

Marine Conservation Under the Marine Act (NI) 2013

Draft legislation to introduce fixed monetary penalties for the enforcement of byelaws protecting Marine Conservation Zones and European Marine Sites.

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Department of the
Environment

www.doeni.gov.uk

Contents

	Page
Purpose of this document.....	1
Confidentiality of consultations	3
1. Introduction & Background	4
2. Sanctions & Enforcement	11
3. Fixed Monetary Penalty Procedures.....	16
4. Appeals process	21
5. Guidance as to the use of FMPs	23
6. Glossary	24
7. List of consultation questions	26
Annex A – Draft legislation	27
Annex B – Regulatory Impact Assessment	34
Annex C – Other Assessments.....	38

Purpose of this document

This consultation seeks views on draft legislation (The Marine Conservation (Fixed Monetary Penalties) Order (Northern Ireland) 2014). The legislation introduces a fixed monetary penalty (FMP) system for the enforcement of byelaws which protect Marine Conservation Zones (MCZs) and European marine sites in the Northern Ireland inshore region. This legislation is being brought forward under the Marine Act (Northern Ireland) 2013 (the Act).

We welcome comments from individuals and organisations which have an interest in the sustainable development of the Northern Ireland marine area.

The draft legislation is included in Annex A and may be subject to change following this consultation. In instances where you wish to make comment, it would be helpful if you could include the paragraph reference and evidence to support your view.

HOW TO RESPOND

You are invited to respond to this consultation by not later than **5th September 2014**.

Responses can be sent either by e-mail or post.

E-mail: marineteam@doeni.gov.uk

Post: Department of the Environment
Marine Division – Marine Policy Team
Level 6
Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast
BT2 7EG

Should you have any enquiries please send them to marineteam@doeni.gov.uk or telephone **02890 823556**.

The consultation paper is also available on the Department's website at www.doeni.gov.uk/marine_policy.

There is no requirement to respond to all of the questions in this consultation.

You should indicate clearly which question(s) or section(s) of the consultation you are responding to using paragraph numbers.

Please also provide:

- **Your name**
- **Your contact details**
- **The organisation you represent (where applicable)**
- **The main area of interest with which you identify** – for example, nature conservation, fisheries, industry/transport, aquaculture, recreation/tourism, academic and scientific, local government, voluntary/community group, public sector, local partnership, other.

This information will assist with the analysis of the responses received.

How do I obtain further copies of this consultation paper?

Copies of this consultation paper may be obtained by writing to the above address or:

- Via the Department's website at: www.doeni.gov.uk/marine_policy
- By telephone: 028 90823 556
- By text phone: 028 9054 0642
- By email: marineteam@doeni.gov.uk

This document may be made available in alternative formats, please contact us to discuss your requirements.

CONFIDENTIALITY OF CONSULTATIONS

FREEDOM OF INFORMATION ACT 2000 / ENVIRONMENTAL INFORMATION REGULATIONS 2004

Following the end of the consultation we shall publish a paper summarising the responses. Information you provide in your response to this consultation, including personal information, may be published or disclosed in accordance with the Freedom of Information Act 2000 (FOIA). If you want the information that you provide to be treated as confidential, please tell us why but be aware that, under the FOIA, we cannot guarantee confidentiality.

If you are replying as an individual, the Department will process your personal data in accordance with the Data Protection Act 1998 and this will mean that if you request confidentiality, your personal information will not be disclosed to third parties.

What happens next?

Following the closing date for the consultation on **5th September 2014**, all responses will be considered along with any other available evidence to help us reach decisions on the proposed legislation.

1. Introduction

- 1.1 This consultation seeks views on the key features of the proposed fixed monetary penalty legislation for Marine Conservation Zones (MCZs) and European marine sites in Northern Ireland's inshore region¹ and adjacent areas of land designated as part of a MCZ.
- 1.2 Sections 26 and 29 of the Marine Act (Northern Ireland) 2013 give the Department of the Environment (the Department) powers to make byelaws to enhance the sustainable management and protection of MCZs. The byelaws may apply to any area in the Northern Ireland inshore region or any other part of Northern Ireland to meet the specific objectives of MCZs.
- 1.3 Section 32 of the Act makes it an offence to breach any condition of a byelaw. In addition, section 35 gives the Department the power to impose a fixed monetary penalty (FMP) on a person in relation to an offence committed under section 32. Table 1 sets out the various sanctions that can be used under the Act and where fixed monetary penalties may be applied.
- 1.4 Strangford Lough Marine Nature Reserve is now a Marine Conservation Zone by virtue of section 40(2) of the Act. Any new byelaws for this site will be made under section 26 of the Act and existing byelaws (originally made using powers set out in Article 21 of the Nature Conservation and Amenity Lands Order) become equivalent to those made under that section (by virtue of section 40(4)).
- 1.5 In addition, powers for the making of new byelaws and their enforcement are extended to European Marine Sites (Special Areas of Conservation and Special Protection Areas) by virtue of section 40(5) of the Marine Act, which replaces regulation 31 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995.
- 1.6 This means that fixed penalty notices can be applied to all new byelaws for European marine sites since they are made under section 26 of the Marine Act.

¹ See section 2 of the Marine Act (NI) 2013

- 1.7 A number of predominantly terrestrial protected sites may have a coastal or marine area covered by the designation. Section 40(5) would allow for the application of new byelaws under section 26 to the marine parts of any SPA or SAC, and consequently fixed penalties could be applied to these byelaws.
- 1.8 Section 40(4) of the Marine Act does not amend regulation 23 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 and consequently any existing byelaws² would not be equivalent to those made under section 26, and fixed monetary penalties cannot be imposed in respect of any byelaws for these sites.

Table 1 - Enforcement Provisions contained in the Marine Act (NI) 2013, c.10

Marine Act (NI) 2013, (Byelaws for the protection of MCZs)	Intention of relevant section	Types of monetary penalty that may be applied.	Scale of monetary penalty that may be applied.
Byelaws (s 26)	To further the conservation objectives of a MCZ	(i) Fixed monetary penalty, (s 35) or (ii) Fine on summary conviction (s 32)	(i) not to exceed level 1 on the standard scale ³ (currently £200) (ii) not to exceed level 5 on the standard scale (currently £5,000)
Emergency byelaws (s 28) Orders made urgently	Where there is an urgent need for protection, in order to further the conservation objectives of a MCZ		
Interim byelaws (s 29)	Where there is an urgent need to protect features that may be designated		
General offence (s 33)	To prohibit intentional and reckless acts which will, or may, significantly hinder the conservation objectives of a MCZ.	(i) Fine on summary conviction (Magistrates Court) , or (ii) Fine on indictment (High Court)	(i) up to £50,000 (ii) unlimited

² The bye-laws are made through powers set out in Article 19 of the Nature Conservation and Amenity Lands Order 1985.

³ Section 37 of the Criminal Justice Act 1982

Background

- 1.8 The sea around Northern Ireland is as environmentally important and diverse as the land, and as fundamental to our economic prosperity. It is important that it is managed sustainably and promoted as a valuable social and economic asset. The Department is committed to a clean, healthy, safe, productive and biologically diverse marine and coastal environment that meets the long term needs of people and nature. Marine nature conservation is an integral component of how this can be achieved.
- 1.9 The Marine Act (Northern Ireland) 2013 gave the Department of the Environment new powers to better protect and manage the marine environment of Northern Ireland. These powers include a new mechanism for the conservation of marine biodiversity through the designation of a Marine Conservation Zones – a new type of marine protected area (MPA).
- 1.10 Under Article 13(4) of the Marine Strategy Framework Directive (MSFD), the UK Government is committed to establishing a network of marine protected areas (MPAs) by 2016.

The makeup of the MPA network

- 1.11 The Northern Ireland MPA network will comprise European marine sites that are Special Protection Areas (SPA)⁴, and Special Areas of Conservation (SAC)⁵ together with Marine Conservation Zones (MCZs), marine parts of Ramsar sites⁶ and Areas of Special Scientific Interest (ASSI)⁷ (**Figure 1**). The Act allows for overlap of sites designated under different legislation, but the Department intends MCZs to complement (and not duplicate) the existing site designation and protection measures for European marine sites.

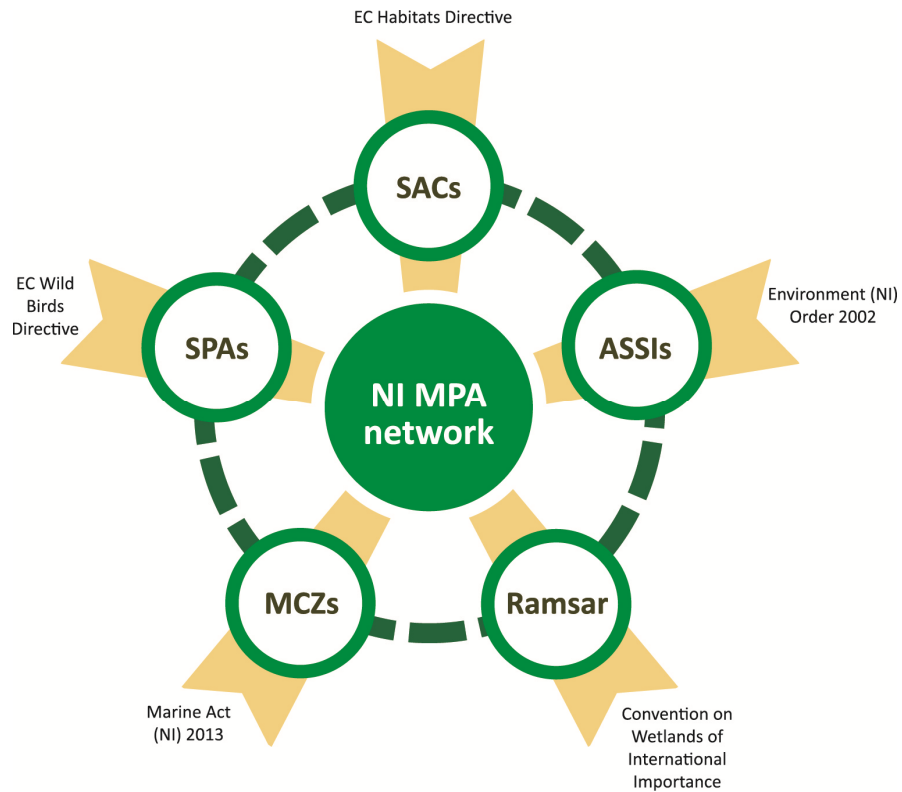
⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:020:0007:0025:EN:PDF>

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0043:EN:NOT>

⁶ http://www.ramsar.org/cda/en/ramsar-home/main/ramsar/1_4000_0__

⁷:www.legislation.gov.uk/nisi/2002/3153/contents

Figure 1 illustrates the contribution of nature conservation legislation governing the marine area to Northern Ireland’s Marine Protected Area (MPA) network.



Geographical Scope

- 1.12 Section 26 of the Act provides that a byelaw “may be made so as to apply to any area in the Northern Ireland inshore region or any other part of Northern Ireland”.
- 1.13 Section 2 of the Act defines the Northern Ireland inshore region, as the seas extending 12 nautical miles out from Northern Ireland’s coastline, and inland along every estuary, river or channel so far as the tide flows at mean high water spring tide.⁸

⁸ Please refer to the Act for the full definition.

Possible uses of byelaws to control unregulated activities

1.14 It should be noted that all byelaws will be developed and tailored to meet the specific needs of a MCZ or any constituent part, and will be subject to the consultation process specified in the Act. The following list is only suggestive of typical uses that byelaws could be designed to meet and is not exhaustive.

Vessel speed

1.15 Vessels travelling at speed can cause impacts through noise and visual disturbance, and also by increasing the amount of sediment in the water. There is also an increased risk of vessels striking animals when they are travelling quickly. Byelaws could be used to create a permanent or seasonal speed limit in all or part of the MCZ, as well as around the site if noise disturbance was likely to transfer into the site and impact on the features therein. Byelaws could also be used to create a route through or around an MCZ within which speed is not restricted, thereby encouraging recreational sea-users to avoid entering more vulnerable areas.

Anchoring

1.16 Anchoring can cause impacts by damaging delicate seagrass beds, fanshells, and other sensitive marine habitats/species. Byelaws could be used to control this activity on a seasonal or permanent basis, throughout the whole or part of the site.

Access of vessels

1.17 Vessel access to MCZs may be restricted permanently or seasonally from all or parts of MCZs. Smaller vessels, in particular those used for recreational purposes, may have greater potential to disturb sensitive species; they tend to have smaller, loud motors, and are frequently driven around within a localised area, increasing the exposure of vulnerable animals to disturbance.

1.18 Wildlife tourism is a recreational pastime which may also be controlled by such measures. Marine mammal watching is very popular in some parts of Northern Ireland, and whilst for the most part it is carried out with due regard for the well-

being of animals, there are some disturbance implications which result from the simple act of a large vessel entering water close to sensitive species. Some restrictions could be introduced for such vessels (permanently or seasonally). More detailed controls could be introduced where the Department could require operators to be accredited to a scheme of best practice, or to only be capable of carrying a certain number of passengers.

Foreshore access

1.19 Byelaws could be made to control (usually vehicular) access across the foreshore, to protect features from damage by the vehicles, and from noise and visual disturbance. Byelaws may also be used to limit the number of people/vehicles/returns across an area of shore. Access may be restricted to a specified route – which may be varied seasonally to relieve/rotate pressure if appropriate. Sensitive habitats would include eel grass beds – which are sensitive to tramping by foot, as well as vehicular access. Any such controls could operate over the entire foreshore, or parts of it, within the MCZ

Shore/cliff based recreational activities

1.20 In addition to access across the foreshore, the Department may also need to prevent certain activities that have a damaging or disturbing effect on marine biodiversity such as eel grass and bird feeding areas. Examples of disturbing activities might include the use of quad bikes, hovercraft, motor bikes, wildfowling, horse riding, cycling, land yachting, kite-surfing, climbing and coastering. Often controls would be localised and might be seasonal, e.g. if the sensitivity were related to a breeding season such as for seals or terns etc. The Department's powers extend to any activity undertaken in or around an MCZ, if it is impacting on the objectives of the site.

Educational visits

1.21 The Department may also control visitor numbers to particular locations at specific times of the year. This will help avoid disturbance of vulnerable species.

Diving

- 1.22 Diving (including use of boats, anchoring and access for vehicles) can have an impact on the sea bed through direct damage from uncontrolled finning and removal of marine organisms. Diving can also create disturbance to birds and marine mammals and create noise in sensitive areas. Byelaws may be required to reduce damage to special features and habitats within the MCZ by limiting numbers or by allowing only specific types of diving, for example, for scientific research purposes.

Exemptions to MCZ byelaws

- 1.23 In instances where an activity has been prohibited by means of a byelaw designated under the Act, subsection 26(5) of the Act enables the Department to issue a permit, granting an exemption to some or all of the conditions of that byelaw. It is proposed that these permits be issued using an administrative procedure. They will allow the Department to show flexibility on a case by case basis when considering a possible exemption proposal. Permits may impose certain conditions, which can serve to reduce the impacts on biodiversity (e.g. a permit to dive may be issued with the condition that no more than a certain number of divers may be in the water at once). The Department may also limit the number of permits issued (e.g. annually) in order to control the intensity of certain activities.

2. Sanctions & enforcement

Why is enforcement necessary?

- 2.1 Contravention of the conditions specified in a byelaw for a MCZ may have adverse impacts on the environment. Enforcement is necessary to ensure the consistent protection of the environment and to ensure that those who operate outside legal requirements should not be allowed to gain unfair advantage. A business or individual who shows little regard for the MCZ through their actions, may seemingly be providing a better experience for their client, but could be causing damage to vulnerable species of a MCZ.
- 2.2 The main purposes of environmental enforcement achieved through the measures available under the Act, of which fixed monetary penalties are an important facet, are to:
- prevent continuing environmental risk or harm;
 - secure improvements leading to compliance;
 - ensure environmental damage is put right;
 - remove any financial benefit from non-compliance; and
 - punish behaviour that seriously undermines regulation, at its worst intentional, reckless or grossly negligent non-compliance.
- 2.3 If enforcement achieves these purposes, it will help to deter future non-compliance with environmental requirements; and prevent environmental harm from occurring in the first place.
- 2.4 The primary aims of fixed monetary penalties as an enforcement tool is to prevent harm and interference being caused to marine protected areas.

Civil sanctions

- 2.5 Civil sanctions enable a sanction to be applied on those who disregard the requirements of a byelaw without them gaining a criminal record. Using Civil Sanctions rather than the criminal process will give a simpler and cheaper process, resulting in a more cost effective and less time consuming administration of the penalty.

- 2.6 Subsection 32(1) of the Act creates an offence for a person to contravene any byelaws made under section 26 or 29. Section 35 provides for a fixed monetary penalty to be applied up to a maximum of level one on the standard scale (currently £200) for that level of offence.
- 2.7 Fixed Monetary Penalties will be used to sanction simple breaches of specific provisions of the relevant byelaw for a particular MCZ. It should be noted that environmental damage does not necessarily need to have occurred for a penalty to be applied. The FMP is being applied for the contravention of a condition of a byelaw and not the level of environmental damage. Should an activity involve more serious environmental damage then the Department reserves the right to take criminal proceedings against an individual or business.

Who will use the new Fixed Monetary Penalties?

- 2.8 Enforcement functions will be carried out by appointed officers on commencement of the new Fixed Monetary Penalties Order. Suitably trained Enforcement Officers will inspect and gather evidence in accordance with common enforcement powers as set out in chapter 2 of part 8 of the marine and Coastal Access Act 2009. These powers have been extended to nature conservation enforcement by virtue of sections 38 & 39 of the Marine Act (Northern Ireland) 2013. Using these powers the Department will then determine the most appropriate sanction or course of action to take, depending on the circumstances of each case. Enforcement officers will have the powers to seize items or materials, carry out inspections and gather evidence. If appropriate, a fixed monetary penalty notice may be issued or the Department may decide to take forward criminal proceedings if the seriousness of the infringement indicates that this action is appropriate.

Standards of proof when issuing a fixed monetary penalty

- 2.9 In issuing a notice of intent for a fixed monetary penalty, the Department will have to satisfy itself beyond reasonable doubt that the offence to which the penalty relates has been committed. The fact that the Department will have to prove the offence has been committed and to apply a criminal standard of proof provides an important assurance to those being regulated, that monetary

penalties will not be seen as an 'easy option' for the Department. They will be used where it is proportionate and appropriate.

Proposed level of FMP

2.10 The maximum level of an FMP is prescribed in the Act (section 35 (4)) as not exceeding level 1 on the standard scale (currently £200).

2.11 The Department proposes to set the FMP level in the Order at:

- £100 for individuals (including, for example, sole traders), and
- £200 for all others (companies, etc).

Question 1: Do you agree with the proposed levels of Fixed Monetary Penalties for individuals and others? If not, what should be the level of penalty and why?

Intention of the Articles in the draft Order

Part 1. Introductory provisions

Contains introductory provisions, such as the powers under which the Order will be made and interpretation of various aspects such as the identification of the appellate body.

Part 2. Fixed monetary penalties

Contains provisions relating to fixed monetary penalties.

Article 3 - confers the power on the Department to impose such a penalty and sets the amounts.

Article 4 - defines the information that must be included in a notice of intent.

Article 5 - allows for a discount of 50% of the monetary penalty, if paid within 28 days of the date on which the notice of intent was served.

Article 6 - If not paid, Article 6 enables a person to make representations and objections to the Department before the decision to issue a final notice is made.

Article 7 - requires the Department to take cognisance of those representations and objections, and specifies the information that must be included in the final notice, should it be issued.

Article 8 - allows for a discount of 50% of the monetary penalty, if paid within 28 days of the date on which the final notice was served.

Article 9 - specifies where late payment penalties can occur.

Article 10 - indicates where other sanctions may not be applied should the Department apply a fixed monetary penalty.

Part 3. Appeals

Contains provisions for making an appeal.

Article 11 - specifies the grounds of appeal under which an appeal may be made to the Appeals Commission.

Article 12 - identifies the appeals body and the legislation which sets its procedures.

Article 13 - defines the powers of the Appeals Commission, the procedures to be applied should a person make an appeal and the time limit for making an appeal.

Part 4. Guidance and publication of enforcement action

Contains provisions on guidance and publication of enforcement action.

Article 14 - requires the Department to publish guidance on the application of fixed monetary penalties and defines the information that must be included in that guidance.

Article 15 - requires the Department to publish reports from time to time on the enforcement action it has taken regarding the use of fixed monetary penalties. The Article also allows the Department to refrain from publishing information where it considers it appropriate to do so.

Part 5. General provisions

Contains general provisions.

Article 16 - enables the Department to recover unpaid monetary penalties as a civil debt or on the order of a court as if payable under a court order.

Article 17 - requires all payments to the Department under the fixed monetary penalties regime to be paid to the Northern Ireland Consolidated Fund.

Article 18 - enables the Department at any time to withdraw the final notice, reduce the amount payable or amend the notice to correct an error.

Article 19 - defines how the Department may serve a notice.

Article 20 - amends Article 293(9) of the Water and Sewerage Services (NI) Order 2006, so that the Appeals Commission has the final decision on an appeal made under the articles of this Order.

3. Fixed monetary penalties procedures

Notice of intent

- 3.1 Enforcement officers will carry out initial investigations in line with the Department's published enforcement policy. The officer may decide to issue a Notice of Intent at the time of the incident, should the officer be satisfied that an offence has been committed and that it is not serious enough to require consideration of the use of criminal proceedings. Where an offence is suspected, officers may gather evidence in order to assess and consider which, if any, response is appropriate. If the Department is satisfied beyond reasonable doubt that the person has committed the relevant offence and determines that a sanction is applicable but it is not proportionate to prosecute, then it may choose to issue a Notice of Intent for a fixed monetary penalty.
- 3.2 Once the Department has made a decision to impose a FMP, it must draw up a Notice of Intent to be sent to the company/individual who has committed the offence. The Notice of Intent must include the following specific information:
- a) the grounds for the proposal to impose the fixed monetary penalty,
 - b) the amount of the proposed fixed monetary penalty,
 - c) the effect of payment of the sum,
 - d) the right to make representations and objections,
 - e) the circumstances in which the Department may not impose the fixed monetary penalty,
 - f) the period within which liability to the fixed monetary penalty may be discharged,
 - g) the period within which representations and objections may be made.
- 3.3 Someone who has been served a notice of intent for a FMP will be able to either:
- a) discharge their liability for the offence by paying a sum of money to the Department, or
 - b) make written representations and objections to the Department against issuing of the fixed monetary penalty.

Discharging liability

- 3.4 In the event that the person decides to discharge their liability the proposed penalty level will be reduced by half for a discharge payment made within 28 days following the date on which the notice of intent was served.

Written representations & objections

- 3.5 A person who has been served with a Notice of Intent can object against the issuing of the FMP by making written representations to the Department. A senior officer within the Department will review the case and make a decision on whether or not to impose the FMP. The draft Order proposes that a person receiving a Notice of Intent has 28 days (starting from the day it was served) to make representations to the Department.

Decision-making stage

- 3.6 After this 28 day period has elapsed, where a person has not discharged their liability, the Department will decide whether or not to impose the FMP taking into account any written representations which have been made. During the 28 day window, the recipient of a Notice of Intent may provide new information, or new information may come to light which means the Department does not wish to impose (or have a case for imposing) the FMP.

Final notice

- 3.7 Where the Department decides to impose the FMP, it will issue a Final Notice which will include the following information:
- a) the grounds for imposing the penalty,
 - b) the amount of the penalty,
 - c) how payment may be made,
 - d) the period within which payment must be made,
 - e) any early payment discounts or late payment penalties,
 - f) rights of appeal, and
 - g) the consequences of non-payment.

Late / early payment and interest charges

- 3.8 The Act allows the Department to make provisions in the Order for the application of late or early payment arrangements to a FMP and also to apply interest charges, should they be required. In situations where people have made representations and received a Final Notice for an FMP, it is proposed that there will be an early payment discount to ensure that those people who choose to make representations within the allotted time are not penalised financially for exercising this right.
- 3.9 It is proposed that those sanctioned should pay 50% of the FMP, if payment is made within 28 days of the date on which the final notice was served, and they have made written representations within the allotted time from when the notice of intent was served.
- 3.10 In order to encourage those who have been sanctioned to pay fixed monetary penalties promptly, it is proposed that the Department should be able to impose a late payment charge equivalent of 50% of the amount of the FMP if the penalty remains unpaid more than 28 days after an FMP has been confirmed through a Final Notice. For example, where an individual fails to pay a FMP of £100 within 28 days of a Final Notice being served, the penalty will become £100 plus a £50 late penalty charge. If a payment remains outstanding, the Department has powers to initiate procedures to recover the payment.

Question 2: Do you understand the proposed payment methodology including early payment discounts and late payment charges for Fixed Monetary Penalties?

Question 3: Do you agree with the 50% discount incentive or late payment penalty proposed in the draft Order? If not, do you have an alternative approach?

Interest charges

3.11 Should a FMP remain outstanding, it is proposed that the Department should then be able to recover the penalty amount through a civil debt procedure or under a court order. This recovery process allows for the courts to apply costs and any interest charges.

Ability to withdraw a final notice

3.12 The draft Order proposes that the Department, at any time, should be able to amend or withdraw a Final Notice or reduce the amount payable for example, in order to correct an error.

Serving Notices

3.13 Any notice served to a person must be served using one of the following methods:

- a) personal delivery;
- b) addressing it to the person and leaving it at the appropriate address;
- c) addressing it to the person and sending it to that address by post;
- d) in a case where an address for service using electronic communications has been given by the person, sending it using electronic communications.

Permitted combinations of sanctions

3.14 The Act places restrictions on the combinations of sanctions that may be used in relation to the commission of an offence. Where a Notice of Intent for an FMP is served on a person, no criminal proceedings for that offence will be initiated before the end of the period in which the person may discharge liability to the FMP. If the person discharges liability for the FMP, they cannot be convicted of the offence at any time. Where a Final Notice in respect of a FMP is imposed, the person may not at any time be convicted of the offence.

Payment of penalties

3.15 Any money the Department receives as a result of the FMP process (that is, any discharge payment, or other financial penalty for late payment) will be paid into the Northern Ireland Consolidated Fund. This provides an assurance that the Department will not use monetary penalties to raise revenue for its own purposes.

Publication of enforcement action

3.16 Public confidence in the use of fixed monetary penalties calls for transparency. Without public information about fixed monetary penalties that have been imposed, the full gains from having a more proportionate set of enforcement tools will not be realised. The Department will therefore be required under Article 17 of the draft Order to publish occasional reports providing information on cases where:

- a) fixed monetary penalties have been imposed; and
- b) the penalty has been discharged.

4. Appeals process

Proposed system

- 4.1 We want to ensure that the new enforcement tools are used proportionately and fairly and that the Department makes effective decisions using transparent processes. Therefore, an appeal may be made to an appellate body (Water Appeals Commission) against the issuing of a FMP by the Department.
- 4.2 The Act requires that the appeals mechanisms come into effect at the same time as the requirement for a new fixed monetary penalty system is commenced.

The Water Appeals Commission (Appeals Commission)

- 4.3 The Water Appeals Commission has been selected as the appellate body for many reasons. It is an existing appeals organisation, with the necessary infrastructure and expertise in place. It can provide an efficient and tested process, and will be able to deliver a knowledgeable and definitive service. It is an independent appellate body, established under statute⁹ and is not part of any government Department
- 4.4 Development of another body would result in a requirement for extensive resources / monies to be used and a lengthy time delay due to the requirement for the development and enactment of legislation, provision of infrastructure, and the allocation and development of staff.

Question 4: Do you agree with the selection of the Water Appeals Commission as the appellate body?

Powers of the Appeals Commission

- 4.5 We propose that the Appeals Commission should have powers to quash, confirm or vary the Department's decision to impose a fixed monetary penalty.

⁹ Water and Sewerage Services (Northern Ireland) Order 2006

Who can appeal?

- 4.6 It is envisaged that appeals may only be made by a person who has had a fixed monetary penalty imposed on them. In line with existing legislation, third parties would not be allowed to appeal.

Timescale for making an appeal

- 4.7 It is proposed that once a person has been served with a final notice for a FMP, they will have 28 days to make an appeal to the Appeals Commission. This has been specified in Article 13 of the draft Order. Full details of the Appeals Commission's procedures can be obtained from the Water Appeals Commission website (www.pacni.gov.uk).

Grounds of appeal against fixed monetary penalties

- 4.7 The grounds for appeal against a FMP are set out in section 36(6) of the Marine Act (NI) 2013 and include:
- a) that the decision was based on an error of fact;
 - b) that the decision was wrong in law;
 - c) that the decision was unreasonable;
- 4.8 We want to ensure there are sufficient grounds for appeal so that the Department's decisions are able to be reviewed fully by the Appeals Commission. The draft Fixed Monetary Penalties Order therefore includes the provision that someone may appeal for any other reason permitted by the Appeals Commission.

Suspension of FMP notices pending an appeal

- 4.9 Any FMP notice which is the subject of an appeal, and any requirement in such a notice, is suspended pending determination of the appeal.

5. Guidance as to the use of fixed monetary penalties

- 5.1 Good quality, accessible support in the form of advice and guidance is an important part of making the new fixed monetary penalties system easy and transparent to use, for both those sanctioned by the Department and those completing enforcement duties.
- 5.2 The Department will develop written guidance to help individuals and businesses involved in the new fixed monetary penalty system before it is put in place.
- 5.3 The Act requires the Department to consult on, and publish, specific guidance on its proposed use of fixed monetary penalties and its revised enforcement policy. The guidance will set out the range of enforcement options available to the Department, the circumstances in which they will be used and how they will be applied, and must include the following:
 - a) the circumstances in which monetary penalties are likely to be imposed,
 - b) the circumstances in which they may not be imposed,
 - c) the amount of the penalty,
 - d) how liability for the penalty may be discharged and the effect of discharge,
and
 - e) rights to make representations and objections and rights of appeal.

6. Glossary

Appeal	The opportunity provided for the individual or business to challenge a decision made by the Department by appealing to the appellate body (Water Appeals Commission).
ASSI	Areas of Special Scientific Interest designated under The Environment (Northern Ireland) Order 2002.
Civil sanction	A fixed monetary penalty imposed by the Department
Criminal standard of proof	Level of evidence needed to prove that an offence has been committed. The Department must be satisfied 'beyond reasonable doubt' that an offence has been committed.
DARD	Department of Agriculture and Rural Development. Responsible for fisheries and aquaculture in the marine environment.
Discharge of liability	Payment of a sum of money made within 28 days following a notice of intent or a final notice, for a Fixed Monetary Penalty
DOE	The Department of the Environment. The Department with responsibility for marine conservation in Northern Ireland's inshore region.
Enforcement	Action taken in response to non-compliance.
Final notice	Notice served after the period for representations has ended which imposes a fixed monetary penalty.
Fixed Monetary Penalty (FMP)	Relatively low level financial penalty fixed by legislation which the Department may impose for contravention of a byelaw.
Late payment charge	Increase of penalty (50%) for payments made more than 28 days after the final notice for a FMP has been issued.
Notice of Intent	A notice served before imposing a FMP including details of what is proposed, grounds for the action, the right to make representations and objections etc.
Ramsar	Sites designated as internationally important wetlands following the adoption of the Convention of Wetlands of International Importance in 1971.
MPA	Marine Protected Area. This is a generic term used to refer to any area that contributes to the MPA network in Northern Ireland waters.
SAC	Special Areas of Conservation established under the provisions of EC Directive 92/43/EEC on the conservation of natural habitats and of the wild flora and fauna.

SPA	Special Protection Areas established under the provisions of EC Directive 79/409/EEC (now codified in Directive 2009/147/EC) on the conservation of wild birds.
Written representations	Objections made to the Department about the proposal to impose a civil sanction in the form of a FMP. The person may take the opportunity to raise any defences in respect of the proposed sanction.

7. List of consultation questions

- 1) Do you agree with the proposed levels of Fixed Monetary Penalties for individuals and others? If not, what should be the level and why?
- 2) Do you understand the proposed payment methodology including early payment discounts and late payment charges for Fixed Monetary Penalties?
- 3) Do you agree with the 50% discount incentive or late payment penalty proposed in the draft Order? If not, do you have an alternative approach?
- 4) Do you agree with the selection of the Water Appeals Commission as the appeals body?

Comments are also sought on the potential costs and benefits identified in the Outline Regulatory Impact Assessment which will help inform the Final RIA.

ANNEX A

Draft Order

Draft Order laid before the Assembly under section 43 of the Marine Act (Northern Ireland) 2013, for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2014 No. 00

ENVIRONMENTAL PROTECTION

MARINE CONSERVATION

The Marine Conservation (Fixed Monetary Penalties) Order (Northern Ireland) 2014

Made - - - - - 2014

Coming into operation - - - - - 2014

The Department of the Environment, in exercise of the powers conferred by sections 35 and 46(1) of the Marine Act (Northern Ireland) 2013⁽¹⁰⁾, makes the following Order. In accordance with paragraph 4 of Schedule 2 to that Act the Department of the Environment has consulted such organisations as appear to it to be representative of persons substantively affected by the proposals and other such persons as it considers appropriate.

PART 1

Introductory provisions

Citation and commencement

1. This Order may be cited as the Marine Conservation (Fixed Monetary Penalties) Order (Northern Ireland) 2014 and comes into operation on 1st September 2014.

Interpretation

2. In this Order—

“Appeals Commission” means the Water Appeals Commission for Northern Ireland in accordance with Article 292 (Water Appeals Commission) of the Water and Sewerage Services (Northern Ireland) Order 2006⁽¹¹⁾;

⁽¹⁰⁾ 2013 c. 10
⁽¹¹⁾ S.I. 2006/3336 (N.I. 21)

“final notice” has the meaning given in Article 7(4);
“notice of intent” has the meaning given in Article 4(1);
“the Act” means the Marine Act (Northern Ireland) 2013; and
“the Department” means the Department of the Environment.

PART 2

Fixed monetary penalties

Power to impose a fixed monetary penalty

3.—(1) The Department may by notice impose a fixed monetary penalty on a person in relation to an offence under section 32(1) of the Act (Offence of contravening byelaws).

(1) The Department must, before imposing a fixed monetary penalty under paragraph (1), be satisfied beyond reasonable doubt that the person has committed the offence.

(2) The amount of the fixed monetary penalty is £100 for an individual or £200 in any other case.

Notice of intent

4.—(1) Where the Department proposes to impose a fixed monetary penalty on a person, it must serve a written notice of intent on that person.

(2) A notice of intent must—

- (a) state the amount of the penalty;
- (b) offer the person the opportunity to discharge their liability to the penalty by payment of 50% of the amount of the penalty within a period of 28 days beginning with the date on which the notice of intent is served;
- (c) include information as to—
 - (i) the grounds for the proposal to impose the fixed monetary penalty;
 - (ii) the effect of payment of the sum specified in Article 5;
 - (iii) the right to make representations and objections conferred by Article 6;
 - (iv) the period within which representations and objections may be made by virtue of Article 6;
 - (v) the circumstances in which the Department may not impose the fixed monetary penalty;
 - (vi) the period within which liability to the fixed monetary penalty may be discharged by virtue of Article 5; and
 - (vii) how payment may be made.

Discharge of liability

5. A person’s liability to a fixed monetary penalty is discharged if 50% of the amount of the penalty is paid within the period of 28 days beginning with the date on which the notice of intent is served.

Representations and objections

6.—(1) A person on whom a notice of intent is served may, within a period of 28 days beginning with the date on which the notice of intent is served, make written representations and objections to the Department in relation to the proposed imposition of the fixed monetary penalty.

(2) This Article does not apply where a person has discharged liability under Article 5.

Imposition of fixed monetary penalty

7.—(1) The Department must after the end of the period for making representations and objections decide whether to impose the fixed monetary penalty.

(2) In making the decision in accordance with paragraph (1) the Department must consider any representations or objections received.

(3) The Department must decide not to impose a fixed monetary penalty on a person where it is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence in relation to which the penalty is proposed.

(4) Where the Department decides to impose a fixed monetary penalty on a person, it must serve a final notice in writing on that person.

(5) The final notice must include information as to—

- (a) the grounds for imposing the penalty;
- (b) the Department's response to any representations and objections made;
- (c) the amount of the penalty;
- (d) how payment may be made;
- (e) the period within which payment must be made;
- (f) the effect of Article 8 (Discount for early payment);
- (g) the effect of Article 9 (Payment dates and late payment penalties);
- (h) right of appeal; and
- (i) the consequences of non-payment.

(6) This Article does not apply where a person has discharged liability under Article 5.

Discount for early payment

8. A person who makes representations or objections in accordance with Article 6 may discharge liability to a fixed monetary penalty by paying to the Department 50% of the amount of the penalty within a period of 28 days beginning with the date on which the final notice is served.

Payment dates and late payment penalties

9.—(1) Where no appeal is brought against the decision to impose a fixed monetary penalty, the penalty must be paid within a period of 28 days beginning with the date on which the final notice is served.

(2) If a fixed monetary penalty is not paid within the period specified in paragraph (1), the amount of the penalty shall be increased by 50%.

(3) Where an appeal is brought against the decision to impose a fixed monetary penalty but a fixed monetary penalty remains payable following that appeal, the penalty must be paid within a period of 28 days beginning with the date on which the appeal is determined.

(4) If a fixed monetary penalty is not paid within a period specified in paragraph (3), the amount of the penalty shall be increased by 50%.

Restrictions on other sanctions

10.—(1) Where a notice of intent has been served on a person—

- (a) no criminal proceedings for the offence to which the notice relates may be instituted against that person in respect of the act to which the notice relates before the end of the period of 28 days beginning with the date on which the notice of intent is served; and
- (b) if that person discharges liability in accordance with the notice, that person may not at any time be convicted of the offence to which the notice of intent relates.

(2) Where a fixed monetary penalty is imposed on a person, that person may not at any time be convicted of the offence in relation to which the penalty is imposed in respect of the act giving rise to the penalty.

PART 3

Appeals

Appeals against a fixed monetary penalty

11.—(1) A person on whom a fixed monetary penalty has been imposed may appeal against the decision to impose it on the grounds specified in paragraph (2).

(2) The grounds for appeal are—

- (a) that the decision is based on an error in fact;
- (b) that the decision is based on an error in law;
- (c) that the decision was unreasonable; and
- (d) any other reason permitted by the Appeals Commission.

Appeals body

12. An appeal under this Part is to the Appeals Commission, and except as otherwise provided for in this Order, must be determined in accordance with Article 293 (Procedures of the Water Appeals Commission) of the Water and Sewerage Services (Northern Ireland) Order 2006.

Appeals procedures

13.—(1) An appeal must—

- (a) be made by notice in writing containing the information specified in article 13(2);
- (b) be received by the Appeals Commission within 28 days from the date upon which the final notice is served.

(2) The information to be contained in a notice of appeal is—

- (a) the name, address (including any e-mail address) and telephone number of the appellant and any agent acting for the appellant; and
- (b) a statement of the grounds of appeal.

(3) A notice of appeal must be accompanied by—

- (a) the final notice;
- (b) any relevant correspondence;
- (c) all documents upon which the appellant wishes to rely;
- (d) such forms and other relevant information as may be required by the procedures of the Appeals Commission; and
- (e) a list of all the documents accompanying the notice of appeal detailing the dates of those documents.

(4) Before determining any appeal the Appeals Commission must, if either the appellant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the Appeals Commission.

(5) In an appeal where the commission of an offence is an issue requiring determination, the Department must prove the commission of the offence beyond reasonable doubt and in any other case the Appeals Commission must determine the standard of proof.

(6) A final notice which is the subject of an appeal, is suspended pending the determination of that appeal.

(7) The Appeals Commission may in respect of an appeal under Article 11 quash, confirm or vary the decision to impose the fixed monetary penalty.

PART 4

Guidance and publication of enforcement action

Guidance as to the use of fixed monetary penalties

- 14.**—(1) The Department must publish guidance about its use of the fixed monetary penalty.
- (2) The guidance must contain information as to—
- (a) the circumstances in which the fixed monetary penalty is likely to be imposed;
 - (b) the circumstances in which it may not be imposed;
 - (c) the amount of the penalty;
 - (d) how liability for the penalty may be discharged and the effect of the discharge;
 - (e) right to make representations and objections; and
 - (f) right of appeal.
- (3) The Department must revise the guidance where appropriate and publish any revised guidance.
- (4) The Department must consult such persons as it considers appropriate before publishing any guidance or revised guidance under this Article.
- (5) The Department must have regard to the guidance or revised guidance in exercising its functions.

Publication of enforcement action

- 15.**—(1) The Department must from time to time publish reports specifying—
- (a) the cases in which a fixed monetary penalty has been imposed; and
 - (b) the cases in which liability to the penalty has been discharged pursuant to Article 5.
- (2) In paragraph (1) the reference to cases in which a fixed monetary penalty has been imposed does not include cases where the fixed monetary penalty has been imposed but overturned on appeal.
- (3) Paragraph (1) does not apply in cases where the Department considers that it would be inappropriate to specify the information referred to in that paragraph.

PART 5

General provisions

Recovery of payments

- 16.**—(1) The Department may recover any amount of unpaid fixed monetary penalty imposed under this Order, and any amount of unpaid penalty for late payment payable under Article 9, as a civil debt.
- (2) The Department may recover any amount of unpaid fixed monetary penalty imposed under this Order and any amount of unpaid fixed monetary penalty for late payment payable under Article 9, on the order of a court, as if payable under a court order.

Payment of certain discharge payments into Consolidated Fund

- 17.** Where the Department receives any payment under this Order, the Department must pay it into the Northern Ireland Consolidated Fund.

Amending or withdrawing final notices

- 18.** The Department may at any time withdraw a final notice, reduce the amount payable in the final notice, or amend the final notice to correct an error.

Service of notices

19.—(1) Any notice that is required or authorised to be served on a person under this Order may be served on that person by any of the following methods—

- (a) personal delivery;
- (b) addressing it to the person and leaving it at the appropriate address;
- (c) addressing it to the person and sending it to that address by post; or
- (d) in the case where an address for service using electronic communications has been given by the person, sending it using electronic communications, in accordance with the conditions set out in paragraph (4), to that person at that address.

(2) In paragraph (1), “the appropriate address” means—

- (a) in the case of a body corporate, its registered or principal office in Northern Ireland;
- (b) in the case of a firm, the principal office of the partnership;
- (c) in the case of an unincorporated body or association, the principal office of the body or association; and
- (d) in any other case, the person’s usual or last known place of residence in Northern Ireland or last known place of business in Northern Ireland.

(3) in the case of—

- (a) a company registered outside Northern Ireland;
- (b) a firm carrying on business outside Northern Ireland; or
- (c) an unincorporated body or association with offices outside Northern Ireland;

the references in paragraph (2) to its principal office include references to its principal office within Northern Ireland (if any).

(4) The condition mentioned in paragraph (1)(d) is that the notice must be—

- (a) capable of being accessed by the person mentioned in that provision;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(5) For the purposes of paragraph (4), “legible in all respects” means that the information contained in the notice is available to that person to no lesser extent, than it would be if served by means of a notice in printed form.

Amendment to the Water and Sewerage Services (Northern Ireland) Order 2006

20.—(1) The Water and Sewerage Services (Northern Ireland) Order 2006 is amended in accordance with paragraph (2).

(2) In Article 293(9) (procedure of the Appeals Commission) replace sub-paragraphs (d) and (e) with the following—

- “(d) the Marine Licensing (Appeals) Regulations (Northern Ireland) 2011;
- (e) the Marine Licensing (Civil Sanctions) Order (Northern Ireland) 2011; and
- (f) the Marine Conservation (Fixed Monetary Penalties) Order (Northern Ireland) 2014.”⁽¹²⁾.

Sealed with the Official Seal of the Department of the Environment on xx 2014

⁽³⁾ Article 20 further amends an amendment to article 293(9) of the Water and Sewerage Services (Northern Ireland) Order 2006 that was applied under regulation 9 of the Marine Licensing (Appeals) Regulations 2011 No. 80.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides the Department of the Environment with the powers to apply fixed monetary penalties on persons who have contravened byelaws made under section 26 of the Marine Act (Northern Ireland) 2013 c. 10 (the Act).

Part 1 of this Order contains introductory provisions and definitions (see section 41 of the Act for further relevant definitions).

Part 2 contains provisions relating to fixed monetary penalties. Article 3 confers the power on the Department to impose such a penalty and sets the amounts. Article 4 defines the information that must be included in a notice of intent. Article 5 allows for a discount of 50% of the monetary penalty, if paid within 28 days of the date on which the notice of intent was served. Article 6 enables a person to make representations and objections to the Department before the decision to issue a final notice is made. Article 7 requires the Department to take cognisance of those representations and objections, and specifies the information that must be included in the final notice, should it be issued. Article 8 allows for a discount of 50% of the monetary penalty, if paid within 28 days of the date on which the final notice was served. Article 9 specifies when late payment penalties can be applied. Article 10 indicates where other sanctions may not be applied should the Department apply a fixed monetary penalty.

Part 3 contains provisions for making an appeal. Article 11 specifies the grounds of appeal under which an appeal may be made to the Appeals Commission. Article 12 identifies the appeals body and the legislation which sets its procedures. Article 13 defines the powers of the Appeals Commission, the procedures to be applied should a person make an appeal and the time limit for making an appeal.

Part 4 contains provisions on guidance and publication of enforcement action. Article 14 requires the Department to publish guidance on the application of fixed monetary penalties and defines the information that must be included in that guidance. Article 15 requires the Department to publish reports from time to time on the enforcement action it has been taken regarding the use of fixed monetary penalties. The Article also allows the Department to refrain from publishing information where it considers it inappropriate to do so.

Part 5 contains general provisions. Article 16 enables the Department to recover unpaid monetary penalties as a civil debt or on the order of a court, as if payable under a court order. Article 17 requires all payments to the Department under the fixed monetary penalties regime to be paid to the Northern Ireland Consolidated Fund. Article 18 enables the Department at any time to withdraw the final notice, reduce the amount payable or amend the notice to correct an error. Article 19 defines how the Department may serve a notice and Article 20 amends Article 293(9) of the Water and Sewerage Services (NI) Order 2006 so that the Appeals Commission has the final decision on an appeal made under the Articles of this Order.

Annex B

Outline Regulatory Impact Assessment

Introduction

This outline Regulatory Impact Assessment (RIA) sets out an initial view of the costs and benefits of the options available in the development of the proposed FMP Order. This is in line with the Department's policy to incorporate impact assessments throughout the policy development process.

Objectives

To provide the Department with a necessary enforcement tool to more fully protect the marine environment within zones designated for their unique environmental features.

To provide the complementary sanction to specifically designed byelaws for Northern Ireland's designated Marine Conservation Zones (MCZ) and European marine sites (EMS).

To enable the use of a proportionate and targeted response through a range of enforcement options for the protection of MCZs and EMS, through the application of a civil sanction, by way of a fixed monetary penalty.

Background

The Marine Act (Northern Ireland) 2013 (the Act) gave the Department new powers to better protect and manage the marine environment of Northern Ireland. These powers include a new mechanism for the conservation of marine biodiversity through the designation of Marine Conservation Zones (MCZs) – a new type of marine protected area.

MCZs will be created by a designation process and protected through the development of site specific management measures and where appropriate, byelaws; made for the purpose of furthering the conservation objectives of MCZs.

All MCZ designations and the development of the associated conservation objectives and management measures will be subject to an assessment setting out the anticipated costs and benefits of the proposed designation, including the identified nature conservation, environmental, economic, cultural and social implications.

The assessments will include:

- identification of current or potential future environmental, economic, cultural and social significance of the proposed area in the absence of designation (i.e. the status quo or baseline);
- identification of anticipated range of environmental, economic, cultural and social impacts of designating the preferred sites, relative to the baseline;
- the options for an alternative MCZ (location, conservation objectives, management measures) and the range of associated potential costs and benefits (assessed qualitatively or quantitatively as appropriate).

Options

This outline RIA has considered two options

Option 1 - do nothing; or

Option 2 – introduction of subordinate legislation to provide for the additional enforcement tool of a civil sanction, in the form of a fixed monetary penalty for environmental protection within an MCZ and EMS.

Option 1 – do nothing.

This option provides information on the baseline (or do nothing) option and outlines what the impact would be of not bringing forward the proposed legislation.

Doing nothing means not introducing the legislation provided for in the Act. The other provisions of the Act (such as the designation of a MCZ and the making of byelaws for environmental protection) would still take place. It provides a baseline scenario against which the new civil sanctions proposals can be assessed in order to determine if they are genuinely an improvement on the current situation.

Benefits

Savings in the cost of developing the new legislation.

Costs

A reduced range of tools available to the Department for the protection of the marine environment would result in the inability to apply proportionate sanctions on those who ignore the requirements of byelaws. Loss of respect for byelaws may occur as the public witness others simply ignoring their requirements. The far greater costs of public prosecution to the public purse which might result in inaction by the Department in instances where low level damage is caused. The cumulative effect of these factors is likely to be the reduction in the health of the marine environment and potential loss of marine biodiversity.

Option 2 - introduction of subordinate legislation to provide the additional enforcement tool of a civil sanction, in the form of a fixed monetary penalty for environmental protection of MCZs.

This option considers the costs and benefits of introducing the proposed subordinate legislation.

Benefits

The Order will give the Department the ability to take a more responsive and proportionate enforcement stance where medium and low level infringement of environmental byelaws take place. It will provide an additional tool that can be used to bring those who contravene byelaws back into compliance, without using the full legal process of prosecution. Respect for environmental protection will be raised when members of the public witness enforcement in action and see fixed monetary penalties being fairly and consistently applied. The ability to issue fixed monetary penalties, when correctly used, will make the public aware that there are real and immediate consequences when byelaws are contravened. The cumulative effect of these benefits will result in the protection and improvement of marine biodiversity.

Costs

Cost of developing the new legislation.

Risk Assessment

A number of risks linked to the non-implementation of the draft fixed monetary penalties Order are set out in the following table

Table 2: - Risk Assessment of not introducing the FMP Order.

Risk	Probability	Effect
Lack of a proportionate sanction.	High	Department will have to make a value judgement on the likely success of a criminal prosecution or of taking no action.
Lack of clarity and fairness in terms of application of the law.	High	Complaints from those against whom the Department has decided to take criminal proceedings; that they have been subject to a disproportionate response and whether others have also been prosecuted.
Lack of clarity and fairness in terms of respect for the law.	High	Those who respect byelaws may witness others flouting them with apparent impunity. Over time this could lead to the byelaws being disregarded.
Poorer ability to make an immediate impact	High	Loss of ability to bring miscreants back into conformity and could subsequently lead to greater damage to the marine environment.
Poorer management of the MCZ environment.	Medium	Damage to biodiversity and reduction in the quality of the marine environment.
Loss of biodiversity due to inaction by the Department.	Medium	Unsustainable use of the marine environment.
Less control of emergency situations	Low	Greater damage to the marine environment.

Conclusion

While the benefits and costs of each option have been expressed in qualitative terms, on balance the benefits can be seen to outweigh the costs. It is recommended that the FMP Order is made.

Annex C

Other Assessments

B.1 Equality Impact Assessment

A preliminary screening exercise has been undertaken, and there is no evidence that the proposals detailed in this consultation paper will have any impact on equality issues. Therefore, the Department does not consider a full Equality Impact Assessment to be necessary.

B.2 Human Rights Act 1998

The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. The Department considers that the proposals detailed in this consultation paper are compatible with the Human Rights Act 1998.

B.3 Rural Proofing

Rural proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas from that elsewhere, given the particular characteristics of rural areas, and where necessary, what policy adjustments might be made to reflect rural needs to ensure that, as far as is possible, public services are accessible on a fair basis to the rural community. The proposals detailed in this consultation paper are aimed at affording greater protection to Northern Ireland's designated Marine Conservation Zones. It is important that these unique areas of the marine environment are managed sustainably and promoted as a valuable social and economic asset. By ensuring that our seas remain clean, healthy, safe, productive and biologically diverse, rural businesses and communities will be enhanced.