
STATUTORY INSTRUMENTS

2011 No. 735

The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011

PART 3

Revocations, transitional provisions, and savings

CHAPTER 1

Interpretation of Part 3

Interpretation

13. In this Part—

- (a) “the 2009 Act” means the Marine and Coastal Access Act 2009;
- (b) “appropriate authority” has the same meaning as in regulation 2(1) of the Marine Works Regulations⁽¹⁾;
- (c) “appropriate licensing authority” is to be construed in accordance with section 113 of the 2009 Act⁽²⁾;
- (d) “dredging permission” means permission which is granted under and in accordance with—
 - (i) regulation 13 of the Marine Minerals Regulations; or
 - (ii) (as the case may be) regulation 13 of the Welsh Marine Minerals Regulations;
- (e) “licensable marine activity” has the meaning it has in Part 4 of the 2009 Act⁽³⁾;
- (f) “the Marine Minerals Regulations” means the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007⁽⁴⁾;
- (g) “the Welsh Marine Minerals Regulations” means the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Wales) Regulations 2007⁽⁵⁾; and

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- (1) [S.I. 2007/1518](#). The definition was amended by [S.I. 2009/2258](#) (revoked by these Regulations), and is replaced by regulation 3(1)(b) of these Regulations.
 - (2) Section 113 of the 2009 Act contains provisions determining which authority is the appropriate licensing authority for an area in which licensable marine activities may take place. Under section 98 of the 2009 Act, the appropriate licensing authority may, by order, delegate any of its delegable marine licensing functions (as defined in section 98(5)) to such other person as is designated in the order. Under section 14(1) of the 2009 Act, the Secretary of State may enter into an agreement with the Marine Management Organisation authorising it to perform any marine function of the Secretary of State in relation to the UK marine area (or specified parts of that area). By virtue of section 14(6), the provision in section 14(1) of the 2009 Act is subject to sections 17 and 18 of that Act, which make provision in relation to non-delegable functions and the maximum duration of such an agreement, respectively.
 - (3) Section 66(1) of the 2009 Act describes the activities which are licensable marine activities for the purposes of Part 4 of that Act.
 - (4) [S.I. 2007/1067](#).
 - (5) [S.I. 2007/2610 \(W. 221\)](#).

- (h) “the Marine Works Regulations” means the Marine Works (Environmental Impact Assessment) Regulations 2007(6).

CHAPTER 2

Revocations

Revocation of the Marine Minerals Regulations and the Welsh Marine Minerals Regulations

- 14.—(1) The Marine Minerals Regulations are revoked.
(2) The Welsh Marine Minerals Regulations are revoked.

Revocation of the Marine Works (Environmental Impact Assessment) (Amendment) (England and Wales) Regulations 2009

15. The Marine Works (Environmental Impact Assessment) (Amendment) (England and Wales) Regulations 2009(7) are revoked.

CHAPTER 3

Transitional provisions in relation to the Marine Minerals Regulations

Dredging permission

- 16.—(1) Any dredging permission which—
(a) is in effect immediately before 6th April 2011, and
(b) relates to an operation which is a licensable marine activity for the purposes of Part 4 of the 2009 Act,

has effect as if it were a marine licence granted by the appropriate licensing authority in relation to that activity under Part 4 of the 2009 Act (a “deemed licence”).

- (2) In accordance with paragraph (1)—
(a) a dredging permission issued for a specified period remains in force as a deemed licence for so much of that period as falls on or after 6th April 2011; and
(b) any condition subject to which a dredging permission has been granted under regulation 13(6)(a) of the Marine Minerals Regulations has effect as if it were a condition of the deemed licence.
- (3) Any dredging permission which—
(a) before 6th April 2011 was suspended under regulation 21(2)(b), (7) or (8) of the Marine Minerals Regulations, and
(b) relates to an operation which is a licensable marine activity for the purposes of Part 4 of the 2009 Act,

has effect as if it were a marine licence granted by the appropriate licensing authority in relation to that activity under Part 4 of the 2009 Act (a “deemed licence”), which immediately after 5th April 2011 was suspended.

- (4) Where a deemed licence has effect by virtue of paragraph (3) as if it is suspended, the effect of such suspension is to be determined in accordance with paragraph (6) in place of any provision in or under the 2009 Act.

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

(7) [S.I. 2009/2258](#).

(5) Paragraphs (6) to (10) apply to a dredging permission which has effect by virtue of paragraph (1) as a deemed licence.

(6) In relation to a deemed licence which has effect by virtue of paragraph (3) as if it is suspended, regulation 21(9), and, so far as they relate to a suspended permission or a suspension of a permission, regulations 21(10) to (12) and 22(3) and (4) of the Marine Minerals Regulations apply as they applied to the dredging permission.

(7) In relation to a dredging permission which has been varied temporarily under regulation 21(2) (c) or (7) of the Marine Minerals Regulations, regulations 21(10) to (12) and 22(3) and (5) of those Regulations (so far as they relate to temporary variations of a dredging permission or a dredging permission that has been temporarily varied) apply—

- (a) in relation to the deemed licence as they applied to the dredging permission; and
- (b) in place of any provision in or under the 2009 Act which relates to the variation of a marine licence.

(8) Where a notice of a proposed revocation or permanent variation of the dredging permission has been served under regulation 21(3)(a) of the Marine Minerals Regulations, but no decision has been taken under regulation 21(11) before 6th April 2011 to revoke or permanently vary the dredging permission, regulations 21(10) to (12) and 22(1), (2) and (4) of those Regulations apply in relation to the deemed licence as they applied in relation to the dredging permission.

(9) Any notice of a decision to revoke or permanently vary a deemed licence served pursuant to regulation 21(12) of the Marine Minerals Regulations has effect as a notice to revoke or vary that deemed licence in accordance with section 72(1) or (3) of the 2009 Act.

Fee payable under condition of dredging permission

17. Any fee that before 6th April 2011 was payable under regulation 25(1)(c) of the Marine Minerals Regulations by the owner or holder of the dredging permission, on certain occasions or at certain intervals, is to be treated as a fee payable under a fee condition of the deemed licence by virtue of section 24A of the Marine Works Regulations, on the same occasions or at the same intervals, in respect of expenses incurred in assessing and interpreting the results of monitoring of a kind referred to in regulation 23(2)(c)(ii) of those Regulations.

Applications made under the Marine Minerals Regulations

18.—(1) Any application for dredging permission under regulation 10 of the Marine Minerals Regulations which—

- (a) was made before 6th April 2011, and
- (b) relates to a dredging operation—
 - (i) for which immediately before 6th April 2011 a permission was required under Part 4 of the Marine Minerals Regulations, and
 - (ii) which is a licensable marine activity,

has effect as if it were an application for a marine licence made under Part 4 of the 2009 Act to the appropriate licensing authority in relation to that activity.

(2) Any application which—

- (a) immediately before 6th April 2011 is being treated in accordance with regulation 31(1) of the Marine Minerals Regulations (transitional provisions) as an application for permission duly made under those Regulations, and
- (b) relates to a dredging operation which is a licensable marine activity,

has effect as if it were an application for a marine licence made under Part 4 of the 2009 Act to the appropriate licensing authority in relation to that activity.

Application which has an effect as application for a marine licence

19.—(1) Regulations 20 to 22 and 23(1) and (2) apply where, under regulation 18(1), an application under the Marine Minerals Regulations has effect as if it were an application for a marine licence.

(2) Regulation 23(3) applies where—

- (a) by virtue of regulation 18(2), an application has effect as an application for a marine licence under Part 4 of the 2009 Act; and
- (b) the appropriate authority has agreed or determined that before that application can be determined an environmental impact assessment is required under the Marine Works Regulations.

Screening

20.—(1) A request for a preliminary determination under regulation 6(1)(a) of the Marine Minerals Regulations which has not been determined before 6th April 2011 must be treated as a request for a screening opinion under regulation 11 of the Marine Works Regulations.

(2) If it is satisfied that any step which is required to be taken by the regulator under regulation 6(2), (5) or (6) of the Marine Minerals Regulations has been taken, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 11 of or Schedule 2 to the Marine Works Regulations.

(3) A determination under regulation 6 of the Marine Minerals Regulations that the dredging is not a relevant project has effect as a screening opinion under regulation 11(5) of the Marine Works Regulations that an environmental impact assessment is not required for the regulated activity.

(4) A determination under regulation 6 of the Marine Minerals Regulations that the dredging is a relevant project has effect as a screening opinion under regulation 11(6) of the Marine Works Regulations that an environmental impact assessment is required for the regulated activity.

Opinion as to the content of an environmental statement

21.—(1) A request for an opinion under regulation 7(2) of the Marine Minerals Regulations⁽⁸⁾ which has not been determined before 6th April 2011 must be treated as a request for a scoping opinion under regulation 13(1) of the Marine Works Regulations.

(2) If it is satisfied that any step which is required to be taken by the regulator under regulation 7(3) or (4) of the Marine Minerals Regulations has been taken, the appropriate authority may treat that step as taken in accordance with any corresponding requirement in paragraph 6 or 7 of Schedule 4 to the Marine Works Regulations.

(3) A scoping opinion given under regulation 7(2) of the Marine Minerals Regulations has effect as a scoping opinion given under regulation 13(2) of and paragraph 7 of Schedule 4 to the Marine Works Regulations.

Fees charged in relation to an application for dredging permission

22.—(1) An applicant who has paid a fee pursuant to a determination under regulation 25(1)(a) of the Marine Minerals Regulations in respect of the regulator's expenses of providing an opinion under

(8) Regulation 7(2) of the Marine Minerals Regulations provides for the regulator to give an opinion (otherwise known as a "scoping opinion") as to the information to be provided by an environmental statement.

regulation 7(2) of those Regulations may not be charged a fee under paragraph 3(1) of Schedule 4 to the Marine Works Regulations.

(2) An applicant who has paid a fee pursuant to a determination under regulation 25(1)(a) of the Marine Minerals Regulations in respect of the regulator's expenses of providing information relevant to the preparation of an environmental statement in accordance with regulation 8(3) and (4) of those Regulations may not be required to pay a charge under regulation 15(4) of the Marine Works Regulations.

(3) An applicant who pursuant to a determination under regulation 25(1)(b) of the Marine Minerals Regulations has paid a fee in respect of a relevant application may not be charged a fee under section 67(1)(b) of the 2009 Act.

(4) A person who, pursuant to a determination under regulation 25(1)(c) of the Marine Minerals Regulations, has paid a fee in respect of the expenses of the regulator in interpreting and assessing the results of any monitoring may not be charged a fee under regulation 24A(1) of the Marine Works Regulations in respect of the same expenses.

(5) In paragraph (3), "a relevant application" means an application under regulation 10(1) of the Marine Minerals Regulations which by virtue of regulation 18(1) of these Regulations has effect as an application for a marine licence.

Publicity and consultation

23.—(1) If it is satisfied that any step has been taken by the regulator to publicise the application in accordance with regulation 12 of the Marine Minerals Regulations, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 16(1) and (2) or 17(1) of the Marine Works Regulations.

(2) If it is satisfied that any step has been taken by the regulator to provide information to or to consult another EEA State in accordance with regulation 15 of the Marine Minerals Regulations, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 18, 19 or 20 of the Marine Works Regulations.

(3) Where the appropriate authority is satisfied that any step taken by an applicant—

- (a) is by virtue of regulation 31(2) of the Marine Minerals Regulations to be treated by the regulator immediately before 6th April 2011 as a step taken under regulation 12 of those Regulations, or
- (b) is sufficient to publicise that application, related documents, and information to substantially the same extent as required by regulation 16(1) and (2) or 17(1) of the Marine Works Regulations,

the appropriate authority may treat that step as taken under regulation 16(1) and (2) or 17(1) (as the case may be) of the Marine Works Regulations.

CHAPTER 4

Transitional provisions in relation to the Welsh Marine Minerals Regulations

Dredging permission

24.—(1) Any dredging permission which—

- (a) is in effect immediately before 6th April 2011, and
- (b) relates to an operation which is a licensable marine activity for the purposes of Part 4 of the 2009 Act,

has effect as if it were a marine licence granted by the appropriate licensing authority in relation to that activity under Part 4 of the 2009 Act (a "deemed licence").

(2) In accordance with paragraph (1)—

- (a) a dredging permission issued for a specified period remains in force as a deemed licence for so much of that period as falls on or after 6th April 2011; and
- (b) any condition subject to which a dredging permission has been granted under regulation 13(7)(a) of the Welsh Marine Minerals Regulations has effect as if it were a condition of the deemed licence.

(3) Paragraphs (4) to (6) apply to a dredging permission which has effect by virtue of paragraph (1) as a deemed licence.

(4) Where a notice of a proposed revocation or permanent variation of the dredging permission has been served under regulation 21(3)(a) of the Welsh Marine Minerals Regulations, but no decision has been taken under regulation 21(11) before 6th April 2011 to revoke or permanently vary the dredging permission, regulations 21(10) to (12) of those Regulations apply in relation to the deemed licence as they applied in relation to the dredging permission.

(5) Any notice of a decision to revoke or permanently vary a deemed licence served pursuant to regulation 21(12) of the Welsh Marine Minerals Regulations has effect as a notice to revoke or vary that deemed licence in accordance with section 72(1) or (3) of the 2009 Act.

(6) Where a notice of a kind mentioned in paragraph (5) has been served, paragraphs (1) and (2) of regulation 22 of the Welsh Marine Minerals Regulations apply in relation to the deemed licence as they applied in relation to the dredging permission.

Fee payable under condition of dredging permission

25. Any fee that before 6th April 2011 was payable under regulation 25(1)(c) of the Welsh Marine Minerals Regulations by the owner or holder of the dredging permission, on certain occasions or at certain intervals, is to be treated as a fee payable under a fee condition of the deemed licence by virtue of section 24A of the Marine Works Regulations, on the same occasions or at the same intervals, in respect of expenses incurred in assessing and interpreting the results of monitoring of a kind referred to in regulation 23(2)(c)(ii) of those Regulations.

Applications made under the Welsh Marine Minerals Regulations

26.—(1) Any application for dredging permission under regulation 10 of the Welsh Marine Minerals Regulations which—

- (a) was made before 6th April 2011, and
- (b) relates to a dredging operation—
 - (i) for which immediately before 6th April 2011 a permission was required under Part 4 of the Welsh Marine Minerals Regulations, and
 - (ii) which is a licensable marine activity,

has effect as if it were an application for a marine licence made under Part 4 of the 2009 Act to the appropriate licensing authority in relation to that activity.

(2) Any application which—

- (a) immediately before 6th April 2011 is being treated in accordance with regulation 31(1) of the Welsh Marine Minerals Regulations as an application for dredging permission duly made under those Regulations, and
- (b) relates to a dredging operation which is a licensable marine activity,

has effect as if it were an application for a marine licence made under Part 4 of the 2009 Act to the appropriate licensing authority in relation to that activity.

Application which has effect as an application for a marine licence

27.—(1) Regulations 28 to 30 and 31(1) and (2) apply where, under regulation 26(1), an application under the Welsh Marine Minerals Regulations has effect as if it were an application for a marine licence.

(2) Regulation 31(3) applies where—

- (a) by virtue of regulation 26(2), an application has effect as an application for a marine licence under Part 4 of the 2009 Act; and
- (b) the appropriate authority has agreed or determined that before that application can be determined an environmental impact assessment is required under the Marine Works Regulations.

Screening

28.—(1) A request for a preliminary determination under regulation 6(1)(a) of the Welsh Marine Minerals Regulations which has not been determined before 6th April 2011 must be treated as a request for a screening opinion under regulation 11 of the Marine Works Regulations.

(2) If it is satisfied that any step which is required to be taken by the Welsh Ministers under regulation 6(2), (5) or (6) of the Welsh Marine Minerals Regulations has been taken, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 11 of or Schedule 2 to the Marine Works Regulations.

(3) A determination under regulation 6 of the Welsh Marine Minerals Regulations that the dredging is not a relevant project has effect as a screening opinion under regulation 11(5) of the Marine Works Regulations that an environmental impact assessment is not required for the regulated activity.

(4) A determination under regulation 6 of the Welsh Marine Minerals Regulations that the dredging is a relevant project has effect as a screening opinion under regulation 11(6) of the Marine Works Regulations that an environmental impact assessment is required for the regulated activity.

Opinion as to the content of an environmental statement

29.—(1) A request for an opinion under regulation 7(2) of the Welsh Marine Minerals Regulations⁽⁹⁾ which has not been determined before 6th April 2011 must be treated as a request for a scoping opinion under regulation 13(1) of the Marine Works Regulations.

(2) If it is satisfied that any step which is required to be taken by the Welsh Ministers under regulation 7(3) or (4) of the Welsh Marine Minerals Regulations has been taken, the appropriate authority may treat that step as taken in accordance with any corresponding requirement in paragraph 6 or 7 of Schedule 4 to the Marine Works Regulations.

(3) An opinion given under regulation 7(2) of the Welsh Marine Minerals Regulations has effect as a scoping opinion given under regulation 13(2) of and paragraph 7 of Schedule 4 to the Marine Works Regulations.

Fees charged in relation to an application under the Welsh Marine Minerals Regulations

30.—(1) An applicant who has paid a fee pursuant to a determination under regulation 25(1)(a) of the Welsh Marine Minerals Regulations in respect of the Welsh Ministers' expenses of providing an opinion under regulation 7(2) of those Regulations may not be charged a fee under paragraph 3(1) of Schedule 4 to the Marine Works Regulations.

⁽⁹⁾ Regulation 7(2) of the Welsh Marine Minerals Regulations provides for the Welsh Ministers to give an opinion (otherwise known as a "scoping opinion") as to the information to be provided by an environmental statement.

(2) An applicant who has paid a fee pursuant to a determination under regulation 25(1)(a) of the Welsh Marine Minerals Regulations in respect of the Welsh Ministers' expenses of providing information relevant to the preparation of an environmental statement in accordance with regulation 8(3) and (4) of those Regulations may not be required to pay a charge under regulation 15(4) of the Marine Works Regulations.

(3) An applicant who pursuant to a determination under regulation 25(1)(b) of the Welsh Marine Minerals Regulations has paid a fee in respect of a relevant application may not be charged a fee under section 67(1)(b) of the 2009 Act.

(4) A person who, pursuant to a determination under regulation 25(1)(c) of the Welsh Marine Minerals Regulations, has paid a fee in respect of the expenses of the Welsh Ministers in interpreting and assessing the results of any monitoring may not be charged a fee under regulation 24A(1) of the Marine Works Regulations in respect of the same expenses.

(5) In paragraph (3), "a relevant application" means an application under regulation 10(1) of the Welsh Marine Minerals Regulations which by virtue of regulation 26(1) of these Regulations has effect as an application for a marine licence.

Publicity and consultation

31.—(1) If it is satisfied that any step has been taken by the Welsh Ministers to publicise the application in accordance with regulation 12 of the Welsh Marine Minerals Regulations, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 16(1) and (2) or 17(1) of the Marine Works Regulations.

(2) If it is satisfied that any step has been taken by the Welsh Ministers to provide information to or to consult another EEA State in accordance with regulation 15 of the Welsh Marine Minerals Regulations, the appropriate authority may treat that step as taken in accordance with any corresponding requirement of regulation 18, 19 or 20 of the Marine Works Regulations.

(3) Where the appropriate authority is satisfied that any step taken by an applicant—

- (a) is by virtue of regulation 31(2) of the Welsh Marine Minerals Regulations to be treated by the Welsh Ministers immediately before 6th April 2011 as a step taken under regulation 12 of those Regulations, or
- (b) is sufficient to publicise that application, related documents, and information to substantially the same extent as required by regulation 16(1) and (2) or 17(1) of the Marine Works Regulations,

the appropriate authority may treat such a step as taken under regulation 16(1) and (2) or 17(1) (as the case may be) of the Marine Works Regulations.

CHAPTER 5

Savings

Savings in relation to the Marine Minerals Regulations

32.—(1) Notwithstanding the revocation of the Marine Minerals Regulations, regulation 6 (preliminary determinations of the regulator) continues to have effect in relation to any request for a preliminary determination made before 6th April 2011 under regulation 6(1)(b) of those Regulations.

(2) Notwithstanding the revocation of the Marine Minerals Regulations, regulation 26 (register) and regulation 32 (amendments to regulations and savings) of those Regulations continue to have effect.

Savings in relation to the Welsh Marine Minerals Regulations

33.—(1) Notwithstanding the revocation of the Welsh Marine Minerals Regulations regulation 6 (preliminary determinations of the Welsh Ministers) continues to have effect in relation to any request for a preliminary determination made before 6th April 2011 under regulation 6(1)(b) of those Regulations.

(2) Notwithstanding the revocation of the Welsh Marine Minerals Regulations, regulation 26 (register) and regulation 32 (amendments to regulations and savings) of those Regulations continue to have effect.