
WELSH STATUTORY INSTRUMENTS

2007 No. 2610

The Environmental Impact Assessment and
Natural Habitats (Extraction of Minerals by
Marine Dredging) (Wales) Regulations 2007

PART 3

PRELIMINARY MATTERS

Preliminary determinations of the Welsh Ministers

6.—(1) A person who proposes to carry out dredging may request the Welsh Ministers' preliminary determination as to—

- (a) whether or not the dredging would constitute a relevant project; and
- (b) whether or not the dredging would constitute a habitats project.

(2) Before making a determination in response to a request under paragraph (1), the Welsh Ministers must consult—

- (a) the owner (if the owner is not the person requesting the determination); and
- (b) the appropriate consultation bodies.

(3) The Welsh Ministers may ask the person making the request under paragraph (1) to supply such further information within such specified period and in such form as may reasonably be required.

(4) If the person making the request under paragraph (1) fails to supply the information requested within the specified period or such further period as the Welsh Ministers may allow, the request will be deemed to be withdrawn.

(5) In making a preliminary determination in response to an application under paragraph (1) (a) the Welsh Ministers must take into account such of the selection criteria as are relevant in the particular case.

(6) As soon as reasonably practicable after making a preliminary determination, the Welsh Ministers must—

- (a) send a copy of it to the person making the request under paragraph (1) and to any persons consulted under paragraph (2); and
- (b) take such steps as the Welsh Ministers consider appropriate to ensure that it is made available to the public concerned⁽¹⁾.

Opinion of the Welsh Ministers as to the content of the environmental statement

7.—(1) In these Regulations, “environmental statement” (“*datganiad amgylcheddol*”) means a statement that includes —

(1) For “the public concerned”, see Article 1 of the EIA Directive.

- (a) at least the information set out in Part 1 of Schedule 1 to these Regulations; and
- (b) such of the information set out in Part 2 of that Schedule as is reasonably required to assess the environmental effects of the relevant project and which, having regard in particular to current knowledge and methods of assessment, the applicant can reasonably be required to compile,

and Schedule 1 has effect for these purposes.

(2) At the request of a prospective applicant, the Welsh Ministers must give an opinion as to the information to be provided by an environmental statement.

(3) Before giving an opinion, the Welsh Ministers must consult—

- (a) the prospective applicant;
- (b) the owner (if the owner is not the person requesting the opinion); and
- (c) the appropriate consultation bodies,

as to the information to be provided by the environmental statement.

(4) The Welsh Ministers must send a copy of an opinion given under this regulation to any person who has been consulted under paragraph (3).

Provision of information to facilitate preparation of environmental statement

8.—(1) A prospective applicant may, where the proposed application requires an environmental statement, give notice of an intention to submit an application to the Welsh Ministers.

(2) A notice under paragraph (1) must include the information necessary to identify the location and nature of the dredging, and must indicate the main environmental consequences of the dredging which will be referred to in the prospective applicant's environmental statement.

(3) On receipt of a notice under paragraph (1), the Welsh Ministers must —

- (a) notify the appropriate consultation bodies of the name and address of the prospective applicant and of the duty imposed on such consultation bodies by paragraph (4) to make information available to that person;
- (b) notify the prospective applicant of the names and addresses of the bodies notified under sub-paragraph (a); and
- (c) notify the prospective applicant of the name and address of each government department which may hold information which may be relevant to the preparation of the environmental statement.

(4) Subject to paragraph (5), any body notified under paragraph (3)(a) or government department notified to the prospective applicant under paragraph (3)(c), or the Welsh Ministers, must, if requested to do so by the prospective applicant, determine whether or not it has or they have in its or their possession any information relevant to the preparation of the environmental statement and, if it has or they have, the body, department or the Welsh Ministers must make that information available to the prospective applicant.

(5) Paragraph (4) does not require the disclosure of any information—

- (a) to which the Environmental Information Regulations 2004(2) apply, where the person holding it would be entitled to withhold it in response to a request made in accordance with those Regulations; or
- (b) which in any other case would be exempt information if a request for its disclosure were made in accordance with the Freedom of Information Act 2000(3).

(2) S.I.2004/3391.

(3) 2000 c. 36. See specifically Part II of that Act.

(6) A reasonable charge reflecting the cost of making the relevant information available may be made by a body or any government department (other than the Welsh Ministers, who are responsible for deciding the application) which makes information available in accordance with paragraph (4).

Fees for preliminary matters

9.—(1) Where a request is made under regulation 7(2), or a notice is given under regulation 8(1), the prospective applicant must pay to the Welsh Ministers the fee determined in accordance with regulation 25, but where both a request is made and a notice is given in respect of the same application, only one such fee is payable.

(2) The Welsh Ministers are not be obliged to carry out any action in response to the request or notice until the fee has been paid.