

Environment and Sustainability Committee

Report on the Marine Navigation (No.2) Bill – Legislative
Consent Memorandum

Introduction

On 17 January 2013, the Environment and Sustainability Committee considered a legislative consent memorandum that relates to provisions in the Marine Navigation (No.2) Bill that relate to amendments of the Pilotage Act 1987, the Harbours Act 1964 and the Merchant Shipping Act 1995, in so far as they fall within the legislative competence of the National Assembly for Wales.

The Environment and Sustainability Committee agreed to report to the Assembly that it has **no objection to the use of this legislative consent motion, as proposed by the Welsh Government.**

Links to all of the documents referred to in this paper are provided in the final section: 'Sources and additional information'.

Background

The UK Government's Marine Navigation (No.2) Bill ('the Bill') is currently being considered by the UK Parliament.

Sections of this Bill seek to legislate in areas of competence devolved to the National Assembly for Wales. Convention requires that the National Assembly for Wales ('the Assembly') considers consenting to this. The Assembly does this through considering a legislative consent motion tabled by the Welsh Government.

Further information on legislative consent motions is provided in the Research Service's quick guide *The Constitution Series: 6 Legislative Consent Motions*.

The legislative consent motion is drafted as follows:

To propose that the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that provisions of the Marine Navigation (No 2) Bill, relating to amendments of the Pilotage Act 1987, the Harbours Act 1964 and the Merchant Shipping Act 1995, in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.

The Welsh Government published a legislative consent memorandum ('the memorandum') on 21 December 2012 that explains this in more detail.

Principally, the memorandum sets out that the provisions in the Bill for which consent is sought are contained in:

- Clauses 1-4 - pilotage
- Clauses 5 and 6 - Harbour Authorities
- Clause 7 - Port Constables
- Clause 8 - general lighthouse authority
- Clause 10 - manning requirements
- Clause 11 - marking wrecks

These elements of the Bill relate to amendments of the Pilotage Act 1987, the Harbours Act 1964 and the Merchant Shipping Act 1995, in so far as they fall within the legislative competence of the National Assembly for Wales.

In general, 'shipping', 'navigational rights and freedoms' and 'harbours, docks, piers and boatslips' are not devolved areas of competence. However, certain aspects are devolved, and these are defined in the *Government of Wales Act 2006* as:

- harbours, docks, piers and boatslips required wholly or mainly for the fishing industry, for recreation, or for communication between places in Wales (or for two or more of those purposes);
- the regulation for the purposes of protecting human, animal or plant health, animal welfare or the environment of any harbours, docks, piers and boatslips in Wales;
- in relation to the regulation of use of vessels carrying animals for the purposes of protecting human, animal or plant health, animal welfare or the environment;
- in relation to the regulation of works which may obstruct or endanger navigation; and
- in relation to historic wrecks.

Policy intent

The memorandum sets out the policy intent in more detail. A concise summary is provided in the box below.

Summary of policy intent

The memorandum states that:

'The Marine Navigation Bill is a private members Bill. The Bill makes some amendments to existing Acts regarding the safe navigation of ships into harbours, including pilotage, port constables and marking of wrecks. It is intended to make the processes

surrounding these functions less cumbersome while ensuring a high level of port safety.’

Stakeholder views

The following information is based in submissions made to the UK Parliament.

Maritime UK¹ has expressed support for the Bill. It has not commented on the devolved aspects, and it has focused on the UK Parliamentary process.

The Royal Yachting Association has expressed concerns about the Marine Navigation Bill. It has not commented on the devolved aspects, and has focused on the UK Parliamentary process.

Conclusion

Stakeholder views do not appear to conflict with the Welsh Government’s statement in the memorandum that:

It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in relation to Wales and to ensure consistency in the management of harbours and safety for shipping across England and Wales. While the Bill makes some provision in areas of devolved competence, these are closely linked to areas of competence that are not devolved in Wales, and the inter-connected nature of these provisions means that it is most effective for them to be taken forward together in this Bill.

Whilst the Royal Yachting Association has expressed concerns about aspects of the Bill, the areas for which the National Assembly for Wales has legislative competence are limited. Other stakeholders have expressed support for the Bill.

The Environment and Sustainability Committee agreed to report to the Assembly that it has no objection to the use of this legislative consent motion, as proposed by the Welsh Government.

¹ Maritime UK is a coalition of seven major maritime services organisations, representing the shipping, ports and maritime business sectors.

Sources and additional information

- A copy of the **legislative consent memorandum** is available at: <http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs.htm?act=dis&id=241809&ds=1/2013>
- The **Marine Navigation (No.2) Bill** is available on the UK Parliament's website at: <http://services.parliament.uk/bills/2012-13/marinenavigationno2.html>
- The **Pilotage Act 1987** is available on the legislation.gov.uk website: <http://www.legislation.gov.uk/ukpga/1987/21/contents>
- The **Harbours Act 1964** is available on the legislation.gov.uk website: <http://www.legislation.gov.uk/ukpga/1964/40>
- The **Merchant Shipping Act 1995** is available on the legislation.gov.uk website: <http://www.legislation.gov.uk/ukpga/1995/21/contents>
- The **Royal Yachting Association's** position: <http://www.rya.org.uk/newsevents/news/Pages/RyAcallsforrecreationalboatersviewsongovernmentproposaltogiveunrestrictedpowerto harbourauthorities.aspx>
- **Maritime UK's** position: <http://www.maritimeuk.org/2012/10/marine-navigation-bill-a-helpful-contribution/>
- The **Research Service's Quick Guide** *The Constitution Series: 6 Legislative Consent Motions* is available at: <http://www.assemblywales.org/qg07-0006.pdf>
- **Standing Orders** can be viewed at <http://www.assemblywales.org/bus-home/bus-assembly-guidance.htm> (Standing Order 29 sets out the process for considering a legislative consent memorandum).