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STATUTORY INSTRUMENTS

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**2010 No. 1627**

**The Marine Strategy Regulations 2010**

**PART 3**

**Elements of the marine strategy**

**Assessment of marine waters**

**10.**—(1) By 15th July 2012, the Secretary of State must carry out an assessment of the marine waters within the marine strategy area in accordance with Article 8, taking account of available existing data.

(2) The Secretary of State must periodically review and update the results of the assessment required by paragraph (1), by each sixth anniversary of the date on which that assessment was published.

**Determination of good environmental status**

**11.**—(1) By 15th July 2012, the Secretary of State must determine the characteristics of good environmental status for the marine waters in the marine strategy area in accordance with Article 9—

- (a) in consultation with the devolved policy authorities; and
- (b) in accordance with regulation 7(3).

(2) The characteristics must be determined on the basis of the qualitative descriptors in Annex 1.

(3) The Secretary of State must take account of—

- (a) the list of elements in Table 1 of Annex 3; and
- (b) the impact of human activity in the marine strategy area, having regard to the list of pressures and impacts in Table 2 of that Annex.

(4) The Secretary of State must periodically review and update the characteristics of good environmental status determined under paragraph (1), in consultation with the devolved policy authorities and in accordance with regulation 7(3), by each sixth anniversary of the date on which those characteristics of good environmental status are determined, to ensure that those characteristics are kept up to date.

**Environmental targets and indicators**

**12.**—(1) By 15th July 2012, the Secretary of State must establish environmental targets and indicators for the marine waters in the marine strategy area to help secure good environmental status for those marine waters, in accordance with Article 10—

- (a) in consultation with the devolved policy authorities; and
- (b) in accordance with regulation 7(3).

(2) In establishing targets and indicators, the Secretary of State must take account of the indicative lists of pressure and impacts in Table 2 of Annex 3 and the characteristics in Annex 4.

(3) The Secretary of State must periodically review and update the environmental targets and indicators established pursuant to paragraph (1), in consultation with the devolved policy authorities and in accordance with regulation 7(3), by each sixth anniversary of the date of the establishment of those targets and indicators, to ensure that the targets and indicators are kept up to date.

### **Monitoring**

**13.**—(1) By 15th July 2014, the competent authority must establish and implement a programme for monitoring the environmental status of the marine waters in the marine strategy area, in accordance with Article 11.

(2) The competent authority must establish and implement the monitoring programme—

- (a) on the basis of the indicative lists of elements in Annex 3;
- (b) on the basis of the requirements in Annex 5; and
- (c) by reference to the environmental targets established under regulation 12.

(3) The competent authority must periodically review the monitoring programme by each sixth anniversary of the date on which that monitoring programme was established, to ensure that the monitoring programme is kept up to date.

### **Programme of measures**

**14.**—(1) By 31st December 2015, the competent authority must publish a programme of measures necessary to achieve or maintain good environmental status for the marine waters in the marine strategy area, in accordance with Article 13.

(2) The competent authority must develop the programme of measures on the basis of the assessment required by regulation 10 taking account of—

- (a) the environmental targets and indicators required by regulation 12;
- (b) the control measures listed in Annex 6; and
- (c) the social and economic impact of any proposed measure.

(3) Any programme of measures must include spatial protection measures, to contribute to coherent and representative networks of marine protected areas, in accordance with Article 13(4).

(4) By 31st December 2013, the competent authority must publish information on marine protected areas.

(5) The competent authority must include in the programme of measures a description of how the measures will be implemented and how they will contribute to the achievement of environmental targets established under regulation 12.

(6) Before the programme of measures comes into operation, the competent authority must—

- (a) satisfy itself that the measures proposed are cost-effective and technically feasible;
- (b) carry out an impact assessment, including a cost-benefit analysis, of any proposed measure; and
- (c) consult on any proposed measure in accordance with regulation 18.

(7) The competent authority must consider the implications of the programme of measures on marine waters beyond the marine strategy area in order—

- (a) to minimise the risk of damage to those waters; and
- (b) if possible, to have a positive impact of those waters.

(8) The competent authority must ensure that the programme of measures is made operational by 31<sup>st</sup> December 2016 or one year after the publication of the programme of measures, whichever is the earlier.

(9) The competent authority must periodically review the programme of measures required by paragraph (1), by each sixth anniversary after the date of its publication, to ensure that the programme of measures is kept up to date.

(10) The Secretary of State may from time to time request a review of all or part of the programme of measures, where those measures affect or are likely to affect retained functions.

(11) A devolved policy authority may from time to time request a review of all or part of the programme of measures, where those measures affect or are likely to affect devolved functions.

(12) Where a request is made to the Secretary of State or the devolved policy authority under paragraph (10) or (11), the Secretary of State or the authority (as the case may be) must comply with it before the next sixth anniversary of the publication of the programme of measures.

(13) Nothing in paragraph (10) or (11) requires a review in response to a request unless the request is reasonable.

## **Exceptions**

**15.—**(1) The competent authority may identify cases within the marine waters for which it is the competent authority where, for any of the reasons specified in paragraph 2(a) to (d), the environmental targets or good environmental status cannot be achieved in every aspect through measures taken by the Secretary of State, the devolved policy authority, the public authority or the Northern Ireland body or, for reasons referred to in paragraph 2(e), they cannot be achieved by the time required by these Regulations.

(2) The reasons referred to in paragraph (1) are—

- (a) action or inaction for which the United Kingdom is not responsible;
- (b) natural causes;
- (c) force majeure;
- (d) modifications or alterations to the physical characteristics of marine waters brought about by actions taken for reasons of overriding public interest which outweigh the negative impact on the environment, including any transboundary impact; or
- (e) natural conditions which do not allow timely improvement in the status of the marine waters concerned.

(3) Where the competent authority has identified a case falling within paragraph (1), the duty under these Regulations to take necessary measures to achieve good environmental status does not apply, subject to the limitations of this regulation.

(4) In respect of a case falling within paragraph (1) by virtue of sub-paragraph (b), (c) or (d) of paragraph (2), the competent authority must take such measures as it considers appropriate which aim—

- (a) to make progress towards the environmental targets established under regulation 12 to prevent further deterioration of the status of the affected marine waters; and
- (b) to mitigate the adverse impact of such a case at the level of the marine region or subregion or in the marine waters in relation to which other member States have or exercise jurisdictional rights.

(5) Such measures must be integrated into the programme of measures, so far as practicable.

(6) In respect of a case falling within paragraph (1) by virtue of sub-paragraph (d) of paragraph (2), the competent authority must ensure that the modifications and alterations do not

permanently preclude or compromise the achievement of good environmental status at the level of the marine region or subregion or in the marine waters in relation to which other member States have or exercise jurisdictional rights.

(7) In identifying any case under paragraph (1), the competent authority must consider the consequences for other member States in the marine region or subregion concerned.

(8) The competent authority must clearly identify such cases in the programme of measures.

(9) The Secretary of State must notify the Commission of the justification for any such cases identified by any competent authority.

(10) The duty under these Regulations, including under regulations 4 and 5, to develop or (as the case may be) implement any element of the marine strategy, other than the assessment of marine waters, does not require the taking of any steps—

(a) in so far as the omission to take steps would pose no significant risk to the marine environment, or

(b) the costs would be disproportionate taking account of the risks to the marine environment, provided that the omission to take those steps does not result in deterioration of the marine waters concerned.

(11) Where the competent authority relies on either exception under paragraph (10)—

(a) the Secretary of State must provide the Commission with the necessary justification; and

(b) the competent authority must avoid the achievement of good environmental status being permanently compromised.

(12) Nothing in these Regulations affects activities the sole purpose of which is defence or national security, but the Secretary of State must endeavour to ensure that such activities are conducted in a manner that is compatible, so far as reasonable and practicable, with the objectives of the Directive.

### **Relationship with Water Framework Directive**

**16.** Nothing in these Regulations requires any action in coastal waters in so far as the objectives of the Directive are achieved by any enactment implementing the Water Framework Directive or any other EU instrument.