

**2015 No. 446**

**ENVIRONMENTAL PROTECTION**

**LICENSING (MARINE)**

**MARINE MANAGEMENT**

**The Marine Works (Environmental Impact Assessment)  
(Amendment) Regulations 2015**

*Made* - - - - - *27th February 2015*

*Laid before Parliament* *4th March 2015*

*Coming into force* - - - *27th March 2015*

The Secretary of State is designated<sup>(a)</sup> for the purpose of making Regulations under section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the environment.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of that Act.

**Title and commencement**

**1.** These Regulations may be cited as the Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2015 and come into force on 27th March 2015.

**Amendments to the Marine Works (Environmental Impact Assessment) Regulations 2007**

**2.** The Marine Works (Environmental Impact Assessment) Regulations 2007<sup>(c)</sup> are amended in accordance with regulations 3 to 7.

**Amendment to regulation 2**

**3.** In regulation 2<sup>(d)</sup> (interpretation), in paragraph (1)—

(a) in paragraph (a) of the definition of “appropriate authority”, after “the Marine Management Organisation”, insert “, the Natural Resources Body for Wales”;

(b) for the definition of “the EIA Directive”, substitute—

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(a) S.I. 2008/301.

(b) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) S.I. 2007/1518, amended by S.I. 2011/735; there are other amending instruments but none is relevant.

(d) See also the definitions in regulation 2(1) of “regulator” and “regulatory approval”.

“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 adopted(a);”.

### **Amendment to regulation 3**

4. In regulation 3 (fees), in paragraph (4)(d), after “where the appropriate authority is the Welsh Ministers”, insert “or the Natural Resources Body for Wales”.

### **Amendment to regulation 10**

5. In regulation 10 (exceptions)—

- (a) in paragraph (1)(a)(i), for “Article 2(3)”, substitute “Article 2(4)”;
- (b) in paragraph (3), for “Article 2(3)”, substitute “Article 2(4)”.

### **Amendment to regulation 10A**

6. For regulation 10A (further provisions in relation to Article 2(3) of the EIA Directive), substitute—

#### **“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 an Annex I project or an Annex II 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 another 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 an Annex I project or an Annex II project, if the Welsh Ministers are satisfied that—

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(a) OJ No. L 26, 28.1.2012, p.1. This Directive is amended by Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014 (OJ No. L124, 25.4.2014, p.1), which is required to be transposed by 16th May 2017, but (pending such transposition, and by virtue of the exclusion of section 20A of the Interpretation Act 1978 (c.30)), the definition of “the EIA Directive” is to be construed without reference to the amending Directive.

- (a) 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;
  - (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 another EEA State.
- (6) As soon as practicable after making any such direction, the Welsh Ministers must send a copy of the direction to—
- (a) the Natural Resources Body for Wales;
  - (b) where the Natural Resources Body for Wales is not also the regulator, the regulator; and
  - (c) 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).”.

### **Amendment to regulation 28**

7. In regulation 28 (access to review procedure before a court)—
- (a) for “Article 10a(a)”, substitute “Article 11(1)(a)”;
  - (b) for “Article 10a(b)”, substitute “Article 11(1)(b)”.

*George Eustice*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

27th February 2015

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Marine Works (Environmental Impact Assessment) Regulations 2007(a) (“the principal Regulations”).

Regulation 3(a) amends the definition of the “appropriate authority” to include the Natural Resources Body for Wales (“the NRW”).

The amendment made by regulation 4 provides for the Welsh Ministers to set reasonable fees in respect of expenses incurred in both the Welsh Ministers’ and the NRW’s capacity as an appropriate authority.

Regulation 6 replaces regulation 10A of the principal Regulations, which as amended sets out the procedure enabling the NRW (as well as the Marine Management Organisation) to determine that an environmental impact assessment is not required under regulation 10(1)(a)(i) of those Regulations.

Regulations 3(b), 5, 6 and 7 update references to reflect Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (OJ No. L 26; 28.1.2012, p.1), as adopted(b). This Directive codifies

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(a) S.I. 2007/1518; relevant amendments were made by S.I. 2011/735.  
 (b) This Directive is amended by Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014 (OJ No. L124, 25.4.2014, p.1), which is required to be transposed by 16th May 2017, but (pending such transposition, and by virtue of the exclusion of section 20A of the Interpretation Act 1978 (c.30)), the definition of “the EIA Directive” is to be construed without reference to the amending Directive.

amendments made to, and repeals, 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).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. The Explanatory Memorandum is available at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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