

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2007 No. 485**

The Environmental Impact Assessment and  
Natural Habitats (Extraction of Minerals by Marine  
Dredging) (Scotland) Regulations 2007 (revoked)

**PART 7**

GENERAL

**Register**

**25.**—(1) The Scottish Ministers shall keep a register containing the information specified in paragraph (2).

- (2) The register shall contain a copy, either in photographic or electronic form or both, of—
- (a) each determination received from the Secretary of State under regulation 5(2);
  - (b) each determination made by the Scottish Ministers under regulation 5(3);
  - (c) each request for a preliminary determination under regulation 6(1);
  - (d) each preliminary determination made by the Scottish Ministers in response to a request under regulation 6(1);
  - (e) each opinion given by the Scottish Ministers under regulation 7(2);
  - (f) each application for permission to carry out dredging made to the Scottish Ministers under regulation 9(1), including any environmental statement, and any accompanying plans and drawings;
  - (g) any further information supplied in response to a request under regulation 10(2), or any other information supplied by the applicant;
  - (h) each notice published under regulation 11(1);
  - (i) any reports and advice which are issued to the Scottish Ministers in relation to any application under these Regulations;
  - (j) each determination made by the Scottish Ministers under regulation 12(1);
  - (k) any information supplied by an applicant under regulation 12(2);
  - (l) each decision of the Scottish Ministers in relation to an application under regulation 12(6), including a copy of the report of any person appointed under regulation 12(4) in respect of the application, details of any conditions subject to which permission was granted and the date of the decision;
  - (m) each approval of a transfer given under regulation 15(2), including a copy of any conditions subject to which the approval was given;
  - (n) each application for a variation of a permission made under regulation 17(1);
  - (o) any information provided by the applicant, or decision, determination or opinion of the Scottish Ministers in relation to an application to vary a permission to carry out

*Status: Point in time view as at 23/11/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 (revoked), PART 7. (See end of Document for details)*

- dredging, under any regulation which is applied to an application under regulation 17(1) by regulation 18(1)(b) or (3);
- (p) each determination made by the Scottish Ministers under regulation 17(3);
  - (q) any information provided by an applicant for a variation under regulation 19(2);
  - (r) each decision made by the Scottish Ministers under regulation 19(8) in relation to a proposed variation, including a copy of the report of any person appointed under regulation 19(6) in respect of the application, details of any conditions subject to which the variation was granted and the date of the decision;
  - (s) each notice served by the Scottish Ministers under regulation 20(3)(a);
  - (t) any information provided by the owner or holder of a permission in response to a request under regulation 20(3)(b);
  - (u) the report of any person appointed under regulation 20(10);
  - (v) each decision made by the Scottish Ministers under regulation 20(11);
  - (w) each notice served by the Scottish Ministers under regulation 20(12);
  - (x) the order of any court in any legal proceedings in respect of an offence under these Regulations;
  - (y) any information supplied by an applicant under paragraph 2(2) of Schedule 3;
  - (z) any information provided by the owner or holder of a permission under paragraph 3(4) of Schedule 3;
    - (aa) each decision made by the Scottish Ministers to affirm, revoke or vary a permission under paragraph 3(5) of Schedule 3;
    - (bb) each notice served by the Scottish Ministers under paragraph 4(1) of Schedule 3;
    - (cc) each notice served by the Scottish Ministers under paragraph 5(1) or (5) of Schedule 3;
    - (dd) each decision made by the Scottish Ministers in respect of a review under paragraph 5(4) of Schedule 3, including a copy of the report of any person appointed under paragraph 5(3) of that Schedule in respect of the review, and the date of the decision;
    - (ee) any statement of reasons accompanying any of the above;
    - (ff) any monitoring scheme, report or other information submitted to the Scottish Ministers under a condition to which permission to carry out dredging, or consent to a transfer of a permission under regulation 15, was made subject;
    - (gg) any representation made or information provided to the Scottish Ministers by any person or body, and in particular an EEA state, the Secretary of State and the Department of Environment in connection with any function performed or to be performed by the Scottish Ministers under these Regulations; and
    - (hh) the order of any court in any legal proceedings in which the validity of any approval, decision, determination, opinion or other action of the Scottish Ministers under these Regulations was questioned.
- (3) The register shall include an index.
- (4) The register shall be available for inspection by the public at all reasonable hours, by prior appointment.
- (5) Where the register is kept using electronic storage, the Scottish Ministers may also make the register available for inspection by the public on a website maintained by the Scottish Ministers for that purpose.

(6) On request by any member of the public and on payment of a reasonable fee, the Scottish Ministers shall provide a copy of any document entered on the register.

(7) Except where paragraph (8) applies, an entry in the register shall be made within 28 days of—

- (a) the receipt by the Scottish Ministers of any application, representation, information, scheme, report or order;
- (b) the giving or making of the relevant approval, decision, determination or opinion, or the issuing of the relevant notice.

(8) Where the Scottish Ministers are of the view that making an entry in the register in accordance with paragraph (7) may prejudice the fairness or speed of the process of the giving or making of any approval, decision, determination or opinion under these Regulations, the entry shall be made as soon as practicable after the approval, decision, determination or opinion has been made or given.

### Penalties

26.—(1) A person who commits an offence under these Regulations shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on indictment, to a fine.

(2) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to, neglect on the part of an officer, that person, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) In this regulation, “officer”, in relation to a body corporate means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body or a person purporting to act in that capacity.

(4) For the purposes of paragraph (3), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) Proceedings for an offence alleged to have been committed under these Regulations by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(6) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a partner, the partner as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(7) Proceedings for an offence under these Regulations may be taken, and the offence may for all incidental purposes be treated as having been committed in relation to dredging in marine waters in Scotland and the Scottish zone, in any place in Scotland.

(8) Proceedings for a declaration under regulation 3(2) may be taken, and the contravention which is complained of may for all incidental purposes be treated as having been committed, in any part of Scotland.

### Local inquiries

27.—(1) The Scottish Ministers may cause a local inquiry to be held for the purposes of the exercise of any of their functions under these Regulations.

(2) In relation to a local inquiry held under these Regulations in respect of dredging in Scotland and the Scottish zone, the provisions of section 210(2) to (8) of the Local Government (Scotland)

*Status: Point in time view as at 23/11/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 (revoked), PART 7. (See end of Document for details)*

Act 1973 <sup>M1</sup> shall apply in relation to any inquiry held under these Regulations as they apply in relation to an inquiry mentioned in subsection (1) of that section.

#### Marginal Citations

**M1** 1973 c. 65.

### Electronic communications

**28.—(1)** A requirement in these Regulations that any application, approval, decision, determination, notice, opinion, or request should be in writing is fulfilled where the recipient consents to receive it electronically and the document meets the criteria in paragraph (4), and “written” is to be construed accordingly.

(2) Where an application is made to the Scottish Ministers for any approval, decision, determination or opinion, under these Regulations using electronic communications, the person making the application shall be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the application which are capable of being carried out electronically;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application; and
- (c) that the deemed agreement under this paragraph shall subsist until that person gives notice to revoke the agreement.

(3) Where a person is no longer willing to accept the use of electronic communications in relation to any application under these Regulations, that person shall give notice to the Scottish Ministers and such revocation shall be final and shall take effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(4) The criteria referred to in paragraph (1) are that the document transmitted by the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Nothing in this regulation shall prevent the Scottish Ministers from requiring an applicant for permission under regulation 9 or the applicant in relation to any application under regulation 6(1), 7(2), 15(2) or 17(1) or the owner or holder of a permission in the case of a proposed revocation or variation under regulation 20, to provide such number of printed copies of any document as the Scottish Ministers shall reasonably require, notwithstanding that the document has already been transmitted to the Scottish Ministers electronically.

(7) Where the electronic communication is received by the recipient outside the recipient's business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, a Bank Holiday in Scotland, or any other day which is a local or public holiday in an area in which the electronic communication is received.

(8) In this regulation—

- (a) the expression “address” includes any number or address used for the purpose of such communications or storage; and
- (b) “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 <sup>M2</sup>.

**Marginal Citations**

**M2** 2000 c. 7. Section 15 was amended by the [Communications Act 2003 \(c. 21\)](#), [Schedule 17](#), paragraph 158.

**Status:**

Point in time view as at 23/11/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 (revoked), PART 7.