
STATUTORY INSTRUMENTS

2007 No. 1518

ENVIRONMENTAL PROTECTION

[^{F1}The Marine Works (Environmental Impact Assessment) Regulations 2007

Made - - - - *21st May 2007*
Laid before Parliament *25th May 2007*
Coming into force - - *24th June 2007*

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and section 56 of the Finance Act 1973⁽²⁾.

The Secretary of State for Environment, Food and Rural Affairs has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment⁽³⁾.

The Secretary of State for Environment, Food and Rural Affairs, with the consent of the Treasury, makes the following Regulations:

F1 Regulations revoked (S.) (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/115\)](#), **reg. 42(a)** (with regs. 1(2), 40, 41)

Modifications etc. (not altering text)

C1 [Regulations](#) power to amend or revoke conferred (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), ss. 164(3), 255(5), **Sch. 14 Pt. 1** (with s. 247)

(1) 1972 c.68. The enabling powers conferred by section 2(2) were extended by virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51). As regards functions transferred to the Scottish Ministers by the Scotland Act 1998 (c.46), these Regulations extend to Scotland pursuant to section 57(1) of that Act.
(2) 1973 c.51.
(3) S.I. 1988/785.

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.

[^{F2}Extent

1A. These Regulations do not extend to the Scottish inshore region, except in respect of activities and operations for which a licence is required under Part 2 of the 1985 Act.]

F2 Reg. 1A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 3 (with reg. 34)

Interpretation

2.—(1) In these Regulations—

“the 1985 Act” means the Food and Environment Protection Act 1985⁽⁴⁾;

[^{F3}“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2010 Act” means the Marine (Scotland) Act 2010;]

^{F4}

^{F4}

“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;

[^{F5}“appropriate authority” means—

- (a) where the regulator is the Secretary of State, the Marine Management Organisation [^{F6}, the Natural Resources Body for Wales] or a devolved authority, the regulator;
- (b) where the regulator is any other person—
 - (i) as regards any regulated activity in Northern Ireland, the Department of [^{F7}Agriculture, Environment and Rural Affairs in Northern Ireland];
 - (ii) [^{F8}as regards any regulated activity in the Scottish offshore region, the Scottish Ministers;]
 - (iii) [^{F9}as regards harbour works relating to harbours that are wholly in Wales, other than harbours that are reserved trust ports, the Welsh Ministers;]
 - (iv) in any other case, the Secretary of State;][^{F10}and—
 - (a) for the purpose of paragraph (a), “devolved authority” means any Northern Ireland Department, the Scottish Ministers or the Welsh Ministers; and

(4) 1985 c.48.

(b) for the purpose of paragraph (b)(iii), “reserved trust port” has the meaning given by section 32 of the Wales Act 2017;

[^{F11}“consenting authority”, in relation to a project, means any authority whose consent to any activity to be undertaken in the course of the project is required under any enactment;]

“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 [^{F12}or local or regional competences] under an enactment or otherwise);

^{F13}

^{F14}

“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 [^{F15}the significant effects of the project] 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;

[^{F16}“the EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment, as [^{F17}amended by [Directive 2014/52/EU](#) of the European Parliament and of the Council];]

[^{F18}“England” includes any part of the territorial sea that is not part of Scotland, Wales or Northern Ireland;]

[^{F19}“environmental impact assessment” means a process consisting of—

- (a) the preparation of an environmental statement in accordance with regulation 12 and Schedule 3;
- (b) the carrying out of consultations in accordance with regulation 17 and, where relevant, regulations 20 and 20A;
- (c) the consideration of the environmental statement and other information in accordance with regulation 21A(1);
- (d) the conclusion in respect of the likely significant effects of the project in accordance with regulation 21A(2); and
- (e) the consideration of that conclusion in reaching the EIA consent decision, in accordance with regulation 22(1)(b);

[^{F20}“EU environmental assessment” means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented the EIA Directive;]

“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⁽⁵⁾ or the Environmental Information (Scotland) Regulations 2004⁽⁶⁾ 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⁽⁷⁾ or the Freedom of Information (Scotland) Act 2002⁽⁸⁾;

F21 ...

[^{F22c}“the Habitats Directive” means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;]

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

[^{F23c}“harbour authority” has the same meaning as in section 57(1) of the Harbours Act 1964]⁽⁹⁾

[^{F24c}“harbour works” means—

- (a) works involved in the construction of a harbour;
- (b) works involving the making of modifications to an existing harbour;
- (c) any dredging operation undertaken by or on behalf of a harbour authority and carried out for the purpose of extracting minerals; and
- (d) works involving the deposit of spoil from any such dredging operation;]

“local planning authority” means—

- (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, [^{F25}the Department for Infrastructure or, as the case may be, any district council in whose district, or adjacent to whose district, the regulated activity is proposed to be carried out]; 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

(5) S.I. 2004/3391.

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

(7) 2000 c.36.

(8) 2002 asp 13.

(9) 1964 c.40.

(9) 1964 c.40.

(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).

(d) [^{F26}the Natural Resources Body for Wales];

“Northern Ireland” has the meaning assigned to it by section 98(1) of the Northern Ireland Act 1998(15);

[^{F27}“public” means one or more natural or legal persons and, in accordance with the law or practice of any part of the United Kingdom, their associations, organisations or groups;]

[^{F27}“public concerned” means the public affected or likely to be affected by, or having an interest in, environmental decision making procedures (for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under the law of any part of the United Kingdom are deemed to have an interest);]

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^{F29}

“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;

[^{F30}“regulatory approval” means—

- (a) a licence under Part 2 of the 1985 Act;
- (b) a marine licence, or variation of a marine licence, under Part 4 of the 2009 Act;
- (c) ^{F31}
- (d) except in relation to Northern Ireland, an approval or consent for harbour works under—
 - (i) any local Act;
 - (ii) such an Act read together with a notice given and published under section 9 of the Harbours Transfer Act 1862; or
 - (iii) any order under section 14 or 16 of the Harbours Act 1964;]

“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;

[^{F32}“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 [^{F33}department], such of the Northern Ireland [^{F34}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 [^{F35}the Scottish inshore region], or the Scottish offshore region (or both) 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 offshore region 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 [^{F36}the Welsh inshore region or the Welsh offshore region (or both)] and the appropriate authority is not the Welsh Ministers, the Welsh Ministers;

(15) 1998 c.47.

- (da) [^{F37}where the regulated activity is likely to have a significant effect on the environment of the Welsh offshore region and the appropriate authority is not the Secretary of State, the Secretary of State;]
- (f) where a regulated activity is likely to have a significant effect on the environment of England or a relevant offshore region and the appropriate authority is the Marine Management Organisation, the Secretary of State; and
- (g) where a regulated activity is likely to have a significant effect on the environment of England or a relevant offshore region and the appropriate authority is the Secretary of State, the Marine Management Organisation;]

[^{F38}and for the purposes of paragraphs (d) and (da), “Welsh inshore region” and “Welsh offshore region” have the meanings given by section 322(1) of the 2009 Act;]

“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);

[^{F39}“relevant offshore region” means—

- (a) the English offshore region; [^{F40}or]
- (b) ^{F41} ...
- (c) the Northern Ireland offshore region;

within the meaning of those expressions given by section 322(1) of the 2009 Act;

“the relevant Public Register” means the register on which information must be recorded in accordance with (as the case may be)—

- (a) section 14 of the 1985 Act;
- (b) section 101 of the 2009 Act; or
- (c) section 54 of the 2010 Act;]

[^{F42}“Schedule A1 project” means a project of a type specified in Schedule A1 to these Regulations;

“Schedule A2 project” means a project of a type specified in Schedule A2 to these Regulations;]

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

[^{F43}“Scotland” (other than in the definition of “the Scottish offshore region”) includes the Scottish inshore region;]

[^{F44}“the Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland;

“the Scottish offshore region” means so much of the UK marine area as lies outside the Scottish inshore region and consists of—

- (a) areas of sea which lie within the Scottish zone, and
- (b) areas of sea which lie outside the Scottish zone but 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 in any other part of the United Kingdom;

and for this purpose “the Scottish zone” has the meaning given by section 126(1) of the Scotland Act 1998;]

^{F45}

“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;

[^{F46}“sea” includes—

- (a) any area submerged at mean high water spring tide, and
- (b) the waters of every estuary, arm of the sea, river or channel, so far as the tide flows at mean high water spring tide,

and any reference to an area of sea includes the bed and subsoil of the sea within that area;]

[^{F47}“UK environmental assessment” means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment;]

[^{F48}“UK marine area” has the same meaning as in section 42 of the 2009 Act;]

^{F49}

^{F50}

[^{F51}“Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006;]

[^{F52}“the Wild Birds Directive” means [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds.]

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[^{F57}(1A) The area of sea referred to in sub-paragraph (a) of the definition of “sea” in paragraph (1) includes waters in any area—

- (a) which is closed, whether permanently or intermittently, by a lock or other artificial means against the regular action of the tide, but
- (b) into and from which seawater is caused or permitted to flow, whether continuously or from time to time.]

[^{F58}(1B) In these Regulations, “enactment” includes an enactment contained in, or in an instrument made under, Northern Ireland legislation.

(1C) In these Regulations, any reference to the likely significant effects, or the likely significant adverse effects, of projects or regulated activities on the environment includes a reference to the effects of those projects or activities on the environment once they are completed and in operation.

(1D) In paragraph (1C), the reference to the environment includes a reference to the matters referred to in regulation 21A(2)(a) to (e).]

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

F3	Words in reg. 2(1) inserted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735) , regs. 1, 3(1)(a)
F4	Words in reg. 2(1) omitted (16.5.2017) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 4(2)(a) (with reg. 34)
F5	Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735) , regs. 1, 3(1)(b)

- F6** Words in reg. 2(1)(a) inserted (27.3.2015) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2015 (S.I. 2015/446), regs. 1, **3(a)**
- F7** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(b)(i)** (with reg. 34)
- F8** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(b)(ii)** (with reg. 34)
- F9** Words in reg. 2(1) substituted (1.4.2018) by The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(a)(i)**
- F10** Words in reg. 2(1) substituted (1.4.2018) by The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(a)(ii)**
- F11** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(c)** (with reg. 34)
- F12** Words in reg. 2(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(d)** (with reg. 34)
- F13** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(i)**
- F14** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(ii)**
- F15** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(e)** (with reg. 34)
- F16** Words in reg. 2(1) substituted (27.3.2015) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2015 (S.I. 2015/446), regs. 1, **3(b)**
- F17** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(f)** (with reg. 34)
- F18** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(d)**
- F19** Words in reg. 2(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(g)** (with reg. 34)
- F20** Words in reg. 2(1) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in reg. 2(1) omitted (1.4.2018) by virtue of The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(b)**
- F22** Words in reg. 2(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(h)** (with reg. 34)
- F23** Words in reg. 2(1) inserted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(e)**
- F24** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(f)**
- F25** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(i)** (with reg. 34)
- F26** Words in reg. 2(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 4 para. 276** (with Sch. 7)
- F27** Words in reg. 2(1) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(2)(b)** (as amended by S.I. 2019/1078, **reg. 2**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F28** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(iii)**
- F29** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(iv)**
- F30** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(g)**

- F31** Words in reg. 2(1) omitted (16.5.2017) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(j)** (with reg. 34)
- F32** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(h)**
- F33** Word in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), 4(2)(aa)**(k)(i)** (with reg. 34)
- F34** Word in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), 4(2)(bb)**(k)(i)** (with reg. 34)
- F35** Words in reg. 2(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(k)(ii)** (with reg. 34)
- F36** Words in reg. 2(1) substituted (1.4.2018) by The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(c)(i)**
- F37** Words in reg. 2(1) inserted (1.4.2018) by The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(c)(ii)**
- F38** Words in reg. 2(1) inserted (1.4.2018) by The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(c)(iii)**
- F39** Words in reg. 2(1) inserted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(i)**
- F40** Word in reg. 2(1) inserted (1.4.2018) by The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(d)(i)**
- F41** Words in reg. 2(1) omitted (1.4.2018) by virtue of The Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 (S.I. 2018/287), regs. 1, **2(2)(d)(ii)**
- F42** Words in reg. 2(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(l)** (with reg. 34)
- F43** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(j)**
- F44** Words in reg. 2(1) inserted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(k)**
- F45** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(v)**
- F46** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(l)**
- F47** Words in reg. 2(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(m)** (with reg. 34)
- F48** Words in reg. 2(1) inserted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(n)**
- F49** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(vi)**
- F50** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(vii)**
- F51** Words in reg. 2(1) substituted (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(m)**
- F52** Words in reg. 2(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **4(2)(n)** (with reg. 34)
- F53** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(viii)**
- F54** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(ix)**
- F55** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(x)**
- F56** Words in reg. 2(1) omitted (6.4.2011) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **3(1)(o)(xi)**

- F57** Reg. 2(1A) inserted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **3(2)**
- F58** Reg. 2(1B)-(1D) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **4(3)** (with reg. 34)

[^{F59}Proposed activity which would otherwise be a regulated activity

2A.—(1) Paragraph (2) applies where—

- (a) an activity is proposed to be carried out which would be a regulated activity if carried out by a person other than the person who would be the regulator in relation to that activity; and
 - (b) the person by whom the activity is proposed to be carried out (“the relevant person”) is the person who would be the regulator in relation to that activity if it were carried out by any other person.
- (2) Where this paragraph applies, these Regulations apply in relation to that proposal as if—
- (a) the activity were a regulated activity, the relevant person had made an application for regulatory approval in respect of that activity and, in relation to the carrying out of that activity by that person, that person were also the regulator; and
 - (b) accordingly—
 - (i) references to the regulator’s dealing with the application or to a regulatory decision were references to determining whether to carry out the proposal;
 - (ii) references to granting a regulatory approval were references to a decision to proceed to carry out the proposal; and
 - (iii) references to treating the application as withdrawn were references to treating the proposal as abandoned.]

- F59** Reg. 2A inserted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **4**

[^{F60}Fees

3.—(1) An appropriate authority may require an applicant for a regulatory approval to pay to it reasonable fees in respect of relevant expenses.

(2) In paragraph (1) “relevant expenses” means administrative and other expenses which the authority reasonably incurs under these Regulations in its capacity as an appropriate authority (including any expenses in respect of examinations and tests carried out for that purpose), but does not include any expenses in respect of which a fee may be charged under any other provision of these Regulations.

(3) Paragraph (4) applies to any requirement imposed under—

(a) paragraph (1);

[^{F61}(aa) regulation 10(4J);]

(b) paragraph 2 of Schedule 2;

(c) paragraph 3 of Schedule 4; or

(d) regulation 24A.

(4) The determination of the amount of a reasonable fee in accordance with any requirement to which this paragraph applies must be made—

(a) where the appropriate authority is the Secretary of State, by the Secretary of State ^{F62}...;

- (b) where the appropriate authority is the Marine Management Organisation, by the Marine Management Organisation [^{F63}with the consent of the Secretary of State;]
 - [^{F64}(c) where the appropriate authority is the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, by that Department with the consent of the Department of Finance in Northern Ireland;]
 - (d) where the appropriate authority is the Welsh Ministers [^{F65}or the Natural Resources Body for Wales], by the Welsh Ministers ^{F66}...; and
 - (e) where the appropriate authority is the Scottish Ministers, by the Scottish Ministers.
- (5) Before determining the amount of a fee which is imposed under any requirement referred to in paragraph (3), the authority must consult such organisations as appear to it to represent persons who are likely to apply for regulatory approval.]

- F60** Reg. 3 substituted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, 5
- F61** Reg. 3(3)(aa) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 5(2) (with reg. 34)
- F62** Words in reg. 3(4)(a) omitted (1.4.2018) by virtue of [The Marine Works \(Environmental Impact Assessment\) and Marine Strategy \(Amendment\) Regulations 2018 \(S.I. 2018/287\)](#), regs. 1, 2(3)(a)
- F63** Words in reg. 3(4)(b) substituted (1.4.2018) by [The Marine Works \(Environmental Impact Assessment\) and Marine Strategy \(Amendment\) Regulations 2018 \(S.I. 2018/287\)](#), regs. 1, 2(3)(b)
- F64** Reg. 3(4)(c) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 5(3) (with reg. 34)
- F65** Words in reg. 3(4)(d) inserted (27.3.2015) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2015 \(S.I. 2015/446\)](#), regs. 1, 4
- F66** Words in reg. 3(4)(d) omitted (1.4.2018) by virtue of [The Marine Works \(Environmental Impact Assessment\) and Marine Strategy \(Amendment\) Regulations 2018 \(S.I. 2018/287\)](#), regs. 1, 2(3)(a)

PART 2

REGULATED ACTIVITY IN RELATION TO WHICH AN ENVIRONMENTAL IMPACT ASSESSMENT IS (OR MAY BE) REQUIRED

Environmental impact assessment

4. Where an environmental impact assessment is required in relation to a regulated activity in accordance with the remaining provisions of this Part—
- (a) Part 3 applies in relation to the regulated activity;
 - (b) the duties of the regulator under the relevant legislation in relation to an application for a regulatory approval for the regulated activity are subject to the requirements of this Part and Part 3; and
 - (c) unless the appropriate authority has given EIA consent—
 - (i) the regulator must not grant a regulatory approval in respect of the regulated activity; and
 - (ii) the applicant must not commence the regulated activity.

Requirement of assessment by agreement

5. An environmental impact assessment is required in relation to a regulated activity if the applicant so agrees with the appropriate authority.

Requirement of assessment by determination

6. An environmental impact assessment is required in relation to a regulated activity if the appropriate authority so determines under regulation 7 or 8.

Determination: [^{F67}Schedule A1] projects

7. Subject to regulations [^{F68}9 to 10], the appropriate authority must determine that an environmental impact assessment is required in relation to any regulated activity that is to be carried out in the course of [^{F69}a Schedule A1] project.

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| F67 | Words in reg. 7 heading substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 6(a) (with reg. 34) |
| F68 | Words in reg. 7 substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 6(b) (with reg. 34) |
| F69 | Words in reg. 7 substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 6(c) (with reg. 34) |

Determination: [^{F70}Schedule A2] projects

8.—(1) Subject to regulations [^{F71}9 to 10], the appropriate authority must determine that an environmental impact assessment is required in relation to a regulated activity that is to be carried out in the course of [^{F72}a Schedule A2] project, if it concludes that the project in question is likely, because of its size, nature or location, to have significant effects on the environment.

(2) In reaching a conclusion as to whether or not [^{F73}a Schedule A2] project is likely to have significant effects on the environment, the appropriate authority must have regard to the criteria set out in Schedule 1.

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| F70 | Words in reg. 8 heading substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 7(a) (with reg. 34) |
| F71 | Words in reg. 8(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 7(b) (with reg. 34) |
| F72 | Words in reg. 8(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 7(c) (with reg. 34) |
| F73 | Words in reg. 8(2) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 7(c) (with reg. 34) |

Projects serving national defence purposes

9.—^{F74}(1) The Secretary of State may direct that an environmental impact assessment is not required in relation to a regulated activity or a part of a regulated activity where—

- (a) the project in relation to which the regulated activity is being carried out has national defence as its sole purpose; and

- (b) the Secretary of State considers that an environmental impact assessment in relation to the regulated activity or the part of the regulated activity would have an adverse effect on the fulfilment of that purpose.]

[^{F75}(1A) A direction under paragraph (1) that an environmental impact assessment is not required in relation to a regulated activity, or a part of a regulated activity, has the effect that the regulated activity, or the part of the regulated activity, is to be disregarded in any environmental impact assessment in relation to the regulated activity.]

(2) Before making any such direction, the Secretary of State [^{F76}must] notify—

- (a) where the Secretary of State is not also the appropriate authority, the appropriate authority;
(b) where the Secretary of State is not also the regulator, the regulator; and
(c) any relevant authority.

(3) As soon as practicable after making any such direction, the Secretary of State [^{F77}must] send a copy of the direction to—

- (a) where the Secretary of State is not also the appropriate authority, the appropriate authority;
(b) where the Secretary of State is not also the regulator, the regulator; and
(c) any relevant authority.

F74 Reg. 9(1) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **8(2)** (with reg. 34)

F75 Reg. 9(1A) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **8(3)** (with reg. 34)

F76 Word in reg. 9(2) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **8(4)** (with reg. 34)

F77 Word in reg. 9(3) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **8(4)** (with reg. 34)

[^{F78}**Projects in response to a civil emergency**

9A.—(1) The appropriate authority may direct that an environmental impact assessment is not required in relation to a regulated activity where—

- (a) the project in relation to which the regulated activity is being carried out has the response to a civil emergency as its sole purpose; and
(b) the appropriate authority considers that an environmental impact assessment in relation to the regulated activity would have an adverse effect on the fulfilment of that purpose.

(2) Before making any such direction, the appropriate authority must notify—

- (a) where the appropriate authority is not also the regulator, the regulator;
(b) where the appropriate authority is the Marine Management Organisation or the Natural Resources Body for Wales, the Secretary of State, or the appropriate devolved authority; and
(c) any relevant authority.]

F78 Reg. 9A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **9** (with reg. 34)

Exceptions

10.—(1) An appropriate authority may determine that an environmental impact assessment is not required in relation to regulated activity that is to be carried out in the course of [^{F79}a Schedule A1] project or [^{F80}a Schedule A2] project, if it is satisfied—

- (a) that—
 - (i) a determination that an environmental impact assessment is not required for the regulated activity can be justified in accordance with [^{F81}Article 2(4)] of the EIA Directive (exemption for exceptional cases); and
 - (ii) the regulated activity would not be likely to have significant effects on the environment of [^{F82}an]EEA State; or
- (b) that—
 - (i) assessment of any [^{F83}significant] effects on the environment of the project in question has already been, is being or is to be carried out by [^{F84}the appropriate authority or by] another consenting authority; and
 - (ii) such assessment is (or will be) sufficient to meet the requirements of [^{F85}any law of any part of the United Kingdom that implemented] the EIA Directive in relation to that project.

(2) Where the appropriate authority determines in accordance with paragraph (1) that an environmental impact assessment is not required in relation to a regulated activity, it [^{F86}must] notify—

- (a) the applicant, and
- (b) where the appropriate authority is not also the regulator, the regulator.

[^{F87}(2A) Where the appropriate authority determines in accordance with paragraph (1)(a) that an environmental impact assessment is not required in relation to a regulated activity, it must—

- (a) consider whether another form of assessment of the likely significant effects of the project on the environment is appropriate; and
- (b) make available to the public concerned—
 - (i) the determination, including an explanation of the reasons for it; and
 - (ii) the information obtained under any other assessment referred to in subparagraph (a).]

(3) Where the appropriate authority determines in accordance with paragraph (1)(a) that an environmental impact assessment is not required in relation to a regulated activity, the applicant must provide the appropriate authority with such information as it requires [^{F88}for the purpose of meeting the provisions of][^{F89}Article 2(4)] of the EIA Directive, namely [^{F90}the provision to ensure that information relating to the regulated activity and the reasons for its determination are] —

- [^{F91}(a) published in such manner as it considers appropriate;
- (b) in the case of an activity requiring regulatory approval under the 1985 Act or the 2009 Act, made available on the relevant Public Register.]

[^{F92}(3A) Paragraphs (4) to (4J) apply where the appropriate authority determines in accordance with paragraph (1)(b) that an environmental impact assessment is not required in relation to a regulated activity by reason of an assessment carried out by another consenting authority.]

- [^{F93}(4) The regulator—

- (a) must not grant regulatory approval unless it has determined that to do so would be compatible with the other consenting authority's measures to comply with [^{F94}any law of any part of the United Kingdom that implemented] the EIA Directive; and
- (b) for the purpose of so determining must consider whether it is appropriate to seek the views of the other consenting authority.]

[^{F95}(4A) Any decision to grant a regulatory approval must take into account the following information relating to the other consenting authority's assessment referred to in paragraph (1)(b)—

- (a) the conclusion of the assessment;
- (b) any relevant conditions attached to any consent granted in respect of the project by the other consenting authority and which relate to the likely significant environmental effects of the project on the environment;
- (c) a description of any features of the project and any measures envisaged in order to avoid, prevent, reduce and, if possible, offset likely significant adverse effects of the project on the environment;
- (d) any monitoring measures considered appropriate by the other consenting authority in relation to the project; and
- (e) any comments of the other consenting authority relating to the regulated activity.

(4B) The regulator must be satisfied that the information incorporated in the other consenting authority's assessment and consent (if any) is up to date at the time that the regulatory decision is taken, but that information and the other consenting authority's assessment and consent (if any) must be taken to be up to date if, in the opinion of the regulator, they address the significant effects that the proposed project is likely to have on the environment.

(4C) The regulatory decision must be taken within a period of time which—

- (a) is reasonable, taking into account the nature and complexity of the regulated activity; and
- (b) begins with the date on which the other consenting authority's decision is published.

(4D) Where the regulator decides to refuse regulatory approval, the regulator must state the main reasons for the refusal.

(4E) Where the regulator decides to grant regulatory approval, the regulator must incorporate in the regulatory decision—

- (a) a summary of the other consenting authority's conclusion referred to in paragraph (4A)(a);
- (b) any environmental conditions, mitigating or monitoring measures attached to the regulatory decision; and
- (c) a statement including—
 - (i) the main reasons and considerations on which the regulatory decision is based including, if relevant, information about the participation of the public; and
 - (ii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results have been incorporated or otherwise addressed.

(4F) The regulator must, as soon as reasonably possible, send a copy of its regulatory decision to—

- (a) the applicant;
- (b) if the regulator is not also the appropriate authority, the appropriate authority;
- (c) every consultation body to whom the other consenting authority sent written notice of its decision;

- (d) the authorities of any EEA State to whom the other consenting authority sent written notice of its decision; and
- (e) any other person or body consulted by the regulator under section 8(11B) of the 1985 Act or section 69(4) of the 2009 Act.
- (4G) The regulator must, as soon as possible after its decision is sent to the applicant pursuant to paragraph (4F), ensure that—
- (a) notice of that decision is published on the regulator’s website and in such other manner as it considers appropriate; and
- (b) it promptly makes a written copy of the regulatory decision available for public inspection.
- (4H) In paragraph (4G), “public inspection” means—
- (a) in the case of an activity requiring regulatory approval under the 1985 Act or the 2009 Act, inspection on the relevant Public Register; and
- (b) in the case of other regulated activities, inspection at the address nominated by the appropriate authority under regulation 16(2)(e).
- (4I) The notice in paragraph (4G)(a) must state—
- (a) that the regulator has made available for public inspection the written copy of the regulatory decision; and
- (b) the times at which the relevant Public Register or the information at the address referred to in paragraph (4H)(b) may be inspected.
- (4J) A decision to grant regulatory approval which includes a monitoring measure may include a condition as to the payment of a reasonable fee, determined in accordance with regulation 3(4) and (5), in respect of expenses incurred in assessing and interpreting the results of any monitoring measure.]
- [^{F96}(5) Paragraph (1) is subject to regulation 10A.]
- [^{F97}(6) For the purpose of paragraphs (1)(a)(i) and (3), Article 2(4) of the EIA Directive is to be read as if—
- (a) in the first sub-paragraph, the words “Without prejudice to Article 7,” were omitted;
- (b) “Member States”, in both places where it occurs, were read as “appropriate authority”;
- (b) in the second sub-paragraph, point (c) were omitted;
- (c) the third and fourth sub-paragraphs were omitted.]

F79 Words in reg. 10(1) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **10(2)(a)** (with reg. 34)

F80 Words in reg. 10(1) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **10(2)(b)** (with reg. 34)

F81 Words in reg. 10(3) substituted (27.3.2015) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2015 \(S.I. 2015/446\)](#), regs. 1, **5(b)**

F82 Word in reg. 10(1)(a)(ii) substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(3)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F83 Word in reg. 10(1)(b)(i) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **10(2)(c)** (with reg. 34)

F84 Words in reg. 10(1)(b)(i) inserted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **6(a)**

F85 Words in reg. 10(1)(b)(ii) inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(3)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

- F86** Word in reg. 10(2) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **10(3)** (with reg. 34)
- F87** Reg. 10(2A) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **10(4)** (with reg. 34)
- F88** Words in reg. 10(3) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(3)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F89** Words in reg. 10(1)(a)(i) substituted (27.3.2015) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2015 (S.I. 2015/446), regs. 1, **5(a)**
- F90** Words in reg. 10(3) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(3)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F91** Reg. 10(3)(a)(b) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(3)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F92** Reg. 10(3A) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **10(6)** (with reg. 34)
- F93** Reg. 10(4) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **10(7)** (with reg. 34)
- F94** Words in reg. 10(4)(a) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F95** Reg. 10(4A)-(4J) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **10(8)** (with reg. 34)
- F96** Reg. 10(5) added (6.4.2011) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011 (S.I. 2011/735), regs. 1, **6(d)**
- F97** Reg. 10(6) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(3)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F98}Further provisions in relation to Article 2(4) of the EIA Directive

10A.—(1) The Marine Management Organisation may not make a determination under regulation 10(1)(a)(i) unless the Secretary of State has given a direction under paragraph (2).

(2) The Secretary of State may direct that an environmental impact assessment is not required in relation to any regulated activity that is to be carried out in the course of [^{F99}a Schedule A1] project or [^{F100}a Schedule A2] project, if the Secretary of State is satisfied that—

- (a) the Marine Management Organisation is the appropriate authority having the function of determining whether an environmental impact assessment is required in relation to the regulated activity;
- (b) a direction that an environmental impact assessment is not required for the regulated activity can be justified in accordance with Article 2(4) of the EIA Directive (exemption for exceptional cases); and
- (c) the regulated activity would not be likely to have significant effects on the environment of [^{F101}an EEA State].

(3) As soon as practicable after making any such direction, the Secretary of State must send a copy of the direction to—

- (a) the Marine Management Organisation;
- (b) where the Marine Management Organisation is not also the regulator, the regulator; and

- (c) any relevant authority.
- (4) The Natural Resources Body for Wales may not make a determination under regulation 10(1)(a)(i) unless the Welsh Ministers have given a direction under paragraph (5).
- (5) The Welsh Ministers may direct that an environmental impact assessment is not required in relation to any regulated activity that is to be carried out in the course of [^{F102}a Schedule A1] project or [^{F103}a Schedule A2] project, if the Welsh Ministers are satisfied that—
- the Natural Resources Body for Wales is the appropriate authority having the function of determining whether an environmental impact assessment is required in relation to the regulated activity;
 - a direction that an environmental impact assessment is not required for the regulated activity can be justified in accordance with Article 2(4) of the EIA Directive (exemption for exceptional cases); and
 - the regulated activity would not be likely to have significant effects on the environment of [^{F104}an EEA State].
- (6) As soon as practicable after making any such direction, the Welsh Ministers must send a copy of the direction to—
- the Natural Resources Body for Wales;
 - where the Natural Resources Body for Wales is not also the regulator, the regulator; and
 - any relevant authority.
- (7) The Natural Resources Body for Wales must provide the Welsh Ministers with such information as they require to comply with the obligations referred to in regulation 10(3).]
- [^{F105}(8) For the purpose of this regulation, Article 2(4) of the EIA Directive is to be read as if—
- in the first sub-paragraph, the words “Without prejudice to Article 7,” were omitted;
 - “Member States”, in both places where it occurs, were read as “appropriate authority”;
 - in the second sub-paragraph, point (c) were omitted;
 - the third and fourth sub-paragraphs were omitted.]

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| F98 | Reg. 10A substituted (27.3.2015) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2015 (S.I. 2015/446) , regs. 1, 6 |
| F99 | Words in reg. 10A(2) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 11(a) (with reg. 34) |
| F100 | Words in reg. 10A(2) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 11(b) (with reg. 34) |
| F101 | Words in reg. 10A(2)(c) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25) , regs. 1(1), 6(4)(a) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F102 | Words in reg. 10A(5) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 11(a) (with reg. 34) |
| F103 | Words in reg. 10A(5) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588) , regs. 1(1), 11(b) (with reg. 34) |
| F104 | Words in reg. 10A(5)(c) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25) , regs. 1(1), 6(4)(a) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F105 | Reg. 10A(8) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25) , regs. 1(1), 6(4)(b) ; 2020 c. 1, Sch. 5 para. 1(1) |

Screening opinions

11.—(1) An applicant may request a screening opinion from the appropriate authority at any time before he applies for a regulatory approval in relation to a regulated activity.

(2) If the request is made and the applicant does not defer making his application until the screening opinion is given, the regulator must not deal with the application until after the appropriate authority has given its screening opinion.

(3) If an applicant makes an application for a regulatory approval in relation to a regulated activity without having requested a screening opinion and ^{F106}the regulator considers that the regulated activity is or may be one in relation to which an environmental impact assessment is required under regulation 7 or 8], the regulator—

- (a) must direct the applicant to request a screening opinion from the appropriate authority; and
- (b) must not deal with the application until after the appropriate authority has given its screening opinion.

(4) The procedures for requesting and giving screening opinions are set out in Schedule 2.

(5) If the screening opinion is that an environmental impact assessment is not required for the project in the course of which the regulated activity would be carried out, the application may (subject to regulation 10(3) or (4), if either applies) proceed in accordance with the relevant legislation.

(6) If the screening opinion is that an environmental impact assessment is required for the regulated activity, the regulator must reject the application unless it is one which is capable of being dealt with in accordance with Part 3 without changes being made to the application.

(7) Where paragraph (2), (3), (5) or (6) applies in relation to an application under relevant legislation that provides that an applicant may proceed to carry out a regulated activity without further consent unless the regulator takes some step within a specified period—

- (a) any time prior to the giving of the screening opinion by the appropriate authority does not count in the calculation of that period; and
- (b) where the appropriate authority gives a screening opinion to the effect that an environmental impact assessment is required for the regulated activity, the regulator is to be treated for the purposes of the relevant legislation as having taken, within the specified period, a step of such a kind as precludes the applicant from proceeding to carry out the regulated activity without further consent.

(8) Paragraphs (2), (3)(5), (6) and (7) apply notwithstanding any provision to the contrary in the relevant legislation.

F106 Words in reg. 11(3) substituted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, 8

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,^{F107}...
- [^{F108}(b) include at least—
- (i) a description of the project and the regulated activity, comprising information on the site, design, size and other relevant features of the project and the regulated activity;
 - (ii) a description of the likely significant effects of the project and the regulated activity on the environment;
 - (iii) a description of the features of the project and the regulated activity or the measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
 - (iv) a description of the reasonable alternatives studied by the applicant which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;
 - (v) a non-technical summary of the information referred to in paragraphs (i) to (iv); and
 - (vi) any additional information specified in Schedule 3 relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected;]

[^{F109}(c) where a scoping opinion has been given in accordance with regulation 13 and Schedule 4, be based on the most recent scoping opinion given (so far as the project remains materially the same as the project which was subject to that opinion);

 - (d) include the information reasonably required for reaching a conclusion about the significant effects of the project on the environment, taking into account current knowledge and methods of assessment;
 - (e) (with a view to avoiding duplication of assessments), be prepared taking into account the results of any relevant UK environmental assessment which are reasonably available to the applicant;
 - (f) be prepared by competent persons; and
 - (g) be accompanied by a statement from the applicant outlining the relevant experience or qualifications of such persons.]

(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).

[^{F110}(3A) The appropriate authority must ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental statement.]

(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.

- F107** Word in reg. 12(2)(a) omitted (16.5.2017) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **12(2)(a)** (with reg. 34)
- F108** Reg. 12(2)(b) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **12(2)(b)** (with reg. 34)
- F109** Reg. 12(2)(c)-(g) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **12(2)(c)** (with reg. 34)
- F110** Reg. 12(3A) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **12(3)** (with reg. 34)

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.—[^{F111}(1) Where the appropriate authority reasonably considers that—

- (a) it requires relevant further information, 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.]

[^{F112}(1A) In paragraph (1), “relevant further information” means—

- (a) further information properly to consider the likely significant environmental effects of the project which gives rise to the regulated activity covered by the application; or
- (b) where—
 - (i) the applicant has submitted an environmental statement, or

(ii) a scoping opinion has been given in accordance with regulation 13 and Schedule 4, further information which is directly relevant to reaching a conclusion about the significant effects of the project described in the environmental statement.]

(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.

F111 Reg. 14(1) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **13(2)** (with reg. 34)

F112 Reg. 14(1A) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **13(3)** (with reg. 34)

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.

[^{F113}Co-ordination

15A. Where, in respect of a regulated activity, there is a requirement to carry out—

- (a) an environmental impact assessment; and
- (b) an assessment under [^{F114}any law of any part of the United Kingdom that implemented] the Habitats Directive or the Wild Birds Directive,

the appropriate authority must, where appropriate, ensure that the assessments are co-ordinated.]

F113 Reg. 15A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **14** (with reg. 34)

F114 Words in reg. 15A(b) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Publicity

16.—^{F115}(1) The appropriate authority must, as soon as reasonably possible, publicise the application and the environmental statement in respect of the project to which it relates or, as the case may be, any further information provided by the applicant pursuant to a notification under regulation 14, by—

- (a) publishing a notice containing the information set out in paragraph (2) on the appropriate authority’s website; and
- (b) publishing, or directing the applicant to publish, the notice—
 - (i) in two successive weeks, in such newspapers or other publications as the authority thinks fit; or
 - (ii) in such other manner (if any) as the authority considers appropriate.]

(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;
- ^{F116}(d) the fact that the project is subject to an environmental impact assessment and, where relevant, that regulation 18 applies;]
- ^{F117}(da) details of the appropriate authority responsible for making the EIA consent decision and, where the appropriate authority is not the regulator, details of the regulator;
- (db) the nature of possible decisions, including any decision to grant regulatory approval;]
- ^{F118}(e) the address of an office of the appropriate authority, or other place nominated by the appropriate authority, at which the documents listed in paragraph (2A) may be inspected free of charge at all reasonable hours within 42 days beginning with the date of first publication of the notice under paragraph (1)(b)(i);]
- ^{F119}(f) the contact details of the appropriate authority for obtaining copies of the documents listed in paragraph (2A) and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying), of the charge;]
- (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 ^{F120}with the date of first publication of the notice under paragraph (1)(b)(i); and]
- ^{F121}(h) details of the arrangements for public participation in accordance with Schedule 5.]

^{F122}(2A) The appropriate authority must take steps to secure that the following documents relating to the application are made available for public inspection at all reasonable hours at the address referred to in paragraph (2)(e)—

- (a) any screening opinion given in accordance with regulation 11 and Schedule 2;
- (b) any scoping opinion given in accordance with regulation 13 and Schedule 4 (including any written statement of reasons);

- (c) the environmental statement and any further information provided by the applicant pursuant to a notification under regulation 14; and
- (d) in accordance with national legislation, the main reports or advice issued to the appropriate authority at the time when the public concerned is first notified under paragraph (1).

(2B) The appropriate authority must ensure that the documents listed in paragraph (2A) are electronically accessible to the public, through at least an appropriate central portal or easily accessible points of access.

(2C) The applicant must ensure that a reasonable number of copies of the environmental statement and any further information provided by the applicant pursuant to a notification under regulation 14 are available at the address notified under paragraph (2)(e).]

(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.

- F115** Reg. 16(1) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(2)** (with reg. 34)
- F116** Reg. 16(2)(d) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(3)(a)** (with reg. 34)
- F117** Reg. 16(2)(da)(db) inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(3)(b)** (with reg. 34)
- F118** Reg. 16(2)(e) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(3)(c)** (with reg. 34)
- F119** Reg. 16(2)(f) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(3)(d)** (with reg. 34)
- F120** Words in reg. 16(2)(g) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(3)(e)** (with reg. 34)
- F121** Reg. 16(2)(h) inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(3)(f)** (with reg. 34)
- F122** Reg. 16(2A)-(2C) inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **15(4)** (with reg. 34)

Consultation on proposed regulated activity

- 17.—(1) The appropriate authority must [^{F123}as soon as reasonably possible] 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.

F123 Words in [reg. 17\(1\)](#) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), [regs. 1\(1\), 16](#) (with [reg. 34](#))

[^{F124}Provision of information to affected EEA States

18.—(1) The appropriate authority must as soon as possible comply with paragraph (2) where—

- (a) it comes to the attention of the appropriate authority that a proposed project is the subject of an environmental impact assessment and is likely to have significant effects on the environment in [^{F125}an]EEA State; or
- (b) [^{F126}an]EEA State likely to be significantly affected by the project so requests.

(2) The appropriate authority must—

- (a) send to the EEA State the particulars mentioned in paragraph (3) and such of the information referred to in paragraph (5) as is relevant;
- (b) publish, or direct the applicant to publish, those particulars in a notice placed in the relevant Gazette indicating the address where additional information is available; and
- (c) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.

(3) The particulars referred to in paragraph (2)(a) are—

- (a) a description of the project together with any available information on its possible significant effect on the environment in [^{F127}that]EEA State; and
- (b) information on the nature of the decision which may be taken.

(4) The appropriate authority must send these particulars, and such of the information referred to in paragraph (5) as is relevant, to the authorities of the EEA State—

- (a) as soon as possible; and
- (b) in any event, no later than the date on which the particulars are published in the relevant Gazette.

(5) The information referred to in paragraph (2)(a) is—

- (a) a copy of the application for regulatory approval;
- (b) a copy of the environmental statement in respect of the project to which that application relates;
- (c) a copy of any further information provided by the applicant pursuant to a notification under regulation 14(1); and
- (d) any relevant information regarding the procedure under these Regulations including an explanation of the decisions that the regulator can make in relation to the application.

(6) Where a EEA State indicates, in accordance with paragraph (2)(c), that it wishes to participate in the procedure for which these Regulations provide, the appropriate authority must, as soon as possible, send to that EEA State the following information—

- (a) any information provided by the applicant;
- (b) the results of any relevant EU environmental assessment which are reasonably available to the appropriate authority; and
- (c) such of the selection criteria set out in Schedule 1 as are relevant to the project.

(7) Paragraphs (2) and (6) do not require the disclosure of any excluded information.

(8) 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.

(9) In this regulation, “the relevant Gazette” means—

- (a) in relation to projects in the English inshore region or the English offshore region, the London Gazette;
- (b) in relation to projects in the Welsh inshore region or the Welsh offshore region, the London Gazette;
- (c) in relation to projects in the Northern Ireland inshore region or the Northern Ireland offshore region, the Belfast Gazette;
- (d) in relation to projects in the Scottish inshore region or the Scottish offshore region, the Edinburgh Gazette.

(10) In paragraph (9), the expressions—

- (a) English inshore region,
- (b) English offshore region,
- (c) Northern Ireland inshore region,
- (d) Northern Ireland offshore region,
- (e) Welsh inshore region, and
- (f) Welsh offshore region,

have the meanings given by section 322 of the 2009 Act.]

F124 Reg. 18 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 17 (with reg. 34)

- F125** Word in reg. 18(1)(a) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F126** Word in reg. 18(1)(b) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F127** Word in reg. 18(3)(a) substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), **6(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Provision of information to other EEA States

^{F128}**19.**

- F128** Reg. 19 omitted (16.5.2017) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **18** (with reg. 34)

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^{F129}...; and

[^{F130}(b) allow such reasonable period as may have been agreed with those authorities for them to—

- (i) ensure that the authorities and the public concerned in that EEA State are given an opportunity to forward their opinion on the information supplied; and

(ii) make representations as to—

- (aa) the possible significant effects of the regulated activity on the environment in that EEA State; and

(bb) the measures envisaged to reduce or eliminate such effects.]

- F129** Words in reg. 20(a) omitted (16.5.2017) by virtue of The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **19(a)** (with reg. 34)

- F130** Reg. 20(b) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **19(b)** (with reg. 34)

[^{F131}Projects in [^{F132}an]EEA State likely to have significant transboundary effects

20A.—(1) Where an appropriate authority receives from an EEA State ^{F133}... information which that EEA State has gathered in respect of a proposed project in that EEA State which is likely to have significant effects on the environment in the relevant UK area, the appropriate authority must ^{F134}...—

- (a) enter into consultations with that EEA State regarding the potential transboundary effects of the proposed project on the environment and the measures envisaged to reduce or eliminate such effects; and

- (b) determine in agreement with that EEA State a reasonable period, before EIA consent for the project is granted, during which members of the public may submit to the competent authority in that EEA State representations ^{F135}....

(2) The appropriate authority must also—

- (a) arrange for the information referred to in paragraph (1) to be made available within a reasonable time, and for a period of no fewer than 30 days, to the authorities which are likely to be concerned by the project by reason of their specific environmental responsibilities and to the public concerned;
- (b) ensure that those authorities and the public concerned are given an opportunity, before EIA consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied; and
- (c) make available to the public concerned any information received from the competent authority of the relevant EEA State ^{F136}....

(3) In paragraph (1), the “relevant UK area” means the United Kingdom and the UK marine area but does not include the Scottish inshore region, except in respect of activities and operations in that region for which a licence is required under Part 2 of the 1985 Act.]

- F131** Reg. 20A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **20** (with reg. 34)
- F132** Word in reg. 20A heading substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F133** Words in reg. 20A(1) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F134** Words in reg. 20A(1) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F135** Words in reg. 20A(1)(b) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F136** Words in reg. 20A(2)(c) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

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.

^{F137}Conclusion about environmental impact

21A.—(1) The appropriate authority must consider (ensuring that in doing so it has or has access to any expertise it considers necessary)—

- (a) the environmental statement;
- (b) any further information provided by the applicant pursuant to a notification under regulation 14(1);
- (c) 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);

- (d) any representations in response to consultation made by the consultation bodies pursuant to the letter referred to in regulation 17(1)(a)(iv);
- (e) the outcome of any consultation of the authorities of ^{F138}... EEA States carried out in accordance with regulation 20; and
- (f) any features of the project in relation to the regulated activity being carried out, or measures which the applicant proposes to take, which would have the effect of avoiding, preventing, reducing or offsetting any likely significant adverse environmental effects of the regulated activity.

(2) Following the consideration required by paragraph (1), the appropriate authority must reach a conclusion about the likely significant effects of the project (including the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters) on—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under [^{F139}any law of any part of the United Kingdom that implemented] the Habitats Directive and the Wild Birds Directive;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).]

F137 Reg. 21A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **21** (with reg. 34)

F138 Word in reg. 21A(1)(e) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F139 Words in reg. 21A(2)(b) inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(8)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

^{F140}The EIA consent decision

22.—(1) In reaching its EIA consent decision, the appropriate authority must have regard to the relevant legislation and must consider—

- (a) the application;
- (b) its conclusion under regulation 21A(2) (including whether the conclusion is up to date);
- (c) whether monitoring of the significant adverse environmental effects of the regulated activity is appropriate and, if so—
 - (i) whether (in order to avoid duplication) existing monitoring arrangements in accordance with an obligation under the law of any part of the United Kingdom can be relied on; and
 - (ii) whether conditions need to be attached to the regulatory approval;
- (d) if monitoring is considered to be appropriate, whether conditions need to be attached to the regulatory approval to make provision for potential remedial action; and
- (e) whether any other conditions need to be attached to the regulatory approval with respect to the likely significant effects of the project.

(2) The appropriate authority must not, following its consideration under regulation paragraph (1) (c), attach conditions to a regulatory approval in respect of a regulated activity unless it is satisfied

that the type of parameters to be monitored and the duration of monitoring are proportionate to the nature, location and size of the regulated activity and the significance of its effect on the environment.

(3) The appropriate authority must not make a decision under paragraphs (1) and (2) unless it is satisfied that any conclusion under regulation 21A(2) in respect of the regulated activity is up to date (and a conclusion is taken to be up to date if, in the opinion of the appropriate authority, it addresses the likely significant environmental effects of the project).

(4) Taking into account the nature and complexity of the application and the regulated activity, the appropriate authority must reach its EIA consent decision within a reasonable period of time beginning with the date on which it is given all the information it is required to consider under regulation 21A(1).]

F140 Reg. 22 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 22 (with reg. 34)

Notification and publication of [^{F141}EIA consent] decisions

23.—(1) The appropriate authority must [^{F142}as soon as reasonably possible] 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.

[^{F143}(2) The written confirmation must include the following—

- (a) a statement which includes—
 - (i) the main reasons and considerations on which the EIA consent decision is based including, if relevant, information about the participation of the public; and
 - (ii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results (in particular, in circumstances where regulation 20 applies, the comments received from an EEA State pursuant to consultation under that regulation) have been incorporated or otherwise addressed;
- (b) if the EIA consent decision is to grant EIA consent—
 - (i) the conclusion referred to in regulation 21A(2); and
 - (ii) any conditions attached to the EIA consent decision pursuant to regulation 22(1)(c) to (e), including any mitigating or monitoring measures; and
- (c) if the EIA consent decision is to refuse EIA consent, the main reasons for the refusal.

(3) The appropriate authority must, as soon as possible after written confirmation is sent to the applicant pursuant to paragraph (1), ensure that—

- (a) notice of its EIA consent decision is published—
 - (i) on the appropriate authority's website;
 - (ii) in those newspapers or other publications where the application was published under regulation 16(1)(b)(i); and
 - (iii) in such other manner (if any) as the appropriate authority considers appropriate; and

(b) it promptly makes available for public inspection the information referred to in paragraph (2).]

[^{F144}(4) In paragraph (3)(b), “public inspection” means:

- (a) in the case of an activity requiring regulatory approval under the 1985 Act or the 2009 Act, inspection on the relevant Public Register; and
- (b) in the case of other regulated activities, inspection at the address nominated under regulation 16(2)(e).

(5) The notice in paragraph (3)(a) must state the times at which the relevant Public Register or information may be inspected at the address nominated under regulation 16(2)(e).]

- F141** Words in reg. 23 heading inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **23(2)** (with reg. 34)
- F142** Words in reg. 23(1) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **23(3)** (with reg. 34)
- F143** Reg. 23(2)(3) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **23(4)** (with reg. 34)
- F144** Reg. 23(4)(5) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **23(5)** (with reg. 34)

Effect of EIA consent decision on application and regulatory decision

24.—[^{F145}(1) Where the appropriate authority has given EIA consent in respect of a regulated activity, the regulator may proceed to deal with the application and take its regulatory decision in accordance with the relevant legislation.]

[^{F146}(1A) When the regulator proceeds to deal with the application and take its regulatory decision in accordance with paragraph (1), the regulator must have regard to the written confirmation of the EIA consent decision and in particular to any conditions, including any mitigating or monitoring measures, attached to that decision pursuant to regulation 22(1)(c) to (e).

(1B) Where the regulator decides to grant regulatory approval, the regulator must incorporate in the regulatory decision—

- (a) the conclusion reached by the appropriate authority in accordance with regulation 21A(2);
- (b) any conditions, including any mitigating or monitoring measures, attached to the regulatory decision; and
- (c) a statement including—
 - (i) the main reasons and considerations on which the regulatory decision is based including, if relevant, information about the participation of the public; and
 - (ii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results (in particular, in circumstances where regulation 18 applies, the comments received from an EEA State pursuant to consultation under that regulation) have been incorporated or otherwise addressed.

(1C) Where the regulator decides to refuse regulatory approval, the regulator must state the main reasons for the refusal.

(1D) The regulator must be satisfied that the information incorporated in the EIA consent decision, under regulation 23(2), is up to date at the time that the regulatory decision is taken, but that information must be taken to be up to date if, in the opinion of the regulator, it addresses the significant effects that are likely to arise as a result of the project proposed.

(1E) The regulatory decision must be taken within a period of time which—

- (a) is reasonable, taking into account the nature and complexity of the regulated activity; and
- (b) begins with the date on which the EIA consent decision is published.]

(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.

- F145** Reg. 24(1) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **24(2)** (with reg. 34)
- F146** Reg. 24(1A)-(1E) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **24(3)** (with reg. 34)

[^{F147}Notification and publication of regulatory decisions

24ZA.—(1) The regulator must, as soon as reasonably possible, send a copy of its regulatory decision to--

- (a) the applicant;
- (b) if the regulator is not also the appropriate authority, the appropriate authority;
- (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 regulator must, as soon as possible after its decision is sent to the applicant pursuant to paragraph (1), ensure that—

- (a) notice of that decision is published—
 - (i) on the regulator’s website;
 - (ii) in any newspapers or other publications where the application was published under regulation 16(1)(b)(i); and
 - (iii) in such other manner as it considers appropriate; and
- (b) it promptly makes a written copy of the regulatory decision available for public inspection.

(3) In paragraph (2)(b), “public inspection” means:

- (a) in the case of an activity requiring regulatory approval under the 1985 Act or the 2009 Act, inspection on the relevant Public Register; and
- (b) in the case of other regulated activities, inspection at the address nominated under regulation 16(2)(e).

(4) The notice in paragraph (2)(a) above must state—

- (a) that the regulator has made available for public inspection the written copy of the regulatory decision; and
- (b) the times at which the relevant Public Register or the information at the address nominated under regulation 16(2)(e) may be inspected.]

- F147** Reg. 24ZA inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **25** (with reg. 34)

[^{F148}Fees in relation to the assessment etc. of the results of monitoring measures

24A.—(1) A decision to grant regulatory approval which includes a monitoring condition may include a fee condition of the kind described in paragraph (3).

(2) For the purposes of this regulation, a monitoring condition is a condition requiring any measure to be taken relating to monitoring of a kind referred to in regulation [^{F149}23(2)(b)(ii)].

(3) A fee condition of the kind referred to in paragraph (1) is a condition as to the payment of a reasonable fee, determined in accordance with regulation 3(4) and (5), in respect of expenses incurred in assessing and interpreting the results of any monitoring measure.]

F148 Reg. 24A inserted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **10**

F149 Word in reg. 24A(2) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **26** (with reg. 34)

PART 4

OFFENCES

Provision of false etc information

25.—(1) A person is guilty of an offence if, for the purpose of procuring or obtaining an EIA consent (whether for the benefit of himself, another or both), he—

- (a) makes a statement that he knows to be false in a material particular;
- (b) recklessly makes a statement which is false in a material particular; or
- (c) intentionally fails to disclose any material particular.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine of an amount not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.

Offences committed by bodies corporate

26.—(1) Where an offence under regulation 25 which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Offences committed by Scottish partnerships

27. Where an offence under regulation 25 which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, one or more of the partners or any person who was purporting to act in such capacity, he as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

PART 5

MISCELLANEOUS

Access to review procedure before a court

28.—^[F150](1) In relation to Scotland, any non-governmental organisation promoting environmental protection and meeting any other requirements under the law shall be deemed to have an interest for the purposes of ^[F151]Article 11(1)(a) of the EIA Directive and rights capable of being impaired for the purposes of ^[F152]Article 11(1)(b) of the EIA Directive.

^[F153](2) For the purpose of paragraph (1), Article 11(1) of the EIA Directive is to be read as if—

- (a) in the words before point (a), “Member States” were “Scottish Ministers”;
- (b) in point (b), “a Member State” were “Scotland”.]

F150 Reg. 28 renumbered as reg. 28(1) (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(9)(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F151 Words in reg. 28 substituted (27.3.2015) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2015 \(S.I. 2015/446\)](#), regs. 1, **7(a)**

F152 Words in reg. 28 substituted (27.3.2015) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2015 \(S.I. 2015/446\)](#), regs. 1, **7(b)**

F153 Reg. 28(2) inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(9)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Revocation

29. Part 2 of, and Schedules 1 and 2 to, the Harbour Works (Environmental Impact Assessment) Regulations 1999(**16**) are revoked.

Transitional and saving provisions

30.—(1) These Regulations shall not apply in relation to an application made before 24th June 2007.

(2) The revocation made by regulation **29** does not affect the application of the provisions referred to in that regulation in relation to an application made before 24th June 2007.

^[F154]Review

31.—(1) The Secretary of State must, from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 16th May 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the EIA Directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).]

F154 Reg. 31 inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 27 (with reg. 34)

Ben Bradshaw
Minister of State
Department for Environment, Food and Rural
Affairs

We concur,

Alan Campbell
Frank Roy
Two of the Lords Commissioners of Her
Majesty’s Treasury

[^{F155}SCHEDULE A1

Regulations 7, 10 and 10A

Descriptions of projects that are Schedule A1 Projects

F155 Sch. A1 inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), reg. 1(1), **Sch. 1** (with reg. 34)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude-oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more.
3. Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors (except research installations for the production and conversion of fissionable and fertile material, whose maximum power does not exceed 1 kilowatt continuous thermal load).
4. Installations for the reprocessing of irradiated nuclear fuel.
5. Installations designed—
 - (a) for the production or enrichment of nuclear fuel;
 - (b) for the processing of irradiated nuclear fuel or high-level radioactive waste;
 - (c) for the final disposal of irradiated nuclear fuel;
 - (d) solely for the final disposal of radioactive waste;
 - (e) solely for the storage (planned for more than ten years) of irradiated nuclear fuels or radioactive waste in a different site from the production site.
6. Integrated works for the initial smelting of cast-iron and steel.
7. Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
8. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—
 - (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;
 - (b) for friction material, with an annual production of more than 50 tonnes of finished products; and
 - (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.
9. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—
 - (a) for the production of basic organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.

10. Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more.

11. Construction of motorways and express roads.

12. Construction of a new road of four or more lanes, or realignment or widening of an existing road of two lanes or less, so as to provide four or more lanes, where such new road, or realigned or widened section of road, would be 10 kilometres or more in a continuous length.

13. Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.

14. Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.

15. Waste disposal installations for the incineration, chemical treatment (as defined in Annex I to [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste(17)^{F156}, as last amended by [^{F157}Directive (EU) 2018/851]], under heading D9), or landfill of hazardous waste as defined in Article 3(2) of that Directive.

F156 Words in Sch. A1 para. 15 inserted (17.9.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) Regulations 2018 \(S.I. 2018/942\)](#), regs. 1(2), **12**

F157 Words in Sch. A1 para. 15 substituted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **11**

16. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to [Directive 2008/98/EC](#) under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

17. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

18. Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year.

19. In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.

20. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2(6) of Council [Directive 91/271/EEC](#) of the European Parliament and of the Council concerning urban waste-water treatment(18).

21. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.

22. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

23. Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres for the transport of—

- (a) gas, oil or chemicals;

(17) 1972 c.70.

(18) 1954 c.33 (N.I.).

Changes to legislation: There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007. (See end of Document for details)

- (b) carbon dioxide streams for the purposes of geological storage, including associated booster stations.
- 24. Installations for the intensive rearing of poultry or pigs with more than—
 - (a) 85,000 places for broilers or 60,000 places for hens;
 - (b) 3,000 places for production pigs (over 30 kg); or
 - (c) 900 places for sows.
- 25. Industrial plants for—
 - (a) the production of pulp from timber or similar fibrous materials;
 - (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.
- 26. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.
- 27. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
- 28. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.
- 29. Storage sites pursuant to ^{F158}Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented]Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide.

F158 Words in Sch. A1 para. 29 inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), 6(10)(a); 2020 c. 1, Sch. 5 para. 1(1)

- 30. Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to ^{F159}Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented]Directive 2009/31/EC from installations referred to in this Schedule, or where the total yearly capture of carbon dioxide is 1.5 megatonnes or more

F159 Words in Sch. A1 para. 30 inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), 6(10)(b); 2020 c. 1, Sch. 5 para. 1(1)

- 31. Any change to or extension of project specified in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.
- 32. In this Schedule—

^{F160}SCHEDULE A2

Regulations 8, 10 and 10A

Descriptions of projects that are Schedule A2 projects

F160 Sch. A2 inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), reg. 1(1), Sch. 1 (with reg. 34)

Agriculture, silviculture and aquaculture

1. Projects for the restructuring of rural land holdings.
2. Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes.
3. Water management projects for agriculture, including irrigation and land drainage projects.
4. Initial afforestation and deforestation for the purposes of conversion to another type of land use.
5. Intensive livestock installations (unless included in Schedule A1).
6. Intensive fish farming.
7. Reclamation of land from the sea.

Extractive industry

8. Quarries, open cast mining and peat extraction (unless included in Schedule A1).
9. Underground mining.
10. Extraction of minerals by fluvial or marine dredging;
11. Deep drillings, in particular—
 - (a) geothermal drilling;
 - (b) drilling for the storage of nuclear waste material;
 - (c) drilling for water supplies,

with the exception of drillings for investigating the stability of the soil.

12. Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

Energy

13. Industrial installations for the production of electricity, steam and hot water (unless included in Schedule A1).
14. Industrial installations for carrying gas, steam and hot water and transmission of electrical energy by overhead cables (unless included in Schedule A1).
15. Surface storage of natural gas.
16. Underground storage of combustible gases.
17. Surface storage of fossil fuels.
18. Industrial briquetting of coal and lignite.
19. Installations for the processing and storage of radioactive waste (unless included in Schedule A1).
20. Installations for hydroelectric energy production.
21. Installations for the harnessing of wind power for energy production (wind farms).
22. Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to ^[F16]Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented [Directive 2009/31/EC](#) from installations not included in Schedule A1.

F161 Words in Sch. A2 para. 22 inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(11)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F161 Words in Sch. A2 para. 22 inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(11)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Production and processing of metals

23. Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting.

24. Installations for the processing of ferrous metals—

- (a) hot-rolling mills;
- (b) smithies with hammers;
- (c) application of protective metal coats.

25. Ferrous metal foundries.

26. Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.).

27. Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process.

28. Manufacture and assembly of motor vehicles and manufacture of motor vehicle engines.

29. Shipyards.

30. Installations for the construction and repair of aircraft.

31. Manufacture of railway equipment.

32. Swaging by explosives.

33. Installations for the roasting and sintering of metallic ores.

Mineral industry

34. Coke ovens (dry coal distillation).

35. Installations for the manufacture of cement.

36. Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule A1).

37. Installations for the manufacture of glass including glass fibre.

38. Installations for smelting mineral substances including the production of mineral fibres.

39. Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

Chemical industry (unless included in Schedule A1)

40. Treatment of intermediate products and production of chemicals.

41. Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides.

42. Storage facilities for petroleum, petrochemical and chemical products.

Food industry

43. Manufacture of vegetable and animal oils and fats.

44. Packing and canning of animal vegetable products.

45. Manufacture of dairy products.

46. Brewing and malting.

47. Confectionery and syrup manufacture.

48. Installations for the slaughter of animals.

49. Industrial starch manufacturing installations.

50. Fish-meal and fish-oil factories.

51. Sugar factories.

Textile, leather, wood and paper industries

52. Industrial plants for the production of paper and board (unless included in Schedule A1).

53. Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles.

54. Plants for the tanning of hides and skins.

55. Cellulose-processing and production installations.

Rubber industry

56. Manufacture and treatment of elastomer-based products.

Infrastructure projects

57. Industrial estate development projects.

58. Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas.

59. Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule A1).

60. Construction of railways (unless included in Schedule A1).

61. Construction of airfields (unless included in Schedule A1).

62. Construction of roads (unless included in Schedule A1).

63. Construction of harbours and port installations including fishing harbours (unless included in Schedule A1).

64. Inland-waterway construction not included in Schedule A1, canalisation and flood-relief works.

65. Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule A1).

66. Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.

67. Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the purposes of geological storage (unless included in Schedule A1).

68. Installations of long-distance aqueducts.

69. Coastal work to combat erosion and maritime works capable of altering the coast through the construction of, for example, dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works.

70. Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule A1.

71. Works for the transfer of water resources between river basins not included in Schedule A1.

72. Motorway service areas.

Other projects

73. Permanent racing and test tracks for motorised vehicles.

74. Installations for the disposal of waste (unless included in Schedule A1).

75. Waste-water treatment plants (unless included in Schedule A1).

76. Sludge-deposition sites.

77. Storage of scrap iron, including scrap vehicles.

78. Test benches for engines, turbines or reactors.

79. Installations for the manufacture of artificial mineral fibres.

80. Installations for the recovery or destruction of explosive substances.

81. Knackers' yards.

Tourism and leisure

82. Ski-runs, ski-lifts and cable-cars, and associated developments.

83. Marinas.

84. Holiday villages and hotel complexes outside urban areas and associated developments.

85. Theme parks.

86. Permanent camp sites and caravan sites.

87. Golf courses and associated developments.

Changes and extensions

88. Any change to or extension of development of a description listed in Schedule A1 (other than a change or extension falling within paragraph 31 of that Schedule) where that development is already authorised, executed or in the process of being executed.

89. Any change to or extension of development of a description listed in paragraphs 1 to 87 of this Schedule where that development is already authorised, executed or in the process of being executed.

90. Development of a description mentioned in Schedule A1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.]

[^{F162}SCHEDULE 1

Regulation 8(2)

Matters relevant to consideration of whether or not a Schedule A2 project is likely to have significant effects on the environment

F162 Sch. 1 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 29, **Sch. 2** (with reg. 34)

Characteristics of the project

1. The characteristics of the project, with particular regard to—
 - (a) the size and design of the whole project;
 - (b) cumulation with other existing or approved projects ;
 - (c) the use of natural resources, in particular land, soil, water and biodiversity;
 - (d) the production of waste;
 - (e) pollution and nuisances;
 - (f) the risk of major accidents or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge; and
 - (g) the risks to human health (for example due to water contamination or air pollution).

Location of the project

2. The environmental sensitivity of geographical areas likely to be affected by the project, with particular regard to—
 - (a) the existing and approved land use;
 - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and below ground in that area;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under national legislation, Natura 2000 areas designated or classified by member States pursuant to the Habitats Directive or the Wild Birds Directive;
 - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in EU legislation [^{F163}as it applied in the United Kingdom immediately prior to exit day, or in retained EU law] and relevant to the project, or in which it is considered that there is such a failure;
 - (vii) densely populated areas; and

(viii) landscapes and sites of historical, cultural or archaeological significance.

F163 Words in Sch. 1 para. 2(c)(vi) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), 6(12); 2020 c. 1, Sch. 5 para. 1(1)

Types and characteristics of the potential impact

3. The likely significant effects of projects on the environment in relation to the matters set out in paragraphs 1 and 2, with regard to the impact of the project on the factors specified in regulation 21A(2)(a) to (e) and with regard to—

- (a) the magnitude and spatial extent of the impact (for example the geographical area and the size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved projects;
- (h) the possibility of effectively reducing the impact.]

SCHEDULE 2

Regulation 11(4)

SCREENING OPINIONS

Request for a screening opinion

1.—(1) A request for a screening opinion must be accompanied by—

- (a) a chart or map (or both) sufficient to identify the location of the project and of the regulated activity;
- [^{F164}(b) a description of the project, including in particular—
 - (i) a description of the physical characteristics of the whole project and, where relevant, of demolition works; and
 - (ii) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected;
- (c) a description of the aspects of the environment likely to be significantly affected by the project; and
- (d) a description of any likely significant effects of the project on the environment, to the extent of the information available on such effects resulting from—
 - (i) the expected residues and emission and the production of waste, where relevant,
 - (ii) the use of natural resources, in particular soil, land, water and biodiversity; and]
 - [^{F165}(e) such further information or representations as the applicant may wish to provide or make, including a description of any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.]

[^{F166}(1A) The selection criteria set out in Schedule 1 must be taken into account, where relevant, when compiling the information required by paragraph (1)(b) to (d) above.

(1B) The applicant must take into account any other relevant and reasonably obtainable assessment carried out in accordance with [^{F167}a retained EU obligation] under the law of any part of the United Kingdom other than under the EIA Directive.]

(2) Where the regulated activity comprises the whole of (or forms part of) a project in respect of which the applicant has made an application to a consenting authority other than the regulator, an applicant seeking a screening opinion must—

- (a) inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of any such application;
- (b) if any such consenting authority has requested an environmental statement in respect of that project, inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of that request; and
- (c) if so requested by the appropriate authority, provide the appropriate authority with a copy of any environmental statement and of any other environmental information provided to any such consenting authority.

F164 Sch. 2 para. 1(1)(b)-(d) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(2)** (with reg. 34)

F165 Sch. 2 para. 1(1)(e) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(3)** (with reg. 34)

F166 Sch. 2 para. 1(1A)(1B) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(4)** (with reg. 34)

F167 Words in Sch. 2 para. 1(1B) substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(13)**; 2020 c. 1, Sch. 5 para. 1(1)

Payment of a fee for a screening opinion

2.—(1) The appropriate authority may require an applicant to pay a reasonable fee in respect of—

- (a) the administrative expenses of providing a screening opinion; and
- (b) the cost of carrying out any examinations or tests that, in the opinion of the appropriate authority, are necessary or expedient to enable the appropriate authority to produce its screening opinion.

(2) If the appropriate authority considers that it is appropriate to do so, it may—

- (a) require the applicant to make a reasonable advance payment against the fee that it is entitled to charge for its screening opinion;
- (b) determine the balance of the fee payable after carrying out the work necessary to produce its screening opinion in accordance with the remaining provisions of this Schedule; and
- (c) require the applicant to pay the balance of the fee that it is entitled to charge prior to the notification of its screening opinion.

Procedure for reaching a screening opinion

3.—(1) The appropriate authority must, if it considers that it has not been provided with sufficient information to enable it to give a screening opinion, notify the applicant in writing of the matters on which it requires further information and the applicant must supply that further information to the appropriate authority within such period as the appropriate authority may reasonably require.

(2) The applicant must supply the appropriate authority with such number of additional copies of the documentation as the appropriate authority may reasonably require.

(3) The appropriate authority need not deal further with the request for a screening opinion until the applicant has complied with the requirements of sub-paragraphs (1) and (2).

(4) Where an applicant has failed to comply with the requirements of sub-paragraph (1) or (2) 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 to which the request relates 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.

[^{F168}(5) Where the appropriate authority must give a screening opinion under these Regulations, the authority must take into account in making that decision—

- (a) any information provided by the applicant in accordance with paragraph 1(1);
- (b) the results of any relevant EU environmental assessment which are reasonably available to the authority; and
- (c) such of the selection criteria set out in Schedule 1 as are relevant to the project.]

F168 Sch. 2 para. 3(5) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(5)** (with reg. 34)

Consultation

4.—(1) The appropriate authority must consult such of the consultation bodies as it considers appropriate before giving a screening opinion.

(2) When carrying out any consultation under sub-paragraph (1), the appropriate authority must allow the consultation body a reasonable period within which to respond, and that period must not be less than 28 days from the date of the letter to the consultation body from the appropriate authority or such other period as may be agreed between the consultation body and the appropriate authority.

[^{F169}Giving a screening opinion

4A. Where the appropriate authority gives a screening opinion, the screening opinion must—

- (a) state the main reasons for the conclusion with reference to the relevant criteria listed in Schedule 1; and
- (b) if it is determined that the regulated activity does not require an environmental impact assessment, state any features of the project or measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment.]

F169 Sch. 2 para. 4A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(6)** (with reg. 34)

[^{F170}Notification of a screening opinion

5.—(1) Where the applicant requests a screening opinion under regulation 11(1) in accordance with paragraph 1(1), the appropriate authority must provide its screening opinion to—

- (a) the applicant;

- (b) if the appropriate authority is not also the regulator, the regulator; and
- (c) such of the consultation bodies as it consulted in accordance with paragraph 4.

(2) The appropriate authority must provide the opinion as soon as possible within a period of 90 days beginning with the day on which the request is made.

(3) In exceptional cases, where the nature, complexity, location or size of the project demands a longer period for determination, the appropriate authority may extend the period specified in sub-paragraph (2), informing the applicant in writing of the reasons justifying the extension and of the date on which its screening opinion is expected.]

F170 Sch. 2 para. 5 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(7)** (with reg. 34)

Availability of screening opinions for inspection

6.—(1) Subject to sub-paragraph (2), the appropriate authority must ensure that, as soon as possible after being sent to the applicant, its screening opinion is—

- (a) publicised in such manner as it considers appropriate; and

[^{F171}(b) in the case of an activity requiring regulatory approval under the 1985 Act^[F172] or the 2009 Act], made available on the relevant Public Register.]

(2) Sub-paragraph (1) does not require disclosure of any excluded information.

F171 Sch. 2 para. 6(1)(b) substituted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **11**

F172 Words in Sch. 2 para. 6(1)(b) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(8)** (with reg. 34)

[^{F173}SCHEDULE 3

Regulation 12(2)

Information to be included in an environmental statement

F173 Sch. 3 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), reg. 1(1), **Sch. 3** (with reg. 34)

1. A description of the project and of the regulated activity, including in particular:
 - (a) a description of the location of the project and the regulated activity;
 - (b) a description of the physical characteristics of the whole project and regulated activity, including where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
 - (c) a description of the main characteristics of the operational phase of the project and the regulated activity (in particular any production process): for instance, energy demand and energy used, the nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
 - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases) resulting from the operation of the proposed project and the regulated activity.

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the applicant, which are relevant to the proposed project, the regulated activity and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

3. A description of the relevant aspects of the current state of the environment (baseline scenario), and an outline of the likely evolution thereof without implementation of the project, as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in regulation 21A(2)(a) to (e) likely to be significantly affected by the project and the regulated activity: population, human health, biodiversity (for example, fauna and flora), land (for example, land take), soil (for example, organic matter, erosion, compaction, sealing), water (for example, hydromorphological changes, quantity and quality), air, climate (for example, greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5. A description of the likely significant effects of the project and the regulated activity on the environment resulting from, inter alia—

- (a) the construction and existence of the project and the regulated activity, including, where relevant, demolition works;
- (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- (d) the risks to human health, cultural heritage or the environment (for example, due to accidents or disasters);
- (e) the cumulation of effects with other existing or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the project on climate (for example, the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

6. The description of the likely significant effects on the factors specified in regulation 21A(2)(a) to (e) must cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project and the regulated activity. This description must take into account the environmental protection objectives [^{F174}in retained EU law or under the law of any part of the United Kingdom] which are relevant to the project and the regulated activity.

F174 Words in Sch. 3 para. 6 substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(14)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

7. A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment including details of difficulties (for example, technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

8. A description of the measures envisaged to avoid, prevent, reduce or if possible offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example, the preparation of a post-project analysis). That description

must explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and must cover both the construction and operational phases.

9. A description of the expected significant adverse effects of the project and the regulated activity on the environment deriving from the vulnerability of the project and the regulated activity to risks of major accidents or disasters which are relevant to the project and the regulated activity concerned. Relevant information available and obtained through risk assessments pursuant to [F175retained EU law such as any law that implemented] Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC or Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations or UK environmental assessments may be used for this purpose provided that the requirements of [F176any law that implemented] the EIA Directive are met. Where appropriate, this description must include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

F175 Words in Sch. 3 para. 9 substituted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), 6(14)(b)(i); 2020 c. 1, Sch. 5 para. 1(1)

F176 Words in Sch. 3 para. 9 inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), 6(14)(b)(ii); 2020 c. 1, Sch. 5 para. 1(1)

10. A non-technical summary of the information provided under paragraphs 1 to 9.

11. A reference list detailing the sources used for the descriptions and assessments included in the report.]

SCHEDULE 4

Regulation 13(2)

SCOPING OPINIONS

Request for a scoping opinion

1. A request for a scoping opinion must be accompanied by—
 - (a) a chart, plan or map sufficient to identify the location of the regulated activity and of other activities to be carried out in the course of the project;
 - [F177](b) a brief description of the specific characteristics of the regulated activity and the project, including their nature, purpose, location and technical capacity;]
 - [F178](ba) an explanation of the likely significant effects of the regulated activity and the project on the environment;]
 - (c) such other information or representations as the applicant may wish to provide or make.

F177 Sch. 4 para. 1(b) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), 32(2) (with reg. 34)

F178 Sch. 4 para. 1(ba) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), 32(3) (with reg. 34)

Information required where another application has been made

2. Where the regulated activity is to be carried out in the course of a project in respect of which the applicant has made an application to a consenting authority other than the regulator, an applicant seeking a scoping opinion must—

- (a) inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of any such application;
- (b) if any such consenting authority has requested an environmental statement in respect of that project, inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of that request; and
- (c) if so requested by the appropriate authority or the regulator, provide the appropriate authority with a copy of any environmental statement and of any other environmental information provided to any such consenting authority.

Payment of a fee for a scoping opinion

3.—(1) The appropriate authority may require an applicant to pay a reasonable fee in respect of—

- (a) the administrative expenses of providing a scoping opinion; and
 - (b) the cost of carrying out any examinations or tests that, in the opinion of the appropriate authority, are necessary or expedient to enable the appropriate authority to produce its scoping opinion.
- (2) If the appropriate authority considers that it is appropriate to do so, it may—
- (a) require the applicant to make a reasonable advance payment against the fee that it is entitled to charge for its scoping opinion;
 - (b) determine the balance of the fee payable after carrying out the work necessary to produce its scoping opinion in accordance with the remaining provisions of this Schedule; and
 - (c) require the applicant to pay the balance of the fee that it is entitled to charge prior to the notification of its scoping opinion.

Procedure for reaching a scoping opinion

4.—(1) The appropriate authority must, if it considers that it has not been provided with sufficient information to enable it to give a scoping opinion, notify the applicant in writing of the matters on which it requires further information and the applicant must supply that further information to the appropriate authority within such period as the appropriate authority may reasonably require.

(2) The applicant must supply the appropriate authority with such number of additional copies of the documentation as the appropriate authority may reasonably require.

(3) The appropriate authority need not deal further with the request for a scoping opinion until the applicant has complied with the requirements of sub-paragraphs (1) and (2).

(4) Where an applicant has failed to comply with the requirements of sub-paragraph (1) or (2) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

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

Matters to be considered in reaching a scoping opinion

5. In reaching a scoping opinion, the appropriate authority must [^{F179}take into account]—
- (a) the specific characteristics of the project [^{F180}, including its location and technical capacity];
 - (b) the nature and purpose of regulated activities of the type concerned in the project;
 - (c) the environmental features likely to be affected by the project; and
 - [^{F181}(d) any information provided by the applicant about the project and the regulated activity.]

F179 Words in Sch. 4 para. 5 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(4)** (with reg. 34)

F180 Words in Sch. 4 para. 5(a) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(5)** (with reg. 34)

F181 Sch. 4 para. 5(d) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(6)** (with reg. 34)

Consultation

6.—(1) The appropriate authority must consult such of the consultation bodies as it considers appropriate before giving a scoping opinion.

(2) When carrying out any consultation under sub-paragraph (1), the appropriate authority must allow the consultation body a reasonable period within which to respond and that period must not be less than 28 days from the date of the letter that the consultation body receives from the appropriate authority or such other period as may be agreed between the consultation body and the appropriate authority.

Notification of a scoping opinion

7. The appropriate authority must, as soon as reasonably practicable, provide its scoping opinion and a written statement of the reasons for its opinion to—

- (a) the applicant;
- (b) if the appropriate authority is not also the regulator, the regulator; and
- (c) such of the consultation bodies as it consulted in accordance with paragraph 6.

Availability of scoping opinions for inspection

8.—[^{F182}(1) Subject to sub-paragraph (2), the appropriate authority must ensure that, as soon as possible after being sent to the applicant, its scoping opinion is—

- (a) publicised in such a manner as it considers appropriate; and
- (b) in the case of an activity requiring regulatory approval under the 1985 Act [^{F183}or the 2009 Act], made available on the relevant Public Register.]

(2) Sub-paragraph (1) does not require disclosure of any excluded information.

F182 Sch. 4 para. 8(1) substituted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **12**

F183 Words in Sch. 4 para. 8(1)(b) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(7)** (with reg. 34)

SCHEDULE 5

Regulations 21 and 22(a)(iv)

CONSIDERATION OF REPRESENTATIONS FROM THE PUBLIC

1.—(1) In relation to each representation made pursuant to the statement referred to in regulation 16(2)(g), the appropriate authority must consider whether or not the representation is capable of being dealt with in accordance with this Schedule.

(2) If the appropriate authority concludes that the representation is not capable of being dealt with in accordance with this Schedule—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

2.—(1) If the appropriate authority concludes in accordance with paragraph 1(1) that the representation is capable of being dealt with in accordance with this Schedule, it must consider whether or not the representation is relevant to the EIA consent decision.

(2) If the appropriate authority concludes that the representation is not relevant to the EIA consent decision, it must consider whether it is relevant in some other way to the project in the course of which the regulated activity is to be carried out.

(3) If the appropriate authority concludes that the representation is not relevant to that project in any other way—

- (a) it need not have any further regard to the representation; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

(4) If the appropriate authority concludes that the representation is relevant in some other way to the project in the course of which the regulated activity is to be carried out—

- (a) it must copy the representation to the regulator and any consenting authorities in so far as the appropriate authority regards the representation as relevant to any of their functions that are relevant to compliance with [^{F184}any law of any part of the United Kingdom that implemented] the EIA Directive;
- (b) it need not have any further regard to the representation; and
- (c) the remaining provisions of this Schedule do not apply to the representation.

F184 Words in Sch. 5 para. 2(4)(a) inserted (31.12.2020) by The Environment, Food and Rural Affairs (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/25), regs. 1(1), 6(15); 2020 c. 1, Sch. 5 para. 1(1)

3.—(1) If the appropriate authority concludes in accordance with paragraph 2(1) that the representation is relevant to the regulated activity, it must consider whether the representation is capable of being addressed by an arrangement made between it, the applicant and the maker of the representation.

(2) If the appropriate authority concludes that the representation is capable of being addressed by means of such an arrangement, it may invite the applicant and the maker of the representation to enter into discussions with it and each other with a view to making the arrangement.

(3) If an arrangement is made—

- (a) the appropriate authority must have regard to the arrangement when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

4.—(1) If either—

- (a) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is capable of being satisfied by an arrangement made between it, the applicant and the maker of the representation but no such arrangement is made within a reasonable period, or
- (b) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is not capable of being satisfied by an arrangement made between it, the applicant and the maker of the representation,

the appropriate authority must consider whether the representation gives rise to a dispute that calls for resolution of a question of fact in order to enable it to make its EIA consent decision.

(2) If the appropriate authority concludes that the representation gives rise to such a dispute, it may, if it considers that it is appropriate to do so—

- (a) instigate a local inquiry; or
- (b) appoint a person whom it considers expert in the subject-matter of the dispute to report to it on the question of fact.

(3) If the appropriate authority concludes that the representation does not give rise to such a dispute or if it does not think that it is appropriate to instigate a local inquiry or appoint a person to report to it—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision;
- (b) the remaining provisions of this Schedule do not apply to the representation.

5.—(1) If the appropriate authority instigates a local inquiry in accordance with paragraph 4(2) (a)—

- (a) it must give notice of that inquiry in such manner as it thinks fit; and
- (b) all persons interested are permitted to attend, and be heard at, the inquiry.

(2) The appropriate authority must not reach its EIA consent decision until the inquiry has been completed.

(3) The appropriate authority must have regard to the outcome of the inquiry when reaching its EIA consent decision.

6.—(1) Subsections (2) to (5) of section 250 (power to direct inquiries) of the Local Government Act 1972⁽¹⁷⁾ apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in England or Wales as they apply in relation to an inquiry held under that section.

(2) Schedule A1 (provisions applicable to inquiries and investigations) to the Interpretation Act (Northern Ireland) 1954⁽¹⁸⁾ applies in relation to an inquiry instigated under paragraph 4(2)(a) and held in Northern Ireland as it applies to an inquiry held under an enactment passed or made as mentioned in section 23 (inquiries and investigations) of that Act.

(3) The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997⁽¹⁹⁾ apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in Scotland as they apply to an inquiry held under those Rules.

7.—(1) If the appropriate authority appoints a person to report to it in accordance with paragraph 4(2)(b), it must—

⁽¹⁷⁾ 1972 c.70.

⁽¹⁸⁾ 1954 c.33 (N.I.).

⁽¹⁹⁾ S.I. 1997/796 (S.75).

- (a) notify the applicant and the maker of the representation, and the regulator (if the appropriate authority is not also the regulator)—
 - (i) that it has so done; and
 - (ii) its reasons for doing so;
 - (b) send details of the appointed person and of the question of fact to the applicant and the maker of the representation and to the regulator (if the appropriate authority is not also the regulator).
- (2) The appointed person must provide such opportunity for each of the applicant, the maker of the representation, the appropriate authority and the regulator (if the appropriate authority is not also the regulator) to address him orally or in writing, or both, as he considers expedient for the purposes of making his report.
- (3) The appropriate authority must not reach its EIA consent decision until either the appointed person has made his report or a reasonable period has expired.
- (4) The appointed person's report to the appropriate authority should contain his findings of fact on the subject-matter of the dispute and should be sent to the appropriate authority and the regulator (if the appropriate authority is not also the regulator) and copied to the applicant and the maker of the representation.
- (5) When reaching its EIA consent decision, the appropriate authority must—
- (a) have regard to the appointed person's report; and
 - (b) have such regard as the appropriate authority considers appropriate in all the circumstances to any representations made to the appointed person.]

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 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:

There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007.