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for Environment  
Food & Rural Affairs

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12 July 2013

Dear Consultee

## **Consultation on Marine Licensing Applications - charges for monitoring and for varying licences**

I am writing to seek your views on proposals to extend the Marine Management Organisation's (MMO) ability to recover the costs it incurs in dealing with licence applications under Part 4 of the Marine and Coastal Access Act 2009 (MCAA).

The MMO deals with licensing applications under Part 4 of the MCAA on behalf of the Secretary of State. It is Government policy in principle to recover the costs of such activities.

Section 67 of the MCAA contains powers to charge for marine licensing applications. However, the powers to charge are not as wide as they were in the older licensing system – i.e. under Part 2 of the Food and Environment Protection Act (FEPA) 1985 – which the MCAA replaces. In particular, the powers in the newer Act do not allow the MMO to recover costs incurred in monitoring sites where licensable activity is taking place, reviewing monitoring reports required from licensing holders, and in varying existing licences.

The Public Bodies Act 2011 allows the Secretary of State to change the funding arrangements of certain bodies such as the MMO. The Government proposed the inclusion of the MMO in the Act in order to give the Secretary of State the power to deal with the problems caused by the differences between FEPA and the MCAA.

The Government now proposes to make an Order under section 4 of the Public Bodies Act to change the MMO's charging powers. The Public Bodies Act requires that Ministers consult on their proposals before laying a draft order. The purpose of this letter is to seek your views on the proposal including whether there are better alternatives that would achieve the goal of full cost recovery.



The attached Impact Assessment explains in more detail the implications of the changes. The monitoring costs that MMO cannot currently recover mostly relate to the disposal of dredged material. The Centre for Fisheries, Environment and Aquaculture Science (Cefas) carries out a risk-based monitoring programme of disposal sites. This meets our EU and international commitments and by confirming the environmental effects of the deposit enables such disposal to continue. The risk-based approach ensures that costs are minimised.

There are other types of projects for which MMO incur monitoring costs. However, as the Impact Assessment explains, in most of these cases the MMO can recover monitoring costs. This is because the projects are subject to Environmental Impact Assessment (EIA) and the monitoring is associated with the EIA. Such costs can be recovered under the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended).

The other main area where MMO may incur costs and cannot presently recover them is when an applicant wishes to vary a licence. Such variations may range from very small detailed changes – e.g. the name of a vessel on a licence – to fundamental changes that require reassessment of some or all of the project. If the MMO is not able to charge for dealing with the variation, they may need to ask applicants to submit a new application for the more significant changes to a licence. This could lead to additional costs and burden for licence holders whereas the MMO's aim has been increasingly to issue longer licences in order to reduce costs to business.

It is proposed that the level of the fee for monitoring and variations would be included in the Order and be mainly based on the MMO's hourly charge for marine licensing work. The MMO's hourly rates are currently under review and will be the subject of a separate consultation this year. Tables 1 and 2 at Annex A illustrate how a fee structure could work. The guiding principle would be that fee rates are based on actual hours worked but with maximum ceilings for simple administrative changes or routine casework, except for monitoring associated with licences for dredged material disposal where the fee could be based on annual tonnage of material disposed. Maximum ceilings would provide applicants with greater confidence on costs and be of particular benefit to smaller operators.

## **Questions**

- 1. Do you have comments on whether the Government should extend the MMO's ability to recover costs associated with marine licensing by charging application fees for :-**
  - a. Monitoring costs?**
  - b. The costs of varying licences?**
  
- 2. Do you have comments on the approach to the fee structure?**

3. **Are there better alternatives that would achieve the Government's goal of fully recovering the costs of dealing with licence applications?**
4. **Do you have any other comments?**

The following documents relating to this consultation may be found on Defra's website:  
<https://www.gov.uk/government/policies/protecting-and-sustainably-using-the-marine-environment>

- A copy of this letter
- The draft impact assessment
- A list of consultees

If you wish to obtain a hard copy of this consultation, please write or e-mail using the addresses below, or you can contact us on the telephone number above.

## **Responses**

Please either e-mail your response to:

[Marinelicensing.Consultation@defra.gsi.gov.uk](mailto:Marinelicensing.Consultation@defra.gsi.gov.uk)

Or send it to the following address:

Department for Environment, Food and Rural Affairs

Area 8B 9 Millbank

c/o Nobel House

17 Smith Square

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## **Responses should be received no later than 5 September 2013**

If you do not want your response – including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you

send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that won't count as a confidentiality request.

Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential.

We will summarise all responses and place this summary on our website at: <https://www.gov.uk/government/policies/protecting-and-sustainably-using-the-marine-environment>. This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

### **Consultation Criteria**

This consultation is in line with the Consultations Principles. This can be found at <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

Yours Faithfully

*Philip Stamp*

**Philip Stamp**  
**Marine Environment Strategy and Evidence**

Fee structure chargeable for **Marine License Variations and Transfers** under Section 72 of the Marine and Coastal Access Act 2009

Table 1

1 Function	2 Fee
(a) Administrative change to a marine licence that does not require the MMO to consult with our statutory advisors. Current examples include each change of the name or address of the agent, contractor or sub-contractor; a change to the name of the vessel or registration number of the vehicle; or transferring the licence from the licensee to another named person. This is not an exhaustive list.	A fee will be calculated using the hourly rate of an MMO caseworker £xxxx <sup>1</sup> multiplied by the total number of part hours worked to a maximum fee of £50.00.
(b) A routine change that is within the scope of the original licence that is not an administrative change and <b>does not</b> require the MMO to consult with our statutory advisors and requires a predictable amount of MMO caseworker time. Examples include a minor methodology change.	A fee will be calculated using the hourly rate of an MMO caseworker £xxxx <sup>2</sup> multiplied by the total number of part hours worked to a maximum fee of £200.00.
(c) A routine change that is within the scope of the original licence that is not an administrative change and <b>does</b> require the MMO to consult with our statutory advisors and requires a predictable amount of MMO caseworker time.	A fee will be calculated using the hourly rate of an MMO caseworker £xxxx <sup>3</sup> multiplied by the total number of part hours worked to a maximum fee of £500.00.
(d) A significant change to a marine licence that requires an unpredictable amount of MMO caseworker time <b>or</b> any change to a licence that was charged hourly without a fee ceiling at application stage ( <b>other</b> than small administrative changes). Examples of significant changes may include changes to dredge areas, changes to disposal quantities or changes to the methodology outside of original scope.	A fee will be calculated using the hourly rate of an MMO caseworker £xxxx <sup>4</sup> multiplied by the total number of part hours worked with <b>no</b> maximum fee ceiling.

<sup>1-4</sup>The MMO hourly rates are currently under review. A separate consultation will be undertaken shortly.

Fee structure chargeable for **Monitoring Licence Conditions** under Section 71(1)(b) of the Marine and Coastal Access Act 2009 relating to non Environmental Impact Assessment cases

**Table 2**

1 Function	2 Fee
<p>(a) Reviewing monitoring reports submitted by a licensee whose original application was processed under a fixed fee band (defined in SI 564 Marine Licensing (Application Fees) Regulations 2011) or was defined as a routine project under the revised fee structure 2014. Monitoring is required to ensure that the conditions set in the licence are being satisfied. Those conditions include, in particular, conditions as to the provision, maintenance, testing or operation of equipment for measuring or recording specified matters relating to any activity authorised by the licence.</p>	<p>A fee calculated by multiplying the hourly rate of an MMO caseworker £xxx<sup>5</sup> by the total hours (or part thereof) worked (but no more than eight hours to a maximum fee ceiling of £750.00).</p>
<p>(b) Reviewing monitoring reports submitted by a licensee whose original application was processed as hourly charging (as per SI 564 Marine Licensing (Application Fees) Regulations 2011 or as hourly charging with no maximum fee ceiling under the revised fee structure 2014. Monitoring is required to ensure that the conditions defined in (a) are being satisfied.</p>	<p>A fee calculated by multiplying the hourly rate of an MMO caseworker £xxx<sup>6</sup> by the total number of hours (or part thereof) worked with no maximum fee ceiling.</p>
<p>(c) Monitoring the environmental conditions of sites used for the disposal of dredged material to ensure that the conditions are suitable for the continued disposal activity and that predictions for the limitations of effects continue to be met. Directly recovers the cost of the annual monitoring programme of marine disposal sites.</p>	<p>A fee calculated by multiplying the annual tonnage of material disposed at sea by the fee rate £0.01 per tonne.</p> <p>The fee is payable annually based upon the actual volumes of material that have been disposed at the approved disposal site.</p> <p>The fee payable each year will be capped at a maximum amount of £15,000.</p>

<sup>5</sup> - <sup>6</sup> The MMO hourly rates are currently under review. A separate consultation will be undertaken shortly.