
WELSH STATUTORY INSTRUMENTS

2011 No. 559 (W.81)

**ENVIRONMENTAL PROTECTION, WALES
LICENSING (MARINE), WALES
MARINE POLLUTION, WALES**

**The Marine Licensing (Exempted
Activities) (Wales) Order 2011**

<i>Made</i>	- - - -	<i>25 February 2011</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>1 March 2011</i>
<i>Coming into force</i>	- -	<i>6 April 2011</i>

The Welsh Ministers, as the appropriate licensing authority under section 113(4)(b) of the Marine and Coastal Access Act 2009⁽¹⁾, make the following Order in exercise of the powers conferred by sections 74(1), (2) and (3) and 316(1) of that Act, and by section 2(2) of the European Communities Act 1972⁽²⁾.

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the prevention, reduction and management of waste⁽³⁾.

In deciding to make this Order, the Welsh Ministers have had regard to the matters mentioned in section 74(4) of the Marine and Coastal Access Act 2009.

The Welsh Ministers have carried out a consultation in accordance with section 74(5) of that Act.

PART 1

Introductory provisions

Title and commencement

- 1.—(1) The title of this Order is the Marine Licensing (Exempted Activities) (Wales) Order 2011.
(2) This Order comes into force on 6 April 2011.

⁽¹⁾ 2009 c. 23.

⁽²⁾ 1972 c. 68.

⁽³⁾ Article 3 of the European Communities (Designation) (No.2) Order 2010 [S.I.2010/1552].

Commencement Information

I1 [Art. 1](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Application

2. This Order applies in relation to any licensable marine activity for which the Welsh Ministers are the appropriate licensing authority under section 113 of the Marine and Coastal Access Act 2009⁽⁴⁾.

Commencement Information

I2 [Art. 2](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Interpretation

3. In this Order—

“the Act” (“*y Ddeddf*”) means the Marine and Coastal Access Act 2009;

“activity” (“*gweithgaredd*”) means licensable marine activity⁽⁵⁾;

“disposal” (“*gwaredu*”) has the meaning given by Article 3 of the Waste Framework Directive;

“European site” (“*safle Ewropeaidd*”) means—

(a) a European site within the meaning of regulation 8(1) of [^{F1}the Conservation of Habitats and Species Regulations 2017]; and

(b) [^{F2}“European offshore marine site” within the meaning of regulation 18 of the Conservation of Offshore Marine Habitats and Species Regulations 2017;]

“exempt activity” (“*gweithgaredd esempt*”) has the meaning given by article 4;

“fishing operation” (“*gweithred bysgota*”) includes fishing for or taking shellfish but does not include an activity relating to the propagation or cultivation of shellfish;

“harbour authority” (“*awdurdod harbwr*”) has the meaning given by section 57(1) of the Harbours Act 1964⁽⁶⁾;

“licensing authority” (“*awdurdod trwyddedu*”) means the Welsh Ministers as the appropriate licensing authority under section 113(4)(b) of the Act;

“lighthouse authority” (“*awdurdod goleudy*”) means a general lighthouse authority or a local lighthouse authority within the meaning of Part 8 of the Merchant Shipping Act 1995⁽⁷⁾;

“plan or project” (“*cynllun neu brosiect*”) has the same meaning as in Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽⁸⁾;

(4) By virtue of section 113(4)(b) of the Marine and Coastal Access Act 2009, the Welsh Ministers are the appropriate licensing authority as respects anything done in the course of carrying on licensable marine activities in relation to Wales and the Welsh inshore region other than activities for which the Secretary of State is the appropriate licensing authority under section 113(4)(a) and (5) of that Act. See section 322(1) for a definition of the Welsh inshore region.

(5) See sections 66 and 115(1) of the Act.

(6) [1964 c. 40](#) to which there are amendments not relevant to this Order.

(7) [1995 c. 21](#). See section 193 of that Act to which section relevant amendments have been made by paragraph 6 of Schedule 6 to the Merchant Shipping and Maritime Security Act 1997 ([c. 28](#)).

(8) OJ No L 206, 22.7.1992, p.7, last amended by Council Directive [2006/105/EC](#) (OJ No L 363, 20.12.2006, p.368).

“Ramsar site” (“*safle Ramsar*”) has the same meaning as in section 37A of the Wildlife and Countryside Act 1981⁽⁹⁾;

“shellfish” (“*pysgod cregyn*”) includes crustaceans and molluscs of any kind and any part of a shellfish;

“waste” (“*gwastraff*”) means anything that—

(a) is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Article 5(1) of that Directive, and

(b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;

“the Waste Framework Directive” (“*y Gyfarwydddeb Fframwaith Gwastraff*”) means Directive 2008/98/EC of the European Parliament and of the Council on waste⁽¹⁰⁾^[F3], ^[F4]as last amended by Council Regulation (EU) 2017/997^[F4].

- F1** Words in [art. 3](#) substituted (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), reg. 1(2), [Sch. 6 para. 22\(2\)\(a\)](#)
- F2** Words in [art. 3](#) substituted (30.11.2017) by [The Conservation of Offshore Marine Habitats and Species Regulations 2017 \(S.I. 2017/1013\)](#), reg. 1, [Sch. 4 para. 11\(2\)](#) (with regs. 3, 4(2))
- F3** Words in [art. 3](#) inserted (31.7.2016) by [The Marine Licensing \(Exempted Activities\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/690\)](#), arts. 1(2), [2\(2\)](#)
- F4** Words in [art. 3](#) substituted (5.7.2018) by [The Marine Licensing \(Exempted Activities\) \(Wales\) \(Amendment\) Order 2018 \(S.I. 2018/724\)](#), arts. 1(2), [2\(2\)](#)

Commencement Information

- I3** [Art. 3](#) in force at 6.4.2011, see [art. 1\(2\)](#)

^[F5]Modification of the Waste Framework Directive

3A.—(1) For the purposes of this Order, the Waste Framework Directive is to be read in accordance with this article.

(2) A reference to one or more Member States in a provision imposing an obligation or conferring a discretion on a Member State or Member States is to be read as a reference to the appropriate authority or local authority which, immediately before exit day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of Wales.

(3) Article 2 is to be read as if—

(a) in paragraph 2—

(i) in the words immediately before point (a), for “other Community legislation” there were substituted “retained EU law”;

(ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;

(iii) in point (d), for the words from “Directive 2006/21/EC” to the end there were substituted “the Mining Waste Directive”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation” were omitted;

(c) paragraph 4 were omitted.

(9) 1981 c. 69. Section 37A was inserted, in relation to England and Wales, by section 77 of the Countryside and Rights of Way Act 2000 (c. 37), and amended by section 105(1) of, and paragraph 86 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16).

(10) OJ No L 312, 22.11.2008, p.3.

- (4) Article 5 is to be read as if paragraph 2 were omitted.
- (5) Article 6 is to be read as if—
- (a) paragraphs 1 to 3 were omitted;
 - (b) in paragraph 4—
 - (i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “ Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013 ”;
 - (ii) the second sentence were omitted.
- (6) Article 7 is to be read as if—
- (a) in paragraph 1—
 - (i) the first and second sentences were omitted;
 - (ii) in the third sentence, for “shall be binding” there were substituted “ shall, subject to paragraph 1A, be binding ”;
 - (b) after paragraph 1, there were inserted—
 - “**1A.** Paragraph 1 is subject to—
 - (a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;
 - (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;
 - (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulation 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
 - (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties).”;
 - (c) paragraphs 2, 3 and 5 were omitted;
 - (d) after paragraph 6, there were inserted—
 - “**6A.** In this Article, the “list of waste” means the list established by Commission Decision [2000/532/EC](#).”;
 - (e) paragraph 7 were omitted.
- (7) Article 23 is to be read as if—
- (a) a reference to the “competent authority” were a reference to the “appropriate authority”;
 - (b) in paragraph 5, “or Community” were omitted.
- (8) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (9) In reading the Waste Framework Directive in accordance with this article—
- (a) “appropriate authority” (“*awdurdod priodol*”) means the Welsh Ministers or the Natural Resources Body for Wales;

- (b) “local authority” (“*awdurdod lleol*”) means a county council or county borough council in Wales.]

F5 Arts. 3A, 3B inserted (31.12.2020) by [The Fisheries and Marine Management \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/370), regs. 1(2), **3(2)** (as amended by S.I. 2020/1249, regs. 1(2), **3**); 2020 c. 1, **Sch. 5 para. 1(1)**

[^{F5}Meaning of “Mining Waste Directive”

3B.—(1) In reading Article 2 of the Waste Framework Directive in accordance with article 3A, the reference to “the Mining Waste Directive” (as inserted by article 3A(3)(a)(iii)) means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs (2) to (4).

(2) Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with paragraph (4) of this article;
- (b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.

(4) In reading the Mining Waste Directive in accordance with this article, the reference to the “Waste Framework Directive” (as inserted by paragraph (3)) has the meaning given by article 3 of this Order read in accordance with article 3A.

(5) For the purposes of paragraph (2), Article 11(3)(j) of Directive [2000/60/EC](#) is to be read as if—

- (a) the references to “Member States” were references to the “Welsh Ministers or the Natural Resources Body for Wales”;
- (b) at the end, there were inserted—
- “and “environmental objective”, in relation to a river basin district (within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017), has the same meaning as in those Regulations.”]

F5 Arts. 3A, 3B inserted (31.12.2020) by [The Fisheries and Marine Management \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/370), regs. 1(2), **3(2)** (as amended by S.I. 2020/1249, regs. 1(2), **3**); 2020 c. 1, **Sch. 5 para. 1(1)**

PART 2

Exempt activities – general provisions

Exemption from need for marine licence

4.—(1) A marine licence is not needed for an activity carried on in Wales [^{F6}, the Welsh inshore region or the Welsh offshore region] that is an exempt activity.

(2) An activity is an exempt activity to the extent that—

- (a) it is an activity to which this article applies (**11**); and

(11) Part 3 sets out the activities to which this article applies.

- (b) where the application of this article to an activity is subject to a condition specified in Part 3, that condition is satisfied in relation to that activity.
- (3) But this is subject to paragraph (4) and article 5.
- (4) Nothing in this Order makes an activity an exempt activity to the extent to which the carrying on of the activity is contrary to international law.

F6 Words in [art. 4\(1\)](#) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 46\(7\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(j\)](#)

Commencement Information

I4 [Art. 4](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Activities relating to disposal or recovery of waste

5.—(1) An activity carried on by an establishment or undertaking involving the disposal or recovery of waste is not an exempt activity unless the conditions in this article are satisfied.

(2) Condition 1 is that the establishment or undertaking is carrying out—

- (a) disposal of its own non-hazardous waste at the place of production; or
- (b) recovery of waste.

(3) Condition 2 is that the type and quantity of waste involved, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in Article 13 of the Waste Framework Directive.

(4) Condition 3 is that the establishment or undertaking must be registered with the [^{F7}Natural Resources Body for Wales].

(5) The [^{F8}Natural Resources Body for Wales] must, for the purposes of paragraph (4), maintain a register containing the name and address of any establishment or undertaking carrying on an exempt activity involving the disposal or recovery of waste in the licensing authority's area.

(6) The register may be kept in any form.

(7) In this article—

- (a) “establishment” and “undertaking” have the same meaning as in articles 23 and 24 of the Waste Framework Directive;
- (b) “non-hazardous waste” has the same meaning as in the Waste Framework Directive;
- (c) “recovery” has the meaning given by Article 3 of the Waste Framework Directive.

F7 Words in [art. 5\(4\)](#) substituted (1.4.2013) by [The Marine Licensing \(Delegation of Functions\) \(Wales\) Order 2013 \(S.I. 2013/414\), arts. 1\(2\), 5\(2\)](#) (with arts. 2, 7)

F8 Words in [art. 5\(5\)](#) substituted (1.4.2013) by [The Marine Licensing \(Delegation of Functions\) \(Wales\) Order 2013 \(S.I. 2013/414\), arts. 1\(2\), 5\(2\)](#) (with arts. 2, 7)

Commencement Information

I5 [Art. 5](#) in force at 6.4.2011, see [art. 1\(2\)](#)

PART 3

Activities to which article 4 (exemption from need for marine licence) applies, and conditions

Interpretation of this Part

6.—(1) In this Part, a reference to a numbered item is a reference to that numbered item in section 66(1) of the Act.

(2) In this Part—

- (a) a reference to a “deposit” is a reference to a deposit falling within item 1 (deposits within the UK marine licensing area etc), item 2 (deposits from British vessels etc anywhere in the sea etc), item 3 (deposit from vehicle, vessel etc loaded in the United Kingdom except Scotland or the UK marine licensing area) or, except as otherwise provided, item 10 (deposit of explosives within the UK marine licensing area etc);
- (b) a reference to a “dredging activity” is a reference to an activity falling within item 9 (to carry out any form of dredging within the UK marine licensing area etc);
- (c) a reference to a “removal activity” is a reference to an activity falling within item 8 (use of a vehicle, vessel etc to remove a substance or object from the sea bed within the UK marine licensing area);
- (d) a reference to a “works activity” is a reference to an activity falling within item 7 (construction, alteration or improvement of works within the UK marine licensing area etc).

Commencement Information

I6 [Art. 6](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Activities falling within Part 6 of the Merchant Shipping Act 1995

7. Article 4 applies to an activity falling within the subject matter of Part 6 of the Merchant Shipping Act 1995(**12**) (prevention of pollution).

Commencement Information

I7 [Art. 7](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Safety directions under the Merchant Shipping Act 1995

8. Article 4 applies to an activity carried on—

- (a) by or on behalf of the Secretary of State in exercise of a power under Schedule 3A to the Merchant Shipping Act 1995(**13**) (safety directions);
- (b) by any person for the purpose of complying with a direction under that Schedule; or

(12) [1995 c. 21](#). Relevant amendments and repeals to provisions in Part 6 were made by the Merchant Shipping (Pollution) Act [2006 \(c. 8\)](#); the Merchant Shipping and Maritime Security Act [1997 \(c. 28\)](#); the Pollution Prevention and Control Act [1999 \(c. 24\)](#); the Marine Safety Act [2003 \(c. 16\)](#), and S.I. [2006/1244](#).

(13) Section 108A of the Merchant Shipping Act 1995, which gives effect to Schedule 3A, was inserted by section 1(1) of the Marine Safety Act 2003.

- (c) by any person for the purpose of avoiding interference with action taken by virtue of that Schedule.

Commencement Information

I8 [Art. 8](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Salvage activities

9. Article 4 applies to an activity carried on, in the course of a salvage operation, for the purpose of ensuring the safety of a vessel or preventing pollution.

Commencement Information

I9 [Art. 9](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Fire fighting etc

10. Article 4 applies to an activity carried on for the purpose of fighting, or preventing the spread of, any fire.

Commencement Information

I10 [Art. 10](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Air accident investigation

11. Article 4 applies to a deposit or removal activity carried on for the purpose of recovering any substance or object as part of an investigation into any accident involving an aircraft.

Commencement Information

I11 [Art. 11](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Fishing operations

12.—(1) Article 4 applies to any of the following activities if carried on in the course of a fishing operation—

- (a) the deposit of fishing gear, other than a deposit made for the purpose of disposal;
- (b) a removal activity or dredging activity carried on for the purpose of—
 - (i) fishing for or taking fish, or
 - (ii) removing fishing gear;
- (c) the deposit by way of return to the sea of any fish or other object.

(2) Article 4 also applies to the deposit by way of return to the sea of any fish during the course of fish processing at sea.

(3) In this article—

- (a) “fish” includes shellfish and any part of a fish;

- (b) “fishing gear” includes gear used to fish for or take shellfish, but does not otherwise include anything used in connection with the propagation or cultivation of shellfish.

Commencement Information

I12 [Art. 12](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Shellfish propagation and cultivation

13.—(1) Article 4 applies to—

- (a) the deposit of any shellfish, trestle, raft, cage, pole, rope or line in the course of the propagation or cultivation of shellfish;
- (b) a removal activity or dredging activity carried on for the purpose of moving shellfish within the sea in the course of its propagation or cultivation.

(2) But article 4 does not apply to any such deposit—

- (a) made for the purpose of disposal;
- (b) made for the purpose of creating, altering or maintaining an artificial reef; or
- (c) that causes or is likely to cause obstruction or danger to navigation.

Commencement Information

I13 [Art. 13](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Deposit of marine chemical and marine oil treatment substances etc

14.—(1) Article 4 applies to the deposit of any—

- (a) marine chemical treatment substance;
- (b) marine oil treatment substance;
- (c) substance used or intended to be used for removing surface fouling matter from the surface of the sea or of the sea bed.

(2) Paragraph (1) is subject to conditions 1 to 4.

(3) Condition 1 is that the substance must be one the use of which is for the time being approved for the purposes of this Order by the licensing authority.

(4) Condition 2 is that the substance must be used in accordance with any conditions to which the approval is subject.

(5) Condition 3 is that no deposit may be made in an area of the sea of a depth of less than 20 metres or within one nautical mile of any such area except with the approval of the licensing authority.

(6) Condition 4 is that no deposit of any marine chemical treatment substance or marine oil treatment substance may be made below the surface of the sea except with the approval of the licensing authority.

(7) In this article, “marine chemical treatment substance” and “marine oil treatment substance” have the same meaning as in section 107(2) of the Act.

Commencement Information

I14 [Art. 14](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Deposit of equipment to control, contain or recover oil etc

15.—(1) Article 4 applies to the deposit of any equipment for the purpose of controlling, containing or recovering any—

- (a) oil,
- (b) mixture containing oil,
- (c) chemical,
- (d) flotsam, or
- (e) algal bloom.

(2) But article 4 does not apply to any such deposit to the extent that it falls within item 10.

Commencement Information

I15 [Art. 15](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Scientific instruments etc

16.—(1) Article 4 applies—

- (a) to the deposit of any scientific instrument or associated equipment in connection with any scientific experiment or survey;
- (b) to the deposit of any reagent;
- (c) to the deposit of any tracer;
- (d) to a removal activity carried on for the purpose of removing any scientific instrument or associated equipment referred to in sub-paragraph (a).

(2) Sub-paragraphs (b) and (c) of paragraph (1) are subject to conditions 1 and 2.

(3) Condition 1 is that the reagent or tracer must be one the use of which is for the time being approved for the purposes of this Order by the licensing authority.

(4) Condition 2 is that the reagent or tracer must be used in accordance with any conditions to which the approval is subject.

(5) But article 4 does not apply to —

- (a) any such deposit made for the purpose of disposal;
- (b) any such deposit that causes or is likely to cause obstruction or danger to navigation;
- (c) any such deposit or removal activity—
 - (i) that falls within sub-paragraph (a) or (b) of paragraph 6; and
 - (ii) that is not directly connected with or necessary to the management of the site referred to in that sub-paragraph.

(6) A deposit or removal activity falls within this paragraph if—

- (a) it is a plan or project likely (either alone or in combination with other plans or projects) to have a significant effect on a European site; or
- (b) it is likely to have an effect on a Ramsar site.

(7) In sub-paragraphs (a) and (b) of paragraph (6), “likely” has the same meaning as in Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽¹⁴⁾.

Commencement Information

I16 [Art. 16](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Deposits in the course of aggregates or mineral dredging

17.—(1) Article 4 applies—

- (a) to the deposit on the site of dredging for aggregates or other minerals of any substance or object taken from the sea in the course of such dredging (other than any of the aggregates or minerals being dredged);
- (b) to the deposit of waters (whether by overflow or pumped discharge) from the hold of a vessel—
 - (i) in the normal course of dredging for aggregates or other minerals, or
 - (ii) at the site of such dredging following its completion or during the return journey of the vessel.

Commencement Information

I17 [Art. 17](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Maintenance of coast protection, drainage and flood defence works

18.—(1) Article 4 applies—

- (a) to an activity carried on by or on behalf of [^{F9}the Natural Resources Body for Wales or] the Environment Agency for the purpose of maintaining any—
 - (i) coast protection works;
 - (ii) drainage works;
 - (iii) flood defence works;
- (b) to an activity carried on by or on behalf of a coast protection authority (within the meaning of the Coast Protection Act 1949⁽¹⁵⁾) for the purpose of maintaining any coast protection works.

(2) Paragraph (1) is subject to the condition that the activity is carried on within the existing boundaries of the works being maintained.

(3) Article 4 does not apply in relation to any such activity that consists of beach replenishment.

F9 Words in [art. 18\(1\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), [art. 1\(2\)](#), [Sch. 5 para. 66](#) (with [Sch. 7](#))

Commencement Information

I18 [Art. 18](#) in force at 6.4.2011, see [art. 1\(2\)](#)

⁽¹⁴⁾ OJ Number L 206, 22.7.1992, p.7, last amended by Council Directive [2006/105/EC](#) (OJ number L 363, 20.12.2006, p.368).

⁽¹⁵⁾ [1949 c. 74](#). Part 1 has been amended by Schedule 2 to the Flood and Water Management Act [2010](#) ([c. 29](#)), from a date to be appointed.

Emergency works in response to flood or flood risk

19.—(1) Article 4 applies to an activity carried on by or on behalf of [^{F10}the Natural Resources Body for Wales or] the Environment Agency for the purpose of executing emergency works in response to any flood or the imminent risk of any flood.

(2) Paragraph (1) is subject to the condition that the activity may only be carried on in accordance with an approval granted by the licensing authority for that purpose.

F10 Words in [art. 19\(1\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 5 para. 66](#) (with [Sch. 7](#))

Commencement Information

I19 [Art. 19](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Use of vehicles to remove litter or seaweed from beaches

20.—(1) Article 4 applies to a removal activity using a vehicle, carried on by or on behalf of a local authority, for the purpose of removing any litter or seaweed from a beach.

(2) But article 4 does not apply to any such removal activity—

- (a) that falls within sub-paragraph (a) or (b) of paragraph (3); and
- (b) that is not directly connected with or necessary to the management of the site referred to in that sub-paragraph.

(3) An activity falls within this paragraph if—

- (a) it is a plan or project likely (either alone or in combination with other plans or projects) to have a significant effect on a European site; or
- (b) it is likely to have a significant effect on a Ramsar site.

(4) In paragraph (1), “local authority” has the meaning given by section 68(9) of the Act.

(5) In paragraph (3)(a) and (b), “likely” has the same meaning as in Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora.

Commencement Information

I20 [Art. 20](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Deposits in the course of normal navigation or maintenance

21.—(1) Article 4 applies to the deposit from a vehicle, vessel, aircraft or marine structure in the course of its normal navigation or maintenance.

(2) But article 4 does not apply to any such deposit—

- (a) made for the purpose of disposal;
- (b) to the extent that it falls within item 10.

Commencement Information

I21 [Art. 21](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Maintenance of harbour works

22.—(1) Article 4 applies to a deposit, removal activity or works activity carried on by or on behalf of a harbour authority for the purpose of maintaining any harbour works.

(2) Paragraph (1) is subject to the condition that the activity is carried on within the existing boundaries of the works being maintained.

Commencement Information

I22 [Art. 22](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Removal of obstruction or danger to navigation

23.—(1) Article 4 applies to a removal activity carried on by a person referred to in paragraph (2) for the purpose of removing anything causing or likely to cause obstruction or danger to navigation.

(2) The persons are—

- (a) a conservancy authority (within the meaning given by section 313(1) of the Merchant Shipping Act 1995⁽¹⁶⁾);
- (b) a harbour authority;
- (c) a lighthouse authority;
- (d) a person having powers under any enactment or statutory order to work or maintain a canal or other inland navigation, including a navigation in tidal water.

Commencement Information

I23 [Art. 23](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Moorings and aids to navigation

24.—(1) Article 4 applies—

- (a) to a deposit or works activity carried on by a person referred to in paragraph (2) for the purpose of providing a pile mooring, swinging mooring, trot mooring or aid to navigation;
- (b) to a removal activity carried on by any such person for the purpose of removing any such mooring or aid to navigation.

(2) The persons are—

- (a) a harbour authority;
- (b) a lighthouse authority;
- (c) any other person, where the activity is carried on in accordance with a consent required from, and granted by, any such authority.

(3) But article 4 does not apply to any such activity which consists of the deposit or the construction of a pontoon.

Commencement Information

I24 [Art. 24](#) in force at 6.4.2011, see [art. 1\(2\)](#)

(16) 1995 c. 21

Markers for European marine sites

25.—(1) Article 4 applies to—

- (a) a deposit by [^{F11}the Natural Resources Body for Wales] for the purpose of installing a marker for the purposes of [^{F12}regulation 37(1) of the Conservation of Habitats and Species Regulations 2017] (installation of markers indicating the existence and extent of a European marine site within the meaning of those Regulations⁽¹⁷⁾);
- (b) a removal activity carried on by [^{F11}the Natural Resources Body for Wales] for the purpose of removing a marker referred to in sub-paragraph (a).

(2) Paragraph (1) is subject to the condition that the activity may only be carried on in accordance with an approval granted by the licensing authority for that purpose.

F11 Words in [art. 25\(1\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 5 para. 67](#) (with [Sch. 7](#))

F12 Words in [art. 25\(1\)\(a\)](#) substituted (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), [reg. 1\(2\)](#), [Sch. 6 para. 22\(3\)\(a\)](#)

Commencement Information

I25 [Art. 25](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Launching of vessels etc

26. Article 4 applies to a deposit in connection with the launching of any vehicle, vessel, aircraft, marine structure or floating container.

Commencement Information

I26 [Art. 26](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Dismantling of ships

27.—(1) Article 4 applies to a deposit or removal activity carried on as part of dismantling a ship that is waste.

(2) But article 4 does not apply to any such deposit to the extent that it falls within item 10.

Commencement Information

I27 [Art. 27](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Diver trails within restricted areas

28. Article 4 applies to a deposit or removal activity carried on for the purpose of placing, securing or removing signage or other identifying markers relating to a wreck within an area designated as a restricted area within the meaning of section 1 of the Protection of Wrecks Act 1973⁽¹⁸⁾.

(17) See regulation 8(4) for a definition of “European marine site”.

(18) 1973 c. 33. Functions under the Protection of Wrecks Act 1973, with the exception of section 2, were transferred to the Welsh Ministers by article 2 and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 [[S.I.1999/672](#)] and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([c. 32](#)).

Commencement Information

I28 [Art. 28](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Coastguard activities – safety purposes and training

29. Article 4 applies to an activity carried on by or on behalf of the Secretary of State for Transport, acting through the Maritime and Coastguard Agency, for the purpose of—

- (a) securing the safety of a vessel, aircraft or marine structure;
- (b) saving life; or
- (c) training for any purpose referred to in paragraph (a) or (b).

Commencement Information

I29 [Art. 29](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Deposit and use of flares etc – safety purposes and training

30. Article 4 applies to the deposit or use of any distress flare, smoke float or similar pyrotechnic substance or object for the purpose of—

- (a) securing the safety of a vessel, aircraft or marine structure;
- (b) saving life; or
- (c) training for any purpose referred to in sub-paragraph (a) or (b).

Commencement Information

I30 [Art. 30](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Cables and pipelines – authorised emergency inspection and repair

31.—(1) Article 4 applies to a deposit, removal activity or dredging activity carried on for the purpose of executing emergency inspection or repair works to any cable or pipeline.

(2) Paragraph (1) is subject to the condition that the activity may only be carried on in accordance with an approval granted by the licensing authority for that purpose.

(3) But article 4 does not apply to any such deposit falling within item 10.

Commencement Information

I31 [Art. 31](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Bored tunnels

32.—(1) Article 4 applies to a deposit or works activity carried on wholly under the sea bed in connection with the construction or operation of a bored tunnel.

(2) Paragraph (1) is subject to conditions 1 and 2.

(3) Condition 1 is that notice in writing of the intention to carry on the activity must be given to the licensing authority before the activity is carried on.

(4) Condition 2 is that the activity must not adversely affect the environment of Wales [^{F13}, the Welsh inshore region and the Welsh offshore region] or the living resources that it supports.

(5) But article 4 does not apply to any such deposit carried on for the purpose of disposal.

F13 Words in [art. 32\(4\)](#) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 46(8)**, 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)

Commencement Information

I32 [Art. 32](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Rights of foreign vessels etc under international law

33.—(1) Article 4 applies to an activity to the extent that it is carried on in exercise of a right under rules of international law, by or in relation to—

- (a) a third country vessel;
- (b) a warship, naval auxiliary, other vessel or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service (whether or not the warship, naval auxiliary or other vessel is a third country vessel).

(2) In paragraph (1), “third country vessel” means a vessel which—

- (a) is flying the flag of, or is registered in, any State or territory [^{F14}other than the United Kingdom.]

^{F15}(b)

F14 Words in [art. 33\(2\)\(a\)](#) substituted (31.12.2020) by [The Fisheries and Marine Management \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/370\)](#), [regs. 1\(2\)](#), **3(3)(a)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

F15 [Art. 33\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [The Fisheries and Marine Management \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/370\)](#), [regs. 1\(2\)](#), **3(3)(b)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Commencement Information

I33 [Art. 33](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Loading of a vehicle or vessel etc for incineration outside Wales [^{F16}, the Welsh inshore region and the Welsh offshore region]

34.—(1) Article 4 applies to the loading of a vehicle, vessel, aircraft, marine structure or floating container with any substance or object for incineration—

- (a) in the Scottish inshore region;
- (b) in the UK marine licensing area other than in Wales [^{F17}, the Welsh inshore region and the Welsh offshore region];
- (c) outside the UK marine licensing area and the Scottish inshore region, where the incineration is to take place on—
 - (i) a British vessel or marine structure; or
 - (ii) a container floating in the sea, if the incineration is controlled from a British vessel, British aircraft or British marine structure.

(2) But paragraph (1) applies only to the extent that such an activity falls within item 13.

- F16** Words in [art. 34](#) heading substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 46(9)(a)**, 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)
- F17** Words in [art. 34\(1\)\(b\)](#) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 46(9)(b)**, 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(j\)](#)

Commencement Information

- I34** [Art. 34](#) in force at 6.4.2011, see [art. 1\(2\)](#)

Jane Davidson
Minister for Environment, Sustainability and
Housing, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies activities which are not to need a marine licence, or not to need a marine licence if conditions specified in the Order are satisfied. It applies in relation to any licensable marine activity carried on in Wales and the Welsh inshore region, in relation to which the Welsh Ministers are the appropriate licensing authority under section 113 of the Marine and Coastal Access Act 2009 (article 2).

Part 1 (articles 1 to 3) contains introductory provisions.

Part 2 (articles 4 and 5) contains provisions setting out when a marine licence is not needed for a licensable marine activity, and provisions relating to waste (which implement in part Directive [2008/98/EC](#) of the European Parliament and of the Council on waste (OJ No L 312, 22.11.2008, p.3)).

Part 3 (articles 6 to 34) contains provisions setting out the licensable marine activities which do not need a marine licence (including any conditions that must be satisfied as part of that exemption).

A full impact assessment of the effects that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Marine Consents Unit, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ or at the Welsh Assembly Government website at www.wales.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Marine Licensing (Exempted Activities) (Wales) Order 2011.