

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2007 No. 485**

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

**PART 4**

**PERMISSIONS FOR DREDGING**

**Applications for permission**

**9.—**(1) An application for permission to carry out dredging shall—

- (a) be made to the Scottish Ministers;
- (b) contain such information as the Scottish Ministers may reasonably require;
- (c) unless paragraph (2) applies to the dredging, include an environmental statement;
- (d) where paragraph (2) applies, and the Secretary of State's determination relates to part only of the dredging, include an environmental statement in respect of any part of the dredging to which the determination does not apply; and
- (e) be accompanied by a fee of £29,500.

(2) This paragraph applies where the Scottish Ministers have received a determination from the Secretary of State under regulation 5(2) that the dredging constitutes or forms part of a project serving national defence purposes, and that in the opinion of the Secretary of State the application of these Regulations would have an adverse effect on those purposes.

(3) The Scottish Ministers may require the applicant to supply such number of copies of the application as may reasonably be required, within such period as may reasonably be specified.

(4) Where the applicant fails, within such period as the Scottish Ministers have specified, or such further period as the Scottish Ministers may allow, to comply with any requirement of this regulation, the application shall be deemed to be withdrawn at the end of such period, and the fee shall be refunded if the Scottish Ministers have not yet published a notice under regulation 11(1).

(5) An application under this regulation may be withdrawn at any time by notice to the Scottish Ministers, and the fee shall be refunded if, at the time when the Scottish Ministers receive the notice of withdrawal, the Scottish Ministers have not yet published a notice under regulation 11(1).

(6) Where the Scottish Ministers receive an application under this regulation in respect of dredging which may constitute or form part of a project serving national defence purposes, the Scottish Ministers shall provide a copy of that application to the Secretary of State.

**Further information**

**10.—**(1) Paragraph (2) applies where the Scottish Ministers consider—

- (a) that the environmental statement fails to contain sufficient information of a description specified in any of the paragraphs of Part 2 of Schedule 1 to enable the environmental effects of the proposed dredging to be fully considered; and
  - (b) having regard in particular to current knowledge and methods of assessment, that the applicant can reasonably be required to supply further information of such description.
- (2) Where this paragraph applies, the Scottish Ministers shall request the applicant to supply such further information as they consider necessary and shall notify the applicant of—
- (a) the number of copies of the further information that the applicant is required to supply; and
  - (b) the period within which such further information shall be supplied.
- (3) Where the applicant fails, within such period as the Scottish Ministers have specified, or such further period as the Scottish Ministers may allow, to comply with any request of the Scottish Ministers under this regulation, the application shall be deemed to be withdrawn at the end of such period and the fee shall be refunded if the Scottish Ministers have not yet published a notice under regulation 11(1).

### **Publicity and consultation**

**11.**—(1) Where the Scottish Ministers receive—

- (a) an application made under regulation 9 which includes an environmental statement; or
- (b) further information supplied under regulation 10 or any other information provided by the applicant,

the Scottish Ministers shall publish by public advertisement, as soon as reasonably practicable, a notice complying with the requirements of paragraph (2).

(2) The notice shall contain the following information—

- (a) the applicant's name;
- (b) a statement that the applicant has made an application or, as the case may be, supplied further or any other information, to the Scottish Ministers under these Regulations;
- (c) a statement that the application is subject to an assessment of its effects on the environment pursuant to these Regulations;
- (d) that the Scottish Ministers will take a decision on the application under these Regulations and a statement that the application may either be granted, whether or not subject to conditions, or refused;
- (e) the address of the place in Scotland at which copies of the application and any further or other information, and any reports or advice which have been issued to the Scottish Ministers at that time, as the case may be, may be inspected;
- (f) a statement that inspection of the application, any further or other information, and any reports or advice which have been issued to the Scottish Ministers may be undertaken at that place, without charge, and at any reasonable time during a period which shall not be less than eight weeks beginning with the date on which the notice is published;
- (g) the address in Scotland from which copies of the application and any further or other information and any reports or advice which have been issued to the Scottish Ministers, may be obtained and, if a charge is made under paragraph (3) for the supply of copies, of the amount of the charge;
- (h) a statement that any person who wishes to make representations to the Scottish Ministers regarding the application or regarding any further or other information or any reports or advice which have been issued to the Scottish Ministers, may do so in writing within the period specified under in sub paragraph (f); and

- (i) the address in Scotland to which representations may be sent.
- (3) A reasonable charge may be made for the provision of copies of the application or any further or other information or any reports or advice which have been issued to the Scottish Ministers, to any person who requests them.
- (4) The Scottish Ministers shall send to such of the appropriate consultation bodies as they consider necessary and the owner (if the owner is not the applicant)–
  - (a) a copy of the application and, as soon as reasonably practicable, of any further or other information and of any reports or advice that have been issued to the Scottish Ministers; and
  - (b) a statement–
    - (i) that representations may be made to the Scottish Ministers regarding the application;
    - (ii) of the address in Scotland to which representations may be sent; and
    - (iii) of the period, being not less than eight weeks beginning with the date on which notice of the application is first published under paragraph (1), within which representations may be made.
- (5) Where the Scottish Ministers are aware of any other person (including any non governmental organisation promoting environmental protection in marine waters) who is likely to have an interest in the application, but is unlikely to become aware of it by means of the public advertisement, the Scottish Ministers shall send a notice to such person containing the details set out in paragraph (2).

### **Decisions on applications**

- 12.**—(1) Before deciding whether to grant or refuse permission on an application under regulation 9, the Scottish Ministers shall determine whether or not the application relates to a project which constitutes a habitats project.
- (2) The applicant shall provide such information as the Scottish Ministers may reasonably require to enable the Scottish Ministers to make the determination under paragraph (1).
- (3) Before deciding whether to grant or refuse permission for a project which the Scottish Ministers have determined would constitute a habitats project (whether under this regulation or under regulation 6(1)(b)) the Scottish Ministers shall make an appropriate assessment of the implications for the European site affected, in view of its conservation objectives and paragraph 2 of Schedule 3 shall apply for that purpose.
- (4) Before deciding whether to grant or to refuse permission, the Scottish Ministers may give the opportunity of making representations (whether in person or in writing) to a person appointed by the Scottish Ministers for that purpose, to the applicant, the owner (if the owner is not the applicant) and any other person whom the Scottish Ministers consider should be given such an opportunity.
- (5) In deciding whether to grant or refuse permission the Scottish Ministers shall take into consideration–
- (a) the information provided in the application;
  - (b) the environmental statement, where one has been provided;
  - (c) any further information supplied under regulation 10 and any other information submitted by the applicant;
  - (d) any relevant representations made in response to the notice published under regulation 11(1) or by anyone to whom a copy of the application has been sent under regulation 11(4) or to whom a notice has been sent under regulation 11(5);
  - (e) any opinion forwarded to the Scottish Ministers pursuant to regulation 14(4);
  - (f) any reports and advice that have been issued to the Scottish Ministers;

- (g) the report of any person appointed under paragraph (4);
  - (h) any published policy of the Scottish Ministers in relation to the extraction of minerals by marine dredging; and
  - (i) the results of any assessment carried out under paragraph (3).
- (6) A grant of permission—
- (a) may be subject to such conditions as the Scottish Ministers consider appropriate; including conditions intended to implement any policy taken into account under paragraph 5(h); and
  - (b) shall be made to, and subject to any transfer under regulation 15, shall enure for the benefit of, the owner.
- (7) The Scottish Ministers shall send notice of the decision to—
- (a) the applicant;
  - (b) the owner (if the owner is not the applicant);
  - (c) any person who has made representations in respect of the application; and
  - (d) the appropriate consultation bodies who were consulted under regulation 11(4);
- and the notice shall state—
- (i) the main reasons for the decision;
  - (ii) the main considerations on which the decision is based including, if relevant, information about the public participation process;
  - (iii) where permission is granted, any conditions imposed under paragraph 6(a), and, where applicable, the main measures to be taken to avoid, reduce and, if possible, offset any major adverse effects; and
  - (iv) that the decision may be challenged and the procedures for doing so.
- (8) Within the period of 28 days beginning with the date of the decision, the Scottish Ministers shall publish, in the same or similar manner in which notice relevant to the application was published under regulation 11, a notice containing—
- (a) a statement that the Scottish Ministers have granted, or as the case may be, refused permission;
  - (b) a description of the dredging for which permission has been granted or, as the case may be, refused; and
  - (c) the address in Scotland at which any person may inspect a copy of the notice issued under paragraph (7).

### **Offences relating to applications and permissions**

**13.—**(1) It shall be an offence for a person who, for the purposes of obtaining (whether for that person or another) the grant of a permission under regulation 12—

- (a) makes a statement or representation, or furnishes a document or information, which that person knows to be false in a material particular; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular.

(2) It shall be an offence for a person to fail to comply with a condition to which a permission is subject.

### **Projects likely to have significant effects on the environment in another EEA state**

**14.—**(1) Where—

- (a) the Scottish Ministers are aware that a relevant project is likely to have significant effects on the environment in another EEA state; or
- (b) a request is made by another EEA state, whose territory is likely to be significantly affected by such a relevant project;

the Scottish Ministers shall, as soon as possible and not later than the date of publication of the notice referred to in regulation 11(1), carry out the actions specified in paragraph (2).

(2) The actions mentioned in paragraph (1) are that the Scottish Ministers shall—

- (a) send to the affected state—
  - (i) details of the location and nature of the dredging;
  - (ii) any available information on its potential effect on the environment in the affected state; and
  - (iii) a description of the nature of the decision which may be made under these Regulations;
- (b) give the affected state a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide; and
- (c) publish in the Edinburgh Gazette a notice containing the particulars in sub paragraph (a) and indicating the address in Scotland from which additional information may be obtained.

(3) Where an affected state indicates a desire to participate in the procedure for which these Regulations provide, the Scottish Ministers shall, as soon as possible, send to that affected state such of the following information as has not already been provided to it in accordance with paragraph (2)—

- (a) a copy of any application under regulation 9;
- (b) a copy of any further information supplied under regulation 10, or other information provided by the applicant;
- (c) a copy of any notice published under regulation 11(1);
- (d) copies of any reports and advice issued to the Scottish Ministers; and
- (e) relevant information regarding the procedure under these Regulations.

(4) The Scottish Ministers shall ensure that any bodies with specific environmental responsibilities who have been consulted by the affected state and the public concerned are given an opportunity, before any application is decided, to forward to the Scottish Ministers, within a reasonable time, their opinion on the particulars and information supplied.

(5) The Scottish Ministers shall—

- (a) enter into consultations with the affected state regarding, amongst other matters, the potential effects of the dredging on the environment of that affected state and the measures envisaged to reduce or eliminate such effects; and
- (b) determine, in agreement with the affected state, a reasonable period of time for the duration of the consultation period.

(6) Where the Scottish Ministers have consulted an affected state in accordance with paragraph (5) on the decision to be made on any application concerned, the Scottish Ministers shall inform that affected state of the decision and shall send to it a notice of the decision, and the notice shall state—

- (a) the main reasons for the decision;
- (b) the main considerations on which the decision is based, including, if relevant, information about the public participation process;
- (c) where permission is granted—
  - (i) the conditions imposed under regulation 12(6)(a); and

- (ii) where applicable, a description of the main measures to be taken to avoid, reduce and, if possible, offset any major adverse effects.