
STATUTORY INSTRUMENTS

2007 No. 1518

**The Marine Works (Environmental
Impact Assessment) Regulations 2007**

PART 3

ENVIRONMENTAL IMPACT ASSESSMENTS

Application for a regulatory approval in relation to a regulated activity

12.—(1) Where an application is made for a regulatory approval in relation to a regulated activity to which this Part applies, neither the regulator nor the appropriate authority may deal with the application or exercise any functions under these Regulations in relation to it until the appropriate authority has received the following material from the applicant—

- (a) a chart or map (or both) sufficient to identify where the regulated activity would be carried out and the extent of any operations which it would involve;
- (b) a description (including a plan) of the nature of the project, identifying the regulated activity to be carried out in the course of that project;
- (c) a statement of the working methods to be used in the course of the project and in carrying out the regulated activity;
- (d) an environmental statement in respect of the project; and
- (e) a copy of any environmental statement in respect of the project provided or to be provided to any other consenting authority.

(2) An environmental statement must—

- (a) be in writing; and
- (b) contain the information specified in Schedule 3.

(3) The appropriate authority may specify—

- (a) the format in which the applicant must provide the material referred to in paragraph (1); and
- (b) the number of copies of the material in that format that the applicant must provide to it and to the regulator (if the regulator is not also the appropriate authority).

(4) The applicant must comply with any reasonable requirement made in accordance with paragraph (3) and, until this has been done—

- (a) neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application; and
- (b) the regulator must not reach its regulatory decision.

(5) Where an applicant has failed to comply with the requirements of paragraphs (1) and (2), or any requirements of the appropriate authority under paragraph (3), within such reasonable period as the appropriate authority has specified or such longer period as the appropriate authority may reasonably allow—

- (a) the regulator may treat the application as having been withdrawn; and
- (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

Scoping opinions

- 13.**—(1) The applicant may request a scoping opinion from the appropriate authority.
- (2) The procedures for requesting and giving scoping opinions are set out in Schedule 4.
- (3) Where a scoping opinion is given—
- (a) the appropriate authority must not deliver its environmental impact assessment, and
 - (b) the regulator must not reach its regulatory decision,

unless the applicant has submitted an environmental statement containing all of the information specified in the scoping opinion.

Provision of further information

- 14.**—(1) Where the appropriate authority reasonably considers that—
- (a) it requires further information properly to consider the likely environmental effects of the project which gives rise to the regulated activity covered by the application, and
 - (b) the applicant is (or should be) able to provide such information,

the appropriate authority must notify the applicant in writing of the matters on which it requires further information.

(2) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until any further information required in accordance with paragraph (1) has been provided to the appropriate authority and to the regulator (if the regulator is not also the appropriate authority).

(3) Where an applicant has failed to provide any information required in accordance with paragraph (1) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

- (a) the regulator may treat the application as having been withdrawn; and
- (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

Availability of information held by regulator

15.—(1) The regulator and the appropriate authority (if the regulator is not also the appropriate authority) may make available to the applicant any information in their possession which may be relevant to—

- (a) the preparation of the environmental statement, or
- (b) the provision of the further information required in accordance with regulation 14(1).

(2) Subject to paragraphs (3) and (4), the regulator and the appropriate authority (if the regulator is not also the appropriate authority) must make such information available if the applicant so requests.

(3) Paragraph (2) does not require the disclosure of any excluded information.

(4) Where an applicant requests information under paragraph (2), the regulator or the appropriate authority (as the case may be) may impose, as a condition of providing the information, a reasonable charge reflecting the cost of identifying, preparing and copying the information.

Publicity

- 16.—(1) The appropriate authority must—
- (a) publicise the application and the environmental statement in respect of the project to which it relates (or, as the case may be, the provision of further information)—
 - (i) by publishing, in two successive weeks, a notice containing the information set out in paragraph (2) in such newspapers or other publications as it thinks fit; and
 - (ii) in such other manner (if any) as it considers appropriate; or
 - (b) direct the applicant to do so.
- (2) The information referred to in paragraph (1)(a)(i) is—
- (a) the applicant’s name and address;
 - (b) a statement that an application for a licence or consent for a regulated activity has been made and that the environmental statement has been prepared or, as the case may be, that the further information has been furnished to the appropriate authority;
 - (c) a statement of the nature, size and location of the project;
 - (d) a brief explanation of the relevant legislation under which the application has been made;
 - (e) the address of an office of the appropriate authority or other place nominated by the appropriate authority at which copies of the application and environmental statement or, as the case may be, the further information may be inspected free of charge at all reasonable hours within 42 days beginning with the date of publication of the notice;
 - (f) the address at which copies of the application and environmental statement or, as the case may be, the further information may be obtained from the appropriate authority and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying), of the charge; and
 - (g) a statement that any person wishing to make representations regarding the application and environmental statement or, as the case may be, the further information should make them in writing to the appropriate authority at an address specified by the appropriate authority, within 42 days beginning with the date of publication of the notice.
- (3) The applicant must comply with any reasonable direction made in accordance with paragraph (1)(b) and neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, unless or until this has been done.
- (4) Where the applicant has failed to comply with a direction made in accordance with paragraph (1)(b) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—
- (a) the regulator may treat the application as having been withdrawn, and
 - (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.
- (5) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the period for representations has expired.

Consultation on proposed regulated activity

- 17.—(1) The appropriate authority must either—
- (a) supply the following material to such of the consultation bodies as it considers appropriate—

- (i) a copy of the application;
 - (ii) a copy of the environmental statement;
 - (iii) a copy of any further information supplied by the applicant to the appropriate authority; and
 - (iv) a letter stating that any representations in response to consultation regarding the application should be made in writing to the appropriate authority, at an address specified by the appropriate authority, within 42 days from the date of the letter (or such longer period as may be agreed between the consultation body and the appropriate authority in accordance with paragraph (2)); or
- (b) direct the applicant to do so.
- (2) The appropriate authority may agree a longer consultation period with a consultation body where, in the opinion of the appropriate authority, it is reasonable to do so.
- (3) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the applicant has complied with any direction made in accordance with paragraph (1)(b).
- (4) Where the applicant has failed to comply with a direction made in accordance with paragraph (1)(b) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—
- (a) the regulator may treat the application as having been withdrawn, and
 - (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.
- (5) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the consultation period (including any extension agreed in accordance with paragraph (2)) has expired.

Provision of information to affected EEA States

- 18.**—(1) The appropriate authority must supply the material set out in paragraph (3) to the authorities of any EEA State that it considers is affected by the application.
- (2) An EEA State is affected by an application for the purposes of paragraph (1) if the environment in that State is likely to be significantly affected by the project in the course of which the regulated activity to which the application relates is to be carried out.
- (3) The material referred to in paragraph (1) is—
- (a) a copy of the application;
 - (b) a copy of the environmental statement;
 - (c) a copy of any further information provided by the applicant pursuant to a notification under regulation 14(1);
 - (d) any additional information which the regulator or the appropriate authority has about the possible impact of the project on the EEA State and the environment in that State;
 - (e) an explanation of how and within what period the authorities of the EEA State can make representations in response to consultation in relation to the project as part of the procedure under regulation 20; and
 - (f) an explanation of the decisions that the regulator can make in relation to the application.
- (4) The appropriate authority must provide this information to the authorities of the EEA State—

- (a) as soon as practicable; and
 - (b) in any event, no later than the date on which the notice advertising the environmental statement or the additional information (as the case may be) is published.
- (5) Paragraph (1) does not require the disclosure of any excluded information.
- (6) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the period for consultation under regulation 20 has expired.

Provision of information to other EEA States

19.—(1) The appropriate authority must supply a copy of the environmental statement, and any additional information provided by the applicant pursuant to a notification under regulation 14(1), to the authorities of an EEA State if they request it.

(2) The appropriate authority must provide the information referred to in paragraph (1) as soon as practicable after receiving such a request.

(3) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until—

- (a) the material referred to in paragraph (1) has been supplied in accordance with that paragraph; and
- (b) the period for consultation under regulation 20 has expired.

Consultation of EEA States

20. The appropriate authority must—

- (a) consult the authorities of any EEA State to which information has been provided under regulation 18 or regulation 19; and
- (b) must allow such reasonable period as may have been agreed with those authorities for them to make representations as to—
 - (i) the possible significant effects of the regulated activity on the environment in that EEA State; and
 - (ii) the measures envisaged to reduce or eliminate such effects.

Consideration of representations from the public

21.—(1) Subject to paragraph (2), the appropriate authority must apply the provisions of Schedule 5 in relation to each representation it receives pursuant to the statement referred to in regulation 16(2)(g).

(2) To the extent that the appropriate authority considers that representations made to it pursuant to the statement referred to in regulation 16(2)(g) are similar in material respects or deal with similar or related issues, it may group such representations and apply the provisions of Schedule 5 to each such group.

The EIA consent decision

22. In reaching its EIA consent decision, the appropriate authority must—

- (a) do so on the basis of the following—
 - (i) the application;

- (ii) the environmental statement;
 - (iii) any further information provided by the applicant pursuant to a notification under regulation 14(1);
 - (iv) the outcome of the process set out in Schedule 5 in relation to any representations received pursuant to the statement referred to in regulation 16(2)(g);
 - (v) any representations in response to consultation made by the consultation bodies pursuant to the letter referred to in regulation 17(1)(a)(iv); and
 - (vi) the outcome of any consultations of the authorities of other EEA States carried out in accordance with regulation 20;
- (b) have regard to the relevant legislation; and
- (c) take into account the direct and indirect effects of the project on—
- (i) human beings, fauna and flora;
 - (ii) soil, water, air, climate and the landscape;
 - (iii) material assets and the cultural heritage; and
 - (iv) the interaction between any two or more of the things mentioned in the preceding sub-paragraphs.

Notification and publication of decisions

23.—(1) The appropriate authority must send written confirmation of its EIA consent decision to—

- (a) the applicant;
 - (b) if the appropriate authority is not also the regulator, the regulator;
 - (c) any person from whom the appropriate authority received representations pursuant to the statement referred to in regulation 16(2)(g);
 - (d) any consultation body that responded to the consultation pursuant to the letter referred to in regulation 17(1)(a)(iv); and
 - (e) the authorities of any EEA State who were consulted in accordance with regulation 20.
- (2) The written confirmation must include the following—
- (a) a reference to the environmental information that the appropriate authority has taken into consideration;
 - (b) the main reasons and considerations on which the EIA consent decision was based; and
 - (c) if the EIA consent decision involves giving EIA consent, a description of the measures that must be taken in consequence of the EIA consent decision to avoid, reduce and, if possible, offset the principal adverse effects of the regulated activity.
- (3) The appropriate authority must, as soon as possible after written confirmation is sent to the applicant pursuant to paragraph (1), ensure that—
- (a) its decision is publicised in such manner as it considers appropriate; and
 - (b) in the case of a deposit—
 - (i) its regulatory decision and the information set out in paragraph (2) are made available on the Public Register; and
 - (ii) a notice of its decision, stating that the information referred to in paragraph (2) is available in the Public Register and giving details of the times at which the Public Register may be inspected, is published in the newspapers or other publications in which notice of the application was published in accordance with regulation 16(1).

Effect of EIA consent decision on application and regulatory decision

24.—(1) Where the appropriate authority has given EIA consent in respect of a regulated activity—

- (a) the regulator may proceed to deal with the application and take its regulatory decision in accordance with the relevant legislation; and
- (b) when doing so, the regulator must have regard to the EIA consent and, in particular, to—
 - (i) any considerations set out in the written confirmation of the EIA consent in accordance with regulation 23(2)(b); and
 - (ii) any measures described in the written confirmation of the EIA consent in accordance with regulation 23(2)(c).

(2) Where the appropriate authority has refused EIA consent in respect of a regulated activity, the regulator may not grant a regulatory approval for that regulated activity and must treat the application for that regulated activity as having been withdrawn.