
STATUTORY INSTRUMENTS

2010 No. 1627

The Marine Strategy Regulations 2010

PART 3

Elements of the marine strategy

Exceptions

15.—(1) The competent authority may identify cases within the marine waters for which it is the competent authority where, for any of the reasons specified in paragraph 2(a) to (d), the environmental targets or good environmental status cannot be achieved in every aspect through measures taken by the Secretary of State, the devolved policy authority, the public authority or the Northern Ireland body or, for reasons referred to in paragraph 2(e), they cannot be achieved by the time required by these Regulations.

(2) The reasons referred to in paragraph (1) are—

- (a) action or inaction for which the United Kingdom is not responsible;
- (b) natural causes;
- (c) force majeure;
- (d) modifications or alterations to the physical characteristics of marine waters brought about by actions taken for reasons of overriding public interest which outweigh the negative impact on the environment, including any transboundary impact; or
- (e) natural conditions which do not allow timely improvement in the status of the marine waters concerned.

(3) Where the competent authority has identified a case falling within paragraph (1), the duty under these Regulations to take necessary measures to achieve good environmental status does not apply, subject to the limitations of this regulation.

(4) In respect of a case falling within paragraph (1) by virtue of sub-paragraph (b), (c) or (d) of paragraph (2), the competent authority must take such measures as it considers appropriate which aim—

- (a) to make progress towards the environmental targets established under regulation 12 to prevent further deterioration of the status of the affected marine waters; and
- (b) to mitigate the adverse impact of such a case at the level of the marine region or subregion or in the marine waters in relation to which other member States have or exercise jurisdictional rights.

(5) Such measures must be integrated into the programme of measures, so far as practicable.

(6) In respect of a case falling within paragraph (1) by virtue of sub-paragraph (d) of paragraph (2), the competent authority must ensure that the modifications and alterations do not permanently preclude or compromise the achievement of good environmental status at the level of the marine region or subregion or in the marine waters in relation to which other member States have or exercise jurisdictional rights.

(7) In identifying any case under paragraph (1), the competent authority must consider the consequences for other member States in the marine region or subregion concerned.

(8) The competent authority must clearly identify such cases in the programme of measures.

(9) The Secretary of State must notify the Commission of the justification for any such cases identified by any competent authority.

(10) The duty under these Regulations, including under regulations 4 and 5, to develop or (as the case may be) implement any element of the marine strategy, other than the assessment of marine waters, does not require the taking of any steps—

(a) in so far as the omission to take steps would pose no significant risk to the marine environment, or

(b) the costs would be disproportionate taking account of the risks to the marine environment, provided that the omission to take those steps does not result in deterioration of the marine waters concerned.

(11) Where the competent authority relies on either exception under paragraph (10)—

(a) the Secretary of State must provide the Commission with the necessary justification; and

(b) the competent authority must avoid the achievement of good environmental status being permanently compromised.

(12) Nothing in these Regulations affects activities the sole purpose of which is defence or national security, but the Secretary of State must endeavour to ensure that such activities are conducted in a manner that is compatible, so far as reasonable and practicable, with the objectives of the Directive.