
WELSH STATUTORY INSTRUMENTS

2017 No. 280 (W. 74)

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

The Marine Licensing (Fees) (Wales) Regulations 2017

<i>Made</i>	- - - -	<i>6 March 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>8 March 2017</i>
<i>Coming into force</i>	- -	<i>1 April 2017</i>

In exercise of the powers conferred by sections 67(2), (3), 72A(4), 107A(3), 107B(5) and 316(1) (b) of the Marine and Coastal Access Act 2009⁽¹⁾, the Welsh Ministers, as the appropriate licensing authority under section 113(4)(b)⁽²⁾ of that Act, makes the following Regulations.

Title and commencement

- 1.—(1) The title of these Regulations is the Marine Licensing (Fees) (Wales) Regulations 2017.
- (2) These Regulations come into force on 1 April 2017.

Interpretation

2. In these Regulations—
 - “the Act” (“*y Ddeddf*”) means the Marine and Coastal Access Act 2009;
 - “the 2011 Regulations” (“*Rheoliadau 2011*”) means the Marine Licensing (Application Fees) (Wales) Regulations 2011⁽³⁾;
 - “activity” (“*gweithgaredd*”) means a licensable marine activity; and
 - “licence” (“*trwydded*”) means a marine licence granted under section 71(1)(a) or (b) of the Act.

(1) [2009 c. 23](#); amended by Part 6 of the [Environment \(Wales\) Act 2016 \(anaw 3\)](#), there are other amendments but none is relevant.

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

(3) [S.I. 2011/555 \(W.78\)](#).

Application

3. These Regulations apply in relation to any licence and any application for a licence in relation to which the Welsh Ministers are the appropriate licensing authority under section 113 of the Act and references in these Regulations to “the licensing authority” are to be read accordingly.

Fees for applications for licences

4. The fees payable in respect of determining an application falling within a band described in the first column of paragraph 1 of Schedule 1 are set out in the second column of that paragraph.

Fees for monitoring and discharge of licence conditions

5. The fees payable in respect of monitoring of a description specified in the first column of Schedule 2 in relation to licenses of a description specified in the second column of that Schedule are set out in the third column of that Schedule.

Fees for variation and transfer of licences

6. The fees payable for determining an application for variation or transfer of a marine licence in the circumstances specified in the first column of Schedule 3 in relation to licences of a kind specified in the second column of that Schedule are set out in the third column of that Schedule

Calculation of fees

7. When calculating fees by multiplying the number of hours worked by the hourly rate the total number of hours worked may be expressed as a fraction where—

- (a) less than one hour is worked; or
- (b) the total amount of time worked is more than one hour but cannot be expressed as a whole number in hours.

Payment of fees

- 8.—(1) All fees are payable on demand to the Welsh Ministers.
- (2) Payment of any fee may be made by electronic means.
 - (3) Payment of a fee is not received until the Welsh Ministers have received cleared funds for the full amount due.
 - (4) Any unpaid fee may be recovered by the Welsh Ministers as a civil debt.

Deposits

9. Deposits on account of any fee that is payable at an hourly rate must be calculated by reference to the estimated duration of the work likely to be required and the hourly rate payable.

Refunds

10. The Welsh Ministers must refund any payment made in excess of the fee payable, but fees paid are not otherwise refundable.

Revocation of the 2011 Regulations

11. Subject to regulation 12, the 2011 Regulations are revoked.

Transitional and saving provisions

12.—(1) The 2011 Regulations continue to have effect in respect of any application for a marine licence, variation or transfer of a marine licence that was received by the Welsh Ministers before 1 April 2017 which was not determined by the Welsh Ministers before that date.

(2) These Regulations have effect in relation to all applications for a marine licence, variation or transfer of a marine licence received on or after 1 April 2017

(3) These Regulations have effect in relation to monitoring described in Schedule 2 carried out on or after 1 April 2017 regardless of whether such monitoring relates to a marine licence granted before, on or after 1 April 2017.

(4) For the purposes of this regulation an application is not received until an applicant has supplied such information or produced such articles as in the opinion of the licensing authority may be necessary or expedient to enable the licensing authority to determine the application.

6 March 2017

Lesley Griffiths
Cabinet Secretary for Environment and Rural
Affairs, one of the Welsh Ministers

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SCHEDULE 1

Regulation 4

Application Bands and Fees

1. The bands and the fees are as follows—

<i>Band and description of application</i>	<i>Fee for determining the application</i>
Band 1	
Any application relating to:	£600
(a) repair or replacement of bolts, flaps, valves, decking on a pier or pontoon;	
(b) removal of marine growth and guano from any building or structure or any part thereof;	
(c) the installation of ladders at any building or structure;	
(d) the deposit and subsequent removal of posts for the purposes of marking channels, shallow water areas, outfalls and groynes;	
(e) the deposit and subsequent removal of marker buoys;	
(f) the use of a vehicle or vessel to remove discrete pieces of minor debris unattached to the seabed (including poles, girders, joists and objects of a similar minor nature) associated with construction, demolition, damage or disrepair of a building or structure;	
(g) the removal of litter using a vehicle or vessel; or	
(h) any activity of a similar minor nature.	
Band 2	
Any application which does not fall, or does not fall exclusively, within the descriptions in Band 1 and relates to a specified activity.	£1,920
Band 3	
Any application which does not fall, or does not fall exclusively, within the descriptions in Band 1 or Band 2.	A fee calculated at a rate of £120 per hour

2. In paragraph 1, subject to the exception at paragraph 3, “specified activity” (“*gweithgaredd penodedig*”) means any activity falling within one or more of the following—

- (a) item 1 (deposits within the UK marine licensing area etc.) of section 66(1) of the Act;
- (b) item 7 (construction, alteration or improvement of works etc.) of section 66(1) of the Act;
- (c) item 8 (use of vehicle, vessel, aircraft, marine structure or floating container to remove substances etc.) of section 66(1) of the Act: or
- (d) item 9 (to carry out any form of dredging etc.) of section 66(1) of the Act but only in so far as item 9 relates to maintenance dredging.

3. Specified activity does not include—

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- (a) any activity to be carried out in the course of a project of a type specified in Annex I to Council Directive 2011/92/EU(4) on the assessment of the effects of certain public and private projects on the environment;
- (b) any activity to be carried out in the course of a project of a type specified in Annex II to that Directive, if it is likely because of its size, nature or location to have significant effects on the environment;
- (c) an activity with respect to which an environmental impact assessment is required by virtue of regulation 5 (requirement of assessment by agreement) of the Marine Works (Environmental Impact Assessment) Regulations 2007(5);
- (d) an activity that involves both items 7 and 9 described in paragraph 2(b) and (d);
- (e) any activity or activities which has, or, in the case of more than one activity taken together have, an estimated cost of more than £1,000,000.

SCHEDULE 2

Regulation 5

Fees Payable for Monitoring

<i>Description of monitoring</i>	<i>Description of licence</i>	<i>Fee</i>
Discharge of licence conditions		
Licensing authority approval as required by any condition within a marine licence.	A licence the application for which was subject to a Band 1 or Band 2 fee under Schedule 1 of these Regulations or if granted before the date of these Regulations a licence that is of a similar nature to that which would be subject to a Band 1 or Band 2 fee under Schedule 1 to these Regulations.	A fixed fee of £480 for all conditions associated with a licence.
	A licence the application for which was subject to a Band 3 fee under these Regulations or if granted before the date of these Regulations a licence that is of a similar nature to that which would be subject to a Band 3 fee under these Regulations.	A fee calculated at a rate of £120 per hour.
All other monitoring		
Any other monitoring as provided for in section 72A(2)(a), (b) and (3) of the Act.	Any licence.	A fee calculated at a rate of £120 per hour.

(4) OJ L 26, 28.1.2012, p.1.

(5) S.I. 2007/1518; amended by S.I. 2011/735, 1043, 2013/755 and 2015/446.

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SCHEDULE 3

Regulation 6

Fees Payable for Variation and Transfer of Licences

<i>Description of circumstances</i>	<i>Description of licence</i>	<i>Fee</i>
Category 1		
Varying a licence at the request of the applicant where the name of a vessel, the registration number of a vehicle, the name or address of an agent or contractor are amended or other amendments of a similar administrative nature are made.	Any licence.	A fee of £240 per application.
Category 2		
Varying any other provision of a licence where the licensing authority consults a person or body (including internal consultation within the licensing authority) other than the holder of the licence in order to determine whether, or how, to vary that licence.	Any licence.	A fee calculated at a rate of £120 per hour.
Category 3		
Varying any other provision of a licence in any other circumstances.	Any licence.	A fee of £480.
Transfers		
Transferring a licence from the licensee to another person and varying it accordingly.	Any licence	A fee of £480.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to marine licensing fees in relation to which the Welsh Ministers are the appropriate licensing authority under the Marine and Coastal Access Act 2009.

Under section 67(1)(b) of that Act the appropriate licensing authority may require that an application for a marine licence be accompanied by a fee. Regulation 4 and Schedule 1 provide that the fee for determining an application for a licence is either a fixed fee or an amount calculated by multiplying the number of hours worked by £120.

Band 1 applies to applications relating to activities of a minor nature. Band 2 applies to any application which does not fall within Band 1 or exclusively within that Band, and which relates to a “specified activity”. “Specified activity” is defined in paragraphs 2 and 3 of Schedule 1 and includes deposits within the UK marine licensing area, the construction, alteration or improvement of works and the use of a vehicle or vessel to remove substances or objects from the sea bed, but excludes certain activities. Band 3 applies to any application relating to any activity which neither falls exclusively within Band 1 nor within Band 2.

Regulation 5 and Schedule 2 provide for a fixed fee for the discharge of licence conditions relating to marine licences that fall within the descriptions of Band 1 or Band 2 applications set out in Schedule 1. All other monitoring fees are calculated by multiplying the number of hours worked by £120.

Regulation 6 and Schedule 3 provide for fixed fees for certain variations of a marine licence and the transfer of a marine licence. Where the variation of a marine licence requires the licensing authority to consult with anyone other than the licensee, fees for the variation of a marine licence are calculated by multiplying the number of hours worked by £120.

Regulations 7 to 10 contain additional provisions relating to the payment of such fees, deposits and refunds.

Regulation 11 revokes the Marine Licensing (Application Fees) (Wales) Regulations 2011 (“the 2011 Regulations”), and regulation 12 contains transitional and saving provisions. By virtue of these provisions the 2011 Regulations apply to any application for a marine licence or the variation or transfer of a marine licence received before 1 April 2017 (whether or not determined by the Welsh Ministers before that date). Regulation 12(3) clarifies that monitoring fees will be applied to marine licences regardless of whether such licences were granted prior to 1 April 2017.

These Regulations do not determine all fees that may be charged in relation to marine licensing. Additional fees that may be charged include, but are not limited to, fees under sections 67(5), 67A and 72A(6) of the Marine and Coastal Access Act 2009 and fees under the Marine Works (Environmental Impact Assessment) Regulations 2007.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ