
STATUTORY INSTRUMENTS

2015 No. 810

The Environmental Damage (Prevention and Remediation) (England) Regulations 2015

PART 1

Introductory Provisions

Title, commencement and application

1.—(1) These Regulations may be cited as the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 and come into force on 19th July 2015.

(2) They apply in relation to England and the areas specified in regulation 6.

Interpretation

2.—(1) In these Regulations—

“activity” means any economic activity, whether public or private and whether or not carried out for profit;

“baselines” means the baselines from which the breadth of the territorial sea is measured for the purposes of the Territorial Sea Act 1987 ^{M1};

“Directive 2000/60/EC” means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy ^{M2};

“Directive 2004/35/EC” means Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage;

“enforcing authority” means the person or body responsible for enforcing these Regulations, in accordance with regulation 10 or 11;

“local authority” means ^{F1}(except in relation to a local authority in Wales)]—

(a) where there is a unitary authority for a local government area, that authority;

(b) where there is not a unitary authority—

(i) in a metropolitan district, the council of that district;

(ii) in a non-metropolitan county, the district council;

(iii) in each London borough, the council of that borough;

(iv) in the City of London, the Common Council;

(v) on the Isles of Scilly, the Council of the Isles of Scilly;

“marine waters” means waters classified as marine waters pursuant to Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for Community action in the field of marine environmental policy ^{M3};

“natural habitat” means—

- (a) the habitats of species mentioned in Article 4(2) of, or Annex I to, Council Directive [2009/147/EC](#) on the conservation of wild birds ^{M4} or listed in Annex II to Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora ^{M5};
- (b) the natural habitats listed in Annex I to Council Directive [92/43/EEC](#); and
- (c) the breeding sites or resting places of the species listed in Annex IV to Council Directive [92/43/EEC](#);

“natural resources” means—

- (a) a protected species;
- (b) a natural habitat;
- (c) a species or habitat on a site of special scientific interest by reason of which the site has been notified under section 28 of the Wildlife and Countryside Act 1981 ^{M6};
- (d) water; and
- (e) land;

“operator” means the person who operates or controls an activity, including the holder of a permit or authorisation relating to that activity, or the person registering or notifying an activity for the purposes of any enactment;

“protected species” means a species of a kind mentioned in Article 4(2) of Council Directive [2009/147/EC](#) or listed in Annex I to that Directive or Annexes II and IV to Council Directive [92/43/EEC](#);

“remediation notice” means a notice served in accordance with regulation 20(2);

“responsible operator” means the operator in relation to an activity that has caused environmental damage;

“the Scottish zone” has the meaning it has in the Scotland Act 1998 ^{M7};

“services” means the functions performed by natural resources which benefit other natural resources or the public;

“site of special scientific interest” has the same meaning as in the Wildlife and Countryside Act 1981 ^{M8}.

[^{F2}“the Welsh zone” has the same meaning as in section 158(1) of the Government of Wales Act 2006.]

(2) Unless otherwise defined in these Regulations, expressions used in Directive [2004/35/EC](#) have the same meaning in these Regulations.

F1 Words in [reg. 2\(1\)](#) inserted (1.4.2018) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/1177\)](#), regs. 1, **3(a)**

F2 Words in [reg. 2\(1\)](#) inserted (1.4.2018) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/1177\)](#), regs. 1, **3(b)**

Marginal Citations

M1 1987 c.49. See [S.I. 2014/1353](#).

M2 OJ No. L 327, 22.12.2000, p.1; last amended by Commission Directive 2014/101/EU (OJ No. L 311, 31.10.2014, p.32).

M3 OJ No. L 164, 25.6.2008, p.19.

M4 OJ No. L 20, 26.1.2010, p.7; amended by Council Directive 2013/17/EU (OJ No. L 158, 10.6.2013, p.193).

- M5** OJ No. L 206, 22.7.1992, p.7; last amended by Council Directive 2013/17/EU (OJ No. L 158, 10.6.2013, p.193).
- M6** 1981 c.69. Section 28 was substituted by paragraph 1 of Schedule 9 to the [Countryside and Rights of Way Act 2000 \(c.37\)](#) and amended by paragraph 79 of Schedule 11 to the [Natural Environment and Rural Communities Act 2006 \(c.16\)](#) and paragraph 2(1) and (2) of Schedule 13 to the [Marine and Coastal Access Act 2009 \(c.23\)](#).
- M7** 1998 c.46. The term “the Scottish zone” is defined by section 126(1). [The Scottish Adjacent Waters Boundaries Order 1999 \(S.I. 1999/1126\)](#) made under section 126(2) defines the boundaries between waters which are to be treated as internal waters or territorial waters, or waters within British fishery limits, adjacent to Scotland and those which are not.
- M8** See section 52, amended by paragraph 5(1) and (2) of Schedule 9 to the [Countryside and Rights of Way Act 2000 \(c.37\)](#).

References to EU instruments

[^{F3}3.—(1) For the purposes of these Regulations, a reference in any EU instrument referred to in these Regulations—

- (a) to the “European Union” or otherwise to the area to which that instrument applies is to be taken to include the United Kingdom;
- (b) to a “Member State” is to be taken to include the United Kingdom.]

- F3** Reg. 3 substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **7(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Meaning of “environmental damage”

4.—(1) These Regulations apply in relation to the prevention and remediation of environmental damage; and environmental damage is damage, as specified in this regulation, to—

- (a) a protected species or natural habitat, or a site of special scientific interest;
- (b) surface water or groundwater;
- (c) marine waters; or
- (d) land.

(2) Environmental damage to a protected species or natural habitat or a site of special scientific interest means damage of a kind specified in Schedule 1.

(3) Environmental damage to surface water means damage to a surface water body classified as such pursuant to Directive [2000/60/EC](#) such that—

- (a) a biological quality element listed in Annex V to that Directive,
- (b) the level of a chemical listed in the legislation in Annex IX or a chemical listed in Annex X to that Directive, or
- (c) a physicochemical quality element listed in Annex V to that Directive,

changes sufficiently to lower the status of the water body in accordance with Directive [2000/60/EC](#) (whether or not the water body is in fact reclassified as being of lower status).

(4) Environmental damage to groundwater means any damage to a body of groundwater such that its conductivity, level or concentration of pollutants changes sufficiently to lower its status for the purposes of Directive [2000/60/EC](#) (and, in relation to pollutants, for the purposes of Directive [2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against

pollution and deterioration ^{M9}), whether or not the body of groundwater is in fact reclassified as being of lower status.

(5) Environmental damage to marine waters means damage to marine waters such that their environmental status is significantly adversely affected.

(6) Environmental damage to land means contamination of land by substances, preparations, organisms or micro-organisms, where that damage results in a significant risk of adverse effects on human health.

Marginal Citations

M9 OJ No. L 372, 27.12.2006, p.19; amended by Commission Directive 2014/80/EU (OJ No. L 182, 21.6.2014, p.52).

Environmental damage to which these Regulations apply

5.—(1) These Regulations apply in relation to environmental damage if it is caused by an activity mentioned in Schedule 2.

(2) In the case of environmental damage to a protected species or natural habitat or a site of special scientific interest, these Regulations also apply in relation to environmental damage caused by any other activity if the operator—

- (a) intended to cause environmental damage; or
- (b) was negligent as to whether environmental damage would be caused.

Areas of application

6.—(1) Environmental damage is relevant for the purposes of these Regulations only if the damage, of a type specified in the first column of the following table, occurs in an area specified in the second column of that table in relation to damage of that type.

<i>Type of damage</i>	<i>Area in which these Regulations apply</i>
Damage to surface water or groundwater	England and all waters up to one nautical mile seaward from the baselines in England.
Damage to marine waters	All marine waters within any of the following descriptions— <ul style="list-style-type: none"> (a) marine waters up to one nautical mile seaward from the baselines in England so far as not already addressed as damage to surface water or groundwater; (b) marine waters from one nautical mile seaward from the baselines in England, extending to the outermost reach of the area where the United Kingdom exercises

¹ These areas do not include areas [^{F4}that form part of] Northern Ireland, Scotland or Wales or the territorial sea adjacent to the Isle of Man, Jersey or Guernsey; and for these purposes—

- (i) “Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006 ^{M10};
- (ii) “Scotland” has the meaning given by section 126(1) of the Scotland Act 1998; and
- (iii) “Northern Ireland” has the meaning given by section 98 of the Northern Ireland Act 1998 ^{M11}.

	jurisdictional rights, in accordance with UNCLOS;
	(c) marine waters beyond 12 nautical miles from the baselines in Wales, ^{F5} and marine waters beyond 12 nautical miles from the baselines in Northern Ireland, in each case] extending to the outermost reach of the area where the United Kingdom exercises jurisdictional rights, in accordance with UNCLOS;
	(d) marine waters up to the limit of the exclusive economic zone which lies within the Scottish zone, or which lies outside the Scottish zone, but is 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.
Damage in a site of special scientific interest	England
Damage to a protected species or natural habitat	England, the seabed out to the limits of the continental shelf ¹ , and anywhere within marine waters, other than the seabed, out to the limits of the exclusive economic zone ¹ .
Damage to land	England

¹ These areas do not include areas ^{F4}that form part of] Northern Ireland, Scotland or Wales or the territorial sea adjacent to the Isle of Man, Jersey or Guernsey; and for these purposes—

(i) “Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006 ^{M10};

(ii) “Scotland” has the meaning given by section 126(1) of the Scotland Act 1998; and

(iii) “Northern Ireland” has the meaning given by section 98 of the Northern Ireland Act 1998 ^{M11}.

(2) In the table in paragraph (1)—

“the continental shelf” means the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 ^{M12};

“the exclusive economic zone” means the areas designated by the Exclusive Economic Zone Area Order 2013 ^{M13}; and

“UNCLOS” means the United Nations Convention on the Law of the Sea, which opened for signature on 10th December 1982 ^{M14}.

F4 Words in [reg. 6\(1\)](#) substituted (19.7.2015) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2015 \(S.I. 2015/1391\)](#), [regs. 1, 2\(2\)\(b\)](#)

F5 Words in [reg. 6\(1\)](#) table inserted (19.7.2015) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2015 \(S.I. 2015/1391\)](#), [regs. 1, 2\(2\)\(a\)](#)

Marginal Citations

M10 [2006 c.32](#).

M11 [1998 c.47](#).

- M12** 1964 c.29. Areas are currently designated under section 1(7) by [S.I. 2013/3162](#) (which revoked [S.I. 2000/3062](#) and [2001/3670](#), subject to a saving in respect of the Continental Shelf (Designation of Areas) Orders 1964 to 1982). Section 1(7) was amended by paragraph 1 of Schedule 3 to the [Oil and Gas \(Enterprise\) Act 1982 \(c.23\)](#) and by section 103 of the [Energy Act 2011 \(c.16\)](#).
- M13** [S.I. 2013/3161](#).
- M14** The Convention entered into force on 16th November 1994. It was approved on behalf of the European Community by Council Decision 98/392/EC concerning the conclusion by the European Community of the United Nations Convention of 10th December 1982 on the Law of the Sea and the Agreement of 28th July 1994 relating to the implementation of Part XI thereof (OJ No. L 179, 23.6.1998, p.1).

Other legislation

7.—(1) These Regulations are without prejudice to any other enactment concerning damage to the environment.

(2) They are without prejudice to the right of an operator to limit liability in accordance with the Convention on Limitation of Liability for Maritime Claims 1976 ^{M15}.

Marginal Citations

- M15** The Convention is set out in Schedule 7 to the [Merchant Shipping Act 1995 \(c.21\)](#), amended by [S.I. 1998/1258](#).

Exemptions

- 8.—(1) These Regulations do not apply in relation to—
- (a) damage that occurred before 1st March 2009 ^{M16} (but see also paragraph (2));
 - (b) damage that occurs or occurred after that date, or is or was threatened after that date, but is caused by an incident, event or emission that took place before that date; or
 - (c) damage caused by an incident, event or emission that takes or took place after that date, if it derives from an activity that took place and finished before that date.
- (2) Paragraph (1) applies in relation to damage to marine waters as if, in sub-paragraph (a), for “1st March 2009” there were substituted “ 19th July 2015 ”.
- (3) These Regulations do not apply in relation to environmental damage caused by—
- (a) an act of terrorism;
 - (b) an exceptional natural phenomenon, provided the operator of the activity concerned took all reasonable precautions to protect against damage being caused by such an event;
 - (c) activities the sole purpose of which is to protect against natural disasters;
 - (d) an incident in respect of which liability or compensation falls within the scope of—
 - (i) the International Convention of 27th November 1992 on Civil Liability for Oil Pollution Damage ^{M17};
 - (ii) the International Convention of 27th November 1992 on the Establishment of an International Fund for Compensation for Oil Pollution Damage ^{M18}; or
 - (iii) the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 ^{M19};
 - (e) activities the main purpose of which is to serve national defence or international security;

- (f) radioactivity from an activity covered by the Treaty establishing the European Atomic Energy Community or caused by an incident or activity in respect of which liability or compensation falls within the scope of the Paris Convention of 29th July 1960 on Third Party Liability in the Field of Nuclear Energy and the Brussels Supplementary Convention of 31st January 1963; or
 - (g) any activity carried out in the course of commercial sea fishing if all legislation relating to that fishing was complied with.
- (4) These Regulations only apply to environmental damage caused by pollution of a diffuse character if it is possible to establish a causal link between the damage and specific activities.

Marginal Citations

- M16** This is the date on which [S.I. 2009/153](#), which is revoked and replaced by these Regulations, came into force.
- M17** Implemented by the Merchant Shipping Act 1995.
- M18** Implemented by the Merchant Shipping Act 1995.
- M19** The Convention was implemented by amendments to the Merchant Shipping Act 1995 made by [S.I. 2006/1244](#).

Exclusion from damage to water

9.—(1) Where all the conditions in paragraph (2) are satisfied, damage to water does not include—

- (a) damage caused by new modifications to the physical characteristics of a surface water body;
 - (b) an alteration to the level of a body of groundwater pursuant to Directive [2000/60/EC](#); or
 - (c) deterioration from high status to good status of a body of surface water resulting from new sustainable human development activities where Article 4(7) of that Directive is complied with.
- (2) The conditions are that—
- (a) all practicable steps are taken to mitigate the adverse impact on the status of the body of water;
 - (b) the reasons for these modifications or alterations are specifically set out and explained in the river basin management plan required under Article 13 of Directive [2000/60/EC](#) and the objectives are reviewed every six years;
 - (c) the reasons for these modifications or alterations are of overriding public interest, or the result of the damage is outweighed by the benefits of the new modifications or alterations to human health, to the maintenance of human safety or to sustainable development; and
 - (d) the beneficial objectives served by those modifications or alterations cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means.

[^{F6}Nutrient significant sewage disposal works: environmental damage

9A.—(1) This regulation applies where a sewerage undertaker whose sewerage system includes a nutrient significant plant fails to secure that the plant is able to meet the related nutrient pollution standard by the upgrade date.

(2) Any excess nutrient pollution is to be treated for the purposes of these regulations as damage to the related habitats site that is environmental damage caused by an activity of the sewerage undertaker that—

- (a) requires a permit under the Environmental Permitting (England and Wales) Regulations 2016, and
- (b) falls within Schedule 2.

(3) In paragraph (2)—

“excess nutrient pollution”, in relation to a nutrient significant plant and a related nutrient pollution standard, means the amount by which the total nutrient pollution discharged in treated effluent by the plant during the period—

- (a) beginning with the upgrade date, and
- (b) ending with the day the plant first meets the related nutrient pollution standard, exceeds the total nutrient pollution that it would have discharged in treated effluent during that period had it met the related nutrient pollution standard on and after the upgrade date;

“total nutrient pollution” means—

- (a) in relation to the nitrogen nutrient pollution standard, total nitrogen, and
- (b) in relation to the phosphorus nutrient pollution standard, total phosphorus.

(4) Where—

- (a) the nutrient significant plant referred to in paragraph (1) is a plant that discharges treated effluent into a catchment permitting area (see section 96G of the Water Industry Act 1991), and
- (b) the sewerage undertaker has failed to comply with a condition in the environmental permit for the plant imposed in pursuance of subsection (3)(b) of that section,

the definition of “excess nutrient pollution” in paragraph (3) is subject to the following modifications.

(5) In a case where the condition relates to the total nutrient pollution discharged by the plant specifically, references in that definition to the “upgrade date” are to be read as the “applicable date”.

(6) In a case where the condition relates to the total nutrient pollution discharged by all plants that discharge into the associated catchment area, that definition is to be read as if—

- (a) in the words before paragraph (a), after “by the plant” there were inserted “and all other plants that discharged into the associated catchment area for that plant”,
- (b) in paragraph (a), for “upgrade date” there were substituted “applicable date”, and
- (c) in the words after paragraph (b)—
 - (i) for “that it” there were substituted “that both it and those other plants”, and
 - (ii) for “upgrade date” there were substituted “applicable date”.

(7) For the purposes of paragraph (3) as modified by paragraph (5) or (6), the “applicable date” is to be determined in accordance with section 96G(6)(a) of the Water Industry Act 1991.

(8) It is for the Environment Agency to determine the excess nutrient pollution discharged by a plant and in doing so the Environment Agency may have regard to—

- (a) the concentration of total nitrogen or concentration of total phosphorus determined for the purposes of section 96F of the Water Industry Act 1991 (see in particular subsection (5) of that section), and
- (b) the volume of treated effluent discharged by the plant, as determined by the Environment Agency.

(9) [Schedule 2ZA](#) sets out modifications of these regulations that apply where this regulation applies.

(10) In this regulation—

“related habitats site”, in relation to a nutrient significant plant, means the habitats site by reference to which the associated catchment area is designated under section 96C of the Water Industry Act 1991;

“sewerage system”, in relation to a sewerage undertaker, has the meaning given by section 17BA(7) of the Water Industry Act 1991.

(11) For the purposes of this regulation, the following terms have the meanings given by section 96L of the Water Industry Act 1991—

“associated catchment area”;

“catchment permitting area”;

“environmental permit”;

“habitats site”;

“nitrogen nutrient pollution standard”;

“nutrient significant plant”;

“phosphorus nutrient pollution standard”;

“plant”;

“related nutrient pollution standard”;

“sensitive catchment area”;

“treated effluent”;

“upgrade date”;

and references to a nutrient significant plant meeting the related nutrient pollution standard are to be read in accordance with section [96F\(1\)](#) or [\(2\)](#) of that Act.]

F6 [Reg. 9A](#) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 170\(2\)](#), [255\(6\)](#) (with [s. 247](#))

Enforcing authorities under ^{F7}the Environmental Permitting (England and Wales) Regulations 2016]

10.—(1) These Regulations are to be enforced in accordance with this regulation if the damage is caused by an activity that requires a permit or registration under ^{F8}the Environmental Permitting (England and Wales) Regulations 2016].

^{F9}(2) If the Environment Agency or the Natural Resources Body for Wales is responsible for granting the permit, these Regulations are to be enforced—

- (a) if the damage is to marine waters in the Welsh zone, or to a natural habitat or protected species or a site of special scientific interest in those waters, by the Welsh Ministers;
- (b) in any other case, by the Environment Agency.]

(3) If the local authority is responsible for granting the permit—

- (a) Part 2 is to be enforced by ^{F10}a] local authority;
- (b) Part 3 is to be enforced by—
 - (i) the local authority, if the damage is to land;

- (ii) the Environment Agency, if the damage is to surface water or groundwater;
 - (iii) the Marine Management Organisation, if the damage is to marine waters, or to a natural habitat or protected species or a site of special scientific interest within those waters, out to 12 nautical miles from the baselines in England;
 - [^{F11}(iv) the Secretary of State, if the damage is to marine waters lying beyond 12 nautical miles from the baselines in England, other than any lying in the Welsh zone, or to a natural habitat or protected species or a site of special scientific interest in those waters;]
 - (v) Natural England, if the damage is to a natural habitat or a protected species or a site of special scientific interest on land or in surface water or groundwater.
 - [^{F12}(vi) the Welsh Ministers, if the damage is to marine waters in the Welsh zone, or to a natural habitat or protected species or a site of special scientific interest, in those waters.]
- [^{F13}(4) If a local authority in Wales is responsible for granting the permit, these Regulations are to be enforced—
- (a) if the damage is to marine waters in the Welsh zone, or to a natural habitat or protected species or a site of special scientific interest in those waters, by the Welsh Ministers;
 - (b) in any other case, by the Environment Agency.
- (5) In this regulation, “local authority in Wales” means a county council or a county borough council in Wales.]

F7	Words in reg. 10 heading substituted (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) , reg. 1(1), Sch. 29 para. 90(2) (with regs. 1(3), 77-79, Sch. 4)
F8	Words in reg. 10(1) substituted (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) , reg. 1(1), Sch. 29 para. 90(2) (with regs. 1(3), 77-79, Sch. 4)
F9	Reg. 10(2) substituted (1.4.2018) by The Environmental Damage (Prevention and Remediation) (England) (Amendment) Regulations 2017 (S.I. 2017/1177) , regs. 1, 4(2)
F10	Word in reg. 10(3) substituted (1.4.2018) by The Environmental Damage (Prevention and Remediation) (England) (Amendment) Regulations 2017 (S.I. 2017/1177) , regs. 1, 4(3)(a)
F11	Reg. 10(3)(b)(iv) substituted (1.4.2018) by The Environmental Damage (Prevention and Remediation) (England) (Amendment) Regulations 2017 (S.I. 2017/1177) , regs. 1, 4(3)(b)(i)
F12	Reg. 10(3)(b)(vi) inserted (1.4.2018) by The Environmental Damage (Prevention and Remediation) (England) (Amendment) Regulations 2017 (S.I. 2017/1177) , regs. 1, 4(3)(b)(ii)
F13	Reg. 10(4)(5) inserted (1.4.2018) by The Environmental Damage (Prevention and Remediation) (England) (Amendment) Regulations 2017 (S.I. 2017/1177) , regs. 1, 4(4)

Enforcing authorities in other cases

11.—[^{F14}(1) If the damage caused is caused by an activity that does not require a permit or registration under the Environmental Permitting (England and Wales) Regulations 2016, these Regulations are to be enforced in accordance with the provisions set out in the table in Schedule 2A.]

<i>Type of environmental damage</i>	<i>Area of damage</i>	<i>Enforcing Authority</i>
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¹ For the definition of “specified marine activity”, see paragraph (2).

² For the definition of “sea”, see paragraph (2).

Damage to surface water or groundwater	All surface water or groundwater.	Environment Agency
Damage to marine waters	All marine waters out to 12 nautical miles from the baselines in England.	Marine Management Organisation
	[^{F15} All marine waters beyond 12 nautical miles from the baselines in England, all marine waters beyond 12 nautical miles from the baselines in Wales, and all marine waters beyond 12 nautical miles from the baselines in Northern Ireland, in each case] extending to the outermost reach of the area where the United Kingdom exercises jurisdictional rights.	The Secretary of State
	All marine waters up to the limit of the exclusive economic zone which lies—	The Secretary of State—
	(a) within the Scottish zone; or	(a) if the damage was caused by anything done in the course of, or for the purpose of, a specified marine activity ¹ ; or
	(b) outside the Scottish zone, but 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.	(b) in relation to the exercise of powers under Part 2 of these Regulations only, if the damage was caused by an activity relating to a matter which is a reserved matter by virtue of section E3 (marine transport) in Part 2 of Schedule 5 to the Scotland Act 1998.
		In any other case, the Scottish Ministers.
Damage to a protected species or natural habitat or a site of special scientific interest	On land.	Natural England
	In water, but not in the sea ² .	Environment Agency
	In the sea up to the limit of the exclusive economic zone which lies—	The Secretary of State—
	(a) within the Scottish zone; or	(a) if the damage was caused by anything done in the course

¹ For the definition of “specified marine activity”, see paragraph (2).

² For the definition of “sea”, see paragraph (2).

		of, or for the purpose of, a specified marine activity; or
(b) outside the Scottish zone, but 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.		(b) in relation to the exercise of powers under Part 2 of these Regulations only, if the damage was caused by an activity relating to a matter which is a reserved matter by virtue of section E3 (marine transport) in Part 2 of Schedule 5 to the Scotland Act 1998.
		In any other case, the Scottish Ministers.
The continental shelf up to the limit of the exclusive economic zone which lies—		The Secretary of State—
(a) within the Scottish zone; or		(a) if the damage was caused by anything done in the course of, or for the purpose of, a specified marine activity; or
(b) outside the Scottish zone, but 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.		(b) in relation to the exercise of powers under Part 2 of these Regulations only, if the damage was caused by an activity relating to a matter which is a reserved matter by virtue of section E3 (marine transport) in Part 2 of Schedule 5 to the Scotland Act 1998.
		In any other case, the Scottish Ministers.
Any other part of the continental shelf or in the sea up to the limit of the exclusive economic zone.		The Environment Agency, if the damage is due to an activity authorised by the Environment Agency. In any other case, the Secretary of State.
Damage to land	All land.	Local authority

¹ For the definition of “specified marine activity”, see paragraph (2).

² For the definition of “sea”, see paragraph (2).

(2) For the purposes of [F16Schedule 2A] —
 “installation abandonment measures” means any measures taken in connection with the abandonment of—

- (a) an offshore installation within the meaning of Part 4 of the Petroleum Act 1998 ^{M20}, or submarine pipeline within the meaning of that Part, or
- (b) a carbon storage installation, within the meaning of section 30 of the Energy Act 2008 ^{M21}, in either case, whether or not the measures are taken in pursuance of an abandonment programme under Part 4 of the Petroleum Act 1998, or under that Part as it applies by virtue of section 30 of the Energy Act 2008;

“sea” includes—

- (a) any area of land submerged at mean high water spring tide; and
- (b) each of the following, so far as the tide flows at mean high water spring tide—
 - (i) the waters of every estuary or arm of the sea; and
 - (ii) the waters of any channel, bay or river;

“specified marine activity” means—

- (a) an activity for which a licence under section 3 of the Petroleum Act 1998 or section 2 of the Petroleum (Production) Act 1934 ^{M22} (licences to search for and get petroleum) is (or was) required;
- (b) constructing or maintaining a pipeline in respect of any part of which an authorisation (within the meaning of Part 3 ^{M23} of the Petroleum Act 1998) is in force;
- (c) establishing or maintaining an offshore installation (within the meaning of Part 4 ^{M24} of the Petroleum Act 1998);
- (d) taking any installation abandonment measures;
- (e) an activity for which a licence under section 4 or 18 of the Energy Act 2008 ^{M25} (gas unloading, storage and recovery and carbon dioxide storage) is required;
- (f) [^{F17}an activity (other than any specified in paragraphs (a) to (e)) which—
 - i is carried out in the Scottish zone or in an area outside the Scottish zone, but 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
 - ii relates to a matter which is a reserved matter by virtue of section D2 in Part 2 of Schedule 5 to the Scotland Act 1998 (oil and gas);
- (g) an activity (other than any specified in paragraphs (a) to (e)) which—
 - i is carried out in the Welsh zone; and
 - ii relates to a matter which is a reserved matter by virtue of section D2 in Part D2 of Schedule 7A to the Government of Wales Act 2006 (oil and gas).]

F14 Reg. 11(1) substituted (1.4.2018) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/1177\)](#), regs. 1, **5(2)**

F15 Words in reg. 11(1) table substituted (19.7.2015) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2015 \(S.I. 2015/1391\)](#), regs. 1, **2(3)**

F16 Words in reg. 11(2) substituted (1.4.2018) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/1177\)](#), regs. 1, **5(3)(a)**

F17 Words in reg. 11(2) substituted (1.4.2018) by [The Environmental Damage \(Prevention and Remediation\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/1177\)](#), regs. 1, **5(3)(b)**

Marginal Citations

- M20** 1998 c.17. The definition of “offshore installation” for the purposes of Part 4 of that Act is contained in section 44 of that Act. Section 44 was amended by paragraph 11 of Schedule 1 to the [Energy Act 2008 \(c.32\)](#).
- M21** 2008 c.32. Section 30 was amended by section 107(1) and (4) of the [Energy Act 2011 \(c.16\)](#) and by [S.I. 2011/2453](#).
- M22** 1934 c.36. The Act was repealed by Part 1 of Schedule 5 to the Petroleum Act 1998.
- M23** Part 3 was amended by the [Energy Act 2004 \(c.20\)](#), [sections 151\(5\)](#) and 197(9) and Schedule 23, Part 1; the Energy Act 2008, sections 36, 78(3) and (4) and 108, Schedule 1, paragraph 9, and Schedule 6; the Energy Act 2011, Schedule 2 paragraphs 8, 9, 10, 12, 13, 14 and 15; the [Marine and Coastal Access Act 2009 \(c.23\)](#), [section 112\(1\)](#) and Schedule 8, paragraph 7; and by [S.I. 2000/1937](#), 2004/2043, 2007/290 and 2011/2305 and 2704.
- M24** Part 4 was amended by the Energy Act 2008, sections 36, 72(1) to (8), 73(1) to (6), 74(1), 107, 108 and Schedule 1, paragraphs 10 and 11, Schedule 5, paragraphs 6, 7, 9, 10 and 11, and Schedule 6; and by the Marine and Coastal Access Act 2009, section 112(1) and Schedule 8, paragraph 8.
- M25** Section 18 was amended by [S.I. 2011/224](#) and 2435.

Enforcement

12.—(1) If there is more than one type of environmental damage, so that there is more than one enforcing authority, these Regulations are to be enforced by any or all of the enforcing authorities.

(2) An enforcing authority may appoint any other enforcing authority to act on its behalf.

(3) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Damage (Prevention and Remediation) (England) Regulations 2015, PART 1.