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STATUTORY INSTRUMENTS

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**2011 No. 735**

**The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011**

**PART 3**

Revocations, transitional provisions, and savings

**CHAPTER 4**

Transitional provisions in relation to the Welsh Marine Minerals Regulations

**Dredging permission**

**24.**—(1) Any dredging permission which—

- (a) is in effect immediately before 6th April 2011, and
- (b) relates to an operation which is a licensable marine activity for the purposes of Part 4 of the 2009 Act,

has effect as if it were a marine licence granted by the appropriate licensing authority in relation to that activity under Part 4 of the 2009 Act (a “deemed licence”).

(2) In accordance with paragraph (1)—

- (a) a dredging permission issued for a specified period remains in force as a deemed licence for so much of that period as falls on or after 6th April 2011; and
- (b) any condition subject to which a dredging permission has been granted under regulation 13(7)(a) of the Welsh Marine Minerals Regulations has effect as if it were a condition of the deemed licence.

(3) Paragraphs (4) to (6) apply to a dredging permission which has effect by virtue of paragraph (1) as a deemed licence.

(4) Where a notice of a proposed revocation or permanent variation of the dredging permission has been served under regulation 21(3)(a) of the Welsh Marine Minerals Regulations, but no decision has been taken under regulation 21(11) before 6th April 2011 to revoke or permanently vary the dredging permission, regulations 21(10) to (12) of those Regulations apply in relation to the deemed licence as they applied in relation to the dredging permission.

(5) Any notice of a decision to revoke or permanently vary a deemed licence served pursuant to regulation 21(12) of the Welsh Marine Minerals Regulations has effect as a notice to revoke or vary that deemed licence in accordance with section 72(1) or (3) of the 2009 Act.

(6) Where a notice of a kind mentioned in paragraph (5) has been served, paragraphs (1) and (2) of regulation 22 of the Welsh Marine Minerals Regulations apply in relation to the deemed licence as they applied in relation to the dredging permission.

### **Fee payable under condition of dredging permission**

**25.** Any fee that before 6th April 2011 was payable under regulation 25(1)(c) of the Welsh Marine Minerals Regulations by the owner or holder of the dredging permission, on certain occasions or at certain intervals, is to be treated as a fee payable under a fee condition of the deemed licence by virtue of section 24A of the Marine Works Regulations, on the same occasions or at the same intervals, in respect of expenses incurred in assessing and interpreting the results of monitoring of a kind referred to in regulation 23(2)(c)(ii) of those Regulations.

### **Applications made under the Welsh Marine Minerals Regulations**

**26.—**(1) Any application for dredging permission under regulation 10 of the Welsh Marine Minerals Regulations which—

- (a) was made before 6th April 2011, and
- (b) relates to a dredging operation—
  - (i) for which immediately before 6th April 2011 a permission was required under Part 4 of the Welsh Marine Minerals Regulations, and
  - (ii) which is a licensable marine activity,

has effect as if it were an application for a marine licence made under Part 4 of the 2009 Act to the appropriate licensing authority in relation to that activity.

(2) Any application which—

- (a) immediately before 6th April 2011 is being treated in accordance with regulation 31(1) of the Welsh Marine Minerals Regulations as an application for dredging permission duly made under those Regulations, and
- (b) relates to a dredging operation which is a licensable marine activity,

has effect as if it were an application for a marine licence made under Part 4 of the 2009 Act to the appropriate licensing authority in relation to that activity.

### **Application which has effect as an application for a marine licence**

**27.—**(1) Regulations 28 to 30 and 31(1) and (2) apply where, under regulation 26(1), an application under the Welsh Marine Minerals Regulations has effect as if it were an application for a marine licence.

(2) Regulation 31(3) applies where—

- (a) by virtue of regulation 26(2), an application has effect as an application for a marine licence under Part 4 of the 2009 Act; and
- (b) the appropriate authority has agreed or determined that before that application can be determined an environmental impact assessment is required under the Marine Works Regulations.

### **Screening**

**28.—**(1) A request for a preliminary determination under regulation 6(1)(a) of the Welsh Marine Minerals Regulations which has not been determined before 6th April 2011 must be treated as a request for a screening opinion under regulation 11 of the Marine Works Regulations.

(2) If it is satisfied that any step which is required to be taken by the Welsh Ministers under regulation 6(2), (5) or (6) of the Welsh Marine Minerals Regulations has been taken, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 11 of or Schedule 2 to the Marine Works Regulations.

(3) A determination under regulation 6 of the Welsh Marine Minerals Regulations that the dredging is not a relevant project has effect as a screening opinion under regulation 11(5) of the Marine Works Regulations that an environmental impact assessment is not required for the regulated activity.

(4) A determination under regulation 6 of the Welsh Marine Minerals Regulations that the dredging is a relevant project has effect as a screening opinion under regulation 11(6) of the Marine Works Regulations that an environmental impact assessment is required for the regulated activity.

### **Opinion as to the content of an environmental statement**

**29.**—(1) A request for an opinion under regulation 7(2) of the Welsh Marine Minerals Regulations<sup>(1)</sup> which has not been determined before 6th April 2011 must be treated as a request for a scoping opinion under regulation 13(1) of the Marine Works Regulations.

(2) If it is satisfied that any step which is required to be taken by the Welsh Ministers under regulation 7(3) or (4) of the Welsh Marine Minerals Regulations has been taken, the appropriate authority may treat that step as taken in accordance with any corresponding requirement in paragraph 6 or 7 of Schedule 4 to the Marine Works Regulations.

(3) An opinion given under regulation 7(2) of the Welsh Marine Minerals Regulations has effect as a scoping opinion given under regulation 13(2) of and paragraph 7 of Schedule 4 to the Marine Works Regulations.

### **Fees charged in relation to an application under the Welsh Marine Minerals Regulations**

**30.**—(1) An applicant who has paid a fee pursuant to a determination under regulation 25(1)(a) of the Welsh Marine Minerals Regulations in respect of the Welsh Ministers' expenses of providing an opinion under regulation 7(2) of those Regulations may not be charged a fee under paragraph 3(1) of Schedule 4 to the Marine Works Regulations.

(2) An applicant who has paid a fee pursuant to a determination under regulation 25(1)(a) of the Welsh Marine Minerals Regulations in respect of the Welsh Ministers' expenses of providing information relevant to the preparation of an environmental statement in accordance with regulation 8(3) and (4) of those Regulations may not be required to pay a charge under regulation 15(4) of the Marine Works Regulations.

(3) An applicant who pursuant to a determination under regulation 25(1)(b) of the Welsh Marine Minerals Regulations has paid a fee in respect of a relevant application may not be charged a fee under section 67(1)(b) of the 2009 Act.

(4) A person who, pursuant to a determination under regulation 25(1)(c) of the Welsh Marine Minerals Regulations, has paid a fee in respect of the expenses of the Welsh Ministers in interpreting and assessing the results of any monitoring may not be charged a fee under regulation 24A(1) of the Marine Works Regulations in respect of the same expenses.

(5) In paragraph (3), “a relevant application” means an application under regulation 10(1) of the Welsh Marine Minerals Regulations which by virtue of regulation 26(1) of these Regulations has effect as an application for a marine licence.

### **Publicity and consultation**

**31.**—(1) If it is satisfied that any step has been taken by the Welsh Ministers to publicise the application in accordance with regulation 12 of the Welsh Marine Minerals Regulations, the

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(1) Regulation 7(2) of the Welsh Marine Minerals Regulations provides for the Welsh Ministers to give an opinion (otherwise known as a “scoping opinion”) as to the information to be provided by an environmental statement.

appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 16(1) and (2) or 17(1) of the Marine Works Regulations.

(2) If it is satisfied that any step has been taken by the Welsh Ministers to provide information to or to consult another EEA State in accordance with regulation 15 of the Welsh Marine Minerals Regulations, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 18, 19 or 20 of the Marine Works Regulations.

(3) Where the appropriate authority is satisfied that any step taken by an applicant—

- (a) is by virtue of regulation 31(2) of the Welsh Marine Minerals Regulations to be treated by the Welsh Ministers immediately before 6th April 2011 as a step taken under regulation 12 of those Regulations, or
- (b) is sufficient to publicise that application, related documents, and information to substantially the same extent as required by regulation 16(1) and (2) or 17(1) of the Marine Works Regulations,

the appropriate authority may treat such a step as taken under regulation 16(1) and (2) or 17(1) (as the case may be) of the Marine Works Regulations.