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Guidance on Marine Licensing under Part 4 of the Marine and Coastal Access Act 2009

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Summary

About this guidance

This Guidance is for people who carry out or plan to carry out activities at sea. The Guidance will help you decide whether you need to get a marine licence for your activity under Part 4 of the Marine and Coastal Access Act 2009 where it is licensable by the Secretary of State. It will also be of interest to people who want to know what information is publicly available on licence applications and licences granted.

The guidance is as interpreted by the Department for Environment, Food and Rural Affairs (Defra).

We are publishing separate guidance on enforcement of the new licensing system.

How to use this Guidance

This guidance covers the new marine licensing system introduced under Part 4 of the Marine and Coastal Access Act 2009 (the Act). It deals with when you will need a licence to deposit or remove substances and objects into or from the sea, carry out, alter or improve works at sea, dredge[1] the seabed, or deposit or use explosives. This guidance only applies where the Secretary of State is the licensing authority.

If you do need to get a marine licence, further information about how to apply is available from the Department of Energy and Climate Change (for oil and gas-related activities) and from the Marine Management Organisation (for other licensable activities). You can also consult these organisations if you are unsure after reading this document whether you need a marine licence. Contact details for further information are given at the end of the document.

The introductory Chapter in the guidance explains where the Secretary of State is the licensing authority and where the devolved administrations in Northern Ireland, Scotland and Wales are the licensing authority. The devolved administrations are publishing their own guidance on marine licensing for areas for which they are responsible for issuing marine licences.

Some of the requirements of the new system are set out in the Act itself. Others are introduced in the following secondary legislation:-

- The Marine Licensing (Delegation of Functions) Order 2011
- The Marine Licensing (Register of Licensing Information) Regulations 2011
- The Marine Licensing (Licence Application Appeals) Regulations 2011
- The Marine Licensing (Application Fees) Regulations 2011
- The Marine Licensing (Exempted Activities) Order 2011
- The Petroleum Act 1998 (Specified Pipelines) Order 2011

[1] Dredging is defined as including “using any device to move any material (whether or not suspended in water) from one part of the sea or sea bed to another part” (s 66(2) of the Act).

Other requirements may also apply to marine licence applications including:

- The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)
- The Conservation of Habitats and Species Regulations 2010 (as amended)
- The Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007

This guidance covers both the provisions in the Act itself and this secondary legislation.

Some terms and acronyms used in this guidance

The Act	Marine and Coastal Access Act 2009
CPA	Coast Protection Act 1949
EIA	Environmental Impact Assessment
Environmental Statement	Document produced on the environmental impact of a project when required under the EIA Directive
FEPA	Food and Environment Protection Act 1985
Marine Licence	Licence issued under Part 4 of the Marine and Coastal Access Act
Mean High Water Springs (MHWS)	This is the highest level that spring tides reach on average over a period of time. It changes over time as land is lost to, or reclaimed from, the sea. The marine licensing system applies below MHWS.
MMO	Marine Management Organisation

Contents

1. Introduction

New licensing system under Part 4 of the Marine and Coastal Access Act 2009

1.1 The Government has set up a new licensing system for most developments and activities in the marine environment. The new system has a broad scope that will enable consistent decision-making about what activities are allowed to take place at sea. Through the process of marine licensing, and the conditions we place on licences, we seek to promote economically and socially beneficial activity while minimising adverse effects on the environment, human health and other users of the sea. Licensing should also simplify the way we reconcile development and nature conservation at sea.

1.2 The new system applies to deposits in the sea, removals of substances and objects from the seabed, construction works, dredging the seabed, deposit or use of explosives and incineration. Chapter 2 of this guidance explains the scope of the new system in detail and Chapter 5 explains what activities have been exempted from licensing.

1.3 Chapter 2 also explains who you will need to get a licence from. The Secretary of State and the devolved administrations have licensing responsibilities. The licensing authority will depend on what the activity is and where it takes place. The Secretary of State has delegated most licensing functions to the Marine Management Organisation (MMO) except in relation to oil and gas-related activities. Chapter 2 also explains the role of marine planning in guiding licensing and enforcement decisions.

1.4 Chapter 3 is about the application process including the fees and charges that will apply to applications. The MMO will issue much more detailed guidance through its website on how to apply for a marine licence.

1.5 The new system for the first time provides for an independent, transparent process for applicants to appeal against a licensing decision. Chapter 4 explains how this new process will work.

1.6 Chapter 6 explains what information the MMO will need to keep on a public register. Chapter 7 concludes with a brief explanation of the MMO's role in relation to major projects that affect the marine environment, in particular major port developments and large offshore renewable energy projects.

1.7 The new system largely replaces Part 2 of the Food and Environment Protection Act 1985 and Part 2 of the Coast Protection Act 1949. It removes the need for separate consent under the Electronic Communications Code.

1.8 As will be explained in Chapter 3, we are consolidating and simplifying the Environmental Impact Assessment requirements for certain marine projects.

2. Scope

This Chapter explains what activities are licensable under Part 4 of the Marine and Coastal Access Act and who will issue licences.

Licensable activities

2.1 Section 66 (1) of the Act sets out the activities that need a licence. They are in broad terms:-

- Deposits of substances and objects in the sea or on or under the seabed
- Scuttling vessels or floating containers
- Constructing, altering or improving works on or over the sea or on or under the seabed
- Removing substances or objects from the seabed
- Dredging
- Deposit and/or use of explosives
- Incineration of substances or objects

Where a projects comprises of more than one of the activities listed above, then a marine licence for each type of activity will be required. One licence may cover a number of licensable activities.

Where do I need a marine licence?

2.2 The licensing area for Part 4 of the Marine and Coastal Access Act 2009 covers all UK waters except the Scottish inshore region. The Marine (Scotland) Act 2010 applies a similar licensing system in the Scottish inshore region.

2.3 You will also need a marine licence in some cases outside UK waters if the activity takes place from a British vessel, aircraft or marine structure or if the vessel etc was loaded in the UK or in UK waters.

Who is the licensing authority?

2.4 The Secretary of State is the licensing authority in English inshore and English, Welsh and Northern Ireland offshore waters, as well as in cases where a UK vessel or a vessel loaded in the UK (except Scotland) makes a deposit or scuttles a vessel etc outside UK waters or loads a vessel for incineration.

2.5 Under the devolution arrangements for Scotland, Northern Ireland and Wales, certain matters were either not devolved or were reserved to the UK Government. Section 113 of the Act in accordance with the existing devolution settlements specified that the Secretary of State will be the licensing authority for:-

- In the Scottish offshore region – reserved oil and gas-related activities, reserved defence matters; and matters covered by Part 6 (shipping pollution) of the Merchant Shipping Act 1995;
- Activities concerned with exploring for or producing oil and gas and most defence matters in the Welsh inshore region;
- Most defence matters in the Northern Ireland inshore region.

2.6 The Marine Management Organisation (MMO) will carry out licensing and enforcement functions (with the exception of oil and gas projects for which the Department of Energy and Climate Change (DECC) will continue to be responsible) on behalf of the Secretary of State in the English inshore region, all English, Welsh and Northern Ireland offshore regions and for any other area where the Secretary of State is the licensing authority.

2.7 FEPA licences will continue to be issued for certain reserved activities conducted within Scottish inshore waters.

3. The Marine Licensing system - in Detail

This chapter explains the role that the Marine Management Organisation (MMO) will play in issuing licences and the rules that they will work to in considering applications and in applying fees and charges.

Role of the Marine Management Organisation (MMO)

3.1 We have delegated most of the Secretary of State's licensing functions to the Marine Management Organisation. However, the Secretary of State will continue to issue such licences as are needed for oil and gas-related activities. This Chapter is written from the point of view of applications to the MMO but similar considerations apply to applicants for oil and gas–related activities. DECC will produce guidance on how developers should apply for licences for such activities.

Marine Planning

3.2 A new feature of the marine licensing system is that decisions that may affect the UK marine area must be taken in accordance with appropriate marine policy documents (unless relevant considerations indicate otherwise). Appropriate marine policy documents are any Marine Policy Statement that is in effect and any Marine Plan that is in place for the area or areas related to the decision.

3.3 The Marine Policy Statement provides a framework for preparing Marine Plans and taking decisions that affect the marine environment. It outlines the policy objectives for activities that take place in the marine area which will be delivered through marine planning and decision making, as well as guidance on the general measures and impacts associated with each activity which must be considered.

3.4 Marine Plans will interpret and present the national policies within the Marine Policy Statement and apply area specific policies to Marine Plan areas. Public authorities[2] taking authorisation or enforcement decisions (except decisions for an order granting development consent under the Planning Act 2008)[3] that affect or might affect the UK marine area must do so in accordance with the Marine Policy Statement and relevant Marine Plans unless relevant considerations indicate otherwise. In addition public authorities taking decisions, other than authorisation or enforcement decisions that affect or might affect the UK marine area, must have regard to the documents.

[2] The Infrastructure Planning Commission must have regard to appropriate marine policy documents in taking any authorisation or enforcement decisions but make those decisions in accordance with National Policy Statements.

[3] Such decisions must be made after having regard to appropriate marine policy documents and in accordance with National Policy Statements.

3.5 Marine Plans will, therefore, give direction on the nature of activities that may be licensed in a given location. This should provide greater certainty to developers when considering whether to apply for a marine licence. Marine Plans will be a source of information, which developers and other marine industries can use when considering where and how they might carry out activities.

3.6 The MMO will prepare Marine Plans in the English inshore and offshore regions. We estimate that Marine Plans will take approximately two years to complete (two and a half years if an independent investigation is required). The MMO is being resourced to develop two Plans at a time. Using this time frame it will take roughly ten years to plan for the whole of England's marine area, although MMO may be able to increase the speed at which Marine Plans are prepared.

3.7 Defra has published a description of the marine planning system for England's inshore and offshore regions http://www.defra.gov.uk/corporate/consult/marine-planning/index.htm. Chapter 7 explores how decision makers should take into account the appropriate marine policy documents, including how they should apply the MPS to decision-making in the period before all Marine Plans are adopted. It also advises on the circumstances in which decision makers may need to take decisions that depart from draft or adopted marine policy documents.

Q: What will happen to my licensing application if a Marine Plan has not yet been published for the area where my project will take place?

A: In the absence of a Marine Plan for the area, the MMO will not have the detailed spatial guidance that such plans provide. The MMO will however take decisions in accordance with the Marine Policy Statement unless relevant considerations indicate otherwise and take into account the policy objectives in any draft Marine Plans covering the area of sea that would be affected by your project. They will also continue to apply their usual common sense principles for decision-making that they apply e.g. taking into account statutory requirements, consideration of effects on sensitive sites, need to consult interested parties, potential to mitigate effects etc. Further information is available within the 'Description of the marine planning system for England' document http://www.defra.gov.uk/corporate/consult/marine-planning/index.htm

Pre-application

3.8 While this guidance provides a general introduction to the new marine licensing system, applicants may need more detailed support if the licensing system is going to be easy to use and transparent for everyone. The first thing that you should do if you are thinking about carrying out an activity in the marine environment that may need a marine licence is to look at the web-based support on the MMO website **http://www.marinemanagement.org.uk/**. The MMO and DECC are also developing written guidance to help applicants use the new licensing system that will provide more detailed information on how both will administer the system.

3.9 The MMO website will provide information to help you:

- Identify whether the proposed activity needs a marine licence or is subject to an exemption;

- Identify whether there are likely to be other consents or permissions that may be required (whether or not issued by the MMO or another regulatory body or Government Department);

- Identify whether the project is likely to require assessment to satisfy European obligations protecting the environment and conserving habitats and species;

- Identify relevant Marine Plan areas and links with relevant planning documents (the Marine Policy Statement and Marine Plans when published) whether a proposed project is likely to be approved and what other activities are already taking place in that area or are planned;

- Identify existing environmental monitoring reports produced as a result of previous licence applications;

- Decide whether you need to contact the MMO to discuss aspects of the proposal further; and

- Track an application as it progresses through different stages of the licensing process.

3.10 There is no legal requirement for developers to consult the MMO before they apply for a marine licence. This is different to the system that applies to major infrastructure projects that receive development consent under the Planning Act 2008. Smaller and less complex projects should not need a 'pre-application' stage. If all indications suggest that a project is fairly straightforward, then you may choose at this stage to submit your application via the website to the MMO. Applicants should note that, under the Marine and Coastal Access Act, a licensing authority is entitled to refuse to proceed with an application if the applicant fails to comply with a requirement made by it under section 67 (to pay fees or provide information etc). The licensing authority may also refuse to proceed with the application until that failure is remedied.

3.11 There are a number of circumstances in which you are strongly advised to consult the MMO before applying. These circumstances include where projects:-

- are likely to need an Environmental Statement under relevant Environmental Impact Assessment regulations;
- may affect European sites designated under the EU Habitats Directive or classified under the EU Wild Birds Directive and therefore may require an Appropriate Assessment under relevant conservation regulations[4];

[4] The Conservation of Habitats and Species Regulations 2010 (as amended by the Conservation of Habitats and Species (Amendment) Regulations 2011) and the Offshore Marine Conservation (Natural

- may affect European protected species under the EU Habitats Directive or the EU Wild Birds Directive and require a wildlife licence;
- may affect potential Special Protection Areas (to be classified under the EU Wild Birds Directive) and Ramsar Sites designated under the Ramsar Convention on Wetlands of International Importance;
- may undermine the UK's responsibilities under the Water Framework Directive to improve/maintain the quality of water bodies;
- have specific environmental issues, such as contaminated sediment;
- could interfere with, or damage, wrecks or other areas/objects of historic interest.

3.12 The MMO will provide up to two hours of pre-application advice free of charge. Further advice will incur service charges. The charge will be made on a full cost-recovery basis. The charge for the service will be subject to VAT at the prevailing rates at the time of supply. Applicants will be able to engage with the MMO - and the Centre for Environment, Fisheries and Aquaculture Science Cefas) - on a specific issue or for targeted advice during the pre-application process. The process map attached at Annex 2 outlines the stages of the pre-application stage and indicative timing.

3.13 Much of the time needed to process applications (and the costs to applicants) comes from the need to comply with Environmental Impact Assessment requirements and the carrying out of Appropriate Assessments under relevant conservation regulations. Further details on EIA Regulations and on conservation regulations is given in Box 1.

3.14 For some projects, applicants will know that an EIA is required, while for others it will not be so clear. While the MMO website will provide some direction, if the applicant is still uncertain or the website indicates that more information may be required, you may seek a screening opinion from the MMO. The MMO will advise whether the project does in fact need an Environmental Statement for the purposes of an EIA.

3.15 Where projects need an Environmental Statement, previous experience tells us that some applicants should seek pre-application advice from the MMO at least two years prior to making an application. This is particularly the case where surveys require a full two year's worth of data, such as ornithology reports for offshore wind farms. Other projects are likely to need less survey data so can complete the pre-application process in a shorter timeframe.

3.16 During the pre-application stage the MMO will consult its primary advisors (see Box 2) and other interested parties because of the possible impact on them or because of their specialist knowledge. Consultation is also a requirement

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Habitats, &c) Regulations 2007. European sites in this context are defined in regulation 8 of the 2010 Regulations and regulation 15 of the 2007 regulations. They include candidate Special Areas of Conservation (cSACs), Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) designated under the Habitats Directive and Special Protection Areas (SPAs) classified under the Birds Directive. For the purposes of considering development proposals affecting them, as a matter of policy in England, Government wishes pSPAs and Ramsar sites to be considered in the same way as European sites.

under relevant EIA Regulations. Other businesses in the area or special interest groups or Local Authorities may also be consulted at this stage, although we would expect that the operator would also engage with local groups and businesses and provide the MMO with relevant details. If a screening opinion is required or a scoping opinion is requested under the MWR, then the MMO will provide such an opinion following consultation under those regulations

3.17 The relevant nature conservation agencies will also advise the MMO at this stage if they consider that an Appropriate Assessment (AA) may be needed for a project because of the potential effect on sites protected under the Habitats Directive. The MMO will carry out the AA based on information provided by the operator and any other relevant information. Early engagement with the MMO and advisers at this pre-application stage will help identify any issues and prevent delays at a later stage.

3.18 If the MMO provides a positive screening opinion (i.e. the project does require EIA), the applicant then produces an Environmental Statement (ES). They can submit this with a marine licence application without further discussion with the MMO. However, the applicant can request a scoping opinion from the MMO on what the ES should contain. The MMO will provide a voluntary service to applicants on the detailed content of the ES, managing and facilitating dialogue with its primary advisors on issues arising from the draft ES. The MMO will also be able to identify any issues they, as the regulator, will need to see addressed and those that are unlikely to cause them concern. Such advice would also provide information to the applicant on relevant Marine Plans and its provisions relating to the application being made.

3.19 The pre-application stage may also identify issues related to compliance with the Water Framework Directive. This is particularly relevant for projects involving dredging or the disposal of dredged material at sea. The Water Framework Directive applies in estuaries and in coastal waters out to one nautical mile from low water. The Environment Agency are, in England and Wales, the competent authority for the Directive. They will be consulted at the pre-application stage.

3.20 The Environment Agency have produced guidance on:

(a) the Water Framework Directive generally:-
http://www.environment-agency.gov.uk/research/planning/33106.aspx

(b) marine dredging and the Water Framework Directive:
http://www.environment-agency.gov.uk/business/sectors/116352.aspx. The guidance follows a similar approach to EIA i.e. screening, scoping and issue management.

3.21 The pre-application stage may also identify issues that related to the Habitats and Birds Directives. The Nature Conservation Agencies (Natural England, JNCC) will advise the MMO on these issues with the MMO making the decision on the issues that need addressing.

3.22 The pre-application process should ensure that marine licence applications once submitted are as complete as possible; are in accordance with relevant planning documents; and stand the best chance of being considered swiftly by the MMO. Advisers are responsible for providing both the developer and the MMO with an opinion on the proposed project within their respective remits. It is for the MMO to decide what issues are of concern to them as the regulator and so what needs to be addressed by the applicant.

Box 1: EIA and Habitats Regulations

The MMO will need to ensure that the procedures for considering marine licence applications comply with EU law, including the EIA Directive and Habitats Directive.

The EIA Directive (85/337/EEC) requires Member States to consider the effects of certain public and private projects on the environment when deciding to give development consent. Projects listed in Annex 1 to the Directive (this includes larger port developments) require an EIA. Projects listed in Annex 2 to the Directive also require an EIA if they are likely because of their size, nature or location, to have significant effects on the environment. Annex 2 includes projects like extraction of minerals, construction of marinas and installation of wind farms. It also includes proposed changes to any projects listed in Annex 1 or Annex 2.

If a project needs to undergo an EIA, the developer needs to provide details of a project; its potential impacts; and the management or mitigation of adverse impacts to the competent authority. In the case of projects on the coast or at sea, the MMO is a competent authority but there may be other competent authorities which administer other EIA regulations e.g. the local authority for the land-based part of a project.

The EIA Directive requires consultation to enable authorities, groups or members of the public likely to have an interest in the plan or project to give their views. The information gathered about the project and the results of consultation are considered within the development consent procedure. This means that the environmental impact of a project is assessed before an application for development consent is determined. The EIA Directive is implemented in the UK through various EIA regulations. This guidance deals with the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (the "MWR"), which apply to certain marine works.

We are making changes to the MWR so that EIA processes are applied to the new marine licensing regimes under the MCAA and the Marine (Scotland) Act (although this guidance does not apply to projects licensed under the latter Act). We are repealing the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007(the "MMR"). The MWR will apply to marine minerals dredging activities instead. However, there are cases where the MWR may, or will not apply – for example where an EIA of the project has already been or will be carried out under other EIA Regulations, in accordance with the EIA Directive.

Marine Plans or individual projects may also trigger requirements under the Conservation regulations (the Conservation of Habitats and Species Regulations 2010); and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, which cover inshore and offshore marine regions respectively and implement the Habitats Directive. These conservation regulations require competent authorities to consider whether they need to carry out an 'Appropriate Assessment' when deciding whether to give consent to a Marine Plan or a specific project. This broadly means assessing the implications of a project on the integrity of a protected site (e.g. Special Area of Conservation or Special Protection Area) with respect to that site's conservation objectives and to its structure and function. Where it cannot be shown that a project will not have an adverse effect on the integrity of a protected site, the authority must refuse the application unless the tests outlined in article 6(4) of the Habitats Directive are satisfied.

We are making some changes to the Conservation of Habitats and Species Regulations 2010 to ensure that we meet these EU requirements in relation to activities that are covered by Part 4 of the Marine and Coastal Access Act and some activities that are exempt from Part 4 but covered by other legislation e.g. activities authorised under the Aquatic Animal Health (England and Wales) Regulations 2009.

Applications

3.23 The Act gives the licensing authority some flexibility in how it deals with a marine licence application. The authority may require different types of application for different cases and may ask for an application to be accompanied by information that the authority specifies.

3.24 This flexibility is needed because of the wide range of activities that will require marine licences from stand-alone small jetties to substantial harbour developments. The MMO will ensure that its requirements for information to be supplied with applications are proportionate to the size and risk posed by the proposed activity.

3.25 The MMO will be able to process applications for some very minor works far more quickly than other larger projects. For more complex projects, the MMO will want to satisfy itself that it has all the information and advice from primary advisors to make an effective decision – particularly where there may be European obligations to fulfil.

3.26 The MMO will examine the whole project even if an application is made for only one part of that project, in line with European requirements. We strongly advise applicants to provide as much detail about the whole project as possible (including any part that will take place on land) even if later stages of the project are not yet finalised. The MMO must examine the impact of the intended use of the project. Delays can occur when a licensing body is not made aware of the entire project at an early stage.

Consultation

3.27 The Act requires that there must be publication of notice of an application for a marine licence (including to any local authorities (in England and Wales) affected by a proposal). The licensing authority must have regard to any representations which it receives from any person having an interest in the outcome of the application.

3.28 The MMO must either publish notice of the application or require the applicant to do so. When it requires the applicant to publish notice of the application, the MMO will advise applicants on the form of publication that it considers most likely to bring the proposal to the attention of people with an interest in it e.g. publication in relevant local newspapers or notices close to the proposed site. In addition, the MMO intends to publicise applications through its website.

3.29 In general, under the Act, the MMO will not be able to take an application further until the applicant has provided evidence that the application has been publicised and the relevant local authorities notified. However, the MMO can waive the requirements to publicise the application and/or to notify local authorities if it considers that notice should not be so published. The requirements to publish the application or notify local authorities do not apply if the Secretary of State certifies that to do so would be contrary to the interests of national security.

3.30 The applicant is advised to provide the MMO, at the time of application, with a list of all parties they have engaged with while compiling the application. The MMO will ensure that all of these are consulted during the application process.

3.31 A list of those groups and organisations which the MMO will commonly consult are listed in Box 2, although the full list of those consulted will vary from project to project. For projects undergoing EIA, there are specific consultation requirements which apply at various stages of the EIA process, for example the MMO is required to consult "consultation bodies" (as defined in regulation 2 of the MWR).

Box 2: The MMO's primary advisors

Statutory consultees are not specified in the Act. However, we expect that MMO will commonly consult the following bodies on marine licence applications because of their knowledge and expertise and in some cases to satisfy requirements set out in other legislation:

- CEFAS for their marine science expertise
- Joint Nature Conservation Committee for offshore nature conservation;
- Natural England on inshore nature conservation;
- Environment Agency for coastal and flood defence; overlap with Environmental Permitting regulations, Water Framework Directive issues
- Maritime & Coastguard Agency for navigational safety issues
- Ministry of Defence for military issues
- English Heritage on historic/cultural heritage

Box 3: Streamlining consents

As well as a marine licence under Part 4 of the Marine and Coastal Access Act, a project may need other approvals or consents. The MMO is also responsible for issuing development consents for renewable energy projects under section 36 of the Electricity Act 1989 and Harbour Orders (e.g. Harbour Revision Orders and Harbour Empowerment Orders) under the Harbours Act 1964. The advantage of bringing decision-making on all these projects together under one organisation, is that the MMO will be able to streamline the processes involved in gaining approval to proceed with a project.

Furthermore, the Act allows the Environment Agency to waive certain approvals that are needed in relation to flood defence under the Water Resources Act (WRA) 1991 if it is satisfied that a marine licence would meet the needs of the WRA. The relevant approvals are set out in section 109 of the WRA (for structures in, over or under a river) and in Schedule 25 (byelaws for flood defence activities).

Finally, the Secretary of State may also – where a marine licence is needed - waive the need for Admiralty consent where this is required in local legislation before works can be carried out.

Timescales for Marine Licence Applications

3.32 The estimated timescales for dealing with each aspect of marine licence applications are presented in Table 1 below:

Table 1 Estimated timetable for marine licence applications

Straightforward applications

Receive application, quality check, assign, consultation letters sent	1 week
Receive consultation responses	4 weeks
Application reviewed, decision made, licence issued	1 week

More complex - non EIA applications

EIA screening *	6 weeks
Receive application, quality check, assign, consultation letters sent	1 week
Receive consultation responses and receive public representations*	7 weeks
Issue resolution, iterative process, MMO facilitate, applicant led	Iterative
Complete any appropriate assessment required (done at any time on request)	4 weeks
Application reviewed, decision made, licence issued	2 weeks

More complex - EIA applications

EIA screening & scoping*	6 weeks
Preparation of draft Environmental statement by applicant	
Pre-application review, iterative process, MMO facilitate, applicant led	Iterative
Receive application, quality check, assign, consultation letters sent	1 week
Receive consultation responses and receive public representations*	7 weeks
Issue resolution, dealing with public responses, MMO facilitate, applicant led	Iterative
Complete any appropriate assessment required (done at any time on request)	4 weeks
Application reviewed, EIA consent decision made; regulatory decision made	3 weeks

* The Marine Works (EIA) Regulations set out the timescales for consultation in relation to screening and scoping opinions, and for publication and consultation prior to the making of an EIA consent decision. The timetable assumes that screening and scoping are carried out together.

3.33 The MMO will produce regular statistics on their performance against these timescales.

3.34 The MMO will be able to charge for investigations required in order to inform a licence decision. The Centre for Environment, Fisheries and Aquaculture Science (Cefas) will remain the Secretary of State's and the MMO's main source of marine scientific advice. The MMO will work with Cefas, statutory nature conservation bodies, other consultees and applicants to resolve any issues that arise from an application but the MMO will take the final decision on

an application and whether issues have been resolved satisfactorily. Applicants will also have the opportunity to make representations on any comments received from bodies that the licensing authority consulted with regard to the application.

3.35 The MMO can choose to cause an inquiry to be held into a particular proposal[5]. We expect this to be rare and only for complex or controversial of applications if the MMO believe that an inquiry will help them come to a decision (see below). Should such an inquiry take place, the rules for inquiries set out in Section 250 (subsections (2)-(5)) of the Local Government Act 1972 will apply. These rules cover attendance at inquiries, production of documents and costs. The Secretary of State has the power to stop an inquiry for reasons of national security.

Q. **When might the MMO call an inquiry on a marine licence application?**

The MMO will decide whether to call an inquiry on a case-by-case basis. Factors that are likely to influence their decision include-

- Large, complex or controversial applications
- Proposals which are not in accordance with relevant marine planning documents
- Projects including novel technologies

Factors that the MMO will take into account in reaching its decision

3.36 The MMO must have regard to the need to protect the environment, protect human health, prevent interference with legitimate uses of the sea, and such other matters as the authority thinks relevant when deciding whether to grant a marine licence and what conditions, if any, are to be attached to it.

3.37 Under the Act, "environment" includes any site (including any site comprising, or comprising the remains of, any vessel, aircraft or marine structure) which is of historic or archaeological interest. One change from FEPA is that, where an application is to construct, alter or improve works, the MMO must consider the effects of any intended use of the works.

3.38 In the case of an EIA project, the MMO must give an EIA consent decision before determining whether or not to grant a marine licence. In reaching its EIA consent decision, the MMO must do so[6]: on the basis of the application; the ES; any further information provided by the applicant; in light of representations received during consultation processes; and with regard to relevant legislation as well as direct and indirect effects of the project on:

[5] In relation to a marine licence application, the licensing authority may call an inquiry under s.70 of the MCA Act, In relation to an EIA consent decision, an appropriate authority may call an inquiry under Schedule 5 paragraph (4)(2)(a).
[6] See regulation 22 of the Marine Works (EIA) Regulations 2007 (as amended)

- human beings, fauna and flora;
- soil, water, air, climate and the landscape;
- material assets and the cultural heritage; and
- the interaction between any two or more of the things mentioned above

3.39 The MMO must, as stated previously, take decisions in accordance with relevant marine planning documents (i.e. the Marine Policy Statement and the relevant Marine Plan/s) unless relevant considerations indicate otherwise. The MMO must not issue a marine licence for any activity that is contrary to international law – for example, only where international law allows, may it license scuttling of a vessel at sea or incineration.

3.40 Where a project involves electronic communications apparatus and the exercise of a right conferred by paragraph 11 of the Electronic Communications Code, the MMO must not issue a marine licence unless it is satisfied that adequate financial compensation arrangements have been made, for example with landowners or affected industries or people.

Form of licence

3.41 Where a project comprises more than one licensable activity under s.66 of the Act, then a marine licence for each type of activity will be required. Where it is appropriate, these licences will be issued together as one project licence.

3.42 Where a project requires consent under either the Electricity Act or via a Harbour Order, a marine licence may still be required. The MMO may choose to process these applications together, since the information required for both is similar. It may also process other consents that are needed for a project e.g. wildlife licences, at the same time if possible.

3.43 Conditions attached to a marine licence can relate to maintenance, operational matters, specific testing requirements, keeping of records, remediation works and anything else the MMO thinks suitable to mitigate the impact of a project - for example, precautions to be taken or works to be carried out (whether before, during or after the carrying out the activity) or in connection or as a consequence of those activities. In relation to licences to construct, alter or improve works, such conditions may bind all owners, occupiers and anyone who “enjoys” any use of the works licensed.

3.44 Marine licences may be issued for the lifetime of a project, for example the duration of a deposit or the life time of a construction, including its removal. Such licences will therefore be valid during the operational and decommissioning stage of a project and the conditions contained in a licence will remain enforceable throughout its lifetime.

3.45 The MMO may vary, suspend or revoke a marine licence granted by it only in certain circumstances-

- If there has been a breach of any of its provisions
- If, in the course of the application for the licence, any person either supplied information to the authority that was false or misleading or failed to supply information which has made a material difference to the authority's decision on the application
- because of a change in circumstances or increased scientific knowledge relating to the environment or human health
- in the interests of safety of navigation
- or for any other reason that appears to the authority to be relevant.

Fees and charges

3.46 Section 67(2) of the Marine and Coastal Access Act allows the Secretary of State to make regulations setting fees for applications for marine licences.[7] Those fees will be charged by the MMO except for oil and gas-related activities. The basis for the MMO's fees charged under the Act is set out in the Marine Licensing (Application Fees) Regulations 2011. DECC will consult separately on fees and charges for marine licences for oil and gas-related activities.

3.47 The MMO aims to move to full cost recovery which will be determined by the scale and complexity of the project and therefore the time the MMO needs to deal with the application. The full fee must be paid before the MMO will determine an application. In 2011/12 the fees aim to achieve 90% cost recovery. The fees payable in 2011/12 are shown in Table 2.

Table 2 – licence fees payable in 2011/12

Band	*Nature of application*	*Fee for determining the application*
Band 1		
1A	Application to carry on any licensable marine activity relating to— — buoys — burial at sea — meteorological masts — scaffolding — simple moorings	£158
1B	Application to carry on any licensable marine activity relating to— — boreholes or sea bed investigations — jetties, where the work is minor and of a value of less than £10,000 — tracers — emergency work — outfalls/pipeline stabilisation, where the work is minor and of a value of less than £10,000 — 'like for like' construction or maintenance works, where	£450

[7] The MMO will also be able to apply certain charges in relation to EIA under the amended The Marine Works (Environmental Impact Assessment) Regulations 2007. Details have yet to be finalised.

Band	*Nature of application*	*Fee for determining the application*
	the work is minor and of a value of less than £10,000	
Band 2	Application to carry on any licensable marine activity relating to—	
	— construction projects of a value of less than £1 million	£2,700
	— construction projects of a value of between £1 million and less than £5 million	£4,500
	— construction projects of a value of between £5 million and less than £10 million	£7,200
	— maintenance dredging projects involving the disposal of up to 20,000 tonnes of dredged material	£7,200
	— renewable energy projects with a generating capacity of less than 1 megawatt.	£7,200
Band 3	All other applications	£80 per hour or part thereof.

3.48 It is our intention to review the fees that MMO charge at the end of 2011.

3.49 The MMO is developing an electronic application system that will provide for web based electronic payments for fees and bank transfers. Cheques will also be accepted for as long as UK banks continue to issue them. There will be further details of payment methods in the guidance produced by the MMO. If an application for a marine licence is withdrawn, the MMO may keep the fee to cover any administrative costs. It may also refund any unused part of the fee paid on a discretionary basis.

Transitional Arrangements

Q: I have a licence under FEPA/CPA. What happens to the licence when the new system starts?

A: Your licence will in most cases carry on as a deemed marine licence. However, if your CPA consent is in relation to marine aggregate dredging, you should consult MMO. Any conditions that applied to the FEPA/CPA consent continue to apply. If the FEPA/CPA consent had an end date, that will still be the date at which the licence expires. If you wish to continue the activity after that end date, you will need to apply for a new marine licence. If your project involves activities which did not need a FEPA licence or CPA consent but does now require a marine licence (see Chapter 2 for list of licensable activities), you should ask MMO to vary the licence.

Q: I am applying for a new FEPA/CPA consent but the MMO may not have decided it before the new system starts. What happens to my licence application?

A: The MMO will treat your application as if it had been submitted as a marine licence application. You will not need to resubmit it. However, the requirements for obtaining a marine licence are a little different to those of FEPA. Notably, local authorities in whose area a project takes place must be consulted on an application, so MMO may require you to consult such local authorities.

Q: I have a dredging permission (or an outstanding application a dredging permission) for extractive minerals dredging granted under the MMR – what will happen to my permission under the new system?

A. Your dredging permission will carry on as a deemed marine licence. Any conditions that applied to the permission will continue to apply as will the original expiry date. The MMO will treat any outstanding applications as if it had been submitted as a marine licence application.

4. Appeals against licensing decisions

This chapter explains the process for appeals against a licensing decision taken by the licensing authority.

Introduction

4.1 We want to encourage all outstanding issues or differences of opinion on an application to be resolved during the application process. If an applicant is unhappy with a potential decision to refuse an application or with the conditions to be attached to a licence, they can ask the licensing authority to carry out an internal review of the decision before it is formally issued. This can save time and expense for all sides by avoiding the need for a formal appeal. The licensing authority will provide guidance to applicants on how this internal review will work.

Who can appeal?

4.2 An applicant for a marine licence will be able to appeal against a decision made by the licensing authority on their application. This includes a decision not to grant a licence, conditions attached to a licence, or the length of a licence.

Who decides the appeal?

4.3 The Planning Inspectorate (PINS) will be engaged to manage and decide appeals against licensing decisions made by the licensing authority (MMO, or DECC for oil and gas activities). The Secretary of State – acting through PINS – is required to appoint a person to determine any appeal. Where PINS appoints an Inspector, the Inspector will be that appointed person.

4.4 We have closely aligned our processes to those for terrestrial planning appeals as we expect there to be benefits in developing a system which is consistent with current practice, for example, a familiar process should be easier for PINS to implement and for appellants to understand and follow.

4.5 PINS will be producing separate procedural guidance on appeals against marine licensing decisions.

How to make an appeal

4.6 Any applicant wishing to appeal against a licensing decision (referred to in this section as the 'appellant') should submit a notice of appeal to PINS within 6 months of the date of the licensing authority's decision.

4.7 A notice of appeal form will be available on the PINS website and, when submitted, must include:

a) contact details for the appellant and any agent acting on their behalf;
b) a statement of the grounds of appeal;

c) a statement on whether the appellant would like the appeal to be dealt with through written representations, a hearing or an inquiry;
d) a list of all accompanying documents.

The notice of appeal must be accompanied by:

a) a copy of the decision which is subject to appeal;
b) a copy of all documents upon which the appellant wishes to rely.

4.8 When deciding which appeal procedure they would like to follow (see (c) above) the appellant should refer to the guidance on PINS' website. The final decision on the appeal procedure will rest with PINS once all the relevant documents have been received (see paragraph 4.13).

4.9 The appellant must also send a copy of that notice and the documents accompanying it to the licensing authority.

4.10 PINS will have the discretion to accept or reject an appeal if there is a lack of information submitted or if the appeal is received outside of the six months notice period.

Grounds of appeal

4.11 The licensing authority must set out in its decision the reasons for refusing, or applying conditions to a licence. When setting out their grounds of appeal the appellant should respond directly to these reasons, focussing their arguments on why they disagree with these reasons.

4.12 It is important that full grounds of appeal are set out at the start of the appeal process, along with any supporting and background information. PINS can require or allow further information to be submitted if it is deemed necessary for the determination of the appeal.

Deciding the appeals procedure

4.13 There are three types of appeals procedure – written representations, hearings and inquiries. The procedure for each is explained later in this section. The notice of appeal should contain the appellant's preferred procedure and the licensing authority will be asked to indicate their preferred procedure.

4.14 PINS will decide the procedure to be followed and will notify the appellant and the licensing authority of its decision. The date of this notification will be the **start date** for the appeal.

Action following the start date

4.15 There are statutory time-limits for key parts of the appeals procedure. The exception to this is for the determination of the appeal where a flexible approach will be required to match the complexity of each case.

4.16 Table 2 below sets out these time-limits. A more detailed overview of the procedure for all three appeal procedures is presented in later paragraphs.

Table 2 – Time limits for appeals

Timing	**6 months from date of licensing authority's decision**	**Start date set**	**2 weeks from start date**	**4 weeks from licensing authority's notification to interested persons**	**6 weeks from start date**	**9 weeks from start date**	**Flexible**
Action	**Notice of appeal submitted by appellant**	**Appeal procedure determined. Licensing authority and appellant notified by PINS**	**Licensing authority notifies interested persons of appeal**	**Interested persons submit representations to PINS. PINs shares with licensing authority/appellant**	**Written Representations: licensing authority submits representations to PINS; appellant submits further representations to PINS Hearings/Inquiries: licensing authority/appellant submit statements of case**	**Licensing authority and appellant submit comments on all representations to PINS**	**Appeal determined via written representation, hearing or inquiry**

Notifying interested persons

4.17 Within two weeks of the start date the licensing authority will send notification of the appeal to those persons that submitted representations on the application during the application process or any other person it thinks may have an interest. The notification must include the following information:

a) the start date;
b) the name and location of the site to which the appeal relates;
c) the name of the appellant;
d) that the appeal will be determined by way of written representations, a hearing or an inquiry;
e) that, within the period of four weeks beginning with the date of the notice, the recipient may send to PINS any written representations it wishes to make;
f) the address to which representations must be sent;
g) that any representations received will be sent to the person making the appeal and the licensing authority;
h) that if the recipient makes representations, PINS will notify them of the date of any hearing or inquiry that may be held.

4.18 The notification will be accompanied by a copy of the decision to which the appeal relates. During this time the licensing authority will also send to the appellant and PINS a list of the people who received this notification and any representations they submitted during the original application process.

4.19 PINS will copy any representations it receives from interested persons at this stage to the appellant and the licensing authority (see (e) above).

Written representations procedure

4.20 If the appeal is to be determined through written representations, the licensing authority will, within six weeks of the appeal start date, submit to PINS any representations it wishes to make on the appeal together with any documents it wishes to rely on. PINS will send the appellant a copy of these documents.

4.21 If the appellant wishes to make any further representations to those submitted with the notice of appeal, any such representations must be submitted to PINS within six weeks of the appeal start date. PINS will send the licensing authority a copy of these representations.

4.22 Any interested persons who have received notification from the licensing authority of the appeal, must submit their representations to PINS within four weeks of the date of that notification (see 4.16 above).

4.23 At the end of the period of six weeks from the appeal start date, PINS will send copies of all representations it has received to the appellant and the licensing authority.

4.24 Within nine weeks of the appeal start date, the appellant and the licensing authority can submit comments on all representations to PINS, who will ensure that all comments are copied to both parties.

Hearings and inquiries - representations and comments stage

4.25 If an appeal is being handled through a hearing or inquiry, the appellant and licensing authority must each, within six weeks of the start date, send to PINS:

a) a statement containing full particulars of the case each proposes to put forward at the hearing or inquiry;
b) a list of any documents to be referred to or presented as evidence.

4.26 Any interested persons who have received notification from the licensing authority of the appeal, must submit their representations to PINS within four weeks of the date of that notification (see 4.16 above).

4.27 At the end of the period of six weeks from the appeal start date, PINS will ensure statements and representations are copied to both the appellant and the licensing authority.

4.28 Within nine weeks of the appeal start date, the appellant and the licensing authority can submit comments on all representations and on each other's statements to PINS, who will ensure that all comments are copied to both parties.

Arrangements for the hearing or inquiry

4.29 PINS will set a date for the hearing or inquiry and notify all parties at least six weeks before the set date. The licensing authority must publish a notice of the appeal date at least three weeks before the date of the hearing or inquiry, to ensure all parties who may have an interest are aware.

Procedure for a hearing or inquiry

4.30 PINS will appoint an Inspector to conduct the hearing or inquiry who will have powers to direct the way in which either is conducted. The Inspector will be able to:

a) adjourn the proceedings once they have started;
b) allow anyone to attend other than the appellant, the licensing authority or persons who have made representations;
c) proceed with the appeal in the absence of any persons entitled to attend;
d) consider any representations or evidence received before or during the hearing or inquiry.

4.31 Cross-examination of a witness is not permitted at a hearing. However, the Inspector may decide, at their discretion, that cross-examination is necessary to ensure a thorough examination of the issues. If this is the case, the Inspector must consider, after consulting the appellant and the licensing authority, whether to close the hearing and hold an inquiry instead.

4.32 Anyone who is entitled or permitted to appear can do so in person or be represented by any other person.

4.33 Where the subject matter of a hearing or inquiry has implications for national security, business confidentiality, or public interest, it may be decided to hold the proceedings wholly or partly in private.

Inquiries - pre-inquiry meeting

4.34 If the appeal is to be handled through an inquiry the Inspector may choose to hold a pre-inquiry meeting to identify the key issues and the procedure to be followed. PINS should notify the appellant, the licensing authority, any person known at the date of the notice to be entitled to appear at the inquiry, and any other person whom the Inspector considers should be present, no less than four weeks before the date of this meeting. At the meeting, the Inspector will advise all parties present on what they need to do in preparation for the inquiry and the date by which they need to do that preparation.

Inquiries - statement of agreed facts

4.35 Within four weeks of the date of the inquiry, the appellant and the licensing authority must jointly prepare a statement of agreed factual information (i.e. non disputed facts) about the subject matter of the appeal.

Inquiries - proofs of evidence

4.36 If a person who is entitled to appear at an inquiry wants to give (or call a witness to give) evidence at that inquiry, they must submit a proof of evidence (accompanied by a written summary if it exceeds 1500 words) to PINS at least four weeks before the date of the inquiry. Once received, PINS will send copies to the appellant, the licensing authority and any other person who has submitted a proof of evidence.

4.37 Where a summary of the proof of evidence is provided, only the summary may be read out at the inquiry, unless the Inspector directs otherwise.

4.38 Where a summary of the proof of evidence is read out at an inquiry, the original proof of evidence is treated as tendered in evidence, unless the person providing it notifies the Inspector that they now wish to rely on the contents of the summary alone. That person may then be subject to cross-examination on the original proof of evidence to the same extent as if it were evidence given orally.

4.39 The Inspector may allow any person to alter or add to a proof of evidence or summary so far as may be necessary for the purposes of the inquiry. But if this is done, the Inspector must (if necessary by adjourning the inquiry) give every other person appearing at the inquiry an adequate opportunity to consider any new information.

4.40 The provisions in this section are subject to the 'Powers to exclude persons, evidence, etc' (regulation 17 of the Regulations) set out below.

Powers to exclude persons, evidence, etc

4.41 At any stage of a hearing or inquiry the Inspector can prevent any person from giving evidence, cross-examining a person giving evidence, or presenting any matter if the Inspector considers that:

a) the evidence or matter was not provided within relevant time limits;
b) the evidence or matter was otherwise not provided in accordance with any provision of the Regulations or with any direction given or requirement made by the Inspector under the Regulations;
c) that the evidence or matter is irrelevant or repetitious; or
d) that the person is behaving or has behaved in a disruptive manner at the hearing or inquiry.

4.42 Where any person behaves in a disruptive manner, the Inspector can require that person to leave the hearing or inquiry, prevent them from participating, or set conditions for their participation.

4.43 Where the Inspector prevents a person who is behaving disruptively from giving oral evidence, that person can submit any evidence or other material in writing before the close of the hearing or inquiry (but this is subject to paragraphs 4.37 and 4.38 above).

Failure to attend or give evidence at an inquiry when summoned

4.44 Where an inquiry is held, the Inspector may summon a person to attend, give evidence or produce any document which relates to the subject matter of the appeal. Where a person complies with a summons they are entitled to claim expenses for attending. Where a person fails to obey such a summons, or deliberately withholds or alters evidence, that person will be committing an offence and liable on summary conviction to a fine or to imprisonment for a term not exceeding six months, or to both[8].

Concurrent or combined inquiries

4.45 Where two inquiries are to be held on related matters, PINS will decide whether each inquiry should be held consecutively/concurrently or combined into a single inquiry. This approach would be practical and in the interests of administrative expediency and efficiency.

National Security

4.46 If the Secretary of State thinks that an inquiry, or the attendance at an inquiry of specific people, is not in the interests of national security, the Secretary of State can prevent the inquiry from being held or those people from attending.

Determining the appeal

4.47 On determining an appeal, the Inspector may dismiss the appeal, or allow the appeal and quash the licensing authority's original decision in whole or in part. Where an Inspector quashes a decision, the licensing authority will be instructed to grant a marine licence, or grant a licence subject to conditions defined by the decision on the appeal. The appellant and the licensing authority will be notified by the Inspector of the final decision.

Challenging a decision

4.48 Appeal decisions may be challenged by judicial review.

Extending deadlines and providing additional information or copies

4.49 PINS, or an Inspector, can, at its discretion, extend any deadline specified in the Regulations. This will only be done in exceptional circumstances. An Inspector may also require further information to be submitted if necessary for the determination of the appeal.

Supply of documents

4.50 We would encourage the appellant to communicate electronically where it is practical to do so. When doing so they should adhere to best practice on

[8] Regulation 18 'Additional provisions as to evidence and costs' applies s.250 of the Local Government Act 1972 (with modifications) to appeals dealt with by inquiry or hearing.

electronic working. Where documents are submitted electronically it will be necessary to submit only one copy.

Costs

4.51 The appellant and licensing authority will normally be expected to pay their own expenses during an appeal. However, the Inspector has the power to award costs to any party involved in the appeal in cases where a hearing or inquiry is held, or scheduled but subsequently cancelled at a late stage. There is no provision for cost orders to be made in written representation cases.

Withdrawal of an appeal

4.52 The appellant may withdraw an appeal at any time before the final decision is made by writing to PINS and sending a copy of that letter to the licensing authority. However, where an appeal is withdrawn at a late stage in the appeals process the appellant may be at greater risk of facing a claim for costs incurred by the licensing authority.

Effect of delay by a party/consequences of delayed action by a party

4.53 If either the appellant or the licensing authority fails to complete a necessary action within an agreed deadline, leading to a delay in proceedings, a sanction may be applied. In this situation, the Inspector may, after giving the appellant and the licensing authority notice of the intention to do so, determine an appeal even though an action has not been completed.

5. Exemptions

This Chapter explains what activities are exempted from the need to have a marine licence

Exemptions from licensing in the Marine and Coastal Access Act

5.1 The Act specifies that some activities are outside its licensing provisions. However, other permissions/consents may still apply under other regulatory controls.

Dredging and associated disposal authorised under local Acts or Harbour Orders

5.2 Section 75 of the Act includes an exemption from licensing for dredging or the disposal of dredged material carried out by or on behalf of a harbour authority. The exemption only applies if the dredging or disposal is authorised by and carried out in accordance with a Harbour Order or Local Act.

5.3 In order to ensure that we continue to comply with the EU Waste Framework Directive (2008/98/EC), Defra has added another condition to section 75. This means that – in addition to the conditions already in section 75 - deposits at sea would only be exempt from marine licensing:

(a) if the licensing authority was satisfied that the sediments were not hazardous and
(b) the purpose of the deposit was for land reclamation, managing waters and waterways, preventing floods or mitigating floods and droughts and
(c) the activity involves the relocation of sediments inside surface waters (i.e. the removal of dredged material from transitional and coastal waters and its deposit in other surface waters).

5.4 The effect of the amended section 75 is that:-

- **all disposal at sea of dredged material – by harbour authorities or anyone else – will need a marine licence**.

- **harbour authorities will not need a marine licence to deposit dredged material for the purposes of land reclamation, managing waters and waterways, preventing floods and droughts within surface waters provided the activity is authorised by a local Act or Harbour Order and they have demonstrated to the MMO's satisfaction that the sediments are non-hazardous**. The properties that determine whether a waste is hazardous or not are set out in Annex III to the EU Waste Framework Directive. MMO will seek advice from Cefas on whether sediments are hazardous or not.

- **forms of dredging which do not involve deposits (e.g. plough dredging, water injection dredging and agitation dredging) will not need a licence if**

they are carried out by a harbour authority in accordance with a Harbour Order or local Act.

If a harbour authority is in any doubt about whether their activity is exempt they should consult the MMO's licensing team in Newcastle.

Q: If a Harbour Authority has a power to dredge, does the exemption in section 75 apply to the dredging and the disposal of dredged material?

No. The exemption only applies to the activity that is authorised by the Harbour Order or local Act. The other conditions in section 75 must also be met (see paragraph 5.4.

Dredging by anyone other than a harbour authority

5.5 Dredging is a licensable activity under the Act. This means that marinas, harbours without dredging powers and others will need a licence to dredge. This includes forms of dredging such as plough dredging, agitation dredging and water injection dredging. However, if the dredging did not previously require a FEPA or CPA licence (e.g. plough dredging by a marina operator that did not interfere with navigation) it will not need a licence until April 2012. MMO will work with interested stakeholders in 2011 to develop a streamlined process for licensing maintenance dredging. The nature of this streamlined process - which may involve further exemptions for small-scale dredging - will be for discussion between MMO and stakeholders.

Q: If a Harbour Authority has the power to issue a licence for dredging in its area, is such dredging considered to be covered by the Section 75 exemption?

A: No. Section 75 only applies to activities carried by or on behalf of a Harbour Authority. It does not apply to activities by others that a harbour authority consents.

Dredging in the Scottish offshore region by or on behalf of Scottish Ministers

5.6 Aggregate dredging carried out in the Scottish zone by (or on behalf of) the Scottish Ministers in exercise of functions which have been devolved are also excluded from marine licensing under section 76 the Act.

Oil and gas activities etc

5.7 The Act exempts from marine licensing anything done:-

- while carrying out an activity for which a licence to search and get petroleum is needed under section 3 of the Petroleum Act 1998 or section 2 of the Petroleum (Production) Act 1934. This applies whether or not such a licence has been granted;
- in order to build or maintain an offshore installation (as defined in Part 4 of the Petroleum Act 1998)

- in relation to gas loading, unloading and storage (which needs a licence under Section 4 of the Energy Act 2008) or carbon dioxide storage (which needs a licence under Section 18 of the Energy Act 2008). Again the exemption applies whether or not the relevant licence has yet been granted.

Pipelines

5.8 New legislation coming into force in April 2011[9] has the effect of removing from the Petroleum Act 1998 regime and bringing within the new marine licence system all pipelines apart from those used in relation to:-

- exploring for, or exploiting, petroleum;
- unloading or storing offshore oil or related hydrocarbons, natural gas (including such gas as a liquid) or carbon dioxide; or
- exporting from or importing into the United Kingdom oil or related hydrocarbons, natural gas (including such gas as a liquid) or carbon dioxide; or transfer of any of these substances between any of England, Wales, Scotland and Northern Ireland.

Cables[10]

5.9 International maritime law encourages the laying of telecommunications cables between countries. You will not a need a marine licence to lay or maintain such cables outside the territorial sea. Where a cable runs through the UK territorial sea and beyond the territorial sea, you will need a licence from the MMO. The licence is only needed for the stretch of cable that runs through the territorial sea. The MMO must grant such a licence but may attach conditions to protect the environment, human health or other uses of the sea.

5.10 If the cable runs only through UK territorial waters or is constructed or used in connection with:

- the exploration of the UK sector of the continental shelf,
- the exploitation of natural resources of that sector,
- the operations of artificial islands, installations and structures under UK jurisdiction, or
- the prevention, reduction or control of pollution from pipelines,

the standard marine licensing rules apply. We have, however, exempted some emergency works – see details below.

Q: Do I need a marine licence from both the MMO and the Welsh Government for a cable that runs through English and Welsh inshore regions?

A: Yes. Similarly you need approval from the devolved administrations in Scotland and Northern Ireland for laying cables in their inshore regions. In Scotland such approvals are made under the Marine (Scotland) Act 2010.

[9] The Petroleum Act 1998 (Specified Pipelines) Order 2011
[10] See Section 81 of the Marine and Coastal Access Act

Exemptions from licensing in secondary legislation

5.11 As well as the exemptions from licensing in the Act itself, a number of activities are exempt from the need for a marine licence under the Marine Licensing (Exempted Activities) Order 2011.

5.12 If you think that your project may be exempt under the Order, you should check that the exemption applies to all the different types of licensable activities that your project involves. Some of the exemptions apply to all licensable activities but some do not. For example, as explained below, the exemption for defence operations does not apply to construction or dredging.

Box 4: Special rules for exemptions involving waste

Special rules apply when an activity involves waste. Where waste is concerned, an activity is only exempt if it involves waste recovery or the disposal of non-hazardous waste at the place of production. For example, we consider the discarding of fish by a fishing vessel to be disposal at the place of production. The exemption set out in paragraph 5.14 would apply. However, if a land-based fish processor seeks to dispose of fish waste at sea we would not consider this to be disposal at the place of production and the exemption would not apply.

We must under EU waste law, keep a record of businesses carrying out exempt activities. The MMO will keep this register. It will use as far as possible existing sources of information such as the fishing vessel licence register. The MMO has the power to request information from businesses carrying out exempt activities but we expect that it will use this power sparingly.

Emergencies

5.13 Certain of the exemptions explained below exempt from licensing activities carried out in an emergency – for example to fight fires or to carry out licensable activities at the Government's direction in order to ensure safety or prevent pollution. In addition to these specific exemptions, section 86 of the Act provides a defence where someone carries out a licensable activity to secure the safety of a vessel, aircraft or marine structure or to save lives. The defence is subject to a test that the action was necessary and reasonable in the circumstances. The defence also requires that the person carrying out the activity notifies the appropriate licensing authority (i.e. the MMO) as soon as possible

Fishing

5.14 You will not need a marine licence to fish.

5.15 The new licensing system covers deposits in the sea and on the seabed, removals from the seabed and dredging. Most forms of fishing – such as demersal trawling, potting, scallop or mussel dredging – involve such activities.

However, we do not intend to regulate the normal activities of fishing vessels through marine licensing. Deposits and removals and dredging as part of a fishing operation are therefore exempt from the need for a marine licence. The removal or dredging of cultivated shellfish is also exempt.

5.16 Fishing vessels may accidentally dredge or trawl large bulky items that affect the stability of vessels, old munitions and litter etc. Fishing vessels will not need a licence to return such items to the sea. However, we would strongly encourage fishing vessels to return litter to the shore for recycling where it is safe for them to do so.

Shellfish

5.17 Certain deposits and removals directly connected with shellfish propagation and cultivation will not need a marine licence. You will not need a marine licence to deposit shellfish nor trestles, poles, ropes or lines to propagate or cultivate shellfish. This exemption only applies if the deposit does not pose a navigational risk. However, the exemption does not apply to construction activities related to shellfish propagation – e.g. digging a trench or building a jetty to access shellfish beds. The exemption also does not apply to the use of artificial reefs in shellfish propagation and cultivation. These developments can be significant; the MMO will consider their effect on the marine environment as part of the licensing process. You will not need a licence to remove or dredge shellfish (e.g. mussels) to re-lay them elsewhere.

5.18 Other fish farming activities can also be significant, so new fish farms will need marine licences.

Shipping

5.19 The regulation of shipping pollution will not change as a result of marine licensing. Reflecting the global nature of the shipping industry, the International Maritime Organisation (IMO) will continue to regulate pollution from shipping. The measures that IMO adopt are implemented in the UK under Part VI of the Merchant Shipping Act 1995. We have exempted from marine licensing activities that are regulated under Part VI. This includes-

a. Deposit of oil or mixtures containing oil
b. Deposit or incineration of garbage originating in or on the vessel
c. Deposit of cooling water or ballast water

5.20 We have also exempted, from the need for a marine licence, action taken in exercise of the Government's powers to give directions to the owner, master and others in control of a ship when an accident had occurred and there is a risk to safety or of pollution. The Secretary of State has appointed a representative who will, in practice, normally issue these directions. In addition any activities carried on during a salvage operation to ensure the safety of a ship or prevent pollution will not need a licence. This exemption is not intended to exempt the removal of wrecks or other subjects of archaeological interest. Salvage activities in such cases are only likely to be exempt if a new risk of pollution is identified.

Coastguard activities

5.21 We have exempted from licensing any activity carried out by (or for) the Maritime and Coastguard Agency to ensure the safety of vessels etc, to save lives or to train for such situations.

Deposit or use of smoke floats, distress flares etc.

5.22 The Act makes the deposit and use of explosives licensable. However, we have exempted from licensing the deposit and use of smoke floats, distress flares and similar items where they are used to ensure the safety of vessels etc, to save lives or to train for such situations.

Oil and gas-related activities

5.23 As previously explained, the Act exempts from marine licensing most activities relating to exploring for, or producing, oil and gas. Such activities are regulated under the Petroleum Act 1998 or the Petroleum (Production) Act 1934.

5.24 We have also exempted discharges of chemicals that needs a permit under Regulation 3 of the Offshore Chemicals Regulations 2002.

5.25 Similarly we have exempted from marine licensing discharges of oil which need a permit under the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005.

5.26 This exemption will apply to the disposal of drilling muds, which is now regulated under the Offshore Chemicals Regulations 2002.

Defence

5.27 The new licensing system applies to the Crown. However, there are some defence-related activities where the licensing process could undermine the operational effectiveness of UK forces. This includes licensable activities that are carried out by contractors in support of defence operations.

5.28 We have, therefore, exempted the types of licensable activity that the Ministry of Defence or their contractors carry out during operations i.e. deposits, removals from the seabed, deposit and use of explosives and incineration. The types of activity that are covered by the exemption include operational activities by naval ships, weapons firings from land-based equipment and systems; activities in direct support of training by UK armed forces of Royal Fleet artillery; tests and trials of defence equipment and systems; and recovery of defence assets.

5.29 The exemption will not apply to commercial activities carried out by MOD contractors for customers other than the Ministry of Defence. The exemption does not apply to licensable activities that do not form part of normal defence operations for example, constructing, altering and improving works and dredging. The Ministry of Defence or contractor will seek approval for such projects like any other developer from the MMO.

5.30 The Royal Navy occasionally sinks a redundant vessel in what is known as a "SINKEX" exercise. Since this involves disposal of waste and is not at the place of production (see Box 1), this activity is not exempt from licensing.

Environmental Permitting

5.31 Certain waste management activities in England and Wales on land and in the territorial sea require a permit from the Environment Agency. At sea[11] operators will need a marine licence from the MMO rather than an Environmental Permit for projects (or parts of projects) that involve waste recovery or the disposal of waste at sea.

5.32 However, dismantling of ships prior to recovery is regulated under Environmental Permitting than marine licensing, even if some of the activity takes place below Mean High Water Springs as a result of an exemption. The Environmental Permit will include conditions, if necessary, to deal with any effects on the marine environment.

5.33 Other activities associated with ship dismantling will need a licence if they take place below Mean High Water Springs. These might include, for example, dredging to allow a redundant ship to access a dry dock or repair of dock walls etc. The disposal at sea of any products of dismantling ships will need a marine licence.

Aggregate dredging

5.34 At present, people carrying out new aggregate dredging need permission under the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007. As explained elsewhere in the guidance, we have repealed these Regulations because marine licensing under the Act now covers removals from the seabed and dredging. In future – subject to some transitional arrangements for activity consented under the 2007 regulations – all marine aggregate dredging will need a marine licence.

5.35 However, some activities that take place during dredging activity are exempted. Firstly, a dredger may bring up other objects - as well as aggregates – from the seabed, e.g. old munitions. A vessel will not need a licence to return these objects to the sea.[12] Secondly, an aggregate dredger may discharge water either by overflow returns through its scuppers or by pumping water from the hold of the vessel to drain a cargo. Dredgers will not need a marine licence for such discharges during the dredging operation, on completion of dredging or on the return trip to port.

[11] Below Mean High Water Springs

[12] The British Marine Aggregate Producers Association note that the industry operates an archaeological reporting protocol in partnership with English Heritage on the reporting of non-aggregate items and that industry and the Crown Estate has developed guidance on munitions with the Ministry of Defence and others (Guidance Note - Dealing with munitions in marine sediments, March 2010)

Oil spill treatment products (including dispersants), chemical treatments, reagents and tracers

5.36 There are some products that are used at sea under certain circumstances where it is possible to assess risks in advance and for the MMO to give prior approval to their use. These product groups include:

- Products used to disperse or otherwise treat oil spills
- Products used to treat chemical pollution
- Products used to tackle fouling of the sea or seabed (e.g. excessive algal growth or problems caused by invasive species such as non-native sea squirts)
- Tracers used to assess the movement of currents etc.
- Reagents used in very small quantities in some scientific equipment

5.37 The MMO has the powers to agree a list of approved products in each category. It can also apply conditions to the use of the products. The MMO website lists approved products and the conditions that apply to their use.

5.38 If you plan to use oil spill treatment products in depths of less than 20 metres or within one nautical mile of such an area, the exemption only applies if you first get the MMO's agreement to the use of the dispersant. Outside of this area approval is not required, however it is strongly advised that MMO advice is sought for any planned use. The use of any oil or chemical treatment products below the surface of the sea will need MMO approval. This condition is designed to regulate subsea injection of treatment substances, not to regulate deposits onto the sea surface which subsequently sink below the surface of the sea.

Harbour maintenance

5.39 Harbour authorities often need to do small-scale works to maintain their facilities. These works may need a marine licence. To avoid harbours having to get a licence every time they carry out minor maintenance works, we have exempted deposits, construction works and removals from the seabed by or on behalf of a Harbour Authority. The exemption only applies if the activity is carried on within the boundaries of the works being maintained.

Navigation and maintenance

5.40 You will not need a marine licence for deposits of any substance or object in the normal course of navigation or maintenance of a vehicle, vessel, aircraft or marine structure. This is to allow routine activities such as the deposit of anchors or the mandatory testing of fire fighting equipment or propeller polishing to be carried out without the need for a licence.

5.41 Some activities by bodies entrusted with ensuring safe navigation are exempt from marine licensing. A conservancy authority, harbour authority, lighthouse authority or a body having powers to maintain canal or other inland navigation

including tidal waters will not need a marine licence to remove anything causing or likely to cause an obstruction or danger to navigation. This exemption is not, however, intended to give such authorities a free hand to damage or destroy known features of historic or cultural interest. Marine Plans developed by the MMO will take into account the desirability of sustaining and enhancing the significance of heritage assets (both designated and undesignated). Public authorities, with navigational safety responsibilities, will need to take authorisation or licensing decisions about activities that affect heritage assets in accordance with such Plans. Any decisions which fall out of realm of 'authorisation or licensing' made by public authorities must be made with regard to Marine Plans.

5.42 Harbour authorities and lighthouse authorities will not need a licence to deposit or remove piled or swinging/trot moorings or aids to navigation (such as a marker buoy). People carrying out such activities with the consent of a harbour authority or lighthouse authority (where such consent is required) will not need a marine licence.

5.43 This exemption does not apply to the deposit or construction of pontoons. You will need a licence for such activities.

Coast protection, drainage and flood defence

5.44 We have exempted activities carried out by or on behalf of the Environment Agency to maintain coast protection, drainage and flood defence works. Coast protection authorities are exempt for activities that they carry out – or are carried out on their behalf – to maintain coast protection works. In both cases, the exemption is subject to the activity being carried on within the existing boundaries of the works and it does not apply to beach replenishment. (Part 1 of the Coast Protection Act 1949 defines maritime local authorities as the coast protection authority for their district.)

5.45 We have also exempted emergency works carried out by the Environment Agency in response to any flood or imminent risk of flooding but the Agency will need to get the MMO's approval before carrying out such works.

Cables and pipelines - emergencies

5.46 We have exempted from licensing deposit, removal and dredging activity carried out to inspect or repair a cable or pipeline in an emergency. This is subject to the MMO's agreement before the activity takes place.

Scientific equipment

5.47 In most cases you will not need a marine licence to deposit scientific equipment at sea (or to remove it). The exemption also applies to the deposit of associated equipment. The exemption does not apply to related construction works, for example to build a structure at sea to contain scientific equipment. Nor does the exemption apply to dredging - which is defined in Section 66 (2) of the Act - as any activity which involves using any device to move material from one part of the seabed to another.

5.48 However, this exemption does not apply where the deposit affects - to a specified degree - areas that have been designated under certain conservation legislation. There are different thresholds in different conservation legislation. This is reflected in the exemption from marine licensing for the deposit of scientific equipment. The exemption does not apply if the deposit is:-

- A plan or project likely (either alone or in combination with other plans or projects) to have a significant effect on a Special Conservation Area designated under the EU Habitats Directive or a Special Protection Area classified under the Birds Directive
- Is likely to have a significant effect on a Ramsar site (i.e. Wetlands of International Importance)
- Is capable of affecting (other than insignificantly) the protected features of a Marine Conservation Zone or any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent.

5.49 It is up to the applicant to satisfy themselves that their activity will not have such an effect. If you are in any doubt over whether your activity will affect such a site, you should speak to the relevant nature conservation body (Natural England for inshore waters within 12 miles of the coast and the Joint Nature Conservation Committee for offshore waters).

5.50 The exemption only applies if the scientific equipment does not cause an obstruction or pose a danger to navigation.

Wrecks

5.51 We have exempted from licensing deposits and removals in relation to providing signs for divers on wrecks protected under the Protection of Wrecks Act 1973. Activities on these wrecks require approval from English Heritage acting on the Secretary of State's behalf under the 1973 Act.

Bored Tunnels

5.52 Licensable activities associated with the construction or operation of bored tunnels that are carried out wholly under the seabed will not need a marine licence. This exemption does not apply to deposits of material for the purpose of disposal nor does the exemption cover activities that take place in the sea or on the sea bed.

5.53 The exemption only applies if the licensing authority is notified in advance of the intention to carry on the activity. The exemption includes a condition that the construction of the tunnel does not adversely affect the environment of the UK marine area or the living resources that it supports.

Miscellaneous

5.54 You will not need a marine licence for:-

- any deposits to launch a vehicle, vessel, aircraft or marine structure.
- any activity to fight a fire or prevent its spread
- deposit any equipment to control, contain or recovery oil, mixtures containing oil, chemicals, flotsam or algal blooms

5.55 Local authorities will not normally need a licence to use a vehicle to remove litter from a beach. However, the conditions which apply to the deposit of scientific equipments also apply to litter cleaning - if the activity could affect Special Conservation Areas designated under the EU Habitats Directive, Special Protection Areas classified under the Birds Directive, Ramsar sites and Marine Conservation Zones.

5.56 Crossrail is the new railway line that from 2017 will link Heathrow Airport, the West End, the City of London and Canary Wharf. We have exempted from marine licensing works listed in the Crossrail Act 2008.

5.57 We have exempted from licensing deep sea mining activity which is regulated under the Deep Sea Mining (Temporary Provisions) Act 1981.

5.58 We have exempted from licensing any deposit or removal activities carried on as part of an investigation into an aircraft accident. This is intended to facilitate the speedy investigation into the causes of an accident; it is not intended to exempt the salvage of historic aircraft.

5.59 We have exempted from licensing deposits by Natural England to place markers to indicate the existence and boundaries of EU marine conservation sites. Any such deposits must have been approved by the MMO before they take place.

Rights of foreign vessels under international law

5.60 There is a general exemption to ensure that rights under international maritime law of non-EU countries and sovereign vessels from other countries are not infringed. These rights apply to third country vessels (i.e. not EU or UK vessels) and to Government ships and aircraft while they are being used only on government non-commercial service. For example, Article 236 of the United Nations Convention on the Law of the Sea specifies measures to protect the marine environment in the territorial sea do not apply to vessels etc. engaged on Government non-commercial service.

5.61 Another case where the balance of rights and responsibilities within international maritime law applies is in relation to cultural heritage, such as wreck sites, remains of settlements lost to the sea etc. The importance of such heritage is recognised in the Act in the definition of marine environment. The MMO will consider the effect of <u>all</u> licence applications on our maritime heritage as part of the decision-making process.

5.62 Marine licensing applies to removing items of historic interest from the seabed. A marine licence will always be needed to use a vehicle, vessel, aircraft, marine

structure or floating container to remove an object of historic interest within UK territorial waters. Government ships remain UK property wherever they are in the world even when they become wrecks. However, if the wreck is not owned by the UK or other sovereign Government a marine licence may not be needed to remove an object from a wreck outside our territorial waters. However, this only applies to the removal of the object itself. The exemption will not apply if a project involves other activities that need a licence e.g. excavation around a wreck. In case of any doubt you should seek advice from the MMO.

Scottish inshore region

5.63 The scope of the marine licensing system under the Act covers certain activities carried on from British vessel in the Scottish inshore region (as activities from such vessels are licensable anywhere, and not just in the UK marine licensing area). However, such activities carried out in the Scottish inshore region are exempt because the Scottish Executive will license them under the Marine (Scotland) Act 2010. This will avoid people needing to get two licences for the same activity.

Q: My project is exempt but do I need to let the MMO know that I am doing it?
A: In most cases no. But if your project involves the disposal or recovery of waste you may need to do so. Check the MMO's website for details

Q: Do I need a marine licence for an effluent discharge to the sea from a pipeline on land (e.g. from a power station or sewage treatment plant)?

A: No. These discharges are regulated under water quality legislation

6. Public Register

This Chapter explains what information the Public Register will contain on marine licence applications, licences granted and compliance and enforcement action.

6.1 The MMO and DECC will keep a public register of marine licensing information. The register must contain information on applications; licences granted, revoked and varied; information supplied in connection with licences, convictions, other enforcement action and remedial action and other information set out in the Marine Licensing (Register of Licensing Information) Regulations 2011. The MMO (and DECC in relation to marine licences for oil and gas related activities) will maintain this register in line with Data Protection Act requirements.

6.2 The Register will contain certain common information about any application or licence, for example the date an application was made, the name and address of the applicant/licence holder, the marine plan area to which the project relates, details of environmental/human health studies supplied with applications etc. In addition, the Register will contain information on different types of licensable activities: - deposit of substances or objects; scuttling, constructing, altering or improving works; use of vehicle etc to remove substances or objects from sea bed; dredging; deposit or use of explosives; incineration or loading a vehicle etc for incineration.

6.3 For example, in relation to dredging, the Regulations require that the Register holds details of the type of dredging to be carried out; the location (in latitude and longitude on the World Geodetic System 1984 or Ordnance Survey coordinates) where the dredging is to be carried out; any information held by the authority on the contamination of the material to be dredged.

6.4 The Register will also need to contain information on variation, suspension, revocation and transfer of marine licences and on enforcement, convictions and remedial action.

6.5 The Register may be kept in any form. We envisage that most of the information will be available from the MMO's website. However, some documents e.g. environmental statements may be very large files which licensing bodies like the MMO may wish to supply on demand. The Act allows for this and for the licensing body to require payment of a reasonable charge for supplying copies.

6.6 In accordance with the requirements of the Act, information will not appear on the Register if the Secretary of State decides that its release would be contrary to the interests of national security The Act also allows licensing authorities to exclude commercially or industrially sensitive information from the register where such confidentiality is provided for by law to protect genuine commercial interest. The licensing authority would need to review such exclusions every four years. The exclusion of such information and the outcome of any review of the exclusion will be recorded on the Public Register.

7. Nationally significant infrastructure projects

This Chapter explains the arrangements that apply for nationally significant infrastructure and the role that MMO will play in the decision-making process for such projects

7.1 The Planning Act 2008 created a new system for giving development consent to nationally significant infrastructure projects. The Infrastructure Planning Commission (IPC) examines applications for development consent for such projects. Once the Government has designated a relevant National Policy Statement, the IPC is also responsible for determining such applications and issuing Development Consent Orders (DCOs).

7.2 The Planning Act cover projects at sea as well as on land. The marine projects it deals with include large renewable energy projects (over 100 megawatts - wind farms mainly) and large harbour developments. These projects are also likely to need a marine licence because they will involve activities which are licensable under Part 4 of the Marine and Coastal Access Act. The Planning Act enables DCO's for projects which affect the marine environment to include provisions which deem marine licences to have been issued. The MMO will advise IPC on what such provisions should be.

7.3 The MMO will enforce the parts of a DCO that relate to a deemed marine licence and will be responsible for dealing with any breaches of any conditions of those approvals. As required by the Marine and Coastal Access Act, the Secretary of State has given guidance to the MMO on the representations it may make on projects that are dealt with by the IPC:- Guidance to MMO on major infrastructure projects