supports this amendment.**

Elaine Murray

3 In section 3, page 2, line 8, at end insert—

<() states the Scottish Ministers' policies and programmes for and in connection with the protection and enhancement of the area to which the plan applies,>

We believe that a major potential strength of the Marine (Scotland) Bill is the 3-pillar approach to nature conservation. As part of the first pillar (wider seas measures), marine planning would be expected to play a major role (Policy Memorandum, para 45). However, as the Bill currently stands there is no clear link between the planning provisions and the provisions for marine protection and enhancement. The proposed amendment will ensure that a national marine plan or (as the case may be) a regional marine plan will include Scottish Ministers' policies and programmes for the protection and enhancement of the area to which the plan applies. **LINK supports this amendment.**

Elaine Murray

114 In section 3, page 2, line 10, at end insert—

<() includes a spatial strategy being, in the case of a national marine plan, a general statement of the proposed use and development of the Scottish marine area or, in the case of a regional marine plan, a detailed statement of the proposed use and development of the area of the relevant marine region,

() includes maps, diagrams and illustrations as determined by the Scottish Ministers to be appropriate to the purpose of the plan.>

The marine planning provisions in the Bill are a vital component and it is therefore key that the Bill provides a clear direction and purpose for the marine planning system. As such it is important that the Bill provides more detail of what the content of marine plans will be. The proposed amendment seeks to provide such detail and therefore LINK supports the policy intention behind this amendment.

Robin Harper

101 In section 3, page 2, line 11, leave out from <may> to the end of line 12 and insert <must include—

(a) marine ecosystem objectives, and

(b) objectives relating to the mitigation of, and adaptation to, climate change.

() A national marine plan may include economic and social objectives, where these are consistent with the objectives in subsection (3).>

Effective management of the marine area requires a clear set of objectives against which management actions can be identified, implemented and monitored via the development of indicators and targets. A healthy, well functioning, marine environment is the foundation of all economic and social benefits arising from Scotland's seas. It is important therefore that marine ecosystem objectives, which relate to the health of marine species, habitats and ecosystems, underpin the economic and social objectives. There is a concern that the Bill could allow for ecosystem objectives to be traded-off against short-term social and economic objectives, resulting in a continued deterioration of the sea's health and productivity. **LINK supports this amendment.**

Liam McArthur

102 In section 3, page 2, line 11, leave out <may> and insert <must>

Effective management of the marine area requires a clear set of objectives against which management actions can be identified, implemented and monitored via the development of indicators and targets. We therefore believe that it is vital that Scottish Ministers are placed under a duty to ensure that marine objectives are included in the national marine plan. **LINK supports this amendment, but our first option would be amendment 115 below.**

Liam McArthur

115 In section 3, page 2, line 11, leave out from <may> to end of line 12 and insert <or (as the case may be) a regional marine plan must include—

- (a) economic, social, and marine ecosystems objectives, and objectives relating to the mitigation of, and adaptation to, climate change,
- (b) an assessment of the condition of the relevant marine area at the time of the plan's preparation,
- (c) the policies and programmes best calculated to achieve the objectives set out in paragraph (a), and
- (d) a list of those public authorities or persons responsible for implementing the policies and programmes referred to in paragraph (c).>

The marine planning provisions in the Bill are a vital component and it is therefore key that the Bill provides a clear direction and purpose for the marine planning system. As such it is important that the Bill provides more detail of what will be the content of marine plans. We note that during the RAE Committee's first evidence session on the Marine (Scotland) Bill, there was a recognition that the bill was unclear on what marine plans will look like and what will be in them. Whilst we appreciate the desire for flexibility within the planning system, we also believe that stakeholders need the planning system to provide them with certainty and clarity. We therefore believe that it is vital that more detail on the content of marine plans is included on the face of the bill. **LINK supports this amendment and it is our preferred option for amendment of Section 3(3).**

Liam McArthur

4 In section 3, page 2, line 12, at end insert <, and

() state the programmes to be pursued to secure these objectives.>

National and regional marine plans should not only include Scottish Ministers' policies, but also programmes designed to meet these policies. The proposed amendment will ensure that programmes are designed to secure marine objectives. A similar approach was recently adopted in the Climate Change (Scotland) Act 2009. **LINK supports this amendment.**

Richard Lochhead

20 In section 3, page 2, line 12, at end insert—

<() objectives relating to the mitigation of, and adaptation to, climate change.>

LINK recognises the vital role that not only marine renewables, but also a healthy, biodiverse and well-functioning marine environment can play in climate change mitigation. We are happy to support the inclusion of objectives relating to the mitigation of, and adaptation to, climate change but we would emphasise that a healthy, biodiverse and well-functioning marine environment can play a massive role in climate change mitigation. According to a recent economic valuation of marine biodiversity (Beaumont et al. 2006, DEFRA) “*Changes in biodiversity will influence the biogeochemical cycling of carbon and nutrients, and ultimately have a strong feedback on the atmosphere and the climate. Decreasing biodiversity has been linked to decreasing productivity, and thus it is reasonable to assume decreasing carbon sequestration.*” **LINK supports this amendment.**

John Scott

- 21 In section 3, page 2, line 13, leave out from <designate> to end of line 15 and insert <provide that the Scottish marine area is to be divided into Scottish marine regions; and any such order must identify the borders of each Scottish marine region.>

In order to deliver an ecosystem approach it is vital that Scottish Marine regions cover the entire Scottish marine area. The proposed amendment would achieve this and would also provide consistency and certainty for marine industries operating in the Scottish marine area. Scottish Marine Region coverage for the Scottish marine area would not require all of an individual Scottish Marine Region to be planned. There would be scope for Scottish Ministers (or delegates) to ensure that all areas that need to be covered by a regional marine plan can be i.e. areas where there are conflicting uses and planning and/or management is needed). **LINK supports this amendment.**

Richard Lochhead

- 22 In section 3, page 2, line 16, leave out subsection (5)

See comments on amendment 23.

Elaine Murray

- 5 In section 3, page 2, line 17, leave out <, unless relevant considerations indicate otherwise>

We are unclear under what circumstances a regional plan could deviate from conformity with the national marine plan. There is no equivalent provision under the terrestrial National Planning Framework for structure plans to deviate from National plans or for local development plans to deviate from structure plans. However, following consideration of material considerations, there is scope for individual applications to deviate from a plan under the terrestrial system (similar to section 11 in the bill). Whilst we understand that the policy intention is to allow some flexibility for local decision making, this section, as currently drafted, could potentially allow regional marine plans to depart markedly from the national marine plan (and the UK Marine Policy Statement, if adopted). **LINK supports this amendment.**

After section 3

Richard Lochhead

- 23 After section 3, insert—

<Conformity of marine plans with other documents

- 5
- (1) A national marine plan and a regional marine plan must be in conformity with any marine policy statement currently in effect for the Scottish marine area, unless relevant considerations indicate otherwise.
- (2) A regional marine plan must be in conformity with any national marine plan currently in effect, unless relevant considerations indicate otherwise.
- (3) For the purposes of this Part, a marine policy statement is “currently in effect” for the Scottish marine area if—
- 10
- (a) the statement has been adopted by the Scottish Ministers in accordance with Schedule 5 to the 2009 Act,
- (b) the statement has been published in accordance with paragraph 12 of that Schedule,
- 15
- (c) the statement has not been replaced by a later marine policy statement (see section 45(3) of that Act),
- (d) the Scottish Ministers have not withdrawn from the statement in accordance with section 48 of that Act, and
- (e) the statement has not been withdrawn (by virtue of the withdrawal of the Secretary of State in accordance with that section).>

20

LINK supports the policy intention behind this amendment and welcome the reference to the marine policy statement on the face of the Bill. We have concerns about the use of the term ‘unless relevant considerations indicate otherwise’ as detailed above and trust that if amendment 5 is successful this section will be appropriately amended at Stage 3.

Elaine Murray

23A As an amendment to amendment 23, line 3, leave out <in conformity> and insert <consistent>

Elaine Murray

23B As an amendment to amendment 23, line 6, leave out <in conformity> and insert <consistent>

Elaine Murray

116 After section 3, insert—

<National Planning Framework

In section 3A(2) of the Town and Country Planning (Scotland) Act 1997 (c.8), after “land” insert “and the Scottish marine area”.>

LINK supports the policy intention of ensuring that the terrestrial planning system and the marine planning system fit together, especially in relation to managing coastal development. However, we do not believe that this is best achieved by inclusion of the Scottish marine area in the National Planning Framework through amending terrestrial planning legislation. This would require re-visiting the existing NPF and to some extent negates the purpose of a national marine plan. An alternative means to achieve the policy intention might be to a) require the national marine plan to have regard to the NPF or b) require future iterations of the NPF to have regard to the national marine plan. An amendment to this effect could be brought forward at Stage 3.

Schedule 1

Richard Lochhead

24 In schedule 1, page 75, line 7, at end insert—

- <() to the Secretary of State,
- () to the Department of the Environment in Northern Ireland>

Richard Lochhead

25 In schedule 1, page 75, line 11, at end insert—

- <() where the Scottish marine region to which the plan is to apply adjoins the area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to England, to the Secretary of State,
- () where the Scottish marine region to which the plan is to apply adjoins the area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to Northern Ireland, to the Department of the Environment in Northern Ireland>

Richard Lochhead

26 In schedule 1, page 75, line 12, after <paragraph> insert—

<“adjacent to England” and “adjacent to Northern Ireland”, in relation to areas of sea within the seaward limits of the territorial sea of the United Kingdom, are to be construed in accordance with subsections (4) to (9) of section 317 of the 2009 Act,>

Amendments 24, 25 & 26. LINK welcomes the policy intention to ensure cross-border co-ordination. LINK supports these amendments.

Elaine Murray

117 In schedule 1, page 75, leave out lines 23 and 24

Elaine Murray

103 In schedule 1, page 75, line 28, at end insert <, and

- () where area A adjoins an area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to—
 - (i) England, the plan is compatible with any marine plan which applies to that adjoining area as prepared and adopted by the Secretary of State,
 - (ii) Northern Ireland, the plan is compatible with any marine plan which applies to that adjoining area as prepared and adopted by the Department of the Environment in Northern Ireland.>

The proposed amendment would ensure that, in addition to notifying the Secretary of State and Department of Environment in Northern Ireland (as required by Government amendments 24-26), regional marine plans prepared in Scotland are compatible with adjacent plans. This would be of particular significance in the Solway Firth. LINK supports this amendment.

Elaine Murray

- 118 In schedule 1, page 75, line 35, leave out <statement of public participation> and insert <participation statement>

Elaine Murray

- 119 In schedule 1, page 75, line 36, leave out <(an “SPP”)>

Elaine Murray

- 120 In schedule 1, page 76, line 1, leave out <An SPP> and insert <A participation statement>

Elaine Murray

- 121* In schedule 1, page 76, line 1, leave out from <for> to <preparation> in line 2 and insert <as to when consultation is likely to take place and with whom, its likely form, and the steps to be taken to involve the general public in the stages of preparation or review>

The proposed amendment lays out more detail on the process for consultation in marine planning. LINK supports this amendment.

Elaine Murray

- 122 In schedule 1, page 76, line 4, leave out <An SPP> and insert <A participation statement>

Elaine Murray

- 123 In schedule 1, page 76, line 6, leave out <an SPP> and insert <a participation statement>

Elaine Murray

- 124 In schedule 1, page 76, line 8, leave out <an SPP> and insert <a participation statement>

Elaine Murray

- 125 In schedule 1, page 76, line 10, leave out <An SPP> and insert <A participation statement>

Elaine Murray

- 126 In schedule 1, page 76, line 21, leave out <An SPP> and insert <A participation statement>

Elaine Murray

- 127 In schedule 1, page 76, line 23, leave out <An SPP> and insert <A participation statement>

Elaine Murray

- 128 In schedule 1, page 76, line 32, leave out <an SPP> and insert <a participation statement>

Elaine Murray

- 129 In schedule 1, page 76, line 35, leave out <an SPP> and insert <a participation statement>

Elaine Murray

- 130 In schedule 1, page 76, line 35, leave out second <SPP> and insert <participation statement>

Richard Lochhead

- 27 In schedule 1, page 77, line 17, at end insert—

<() the requirement under section (*Conformity of marine plans with other documents*)
(1) for a national marine plan to be in conformity with any marine policy
statement currently in effect for the Scottish marine area unless relevant
5 considerations indicate otherwise.>

This amendment is in conformity with amendments 24, 25 & 26 above. Subject to our concerns about the use of the term ‘unless relevant considerations indicate otherwise’, LINK supports this amendment.

Elaine Murray

- 27A As an amendment to amendment 27, line 3, leave out <in conformity> and insert <consistent>

Elaine Murray

- 131 In schedule 1, page 77, line 21, leave out <SPP> and insert <participation statement>

Richard Lochhead

- 28 In schedule 1, page 77, line 28, leave out <Scotland> and insert <the United Kingdom or the UK marine area>

LINK supports this amendment.

Richard Lochhead

- 29 In schedule 1, page 77, line 32, at end insert—

<() the requirement under section (*Conformity of marine plans with other documents*)(1) for a regional marine plan to be in conformity with any marine
policy statement currently in effect for the Scottish marine area unless relevant
5 considerations indicate otherwise.>

LINK supports this amendment.

Elaine Murray

- 29A As an amendment to amendment 29, line 3, leave out <in conformity> and insert <consistent>

Richard Lochhead

- 30 In schedule 1, page 77, line 33, leave out <3(5)> and insert <(Conformity of marine plans with other documents)(2)>

Elaine Murray

- 132 In schedule 1, page 77, line 39, leave out <SPP> and insert <participation statement>

Richard Lochhead

- 31 In schedule 1, page 78, line 7, leave out <Scotland> and insert <the United Kingdom or the UK marine area>

Elaine Murray

- 133 In schedule 1, page 78, line 20, leave out <SPP> and insert <participation statement>

Elaine Murray

- 134 In schedule 1, page 79, line 15, leave out <draft> and insert <proposed>

Richard Lochhead

- 32 In schedule 1, page 79, leave out lines 17 and 18

Elaine Murray

- 135 In schedule 1, page 79, line 17, leave out <draft> and insert <proposed plan>

Richard Lochhead

- 33 In schedule 1, page 79, line 19, leave out <relevant period> and insert <period for Parliamentary consideration>

Elaine Murray

- 136 In schedule 1, page 79, line 19, leave out <draft> and insert <proposed plan>

Richard Lochhead

- 34 In schedule 1, page 79, line 22, leave out from <relevant> to end of line 23 and insert <period for Parliamentary consideration” means the period of 40 days beginning on the day on which a copy of the draft plan is laid before the Parliament under sub-paragraph (2); and in reckoning that period no account is to be taken of any time during which the Parliament is—
- 5 (a) dissolved,
- (b) in recess for more than 4 days.>

LINK supports this amendment.

John Scott

- 34A As an amendment to amendment 34, line 2, leave out <40> and insert <90>

The proposed amendment would increase the time available for Parliamentary scrutiny of the national marine plan. **LINK supports this amendment.**

Elaine Murray

- 34B As an amendment to amendment 34, line 2, leave out <40> and insert <60>

The proposed amendment would increase the time available for Parliamentary scrutiny of the national marine plan. **LINK supports this amendment.**

Elane Murray

34C As an amendment to amendment 34, line 3, leave out <draft> and insert <proposed>

Elaine Murray

137 In schedule 1, page 79, line 28, leave out <draft> and insert <proposed plan>

Elaine Murray

138 In schedule 1, page 79, line 29, leave out <draft> and insert <proposed plan>

Elaine Murray

139 In schedule 1, page 80, line 7, at end insert—

<() The Scottish Ministers must lay a copy of the adopted national marine plan before the Parliament as soon as is reasonably practicable after the plan’s adoption.>

Section 6

Elaine Murray

6 In section 6, page 3, line 3, at end insert—

<() Following withdrawal of a national marine plan, the Scottish Ministers must prepare and adopt in accordance with schedule 1 a new national marine plan for the Scottish marine area as soon as is reasonably practicable.>

This is a consequential amendment to Amendment 1. LINK supports this amendment.

Richard Lochhead

35 In section 6, page 3, line 4, leave out subsection (5)

Elaine Murray

7 In section 6, page 3, line 6, leave out <may come> and insert <comes>

This is a consequential amendment to Amendment 1. LINK supports this amendment.

After section 6

Richard Lochhead

36 After section 6 insert—

<Effect of withdrawal from or of marine policy statement or of national marine plan

- (1) Where the Scottish Ministers withdraw from a marine policy statement in accordance with section 48 of the 2009 Act, or a marine policy statement is withdrawn (by virtue of the withdrawal of the Secretary of State under that section), the withdrawal does not affect—

- (a) the continuing validity or effect of a national marine plan or regional marine plan, or
 - (b) until such time as a new marine policy statement is in effect in relation to the Scottish marine area, the construction of any national or regional marine plan.
- (2) Where the Scottish Ministers withdraw a national marine plan, the withdrawal does not affect—
- (a) the continuing validity or effect of a regional marine plan, or
 - (b) until such time as a new national marine plan is in effect, the construction of any regional marine plan.>

Section 7

Richard Lochhead

37 In section 7, page 3, line 38, at end insert—

<() The reference—

- (a) in subsection (2)(a)(i) to the cultural characteristics of the Scottish marine area includes a reference to characteristics of the area which are of a historic or archaeological nature,
- (b) in subsection (2)(b)(i) to the cultural characteristics of a Scottish marine region includes a reference to characteristics of the region which are of a historic or archaeological nature.>

Section 8

Elaine Murray

140* In section 8, page 4, line 10, leave out from <either> to end of line 22 and insert <a group comprising—

- (a) such public authority (or 2 or more public authorities acting together) with an interest in the Scottish marine region to which the regional marine plan applies as the Scottish Ministers consider appropriate,
- (b) persons nominated by any such public authority,
- (c) persons nominated by the Scottish Ministers.>

Robin Harper

141 In section 8, page 4, line 16, at end insert—

<() Where the Scottish Ministers designate delegable functions to a group of persons under subsection (2)(b), the Scottish Ministers must ensure that the group of persons comprises representatives of those persons with an interest in the use of the relevant Scottish marine region for—

- (a) the protection and enhancement of the marine environment,
- (b) recreational purposes, and

(c) commercial purposes.>

LINK supports the policy intention behind this amendment.

Robin Harper

142 In section 8, page 4, line 22, at end insert—

- <() Where a direction designates a public authority under paragraph 8(2)(a), such a direction must include—
- (a) a statement of reasons setting out the grounds for designating a public authority, in preference to a group of persons under subsection (2)(b),
 - (b) a requirement for the public authority so designated to consult on the exercise of its functions for the relevant Scottish marine region with representatives of those persons with an interest in—
 - (i) protecting and enhancing the marine environment within that region,
 - (ii) using the region for recreational purposes, and
 - (iii) using the region for commercial purposes,
 - (c) a requirement for the public authority so designated to have regard to any representations made to it under paragraph (b).>

LINK supports the policy intention behind this amendment.

Elaine Murray

143 In section 8, page 4, line 38, after <to> insert <adopt and>

LINK supports this amendment.

Richard Lochhead

38 In section 8, page 4, leave out line 40

After section 8

Robin Harper

144 After section 8, insert—

<Directions under section 8: laying a draft before the Parliament

- (1) The Scottish Ministers must not give a direction under section 8 unless they have complied with the requirements of this section.
- (2) The Scottish Ministers must—
 - (a) lay before the Parliament a copy of the draft direction, and
 - (b) specify the relevant period in relation to the draft on or before the day on which they lay the copy.
- (3) In this section, “the relevant period” is the period specified by the Scottish Ministers under subsection (2)(b).

- (4) In settling the text of the direction the Scottish Ministers must have regard to any representations received on the content of the draft direction from any member of the Parliament.>

Section 11

Elaine Murray

- 8 In section 11, page 5, line 34, leave out <relevant> and insert <material>

Karen Gillon

- 145 In section 11, page 5, line 34, at end insert—

<() If a public authority intends to make an authorisation or enforcement decision otherwise than in accordance with the appropriate marine plans, it must consult with any delegate designated under section 8 for the relevant marine region prior to confirming its decision.>

LINK supports this amendment.

Liam McArthur

- 9 In section 11, page 5, line 36, leave out <state> and insert <publish>

Although the public authority has to state their reasons under section 11(2) for taking a decision against the marine plan, this section does not require the public authority to justify such a decision in a publicly accessible document. The proposed amendment would require a public authority to publish their reasons for taking a decision against a marine plan. **LINK supports this amendment.**

Section 12

Liam McArthur

- 10 In section 12, page 6, line 33, after <policies> insert <and programmes>

Liam McArthur

- 11 In section 12, page 6, line 34, after <policies> insert <and programmes>

Amendment 11 & 12: These proposed amendments work in conjunction with Amendments 2 & 4 to provide that the monitoring requirements for plans include the programmes designed to meet policies/objectives are also included. **LINK supports this amendment.**

Section 15

Richard Lochhead

- 39 In section 15, page 8, line 32, at end insert—

<“marine policy statement” is to be construed in accordance with sections 44 and 47 of the 2009 Act,>

Section 17

Stuart McMillan

146 In section 17, page 9, line 38, at end insert—

<To carry out any development within the Scottish Marine area, either in the sea or on or under the seabed, that might adversely affect the safety of navigation.>

Karen Gillon

147 In section 17, page 10, line 7, at end insert—

<To undertake any activity that is listed as a registrable activity within any regulations made under section 25, but cannot be registered by virtue of section 25(2)(ba).>

We welcome the policy intention of the proposed amendment and amendment 157 but our preferred option would be amendment 158.

Karen Gillon

148 In section 17, page 10, line 13, at end insert—

<() nothing therein is to be taken to apply to sea fishing by any method>

LINK do not support this amendment. Whilst we understand that the policy intention here is to avoid confusion regarding the reference to dredging in this section we cannot support this amendment. Section 17(1) may by order be amended to add or remove any activity from the list of licensable marine activities. It is therefore possible that certain methods of fishing activity may be added to this list in the future. The proposed amendment would not be consistent with that approach.

Richard Lochhead

40 In section 17, page 10, line 15, at end insert—

<() In deciding whether to make an order under subsection (3), the Scottish Ministers must have regard to—

- (a) the need to protect the environment,
- 5 (b) the need to protect human health,
- (c) the need to prevent interference with legitimate uses of the sea,
- (d) such other matters as the Ministers consider relevant.>

LINK supports this amendment.

Peter Peacock

40A As an amendment to amendment 40, line 6, leave out <interference with legitimate uses of the sea> and insert <serious interference with safety of navigation>

Peter Peacock

40B As an amendment to amendment 40, line 6, at end insert—

<() the need to mitigate, and adapt to, climate change,>

After section 17

Karen Gillon

149 After section 17, insert—

<Pre-application consultation

Pre-application consultation: preliminary

- (1) The Scottish Ministers may by regulations prescribe classes or descriptions of licensable marine activity.
- (2) Where a licensable marine activity is of such a class or description, section (*pre-application consultation: compliance*) applies to a prospective applicant for a marine licence in respect of that activity.
- (3) Regulations under subsection (1) may also make provision—
 - (a) as to the right of a prospective applicant for a marine licence to notify the Scottish Ministers requiring a statement from them as to whether or not, in their opinion, the activity in respect of which the licence is being sought is of such a class or description,
 - (b) as to the manner in which—
 - (i) notification under paragraph (a) is to be exercised, including provision as to the information that the prospective applicant is to provide,
 - (ii) a statement under paragraph (a) is to be provided, including provision as to when a statement must be provided following receipt of sufficient information to determine the matter,
 - (c) as to the power of the Scottish Ministers to require further information in order to determine the application,
 - (d) as to the effect of a statement under paragraph (a), including, the circumstances in which section (*pre-application consultation: compliance*), despite subsection (2), does not apply to a prospective applicant following provision of a statement that the activity is not of such a class or description,
 - (e) as to any other matter the Scottish Ministers consider necessary or expedient for the purposes of this section.>

Karen Gillon

150* After section 17, insert—

<Pre-application consultation: compliance

- (1) A person to whom this section applies (“the prospective applicant”) must give notice that an application for a marine licence is to be submitted.
- (2) A period of at least 12 weeks must elapse between giving the notice and the prospective applicant submitting the application.
- (3) Notice under subsection (1) must contain—

- (a) a description in general terms of the activity to be carried out,
 - (b) a plan or chart showing the outline of the location at which the activity is to be carried out (including, as appropriate, the route to be taken in order to carry out the activity), which is sufficient to identify the location,
 - (c) details as to how the prospective applicant is to be contacted,
 - (d) such other information as may be prescribed by regulations made by the Scottish Ministers.
- (4) Regulations may—
- (a) require that the notification be given to persons specified in the regulations,
 - (b) specify persons who are to be consulted as respects a proposed application and what form that consultation is to take.
- (5) Different provision may be made under subsection (4) for different cases or classes of case or for different parts of the Scottish marine area.
- (6) The Scottish Ministers may, provided that they do so within 21 days of having received the notification, notify the prospective applicant that they require (either or both)—
- (a) that the notification under subsection (1) be given to persons additional to those specified under subsection (4) (specifying in the notification who those persons are),
 - (b) that consultation additional to that required by virtue of subsection (4)(b) be undertaken as regards the proposed development (specifying in the notification what form that consultation is to take).
- (7) In considering whether to give notification under subsection (6), the Scottish Ministers are to have regard to the nature, extent and location of the proposed activity, and to the likely effects at and in the vicinity of that location, of its being carried out.>

Karen Gillon

151* After section 17, insert—

<Pre-application consultation report

- (1) A person who, before submitting an application for a marine licence, was required to comply with section (*pre-application consultation: compliance*) and who proceeds to submit that application must prepare a report as to what has been done to effect such compliance.
- (2) A report under subsection (1) is to be in such form as the Scottish Ministers may by regulations prescribe.>

Amendments 149-151: LINK supports pre-application consultation and effective engagement with stakeholders, which can reduce the likelihood of conflict later in the licensing process.

Section 18

Liam McArthur

152 In section 18, page 10, line 27, leave out from beginning to <expedient> in line 28 and insert <as they may reasonably require>

Liam McArthur

153 In section 18, page 10, line 29, at end insert—

<() Where, despite subsection (3), the applicant has been unable to provide sufficient evidence by way of information or articles to satisfy the Scottish Ministers as to how they should determine the application, the Scottish Ministers may require the applicant to permit such investigations, examinations or tests as they may reasonably require to enable them to determine the application.>

Section 19

Liam McArthur

12 In section 19, page 11, line 8, at end insert <, and must include publication on a website specified by the Scottish Ministers>

This proposed amendment would ensure that notices of licensing applications are published online. This would help to accomplish 19(2) and allow interested parties to monitor all applications. **LINK supports this amendment.**

Liam McArthur

104 In section 19, page 11, line 18, leave out subsection (6)

All applications should be published. **LINK supports this amendment.**

Section 20

Peter Peacock

154 In section 20, page 11, line 27, leave out <interference with legitimate uses of the sea> and insert <serious interference with safety of navigation>

Peter Peacock

155 In section 20, page 11, line 27, at end insert—

<() mitigate, and adapt to, climate change,

Section 23

Liam McArthur

156* In section 23, page 14, line 4, leave out from <the> to end of line 9 and insert—

<() since the granting of the licence, there has been—

- (i) a significant change in circumstances relating to the environment or human health,
- (ii) a significant increase in scientific knowledge relating to either of those matters, or
- (iii) a significant change in circumstances affecting the safety of navigation, and

- () allowing any activity permitted by the licence in any manner permitted or not prohibited by the licence would pose a significant risk to the environment or human health.

- () In subsection (3), “the environment” includes the historic environment.>

LINK do not support this amendment. We do not understand where the threshold for a ‘significant’ change in circumstances or a ‘significant’ increase in scientific knowledge would lie. This creates unnecessary ambiguity and may result in a lack of subsequent action where necessary to protect the integrity of the marine environment, human health or safety of navigation.

Section 24

Richard Lochhead

- 41** In section 24, page 14, line 29, at end insert—

<() In deciding whether to make an order under subsection (1), the Scottish Ministers must have regard to—

- (a) the need to protect the environment,
- 5 (b) the need to protect human health,
- (c) the need to prevent interference with legitimate uses of the sea,
- (d) such other matters as the Ministers consider relevant.>

LINK supports this amendment.

Peter Peacock

- 41A** As an amendment to amendment 41, line 6, leave out <interference with legitimate uses of the sea> and insert <serious interference with safety of navigation>

Note: amendment 41B was incorrectly numbered as 42B in the daily list of new amendments lodged on 13 November

Peter Peacock

- 41B*** As an amendment to amendment 41, line 6, at end insert—

<() the need to mitigate, and adapt to, climate change,>

Elaine Murray

- 105** In section 24, page 14, line 31, at end insert <, including—

- (a) representatives of those persons with an interest in the protection and enhancement of the Scottish marine area,
 - (b) representatives of those persons with an interest in the use of the area for commercial purposes, and
 - (c) Scottish Natural Heritage.
- () The Scottish Ministers must have regard to any representations made to them under subsection (4).>

Section 24 gives the power to Scottish Ministers to exempt certain activities from requiring a licence, or to give a licence automatically if certain conditions are satisfied. This has the potential for a wide range of activities to be exempted which could potentially have serious environmental effects. We believe that the Section 24(4) does not go far enough with regard to the need to consult appropriate persons. The proposed amendment sets out which appropriate persons should be consulted and therefore **LINK supports this amendment.**

Section 25

Elaine Murray

- 15 In section 25, page 14, line 33, leave out <may> and insert <must>

Elaine Murray

- 16 In section 25, page 14, line 37, leave out <may> and insert <must>

As the bill currently stands there is discretion as to whether regulations under subsection 1 should define or elaborate the meaning of ‘fall below’, ‘registered’ or ‘specific threshold of environmental impact’. If this discretion is exercised, section 25 becomes a generic exemption and therefore would have the same effect as section 24. For this reason it is important that there is a duty to define or elaborate the matters referred to above in regulations. **LINK supports this amendment.**

Karen Gillon

- 157 In section 25, page 15, line 4, at end insert—

<(ba) make provision for circumstances where an activity that would otherwise be a registrable activity requires a marine licence under section 16.>

We welcome the policy intention of the proposed amendment and amendment 157 but our preferred option would be amendment 158.

Elaine Murray

- 158 In section 25, page 15, line 4, at end insert—

<() make provision for circumstances where an activity that would otherwise be a registrable activity should not be registered where it is considered by the Scottish Ministers that—

- (i) the impact on the environment of activities that are already registered (and, as the case may be, in combination with licensed activities), is such that the specified environmental impact threshold defined in the regulations is exceeded, or
- (ii) with the addition of the activity for which registration is sought, the specified environmental impact threshold defined in the regulations would be exceeded.>

We note the RAE Committee’s concerns regarding the environmental threshold for registering, rather than licensing, marine activity. Whilst we agree in principle with the approach taken in Section 25 (similar to Controlled Activities Regulations - CAR) we recognise that there are a number of problems with the CAR approach. It is vital that cumulative impacts can be taken into account when registering activities and a mechanism to take account of such impacts must be included. It is also important to ensure that a mechanism is put in place to recognise different sensitivities in different locations. The Scottish Government response to the Subordinate Legislation Committee (Page 9) cited the example of FEPA licences issued for small uncontroversial projects such as the placing of single sewage outfall pipes for discharges from septic tanks serving single dwellings as a potential situation which may merit registration rather than being licensed. Whilst we can see the merit in such discharges being registered rather than licensed, there must be a mechanism for assessing the maximum number of registrations that a specific water body can cope with. It is easy to envisage an enclosed sea loch, surrounded by a number of dwellings all with septic tank discharges, potentially having a negative effect on species or habitats in that sea loch. Such environmental effects will clearly depend on the species and habitats present in the associated water body, hence the need for an assessment of the cumulative effects of a number of registered (and licensed) activities. **LINK supports this amendment.**

Elaine Murray

106 In section 25, page 15, line 15, at end insert <, including—

- (a) representatives of those persons with an interest in the protection and enhancement of the Scottish marine area,
 - (b) representatives of those persons with an interest in the use of the area for commercial purposes, and
 - (c) Scottish Natural Heritage.
- () The Scottish Ministers must have regard to any representations made to them under subsection (4).>

Similar to amendment 105 above, we believe that the Section 25(4) does not go far enough with regard to the need to consult appropriate persons. The proposed amendment sets out which appropriate persons should be consulted and therefore **LINK supports this amendment.**

Section 27

Richard Lochhead

42 In section 27, page 15, line 28, leave out subsections (1) to (4) and insert—

<(1A) This section applies where—

- (a) a person who proposes to carry out an activity must first make both—
 - (i) an application for a marine licence, and
 - (ii) an application for consent under section 36 of the Electricity Act (consent for construction etc. of generating stations) (a “generating station application”) in relation to the activity or other works to be undertaken in connection with the activity,
- (b) the person makes both applications, or one of them, and
- (c) the Scottish Ministers—

- (i) decide that both applications are to be considered together and, as the case may be, if only one of the applications has been made that it is not to be considered without the other, and
 - (ii) give the person notice of their decision.
- (1B) Both of the applications are to be considered together; but this is subject to any provision that may be made in an order under subsection (1C).
- (1C) The Scottish Ministers may by order do any of the following—
- (a) provide that such procedural provisions of this Part as are specified in the order are not to apply to the person’s application for the marine licence,
 - (b) provide that such procedural provisions of the Electricity Act as are so specified are to apply to the application instead,
 - (c) modify the procedural provisions of the Electricity Act in their application to the marine licence by virtue of paragraph (b),
 - (d) in relation to cases where the Scottish Ministers come to the conclusion that either the application for the marine licence or the generating station application is not going to be made, make additional provision modifying either—
 - (i) such procedural provisions of this Part as are specified in the order, or
 - (ii) such procedural provisions of the Electricity Act as are specified in the order.>

After section 28

Richard Lochhead

43 After section 28, insert—

<Submarine cables

- (1) This section applies where a stretch of exempt submarine cable—
 - (a) is proposed to be laid,
 - (b) is in the course of being laid,
 - (c) has been laid,
 beyond the seaward limits of the territorial sea.
- (2) The Scottish Ministers must grant any application made to them for a marine licence for the carrying on of a licensable marine activity in the course of laying any stretch of the cable in the Scottish marine area.
- (3) The Scottish Ministers have the same powers to attach conditions to a marine licence granted by virtue of subsection (2) as they have in relation to any other marine licence (see section 22(1) to (3)).
- (4) Nothing in this Part applies to anything done in the course of maintaining any stretch of the cable in the Scottish marine area.
- (5) For the purposes of this section a submarine cable is “exempt” unless it is a cable constructed or used in connection with any of the following—
 - (a) the exploration of the UK sector of the continental shelf,
 - (b) the exploitation of the natural resources of that sector,

- (c) the operations of artificial islands, installations and structures under the jurisdiction of the United Kingdom,
 - (d) the prevention, reduction or control of pollution from pipelines.
- (6) In this section—
- “natural resources” means—
 - (a) the mineral and other non-living resources of the sea bed and subsoil, together with
 - (b) living organisms belonging to sedentary species,
 - “living organisms belonging to sedentary species” means organisms which, at the harvestable stage, are either—
 - (a) immobile on or under the sea bed, or
 - (b) unable to move except in constant physical contact with the sea bed or the subsoil,
 - “UK sector of the continental shelf” means the areas for the time being designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964 (c.29).>

Section 29

Robin Harper

- 107** In section 29, page 16 line 26, leave out <person who applies for a marine licence> and insert <appropriate person>

The proposed amendment would allow a right of appeal for an *appropriate* person on all licensing decisions. It should be emphasised that this would **not** be a blanket third party right of appeal. Amendment 108 would allow the regulations to define who would be an appropriate person, consistent with the Aarhus Convention. This amendment, along with amendment 108, would therefore allow someone who represents the public interest of the environment to appeal but would not allow an appeal by a competitive private interest of another industry. **LINK supports this amendment.**

Karen Gillon

- 159** In section 29, page 16, line 27, after <licence> insert—

<() any person whose economic interest is adversely affected by the grant of a marine licence,>

LINK do not support this amendment. This is a blanket third party right of appeal.

Robin Harper

- 108** In section 29, page 16, line 30, at end insert—

<() as to the meaning of “appropriate person” in subsection (1),>

See comments for amendment 107 above.

Section 32

Richard Lochhead

- 44 In section 32, page 18, line 5, at end insert <and>

Richard Lochhead

- 45 In section 32, page 18, line 7, leave out from <and> to end of line 9

Section 34

Elaine Murray

- 46 In section 34, page 19, line 3, leave out <serious>

Elaine Murray

- 47 In section 34, page 19, line 4, leave out <serious>

Elaine Murray

- 48 In section 34, page 19, line 5, leave out <serious>

Amendment 46-48: The proposed amendment would create consistency between Section 34 and 35. We believe that the lack of a definition for the term ‘serious’ in relation to the use of compliance notices creates ambiguity. Such ambiguity may result in a lack of subsequent enforcement action in response to non-compliance or damage, or in a legal challenge whenever these enforcement tools are used. These situations are likely to arise because a compliance notice is dependent on whether or not the ‘serious’ test has been met. We believe that these enforcement tools should be available where an activity has caused/is causing/is likely to cause any harm or interference. This is consistent with the polluter pays principle. Both section 34 and 35 can only be invoked if a person carrying out a licensable marine activity has failed, or is failing, to comply with that license. A compliance notice would simply require the person to take such steps as the Scottish Ministers consider appropriate to ensure that the condition in question is complied with. We would argue that an activity that did not comply with a licence (and was therefore an offence under section 30) should not be allowed to continue to cause any damage to the environment. **LINK supports this amendment.**

Peter Peacock

- 160 In section 34, page 19, line 5, leave out <legitimate uses of the sea> and insert <safety of navigation>

Section 35

Peter Peacock

- 161 In section 35, page 19, leave out line 27 and insert—
<() serious interference with safety of navigation>

Richard Lochhead

49 In section 35, page 19, line 34, after <remedial> insert <or compensatory>

Richard Lochhead

50 In section 35, page 19, line 37, after <remedial> insert <or compensatory>

Richard Lochhead

51 In section 35, page 20, line 1, leave out subsection (6) and insert—

5 <(6) In subsection (5)(b) and (c) “remedial or compensatory steps” means steps taken (or to be taken) for any one or more of the purposes mentioned in subsection (7) (whether or not the steps are taken at or near the place where the harm or interference mentioned in subsection (3)(c) has been, is being, or is likely to be, caused or the activity in respect of which the notice is issued is or has been carried on).

(7) The purposes are—

(a) protecting the environment,

(b) protecting human health,

10 (c) preventing interference with legitimate uses of the sea,

(d) preventing or minimising, or remedying or mitigating the effects of, the harm or interference mentioned in subsection (3)(c),

15 (e) restoring (whether in whole or in part) the condition of any place affected by that harm or interference to the condition, or a condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred,

(f) such purposes not falling within the preceding paragraphs as the Scottish Ministers consider appropriate in all the circumstances of the case.>

20 **Amendments 49, 50 & 51: These proposed amendments bring the Marine (Scotland) Bill into line with the provisions of the UK Marine and Coastal Access Act. LINK supports these amendments.**

Peter Peacock

51A As an amendment to amendment 51, line 10, leave out <interference with legitimate uses of the sea> and insert <serious interference with safety of navigation>

Note: amendment 51B was incorrectly numbered as 52B in the daily list of new amendments lodged on Friday 13 November

Peter Peacock

51B* As an amendment to amendment 51, line 10, at end insert—

<() the need to mitigate, and adapt to, climate change,>

Section 38

Richard Lochhead

- 52 In section 38, page 22, line 3, leave out <it was> and insert <the penalty is proposed to be>

Karen Gillon

- 162 In section 38, page 22, line 13, at end insert—

<() Provision to secure the result in subsection (2)(e) must secure that any appeal is to be considered by—

- (a) a court,
- (b) a tribunal chaired by a legally qualified person, or
- (c) a legally qualified person.>

Section 40

Richard Lochhead

- 53 In section 40, page 23, leave out lines 1 to 3

Richard Lochhead

- 54 In section 40, page 23, line 4, leave out from <(or> to <accepted)> in line 6

Richard Lochhead

- 55 In section 40, page 23, line 19, leave out <(2)(c) or (d)> and insert <(2)(d)>

Richard Lochhead

- 56 In section 40, page 23, line 20, leave out <, or accept an undertaking offered by,>

Richard Lochhead

- 57 In section 40, page 23, line 25, leave out <or accept an undertaking>

Richard Lochhead

- 58 In section 40, page 23, line 26, leave out subsection (5) and insert—

<() Provision to secure the result in subsection (2)(d) must also include provision for—

- (a) the person on whom the notice of intent is served to be able to offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any person affected by the offence,
- (b) the Scottish Ministers to be able to accept or reject such an undertaking, and
- (c) the Scottish Ministers to take any undertaking so accepted into account in their decision.>

Karen Gillon

163 In section 40, page 23, line 39, at end insert—

<() Provision to secure the result in subsection (2)(f) must secure that any appeal is to be considered by—

- (a) a court,
- (b) a tribunal chaired by a legally qualified person, or
- (c) a legally qualified person.>

Schedule 2

Richard Lochhead

59 In schedule 2, page 82, leave out lines 2 and 3

Section 42

Elaine Murray

164 In section 42, page 24, line 14, at end insert—

<() The Scottish Ministers' power, under subsection (1), to delegate the function of determining whether to grant or refuse a licence for a licensable marine activity includes the power to delegate the function of determining whether to grant or refuse a licence for a particular type of licensable marine activity (for example marine fish farming).>

Elaine Murray

165* In section 42, page 24, line 15, leave out from <either> to end of line 26 and insert <a group comprising—

- (a) such public authority (or 2 or more public authorities acting together) with an interest in the Scottish marine region to which the regional marine plan applies as the Scottish Ministers consider appropriate,
- (b) persons nominated by any such public authority,
- (c) persons nominated by the Scottish Ministers.>

John Scott

166* In section 42, page 25, line 6, at end insert—

<() section 27(1C) (making orders for a special procedure for applications relating to certain electricity works).>

Section 45

Richard Lochhead

60 In section 45, page 26, line 23, after <of> insert <marine>

Richard Lochhead

- 61 In section 45, page 26, line 34, after <licensable> insert <marine>

Liam McArthur

- 17 In section 45, page 27, line 2, at end insert <and must include publication on a website specified by the Scottish Ministers>

This proposed amendment is similar to amendment 12 and would ensure that the register of licensing information is published online. **LINK supports this amendment.**

Richard Lochhead

- 62 In section 45, page 27, line 6, leave out from <be> to end of line 7 and insert <adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate commercial interest.>

Section 46

Peter Peacock

- 18 In section 46, page 27, line 32, leave out <legitimate uses of the sea> and insert <safety of navigation>

Section 50

Richard Lochhead

- 63 In section 50, page 29, line 30, leave out <the purpose of> and insert <any one or more of the following purposes>

Richard Lochhead

- 64 In section 50, page 29, line 34, at end insert—
- (d) preventing or minimising, or remedying or mitigating the effects of, any harm or interference falling within subsection (2),
 - (e) restoring (whether in whole or in part) the condition of any place affected by any such harm or interference to the condition, or a condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred.
- (2) The harm or interference mentioned in subsection (1)(d) and (e) is any of the following which has been, is being, or is likely to be, caused by the carrying on of the licensable marine activity—
- (a) harm to the environment,
 - (b) harm to human health,
 - (c) interference with legitimate uses of the sea.>

LINK supports this amendment.

Peter Peacock

- 64A** As an amendment to amendment 64, leave out line 13, and insert—
<() serious interference with safety of navigation>

Peter Peacock

- 64B** As an amendment to amendment 64, line 13, at end insert—
<() the need to mitigate, and adapt to, climate change>

Section 51

Richard Lochhead

- 65** In section 51, page 29, line 37, leave out from <substance> to end of line 6 on page 30 and insert <of the following substances—

- (a) any marine chemical treatment substance,
- (b) any marine oil treatment substance,
- (c) any marine surface fouling cleaner.

- () In this section—

“marine chemical treatment substance” means any substance used or intended to be used for treating chemicals—

- (a) on the surface of the sea or of the sea bed,
- (b) in the case of a wash-off substance, on any surface of a marine structure,

“marine oil treatment substance” means any substance used or intended to be used for treating oil on the surface of the sea,

“marine surface fouling cleaner” means any substance used or intended to be used for removing surface fouling matter—

- (a) from the surface of the sea or of the sea bed,
- (b) in the case of a wash-off substance, from any surface of a marine structure or vessel at times when the structure or vessel is in the sea or on the sea bed,

“surface fouling matter” means any fouling, and includes, in particular—

- (a) any algae,
- (b) any surface oil or chemical residue,

“surface oil or chemical residue” means any residual matter on a surface after the removal, or substantial removal, of any oil or chemical (whether by natural processes, or by treatment, or in any other way),

“wash-off substance”, in relation to a maritime structure or vessel, means any substance which, if used on a surface of the maritime structure or vessel, will or might (whether in whole or to a significant extent)—

- (a) be removed from that surface, and
- (b) be deposited in the sea,

whether by natural processes, or by treatment, or in any other way.>

Section 54

Elaine Murray

167 Leave out section 54