
STATUTORY INSTRUMENTS

2007 No. 1067

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

PART 1

INTRODUCTORY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007, and shall come into force on 1st May 2007.

(2) Subject to paragraph (3), these Regulations apply in relation to marine waters as defined in regulation 2.

(3) Regulations 32(1) and (2) apply to England and regulations 32(3) and (4) apply to Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“the appropriate consultation bodies” means—

- (a) in relation to any dredging in the territorial sea adjacent to England, Natural England;
- (b) in relation to any dredging in marine waters in any other location in British waters, the Joint Nature Conservation Committee;
- (c) in relation to any dredging in Northern Ireland which would be likely to have significant effects on the environment in England, or which is likely to have a significant effect on a European site in England, the Secretary of State;
- (d) in relation to any dredging in England which would be likely to have significant effects on the environment in Northern Ireland, or which is likely to have a significant effect on a European site in Northern Ireland, the Department of the Environment(1);
- (e) in relation to any dredging which would be likely to have significant effects on the environment in Scotland or in the Scottish zone, or which is likely to have a significant effect on a European site in Scotland or the Scottish zone, Scottish Ministers;
- (f) in relation to any dredging which would be likely to have significant effects on the environment in Wales, or which is likely to have a significant effect on a European site in Wales, the National Assembly for Wales;

(1) Functions were transferred to the Department of the Environment by the Department of Housing, Local Government and Planning (Dissolution) (Northern Ireland) Order 1976 (S.I.1976/424 (N.I. 6), Article 3.

(g) such other bodies as the regulator considers, by reason of their specific environmental responsibilities, to have an interest in a relevant project;

“British waters” means any marine waters that are not within Northern Ireland;

“by public advertisement”, in relation to a notice, means—

- (a) by publication of the notice in such national publication and in such local newspaper as the regulator considers appropriate; and
- (b) where the regulator maintains a website for the purpose of advertising of applications, by publication of the notice on the website;

“commencement” means the date on which these Regulations come into force;

“dredging” means the extraction of minerals by dredging in marine waters, but does not include—

- (a) such extraction where specifically authorised to be carried out by any enactment (including any enactment contained in a local Act or subordinate legislation) and in particular does not include—
 - (i) extraction authorised by an order under section 3 (orders as to inland waterways etc.) of the Transport and Works Act 1992(2); and
 - (ii) extraction authorised by an order under section 1 (harbours orders) of the Harbours Act (Northern Ireland) 1970(3);
- (b) dredging in any waters within the jurisdiction of a harbour authority, as defined by section 57 of the Harbours Act 1964(4); or
- (c) extraction to which any of the following Regulations apply—
 - (i) the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(5);
 - (ii) the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(6);
 - (iii) the Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999(7),
 - (iv) the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999(8);
 - (v) the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Impacts) Regulations 1999(9);
 - (vi) the Pipe-line Works (Environmental Impact Assessment) Regulations 2000(10); and

where the context so requires, includes proposed dredging;

(2) 1992 c. 42.

(3) 1970 c. 1 (NI).

(4) 1964 c. 40.

(5) S.I. 1999/293, amended by S.I. 2000/2867 and S.I. 2006/3295.

(6) S.R. (NI) 1999 No 73.

(7) S.I. 1999/1783, amended by the Countryside and Rights of Way Act 2000 (c. 37), section 73(2); by S.I. 2005/1399 and by S.I. 2006/618.

(8) S.I. 1999/1672, amended by the Countryside and Rights of Way Act 2000, section 73(2) and by the Utilities Act 2000 (c.27), section 76(7).

(9) S.I. 1999/360, amended by the Offshore Petroleum Production and Pipelines (Assessment of Environmental Impacts) (Amendment) Regulations 2007 (S.I. 2007/933).

(10) S.I. 2000/1928, amended by the Countryside and Rights of Way Act 2000, section 73(2).

“the EIA Directive” means Directive [85/337/EEC](#)(**11**) on the assessment of the effects of certain public and private projects on the environment;

“environmental statement” has the meaning given by regulation [7\(1\)](#);

“European site” means any of the following located in the United Kingdom or in marine waters—

- (a) a special area of conservation;
- (b) a site of Community importance which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive;
- (c) an area classified as a special protection area under Article 4(1) or (2) of the Wild Birds Directive;
- (d) a site which has been proposed by the Secretary of State, the Department of the Environment, Scottish Ministers or the National Assembly for Wales as a site eligible for designation as a special area of conservation for the purposes of meeting the United Kingdom’s obligations under Article 4(1) of the Habitats Directive, until such time as—
 - (i) it is included in the list of sites of Community importance referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive, or
 - (ii) agreement is reached under Article 4(2) of that Directive not to include the site in that list;

“habitats project” means any project for carrying out dredging in marine waters which is not directly connected with, or necessary to, the management of a European site and which is likely to have a significant effect (either alone or in combination with other plans or projects) on a European site;

“the Habitats Directive” means Council Directive [92/43/EEC](#)(**12**) on the conservation of natural habitats and of wild fauna and flora;

“the holder”, in respect of a permission granted under these Regulations, means any person to whom the permission has been transferred, whilst the permission is vested in that person;

“marine waters” means—

- (a) tidal waters and parts of the sea adjacent to the United Kingdom from the mean high water springs up to the seaward limits of territorial waters; and
- (b) waters in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(**13**) (designation of areas of continental shelf),

but does not include any waters in the Scottish zone, or any waters in Wales;

“Northern Ireland” has the meaning given by section 98(1) of the Northern Ireland Act 1998(**14**);

“notice” means notice in writing, and “notify” and cognate expressions shall be construed accordingly;

“owner”—

- (a) in relation to minerals situated in British waters in which there is a Crown interest or a Duchy interest (as defined in section 293 (preliminary definitions) of the Town and Country Planning Act 1990(**15**)) that is—

(11) OJ No L175, 05.07.85, p. 40, amended by Directive [97/11/EC](#), OJ No L73, 14.03.97, p. 5 and Directive [2003/35/EC](#), OJ No L156, 25.06.03, p.17.

(12) OJ No L206, 22.07.92, p.7, to which there are amendments not relevant to these Regulations.

(13) [1964 c. 29](#). Section 1(7) was amended by the Oil and Gas (Enterprise) Act [1982 \(c. 23\)](#), Schedule 3, paragraph 1.

(14) [1998 c. 47](#). See also the Adjacent Waters Boundaries (Northern Ireland) Order 2002 ([S.I. 2002/791](#)).

(15) [1990 c. 8](#). Section 293 was amended by Schedule 3 to the Planning and Compulsory Purchase Act [2004 \(c. 5\)](#).

- (i) an estate in fee simple, or
- (ii) an interest that is, in the opinion of the regulator, equivalent to such an estate, means the appropriate authority as defined in that section;
- (b) in relation to minerals situated in Northern Ireland in which there is a Crown estate (as defined in article 118(1) of the Planning (Northern Ireland) Order 1991⁽¹⁶⁾) that is—
 - (i) an estate in fee simple, or
 - (ii) an interest that is, in the opinion of the regulator, equivalent to such an estate, means the appropriate authority as defined in that article;
- (c) in relation to minerals in which there is no such Crown interest, Duchy interest or Crown estate, means the person in whom the minerals are vested in fee simple or who, in the opinion of the regulator, has an interest in the minerals equivalent to an estate in fee simple;

“prospective applicant” means a person who intends to make an application under regulation 10 or under regulation 18;

“regulator”—

- (a) as regards dredging in British waters, means the Secretary of State;
- (b) as regards dredging in Northern Ireland, means the Department of the Environment;

“relevant project” means any project for carrying out dredging in marine waters which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“Scotland” and “the Scottish zone” have the meanings given by section 126 of the Scotland Act 1998⁽¹⁷⁾;

“the selection criteria” means the criteria set out in Schedule 2 to these Regulations;

“Wales” has the meaning given by section 155 of the Government of Wales Act 1998⁽¹⁸⁾; and

“the Wild Birds Directive” means Council Directive 79/409/EEC⁽¹⁹⁾ on the conservation of wild birds.

(2) Expressions used in these Regulations and in the EIA Directive or in the Habitats Directive have the same meaning for the purposes of these Regulations as in those Directives.

(3) Where these Regulations refer to—

- (a) an application or request which may be made by any person; or
- (b) an approval, decision, determination or opinion to be issued by the Secretary of State or by the regulator;

any such application or request shall be made and any such approval, decision, determination or opinion shall be issued in writing.

Application to the Crown

3.—(1) Subject to paragraph (2), these Regulations bind the Crown.

(2) No contravention by the Crown of any provision of these Regulations constituting a criminal offence shall make the Crown criminally liable, but the High Court may, on the application of any

⁽¹⁶⁾ S.I. 1991/1220 (N.I.11).

⁽¹⁷⁾ 1998 c. 46. See also the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).

⁽¹⁸⁾ 1998 c. 38. See also the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), to which there are amendments not relevant to these Regulations.

⁽¹⁹⁾ OJ No L103, 25.04.79, p.1; to which there are amendments not relevant to these Regulations.

person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), these Regulations apply to a person in the public service of the Crown as they apply to any other person.