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STATUTORY INSTRUMENTS

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**2018 No. 1399**

**The Marine Environment (Amendment)  
(EU Exit) Regulations 2018**

**PART 3**

Amendment of subordinate legislation

**Amendment of the Marine Strategy Regulations 2010**

- 3.—**(1) The Marine Strategy Regulations 2010<sup>(1)</sup> are amended as follows.
- (2) In regulation 2—
- (a) in paragraph (1)—
- (i) omit the definition of “the Commission”;
- (ii) in the definition of “devolved policy authority”, for “and” substitute “or”;
- (b) in paragraph (4), for “as amended from time to time” substitute “as it had effect immediately before exit day”;
- (c) after paragraph (4) insert—
- “(5) For the purposes of any reference to an Article or an Annex of the Directive, the Article or Annex is to be read—
- (a) subject to the modifications specified in Schedule 3; and
- (b) as if—
- (i) references to “Member State” or “Member States” (except in Articles 20 to 22) included a reference to the United Kingdom; and
- (ii) references to “Community legislation” or “existing Community legislation” were, in relation to the United Kingdom, references to retained EU law.
- (6) Any reference in these Regulations to “the requirements of the Directive” is a reference to the requirements of the Directive in so far as any such requirements are not reflected in any provision of these Regulations or by Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment, and read—
- (a) as if they applied in relation to the United Kingdom as they apply in relation to a member State;
- (b) with the omission of any requirement to provide any information or other matter to the European Commission (however expressed), or any rights of access to or use of any information;

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<sup>(1)</sup> [S.I. 2010/1627](#); the relevant amending instruments are [S.I. 2018/287](#), 942.

- (c) subject to the modifications specified in Schedule 3.”.
- (3) In regulation 5(1), after “must” insert “, in accordance with the requirements of Commission Decision (EU) 2017/848,”.
- (4) In regulation 6(1)(c), after “with” insert “the requirements of”.
- (5) In regulation 8(2) and (3), for “implementing”, in both places where it occurs, substitute “giving effect to the requirements of”.
- (6) In regulation 14, after paragraph (13) insert—
- “(14) The competent authority must publish a report describing the progress made in implementing the programme of measures within 3 years of any update to that programme.”.
- (7) In regulation 15—
- (a) in paragraphs (4)(b), (6) and (7), omit “other” in each place where it occurs;
- (b) for paragraph (9) substitute—
- “(9) The competent authority must—
- (a) prepare a report setting out the justification for any such cases identified; and
- (b) publish that report as soon as reasonably practicable in a form accessible to the public.”;
- (c) for paragraph (11)(a) substitute—
- “(a) the competent authority must—
- (i) prepare a report setting out the necessary justification; and
- (ii) publish that report as soon as reasonably practicable in a form accessible to the public.”.
- (8) In regulation 16, for “any other EU instrument” substitute “by any provision of retained EU law other than these Regulations”.
- (9) Omit regulation 17.
- (10) In regulation 18—
- (a) in paragraph (3)—
- (i) after “The competent authority” insert “, when consulting under paragraph (1), and the Secretary of State, when consulting under paragraph (2),”;
- (ii) in sub-paragraph (a), for “its proposal” substitute “the proposal”;
- (b) in paragraph (4)—
- (i) after “The competent authority” insert “or the Secretary of State, as the case may be,”;
- (ii) after “they” insert “respectively”;
- (c) in paragraph (5), after “consultation” insert “under paragraph (1)”;
- (d) in paragraph (6), after “consultation” insert “under paragraph (1) or (2)”;
- (e) in paragraph (7), for the words before sub-paragraph (a) substitute—
- “After taking any decision in relation to a proposal following a consultation on that proposal, the competent authority or the Secretary of State, as the case may be, must publish a report in respect of that decision, which must—”;
- (f) in paragraph (8), after “OSPAR Commission” insert “(the Commission established by Article 10 of the Convention for the Protection of the Marine Environment of the North-East Atlantic)”.

- (11) In regulation 19—
  - (a) in paragraph (1), for “implementing” substitute “giving effect to the requirements of”;
  - (b) in paragraph (8)(a), after “giving effect to the” insert “requirements of the”.
- (12) In regulation 20(1), after “of the” insert “requirements of the”.
- (13) In Schedule 1—
  - (a) in Part 1, in paragraph 5—
    - (i) omit sub-paragraph (a);
    - (ii) for sub-paragraph (b) substitute—
      - “(b) functions under section 58 of the Scotland Act 1998 (international obligations);”;
    - (iii) in sub-paragraph (d)—
      - (aa) omit “, or paragraph (5) of Schedule 3 to,”;
      - (bb) for “(Community obligations)” substitute “(retained EU obligations)”;
  - (b) in Part 2, omit the definition of “regional cooperation”.
- (14) After Schedule 2 insert Schedule 3, as set out in Schedule 1.

#### **Amendment of the Marine Licensing (Exempted Activities) Order 2011**

- 4.—(1) The Marine Licensing (Exempted Activities) Order 2011(2) is amended as follows.
- (2) In article 37(2)—
  - (a) in sub-paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;
  - (b) in sub-paragraph (b), for “a member State” substitute “the United Kingdom”.

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(2) [S.I. 2011/409](#); to which there is an amendment not relevant to these Regulations.