

# **Synopsis of responses**

## **Proposed amendments to The Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011**

**Marine Strategy Licensing Team**

**Marine & Fisheries Division**

**20 October 2021**

### **Timing and duration of consultation**

The consultation commenced on the 28 May 2021 and closed on the 30 July 2021.

### **Introduction**

The Marine and Coastal Access Act 2009 (MCAA) is designed to help achieve clean, healthy, safe, productive and biologically diverse seas, in line with the UK vision. It provides for the sustainable use of marine resources and an integrated planning system for the marine area.

Part 4 of the MCAA introduced a streamlined licensing system that came into effect in April 2011. The aim is to enable consistent and sustainable decision making on activities within the marine area. In making those decisions, the Department must balance the need to protect the environment, the need to protect human health, the need to prevent interference with legitimate uses of the sea and any other such matter that that Department considers relevant.

DAERA is the Licensing Authority for the Northern Ireland inshore region (0 to 12 nautical miles). The Secretary of State (SoS) is the Licensing Authority for the Northern Ireland offshore region (12 nautical miles to the boundary with other jurisdictions) as set out in Section 113 of the MCAA.

Provisions at section 74 of the MCAA enable DAERA, as the licensing authority for the Northern Ireland's inshore region, to exempt certain activities from the requirement to obtain a marine licence. This is achieved through the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011 (Exempted Activities Order).

### **Background**

The function of the Exempted Activities Order is to identify activities that do not require a Marine licence. The Exempted Activities Order exempts activities that are appropriately regulated under other licensing systems such as waste or aquaculture. It also enables day-to-day activities to continue without the need for a Marine licence and enables emergency action to be carried out without delay. Typically, these activities are either small scale and pose little environmental risk, or where a requirement to obtain a Marine licence would constitute an excessive regulatory burden.

## Questions

The consultation posed the same questions to each proposed amendment and asked the stakeholder/respondent for their comment.

- **Do you agree with the proposed amendment to this exemption?**
- **Do you have any further comments you wish to make on this amendment?**

## Number of respondents

The consultation received 29 substantive responses from

- eNGOs
  - Royal Society for the Protection of Birds (RSPB)
  - Friends of the Earth (FoE)
  - Northern Ireland Marine Task Force (NIMTF)
- Sectoral bodies
  - British Ports Authority (BPA)
  - Bord Iascaigh Mhara (BIM)
  - Royal Yachting Association Northern Ireland (RYANI)
  - Ulster Angling Federation
  - BoatFolk (Marine operating company)
  - Quoile Yacht Club
  - Cockle Island Boat Club
  - British Marine
  - The Commissioner of Irish Lights(CIL)
- Government agencies and Bodies
  - Crown Estate
  - Maritime and Coastguard Agency (MCA)
  - Council for Nature Conservation and the Countryside (CNCC)
  - United Kingdom Hydrographic Office (UKHO)
- Local government
  - Northern Ireland Local Government Association (NILGA)
- Legal representatives
  - Tughans
- Private individuals (10 responses)
  - Hilary Bailey
  - Bev Beattie
  - Lisa Dobbie
  - Penelope Lee
  - David Lowry
  - Judith Montgomery-watson
  - Robert McMaw
  - Julia O'Brien

- Angela Watson
- Gregor Watson

## **Actions**

- Article 3      The Department proposes to proceed with the amendment of this Article to facilitate amendments throughout Exempted Activities Order.
- Article 12     The current legislation is ambiguous and open to interpretation on this matter. The Department proposes to proceed with this amendment.
- Article 13     The Department intends to amend its procedures to ensure that third parties (UKHO, MCA and CIL) are informed and their agreement is obtained before commencement of works. The Department proposes to proceed with this amendment.
- Article 15     The Department proposes to proceed with this amendment.
- Article 17     The Department will take cognisance of the environmental and navigational concerns expressed by the respondents and proposes to proceed with this amendment.
- Article 17A    The Department proposes to proceed with this amendment and to ensure that there is clarity around the process where the sampling would incorporate a noise-risk activity i.e. updating the Marine Noise Register.
- Article 17B    The Department will develop internal procedures to ensure that the necessary statutory stakeholders are informed as required. It proposes to proceed with this amendment.
- Article 19     The Department proposes to proceed with this amendment.
- Article 20     The Department intends to proceed with this amendment for competent authorities only and not the general public. It proposes to use the definition of a competent authority given in regulation 5 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.
- Article 21     The Department proposes to proceed with this amendment for local authorities and statutory undertakers only.
- Article 21A    The Department proposes to proceed with this amendment.
- Article 24A    The Department will therefore proceed with the amendment as proposed.
- Article 25A    DAERA will make the amendment as proposed and will amend DAERA procedures to ensure that the appropriate notifications are made to the navigational authorities to ensure the risks posed by markers to wildlife and navigational safety is minimised.

Article 25 B The Department will make the amendment as proposed and the inclusion of a notification requirement will ensure consultation with MCA, CIL and UKHO is undertaken. The activity would be exempt from the requirement to have a marine licence for those markers placed for 28 days or less and would therefore be less of an administrative burden on yacht clubs than the current position of applying for a licence.

Article 27A The Department will proceed with the amendment as proposed.

Article 29 In light of the support the Department will proceed with the amendment as proposed.

Article 32 The Department has noted the comments and has decided not to proceed with this amendment.

#### Additional Matters

The Department will introduce a system where work should typically start within 12 months of the issue of a licensing decision.

**Article 3 Definitions** - This article contains definitions and information on a number of terms used throughout the Order. It is therefore necessary to make a number of technical amendments to this article to facilitate the changes proposed to Part 3 of the Order. The most significant of these include but are not limited to:

- the insertion of a definition of Areas of Special Scientific Interest (ASSIs) and Marine Conservation Zones (MCZs). This will mean that a number of exemptions will no longer apply to these areas, thereby facilitating protection of the marine environment;
- the insertion of a definition of beach profiling and recycling,
- the insertion of a definition of marine litter which will provide for the inclusion of a new exemption for the removal of marine litter by divers, and
- the insertion of a definition of a competent authority.

<b>Respondent</b>	<b>Comment</b>
Boatfolk	Agrees with proposed amendment.
CNCC	Welcomes the clarity to be provided by an inclusion of definitions of ASSIs and MCZ, beach profiling and recycling, marine litter and competent authority.
NILGA	<p>NILGA welcomes the proposed amendments providing clear definitions of Areas of Special Scientific Interest, Marine Conservation Zones, beach profiling, recycling, marine litter and 'competent authority'.</p> <p>We particularly welcome the inclusion of councils as acknowledged competent authorities at relevant points throughout the consultation document and note the advantages this will have for more integrated future central-local working.</p>

**Summary:**

DAERA received three responses from stakeholders on the proposed amendment of Article 3. These have all been supportive

**Department's Response:**

The Department welcomes the positive response from stakeholders to the definitions suggested to date and would point out that the amendments made to Article 3 are technical in nature and consist of definitions/descriptors for specific things, such as waste or ASSIs. The number of definitions needed will be identified during the process of developing the legislation.

**Department's Position:**

The Department proposes to proceed with the amendment of this Article to facilitate amendments throughout Exempted Activities Order.

**Article 12 Fishing operations (Amendment of an existing Article)** - It is proposed to add a qualification to sub-paragraph (1)(c) setting out a condition which defines when fish or other objects can be returned to the sea. The new definition specifies that may only take place if they have not previously been landed. There is no requirement to notify or seek prior approval from DAERA.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supportive of any proposal to prevent the dumping of unwanted catch.
Boatfolk	Agrees with proposed amendment.
NIMTF	Agrees with the amendment.
CNCC	CNCC welcomes the proposed amendment.
NILGA	NILGA welcomes the proposed amendments in relation to the prohibition of fish and other objects, having been landed, being taken back to sea and disposed of in an unregulated manner thereby avoiding waste disposal costs.
RSPB	Agrees with the proposed amendment.

**Summary:**

DAERA received six responses from stakeholders on the proposed amendment of Article 12. All have been supportive.

**Department's Response:**

The Department considers that this proposed amendment is required as it closes a gap in the current legislation and will clarify how and when fish material/waste may be returned to the sea. The current legislation is ambiguous and open to interpretation on this matter.

**Department's Position:**

DAERA proposes to proceed with this amendment.

**Article 13 Shellfish propagation and cultivation** - It is proposed to amend Article 13 with the addition of the word “marker” to subparagraph (1)(a). No change to notification requirement proposed – There is no requirement to notify or seek prior approval from DAERA.

Respondent	Comment
Ulster Angling Federation	Supports proposed amendment.
Boatfolk	Agrees with proposed amendment.
Maritime & Coastguard Agency	<p><i>“Placement of markers for aquaculture sites will not require a licence”</i>. Aquaculture trestles have been caused issues elsewhere in the UK and overall. MCA is keen to see all fin/shellfish and seaweed farms require a marine licence, meaning that both MCA and Irish Lights are consulted when outside statutory harbour limits. We understand that applicants are required to have obtained approval from MCA and Irish Lights for their proposals when applying for a Shellfish fishery licence under part ix of the Fisheries Act (NI) 1966, which is a condition for a marine licence exemption.</p>
NIMTF	<p>Does not agree with the amendment.</p> <p>Raised concerns linked to the definition of a marker (temporary or permanent) and their placement along with associated anchors, weights, ropes or lines not impact negatively on the condition of the features or integrity of the site especially in instances where the seafloor is the protected feature.</p> <p>Additionally, the need to appropriately mark aquaculture areas with ‘markers’ using associated ropes and lines must also be balanced with the increased potential and risk of entangling wildlife. Since 2000 there have been 8 recorded strandings associated with entanglement in fishing gear in Northern Ireland. This number is likely to represent just a proportion of the true number of entanglement incidents due to under reporting.</p>
Friends of the Earth	<p>Suggests that there must be a clear definition of what a “marker” is within the meaning of the legislation. There should also be further distinction between whether temporary or permanent markers are permitted. It is also an imperative that the placing of such markers including any anchors, ropes or lines do not impact adversely on the sites in which they are placed. That it is a crucial aspect in cases where the seafloor is the protected feature in question. Furthermore, the placement of markers should take account of the increased potential risk of wildlife entangling.</p>
Bord Iascaigh Mhara (BIM)	Agrees with the amendment.
CNCC	Content for the amendment to take place to allow markers to be placed to delineate the extent of the aquaculture site.
NILGA	NILGA notes the proposed amendments in relation to the furtherance of legislative consistency in relation to

	aquaculture and placement of markers.
UKHO	Agrees with the proposed amendment. UKHO will need to be informed to ensure Admiralty charts & publications are kept up to date.
RSPB	Does not necessarily disagree with this amendment, but we would want further clarity on what exactly is meant by a “marker”. Have concerns around potential impacts on designated sites or protected habitats and would recommend that approval from DAERA should be required.
Commissioners of Irish Lights (CIL)	Agrees and highlights the need for a consultation mechanism between DAERA, MCA and CIL before marker can be placed. Consideration should also be given to inserting a requirement to notify DAERA of consultations with MCA and CIL before activity is begun to satisfy exemption.
<p><b>Summary:</b>  DAERA received eleven responses from stakeholders on the proposed amendment of Article 13. Stakeholders such as NIMTF and Friends of the Earth both expressed concerns as to the nature of a marker and whether it is temporary or permanent. Irish Lights and MCA stressed the need for notification so that navigational issues are considered and that UKHO map the locations. Positive comment has been made by BIM and the Ulster Angling Federation, while others have given their approval with caveats.</p> <p><b>Department’s Response:</b>  This amendment reflects a similar 2014 amendment made to DEFRA legislation which is applied by the MMO in waters for which it has responsibility including Northern Ireland’s offshore region. While the DEFRA legislation requires prior notification be made to the MMO, the Department considers that this aspect is not required in the Exempted Activities Order as management of this issue can be accomplished through separate fisheries legislation. The Department intends to amend its procedures to ensure that third parties (UKHO, MCA and CIL) are informed and their agreement is obtained before commencement of works.</p> <p><b>Department’s Position:</b>  The Department proposes to proceed with this amendment and ensure procedures within aquaculture licensing include appropriate notification and processes with the competent authorities on navigational issues.</p>	

**Article 15 Deposits of marine chemical and marine oil treatment substances etc.** It is proposed to add a new paragraph 5 which requires prior approval from the licensing authority which will encompass both the treatment substance and its use. The Department proposes to simplify the process and require that prior approval be obtained before this activity can commence.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supports and seek assurance enforcement of continued enforcement of relevant legislation.
Boatfolk	Agrees with proposed amendment.
Member of Public (Julia O'Brien)	Agrees with the proposed amendment. Asks that the current parameters of depth of water and distance from shore be reassessed, in order to further risk to marine life and habitat including impact upon kelp beds and sea grasses.
NIMTF	Agrees with the amendment.
CNCC	Yes, on the basis of the consultation statement that paragraphs 5 and 6 are superfluous because the conditions are already controlled.
British Ports Association	We agree with the proposed amendment.
UKHO	Agrees with the proposed amendment.
RSPB	Agrees with the proposed amendment.

**Summary:**

DAERA received eight responses from stakeholders on the proposed amendment of Article 15. All responses were in agreement with the proposed amendment. Some stakeholders accepted the proposed amendment on the condition that any environmental aspects would still be fully considered.

**Department's Response:**

The Department welcomes the positive responses to the proposal and notes the caveats concerning environmental protection and navigation expressed by those respondents.

**Department's Position:**

DAERA proposes to proceed with this amendment.

**Article 17 Scientific instruments etc-** It is proposed to amend the notification required for the placement and removal of scientific instruments and the use of reagents and tracers to require prior notification from the licensing authority before the exemption may be applied. The Department proposes to require that prior notification be obtained before the use of any reagents or tracers. It also proposes to require notification of the placement or removal of any scientific instruments to ensure the correct risk assessments can be completed.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supports proposed amendment.
Boatfolk	Agrees with proposed amendment.
Maritime & Coastguard Agency	We suggest amending this to exclude those instruments that reduce navigable depth by more than 5% and those that are tethered to the seabed. This will bring it in line with England.
NIMTF	Agrees with the amendment.
CNCC	Welcome the proposal that operators will be required to notify the relevant licensing authority of the location and numbers but at this stage it is difficult to see at what point DAERA envisage volume and numbers requiring regulation.
British Ports Association	We broadly agree but would welcome this being conditional on consent from a harbour authority when within a statutory harbour area. Harbours are best placed to judge whether an instrument may pose a threat to navigation.
UKHO	Agrees with the proposed amendment. Agree that MCA & Irish Lights should be consulted to determine whether the deposit constitutes a danger to navigation. UKHO will need to be informed to ensure Admiralty charts & publications are kept up to date.
RSPB	Agrees with the proposed amendment.
Commissioners of Irish Lights (CIL)	Agrees and welcomes exclusion of scientific instruments likely to cause a risk to the safety of navigation from exemption. Also welcomes prior notification requirement to ensure risk assessments can be completed before the exemption is granted.

**Summary:**

DAERA received nine responses from stakeholders on the proposed amendment of Article 17. All responses were in agreement with the proposed amendment. British Ports Association accepted the proposed amendment, but made the point that harbour authorities are best placed to manage the appropriate positioning of instrumentation within a designated harbour area.

**Department's Response:**

The Department welcomes the positive response to the proposed amendment and will take cognisance of the environmental and navigational concerns expressed by the respondents.

**Department's Position:** DAERA proposes to proceed with this amendment.

<b>Article 17A samples for testing and analysis (Proposed new Article)</b> - It is proposed to exempt most sediment sampling from the requirement for a marine licence. This exemption would apply to removals which are less than one cubic metre. It is proposed that prior notification to the licensing authority be required to avail of this exemption.	
<b>Respondent</b>	<b>Comment</b>
Boatfolk	Agrees with proposed amendment.
Crown Estate	Is supportive of amendments to make the marine licensing process more efficient and cost-effective for users of the marine environment, and to bring a consistent approach to marine licensing across the UK wherever possible. This includes proposed Article 17A samples for testing and analysis, where the proposal to exempt most sediment sampling from the requirement for a marine licence reflects edits to the Defra Order in 2013.
Member of Public (Julia O'Brien)	Agrees with the proposed amendment.
NIMTF	Agrees with the amendment. Mention of the Marine Noise Registry (MNR) is welcome. Recognition of the impact of underwater noise on the marine environment and wildlife is also welcome. NIMTF suggest that the amendment to the order is made clearer to reflect that: failure to consider, and where necessary mitigate, the impact of underwater noise in the marine environment is grounds to deny a marine licence.
Friends of the Earth	FoE suggests that the amendment to the order is made clearer to reflect that failure to consider and where necessary, mitigate the impact of underwater noise in the marine environment, is grounds to deny a marine licence.
CNCC	Welcomes the proposal to require that prior approval be obtained before the commencement of any activity.
UKHO	Agrees with the proposed amendment.
RSPB	Agrees with the proposed amendment.
Quoile Yacht Club	Prior approval could impact on proposed piling works to existing club pontoons.
<p><b>Summary:</b> DAERA received nine responses from stakeholders on the proposed amendment of Article 17A. All responses were in agreement with the proposed amendment with some making comment on the need to mitigate underwater noise. Quoile Yacht Club expressed concern linked to piling work on its pontoon.</p> <p><b>Department's Response:</b> The Department welcomes the positive response to the proposed amendment and will take cognisance of the environmental and navigational concerns expressed by the respondents.</p> <p><b>Department's Position:</b> DAERA proposes to proceed with this amendment and to ensure that there is clarity around the process where the sampling would incorporate a noise-risk activity i.e. updating the Marine Noise Register.</p>	

**Article 17B Accidental deposits – removal activity (Proposed new Article)** - It is proposed that the recovery of objects which have been accidentally deposited on the seabed. Is exempted from the requirement to have a marine licence. The exemption would have a number of conditions including advance notification (to the licensing authority), that the activity is not likely to have a significant effect on a European marine site, Ramsar site, MCZ or ASSI and avoid risks to navigation. The removal activity would need to take place within a year of the item being lost. The Department proposes to require that prior notification be given to it before the commencement of any activity.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Support proposal and agree accidental deposits should be removed.
Boatfolk	Agrees with proposed amendment.
NIMTF	Agrees with the amendment.
CNCC	Yes, on the basis that this brings NI in line with the 2013 DEFRA changes.
British Ports Association	We agree with the proposed amendment.
UKHO	Agrees with the proposed amendment. If the accidental deposit has been notified to UKHO, we will need to be informed of its removal to ensure Admiralty charts & publications are kept up to date. We will need to check whether any action was taken when we received the initial notification & hence if further action is required on removal. This will depend on the size and position of the accidental deposit.
RSPB	Agrees with the proposed amendment.

**Summary:**  
 DAERA received seven responses from stakeholders on the proposed amendment of Article 17B. All responses were in agreement with the proposed amendment. UKHO requested that it be notified of the items removal if it had previously been informed of the deposit.

**Department’s Response:**  
 The Department welcomes the positive response to the proposed amendment and will take cognisance of the environmental and navigational concerns expressed by the respondents through the development of an internal procedure ensure that the necessary statutory stakeholders are informed as required.

**Department’s Position:**  
 DAERA proposes to proceed with this amendment.

**Article 19 Maintenance of coast protection, drainage and flood defence works (Amendment of an existing Article)** - It is proposed to amend this Article to provide greater clarity on which beach maintenance activities would be exempt from a need to obtain a marine licence. The amendment would include clarification on the scope of coastal protection works and defines beach profiling and recycling. It is also proposed that disapplication of an exemption (Article 4) is applied in instances where an impact on a RAMSAR site, protected features of an MCZ or an ASSI may occur. It is proposed that competent authorities such as local authorities be required to notify the Department and all other be required to seek prior approval.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supports and emphasised need to have regard to impact of works on habitats and any habitat displacement should be reinstated.
Boatfolk	Agrees with proposed amendment.
Quoile Yacht Club	Notification should be extended to impacted users (e.g. clubs in the vicinity)
NIMTF	Agrees with the amendment.
CNCC	Welcomes action to rectify this though we would wish to stress the integrated and dynamic nature of coastal systems and not create a situation where an individual council takes unilateral action that could undermine broader policy initiatives.
British Ports Association	This is sensible but we would argue that harbour authorities also provide critical flood defence and coastal protection. It is not clear but seems that harbour authorities would not be eligible for this exemption, but we believe that they should be included in the list in competent authorities.
NILGA	Strongly welcomes the proposed amendments to this article and the greater clarity which is hoped the amendments will provide, i.e. on the scope of coastal protection works, and on the definitions of beach profiling and recycling.
RSPB	Agrees with the proposed amendment.

**Summary:**

DAERA received eight responses from stakeholders on the proposed amendment of Article 19. 7 responses were in agreement with the proposed amendment and one asked for greater notification.

**Department's Response:**

The Department welcomes the positive response to the proposed amendment and will take cognisance of the comments by respondents on bodies to be defined as competent authorities, notification requirements, environmental and navigational concerns. The Department would point out that those not identified as competent authorities would need the Department's approval to proceed and correct notification would be an aspect of approval. Competent Authorities would be expected to complete a notification process within their own procedures.

**Department's Position:**

DAERA proposes to proceed with this amendment.

<b>Article 20 Emergency works in response to flood or flood risk (Amendment of an existing Article)</b> - It is proposed to amend the requirement for those responding to an emergency situation to notify the licensing authority of emergency works undertaken pursuant to the exemption, within 3 working days of emergency works commencing (currently notification is required in advance). This notice would detail works undertaken and the circumstances of the emergency.	
<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supports with due regard to environmental aspects.
Boatfolk	Agrees with proposed amendment.
NIMTF	Agrees with the amendment. Recommend that a review process should be put in place so that once the emergency works have concluded, lessons can be learnt and DAERA can ensure that the response was proportional, appropriate and attempted to minimise impacts where practical.
Friends of the Earth	Friends of the Earth realises the importance and need for such emergency works to take place in response to flood or flood risk especially given the impending impacts of climate change in Northern Ireland. However, FoE would also recommend that such emergency works cannot endure as a quick fix. As such, a review process should be implemented to ensure that the need for such emergency works do not arise again in the future.
CNCC	Appreciates the need for fast response to an imminent threat we would urge that the process of 'preparedness' leaves those undertaking the work in a position where inadvertent damage to the environment does not occur. Would welcome DAERA exploring this risk further in their engagement with relevant bodies. Expressed a concern that inadvertent and avoidable damage could take place if responders used contractors.
NILGA	NILGA welcomes the additional flexibility provided to emergency responders by this amendment.
UKHO	Agrees with the proposed amendment.
RSPB	Does not necessarily disagree with this amendment, but we would want further clarity on whether DAERA would have the power to make recommendations or changes to the emergency works once they have been notified to ensure that any impacts are minimised. Also asks for a review process so that once the emergency works have been concluded, lessons can be learnt and DAERA can ensure that the response was proportional and appropriate.
<b>Summary:</b> DAERA received eight responses from stakeholders on the proposed amendment of Article 20. All responses were in general agreement with the proposed amendment, but expressions of concern were made linked to preparedness, the use of contractors and environmental damage. Respondents also asked that a review process be developed to ensure that on the conclusion of those works, lessons can be learnt ensure that the response was proportional and appropriate.	

**Department's Response:**

The Department welcomes the positive response to the proposed amendment and will take cognisance of the environmental concerns expressed by the respondents. The Department continuously reviews its case load and subsequent outcomes for any issue that could have been conducted in a better manner with environmental protection at the core of its considerations.

**Department's Position:**

DAERA proposes to proceed with this amendment for competent authorities only. The Department proposes to use the definition of a competent authority given in regulation 5 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.

**Article 21 Use of vehicles to remove litter or seaweed from beaches (Amendment of an existing Article)** - It is proposed to amend the article to: extend the list of items that may be removed from a beach by a **Local Authority** to include dead animals; extend the areas from which litter and seaweed may be removed to include intertidal areas; include a condition to reinforce protection of archaeological or historical features, and amend the condition linked to possible impacts on protected environmental sites to ensure that all designated locations are covered. It is proposed that prior notification will be required before the commencement of works when removing dead animals.

Respondent	Comment
Ulster Angling Federation	Supports.
Boatfolk	Agrees with proposed amendment.
NIMTF	<p>Does not agree with the amendment.</p> <p>NIMTF suggest that the removal of litter, dead animals and seaweed from beaches using vehicles are separate activities which justify separate amendments and consideration in the Marine Licensing (Exempted Activities) Order (NI) 2011.</p> <p>NIMTF also suggest that this amendment is clearer regarding the specific circumstance type and accepted purposes in which seaweed is permitted to be removed from beaches with prior department notification. Applications for commercial live seaweed harvesting for example, should not fall under this Article which groups the removal of litter and seaweed as one. Applications involving the removal of living seaweed should undergo a complete and separate licensing application and consenting process through which the full environmental impact of such activities could be assessed on a case by case, application specific basis. When occurring in a Marine Protected Area, whether and how drift seaweed removal could impact on the conservation objectives and condition of the site and features should be considered. Applications involving the removal of living seaweed should undergo a complete and separate licensing application and consenting process through which the full environmental impact of such activities could be assessed on a case by case, application specific basis.</p>
Friends of the Earth	<p>Friends of the Earth suggests that the removal of litter, dead animals and seaweed from beaches using vehicles are separate activities which justify separate amendments and consideration in the Marine Licensing (Exempted Activities) Order (NI) 2011. Also suggest that this amendment is clearer regarding the specific circumstance type and accepted purposes in which seaweed is permitted to be removed from beaches with prior department notification.</p>
CNCC	<p>Welcomes the removal of litter from beaches and we note the intention to use similar text to the DEFRA legislation. CNCC is content with the proposal that prior notification is needed before dead animal removal. Also in agreement with the proposal to add a condition relating to protected areas. We would have concerns about drift seaweed</p>

	removal given its importance in helping to stabilise beaches and its role in increasing the supply of invertebrate food for birds.
British Ports Association	Agree but again feel harbour authorities should not require a licence to remove litter from beaches or intertidal areas within their limits if they so wish. Some ports organise voluntary beach cleans and these will occasionally utilise vehicles to assist. It is not clear whether this would meet the definition of using a vehicle or not but clarity would be welcome.
NILGA	NILGA welcomes the proposed amendments to this article.
UKHO	Agrees with the proposed amendment.
RSPB	Does not agree with this amendment. RSPB requires further clarity on this amendment. There is very little detail given for the proposed notification changes to either litter or seaweed. Litter and seaweed removal should not be contained within the same Article. Not clear when removal of seaweed removal would be permitted. This amendment should make clear that any removal of seaweed should require approval from DAERA.

**Summary:**

DAERA received nine responses from stakeholders on the proposed amendment of Article 21. Seven of those responses were in agreement with the proposed amendment. Two responses were negative. Those against the proposal requested that litter and seaweed removal be dealt with in separate Articles. Litter being a totally deleterious material and the presence of seaweed being a natural process.

**Department's Response:**

The Department proposes to proceed with this amendment in a manner that clearly defines what can be removed and by whom. It also intends to ensure that the Habitats Regulations Assessment (HRA) process is fully applied for the protection of natural habitats. The Department wants to achieve a situation where the exemption for the removal of litter and seaweed is widened as far as possible for local authorities and statutory undertakers such as Northern Ireland Water. It should be noted that this Article only applies to beaches and does not apply to wild seaweed harvesting which is being considered through new legislation. Seaweed is often contaminated by litter on beaches and this amendment is intended to cover the activity of beach cleaning. In terms of the removal of dead animals, the Department proposes to limit this exemption to Local Authorities with a requirement that the Department receive prior notification.

**Department's Position:**

The Department proposes to proceed with this amendment for local authorities and statutory undertakers only.

**Article 21A Recovery of marine litter etc. (Proposed new Article)** - The proposed new exemption will permit divers to remove marine litter and abandoned, discarded or lost fishing gear from the marine environment during the course of diving activities and to do so without a disproportionate regulatory burden. It is proposed that the exemption will be worded to ensure the protection of protected species and habitats and items of archaeological or historical interest and require prior notification be given to the Licensing Authority.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Support
Boatfolk	Agrees with proposed amendment.
NIMTF	<p>Agrees with the amendment.</p> <p>Fully supports the proposed new exemption which will permit divers to remove marine litter and abandoned, discarded or lost fishing gear from the marine environment during the course of diving activities and to do so without a disproportionate regulatory burden.</p> <p>NIMTF strongly agree that the proposed exemption should be worded to ensure the protection of protected species and habitats and items of archaeological or historical interest and require prior notification be given to the licensing Authority.</p>
Friends of the Earth	<p>Friends of the Earth welcomes the proposed new exemption which will permit divers to remove marine litter and abandoned, discarded or lost fishing gear from the marine environment during the course of diving activities and to do so without a disproportionate regulatory burden. Friends of the Earth also strongly agrees that the proposed exemption should be worded to ensure the protection of protected species and habitats and items of archaeological or historical interest and require prior notification be given to the licensing Authority.</p>
CNCC	<p>CNCC is in agreement with the proposal to allow divers to remove litter and lost gear provided the legislation is worded in a way to ensure protection of species and habitats.</p> <p>Recommends that DAERA should consider providing guidance to divers on this topic.</p>
NILGA	<p>NILGA welcomes the proposed new article, which will enable volunteers, including divers, to remove marine litter, lost fishing gear etc. without needing a licence. It is noted that prior notification of the Department will be necessary.</p>
UKHO	Agrees with the proposed amendment

RSPB	Agrees with the proposed amendment.
Quoile Yacht Club	Unclear if marine licence is required for the installation and removal of moorings. Boat moorings are maintained and owned by their owners not the Club.
<p><b>Summary:</b> DAERA received nine responses from stakeholders on the proposed amendment of Article 21A. Eight of those responses were in agreement with the proposed amendment and Quoile Yacht Club commented on boat moorings.</p> <p><b>Department's Response:</b> The Department welcomes the positive response to the proposed amendment and will take cognisance of the environmental concerns expressed by the respondents.</p> <p><b>Department's Position:</b> DAERA proposes to proceed with this amendment.</p>	

**Article 24A Use of a device, vehicles or vessels to remove marine litter and debris (Proposed new Article)** - It is proposed to exempt Harbour Authorities from the requirement to have a marine licence before carrying out activities to remove marine debris and litter. The exemption would be worded to ensure the protection of protected species and habitats and items of archaeological or historical interest. It is proposed that there is no requirement to notify the licensing authority.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supports proposed amendment.
Boatfolk	Agrees with proposed amendment.
Royal Yachting Association (RYA)	Welcomes proposal on basis that Harbour Authorities should be able to remove debris which may pose a risk to recreational boaters.
NIMTF	Agrees with the amendment. Stresses the need for care when using vehicles or vessels to remove litter in protected areas.
Friends of the Earth	When occurring in a Marine Protected Area, whether and how the use of such vehicles or vessels to remove marine litter and debris could impact on the conservation objectives and condition of the site and features should be considered.
CNCC	CNCC is content provided the exemption is worded in a way that effectively protects species and habitats. CNCC would stress the importance of engagement with the relevant Harbour Authority.
British Ports Association	Agree with this proposal
NILGA	NILGA welcomes the proposed new article, which will enable Harbour Authorities to remove marine litter, lost fishing gear etc., from areas within their jurisdiction, without needing a licence.
UKHO	Agrees with the proposed amendment.
RSPB	Does not necessarily disagree with this amendment, we recommend that should this activity be carried out within a designated site, that approval from DAERA should be required.

**Summary:** DAERA received ten responses all of which support the proposed amendment. A number of responses highlight the need to ensure that the conservation objectives of Marine Protected Areas are given due regard.

**Department's Response:** The exemption applies to Harbour Authorities. Harbour Authorities are competent authorities under The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 and are required to assess the potential effects of plans/projects or activities on the designated feature(s) and associated conservation objectives of Marine Protected Areas. They are bound by a statutory duty to ensure that the conservation objectives of sites are respected.

**Department's Position:** DAERA is confident that the statutory duty Harbour Authorities have to ensure the protection of protected species and habitats and items of archaeological or historical interest will ensure that the conservation objectives of MPAs are given due regard. Furthermore, if the activity to be undertaken is in a Marine Protected Area the exemption may not apply. The Department will therefore proceed with the amendment as proposed.

<b>Article 25A Markers for European marine sites and marine conservation zones (Proposed new Article) - It is proposed to exempt DAERA from the requirement to obtain a marine licence in instances where the Department's Marine Conservation team need to erect or remove markers.</b>	
<b>Respondent</b>	<b>Comment</b>
Boatfolk	Agrees with proposed amendment.
NIMTF	Agrees with the amendment. The clear demarcation of MPAs in NI seas is important and helps with MPA management, compliance and enforcement. However, the Department must (I) clearly define what a 'marker' is and whether temporary or permanent placements are allowed, and (II) ensure the placement of markers and any associated anchors, weights, ropes or lines, do not impact negatively on the condition of the features or integrity of the site. Additionally, the need to appropriately demarcate MPAS using 'markers' using associated ropes and lines must also be balanced with the increased potential and risk of wildlife entangling.
Friends of the Earth	The Department must (I) clearly define what a 'marker' is and whether temporary or permanent placements are allowed, and (II) ensure the placement of markers and any associated anchors, weights, ropes or lines, do not impact negatively on the condition of the features or integrity of the site. This is most relevant in instances where the seafloor on which anchors or weights would be placed is the protected feature. Additionally, the need to appropriately demarcate MPAS using 'markers' using associated ropes and lines must also be balanced with the increased potential and risk of wildlife entangling.
CNCC	CNCC is content with the proposal.
UKHO	Does not agree with the proposed amendment. UKHO understands the intent behind the Article. However UKHO would suggest that all markers for European marine sites or MCZ's could potentially obstruct or cause a danger to navigation. Therefore notification to MCA, Irish Lights and DAERA should be required. UKHO need to be informed when the markers are erected/installed or removed, to ensure Admiralty charts & publications are kept up to date.
RSPB	Does not necessarily disagree with this new Article, but would request clarity on whether a HRA would be carried out before any buoys are put in place to ensure that there are no impacts on designated sites. Buoys can cause entanglement with weights potentially causing damage to protected features on the sea floor.
Quoile Yacht Club	Notification should be extended to impacted users (eg clubs in the vicinity).
Commissioners of Irish Lights (CIL)	Agrees and suggests that assessment (of risk to navigation/obstruction) should be undertaken by MCA and CIL. Mechanism for ensuring MCA and CIL are consulted should be outlined in guidance published with Order. Plus suggests that consideration should be given to notify DAERA of consultations with MCA and CIL before exemption

may be applied.

**Summary:** Eight responses were received in response to this proposed amendment, seven of which are positive. The UKHO does not agree with the proposal on the basis that a marker could potentially cause an obstruction to navigation and proposes that the MCA, CIL and UKHO are informed. A number of respondents highlight the danger that anchors, weights, ropes or lines may pose to wildlife. One respondent suggests that the term “marker” should be defined.

**Department’s Response:** DAERA is content to comply with the UKHO suggestion that that the MCA, CIL and UKHO are informed, this will be built into the marker erection process. DAERA wishes to provide reassurance that it will take all necessary steps to ensure that the risk that anchors, weights, ropes or lines may pose to wildlife is minimised. Regarding the definition of markers, word “marker” is generally understood to refer to an object used to indicate a position, place or route and as such there is no requirement to provide a definition.

**Department’s Position:** DAERA will make the amendment as proposed and will amend DAERA procedures to ensure that the appropriate notifications are made to the navigational authorities to ensure the risks posed by markers to wildlife and navigational safety is minimised.

**Article 25B Temporary markers (Proposed new Article)** – It is proposed to exempt the deposit and removal of markers buoys and their associated weights for recreational activities where the marker is temporary and the activity does not obstruct or causes a danger to navigation. Prior notification to the licensing authority will be required and the exemption will be worded to ensure the protection of protected species and habitats and items of archaeological or historical interest.

Respondent	Comment
Boatfolk	Agrees with proposed amendment.
RYA	Opposes – based on understanding that moorings and aids to navigation are exempt from requirement to have a marine licence within a Harbour/Navigational Authority area following consent from the Authority and would like this situation to remain. Have concerns that prior notification to DAERA would be a complex and unworkable process for small clubs.
Maritime & Coastguard Agency	<p>“Must NOT obstruct or cause a danger to navigation’. Expressed concern regarding the definition of temporary meaning up to 90 days. UKHO would be interested in temporary markers lasting 90 days e.g. yacht racing marks, which are often seasonal but laid every year – UKHO include them on charts (if they’re going back in the same positions), or may issue a Temporary Notice to Mariners for them. Within harbour authority areas, UKHO wouldn’t be interested, as long as the harbour was notified. Outside harbour areas UKHO would need to be informed if the temporary markers are to be in place for 1-3 months.</p> <p>There seems to be a lot of emphasis on getting agreement from MCA and CIL before some exempted activities can start. On some occasions this needs to go wider than just MCA and Irish Lights, and we may point applicants in the direction of other interested parties to help assess the level of impact. The mechanism for doing so needs clarifying.</p>
NIMTF	<p>Agrees with the amendment.</p> <p>The Department must (I) clearly define what a ‘marker’ is, and (II) ensure the placement of markers and any associated anchors, weights, ropes or lines, do not impact negatively on the condition of the features or integrity of the site. This is most relevant in instances where the seafloor on which anchors or weights would be placed is the protected feature. Additionally, the need to use temporary ‘markers’ with associated ropes and lines must also be balanced with the increased potential and risk of wildlife entangling.</p>
Friends of the Earth	<p>The Department must (I) clearly define what a ‘marker’ is and whether temporary or permanent placements are allowed, and (II) ensure the placement of markers and any associated anchors, weights, ropes or lines, do not impact negatively on the condition of the features or integrity of the site. This is most relevant in instances where the seafloor on which anchors or weights would be placed is the protected feature. Additionally, the need to</p>

	appropriately demarcate MPAS using 'markers' using associated ropes and lines must also be balanced with the increased potential and risk of wildlife entangling.
CNCC	CNCC is content providing the exemption can be worded to ensure effective protection of species and habitats and there is prior notification to the licensing authority. Suggest that some monitoring is commissioned to check that there is not inadvertent damage to biodiversity from the exemption.
British Ports Association	We agree with the proposed amendment.
NILGA	NILGA welcomes the proposed new article, and the increased flexibility in terms of temporary marker buoys for e.g. marine sports events.
UKHO	Does not agree with the proposed amendment. UKHO understands the intent behind the Article. However UKHO would suggest that many temporary markers could potentially obstruct or cause a danger to navigation. Therefore notification to MCA, Irish Lights and DAERA should be required. UKHO need to be informed when the markers are erected/installed or removed, to ensure Admiralty charts & publications are kept up to date. Temporary markers, especially ones which are installed every year, we may wish to include them (or a reference to them) on our charts/in our publications.
RSPB	Agrees with the proposed amendment. Dependant on a defined time limit being placed on the use of markers.
Quoile Yacht Club	Content with definition but has an issue with 28 day time limit. Club uses 2 types of markers, type 1 – markers shared with other clubs and have been placed in same position for decades during sailing season. Prior notification would be unnecessary and an additional burden. Type 2 markers are used for individual race events and are put in place minutes before races, prior notification is unnecessary and impractical. Concerns re lobster pots with no markings.
Commissioners of Irish Lights (CIL)	Agrees, welcomes notifications requirement and suggests it should include evidence of consultation with MCA and CIL and that this should be outlined in guidance on the Order.  Suggests that for the deposit or removal of markers or equipment under the Order it is important that UKHO and CIL are informed of the activity to record activity on charts. Notes that this can be a condition on marine licences and suggests that a similar requirement is included in exemptions.
Cockle Island Boat Club	Concerned that this will place an unnecessary additional administrative burden on the Club. Markers are placed at the start of the sailing season in May and removed in September. Concerned that the Club would need to notify DAERA 6 times of intention to use temporary markers and proposes a single notification should be required. Would like the addition of this Article to be cancelled. If not requests that clubs should be able to make one notification covering the whole sailing season.

**Summary:** Thirteen responses were received in respect of this proposed amendment, eight of which were positive, two opposed and three were ambivalent. One of the negative responses was based on an understanding that moorings and aids to navigation are exempt from requirement to have a marine licence within a Harbour/Navigational Authority. A number of responses emphasise the importance of consultation with statutory authorities such as the MCA, CIL and UKHO. A number of respondents commented that the proposed application of the exemption to recreational markers placed for 28 days or less could create an additional administrative burden.

**Department's Response:** DAERA wishes to clarify that the objective of the proposed exemption is to exempt markers used for recreational activities such as races, which are **not** currently exempt from the requirement to obtain a marine licence. The Department's view is that any notification requirements would be a lesser regulatory burden than the requirement to obtain a marine licence. The inclusion of the prior notification requirement will ensure that a process is established to ensure that MCA, CIL and UKHO are consulted for navigational safety reasons. It should be noted that if a marker is intended to be in place for more than 28 days the UKHO requires that it be notified so that it can be recorded on admiralty charts.

**Department's Position:** DAERA will make the amendment as proposed and the inclusion of a notification requirement will ensure consultation with MCA, CIL and UKHO is undertaken. The activity would be exempt from the requirement to have a marine licence for those markers placed for 28 days or less and would therefore be less of an administrative burden on yacht clubs than the current position of applying for a licence.

**Article 27A Deposit of a substance arising from the cleaning of vessels Proposed new Article** - This exemption is proposed to enable in-water cleaning of light fouling whilst achieving good biosecurity practice which requires that any more significant fouling is not released to the water. The exemption would apply on the basis that only the following equipment may be used:- a soft cloth, a sponge, the bristles of a soft brush, and sandpaper, the grit size of which is at least P2000. No notification requirement is proposed.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	Supports proposed amendment and welcome emphasis on not power washing vehicles to reduce the risk of the spread of invasive species.
Boatfolk	Agrees with proposed amendment.
RYA	Supports proposed amendment as risks from in-water cleaning of lightly fouled vessels is low.
British Marine	We agree with the proposal to add this new Article.
NIMTF	Agrees with the amendment.
CNCC	Have noted that this has been proposed as a means of ensuring stakeholder buy-in to good biosecurity practice and are agreeing on that basis. Wish to emphasise the importance of engaging with the relevant stakeholders and monitoring developments to check that this change is delivering the desired outcome.
British Ports Association	We agree with the proposed amendment. We would welcome a wider scope to support hull cleaning activities that demonstrate that their technology or methodology does not result in any substances being released into the marine environment.
UKHO	Agrees with the proposed amendment.
Quoile Yacht Club	Reasonable proposal, unclear if removal of residue would be club's or individual's responsibility.
<p><b>Summary:</b> Nine responses were received in respect of this proposal all of which supported with the proposal. One respondent suggests a wider scope to support hull cleaning activities that demonstrate that their technology or methodology does not result in any substances being released into the marine environment.</p> <p><b>Department's Response:</b> DAERA notes the comments on the exclusion of power washing vehicles from the exemption to reduce the risk of the spread of invasive species, that the perceived risk from in-water cleaning of lightly fouled vessels is low and the importance of ensuring stakeholder buy in to good biosecurity processes.</p>	

Regarding proposals to widen the scope of the exemption to support hull cleaning activities that demonstrate that their technology or methodology does not result in any substances being released into the marine environment. DAERA has considered this proposal which would require prior approval from the licensing authority and as such would require DAERA staff to consider the proposed technology or methodology. As the DAERA staff time is required the Department wishes to recoup this cost to the public purse via a licence fee. However, this position will be kept under review and should approved standard technologies and methodologies for this activity become available it will be considered at the next review of the Marine Licensing (Exempted Activities) Order (Northern Ireland).

**Department's Position:** DAERA will proceed with the amendment as proposed.

**Article 29 Diver trails within restricted areas (Existing Article to be amended)** - It is proposed to amend this exemption by extending it to include wrecks protected under the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (HMAO) and under section 1(2)(b) of the Protection of Military Remains Act 1986. There is no prior notification requirement.

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	No issues of concern.
Boatfolk	Agrees with proposed amendment.
NIMTF	Agrees with the amendment.
CNCC	CNCC has no comment to make.
UKHO	Agrees with the proposed amendment.

**Summary:** Five responses were received in respect of this proposal. All of which were broadly supportive.

**Department's Response:** DAERA welcomes support for its proposal.

**Department's Position:** In light of the support DAERA will proceed with the amendment as proposed.

**Article 32 Cables and pipelines – authorised emergency inspection and repair (Existing Article to be amended)** - The current Article requires prior approval to be obtained from the Department (Licensing Authority). It proposes that this change to notification within one working day of the commencement of works. Do you agree with the proposed amendment to this exemption and do you have any further comments you wish to make on this amendment?

<b>Respondent</b>	<b>Comment</b>
Ulster Angling Federation	No issues of concern.
Boatfolk	Agrees with proposed amendment.
NIMTF	Agrees with the amendment. Recommends that a review process should be put in place so that once the emergency works have concluded, lessons can be learnt and DAERA can ensure that the response was proportional, appropriate and attempted to minimise impacts where practical.
Friends of the Earth	Recommends that a review process should be put in place so that once the emergency works have concluded, lessons can be learnt and DAERA can ensure that the response was proportional, appropriate and attempted to minimise impacts where practical.
CNCC	CNCC is content provided there is notification within one working day of commencement.
UKHO	Agrees with the proposed amendment.
RSPB	While we do not disagree with this amendment, we request clarity is given on whether DAERA would have the power to make recommendations or changes to the emergency works once they have been notified to ensure that any impacts are minimised. RSPB also recommends that a review process is put in place so that once the emergency works have concluded, lessons can be learnt and DAERA can ensure that the response was proportional and appropriate.

**Summary:** Seven responses were received and some concerns were raised with the proposal. A number of responses suggest that a review process should be put in place so that once the emergency works have concluded, lessons can be learnt and DAERA can ensure that the response was proportional, appropriate and attempted to minimise impacts where practical. One response seeks clarification on whether DAERA would have the power to make recommendations or changes to the emergency works once they have been notified to ensure that any impacts are minimised. The proposed amendment is to ensure emergency repairs can take place in a timely manner.

**Department’s Response:** DAERA notes these comments, in particular those from RSPB. On reflection, DAERA has decided not to proceed with this amendment, in line with the situation in Scotland and Wales and is mindful that retaining a requirement for prior approval is the best way to ensure that the environment is protected.

**Department’s Position:** DAERA will **NOT** proceed with the amendment.

**Additional Matters** - Duration between Licensing Decision and Commencement of Licence. DAERA seeks views on a proposal to introduce a maximum duration of five years between when a licensing decision is taken (the issue of the draft licence) and commencement of works.

Respondent	Comment
Boatfolk	Agrees with proposed amendment.
Member of Public (Lisa Dobbie)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p> <p>The introduction of an online public portal, similar to the planning portal used for planning applications (or alternatively add marine licence applications to this facility), would also be a welcome addition. This would increase transparency of the process and enable developers, stakeholders, and the public to view relevant documents for each application during the consideration process and reduce the pressure on the Marine Licensing Team to respond to requests for information.</p>
Member of Public (Hilary Bailey)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current.</p> <p>Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p>
Member of Public (Robert McMaw)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p>
Member of Public (Julia O'Brien)	Agrees that change is necessary. Suggests that draft licence should have a duration of 12 months with option to

	<p>extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current.</p> <p>Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse. Finally, in respect to the above additions and amendments to the existing outdated policy, I am keen to understand, and hope that they apply, to all applications already submitted and not yet determined.</p>
NIMTF	<p>NIMTF welcome an introduction of a maximum duration between when a licensing decision is taken (the issue of the draft licence) and commencement of works. In addition NIMTF suggest an additional short timeframe limit is put in place so that environmental assessments used to inform licensing decisions are current and up to date. NIMTF also suggest that a licence cannot be maintained indefinitely once the development has commenced. A time limit applied between commencement and completion is needed and informed by the age and on-going relevance of the environmental information first provided with the application.</p>
Member of Public (Gregor Watson)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act.</p>
Member of Public (Judith Montgomery-Watson)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act.</p>
Member of Public (David Lowry)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p>
Friends of the Earth	<p>The maximum duration between making a licensing decision and the commencement of works should be 12 months</p>

	<p>with an option to seek an extension on payment of an appropriate fee and submission of updated environmental information. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p>
Member of Public (Bev Beattie)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee. Maximum duration of 2 years to ensure information used to determine the application remains current. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse. Finally, in respect to the above additions and amendments to the existing outdated policy, I am keen to understand, and hope that they apply, to all applications already submitted and not yet determined.</p>
Member of the Public (Angela Wilson)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee and updated environmental information. Also highlights that draft licences may hinder the approval of other applications due to consideration of cumulative effects. Suggests that a draft licence should only be issued when other permissions have been obtained and a process akin to Section 76 of the Planning Act should be instigated for decommissioning. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p>
Member of the Public (Penelope Lee)	<p>Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee and updated environmental information. Furthermore, the legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented. This could be delivered through a procedure analogous to the Section 76 process in the Planning Act. Such a process would also allow the Department to charge a monitoring and compliance fee so that the costs of monitoring compliance with conditions falls on the developer and not the public purse.</p>
Tughans	<p>Highlights legal requirements for periodic update of environmental information and need to re-visit determinations. Suggests that Regulation 3(4) of Habitats Regulations places a general duty on competent authorities to Habitats Directive which means DAERA is required to review any HRA before issuing a final licence and at present there is no mechanism to charge for the issue of a final licence. Suggest that data is out of date after 2 years and highlights that draft licences may hinder the approval of other applications due to consideration of cumulative effects. Suggests that draft licence should have a duration of 12 months with option to extend on payment of a fee and updated environmental information. Proposes that a draft licence should only be issued when other permissions</p>

	<p>have been obtained.</p> <p>Proposes that legislation should be amended to require a decommissioning bond and that legislation is amended to enable DAERA to charge for the costs of monitoring. Suggests that EPIC platform should be used to make information more available to the public.</p>
CNCC	CNCC welcomes the proposal that there will be a maximum of 5 years between issue of a licence and commencement of works to ensure that all the nature conservation assessments are current.
NILGA	NILGA is content with the proposal to introduce a maximum allowable time period to start licensable works, from the time of the licensing decision. It seems reasonable to ensure in cases where starting works takes more than five years, requiring reassessment, the cost of this is met by a new application and not funded by the public purse.
RSPB	RSPB made general comments on the need for the Department to be notified. The usefulness of aging survey data when setting the time limit.
Quoile Yacht Club	Time limiting decision & commencement to 5 years seems appropriate.
RYA	Concerns re maximum limit as facility works may require funding for which permissions maybe required. Funding process can take years to be granted. If there is a maximum limit then suggests that extension without penalty should be available in those situation where delay is outside the control of the original applicant.
<p><b>Summary:</b> Nineteen responses were received in respect of this proposal, eighteen of which were broadly supportive. One response opposed the proposal highlighting that the funding process for facility works can take years and permissions may be required. The majority of responses welcomed the proposal that draft marine licences should be time-bound and suggested that the draft licence should have a duration of 12 months with option to extend on payment of a fee subject to a maximum duration of 2 years to ensure information used to determine the application remains current.</p> <p><b>Department's Response:</b> DAERA is cognisant of the need to ensure that environmental information remains current and welcomes the suggestion that the work should typically start within one year of the licensing decision unless there are exceptional circumstances. The agreement of the licensing authority to an extension beyond this period will be determined on a case-by-case basis and will be dependent on a number of factors including how up to date the environmental information is and the number of other applications in the area. The Department does not have the power to charge for this at present. DAERA's charging structure is set out in the Marine Licensing (Application Fees) Regulations (Northern Ireland) 2011. DAERA intends reviewing this legislation subject to the availability of resources.</p> <p><b>Department's Position:</b> DAERA will introduce a system where work should start within 12 months of the issue of a licensing decision, unless there are exceptional circumstances. If no correspondence is received by the Department within a period of 12 months, then the licensing decision will become invalid. This will provide a mechanism for review and to ensure that the assessment remains current.</p> <p><b>Additional comments</b></p>	

**Summary:** A number of comments were received which were beyond the scope of the consultation including suggestions that legislation should be amended to require that a bond be put in place to cover the costs of decommissioning and restoration works at the end of the lifespan of the project consented which could be delivered through a procedure analogous to the Section 76 process in the Planning Act and to allow DAERA to charge for monitoring services. DAERA will consider further.

**Department's Response:** Section 76 of the Planning Act refers to Developer Contributions which are a planning tool used to mitigate or manage the impacts of new development. They may be used to ensure that new development is supported by the right infrastructure or make sure that the environmental impacts of proposals are appropriately managed. DAERA does not have equivalent powers in the Marine and Coastal Access Act 2009.