
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, in relation to certain marine works, Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p.40), as last amended by Directive [2003/35/EC](#) of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives [85/337/EEC](#) and [96/61/EC](#) (OJ L 156, 25.6.2003, p.17). In its amended form, Directive 85/337 is referred to in these Regulations as “the EIA Directive” (regulation 2(1)).

The marine works in relation to which these Regulations implement the EIA Directive are those for which a regulatory approval (as defined in regulation 2(1)) is required. These include harbour works previously covered by the Harbour Works (Environmental Impact Assessment) Regulations 1999 (S.I. [1999/3445](#)), as amended by the Harbour Works (Environmental Impact Assessment) (Amendment) Regulations 2000 (S.I. [2000/2391](#)).

In relation to such works, these Regulations also implement the provisions of Directive [2003/35/EC](#).

Regulation 3 provides for charges to be made in relation to functions carried out under these Regulations. There are also specific charging provisions in regulation 15, to enable the regulator or appropriate authority to charge for providing information to an applicant, and in Schedules 2 and 4, to enable the appropriate authority to charge for expenses incurred in providing a screening opinion or scoping opinion.

Part 2 (regulations 4 to 11) specifies the circumstances in which an environmental impact assessment is required in relation to marine works. In the case of marine works to be carried out in the course of a project of a type listed in Annex I to the EIA Directive, an environmental impact assessment is required unless one of the exceptions in regulation 9 or 10 applies (regulation 7). In the case of marine works to be carried out in the course of a project of a type listed in Annex II to the EIA Directive, an environmental impact assessment is required if the project would have significant effects on the environment, unless one of the exceptions in regulation 9 or 10 applies (regulation 8). Schedule 1 sets out the criteria that are to be used in determining whether or not a project would have significant effects on the environment.

Regulation 11 and Schedule 2 provide for screening opinions to be provided in which determinations as to whether or not an environmental impact assessment is required are to be given. Regulation 11 also provides for the relationship between the screening opinion process and the procedures that would otherwise apply to the application for a regulatory approval.

Part 3 (regulations 12 to 24) provides for the environmental impact assessment process itself. Regulation 12 and Schedule 3 require certain information and documentation to be provided for an environmental impact assessment to be carried out. Regulation 13 and Schedule 4 provide for scoping opinions (defined in regulation 2(1)) to be provided, in which the information to be provided can be determined in advance. Regulation 14 provides for additional information to be provided where necessary in order for the environmental impact assessment to be carried out. Regulation 15 provides for information held by a regulator or an appropriate authority to be provided to an applicant. Regulation 16 provides for public participation in the environmental impact assessment process by requiring applications to be publicised, so as to enable representations to be made by members of the public. Regulation 21 and Schedule 5 provide for the way in which such representations are taken into account as part of the environmental impact assessment process. Regulation 17 provides for information regarding applications to be provided to bodies with

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environmental responsibilities and for consultation to be carried out with those bodies. Regulations 18 and 19 provide for information regarding applications to be provided to other EEA States and regulation 20 provides for consultation with other EEA States. Regulation 22 makes provision in relation to the decision as to whether or not EIA consent for marine works is to be given, and regulation 23 provides for that decision to be notified to those who have taken part in the process and publicised. Regulation 24 provides for the effect of the EIA consent decision on the application and the subsequent procedure in relation to the application.

Part 4 (regulations 25 to 27) creates an offence of providing false information for the purposes of obtaining a regulatory approval.

Part 5 (regulations 28 to 30) contains miscellaneous provisions. Regulation 28 applies to Scotland only and provides that certain non-governmental organisations are deemed to have title and interest to sue in relation to the environmental impact assessment of marine works. Regulations 29 and 30 contain revocations, transitional provisions and savings.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.defra.gov.uk and is annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website.

Changes to legislation:

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