

Statutory Instrument 1988 No. 1218

The Environmental Assessment (Salmon Farming in Marine Waters) Regulations 1988

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STATUTORY INSTRUMENTS

1988No. 1218

FISH FARMING

The Environmental Assessment (Salmon Farming in Marine Waters) Regulations 1988

Made 12th July 1988

Coming into force 15th July 1988

The Secretary of State, being a Minister designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] 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, in exercise of the powers conferred on him by the said section 2 and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Environmental Assessment (Salmon Farming in Marine Waters) Regulations 1988 and shall come into force on the third day following the day on which they are made.

(2) These Regulations apply in any case where an application for consent for salmon farming in marine waters is received by the Crown Estate Commissioners on or after 15th July 1988.

Interpretation

2. In these Regulations, unless the contrary intention appears—
"document" includes a map, diagram, illustration or other descriptive matter in

any form and also includes where appropriate a copy of a document;

"environmental information" means—

- (a) any environmental statement required to be provided by these Regulations;
- (b) any representations made by any authority, body or person required by these Regulations to be invited to make representations or consulted; and
- (c) any representations duly made by any other person about the likely environmental effects of the proposed development;

"environmental statement" means such a statement as is described in Schedule 1;

"inland waters" means waters within Great Britain which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows;

"local planning authority" means any authority which is a local planning authority for the purposes of the Town and Country Planning Act 1971^[3];

"marine waters" means waters within the seaward limits of the territorial sea adjacent to Great Britain, other than—

- (a) inland waters; and
- (b) waters within the jurisdiction of a local planning authority;

"planning authority" means a district planning authority or general planning authority as defined in section 172(4) of the Local Government (Scotland) Act 1973^[4];

"river purification board" means a river purification board established under section 135 of the Local Government (Scotland) Act 1973^[5];

"salmon farming" means keeping live salmon (whether or not for profit) with a view to their sale or to their transfer to other marine waters; and

references to Schedules are references to Schedules to these Regulations.

Prohibition on the granting of consent without environmental information

3.—(1) The Crown Estate Commissioners shall not grant consent for salmon farming in marine waters where the proposed development will be likely to have significant effects on the environment by virtue inter alia of its nature, size or location unless they have taken into consideration environmental information in respect of the proposed development.

(2) For the purposes of paragraph (1), a proposed development shall only be taken to be likely to have significant effects on the environment by virtue inter alia of its nature, size or location where the Crown Estate Commissioners consider that this is the case.

Application for consent

4.—(1) An application for consent for salmon farming in marine waters shall be accompanied by—

- (a) a plan showing the location and extent of the site of the proposed salmon farm;
- (b) a brief outline of the proposed scale of production and the equipment to be installed on site; and
- (c) a statement of the proposed servicing methods and of any intended development on land.

(2) On receipt of any such application—

- (a) the Crown Estate Commissioners shall consider whether the proposed development is one to which the prohibition in regulation 3 applies;
- (b) where the Crown Estate Commissioners consider that the applicant has not provided them with sufficient information to enable them to form an opinion, they may ask him for further information;
- (c) where it appears to the Crown Estate Commissioners that an application for development is an application to which the prohibition in regulation 3 applies, they shall within 6 weeks beginning with the date of receipt of the application notify the applicant in writing of their view and that without consideration of environmental information they may not grant consent;
- (d) in coming to a view as to whether consideration of environmental information is required the Crown Estate Commissioners shall consult such of the authorities,

bodies or persons mentioned in Schedule 2 as they consider appropriate.

Provision of information for environmental statement

5. Where the Crown Estate Commissioners are of the view that the application is one to which the prohibition in regulation 3 applies they shall—

(a) inform such of the authorities, bodies and persons mentioned in Schedule 2 as shall be appropriate according to the circumstances mentioned therein—

(i) of the application and of the requirement for an environmental statement; and

(ii) that they may be required to make available to the applicant, in accordance with regulation 6(1), any information in their possession which he or they consider relevant to the preparation of an environmental statement; and

(b) inform the applicant—

(i) of what they have done under paragraph (a);

(ii) of their view that he should provide an environmental statement; and

(iii) that he shall supply the authorities, bodies and persons mentioned in Schedule 2 with such further information about the proposed development as they may request.

Provision of relevant information

6.—(1) Subject to paragraph (2), any authority, body or person informed by the Crown Estate Commissioners under regulation 5 that a person has applied for consent for a development to which the prohibition in regulation 3 applies shall, if requested by the applicant, or may, without any such request, enter into consultation with him with a view to ascertaining whether they have any information in their possession which he or they consider relevant to the preparation of the environmental statement and shall make any such information available to him.

(2) Nothing in paragraph (1) shall require the disclosure of any information which the body concerned are entitled or bound to hold in confidence.

Publicity for environmental statement

7.—(1) When an environmental statement is submitted, the Crown Estate Commissioners shall publish as soon as possible a notice in a newspaper circulating in the locality nearest to the proposed development and in the Edinburgh Gazette, or London Gazette as the case may be, stating—

(a) where the application and the environmental statement may be inspected, which shall be at a Post Office in the locality nearest to the proposed development;

(b) the address at which copies of the application and the environmental statement may be acquired;

(c) the cost of a copy of the environmental statement;

(d) that representations in writing may be made within a specified period being not less than 28 days from the date of the said notice.

(2) Where the Crown Estate Commissioners are required to publish a notice in accordance with paragraph (1) of this regulation, the applicant shall pay the cost to be incurred by them in arranging such advertisements.

Consultation on environmental statement

8.—(1) Where the Crown Estate Commissioners receive an environmental statement relating to an application to which the prohibition in regulation 3 applies, they shall consult the authorities, bodies and persons mentioned in Schedule 2, according to the circumstances mentioned therein, about the environmental statement and such other persons, groups or bodies as they consider appropriate.

(2) Where an applicant submits an environmental statement to the Crown Estate Commissioners, he shall supply them with enough copies of the environmental statement or parts thereof to enable them to comply with paragraph (1) of this regulation and one additional copy.

(3) Where, under this regulation, the Crown Estate Commissioners consult any authority, body or person—

- (a) they shall give not less than 28 days' notice to such authority, body or person that environmental information is to be taken into consideration; and
- (b) they shall not grant consent for the development to which the environmental information relates until after the expiration of the period of such notice.

(4) Where any authority, body or person which the Crown Estate Commissioners are required to consult under this regulation consider that consultation with them is not required in respect of any environmental statement relating to any case or class of case, or relating to any specified area they shall so inform the Crown Estate Commissioners in writing and notwithstanding the foregoing provisions of this regulation the Crown Estate Commissioners shall not be required so to consult them.

Further information and evidence relating to environmental statements

9.—(1) The Crown Estate Commissioners, when dealing with an application in relation to which an environmental statement has been provided, may in writing require the applicant to provide such further information as may be specified to enable the application to be determined, or concerning any matter which is required to be dealt with in the environmental statement; and where in the opinion of the Crown Estate Commissioners—

- (a) the applicant could (having regard in particular to current knowledge and methods of assessment) provide further information about any matter mentioned in paragraph 3 of Schedule 1; and
- (b) that further information is reasonably required to give proper consideration to the likely environmental effects of the proposed development,

they shall notify the applicant in writing and the applicant shall provide that further information.

(2) The Crown Estate Commissioners may in writing require to be produced to them such evidence, in respect of any environmental statement which it falls to them to take into consideration, as they may reasonably call for to verify any information it contains.

Intimation of decision

10. Where the Crown Estate Commissioners have decided an application to which the prohibition in regulation 3 applies, they shall inform the applicant and all authorities, bodies or persons consulted under regulation 8 of their decision, and of any conditions attached to it.

Charges

11.—(1) A reasonable charge reflecting the costs of printing, copying and distribution may be made to the public for copies of an environmental statement made available to them under regulation 7 and for copies in excess of one copy for each authority, body or person consulted under regulation 8.

(2) An authority, body or person entering into consultation under regulation 8, having been requested to do so, may make a reasonable charge reflecting the costs of making available information which they had in their possession.

Malcolm Rifkind

One of Her Majesty's Principal Secretaries of State
St Andrew's House, Edinburgh

12th July 1988

Notes:

[1] S.I. 1988/785 back

[2] 1972 c. 68 back

[3] 1971 c. 78 back

[4] 1973 c. 65 back

[5] Section 135 was amended by the Control of Pollution Act 1974 (c. 40), Schedule 4. back

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*Prepared 20th September
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