
STATUTORY INSTRUMENTS

2011 No. 556

The Marine and Coastal Access Act 2009 (Commencement No.5, Consequential and Transitional Provisions) Order 2011

Transitional provisions relating to Schedule 9 to the 2009 Act

4.—(1) This article applies to—

- (a) marine waters within the meaning given by regulation 2(1) of the Marine Minerals Regulations; and
- (b) Welsh waters within the meaning given by regulation 2(1) of the Welsh Marine Minerals Regulations.

(2) Sub-paragraphs (1) to (3) of paragraph 2 of Schedule 9 to the 2009 Act (certain CPA consents to be deemed marine licences) do not apply in relation to a CPA consent for any activity to be carried out in the course of relevant dredging where, before 6th April 2011, no environmental impact assessment has been carried out in relation to the activity proposed or the dredging in the course of which it is to be carried out.

(3) But paragraph (2) does not apply where, before 6th April 2011—

- (a) the Secretary of State has made a determination under regulation 5(2) of the Marine Minerals Regulations or the regulator has made a preliminary determination under regulation 6 of those Regulations that the relevant dredging is not a relevant project;
- (b) the Welsh Ministers have received a determination from the Secretary of State under regulation 5(2) of the Welsh Marine Minerals Regulations or have made a preliminary determination under regulation 6 of those Regulations that the relevant dredging is not a relevant project; or
- (c) a decision has been made under the Marine Works Regulations that an environmental impact assessment is not required in relation to such part of the activity being carried out in the course of the relevant dredging as required CPA consent.

(4) For the purposes of paragraph (2), an environmental impact assessment includes—

- (a) an assessment of any effects of the relevant dredging on the environment in accordance with—
 - (i) the Marine Minerals Regulations; or
 - (ii) the Welsh Marine Minerals Regulations;
- (b) an assessment of any effects on the environment of the activity being carried out in the course of the relevant dredging and requiring CPA consent, in accordance with the Marine Works Regulations;
- (c) an assessment of any effects of the relevant dredging on the environment, being an assessment which—
 - (i) has been carried out by a consenting authority other than the appropriate authority;

- (ii) is sufficient to meet, in relation to the relevant dredging, the requirements of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment⁽¹⁾.
- (5) For the purposes of paragraph (3)(c) a decision made under the Marine Works Regulations that an environmental impact assessment is not required includes—
- (a) a determination to that effect made by the appropriate authority under regulation 8 or 10 of the Marine Works Regulations;
 - (b) a direction made by the Secretary of State under regulation 9 of those Regulations; and
 - (c) a screening opinion to that effect given by the appropriate authority under regulation 11 of those Regulations.
- (6) In this article—
- (a) “appropriate authority” has the same meaning as in regulation 2(1) of the Marine Works Regulations;
 - (b) “consenting authority”, in relation to relevant dredging, means any authority whose determination was required under any of the Government View documents, and for this purpose, “the Government View documents” means—
 - (i) the document entitled “Offshore Dredging for Sand, Gravel and Other Minerals”, dated April 1989, and published by the Department of the Environment and the Welsh Office; and
 - (ii) the document entitled “Government View: New Arrangements for the Licensing of Minerals Dredging”, dated May 1998, and published by the Department of the Environment, Transport and the Regions and the Welsh Office;
 - (c) “CPA consent” means consent under section 34(1) of the Coast Protection Act 1949⁽²⁾;
 - (d) “the Marine Minerals Regulations” means the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007⁽³⁾, as those Regulations had effect immediately before 6th April 2011;
 - (e) “the Marine Works Regulations” means the Marine Works (Environmental Impact Assessment) Regulations 2007⁽⁴⁾;
 - (f) “relevant dredging” means dredging within the meaning given by—
 - (i) regulation 2 of the Marine Minerals Regulations; or
 - (ii) regulation 2 of the Welsh Marine Minerals Regulations;
 - (g) “the Welsh Marine Minerals Regulations” means the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Wales) Regulations 2007⁽⁵⁾, as those Regulations had effect immediately before 6th April 2011.

(1) OJNo. L 175, 5.7.1985, p. 40, as last amended by Directive [2009/31/EC](#) of the European Parliament and of the Council of 23 April 2009, OJ No. L 140, 5.6.2009, p. 114.

(2) [1949 c. 74](#); section 34 was amended by section 36 of the Merchant Shipping Act [1988 \(c. 12\)](#), and the Statute Law Revision Act [1953 \(c. 5\)](#), and is repealed in relation to England and Wales by paragraph 1(2) of Schedule 8 to the Marine and Coastal Access Act 2009 (which is commenced by article 3 of this instrument), and in relation to Scotland by paragraph 1(a) of Schedule 4 to the Marine (Scotland) Act [2010 \(asp 5\)](#) (commenced by article 3(d) of [S.S.I. 2011/58 \(C. 8\)](#)).

(3) [S.I. 2007/1067](#).

(4) [S.I. 2007/1518](#), amended in relation to England and Wales by [S.I. 2009/2258](#).

(5) [S.I. 2007/2610 \(W.221\)](#).