
STATUTORY INSTRUMENTS

2007 No. 1518

The Marine Works (Environmental
Impact Assessment) Regulations 2007

PART 1

INTRODUCTION

Title and commencement

1. These Regulations may be cited as the Marine Works (Environmental Impact Assessment) Regulations 2007 and come into force on 24th June 2007.

Interpretation

2.—(1) In these Regulations—

“the 1985 Act” means the Food and Environment Protection Act 1985⁽¹⁾;

“Annex I project” means a project of a type specified in Annex I to the EIA Directive;

“Annex II project” means a project of a type specified in Annex II to the EIA Directive;

“applicant” means—

(a) an applicant (or prospective applicant) for the issue of a regulatory approval; or

(b) any person giving notice to a regulator for the purpose of obtaining a regulatory approval;

“application” includes the giving of notice to a regulator for the purpose of obtaining a regulatory approval;

“appropriate authority” means—

(a) where the regulator is the Secretary of State or a devolved authority, the regulator; and

(b) where the regulator is any other person—

(i) as regards any regulated activity in Northern Ireland, the Department of the Environment⁽²⁾;

(ii) as regards any regulated activity in Scotland, the Scottish Ministers;

(iii) as regards harbour works relating to fishery harbours in Wales, the Welsh Ministers;
and

(iv) in any other case, the Secretary of State.

“consenting authority”, in relation to a project, means any authority (other than the regulator or the appropriate authority) whose consent to any activity to be undertaken in the course of the project is required under any enactment;

(1) 1985 c.48.

(2) The Department of the Environment is constituted for the purposes of the Northern Ireland Act 1998 (1998 c.47) by section 21 of that Act and is continued in existence by article 3(3) and (8) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)) and Schedule 1 to that Order.

“the consultation bodies” means—

- (a) the local planning authority;
- (b) such of the nature conservation bodies as the appropriate authority considers likely to have an interest in the activity by reason of their responsibilities;
- (c) any relevant authority;
- (d) any consenting authority; and
- (e) such other bodies as the appropriate authority considers likely to have an interest in the regulated activity (whether by virtue of their having specific environmental responsibilities under an enactment or otherwise);

“deposit” means any activity for which a licence is (or would be) required under section 5 or section 6(1)(a) of the 1985 Act and includes a proposed deposit;

“devolved authority” means—

- (a) a Northern Ireland Department;
- (b) the Scottish Ministers; or
- (c) the Welsh Ministers;

“EIA consent” means consent for a regulated activity given by an appropriate authority in accordance with these Regulations and on the basis of an assessment of the effects of the regulated activity on the environment;

“EIA consent decision” means a decision whether to give EIA consent and (where the decision is to give such consent) as to the terms on which to do so;

“the EIA Directive” means Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment⁽³⁾;

“England” includes waters adjacent to England;

“environmental statement” means a statement complying with regulation 12(2);

“excluded information” means—

- (a) in the case of information to which the Environmental Information Regulations 2004⁽⁴⁾ or the Environmental Information (Scotland) Regulations 2004⁽⁵⁾ apply, any information that the regulator would be entitled to withhold in response to a request made in accordance with those Regulations; and
- (b) in any other case, any information which is exempt information for the purposes of the Freedom of Information Act 2000⁽⁶⁾ or the Freedom of Information (Scotland) Act 2002⁽⁷⁾;

“fishery harbour” has the meaning assigned to it in section 21(7) of the Sea Fish Industry Act 1951⁽⁸⁾;

“harbour” has the meaning assigned to it in section 57(1) of the Harbours Act 1964⁽⁹⁾;

“harbour works” means works involved in the construction of a harbour or in the making of modifications to an existing harbour;

“local planning authority” means—

(3) OJNo. L 175, 5.7.1985, p. 40, as last amended by Directive [2003/35/EC](#) of the European Parliament and of the Council of 26th May 2003, OJ No. L 156, 25.6.2003, p. 17.

(4) S.I. 2004/3391.

(5) S.S.I. 2004/520.

(6) 2000 c.36.

(7) 2002 asp 13.

(8) 1951 c. 30.

(9) 1964 c.40.

- (a) in relation to England or Wales, any authority that is a local planning authority for the purposes of the Town and Country Planning Act 1990⁽¹⁰⁾ in or adjacent to whose area the regulated activity is proposed to be carried out;
- (b) in relation to Northern Ireland, the Department of the Environment; and
- (c) in relation to Scotland—
 - (i) any authority that is a planning authority for the purposes of the Town and Country Planning (Scotland) Act 1997⁽¹¹⁾ in or adjacent to whose area the regulated activity is proposed to be carried out; and
 - (ii) where the regulated activity is carried out in or adjacent to a National Park, the National Park authority for the National Park;

“the nature conservation bodies” means—

- (a) the Joint Nature Conservation Committee⁽¹²⁾;
- (b) Natural England⁽¹³⁾;
- (c) Scottish Natural Heritage⁽¹⁴⁾; and
- (d) the Countryside Council for Wales⁽¹⁵⁾;

“Northern Ireland” has the meaning assigned to it by section 98(1) of the Northern Ireland Act 1998⁽¹⁶⁾;

“outlying waters” means United Kingdom controlled waters outside the Scottish zone, which are nearer to any point on the baselines from which the breadth of the territorial sea adjacent to Scotland is measured than to any point on the baselines from which the territorial sea is measured in any other part of the United Kingdom;

“the Public Register” means the register maintained by a regulator in accordance with section 14 of the 1985 Act;

“regulated activity” means any activity (or proposed activity) for which a regulatory approval is (or would be) required;

“regulator” means the person responsible for considering an application for a regulatory approval;

“regulatory approval” means—

- (a) a licence under Part 2 of the 1985 Act;
- (b) a consent under section 34 of the Coast Protection Act 1949⁽¹⁷⁾; or
- (c) except in relation to Northern Ireland, an approval or consent for harbour works under—
 - (i) a local Act;
 - (ii) such an Act read together with a notice given and published under section 9 of the Harbours Transfer Act 1862⁽¹⁸⁾; or
 - (iii) an order made under section 14 or 16 of the Harbours Act 1964;

⁽¹⁰⁾ 1990 c.8.

⁽¹¹⁾ 1997 c.8.

⁽¹²⁾ The Joint Nature Conservation Committee was re-constituted by section 31 of the Natural Environment and Rural Communities Act 2006 (2006 c.16).

⁽¹³⁾ Natural England is constituted by section 1 of the Natural Environment and Rural Communities Act 2006 (2006 c.16).

⁽¹⁴⁾ Scottish Natural Heritage is constituted by section 1 of the Natural Heritage (Scotland) Act 1991 (1991 c.28).

⁽¹⁵⁾ The Countryside Council for Wales is constituted by section 128 of the Environmental Protection Act 1990 (1990 c.43).

⁽¹⁶⁾ 1998 c.47.

⁽¹⁷⁾ 1949 c.74.

⁽¹⁸⁾ 1862 c.69.

“regulatory decision” means a decision whether to grant or issue a regulatory approval and (where the decision is to grant or issue such an approval) as to the terms on which to do so;

“relevant authority” means—

- (a) where a regulated activity is likely to have a significant effect on the environment of Northern Ireland and the appropriate authority is not a Northern Ireland Department, such of the Northern Ireland Departments as the appropriate authority considers likely to have an interest in the activity by reason of their environmental responsibilities;
- (b) where a regulated activity is likely to have a significant effect on the environment of Scotland, the Scottish zone or outlying waters (or more than one of them) and the appropriate authority is not the Scottish Ministers, the Scottish Ministers;
- (c) where the regulated activity is likely to have a significant effect on the environment of the Scottish zone or outlying waters (or both) and the appropriate authority is not the Secretary of State, the Secretary of State;
- (d) where a regulated activity is likely to have a significant effect on the environment of Wales and the appropriate authority is not the Welsh Ministers, the Welsh Ministers; and
- (e) where a regulated activity is likely to have a significant effect on the environment of England and the appropriate authority is not the Secretary of State, the Secretary of State;

“relevant legislation” means, in relation to an application, a regulatory decision or a regulatory approval, the legislation under which the application was made, the regulatory decision taken or the regulatory approval granted or issued (as the case may be);

“scoping opinion” means an opinion given by an appropriate authority as to the information to be provided in an environmental statement for an application;

“Scotland” includes waters adjacent to Scotland;

“the Scottish zone” has the meaning assigned to it by section 126(1) of the Scotland Act 1998⁽¹⁹⁾;

“screening opinion” means an opinion given by an appropriate authority as to whether or not an environmental impact assessment is required for a regulated activity;

“sea” includes—

- (a) any area submerged at mean high water springs;
- (b) so far as the tide flows at mean high water springs—
 - (i) an estuary or arm of the sea; and
 - (ii) the waters of any channel, creek, bay or river; and
- (c) the sea-bed and subsoil under the sea;

“United Kingdom controlled waters” means any part of the sea within the seaward limits of an area designated under—

- (a) section 1(7) of the Continental Shelf Act 1964⁽²⁰⁾; or
- (b) the Fishery Limits Act 1976⁽²¹⁾;

“United Kingdom waters” means any part of the sea within the seaward limits of United Kingdom territorial waters for the purposes of the Territorial Sea Act 1987⁽²²⁾;

“Wales” includes waters adjacent to Wales;

“waters adjacent to England” means—

⁽¹⁹⁾ 1998 c.46.

⁽²⁰⁾ 1964 c.29.

⁽²¹⁾ 1976 c.86.

⁽²²⁾ 1987 c.49.

- (a) United Kingdom waters, other than—
 - (i) waters adjacent to Northern Ireland;
 - (ii) waters adjacent to Scotland; or
 - (iii) waters adjacent to Wales; and
- (b) United Kingdom controlled waters, other than—
 - (i) waters adjacent to Northern Ireland;
 - (ii) waters adjacent to Scotland;
 - (iii) the sea within the Scottish zone;
 - (iv) outlying waters; or
 - (v) waters adjacent to Wales;

“waters adjacent to Northern Ireland” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Northern Ireland, as determined under section 98(8) of the Northern Ireland Act 1998;

“waters adjacent to Scotland” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland, as determined under section 126(2) of the Scotland Act 1998; and

“waters adjacent to Wales” means the sea adjacent to Wales, as determined under section 158(3) of the Government of Wales Act 2006(23).

(2) In these Regulations, any term used in the EIA Directive has the same meaning as in that Directive.

Extension of powers to require the payment of fees in respect of applications

3.—(1) The power conferred upon a licensing authority by section 8(7) and (8) of the 1985 Act to require an applicant for a licence under Part 2 of the 1985 Act to pay reasonable fees in respect of administrative and other expenses also applies in relation to such an applicant in respect of expenses which the authority has incurred under these Regulations in its capacity as an appropriate authority.

(2) An appropriate authority may require an applicant for a regulatory approval other than a licence under Part 2 of the 1985 Act to pay to it reasonable fees in respect of administrative and other expenses which the authority has incurred under these Regulations in its capacity as an appropriate authority.

(3) Paragraphs (1) and (2) do not apply in relation to any expenses in respect of which a fee may be charged under any other provision of these Regulations.

- (4) Section 8(9) of the 1985 Act shall be treated as applying in relation to—
 - (a) the determination of fees payable in accordance with paragraph (1); and
 - (b) the determination of fees payable in accordance with—
 - (i) paragraph (2);
 - (ii) paragraph 2 of Schedule 2; or
 - (iii) paragraph 3 of Schedule 4,

with the modification that the reference in section 8(9) to persons who are likely to apply for licences shall be read as a reference to persons who are likely to apply for a regulatory approval.

Status: *This is the original version (as it was originally made).*
