

Marine Management Concordat

**HM Government
The Northern Ireland Executive**

Introduction

1. This Concordat (“the Concordat”) sets out the agreed framework for administrative co-operation for the implementation of the regulatory framework established by the Marine and Coastal Access Act 2009 (“the Act”), between the Secretary of State and the Northern Ireland Executive (“the parties”). The Concordat takes forward the agreement concluded through the Joint Ministerial Committee (JMC) on 25 June 2008 which paved the way for Scottish and Welsh Ministers to be enabled, as marine plan authorities, to prepare Marine Plans for their respective offshore areas subject to the agreement of UK Government to those Plans, and thus for the same arrangements to be put in place with regard to Northern Ireland.
2. At the meeting of the JMC on 25 June 2008 all the UK administrations agreed with the objectives of the then Marine and Coastal Access Bill to protect and better manage our seas, and that it was desirable to work closely together in developing and operating resources for that purpose. They also agreed that in principle UK-wide or compatible measures were desirable in order to reduce burdens on stakeholders and that a UK-wide Marine Policy Statement should be drawn up and agreed for the whole of the UK seas from 0-200nm (or the median line as appropriate).
3. This Concordat takes forward the agreement reached at JMC on executive devolution of the marine planning element of the Act and covers other activities where a coherent and co-ordinated approach to the management of the marine environment is appropriate. The intention is that this will encourage co-operation between the UK Government and the Northern Ireland Executive, delivering a coherent system to manage the marine environment whilst respecting the different constitutional positions within the existing devolution settlement. It will also enable the UK to deliver its European and international obligations which require a regional seas approach.
4. The parties acknowledge the importance of ensuring effective joint working arrangements between all the UK administrations, particularly in trans-boundary areas, in order to facilitate the achievement of our mutual objectives.
5. The Concordat is not a legally binding agreement or a contract, and it cannot override the statutory duties and powers of the parties. Any failure to follow the terms of the Concordat is not to be taken as invalidating decisions taken by either of the parties. Nor is the Concordat intended to cover every detailed aspect of the relationship between them. Rather, it is a statement of the

principles and ways of working that will guide relations between the parties to ensure as far as possible common positions on administrative co-operation for the implementation of the regulatory framework established by the Act.

6. The Concordat is drawn up in accordance with the principles outlined in the *Memorandum of Understanding and Supplementary Agreements between the UK Government, Scottish Ministers, the Cabinet of the National Assembly for Wales and the Northern Ireland Executive Committee* ("the MoU"). The MoU sets out the broad understanding of the UK Government and the Devolved Administrations for Scotland, Wales and Northern Ireland of the principles and practices that underlie relations between them. The Concordat is also intended to be consistent with the overarching concordats between those administrations, particularly the *Concordat on Co-ordination of EU Policy Issues* and the *Concordat on International Relations*.

Objective

7. The objective of the Concordat is working in the spirit of the JMC agreement, to set out joint working arrangements for the management of the marine area. This includes the process of developing Marine Plans to provide for reserved and non-devolved matters to seek to ensure that agreement to such Plans is a formality. It will ensure that the roles and responsibilities of the parties under the constitutional structure established by the devolution settlements are effectively translated into practical working arrangements. The aims are to promote close and harmonious working relationships and good communications at all levels between the parties, and to foster constructive co-operation and agreement in delivering a coherent and cost-effective policy framework. Should it not be possible to reach agreement, arrangements for resolving disagreements are set out in paragraphs 14-15 below.

Legislative framework

8. This Concordat is concerned with expressing the JMC agreement on the implementation of the Marine and Coastal Access Act 2009 including any subsequent secondary legislation and wider marine management legislation such as European Directives.
9. The Secretary of State and the Department of the Environment in Northern Ireland are each able to exercise functions under the Marine and Coastal Access Act 2009. In terms of the practical working arrangements in this document, the terms also apply to the actions of officials. In this connection the parties also acknowledge the importance of ensuring close co-operation between the Marine Management Organisation established under the Marine and Coastal Act 2009 and Northern Ireland officials on trans-boundary issues within the UK and in the fulfilment of any international and EU obligations on the UK as a whole, including

EU reporting requirements and implementation of the Marine Strategy Framework Directive.

Communication and consultation

10. The Act sets out obligations for the Secretary of State and the Department of the Environment in Northern Ireland to communicate in certain circumstances. In addition, and consistent with the parties' obligations under the MoU and other overarching concordats, the parties will continue to communicate and co-operate closely with one another in this as in other areas.

Principles

11. Consultation between the parties shall be guided by the following principles:

- it should ensure that parties' views inform the decision-making process;
- it should be inclusive and participatory, so that all parties with an interest are consulted;
- it should be an ongoing activity;
- it should allow reasonable time to enable a considered response; and
- it should provide adequate forewarning, with the aim of fostering a constructive and harmonious working relationship based on the principle of 'no surprises'.

12. The parties wish to ensure that the information each supplies to the other is subject to appropriate safeguards, in accordance with the devolution settlement. These arrangements rely for their effectiveness on mutual respect for the confidentiality and sensitivity of information exchanged. The parties will not disclose unpublished information to third parties without the permission of the administration which provided the information, subject to the requirements of the law. Matters not in the public domain may be:

- limited to the Northern Ireland Executive and officials;
- limited to the Secretary of State and officials,

and will be subject to the establishment of suitable arrangements to safeguard confidentiality. It is for the administration providing the information to state what, if any, restrictions there should be upon its usage.

Reaching agreement and arrangements for resolving disagreements

13. Whilst recognising the ability of the parties to make their own decisions insofar as permitted by the devolution settlement and the Act, and other relevant legislation, the parties will endeavour, wherever possible, to agree a common

position on issues relating to the Act and in line with the provisions set out in the Annex.

14. Where agreement cannot be reached, or if there is disagreement as to the extent of the jurisdiction of different parties, the parties will endeavour to resolve these disagreements within the letter and spirit of the devolution settlement between officials or where necessary through the following:

- discussion at Ministerial level;
- the good offices of the relevant territorial Secretary of State; or
- bringing the disagreement to the Joint Ministerial Committee (JMC) for resolution in accordance with the MoU.

15. The Annex contains further detail on arrangements for:

- A. marine planning (including the Marine Policy Statement)

Further annexes can be added at any time with the agreement of both parties.

Duration of the Concordat

16. This Concordat takes effect from the date on which it is signed by the parties. It will run until its termination by either of the parties giving six months notice in writing.

Review

17. The Concordat can be reviewed at any time at the request of one of the parties and can be amended at any time with the agreement of both parties. Changes to the Concordat can only be made with the agreement of both parties.

Financial and staffing issues

18. Each of the parties will bear its own costs in relation to the operation of the Concordat unless otherwise agreed.

Signed:



Date: 16/12/11

Name in block capitals: JOHN ROBBS

Director of Marine and Natural Environment for and on behalf of the Secretary of State for DEFRA

Signed:

A handwritten signature in cursive script that reads "Maggie Smith". The signature is written in black ink and is positioned to the right of the word "Signed:".

Date:

26 / 10 / 11

Name in block capitals: MAGGIE SMITH

Director of Planning Policy Division for and on behalf of the Department of the Environment