
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 485

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

PART 3

PRELIMINARY MATTERS

Preliminary determination of the Scottish Ministers

6.—(1) Any person who proposes to carry out dredging may request the Scottish Ministers to make a preliminary determination as to—

- (a) whether or not the dredging would constitute a relevant project; and
- (b) whether or not the dredging would comprise or form part of a habitats project.

(2) Before making a preliminary determination in response to a request under paragraph (1), the Scottish Ministers shall consult—

- (a) the owner, (if the owner is not the person requesting the determination); and
- (b) the appropriate consultation bodies.

(3) The Scottish Ministers may ask the person making the request under paragraph (1) to supply such further information within such specified period and in such form as may reasonably be required.

(4) If the person making the request under paragraph (1) fails to supply the information requested within the specified period, or such further period as the Scottish Ministers may allow, the request shall be treated as withdrawn.

(5) In making a preliminary determination in response to an application under paragraph (1) (a) the Scottish Ministers shall take into account such of the selection criteria as are relevant in the particular case.

(6) As soon as is reasonably practicable after making a preliminary determination, the Scottish Ministers shall—

- (a) send a copy of it to the person making the request under paragraph (1) and to any persons consulted under paragraph (2); and
- (b) take such steps as the Scottish Ministers consider appropriate to ensure that it is made available to the public concerned.

Opinion of the Scottish Ministers as to content of the environmental statement

7.—(1) In these Regulations, “environmental statement” means a statement that includes—

- (a) the information set out in Part 1 of Schedule 1 to these Regulations; and

- (b) such of the information set out in Part 2 of that Schedule as is reasonably required to assess the environmental effects of the relevant project and which, having regard in particular to current knowledge and methods of assessment, the applicant can reasonably be required to compile;

and Schedule 1 shall have effect for these purposes.

(2) At the request of a prospective applicant, the Scottish Ministers shall give an opinion as to the information to be provided by an environmental statement.

(3) Before giving their opinion, the Scottish Ministers shall consult—

- (a) the prospective applicant;
- (b) the owner (if the owner is not the person requesting the opinion); and
- (c) the appropriate consultation bodies,

as to the information to be provided by the environmental statement.

(4) The Scottish Ministers shall send a copy of their opinion given under this regulation to any person who has been consulted under paragraph (3).

Provision of information to facilitate preparation of an environmental statement

8.—(1) A prospective applicant may, where the proposed application requires an environmental statement, give notice of an intention to submit an application to the Scottish Ministers.

(2) A notice under paragraph (1) shall include the information necessary to identify the location and nature of the dredging, and shall indicate the main environmental consequences of the dredging which will be referred to in the prospective applicant's environmental statement.

(3) On receipt of a notice under paragraph (1), the Scottish Ministers shall—

- (a) notify the appropriate consultation bodies of the name and address of the prospective applicant and of the duty imposed on the consultation bodies by paragraph (4) to make information available to that person; and
- (b) notify the prospective applicant of the names and addresses of the bodies notified under sub paragraph (a).

(4) Subject to paragraph (5), any body notified in accordance with paragraph (3)(a), or the Scottish Ministers, shall, if requested to do so by the prospective applicant, determine whether or not it has in its possession any information relevant to the preparation of the environmental statement and, if it has, the body or the Scottish Ministers shall make that information available to the prospective applicant.

(5) Paragraph (4) shall not require the disclosure of any information—

- (a) to which the Environmental Information Regulations (Scotland) 2004(1) apply, where the person holding it would be entitled to withhold it in response to a request made in accordance with those Regulations; or
- (b) which in any other case would be exempt information if request for disclosure were made in accordance with the Freedom of Information (Scotland) Act 2002(2).

(6) A reasonable charge reflecting the cost of making the relevant information available may be made by a body (other than the Scottish Ministers who are responsible for deciding the application) when they make information available in accordance with paragraph (4).

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

(2) 2002 asp 13.