

2018 No. 287

ENVIRONMENTAL PROTECTION

LICENSING (MARINE)

MARINE MANAGEMENT

**The Marine Works (Environmental Impact Assessment) and
Marine Strategy (Amendment) Regulations 2018**

Made - - - - 27th February 2018

Laid before Parliament 5th March 2018

Coming into force - - 1st April 2018

The Secretary of State makes these Regulations, with the consent of the Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by section 56(1) of the Finance Act 1973(a).

The Secretary of State is a Minister designated for purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment(c).

Citation and commencement

1. These Regulations may be cited as the Marine Works (Environmental Impact Assessment) and Marine Strategy (Amendment) Regulations 2018 and come into force on 1st April 2018.

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

2.—(1) The Marine Works (Environmental Impact Assessment) Regulations 2007(d) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)—

(a) in the definition of “appropriate authority”—

(i) for paragraph (b)(iii) substitute—

“(iii) as regards harbour works relating to harbours that are wholly in Wales, other than harbours that are reserved trust ports, the Welsh Ministers;” and

(a) 1973 c. 51; section 56(1) was amended by S.I. 2011/1043.

(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. 2008/301.

(d) S.I. 2007/1518, amended by S.I. 2009/2258, 2011/735, 2015/446, 2017/588 and by SSI 2017/115; there are other amending instruments but none is relevant.

- (ii) for the words after paragraph (b)(iv) substitute—
 - “and—
 - (a) for the purpose of paragraph (a), “devolved authority” means any Northern Ireland Department, the Scottish Ministers or the Welsh Ministers; and
 - (b) for the purpose of paragraph (b)(iii), “reserved trust port” has the meaning given by section 32 of the Wales Act 2017(a);”;
- (b) omit the definition of “fishery harbour”;
- (c) in the definition of “relevant authority”—
 - (i) in paragraph (d), for “Wales” substitute “the Welsh inshore region or the Welsh offshore region (or both)”;
 - (ii) after paragraph (d) insert—
 - “(da) 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;”;
 - (iii) after paragraph (f) insert—
 - “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;”;
- (d) in the definition of “relevant offshore region”—
 - (i) in paragraph (a), at the end insert “or”; and
 - (ii) omit paragraph (b).
- (3) In regulation 3 (fees)—
 - (a) in paragraphs (4)(a) and (d), omit “with the consent of the Treasury”; and
 - (b) in paragraph (4)(b), for the words from “, with the consent of” to the end substitute “with the consent of the Secretary of State;”.

Amendments to the Marine Strategy Regulations 2010

- 3.—**(1) The Marine Strategy Regulations 2010(b) are amended as follows.
- (2) In regulation 2 (interpretation), in paragraph (1)—
 - (a) in the definition of “competent authority”—
 - (i) in paragraph (b), after “region” insert “and the Welsh offshore region”; and
 - (ii) in paragraph (c), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”;
 - (b) in the definition of “devolved marine area”—
 - (i) in paragraph (b), after “region” insert “and the Welsh offshore region”; and
 - (ii) in paragraph (c), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”;
 - (c) in the definition of “devolved policy authority”, for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”; and
 - (d) in the definition of “Northern Ireland body”, for the words from “the Department of Agriculture” to the end substitute “the Department for the Economy and the Department for Infrastructure”.
- (3) In regulation 8 (cooperation in implementation of the marine strategy), in paragraph (1)—
 - (a) in sub-paragraph (a), for “or the Welsh inshore region” substitute “, the Welsh inshore region or the Welsh offshore region”; and

(a) 2017 c. 4; section 32 comes into force on 1st April 2018.

(b) S.I. 2010/1627, to which there are amendments not relevant to these Regulations.

(b) in sub-paragraph (b)—

- (i) for “a devolved policy authority or” substitute “the Department of Agriculture, Environment and Rural Affairs in Northern Ireland or a”; and
- (ii) omit “or the Welsh offshore region”.

26th February 2018

We consent

Thérèse Coffey
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

27th February 2018

Andrew Stephenson
Rebecca Harris
Two Lord Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518) (“the EIA Regulations”) and the Marine Strategy Regulations 2010 (S.I. 2010/1627) (“the Marine Strategy Regulations”). The amendments are consequential on the transfer to the Welsh Ministers by sections 29, 46 and 47 (respectively) of the Wales Act 2017 (c. 4) of certain functions relating to harbours that are wholly in Wales, and functions relating to marine licensing and marine conservation in the Welsh offshore area under the Marine and Coastal Access Act 2009 (c. 23).

The effect of the amendments to the EIA Regulations is that, for the purposes of those Regulations—

- (a) the Welsh Ministers are the appropriate authority for harbours that are wholly in Wales (other than reserved trust ports) (regulation 2(2)(a));
- (b) the Welsh Ministers are “the relevant authority” where a regulated activity is likely to have a significant effect on the environment of the Welsh offshore region and the Welsh Ministers are not the appropriate authority (regulation 2(2)(c)).

The EIA Regulations are also amended to remove the requirement for Treasury consent under paragraphs (4)(a), (4)(b) and (4)(d) of regulation 3 (fees) (regulation 2(3)).

The effect of the amendments to the Marine Strategy Regulations is as follows—

- (a) for the purposes of those Regulations, the Welsh Ministers are the competent authority for the Welsh offshore region (regulation 3(2)(a));
- (b) for the purposes of any relevant function exercisable by the Welsh Ministers, the devolved marine area includes the Welsh offshore region (regulation 3(2)(b));
- (c) the Welsh Ministers and the Secretary of State must co-operate in relation to the exercise of any relevant function of the Secretary of State within the Welsh offshore region (regulation 3(3)).

The Marine Strategy Regulations are also amended to reflect the transfer of functions to the Department of Agriculture, Environment and Rural Affairs in Northern Ireland under the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76).

An impact assessment has not been produced for this instrument since it involves changes to the powers of the Welsh Ministers which have been considered in the impact assessment which accompanied the Wales Bill. That impact assessment is accessible at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527740/Wales_Bill_impact_assessment.pdf. Copies of this document are available from the Marine Planning, Licensing & Coastal Integration Policy Team, Marine and Fisheries Directorate, Department for

Environment, Food and Rural Affairs, 9 Millbank, c/o 17 Smith Square, London, SW1P 3JR. In addition, a copy of this document has been placed in the libraries of both Houses of Parliament.

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