
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 78

**ENVIRONMENTAL PROTECTION
LICENSING (MARINE)**

The Marine Licensing (Fees) (Scotland) Regulations 2011

Made - - - - *10th February 2011*
Laid before the Scottish
Parliament - - - - *14th February 2011*
Coming into force - - *6th April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 67(2) and (3)(b) and 316(1)(b) of the Marine and Coastal Access Act 2009⁽¹⁾ and sections 25(1)(b) and (2) and 165(1)(b) of the Marine (Scotland) Act 2010⁽²⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Marine Licensing (Fees) (Scotland) Regulations 2011 and come into force on 6th April 2011.

(2) In these Regulations—

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2010 Act” means the Marine (Scotland) Act 2010;

“application” means an application for a marine licence made under section 67 of the 2009 Act or under section 25 of the 2010 Act;

“capital dredging” means dredging which is carried out—

(a) otherwise than in connection with maintenance works; and

(b) in an area or down to a level not previously dredged during the preceding 7 years;

“renewable energy structure” means a structure in the Scottish marine area (within the meaning of section 1 of the 2010 Act) or in the Scottish offshore region (within the meaning of section 322(1) of the 2009 Act) constructed for the purposes of generating electricity.

Determination of fees

2. The fee to accompany an application is to be determined—
 - (a) in accordance with regulations 3 to 5 in the case of an application made before 1st April 2012;
 - (b) in accordance with regulation 6 in the case of an application made on or after that date.

Applications - general

3.—(1) This regulation applies to any application, other than one to which regulation 4 or 5 applies.

(2) Where in the opinion of the Scottish Ministers the activity for which a licence is sought forms part of a larger project, the fee is to be determined by reference to what the Scottish Ministers consider to be the likely cost of carrying out that project.

(3) Where the activity for which a licence is sought does not fall within paragraph (2), the fee is to be determined by reference to what the Scottish Ministers consider to be the likely cost of carrying out that activity.

- (4) Where the likely cost of carrying out a project or activity (as the case may be)—
 - (a) is no greater than £2,500, the fee is £50;
 - (b) is greater than £2,500 but no greater than £5,000, the fee is £150;
 - (c) is greater than £5,000 but no greater than £50,000, the fee is £600;
 - (d) is greater than £50,000 but no greater than £2 million, the fee is £2,000;
 - (e) is greater than £2 million but no greater than £5 million, the fee is £4,000;
 - (f) is greater than £5 million but no greater than £20 million, the fee is £12,000;
 - (g) is greater than £20 million but no greater than £50 million, the fee is £20,000;
 - (h) is greater than £50 million, the fee is £30,000.

Applications – maintenance dredging

4.—(1) This regulation applies to an application for a licence in respect of the disposal of materials dredged from the seabed in connection with maintenance works.

- (2) Where the application seeks a licence to dispose of no more than 10,000 tons over a period—
 - (a) of no more than 1 year, the fee is £1,400;
 - (b) of more than 1 year but no more than 2 years, the fee is £2,450;
 - (c) of more than 2 years but no more than 3 years, the fee is £3,500.

(3) Where the application seeks a licence to dispose of more than 10,000 tons but no more than 100,000 tons over a period—

- (a) of no more than 1 year, the fee is £2,800;
- (b) of more than 1 year but no more than 2 years, the fee is £4,900;
- (c) of more than 2 years but no more than 3 years, the fee is £7,000.

(4) Where the application seeks a licence to dispose of more than 100,000 tons but no more than 300,000 tons over a period—

- (a) of no more than 1 year, the fee is £5,600;
- (b) of more than 1 year but no more than 2 years, the fee is £9,800;
- (c) of more than 2 years but no more than 3 years, the fee is £14,000.

- (5) Where the application seeks a licence to dispose of more than 300,000 tons over a period—
- (a) of no more than 1 year, the fee is £9,400;
 - (b) of more than 1 year but no more than 2 years, the fee is £16,450;
 - (c) of more than 2 years but no more than 3 years, the fee is £23,500.

Applications – capital dredging

5.—(1) This regulation applies to an application for a licence in respect of the disposal of materials dredged from the seabed in the course of capital dredging.

- (2) Where the application seeks a licence to dispose of no more than 10,000 tons over a period—
- (a) of no more than 1 year, the fee is £1,750;
 - (b) of more than 1 year but no more than 2 years, the fee is £3,500;
 - (c) of more than 2 years but no more than 3 years, the fee is £5,250.

(3) Where the application seeks a licence to dispose of more than 10,000 tons but no more than 100,000 tons over a period—

- (a) of no more than 1 year, the fee is £3,500;
- (b) of more than 1 year but no more than 2 years, the fee is £6,125;
- (c) of more than 2 years but no more than 3 years, the fee is £8,750.

(4) Where the application seeks a licence to dispose of more than 100,000 tons but no more than 300,000 tons over a period—

- (a) of no more than 1 year, the fee is £7,000;
- (b) of more than 1 year but no more than 2 years, the fee is £12,250;
- (c) of more than 2 years but no more than 3 years, the fee is £17,500.

(5) Where the application seeks a licence to dispose of more than 300,000 tons in connection with the construction of a renewable energy structure, the fee payable is £25,000.

(6) In a case not falling within paragraph (5), where the application seeks a licence to dispose of more than 300,000 tons over a period—

- (a) of no more than 1 year, the fee is £11,750;
- (b) of more than 1 year but no more than 2 years, the fee is £20,562;
- (c) of more than 2 years but no more than 3 years, the fee is £29,374.

Applications made on or after 1st April 2012

6.—(1) The fees payable in respect of applications are to be varied with effect from 1st April each year and the fee to accompany an application made on or after 1st April 2012 is to be determined in accordance with paragraph (2).

(2) The fee payable in respect of an application is to be determined in accordance with the formula—

$$A \times \frac{B}{C}$$

Where—

A is the amount that would have been payable had an application of the kind in question been made in the licensing year prior to the licensing year in which the application is made;

B is the Consumer Prices Index figure⁽³⁾ for February in the licensing year immediately before the licensing year in which the application is made; and

C is the Consumer Prices Index figure for February in the licensing year finishing a year before the start of the licensing year in which the application is made.

(3) In paragraph (2), “licensing year” means a period of 12 months starting on 1st April.

Reduced fee

7.—(1) The Scottish Ministers may decide that a reduced fee is payable in respect of an application in the circumstances specified in paragraph (2).

(2) Those circumstances are where—

- (a) an application is made which is, in the opinion of the Scottish Ministers, substantially similar to an earlier application; and
- (b) that earlier application has been withdrawn or refused.

St Andrew’s House,
Edinburgh
10th February 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

(3) Consumer Prices Index figures can be obtained from the website of the Office for National Statistics (www.ons.gov.uk).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the fees payable in respect of applications to the Scottish Ministers for a marine licence. They apply to applications under both the Marine and Coastal Access Act 2009 (Scottish offshore waters) and the Marine (Scotland) Act 2010 (Scottish inshore waters).

Regulation 3 makes provision as to fees for all applications, other than applications for the disposal of materials dredged from the seabed (which are dealt with in regulations 4 and 5). Regulation 6 provides for the annual revision of fees as at 1st April by reference to changes in Consumer Prices Index figures. Regulation 7 allows the Scottish Ministers to charge a reduced fee in respect of a resubmitted application.