
STATUTORY INSTRUMENTS

2011 No. 735

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

PART 2

Amendments to the Marine Works (Environmental Impact Assessment) Regulations 2007

Amendments to regulation 2

3.—(1) In paragraph (1) of regulation 2 (interpretation)—

(a) after the definition of “the 1985 Act”, insert—

““the 2009 Act” means the Marine and Coastal Access Act 2009⁽¹⁾;

“the 2010 Act” means the Marine (Scotland) Act 2010⁽²⁾”;

(b) for the definition of “appropriate authority”, substitute—

““appropriate authority” means—

(a) where the regulator is the Secretary of State, the Marine Management Organisation or a devolved authority, the regulator;

(b) where the regulator is any other person—

(i) as regards any regulated activity in Northern Ireland, the Department of the Environment;

(ii) as regards any regulated activity in Scotland or the Scottish offshore region (or both), the Scottish Ministers;

(iii) as regards harbour works in Wales relating to fishery harbours or carried out for the purposes of extracting minerals by dredging, the Welsh Ministers; and

(iv) in any other case, the Secretary of State;

and for the purpose of sub-paragraph (a), “a devolved authority” means any Northern Ireland Department, the Scottish Ministers or the Welsh Ministers;”;

(c) for the definition of “consenting authority”, substitute—

““consenting authority”, in relation to a project, means any authority—

(a) whose consent to any activity to be undertaken in the course of the project is required under any enactment, or

(b) whose determination was required under any of the Government View documents, and for this purpose, “the Government View documents” means—

(1) 2009 c. 23.

(2) 2010 asp 5.

- (i) the document entitled “Offshore Dredging for Sand, Gravel and Other Minerals”, dated April 1989, and published by the Department of the Environment and the Welsh Office;
 - (ii) the document entitled “Government View: New Arrangements for the Licensing of Minerals Dredging”, dated May 1998, and published by the Department of the Environment, Transport and the Regions and the Welsh Office; and
 - (iii) the document entitled “Government View: Interim Arrangements for the Licensing of Marine Minerals Dredging in Northern Ireland”, dated May 2006, and published by the Department of the Environment;”;
- (d) for the definition of “England”, substitute—
- ““England” includes any part of the territorial sea that is not part of Scotland, Wales or Northern Ireland;”;
- (e) after the definition of “harbour” insert—
- ““harbour authority” has the same meaning as in section 57(1) of the Harbours Act 1964(3)
- (f) for the definition of “harbour works”, substitute—
- ““harbour works” means—
- (a) works involved in the construction of a harbour;
 - (b) works involving the making of modifications to an existing harbour;
 - (c) any dredging operation undertaken by or on behalf of a harbour authority and carried out for the purpose of extracting minerals; and
 - (d) works involving the deposit of spoil from any such dredging operation;”;
- (g) for the definition of “regulatory approval”, substitute—
- ““regulatory approval” means—
- (a) a licence under Part 2 of the 1985 Act(4);
 - (b) a marine licence, or variation of a marine licence, under Part 4 of the 2009 Act;
 - (c) a marine licence, or variation of a marine licence, under Part 4 of the 2010 Act; or
 - (d) except in relation to Northern Ireland, an approval or consent for harbour works under—
 - (i) any local Act;
 - (ii) such an Act read together with a notice given and published under section 9 of the Harbours Transfer Act 1862(5); or
 - (iii) any order under section 14 or 16 of the Harbours Act 1964(6);”;

(3) 1964 c. 40.

(4) Regulation 2(1) of the Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518) defines “the 1985 Act” as the Food and Environment Protection Act 1985 (c. 48). Part 2 of the 1985 Act is amended by the Marine and Coastal Access Act 2009 (c. 23) (“the 2009 Act”), s.112(1) and paragraph 2 of Schedule 8, which amendments are to be commenced from a date to be appointed by an order made under s.324(3) of the 2009 Act. The effect of those amendments is to limit the application of Part 2 of the 1985 Act to the Scottish inshore region. See section 322(1) of the 2009 Act, and regulation 3(1)(k) of these Regulations for the meaning of “the Scottish inshore region”.

(5) 1862 c. 69. Section 9 was amended by SR & O 1921/1804.

(6) 1964 c. 40; sections 14 and 16 were amended by the Transport Act 1981 (c. 56), paragraphs 3 and 14 of Schedule 6 and Schedule 12; the Criminal Justice Act 1982 (c. 48), sections 37 and 46; the Transport and Works Act 1992 (c. 42), paragraphs 1 and 2 of Schedule 3; S.I. 2006/1177; the Planning Act 2008 (c. 29), paragraphs 8, 9 and 10 of Schedule 2; and S.I. 2006/1177. Section 14 was additionally amended by S.I. 2009/1941. Section 16 was additionally amended by the Marine and Coastal Access Act 2009 (c. 23), paragraphs 1 and 2 of Schedule 21.

- (h) for the definition of “relevant authority”, substitute—
- ““relevant authority” means—
- (a) where a regulated activity is likely to have a significant effect on the environment of Northern Ireland and the appropriate authority is not a Northern Ireland Department, such of the Northern Ireland Departments as the appropriate authority considers likely to have an interest in the activity by reason of their environmental responsibilities;
 - (b) where a regulated activity is likely to have a significant effect on the environment of Scotland, or the Scottish offshore region (or both) and the appropriate authority is not the Scottish Ministers, the Scottish Ministers;
 - (c) where the regulated activity is likely to have a significant effect on the environment of the Scottish offshore region and the appropriate authority is not the Secretary of State, the Secretary of State;
 - (d) where a regulated activity is likely to have a significant effect on the environment of Wales and the appropriate authority is not the Welsh Ministers, the Welsh Ministers;
 - (e) where a regulated activity is likely to have a significant effect on the environment of England or a relevant offshore region and the appropriate authority is the Marine Management Organisation, the Secretary of State; and
 - (f) where a regulated activity is likely to have a significant effect on the environment of England or a relevant offshore region and the appropriate authority is the Secretary of State, the Marine Management Organisation;”;
- (i) after the definition of “relevant legislation”, insert—
- ““relevant offshore region” means—
- (a) the English offshore region;
 - (b) the Welsh offshore region; or
 - (c) the Northern Ireland offshore region;
- within the meaning of those expressions given by section 322(1) of the 2009 Act;
- “the relevant Public Register” means the register on which information must be recorded in accordance with (as the case may be)—
- (a) section 14 of the 1985 Act⁽⁷⁾;
 - (b) section 101 of the 2009 Act; or
 - (c) section 54 of the 2010 Act;”;
- (j) for the definition of “Scotland”, substitute—
- ““Scotland” (other than in the definition of “the Scottish offshore region”) includes the Scottish inshore region;”;
- (k) after the definition of “Scotland”, insert—
- ““the Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland;
- “the Scottish offshore region” means so much of the UK marine area as lies outside the Scottish inshore region and consists of—
- (a) areas of sea which lie within the Scottish zone, and

(7) Section 14 of the 1985 Act was amended by section 147 of the Environment Protection Act 1990 (c. 43), which came into force on 31st May 1991 pursuant to article 2 of S.I. 1991/1319. Section 14 of the 1985 Act places a duty on the licensing authority to maintain a register of certain information relating to licensing under Part 2 of that Act.

- (b) areas of sea which lie outside the Scottish zone but which are nearer to any point on the baselines from which the breadth of the territorial sea adjacent to Scotland is measured than to any point on the baselines in any other part of the United Kingdom;
- and for this purpose “the Scottish zone” has the meaning given by section 126(1) of the Scotland Act 1998⁽⁸⁾;”;
- (l) for the definition of “sea”, substitute—
- ““sea” includes—
- (a) any area submerged at mean high water spring tide, and
- (b) the waters of every estuary, arm of the sea, river or channel, so far as the tide flows at mean high water spring tide,
- and any reference to an area of sea includes the bed and subsoil of the sea within that area;”;
- (m) for the definition of “Wales”, substitute—
- ““Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006⁽⁹⁾;”;
- (n) after the definition of “sea”, insert—
- ““UK marine area” has the same meaning as in section 42 of the 2009 Act;”;
- (o) omit the definitions of—
- (i) “deposit”;
- (ii) “devolved authority”;
- (iii) “outlying waters”;
- (iv) “the Public Register”;
- (v) “the Scottish zone”;
- (vi) “United Kingdom controlled waters”;
- (vii) “United Kingdom waters”;
- (viii) “waters adjacent to England”;
- (ix) “waters adjacent to Northern Ireland”;
- (x) “waters adjacent to Scotland”; and
- (xi) “waters adjacent to Wales”.
- (2) After regulation 2(1), insert—
- “(1A) The area of sea referred to in sub-paragraph (a) of the definition of “sea” in paragraph (1) includes waters in any area—
- (a) which is closed, whether permanently or intermittently, by a lock or other artificial means against the regular action of the tide, but
- (b) into and from which seawater is caused or permitted to flow, whether continuously or from time to time.”.

⁽⁸⁾ 1998 c. 46.⁽⁹⁾ 2006 c. 32.