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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 485**

The Environmental Impact Assessment and  
Natural Habitats (Extraction of Minerals by  
Marine Dredging) (Scotland) Regulations 2007

PART 5

TRANSFER AND VARIATION OF PERMISSIONS

**Revocation or variation of permission otherwise than on application**

- 20.**—(1) This regulation applies where—
- (a) a significant breach has occurred of any condition attached to the permission or to a transfer of the permission; or
  - (b) in any other case the Scottish Ministers consider it appropriate to exercise the powers conferred by this regulation, in order to protect the environment from significant adverse effects caused by the dredging authorised by the permission.
- (2) Where this regulation applies, the Scottish Ministers may—
- (a) revoke the permission; or
  - (b) vary it in whole or in part permanently.
- (3) Before revoking or permanently varying a permission under paragraph (2)—
- (a) the Scottish Ministers shall serve notice of the proposed revocation or variation—
    - (i) on the persons listed in paragraph (4); and
    - (ii) in accordance with the requirements specified in paragraph (5); and
  - (b) the Scottish Ministers may request the owner or the holder of the permission, or of the part of the permission affected, as the case may be, to provide by a specified date, such additional information as may be required, in order that the Scottish Ministers may establish the extent to which the proposed revocation or variation is likely to be effective to protect the environment from any significant adverse effects which would otherwise be caused by the dredging authorised by the permission (“the additional information”).
- (4) The persons mentioned in paragraph (3)(a)(i) are—
- (a) the owner and any holder of the permission or the part affected, as the case may be;
  - (b) the appropriate consultation bodies; and
  - (c) any other person (including any non governmental organisation promoting environmental protection in marine waters) who is likely to have an interest in the application or whom the Scottish Ministers consider is likely to be affected by the revocation, suspension, under paragraph (7) or (8), or variation.
- (5) The requirements mentioned in paragraph (3)(a)(ii) are—

- (a) to inform the recipients of the date when the proposed revocation or variation is intended to take effect under regulation 21; and
- (b) to specify a period, being not less than 28 days from the date of the notice (“the specified period”), within which the representations may be made about the proposed revocation or variation.

(6) The Scottish Ministers shall publish a copy of the notice served under paragraph (3)(a), where applicable and paragraph (7) by public advertisement.

(7) Where the Scottish Ministers consider that it is necessary for the dredging to cease or the permission to be temporarily varied as soon as possible, they may suspend or temporarily vary the permissions, as the case may be, by inclusion in the notice served as required by paragraph (3) of a statement which–

- (a) states that the permission is suspended or, as the case may be, temporarily varied and the nature of the variations which are temporarily made to the permission;
- (b) informs the recipients that the suspension or temporary variation shall take effect (for the time being and pending the Scottish Ministers decision under paragraph (11)) from the date on which the notice is served; and
- (c) specifies a period, being not less than 28 days from the date of the notice (“the specified period”), within which representations may be made to the Scottish Ministers about the suspension or temporary variation.

(8) Where the Scottish Ministers request additional information under paragraph (3)(b), but the additional information is not provided by the date specified or within such further period as the Scottish Ministers may allow, and the permission has not been suspended under paragraph (7), the permission shall be suspended.

(9) Where a permission has been suspended under paragraph (8)–

- (a) if the additional information is provided to the Scottish Ministers' satisfaction within six months of the suspension, the suspension shall cease;
- (b) if the additional information is not so provided, the permission may be revoked by the Scottish Ministers and the Scottish Ministers shall send notice of the revocation to the persons listed in paragraph (4).

(10) If within the specified period, a person on whom notice has been served under paragraph (3) (a), or a person who has made representations in response to the advertisement published under paragraph (6), so requests, the Scottish Ministers may give–

- (a) to that person; and
- (b) to any other person on whom notice was served under paragraph (3)(a), or who has made representations in response to the advertisement published under paragraph (6),

an opportunity to make representations (whether in person or in writing) to a person appointed by the Scottish Ministers for that purpose.

(11) The Scottish Ministers shall decide whether to revoke the permission or vary it permanently, having regard, in particular, to–

- (a) any representations made in response to a notice served under paragraph (3)(a) or an advertisement published under paragraph (6); and
- (b) if applicable, the report of any person appointed under paragraph (10).

(12) The Scottish Ministers shall serve notice of the decision under paragraph (11) on any person on whom the notice was served under paragraph (3)(a) and on any person who made representations in response to the advertisement published under paragraph (6), and the notice shall state–

- (a) the main reasons for the decision;

- (b) the main considerations on which the decision is based, including, if relevant, information about the public participation process; and
- (c) that the decision may be challenged and the procedures for doing so.