

2018 No. 850

ENVIRONMENTAL PROTECTION

LICENSING (MARINE)

MARINE POLLUTION

**The Marine Licensing (Application Fees) (Amendment)
Regulations 2018**

Made - - - - - *13th July 2018*

Laid before Parliament *16th July 2018*

Coming into force - - - *1st September 2018*

In exercise of the powers conferred by sections 67(2), (3) and 316(1) of the Marine and Coastal Access Act 2009(a), the Secretary of State, as the appropriate licensing authority under section 113(2)(a), (4)(a), (6)(a) and (8) of that Act(b), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Marine Licensing (Application Fees) (Amendment) Regulations 2018 and come into force on 1st September 2018.

Amendment of the Marine Licensing (Application Fees) Regulations 2014

2. The Marine Licensing (Application Fees) Regulations 2014(c) are amended in accordance with regulations 3 to 5.

Amendment of regulation 4

3. For regulation 4 substitute—

“4.—(1) The fee payable for determining an application for a licence is comprised of—
(a) an application fee, as calculated in accordance with paragraphs (2) to (4); and

(a) 2009 c. 23.

(b) By virtue of section 113(2)(a), (4)(a), (6)(a) and (8) of the Marine and Coastal Access Act 2009, the Secretary of State is the appropriate licensing authority as respects anything done in the course of carrying out certain activities in the Scottish offshore region, Wales, the Welsh inshore region and the Welsh offshore region, Northern Ireland and the Northern Ireland inshore region, and in relation to any area not mentioned in subsection (2), (4) or (6) of section 113; section 113(4) was amended by section 46(1) and (2)(a) of the Wales Act 2017 (c. 4); section 113(5), which specifies the activities as respects which the Secretary of State is the appropriate licensing authority in relation to Wales, the Welsh inshore region and the Welsh offshore region, was amended by section 46(1) and (2)(b) of that Act. See section 322(1) for the definition of those regions.

(c) S.I. 2014/615, amended by S.I. 2014/950; there are other amending instruments but none is relevant.

(b) if appropriate, a travel fee, as calculated in accordance with paragraph (5).

(2) Subject to paragraph (3)—

(a) the application fee for an application which falls within Band 1 in the Schedule is £50; and

(b) the application fee for an application which falls within Band 2 or Band 3 in the Schedule is the product of £122 and the total number of hours worked.

(3) Where the application fee that would otherwise be payable under paragraph (2), taken together with the fee (if any) charged under section 67(5) of the Act, would exceed the maximum fee in relation to an application of the kind in question, the amount payable in respect of both such fees taken together is the maximum fee.

(4) For the purposes of paragraph (3), the maximum fee payable in respect of an application falling within any band specified in the first column of the table in paragraph 1 of the Schedule (and of the kind described in the second column of that table) is specified in relation to that band in the third column of that table.

(5) The travel fee is comprised of—

(a) a travel time charge which is the product of £122 and the total number of hours of travel undertaken by each relevant person; and

(b) the total amount of the reasonable travelling costs and related incidental expenditure incurred in respect of each relevant person.

(6) For the purposes of paragraphs (2)(b) and (5)(a), the total number of hours worked or travelled (as applicable) may be expressed as a fraction where it cannot be expressed as a whole number.

(7) In paragraph (5), “relevant person” means a person acting on behalf of the Secretary of State in relation to an application.”.

Amendment of regulation 6

4. In regulation 6(1), for “The Secretary of State may require a applicant” substitute “In relation to an application which falls within Band 2 or Band 3 in the Schedule, the Secretary of State may require an applicant”.

Amendment of the Schedule

5. In the Schedule—

(a) in the heading, delete “(“CAPS”)”;

(b) in the shoulder note, for “Regulation 4(3)” substitute “Regulation 4(2)”;

(c) for paragraph 1 substitute—

“1. The bands and (where applicable) maximum fees are as follows—

<i>Band</i>	<i>Description of application</i>	<i>Maximum fee</i>
Band 1	Any application relating to: (a) the burial of a body at sea; (b) erecting scaffolding for discrete maintenance projects; (c) removing poles, girders, joists and objects of a similar nature unattached to the seabed or any structure; (d) resurfacing a slipway; (e) repairing joints of any structure; or (f) any activity of a similarly minor nature	£50

Band 2	Any application which does not fall, or does not fall exclusively, within the description in Band 1 and relates to a specified activity or activities which has, or (in the case of more than one activity) taken together have, an estimated cost falling within one of the following ranges—	
Band 2A	less than £50,000	£1,400
Band 2B	£50,000 or more, but less than £1,000,000	£2,200
Band 3	Any application which does not fall, or does not fall exclusively, within the description in Band 1 and does not fall within the description in Band 2A or 2B	None”.

Transitional provisions

6.—(1) Paragraphs (2) and (3) apply to any application falling within Band 2 in the Schedule to the Marine Licensing (Application Fees) Regulations 2014 which was received by the Secretary of State before 1st September 2018 but which has not been determined by the Secretary of State before that date.

(2) Regulation 4 of the Marine Licensing (Application Fees) Regulations 2014 has effect as if—

- (a) paragraphs (1)(b) (together with the “and” before that paragraph), (5) and (7) were omitted;
- (b) in paragraph (2)(b), for “£122” there were substituted “£94”; and
- (c) in paragraph (6)—
 - (i) for “paragraphs (2)(b) and (5)(a)” there were substituted “paragraph (2)(b)”; and
 - (ii) “or travelled (as applicable)” were omitted.

(3) Paragraph 1 of the Schedule to the Marine Licensing (Application Fees) Regulations 2014 has effect as if for the rows of the table relating to Band 2 (including its subdivisions 2A and 2B) there were substituted—

“Band 2	Any application which does not fall, or does not fall exclusively, within the description in Band 1 and relates to a specified activity or activities which has, or (in the case of more than one activity) taken together have, an estimated cost falling within one of the following ranges—	
Band 2A	less than £5,000	£450
Band 2B	£5,000 or more, but less than £20,000	£700
Band 2C	£20,000 or more, but less than £50,000	£1,400
Band 2D	£50,000 or more, but less than £200,000	£2,200
Band 2E	£200,000 or more, but less than £1,000,000	£2,200”.

Thérèse Coffey

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

13th July 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Marine Licensing (Application Fees) Regulations 2014 (S.I. 2014/615) (“the Fees Regulations”), which prescribe the fees payable in relation to marine licence applications where the Secretary of State is the appropriate licensing authority under the Marine and Coastal Access Act 2009 (c. 23) (other than any application relating to an activity specified in the exception to regulation 3 of the Fees Regulations).

Regulation 3 substitutes regulation 4 of the Fees Regulations to introduce a new fee structure and new fee rates. It introduces a new fixed fee of £50 for Band 1 applications (instead of an hourly fee rate of £94, subject to a maximum of £175). It introduces a new hourly rate of £122 for Band 2 and Band 3 applications (instead of an hourly fee rate of £94). It also introduces a requirement for all applicants to pay travel fees incurred in relation to the determination of applications.

Regulation 5 amends the Schedule to the Fees Regulations to introduce revised descriptions of Band 2 applications and revised maximum amounts of the application fee for those applications.

Regulation 6 makes transitional provision for Band 2 applications received but not determined before 1st September 2018.

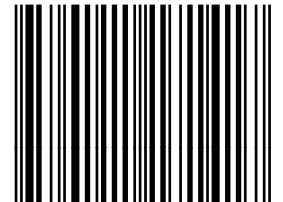
A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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