



Llywodraeth Cymru  
Welsh Government

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Welsh Government  
**Consultation Document**

**Marine Licence Exemption Proposals**

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## Overview

This consultation seeks views on proposals intended to inform an order under Part 4, Section 74 of the Marine and Coastal Access Act to exempt certain activities from the marine licensing process. A list of activities proposed to be exempt from requiring a marine licence are included in this consultation.

This consultation applies where the Welsh Ministers are the Licensing Authority for Welsh waters (inshore region and offshore region).

## How to respond

Please submit your comments by 14 January 2025, in any of the following ways:

By email: [MarineLicensingLegislationReviews@gov.wales](mailto:MarineLicensingLegislationReviews@gov.wales)

By post:

Marine Licensing Policy Team,  
Marine and Biodiversity Division,  
Welsh Government,  
Cathays Park  
Cardiff  
CF10 3NQ

When responding please state whether you are responding as an individual or are representing the views of an organisation. If responding on behalf of a larger organisation please make clear who the organisation represents and, if applicable, how the views of members were collected.

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

## Contact Details

For further information:

Marine Licensing Policy Team  
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Email: [MarineLicensingLegislationReviews@gov.wales](mailto:MarineLicensingLegislationReviews@gov.wales)

Mae'r ddogfen yma hefyd ar gael yn Gymraeg / This document is also available in Welsh: [hyperlink](#)

## Introduction

The marine licensing process was established under Part 4 of the Marine and Coastal Access Act 2009 (“the Act”) to support and enable sustainable development in the marine area. The process regulates a wide range of licensable activities in the marine environment. Licensable activities are defined under Section 66 of the Act<sup>1</sup>. Generally, a marine licence is required to:

- Deposit any substance or object in the sea, or on or under the seabed,
- Construct, alter or improve any works in or over the sea, or on or under the seabed,
- Remove any substance or object from the seabed,
- Carry out any form of dredging.

Under the Act, the Welsh Ministers are the appropriate licensing authority for Welsh waters (inshore and offshore regions). Natural Resources Wales administers and determines marine licence applications on behalf of the Welsh Ministers.

As the appropriate licensing authority, Welsh Ministers are able to use powers under Part 4 of the Act to introduce an order to exempt certain activities from the need for a marine licence. Exemptions enable day-to-day activities (for example, anchoring a vessel) and low risk activities to continue without the need for a licence, ensuring compatibility with international and domestic law, they also enable emergency action to be carried out without delay.

In addition to any exemption specified by an order, Part 4 Chapter 2 of the Act also includes exemptions and special cases where a marine licence is not required. This consultation applies only to those activities exempted by an order under Section 74 of the Act. No changes are proposed to Part 4 Chapter 2 of the Act.

In 2011, using Welsh Ministers powers under Section 74 of the Act, the Marine Licensing (Exempted Activities) (Wales) Order (2011 Exemptions Order) was made. When making an order to exempt activities Ministers must have regard to the following:

- The need to protect the environment,
- The need to protect human health,
- The need to prevent interference with legitimate uses of the sea, and
- Such other matters ministers think relevant, such as government policies.

As our seas become busier and our understanding and knowledge of potential impacts and how they are best managed increases, it is necessary to review the list of exempted activities from time to time. Doing so helps to ensure the marine licensing process remains efficient and proportionate and that it also remains appropriate to continue to exempt activities.

In 2020, the Welsh Government commissioned Associated British Ports Marine Environmental Research Ltd (ABPmer) to undertake an initial review of the 2011 Exemptions Order to provide advice on any changes that may be required.

The advice from ABPmer, which was supported by stakeholder views, recommended a number of changes to some existing exemptions to make the wording of certain exemptions clearer. ABPmer also considered the activities exempt in England, Northern Ireland and

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<sup>1</sup> [Marine and Coastal Access Act 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Scotland and recommended a range of new activities that could be considered for an exemption to bring the list of exempted activities in Wales more in line with those introduced around the UK.

Building on the initial review recommendations the Welsh Government commissioned UK Government scientists at the Centre for Environment, Fisheries and Aquaculture Science (Cefas) to provide technical advice on the potential changes. When providing its advice Cefas was asked to consider the activities proposed for an exemption against the following policy criteria and to provide advice on the benefits, challenges and practical issues that may come from each proposed exemption.

#### **The policy criteria applied:**

- The activity is considered low risk (to the environment, human health, and navigation).
- There is duplication of regulation with other consenting regimes.
- To enable urgent action in certain circumstances (emergency works).

In providing its advice, Cefas engaged key sectors, and the advice has informed development of the final draft exemptions which are the subject of this consultation.

### **What we are proposing**

We are proposing to update the list of activities exempt from needing a marine licence in Wales. The proposals include retaining certain existing exemptions, amending certain existing exemptions, introducing new exemptions and removing certain existing exemptions.

The Act allows for exemptions with or without conditions. The ability to set conditions allows the Welsh Ministers to specify more accurately what activities will or will not need a marine licence and in what circumstances. The conditions provide safeguards to ensure activities do not negatively impact the environment, human health or other sea users.

The marine licensing process, including any exemptions made by the Welsh Ministers does not absolve any person from applying for any other permissions that may be necessary for an activity to happen in the marine environment. The process, including exemptions also do not absolve any other public authority from carrying out its own legal duties or responsibilities.

### **Exemption Proposals**

We would like to hear your views about the proposals set out in tables 1 - 4 below. With each proposed exemption we have provided a reason for the exemption.

## Interpretation

The following interpretation is provided to aid understanding of certain exemptions and applies to the terms used in the following tables. The interpretation is subject to legal drafting following consultation and it may be included in an order along with [current interpretation](#) section from the 2011 Order or it may be set out in guidance.

<b>Capital Dredging</b>	Capital dredging is dredging in an area and to a depth not previously dredged, or to a depth not dredged within the last 10 years.
<b>Chart datum</b>	In the British Isle, Chart Datum is approximately the level of the Lowest Astronomical Tide (LAT).
<b>Debris</b>	Includes remnants from something that has been destroyed or pieces of unwanted or discarded material that may be spread around.
<b>Emergency work</b>	<p>An emergency, relevant to marine licensing is a situation, which, if not urgently remedied or actioned, could cause severe consequences to human health, safety of navigation, the environment, property, including publicly owned infrastructure.</p> <p>Exemptions enabling works to be carried out to deal with an emergency situation do not apply where there has been failure to maintain an asset prior to an emergency situation.</p>
<b>Enforcement Authority</b>	Has the same meaning as Section 114 of the Marine and Coastal Access Act 2009.
<b>Flood Risk Management Authority</b>	Has the same meaning as Part 1 Section 6 subsection 13 of the Flood and Water Management Act 2010.
<b>Habitat Restoration</b>	Action taken to restore degraded native habitats to build the resilience of our natural environment.
<b>Intertidal Area</b>	The area between the level of mean high water spring tides and the level of mean low water spring tides.
<b>Invasive non-native species</b>	Any non-native species that has the ability to spread significantly causing damage to the environment, the economy, our health, or the way we live.
<b>Local Authority</b>	Has the same meaning as Section 68(9) of the Marine and Coastal Access Act 2009.
<b>Maintenance</b>	The upkeep or like for like repairs of an existing structure or asset wholly within its existing three-dimensional boundaries. It does not include significant alterations.

<b>Marine Litter</b>	Any persistent, manufactured or processed solid material discarded, disposed of or abandoned in the marine and coastal environment. The definition of marine litter for the purpose of marine licence exemptions does not extend to dumped munitions.
<b>Marine Protected Area</b>	A general term used to describe the following designated sites in the marine area for the purpose of nature conservation: Special Area of Conservation, Special Protection Area, Marine Conservation Zone, Ramsar Site and Sites of Special Scientific Interest.
<b>Scientific survey or experiment</b>	Is a campaign of surveying the marine environment for the purpose of scientific observation and/or analysis.
<b>Significant effect</b>	Has the same meaning as the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Habitats and Species Regulations 2017.

**Table 1. Exemptions from the [2011 Exempted Activities Order](#) retained with no changes.**

<p><b>Activities falling within Part 6 of the Merchant Shipping Act 1995</b></p> <p>(1) the exemption applies to an activity falling within the subject matter of Part 6 of the Merchant Shipping Act 1995(1) (prevention of pollution).</p>
<p><b>Reason:</b> Avoids duplication of regulation and ensures compliance with international obligations. Activities are managed through the International Maritime Organisation and the UK Merchant Shipping Act 1995.</p>
<p><b>Safety directions under the Merchant Shipping Act 1995</b></p> <p>(1) the exemption applies to an activity carried on –</p> <p>(a) by or on behalf of the Secretary of State in exercise of a power under Schedule 3A to the Merchant Shipping Act 1995 (safety directions).</p> <p>(b) by any person for the purpose of complying with a direction under that Schedule; or</p> <p>(c) by any person for the purpose of avoiding interference with action taken by virtue of that Schedule.</p>
<p><b>Reason:</b> Avoids duplication of regulation and ensures compliance with international obligations. Activities are managed through the International Maritime Organisation and the UK Merchant Shipping Act 1995.</p>
<p><b>Firefighting</b></p> <p>(1) the exemption applies to an activity carried on for the purpose of fighting, or preventing the spread of, any fire.</p>

**Reason:** Emergency response - safety of life and/or vessels.

### **Air accident investigation**

(1) the exemption applies to a deposit or removal activity carried on for the purpose of recovering any substance or object as part of an investigation into any accident involving an aircraft.

**Reason:** Emergency response - avoid delays to investigations.

### **Fishing operations**

(1) the exemption applies to any of the following activities if carried on in the course of a fishing operation—

(a) the deposit of fishing gear, other than a deposit made for the purpose of disposal.

(b) a removal activity or dredging activity carried on for the purpose of—

(i) fishing for or taking fish, or

(ii) removing fishing gear.

(c) the deposit by way of return to the sea of any fish or other object.

(2) the exemption also applies to the deposit by way of return to the sea of any fish during the course of fish processing at sea.

(3) In this exemption —

(a) “fish” includes shellfish and any part of a fish;

(b) “fishing gear” includes gear used to fish for or take shellfish, but does not otherwise include anything used in connection with the propagation or cultivation of shellfish.

**Reason:** Avoids duplication of regulation. Activities are better regulated under fisheries legislation which is in place to protect the environment and other sea users.

### **Deposit of marine chemical and marine oil treatment substances etc**

(1) the exemption applies to the deposit of any—

(a) marine chemical treatment substance.

(b) marine oil treatment substance.



(c) substance used or intended to be used for removing surface fouling matter from the surface of the sea or of the seabed.

(2) Paragraph (1) is subject to conditions 1 to 4.

(3) Condition 1 is that the substance must be one the use of which is for the time being approved for the purposes of this Order by the licensing authority.

(4) Condition 2 is that the substance must be used in accordance with any conditions to which the approval is subject.

(5) Condition 3 is that no deposit may be made in an area of the sea of a depth of less than 20 metres or within one nautical mile of any such area except with the approval of the licensing authority.

(6) Condition 4 is that no deposit of any marine chemical treatment substance or marine oil treatment substance may be made below the surface of the sea except with the approval of the licensing authority.

(7) In this article, “marine chemical treatment substance” and “marine oil treatment substance” have the same meaning as in section 107(2) of the Marine and Coastal Access Act.

**Reason:** Pollution prevention – the activity is low risk, subject to the conditions of the exemption being met.

#### **Deposit of equipment to control, contain or recover oil**

(1) the exemption applies to the deposit of any equipment for the purpose of controlling, containing, or recovering any—

- (a) oil,
- (b) mixture containing oil,
- (c) chemical,
- (d) flotsam, or
- (e) algal bloom.

(2) The exemption does not apply to any such deposit to the extent that it falls within item 10 [of Section 66 of the marine and coastal access act Section].

**Reason:** Emergency response and pollution prevention - avoids delaying any necessary clean-up operations.

#### **Deposits in the course of aggregates or mineral dredging**

(1) the exemption applies —

- (a) to the deposit on the site of dredging for aggregates or other minerals of any substance or object taken from the sea in the course of such dredging (other than any of the aggregates or minerals being dredged);
- (b) to the deposit of waters (whether by overflow or pumped discharge) from the hold of a vessel—
- (i) in the normal course of dredging for aggregates or other minerals, or
  - (ii) at the site of such dredging following its completion or during the return journey of the vessel.

**Reason:** Low risk activity, which ensures the safety of vessels operating at sea.

### **Maintenance of harbour works**

(1) the exemption applies to a deposit, removal activity or works activity carried on by or on behalf of a harbour authority for the purpose of maintaining any harbour works.

(2) Paragraph (1) is subject to the condition that the activity is carried on within the existing boundaries of the works being maintained.

**Reason:** Avoids duplication of regulation for low risk works where Local Harbour Authorities have statutory responsibilities and powers under Harbour Orders for works within their jurisdiction.

### **Launching of vessels etc.**

(1) the exemption applies to a deposit in connection with the launching of any vehicle, vessel, aircraft, marine structure, or floating container.

**Reason:** Low risk activity. Enables day to day activities.

### **Dismantling of ships**

(1) the exemption applies to a deposit or removal activity carried on as part of dismantling a ship that is waste.

(2) the exemption does not apply to any such deposit to the extent that it falls within item 10 [of Section 66 of the marine and coastal access act].

**Reason:** Avoids duplication of regulation where the activity may also be regulated under Environmental Permitting Regulations where ships are located above the Mean Low Water Mark.

### **Rights of foreign vessels etc under international law**

(1) the exemption applies to an activity to the extent that it is carried on in exercise of a right under rules of international law, by or in relation to—

(a) a third country vessel;

(b) a warship, naval auxiliary, other vessel, or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service (whether or not the warship, naval auxiliary or other vessel is a third country vessel).

(2) In paragraph (1), “third country vessel” means a vessel which—

(a) is flying the flag of, or is registered in, any State or territory other than the United Kingdom.

**Reason:** Avoids duplication of regulation and ensures compliance with international obligations.

### **Loading of a vehicle or vessel etc for incineration outside Wales and the Welsh inshore region and the Welsh offshore region**

(1) the exemption applies to the loading of a vehicle, vessel, aircraft, marine structure or floating container with any substance or object for incineration—

(a) in the Scottish inshore region.

(b) in the UK marine licensing area other than in Wales, the Welsh inshore region and the Welsh offshore region.

(c) outside the UK marine licensing area and the Scottish inshore region, where the incineration is to take place on—

(i) a British vessel or marine structure; or

(ii) a container floating in the sea, if the incineration is controlled from a British vessel, British aircraft, or British marine structure.

(2) But paragraph (1) applies only to the extent that such an activity falls within item 13 [of Section 66 of the marine and coastal access act].

**Reason:** Avoids duplication of regulation and applies only to the loading of a vehicle, vessel, aircraft, marine structure or floating container.

**Table 2. Exemptions from the [2011 Exempted Activities Order](#) retained with amendments.**

<b>Current Exemption from the 2011 Order</b>	<b>Proposed New Exemption</b>	<b>Reason for Exemption</b>
<p><b>Salvage activities -</b>                      (1) the exemption applies to an activity carried on, in the course of a salvage operation, for the purpose of ensuring the safety of a vessel or preventing pollution.</p>	<p><b>Salvage activities -</b>                      (1) the exemption applies to an activity carried on, in the course of a salvage operation, for the purpose of ensuring the safety of a vessel or preventing pollution.</p> <p>(2) the exemption does not apply to the removal of wrecks or other subjects of archaeological interest.</p> <p>(3) The exemption is subject to the condition that salvage activities must not have a significant effect on a Marine Protected Area.</p>	<p>Ensures the safety of vessels and pollution prevention. The activity is low risk, subject to the conditions of the exemption being met.</p>
<p><b>Scientific instruments –</b></p> <p>(1) the exemption applies -                      (a) to the deposit of any scientific instrument or associated equipment in connection with any scientific experiment or survey;                      (b) to the deposit of any reagent;                      (c) to the deposit of any tracer;                      (d) to a removal activity carried on for the purpose of removing any scientific instrument or associated equipment referred to in sub-paragraph (a).</p> <p>(2) Sub-paragraphs (b) and (c) of paragraph (1) are subject to conditions 1 and 2.</p>	<p><b>Scientific equipment or instruments</b></p> <p>(1) the exemption applies -                      (a) to the deposit of any scientific equipment or instrument and associated equipment in connection with any scientific experiment or survey;                      (b) to the deposit of any reagent;                      (c) to the deposit of any tracer;                      (d) to a removal activity carried on for the purpose of removing any scientific equipment or instrument and associated equipment referred to in sub-paragraph (a) at the end of any experiment or survey.</p> <p>(2) Sub-paragraphs (b), (c) and (d) of paragraph (1) are subject to conditions 1, 2, 3 and 4.</p>	<p>Low risk, subject to the necessary conditions of the exemption being met. Supports understanding of the marine environment by enabling scientific research.</p>

<p>(3) Condition 1 is that the reagent or tracer must be one the use of which is for the time being approved for the purposes of this Order by the licensing authority.</p> <p>(4) Condition 2 is that the reagent or tracer must be used in accordance with any conditions to which the approval is subject.</p> <p>(5) But article 4 does not apply to —</p> <p>(a) any such deposit made for the purpose of disposal;</p> <p>(b) any such deposit that causes or is likely to cause obstruction or danger to navigation;</p> <p>(c) any such deposit or removal activity—</p> <p>(i) that falls within sub-paragraph (a) or (b) of paragraph 6; and</p> <p>(ii) that is not directly connected with or necessary to the management of the site referred to in that sub-paragraph.</p> <p>(6) A deposit or removal activity falls within this paragraph if—</p> <p>(a) it is a plan or project likely (either alone or in combination with other plans or projects) to have a significant effect on a European site; or</p> <p>(b) it is likely to have an effect on a Ramsar site.</p> <p>(7) In sub-paragraphs (a) and (b) of paragraph (6), “likely” has the same meaning as in Council Directive <a href="#">92/43/EEC</a> on the conservation of natural habitats and of wild fauna and flora.</p>	<p>(3) Condition 1 is that details of the scientific equipment or instruments to be deposited must be provided to the UK Hydrographic Office at least 5 days before any deposit is carried out.</p> <p>(4) Condition 2 is that notification must be provided to the UK Hydrographic office of any subsequent removal of any scientific equipment or instruments at least 5 days after removal.</p> <p>(5) Condition 3 is that the reagent or tracer must be one the use of which is for the time being approved for the purposes of this Order by the licensing authority.</p> <p>(6) Condition 4 is that the reagent or tracer must be used in accordance with any conditions to which the approval is subject.</p> <p>(7) But this exemption does not apply to —</p> <p>(a) any such deposit made for the purpose of disposal;</p> <p>(b) to any such deposit that causes or is likely to cause obstruction or danger to navigation, in particular where such deposit is tethered to the seabed or reduces navigational clearance by more than 5% by reference to Chart Datum, or</p> <p>(c) any such deposit or removal activity that is likely to have a significant effect on a Marine Protected Area.</p> <p>(8) In paragraph (1) a scientific experiment or survey is “A campaign of surveying the marine environment for the purpose of scientific observation and/or analysis.</p>	
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<p><b>Maintenance of coast protection, drainage and flood defence works -</b></p> <p>(1) the exemption applies—</p> <p>(a) to an activity carried on by or on behalf of the Natural Resources Body for Wales or the Environment Agency for the purpose of maintaining any—</p> <ul style="list-style-type: none"> <li>(i) coast protection works;</li> <li>(ii) drainage works;</li> <li>(iii) flood defence works;</li> </ul> <p>(b) to an activity carried on by or on behalf of a coast protection authority (within the meaning of the Coast Protection Act 1949 for the purpose of maintaining any coast protection works.</p> <p>(2) Paragraph (1) is subject to the condition that the activity is carried on within the existing boundaries of the works being maintained.</p> <p>(3) Article 4 does not apply in relation to any such activity that consists of beach replenishment.</p>	<p><b>Maintenance of coast protection, drainage and flood defence works -</b></p> <p>(1) the exemption applies to an activity carried on by or on behalf of flood risk management authorities, or coast protection authorities for the purpose of maintaining any –</p> <ul style="list-style-type: none"> <li>(i) coast protection works;</li> <li>(ii) drainage works;</li> <li>(iii) flood defence works;</li> </ul> <p>(2) In paragraph (1) flood risk management authorities means such authorities as defined in the Flood and Water Management Act 2010 and coast protection authorities has the same meaning as the Coast Protection Act 1949.</p> <p>(3) Paragraph (1) is subject to the condition that maintenance activities are carried on within the existing boundaries of the works being maintained.</p> <p>(4) The exemption does not apply in relation to any such activity that consists of beach replenishment.</p> <p>(5) In this exemption, “coast protection works” includes –</p> <ul style="list-style-type: none"> <li>(a) beach re-profiling, which involves the movement of beach material in a cross-shore direction up or down the beach, which is within the bounds of natural beach variability, and</li> <li>(b) beach recycling, which involves the movement of Beach material along the beach from areas of accretion to areas of erosion within the beach or associated sediment system.</li> </ul>	<p>Low risk, subject to the conditions of the exemption being met.</p>
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<p><b>Emergency works in response to flood or flood risk</b></p> <p>(1) the exemption applies to an activity carried on by or on behalf of the Natural Resources Body for Wales or the Environment Agency for the purpose of executing emergency works in response to any flood or the imminent risk of any flood.</p> <p>(2) Paragraph (1) is subject to the condition that the activity may only be carried on in accordance with an approval granted by the licensing authority for that purpose.</p>	<p><b>Emergency works in response to flood or flood risk</b></p> <p>(1) the exemption applies to an activity carried out for the purpose of executing emergency works in response to any flood or the imminent risk of any flood.</p> <p>(2) The exemption does not apply where there has been failure to maintain an asset before an emergency situation occurs.</p>	<p>Emergency response.</p>
<p><b>Deposits in the course of normal navigation or maintenance</b></p> <p>(1) the exemption applies to a deposit from a vehicle, vessel, aircraft, or marine structure in the course of its normal navigation or maintenance.</p> <p>(2) The exemption does not apply to any such deposit</p> <p>(a) made for the purpose of disposal;</p> <p>(b) to the extent that it falls within item 10 [of Section 66 of the marine and coastal access act].</p>	<p><b>Deposits and removals in the course of normal navigation or maintenance</b></p> <p>(1) the exemption applies to a deposit from a vehicle, vessel, aircraft, or marine structure in the course of its normal navigation or maintenance, or any related removal of an object or substance from the seabed.</p> <p>(2) The exemption does not apply to any such deposit</p> <p>(a) made for the purpose of disposal;</p> <p>(b) to the extent that it falls within item 10 [of Section 66 of the marine and coastal access act].</p>	<p>Low risk activity. Intended to enable day to day/routine activities such as the deposit and subsequent removal of anchors.</p>
<p><b>Markers for European marine sites</b></p> <p>(1) the exemption applies to—</p> <p>(a) a deposit by the Natural Resources Body for Wales for the purpose of installing a marker for the purposes of regulation 37(1) of the Conservation of</p>	<p><b>Markers for European marine sites</b></p> <p>(1) the exemption applies to —</p> <p>(a) a deposit by the Natural Resources Body for Wales for the purpose of installing a marker to indicate the existence and extent of a Marine</p>	<p>Low risk, subject to the necessary conditions of the exemption being met.</p>

<p>Habitats and Species Regulations 2017 (installation of markers indicating the existence and extent of a European marine site within the meaning of those Regulations;</p> <p>(b) a removal activity carried on by the Natural Resources Body for Wales for the purpose of removing a marker referred to in sub-paragraph (a).</p> <p>(2) Paragraph (1) is subject to the condition that the activity may only be carried on in accordance with an approval granted by the licensing authority for that purpose.</p>	<p>Protected Area designated under the Conservation of Habitats and Species Regulations 2017, and Part 5 of the Marine and Coastal Access Act.</p> <p>(b) a removal activity carried on by the Natural Resources Body for Wales for the purpose of removing a marker referred to in sub-paragraph (a).</p> <p>(2) Paragraph (1) is subject to the following condition –</p> <p>(a) Condition 1 is that notification of any deposit or removal activity is given to the following at least 5 days before any deposit or removal activity is carried out.</p> <ul style="list-style-type: none"> <li>- Maritime Coastguard Agency</li> <li>-Trinity House, and</li> <li>-UK Hydrographic Office</li> </ul>	
<p><b>Diver trails within restricted areas</b></p> <p>(1) the exemption applies to a deposit or removal activity carried on for the purpose of placing, securing or removing signage or other identifying markers relating to a wreck within an area designated as a restricted area within the meaning of section 1 of the Protection of Wrecks Act 1973.</p>	<p><b>Diver trails within restricted areas</b></p> <p>(1) the exemption applies to a deposit or removal activity carried on for the purpose of placing, securing, or removing signage or other identifying markers relating to a wreck within an area designated as a restricted area within the meaning of section 1 of the Protection of Wrecks Act 1973, scheduled monument, as defined in Part 2 of the Historic Environment (Wales) Act 2023 and Archaeological Areas Act 1979, and the Protection of Military Remains Act 1986.</p>	<p>Low risk.</p>
<p><b>Coastguard activities – safety purposes and training</b></p> <p>(1) the exemption applies to an activity carried on by or on behalf of the Secretary of State for Transport, acting through the Maritime and</p>	<p><b>Coastguard activities – safety purposes and training</b></p> <p>(1) the exemption applies to an activity carried on by or on behalf of the Secretary of State for Transport, acting through the Maritime and Coastguard</p>	<p>Emergency response - safety of life and/or vessels.</p>



<p>Coastguard Agency, for the purpose of—  (a) securing the safety of a vessel, aircraft, or marine structure;  (b) saving life; or  (c) training for any purpose referred to in paragraph (a) or (b).</p>	<p>Agency, or to anyone acting in connection with -  (a) securing the safety of a vessel, aircraft, or marine structure;  (b) the saving of or attempted saving of life or property, or  (c) training for any purpose referred to in paragraph (a) or (b).</p>	
<p><b>Cables and pipelines – authorised emergency inspection and repair</b></p> <p>(1) the exemption applies to a deposit, removal activity or dredging activity carried on for the purpose of executing emergency inspection or repair works to any cable or pipeline.</p> <p>(2) Paragraph (1) is subject to the condition that the activity may only be carried on in accordance with an approval granted by the licensing authority for that purpose.</p> <p>(3) But the exemption does not apply to any such deposit falling within item 10 [of Section 66 of the Marine and Coastal Access Act].</p>	<p><b>Cables and pipelines – emergency inspection and repair</b></p> <p>1) the exemption applies to a deposit, removal activity or dredging activity carried on for the purpose of executing emergency inspection or like for like repair works to any cable or pipeline.</p> <p>(2) Paragraph (1) is subject to the following conditions that the UK Hydrographic office is notified of any amendments made to charted cable positions within 5 days after any emergency works.</p> <p>(3) The exemption does not apply:  a) to any such deposit falling within item 10 [of Section 66 of the Marine and Coastal Access Act]  b) to any such deposit or dredging activity carried out for the purpose of providing cable or pipeline protection.  c) to any cable improvement activities.</p>	<p>Emergency response.</p>
<p><b>Deposit and use of flares etc – safety purposes and training</b></p> <p>(1) the exemption applies to the deposit or use of any distress flare, smoke float or similar pyrotechnic substance or object for the purpose of—</p>	<p><b>Deposit and use of flares etc – safety purposes and training</b></p> <p>(1) the exemption applies to the deposit or use of any distress flare, smoke float or similar pyrotechnic substance or object for the purpose of—  (a) securing the safety of a vessel, aircraft or marine structure.</p>	<p>Emergency response - safety of life and/or vessels.</p>

<p>(a) securing the safety of a vessel, aircraft or marine structure;</p> <p>(b) saving life; or</p> <p>(c) training for any purpose referred to in subparagraph (a) or (b).</p>	<p>(b) saving life; or</p> <p>(c) training for any purpose referred to in subparagraph (a) or (b), which must comply with any relevant health and safety requirements.</p>	
<p><b>Shellfish propagation and cultivation</b></p> <p>(1) the exemption applies to—</p> <p>(a) the deposit of any shellfish, trestle, raft, cage, pole, rope or line in the course of the propagation or cultivation of shellfish;</p> <p>(b) a removal activity or dredging activity carried on for the purpose of moving shellfish within the sea in the course of its propagation or cultivation.</p> <p>(2) But article 4 does not apply to any such deposit—</p> <p>(a) made for the purpose of disposal;</p> <p>(b) made for the purpose of creating, altering or maintaining an artificial reef; or</p> <p>(c) that causes or is likely to cause obstruction or danger to navigation.</p>	<p><b>Shellfish propagation and cultivation</b></p> <p>(1) the exemption applies to —</p> <p>(a) the deposit of any shellfish, trestle, raft, cage, pole, rope or line in the course of the propagation or cultivation of shellfish.</p> <p>(b) a removal activity or dredging activity carried on for the purpose of moving shellfish within the sea in the course of its propagation or cultivation.</p> <p>(2) The exemption is subject to the following conditions:</p> <p>(a) Condition 1 is that any person proposing to undertake shellfish propagation or cultivation activities must engage with the Maritime and Coastguard Agency and Trinity House prior to any activity commencing to seek written agreement on whether any activities cause or are likely to cause an obstruction or danger to navigation.</p> <p>(b) Condition 2 is that notification is given to the UK Hydrographic Office at least 5 days before any deposit activity commences, including details of any structures or markers and their positions using WGS84 coordinates.</p> <p>(3) But the exemption does not apply to -</p> <p>(a) any deposit made for the purpose of disposal,</p> <p>(b) any deposit made for the purpose of creating, altering, or maintaining an artificial reef,</p>	<p>Avoids duplication of regulation where a Several Order, or other relevant Regulating Order is already in place. The activity is low risk subject to the conditions of the exemptions being met.</p>

	<p>(c) any deposit or removal activity that causes or is likely to cause obstruction or danger to navigation,</p> <p>(d) any deposit, removal activity or dredging activity that is likely to have a significant effect on a Marine Protected Area, or</p> <p>(e) the expansion of shellfish propagation or cultivation activities within the boundaries of existing activities.</p>	
<p><b>Moorings and aids to navigation</b></p> <p>(1) the exemption applies—</p> <p>(a) to a deposit or works activity carried on by a person referred to in paragraph (2) for the purpose of providing a pile mooring, swinging mooring, trot mooring or aid to navigation;</p> <p>(b) to a removal activity carried on by any such person for the purpose of removing any such mooring or aid to navigation.</p> <p>(2) The persons are—</p> <p>(a) a harbour authority.</p> <p>(b) a lighthouse authority.</p> <p>(c) any other person, where the activity is carried on in accordance with a consent required from, and granted by, any such authority.</p> <p>(3) But the exemption does not apply to any such activity which consists of the deposit or the construction of a pontoon.</p>	<p><b>Moorings and aids to navigation</b></p> <p>(1) the exemption applies—</p> <p>(a) to a deposit or works activity carried on by a person referred to in paragraph (2) for the purpose of providing a pile mooring, swinging mooring, trot mooring or aid to navigation.</p> <p>(b) to a removal activity carried on by any such person for the purpose of removing any such mooring or aid to navigation.</p> <p>(c) to a deposit or removal activity carried on by a person referred to in paragraph (2) for the purpose of replacing or maintaining any such mooring or aid to navigation.</p> <p>(2) The persons are—</p> <p>(a) a harbour authority.</p> <p>(b) a lighthouse authority.</p> <p>(c) any other person, where the activity is carried on in accordance with a consent required from, and granted by, any such authority.</p> <p>(3) But the exemption does not apply to any such activity which consists of the deposit or the construction of a pontoon.</p>	<p>Low risk.</p>

<p><b>Removal of obstruction or danger to navigation</b></p> <p>(1) applies to a removal activity carried on by a person referred to in paragraph (2) for the purpose of removing anything causing or likely to cause obstruction or danger to navigation.</p> <p>(2) The persons are—</p> <p>(a) a conservancy authority (within the meaning given by section 313(1) of the Merchant Shipping Act 1995<sup>(1)</sup>);</p> <p>(b) a harbour authority;</p> <p>(c) a lighthouse authority;</p> <p>(d) a person having powers under any enactment or statutory order to work or maintain a canal or other inland navigation, including a navigation in tidal water.</p>	<p><b>Removal of obstruction or danger to navigation</b></p> <p>(1) the exemption applies to a removal activity carried on by a person referred to in paragraph (2) for the purpose of removing anything causing or likely to cause obstruction or danger to navigation.</p> <p>(2) The persons are—</p> <p>(a) a conservancy authority (within the meaning given by section 313(1) of the Merchant Shipping Act 1995;</p> <p>(b) a harbour authority;</p> <p>(c) a lighthouse authority;</p> <p>(d) a person having powers under any enactment or statutory order to work or maintain a canal or other inland navigation, including a navigation in tidal water.</p> <p>(3) The exemption is subject to the condition that the UK Hydrographic Office is notified of the removal activity within 5 days after completion of the removal.</p>	<p>Ensures the safety of navigation.</p>
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**Table 3. New Exemption Proposals**

<p><b>Routine minor works to maintain existing bridges, cantilevered structures, including maintenance of jetties and piers</b></p> <p>(1) the exemption applies to routine minor works carried out for the purpose of maintaining existing bridges, cantilevered structures, jetties and piers.</p> <p>(2) the exemption is subject to the following conditions:</p>
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- (a) Condition 1 is the minor works includes, but is not limited to, the replacement and upkeep of ancillary assets of structures, such as installation of lights, signage, work to pathways, fencing and road surfacing.
- (b) Condition 2 is that all relevant pollution prevention guidance is followed.
- (c) Condition 3 is that notification of any deposit or removal activity is given to any local Statutory Harbour Authority or local marinas or sailing clubs at least 72 hours before any deposit or removal activity is carried out.

(3) the exemption does not apply –

- (a) to any significant alteration or any structures required to support access.
- (b) to any dredge or disposal works.
- (c) to any such deposit or removal activity that will cause or be likely to cause obstruction or danger to navigation, or which reduces the air clearance above Highest Astronomical Tide (HAT) for any vessels making passage under a bridge.
- (d) to any such deposit or removal activity that is likely to have a significant effect on a Marine Protected Area.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Removal of Abandoned and/or derelict vessels**

(1) the exemption applies to any deposit or removal activity carried on by, or on behalf of a Statutory Harbour Authority or the Natural Resources Body for Wales, for the purpose of removing an abandoned or derelict vessel to land.

(2) the exemption is subject to the following conditions:

- (a) Condition 1 is that prior notification is given to the Maritime Coastguard Agency at least 24 hours before any deposit or removal activity is carried on.
- (b) Condition 2 is that all relevant pollution prevent guidance is followed.

(3) the exemption does not apply -

- (a) to any such deposit or removal activity that will cause or be likely to cause obstruction or danger to navigation,
- (b) to any such deposit or removal activity that is likely to have a significant effect on a Marine Protected Area.
- (c) to the removal of any wrecks protected under the Protection of Wrecks Act (1973), or other designated Protected Wrecks.

(3) 'abandoned' means those vessels where the owner is unknown, following reasonable attempts to identify them, or has surrendered rights of ownership.

(4) 'derelict' means a vessel in a state of disrepair and neglect.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Firework displays**

(1) The exemption applies to the use of fireworks as part of a firework display and the removal of any associated litter from the marine environment, where practical.

(2) The exemption does not apply:

- a) to any such activity for the purpose of disposal.
- b) to any such activity that causes or is likely to cause obstruction or danger to navigation.
- d) to any such activity that is likely to have a significant effect on a Marine Protected Area.

**Reason:** Low risk.

### **Seabed grab sampling for testing or analysis**

(1) the exemption applies to a removal activity carried on for the purpose of taking a sample of material for testing or analysis.

(2) the exemption does not apply to:

- (a) any removal activity where the volume of material removed exceeds 1 cubic metre per sample.
- (c) any such removal activity that causes or is likely to cause obstruction or danger to navigation.
- (d) any such removal activity that is likely to have a significant effect on a Marine Protected Area.
- (e) any such removal activity that falls within a restricted area within the meaning of section 1 of the Protection of Wrecks Act 1973, or scheduled monuments, as defined in Part 2 of the Historic Environment (Wales) Act 2023 and the Protection of Military Remains Act 1986.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Divers removing litter**

(1) the exemption applies to the removal of the following during the course of diving activities:

- (a) marine litter; and
- (b) abandoned, discarded, or lost fishing gear.

(2) the exemption does not apply to any such removal activity –

- (a) that is likely to cause damage to features of archaeological or historic interest in an area where the diving activities occur, or
- (b) to any removal activity that is likely to have a significant effect on a Marine Protected Area.

(3) 'Marine litter' means any persistent, manufactured or processed solid material discarded, disposed of or abandoned in the marine and coastal environment.

(4) 'Debris' includes remnants from something that has been destroyed or pieces of unwanted or discarded material that are spread around.

**Reason:** Low risk.

### **Accidental deposits – removal activity**

(1) the exemption applies to a removal activity carried on for the purpose of removing any object which has been accidentally deposited on the seabed.

(2) the exemption is subject to the following condition that the removal activity must be commenced within the period 12 months beginning with the day on which the object was accidentally deposited on the seabed.

(3) the exemption does not apply -

(a) to any such removal activity that causes, or is likely to cause obstruction or danger to navigation

(b) to any such removal activity that is likely to cause significant effect on a Marine Protected Area.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Navigational maintenance dredging**

(1) the exemption applies to a dredging activity carried on for the purpose of conserving or maintaining the navigation of an area of the sea.

(2) The exemption is subject to the following conditions:

(a) Condition 1 is that the dredging activity may only be carried on at a site and at a depth where in the 10 years before the dredging activity is commenced, at least one other dredging activity has been carried on for the purposes referred to in paragraph (1).

(b) Condition 2 is that at the site where the dredging activity is to be carried on the volume of material to be dredged as a result of the activity plus the volume of material dredged from the same site over the past 12 months or a rolling 12-month period combined must not exceed 1500 cubic metres.

(3) the exemption does not apply -

a) to any such dredging activity where the volume of material to be dredged as a result of the activity exceeds 500 cubic metres.

b) to capital dredging.

c) to any such dredging activity that will cause or be likely to cause obstruction or danger to navigation.

- d) to any such dredging activity that is likely to have a significant effect on a Marine Protected Area.
- e) to any such dredging activity that is likely to affect the status of the waterbody or prevent the achievement of any environmental objectives listed in the relevant River Basin Management plan.
- f) to any disposal of dredged material.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Temporary markers**

(1) the exemption applies-

- (a) to a deposit activity carried on for the purpose of placing a marker to mark out areas for recreational activities such as sailing, swimming, or diving.
- (b) to a removal activity carried on for the purpose of meeting the condition in paragraph (4).

(2) Paragraph (1) is subject to the condition that notice of the intention to carry on the deposit activity must be given to the Maritime Coastguard Agency and Trinity House before the activity is carried on, except where the activity consists of a deposit of placing a marker and the subsequent removal of that marker will take place within 24 hours of the deposit.

(4) Paragraph 1 (b) is subject to the condition that the marker and any associated equipment must be removed from the sea and, where applicable seabed within the period of 28 days beginning with the day on which the deposit is made.

(5) The exemption does not apply -

- (a) to any such deposit or removal activity that causes, or is likely to cause obstruction of danger to navigation, or
- (b) to any such deposit or removal activity that is likely to have a significant effect on a Marine Protected Area.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Use of vehicles or vessels to remove marine litter and debris**

(1) The exemption applies to a removal activity using a vehicle or vessel carried on by or on behalf of a Local Authority, Local Harbour Authority within its jurisdiction, or Natural Resources Wales for the purpose of removing:

- (a) marine litter, debris, live or dead animals from a beach or the intertidal area, and
- (b) abandoned, discarded, or lost fishing gear.

2) Paragraph 1 is subject to the condition that notice of the intention to remove a live or dead animal is given to the enforcement authority at least 72 hours before removal activities are undertaken.



- (3) the exemption does not apply:
- (a) to any such removal activity that is likely to have a significant effect on a Marine Protected Area,
  - (b) to any such removal activity that is likely to cause damage to features of archaeological or historic interest in an area where the removal activity occurs.

**Reason:** Low risk.

### **Seagrass Restoration**

(1) The exemption applies to any deposit or removal activity carried on using a vehicle or vessel for the purposes of establishing or restoring a seagrass meadow.

(2) The exemption applies —

- (a) to the deposit of any seagrass seed of native species, cutting or plant in the course of restoring seagrass meadows;
- (b) to a removal activity carried on for the purpose of moving seagrass seed, cutting or plant in the course of the restoration of seagrass meadows that does not negatively impact the donor meadow (<10% of reproductive output).
- c) to the movement of seagrass cores or sods, carried on for the purpose of moving seagrass seed, sediment, cutting or plant in the course of the restoration of seagrass meadows that does not be negatively impact the donor meadow.

(3) The exemption is subject to the following conditions:

- (a) Condition 1 is that prior approval is sought from the Maritime Coastguard Agency and Trinity House before any deposit or removal activities commence.
- 2) Condition 2 is that the native seagrass seed, cutting or plant is free from invasive non-native species.

(4) the exemption does not apply —

- (a) to any such deposit made for the purpose of disposal;
- b) to any such deposit or removal activity that causes or is likely to cause obstruction or danger to navigation,
- c) to any such deposit or removal activity that is likely to have a significant effect on a Marine Protected area,
- d) to any such deposit or removal activity that is likely to cause damage to features of archaeological or historic interest.
- e) to the deposit of any non-biodegradable materials or harmful substances.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

### **Construction of New Coastal Flood Defence Works**

(1) the exemption applies to any deposit or removal activity carried on by or on behalf of flood risk management authorities for the purpose of constructing new coastal flood defence works where relevant local planning permission is required.

(2) the exemption does not apply

(a) to any construction, deposit or removal activity that extends below the Mean Low Water Spring Tide Mark.

(b) to any such construction, deposit or removal activity that causes or is likely to cause obstruction or danger to navigation,

(c) to any such construction, deposit or removal activity that is likely to have a significantly effect on a Marine Protected Area located below the Mean Low Water Spring Tide Mark.

(d) to any such construction, deposit or removal activity that is likely to cause damage to features of archaeological or historic interest, located below the Mean Low Water Spring Tide Mark.

(3) In paragraph (1) flood risk management authorities means such authorities as defined in the Flood and Water Management Act 2010.

(4) The exemption is subject to the condition that the UK Hydrographic office is notified of any such deposit or removal activities at least 5 days prior to activities commencing.

**Reason:** Avoids duplication of regulation where planning permission is required.

### **Dry Dock Facilities**

(1) the exemption applies to a deposit or removal activity carried on in a dry dock area, within a harbour which is regulated under the Harbours Act 1964, where the activity is carried on by Statutory Harbour Authorities or those acting on behalf of or with consent from a Statutory Harbour Authority.

(2) the exemption is subject to the following conditions:

(a) Condition 1 is that notification of the intention to carry on any deposit or removal activity is given to the Maritime and Coastguard Agency and Trinity House before any deposit or removal activity is carried on.

(b) Condition 2 is that all debris is removed from the dry dock prior to any planned breach associated with the entry or exit of any vessel, structure etc.

(3) the exemption does not apply:

(a) to any such deposit or removal activity that causes or is likely to cause obstruction or danger to navigation,

(b) to any such deposit or removal activity that is likely to have a significant effect on a Marine Protected Area,

(c) to any such deposit or removal activity that is likely to cause damage to features of archaeological or historic interest.

**Reason:** Regulated through the Environmental Permitting Regime – avoids duplication of regulation.

### **Discharge of offshore chemicals and oil**

- (1) the exemption applies to any activity in relation to which a permit is required under;
- a) the Offshore Chemicals Regulations 2002, or
  - b) the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005.

**Reason:** Avoid duplication of regulation.

### **Removal of wind-blown sand**

(1) this exemption applies to a deposit or removal activity for the purpose of clearing sand blown onto promenades, roads or slipways following a storm event.

(2) the exemption is subject to the following conditions:

- (a) Condition 1 is that the sand is free from marine litter, debris or land-based contaminants before it is moved back onto the beach from where it originated.
- (b) Condition 2 is that the sand is deposited at the area it originated no more than 7 days following the movement of material during a storm event.

**Reason:** Low Risk, subject to the necessary conditions of the exemption being met.

### **Pontoons**

(1) the exemption applies:

- (a) to a deposit or works activity carried on by, or with the consent required from and granted by, a Statutory Harbour Authority for the purpose of providing a pontoon, which must be free from Invasive Non-Native Species.
- (b) to a removal activity carried on by, or with the consent required from and granted by, a harbour authority for the purpose of removing a pontoon.

(2) Sub-paragraph (a) of paragraph (1) is subject to the following conditions –

- (a) Condition 1 is that the activity is carried on by, or with the consent required from and granted by, a Statutory Harbour Authority.
- (b) Condition 2 is that in the 6 months before the activity is commenced, more than 10 pontoons have been constructed or deposited by, or with the consent required from and granted by, that authority.
- (c) Condition 3 is that the relevant Port Safety Marine Code is followed, which includes notification of works to the UK Hydrographic Office.

(3) The exemption does not apply:

- (a) to any such activity which consists of the deposit, construction or removal of a pontoon the deck of which has an area exceeding 30 square metres.
- (b) to any dwelling or permanent structure or infrastructure placed on top of a pontoon.

**Reason:** Low risk, subject to the necessary conditions of the exemption being met.

#### **Table 4. Exemptions included in the [2011 Exemptions Order](#) to be removed as an exempted activity**

##### **Bored tunnels**

(1) the exemption applies to a deposit or works activity carried on wholly under the seabed in connection with the construction or operation of a bored tunnel.

(2) Paragraph (1) is subject to conditions 1 and 2.

(3) Condition 1 is that notice in writing of the intention to carry on the activity must be given to the licensing authority before the activity is carried on.

(4) Condition 2 is that the activity must not adversely affect the environment of Wales, the Welsh inshore region and the Welsh offshore region or the living resources that it supports.

(5) But article 4 does not apply to any such deposit carried on for the purpose of disposal.

**Reason:** Exemption is considered too broad and could unintentionally apply to the deposit and construction of structures in bored tunnels.

##### **Use of vehicles to remove litter or seaweed from beaches**

(1) the exemption applies to a removal activity using a vehicle, carried on by or on behalf of a local authority, for the purpose of removing any litter or seaweed from a beach.

(2) But the exemption does not apply to any such removal activity—

(a) that falls within sub-paragraph (a) or (b) of paragraph (3); and

(b) that is not directly connected with or necessary to the management of the site referred to in that sub-paragraph.

(3) An activity falls within this paragraph if—

(a) it is a plan or project likely (either alone or in combination with other plans or projects) to have a significant effect on a European site; or

(b) it is likely to have a significant effect on a Ramsar site.

(4) In paragraph (1), “local authority” has the meaning given by section 68(9) of the Marine and Coastal Access Act.

(5) In paragraph (3)(a) and (b), “likely” has the same meaning as in Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora.

**Reason:** Removed – merged with new exemption enabling the removal of litter

## Questions

We welcome your views on the proposed exemptions, in particular:

**Question 1:** Do you agree with the proposed exemptions, including any associated conditions? If not, please explain why you disagree with a proposed exemption.

**Question 2.** Do you agree we should extend the exemption in Table 2 above that exempts the maintenance of coast and flood defences to also apply to all Flood Risk Management Authorities?

It is possible this amendment will require Flood Risk Management Authorities to obtain permission to carry out works under the Environmental Permitting Regulations (2016), where certain activities may not currently require permission if a marine licence has been applied for. Do you foresee any significant consequences for Flood Risk Management Authorities as a result of this change, including any significant cost implications? If so, please explain what the consequences are?

**Question 3.** Are there any other activities that we have not included in the tables that you feel should be exempt? When considering this question please include any evidence that the activity is low risk, already better regulated or would be required to deal with an emergency situation.

**Question 4:** Do you agree bored tunnels should be removed as an exempted activity?

**Question 5:** If you intend to carry out a new exempted activity, do you have any evidence on the cost savings you will make from no longer needing to apply for a marine licence? This information will be used to inform our final Regulatory Impact Assessment.

**Question 6:** What, in your opinion, would be the likely effects of an Exempted Activities Order as proposed in this consultation be on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

- Do you think that there are opportunities to promote any positive effects?

- Do you think that there are opportunities to mitigate any adverse effects?

**Question 7:** In your opinion, could an Exempted Activities Order be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or
- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

**Question 8:** We have asked a number of specific questions. If you would like to make comments on other issues which we have not specifically addressed above, please use this space to report them:

**Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:**



## **Impact Assessments**

A Regulated Impact Assessment (RIA) is being drafted to support the decision on whether to make a new exemptions order. An initial draft of the RIA can be found in Annex A, it will be completed post consultation. An Integrated Impact Assessment (IIA) has also been prepared, with the purpose of enabling the Welsh Government to consider in a structured way the impact of the proposed policies and actions on the people of Wales. The IIA includes for example a children's rights impact assessment, an equalities impact assessment, and a Welsh Language impact assessment. The IIA also requires an assessment of the environmental impact that any new exemption order may pose.

In our detailed consideration of the review of marine licence exemptions, we have not identified any significant impacts to the environment, economy or any person, business, or community as a result of introducing a new exempted activity order. Introducing any order to exempt certain activities from applying a regulatory process is designed to result in a positive impact for businesses, individuals, and public bodies with an interest in marine licensing. Positive impacts result in cost and time savings to all bodies engaged in the end-to-end process of marine licensing. Applicants would no longer need to prepare and apply for a marine licence. Technical bodies would no longer need to be consulted on applications to NRW, unless specified by the order, thereby removing the need to assess, determine, and manage marine licence applications where an exemption applies.

Exempting activities from the marine licensing process will therefore have a positive impact on the economic prosperity of Wales, supporting government objectives for the sustainable management of the Welsh marine area, enabling activity whilst ensuring the environment remains protected.

When introducing an exemptions order, Ministers must have regard to the protection of the environment and human health and to prevent interference with other legitimate uses of the sea. Activities are proposed for an exemption only where they have been assessed as low risk, they are already regulated, or action is required to prevent or deal with an emergency. This ensures impacts to the environment, human health or other users of the sea are avoided and where exemptions are subject to conditions, if these conditions cannot be satisfied then a marine licence is required, safeguarding against any negative impacts.

## **Outcome**

Following consultation, and agreement by the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, The Marine Licensing (Exempted Activities (Wales) Order 2025 will be made under Section 74 of the Act.

## **Consultation Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

## **UK General Data Protection Regulation (UK GDPR)**

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response, then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

### **Your rights**

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it,
- to require us to rectify inaccuracies in that data,
- to (in certain circumstances) object to or restrict processing,
- for (in certain circumstances) your data to be 'erased',
- to (in certain circumstances) data portability,
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below.

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail: [dataprotectionofficer@gov.wales](mailto:dataprotectionofficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

## **Annex A – draft Regulatory Impact Assessment**

### **1. Options**

The Welsh Government's objective is to have a fit for purpose marine licensing exemptions order. In line with the Act, activities can only be exempt through an order made under section 74 of the Act, therefore, the options available that could achieve the policy objective are limited to business as usual or introducing new legislation. Both options are recommended, and the costs associated with these options are detailed below.

#### **a) Business as usual.**

The Welsh Ministers could retain the exemptions set out in the 2011 Exemptions Order with no amendments, updates or new exemptions. However, applying this option would mean the full list of exempted activities in Wales may not be fit for the future and will remain inconsistent with the exemption orders introduced for England, Scotland and Northern Ireland, potentially putting Wales at a disadvantage.

#### **b) Make new Order to update the Exempted Activities**

To ensure marine licensing delivers government objectives, remains proportionate and consistent with marine licence exemptions across the UK, where appropriate, it is considered necessary to use the Welsh Ministers powers under section 74 of the Act to introduce a new Order. A new Order would retain some of the existing exemptions with no changes, update the conditions for some existing exemptions to ensure it remains appropriate to exempt the activity and introduce new exempted activities.

### **2. Costs and benefits**

The costs and benefits of each option identified above are as follows:

#### **Option a) Business as usual**

The current activities that are exempt from requiring a marine licence have benefitted from an exemption since 2011. As exemptions remove the requirement for a person to obtain a marine licence and therefore to pay a fee, we do not hold any financial information on the cost savings that have occurred and would continue to apply if the current exemptions are maintained and remain unchanged.

However, this option would continue to result in a positive impact on any person wishing to undertake any activity currently identified by the 2011 Exempted Activities Order, as the exemption removes the requirement for a marine licence and therefore removes the costs associated with applying for a marine

licence and any ongoing management costs to ensure compliance with the terms of a marine licence.

### **Option b) Make new Order to update the Exempted Activities**

NRW has provided evidence to inform the RIA providing data from 2017 to 2023, covering the period when the Marine Licensing (Fees) (Wales) Regulations 2017 came into force. NRW's data relates to new exempted activities, where a marine licence application would be made if the exemption wasn't in place.

Based on NRW evidence for new exemptions, cost savings to any person, business or organisation wishing to undertake a new exempted activity will be approximately £15,600 per annum, based on the number of applications, number of variations and the cost for discharging licence conditions during a 6.75-year period (2017-2023). The savings will be made from not having to apply for a marine licence, to vary a licence or to discharge any licence conditions. It is anticipated organisations, businesses and individuals will also save costs associated with the preparation of a marine licence application. We are not able to quantify these costs as they are discrete to each organisation, business or individual and will depend on the licensable activity they wish to undertake, but we expect these will be small to moderate cost savings.

There will also be a positive impact for NRW. NRW have estimated that they have incurred costs of £12,700 per annum (calculated as the value of staff time, less the value of the application fee received) for marine licence applications during the period 2020-2023 in the areas now proposed for an exemption. The cost is due to the marine licensing process not currently operating on a full cost recovery basis. The figure presented shows the value of staff time spent on processing applications where a new exemption is now being proposed. Therefore, while not expected to generate financial savings, introducing the new exemptions will free up case officer time to focus on the activities that remain subject to a marine licence.

In addition to applicants and licence holders, it is also expected savings will be made by the technical bodies routinely consulted by NRW for advice on marine licence applications. Technical experts include for example, the Maritime Coastguard Agency, Trinity House and NRW advisors. Removing the requirement for their advice on certain applications will save these public bodies money where they are not currently able to charge or recover costs for providing advice. It will also free up the technical experts' time, enabling them to focus on licensable activity which are more complex and may significantly affect the environment, human health, or other sea users. It is not possible to quantify these costs as we do not hold the financial information which would be discrete to each technical expert. The cost savings realised will also vary as some technical experts, such as the Maritime Coastguard Agency and Trinity House may still need to advise any person wishing to undertake an exempted activity on navigational matters, for example, where the conditions of an exemption may require their advice for person, organisation or business to benefit from an exemption.

Following our assessment of potential impacts, exempting the activities proposed is not expected to have a detrimental impact on the environment or economy of Wales. Overall, options a) and b) are intended to have positive economic impacts. A breakdown of the costs provided by NRW can be found in tables 1 - 5 below.

### **3. Competition Assessment**

The purpose of an exempted activities order is to remove certain activities for the need for a marine licence, therefore reducing a regulatory and cost burden on any person wishing to undertake an exempted activity.

The competition filter test has been completed and we do not expect any Exempted Activities Order made under Section 74 of the Act to have an adverse impact on competition in Wales or the competitiveness of Welsh businesses.

### **4. Post implementation review**

It is good practice to review activities exempt from requiring a marine licence to ensure it remains appropriate to continue exempting certain activities as the Welsh Ministers must have regard to the protection of the environment, human health and other sea users when exempting licensable activities.

We intend to review the exempted activities every 5 years.

**Table 1. Costs paid by applicants between 2017-2023 where NRW received an application for new proposed exemptions.**

<b>New Exemptions</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>Total fees paid by applicants (2017-2023)</b>
Maintenance of bridges, cantilevered structures, including maintenance of jetties and piers.	2xBand 1 2xBand 2	4xBand 1 1xBand 2	4xBand 1	5xBand 1 7xBand 2	3xBand 1 3xBand 2	3xBand 1 1xBand 2	1xBand 1 3xBand 2	<b>£45,840.00</b>
Firework displays	1xBand 1	1xBand 1	0	0	0	0	0	<b>£1,200.00</b>
Seabed grab sampling	2xBand 1 1xBand 2	8xBand 1 1xBand 2	3xBand 1	0	2xBand 1	8xBand 1	1xBand 1	<b>£18,240.00</b>
Navigational maintenance dredging	1xBand 1 1xBand 2	0	0	0	2xBand 2	0	0	<b>£6,360.00</b>
Pontoons	2xBand 2	2xBand 2	0	2xBand 2	0	0	0	<b>£11,520.00</b>



Environmental Restoration Projects (habitat restoration).	0	0	1xBand 1	0	1xBand 2	0	0	<b>£2,520.00</b>
New Coastal Flood Defence Works	1xBand 2	0	0	0	0	0	0	<b>£1,920.00</b>
Removal of windblown sand	0	3xBand 1	1xBand 1	0	1xBand 1	1xBand 1	1xBand 2	<b>£5,520.00</b>
<b>Total Band 1*</b>	£3,600.00	£9,600.00	£5,400.00	£3,000.00	£3,600.00	£7,200.00	£1,200.00	
<b>Total Band 2**</b>	£13,440.00	£7,680.00	£0.00	£17,280	£11,520	£1,920.00	£7,680.00	
<b>Grand Total</b>	£17,040.00 (ex VAT)	£17,280.00 (ex VAT)	£5,400.00 (ex VAT)	£20,280 (ex VAT)	£15,120 (ex VAT)	£9,120.00 (ex VAT)	£8,880.00 (ex VAT)	<b>£93,120 (ex VAT)</b>

\*Band 1 fees calculated at £600 per application

\*\*Band 2 fees calculated at £1920 per application

**Table 2. Costs to NRW for processing applications between 2020 - 2023.**

New Exemption	Hourly cost to NRW in calendar year, calculated @ £120/hr							
	2017	2018	2019	2020	2021	2022	2023	TOTAL
Maintenance of bridges, cantilevered structures, including maintenance of jetties and piers.	No data	No data	No data	£31,440.00	£12,600.00	£9,750.00	£13,830.00	<b>£67,620.00</b>
Seabed grab sampling.	No data	No data	No data	£0.00	£2,640.00	£13,140.00	£1,680.00	<b>£17,460.00</b>
Navigational maintenance dredging.	No data	No data	No data	£0.00	£8,130.00	£0.00	£0.00	<b>£8,130.00</b>
Removal of windblown sand	No data	No data	No data	£0.00	£2,790.00	£360.00	£1,590.00	<b>£4,740.00</b>
<b>Total cost calculated at £120 per hour from 2020:</b>								<b>£97,950</b>

**Table 3. Costs to Licence Holders and NRW associated with the discharge of Licence conditions.**

	Number and Fixed Fee Cost	Total Cost
Cost to Licence Holder (between 2017 – 2023)	8 x £480	<b>£3,840</b>
Cost to NRW (between 2020 - 2023)	7 x £480	<b>£3,360</b>

**Table 4. Costs to Licence Holders and to NRW relating to variations or the transfer of Marine Licences for activities proposed as a new exemption.**

<b>Activity</b>	<b>Number of Variations/ Transfer of licences</b>	<b>Cost to Licence Holder between 2017-2023</b>	<b>NRW Process Time/Hrs</b>	<b>Actual Cost to NRW (based on £120 per hour from 2020).</b>
Variation 0 – no fee	3	No charge	25	<b>£2,970.00</b>
Variation 1 (Administrative change £240)	4	<b>£960.00</b>	8	<b>£960.00</b>
Variation 2 Complex changes - £120 per hour	5	<b>£2,790.00</b>	23.25	<b>£2,790.00</b>
Variation 3 Routine Change – fixed fee of £480	10	<b>£4,800.00</b>	45.50	<b>£5,460.00</b>
Transfers = included in variation figures	0	0	0	0
<b>Total</b>		<b>£8,550</b>		<b>£12,180.00</b>

**Table 5. Approximate annual cost savings to applicants and licence holders and costs incurred by NRW**

Activity	Cost saving to applicants/Licence Holder (between 2017 – 2023)	Costs incurred by NRW (between 2020 - 2023)
Application	£93,120	£97,950
Discharge of licence condition	£3,840	£3,360
Licence Variation/Transfer	£8,550	£12,180
<b>Total</b>	<b>£105,510</b>	<b>£113,450</b>
	÷ 6.75 yrs	÷ 4 yrs
<b>Grand Total</b>	<b>£15,631</b>	<b>28,373</b> <b>-£15,631 (applicant fees)</b> <b>= £12,742</b>