

SCHEDULE 1

Regulation 2(1) and (2)

Definitions

PART 1

Meaning of (a) “retained function” and (b) “any function in relation to which functions are exercisable by a Minister of the Crown or Government Department”

1. In these Regulations, “retained function” means as respects the Scottish inshore region, the Scottish offshore region, the Welsh inshore region, the Welsh offshore region, the Northern Ireland inshore region and the Northern Ireland offshore region, any function of a Minister of the Crown, government department, Northern Ireland department or public authority other than—

- (a) any Scottish Ministerial function;
- (b) any Welsh Ministerial function;
- (c) any Northern Ireland government function;
- (d) any secondary devolved function; or
- (e) any relevant ancillary function.

2.—(1) For the purpose of paragraph 1(a) to (c) and paragraph 3—

- (a) “Northern Ireland government function” means—
 - (i) any function exercisable by a Northern Ireland Minister or a Northern Ireland department, other than any joint function or concurrent function;
 - (ii) any concurrent function, so far as exercised by a Northern Ireland Minister or a Northern Ireland department;
 - (iii) the function exercised by a Northern Ireland Minister or a Northern Ireland department when exercising a joint function;
- (b) “Scottish Ministerial function” means—
 - (i) any function exercisable by the Scottish Ministers, other than any joint function or concurrent function;
 - (ii) any concurrent function, so far as exercised by the Scottish Ministers;
 - (iii) the function exercised by the Scottish Ministers when exercising a joint function;
- (c) “Welsh Ministerial function” means—
 - (i) any function exercisable by the Welsh Ministers, the First Minister or the Counsel General, other than any joint function or concurrent function;
 - (ii) any concurrent function, so far as exercised by the Welsh Ministers, the First Minister or the Counsel General;
 - (iii) the function exercised by the Welsh Ministers, the First Minister or the Counsel General when exercising a joint function;
- (d) “concurrent function” means a function exercisable concurrently with a Minister of the Crown or government department;
- (e) “joint function” means a function exercisable jointly with a Minister of the Crown or government department.

3. For the purpose of paragraph 1(e), “relevant ancillary function” means any function exercisable by a public authority in relation to any of the following—

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- (a) a Scottish Ministerial function,
- (b) a Welsh Ministerial function,
- (c) a Northern Ireland government function,
- (d) a secondary devolved function,

other than any function in relation to which functions are exercisable by a Minister of the Crown or government department.

4. For the purposes of regulation 2(1)(1) and paragraph 3, functions are not to be regarded as exercisable by a Minister of the Crown or government department in relation to any function of a public authority merely because—

- (a) the agreement of a Minister of the Crown or government department is required to the exercise of a function of the public authority;
- (b) a Minister of the Crown or government department must be consulted by the public authority, or by the Scottish Ministers, the Welsh Ministers, the First Minister, the Counsel General, a Northern Ireland Minister or a Northern Ireland department, about the exercise of a function of the public authority; or
- (c) a Minister of the Crown or government department may exercise functions falling within paragraph 5 in relation to functions of the public authority.

5. The functions mentioned in paragraph 4(c) are—

- (a) functions under section 2(2) of the European Communities Act 1972(2);
- (b) functions by virtue of section 57(1) of the Scotland Act 1998(3) (Community obligations) or under section 58 of that Act (international obligations);
- (c) functions under section 26 or 27 of the Northern Ireland Act 1998(4) (international obligations and quotas for international obligations);
- (d) functions by virtue of section 80(3) of, or paragraph 5 of Schedule 3 to, the Government of Wales Act 2006(5) (Community obligations) or under section 82 of that Act (international obligations etc);
- (e) functions under section 152 of that Act (intervention in case of functions relating to water etc).

PART 2

Directive definitions

The definitions contained in the Directive of expressions used in these Regulations, and which have the same meaning as in these Regulations, are as follows—

“criteria” means distinctive technical features that are closely linked to qualitative descriptors;

“environmental status” means the overall state of the environment in marine waters, taking into account the structure, function and processes of the constituent marine ecosystems together with natural physiographic, geographic, biological, geological and climatic factors, as well as physical, acoustic and chemical conditions, including those resulting from human activities inside or outside the area concerned;

(1) See definitions of “secondary devolved Northern Ireland function”, “secondary devolved Scottish function” and “secondary devolved Welsh function”.

(2) 1972 c. 68.

(3) 1998 c. 46.

(4) 1998 c. 47.

(5) 2006 c. 32.

“environmental target” means a qualitative or quantitative statement on the desired condition of the different components of, and pressures and impacts on, marine waters in respect of each marine region or subregion. Environmental targets are established in accordance with Article 10;

“good environmental status” means the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding the potential for uses and activities by current and future generations, i.e.:

- (a) the structure, functions and processes of the constituent marine ecosystems, together with the associated physiographic, geographic, geological and climatic factors, allow those ecosystems to function fully and to maintain their resilience to human-induced environmental change. Marine species and habitats are protected, human-induced decline of biodiversity is prevented and diverse biological components function in balance;
- (b) hydro-morphological, physical and chemical properties of the ecosystems, including those properties which result from human activities in the area concerned, support the ecosystems as described above. Anthropogenic inputs of substances and energy, including noise, into the marine environment do not cause pollution effects;

good environmental status shall be determined at the level of the marine region or subregion as referred to in Article 4, on the basis of the qualitative descriptors in Annex 1. Adaptive management on the basis of the ecosystem approach shall be applied with the aim of attaining good environmental status;

“marine region” means a sea region which is identified under Article 4. Marine regions and their subregions are designated for the purpose of facilitating implementation of this Directive and are determined taking into account hydrological, oceanographic and biogeographic features;

“marine strategy” means the strategy to be developed and implemented in respect of each marine region or subregion concerned as laid down in Article 5;

“pollution” means the direct or indirect introduction into the marine environment, as a result of human activity, of substances or energy, including human-induced marine underwater noise, which results or is likely to result in deleterious effects such as harm to living resources and marine ecosystems, including loss of biodiversity, hazards to human health, the hindering of marine activities, including fishing, tourism and recreation and other legitimate uses of the sea, impairment of the quality for use of sea water and reduction of amenities or, in general, impairment of the sustainable use of marine goods and services;

“regional cooperation” means cooperation and coordination of activities between Member States and, whenever possible, third countries sharing the same marine region or subregion, for the purpose of developing and implementing marine strategies.

PART 3

Water Framework Directive definitions

The definitions in the Water Framework Directive of expressions defined in regulation 2 as having the same meaning in these Regulations as in that Directive are as follows—

“coastal water” means surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured, extending where appropriate up to the outer limit of transitional waters;

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“transitional waters” means bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows.

For this purpose—

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“inland water” means all standing or flowing water on the surface of the land, and all groundwater on the landward side of the baseline from which the breadth of territorial waters is measured;

“surface water” means inland waters, except groundwater; transitional waters and coastal waters, except in respect of chemical status for which it shall also include territorial waters.

SCHEDULE 2

Regulation 4(2)

Enactments in relation to which duty in regulation 4 applies

The Whaling Industry (Regulation) Act 1934**(6)**

The Foyle Fisheries Act (Northern Ireland) 1952**(7)**

The Harbours Act 1964**(8)**

The Fisheries Act (Northern Ireland) 1966**(9)**

The Harbours Act (Northern Ireland) 1970**(10)**

The Prevention of Oil Pollution Act 1971**(11)**

The Water Resources Act 1991**(12)**

sections 128 and 129 of the Merchant Shipping Act 1995**(13)** (prevention of pollution from ships and further provision for prevention of pollution from ships)

The Petroleum Act 1998**(14)**

The Pollution Prevention and Control Act 1999**(15)**

The Water Environment and Water Services (Scotland) Act 2003**(16)**

The Planning Act 2008**(17)**

The Marine and Coastal Access Act 2009**(18)**

The Marine (Scotland) Act 2010**(19)**

(6) 1934 c. 49.

(7) 1952 c.5.

(8) 1964 c. 40.

(9) 1966 c.17.

(10) 1970 c. 1.

(11) 1971 c. 60.

(12) 1991 c.57.

(13) 1995 c. 21. Section 128 was amended by s.2 of the Merchant Shipping (Pollution) Act 2006 (c.8).

(14) 1998 c.17.

(15) 1999 c. 24.

(16) 2003 asp3.

(17) 2008 c.29.

(18) 2009 c.23.

(19) 2010 asp 5.

- The Conservation (Natural Habitats, &c.) Regulations 1994**(20)**
The Urban Waste Water Treatment (England and Wales) Regulations 1994**(21)**
The Urban Waste Water Treatment (Scotland) Regulations 1994**(22)**
The Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995**(23)**
The Merchant Shipping (Prevention of Oil Pollution) Regulations 1996**(24)**
The Surface Waters (Shellfish) (Classification) Regulations 1997**(25)**
The Surface Waters (Shellfish) (Classification) (Scotland) Regulations 1997**(26)**
The Surface Waters (Shellfish) (Classification) Regulations (Northern Ireland) 1997**(27)**
The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998**(28)**
The Water (Northern Ireland) Order 1999**(29)**
The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001**(30)**
The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003**(31)**
The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003**(32)**
The Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003**(33)**
The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003**(34)**
The Pollution Prevention and Control Regulations (Northern Ireland) 2003**(35)**
The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004**(36)**
The Water and Sewerage Services (Northern Ireland) Order 2006**(37)**
The Water Supply (Water Quality) Regulations (Northern Ireland) 2007**(38)**
The Urban Waste Water Treatment Regulations (Northern Ireland) 2007**(39)**

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- (20) S.I. 1994/2716. Relevant amendments were made by the Land Reform (Scotland) Act 2003 (asp 2), paragraphs 14 to 16 of Schedule 2, and, S.S.I. 2000/323, S.S.I. 2004/475, S.S.I. 2006/270, S.S.I. 2007/80, S.S.I. 2007/349, S.S.I. 2007/485, S.S.I. 2007/517, S.S.I. 2008/17, S.S.I. 2008/425, S.S.I. 2008/427, S.S.I. 2009/222, S.S.I. 2009/343 and S.I. 2010/490.
- (21) S.I. 1994/2841, amended by Environment Act 1995, Sch 22, para 233(1), S.I. 2003/1788 and S.I. 2005/2035.
- (22) S.I. 1994/2842, amended by S.I. 1996/973 and S.S.I. 2003/273.
- (23) S.R. (NI) 1995 No. 380, amended by S.R. (NI) 2003 No. 46, S.R. (NI) 2004 No. 435, S.R. (NI) 2007 No. 345 and S.R. (NI) 2009 No. 8.
- (24) S.I. 1996/2154, amended by S.I. 1997/1910, S.I. 1999/1957, S.I. 2000/483, S.I. 2004/303, S.I. 2004/2110, S.I. 2005/1916 and S.I. 2009/1210.
- (25) S.I. 1997/1332, amended by S.I. 2009/1266.
- (26) S.I. 1997/2470, amended by S.S.I. 2007/427.
- (27) S.R. (NI) 1997 No. 489, amended by S.R. (NI) 2009 No 61.
- (28) S.I. 1998/1056, amended by S.I. 2001/1639, S.I. 2007/3224 and S.I. 2009/229.
- (29) S.I. 1999/662 (NI 16), amended by the Public Authorities (Reform) Act (Northern Ireland) 2009 (c.3), S.I. 2006/1946 (NI 15), S.I. 2006/3336 (NI 21), S.R. (NI) 2006 No 34 and S.R. (NI) 2009 No 254.
- (30) S.I. 2001/1754, amended by S.I. 2007/77 and 2007/1842.
- (31) S.I. 2003/1809, amended by S.I. 2009/1176.
- (32) S.I. 2003/3242, amended by S.I. 2005/2035, S.I. 2007/3538, S.I. 2008/1097 and S.I. 2010/630.
- (33) S.I. 2003/3245.
- (34) S.R. (NI) 2003 No. 544.
- (35) S.R. (NI) 2003 No. 46, amended by S.R. (NI) 2007 No. 245 and S.R. (NI) 2009 No. 403.
- (36) S.I. 2004/99, amended by S.I. 2005/2035 and S.I. 2008/1097.
- (37) S.I. 2006/3336 (NI 21), amended by the Water and Sewerage Services (Amendment) Act (Northern Ireland) 2010 (c.5), S.I. 2008/948, S.I. 2008/1277 and S.R. (NI) 2010 No. 128.
- (38) S.R. (NI) 2007 No. 147, amended by S.R. (NI) 2010 No. 128.
- (39) S.R. (NI) 2007 No. 187.

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The Offshore Marine Conservation (Natural Habitats) Regulations 2007**(40)**

The Bathing Waters (Scotland) Regulations 2008**(41)**

The Bathing Water Regulations 2008**(42)**

The Quality of Bathing Water Regulations (Northern Ireland) 2008**(43)**

The Conservation of Natural Habitats and Species Regulations 2010**(44)**

(40) S.I. 2007/1842, amended by S.S.I. 2007/485, S.I. 2009/7, S.I. 2010/490 and S.I. 2010/491.

(41) S.S.I. 2008/170.

(42) S.I. 2008/1097.

(43) S.R. (NI) 2008 No. 231.

(44) S.I. 2010/490.