

2020 No. 157

ENVIRONMENTAL PROTECTION

LICENSING (MARINE)

**The Marine Works and Marine Licensing (Miscellaneous
Temporary Modifications) (Coronavirus) (Scotland) Regulations
2020**

Made - - - - at 1.45 p.m. on 20th May 2020

Laid before the Scottish Parliament at 4.00 p.m. on 20th May 2020

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a), sections 23(3)(d), (4) and (5), 24(2) and 165(1) of the Marine (Scotland) Act 2010^(b) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Marine Works and Marine Licensing (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and come into force immediately after they are made.

Amendment of the Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013

2.—(1) The Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013^(c) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 3 (interpretation), omit the “and” that follows the definition of “pre-application consultation statement” and after that definition insert—

““relevant period” means the period beginning on 21 May 2020 and ending on the date on which Part 1 of the Coronavirus (Scotland) Act 2020^(d) expires in accordance with section 12 of that Act; and”.

(a) 1972 c.68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) with effect from exit day (see section 20 of the 2018 Act), but saved, subject to modifications, until IP completion day by section 1A of that Act. Section 1A of the 2018 Act was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”), and defines “IP completion day” by reference to section 39(1) to (5) of the 2020 Act. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) section 3(3) and schedule 1, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) 2010 asp 5.

(c) S.S.I. 2013/286.

(d) 2020 asp 7.

(3) In regulation 7(1) (pre-application consultation event) for “The prospective” insert “Subject to regulation 7A, the prospective”.

(4) After regulation 7 insert—

“Temporary relaxation of pre-application consultation requirements during Coronavirus emergency period

7A.—(1) Regulation 7 applies during the relevant period and during the period of 6 weeks immediately after the end of the relevant period, as if—

- (a) in paragraphs (1)(a), (2), (3)(a) and (c) after “pre-application” (in each place it occurs) there were inserted “online”;
- (b) in paragraph (1)(b)(iii) “the date and place of the pre-application consultation event” were substituted with “the date and instructions on how to join a pre-application online consultation event”; and
- (c) paragraph (3)(b) were omitted.”.

(5) In regulation 8 (pre-application consultation report) for “A pre-application” insert “Subject to regulation 8A, a pre-application”.

(6) After regulation 8 (pre-application consultation report), insert—

“Temporary modification of form of pre-application consultation report

8A. Where regulation 7A applies, regulation 8 applies as if the form referred to in that regulation were substituted with the form set out in the schedule of the Marine Works and Marine Licensing (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020.”.

Amendment of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

3.—(1) The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017(a) are amended in accordance with paragraphs (2) to (12).

(2) In regulation 2(1) (interpretation), before the definition of “Scottish marine protection area” insert—

““relevant period” means the period beginning on 21 May 2020 and ending on the date on which Part 1 of the Coronavirus (Scotland) Act 2020 expires in accordance with section 12 of that Act;”.

(3) In regulation 16(2) (publication of EIA report) for “A notice” substitute “Subject to regulation 16A, a notice”.

(4) After regulation 16 insert—

“Temporary relaxation of requirement for publication of EIA report

16A. Regulation 16(2)(c) applies during the relevant period as if “and the times and places at which, and the means by which the EIA report is available for inspection” were substituted with “on the application website”.”.

(5) In regulation 19(1) (copies of EIA report for the Scottish Ministers) for “Where” substitute “Subject to regulation 19A, where”.

(a) S.S.I. 2017/115 to which there are amendments which are not relevant to this instrument.

(6) After regulation 19 insert—

“Temporary relaxation of requirement for hard copies of EIA report for the Scottish Ministers

19A. Regulation 19 applies during the relevant period as if—

- (a) paragraph (1) required an EIA report in relation to an application for a marine licence to be submitted by means of electronic communication and for the applicant to send two hard copies of the EIA report to the Scottish Ministers but only to send such hard copies if requested to do so by them, and
- (b) paragraph (2) were omitted.”.

(7) In regulation 20(1) (copies of EIA report for the public), for “Where” substitute “Subject to regulation 20A, where”.

(8) After regulation 20 insert—

“Temporary relaxation of requirement for hard copies of EIA report for the public

20A. There is no requirement to make hard copies of an EIA report available for public inspection during the relevant period.”.

(9) In regulation 22(1) (publication of additional information) for “Where” substitute “Subject to regulation 22A, where”.

(10) After regulation 22 insert—

“Temporary relaxation of requirement for publication of additional information

22A. Regulation 22(3)(c) applies during the relevant period as if “and the times and places at which, and the means by which, the additional information is available for inspection” were substituted with “on the application website”.”.

(11) In regulation 25(3) (notification of decision) for “A notice” substitute “Subject to regulation 25A, a notice”.

(12) After regulation 25 insert—

“Temporary relaxation of requirement to make decision notice available for inspection

25A. Regulation 25 applies during the relevant period as if paragraph (3)(c) were substituted with—

“(c) state the details of the website where a copy of the decision notice is available for inspection.”.”.

FERGUS EWING

A member of the Scottish Government

St Andrew’s House,
Edinburgh
At 1.45 p.m. on 20th May 2020

SCHEDULE

Regulation 2(6)

Form

PRE-APPLICATION CONSULTATION REPORT

Marine (Scotland) Act 2010: Section 24

1. Proposed Licensable Marine Activity

Please describe below or, where there is insufficient space, in a document attached to this form the proposed licensable marine activity, including its location

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2. Applicant Details

Title	Initials	Surname

Trading Title
(if appropriate)

Address

Name of contact
(if different)

--

Position within Company
(if appropriate)

--

Telephone No.
(inc. dialing code)

Fax No.
(inc. dialing code)

--	--

Company Registration No.

Email

--	--

Is this prospective applicant the proposed licensee?

YES NO

If NO, please complete Section 3 below.

3. Proposed Licensee Details

Title Initials Surname

--	--	--

Trading Title
(if appropriate)

--	--

Address

Name of contact
(if different)

--

Position within Company
(if appropriate)

--

Telephone No.
(inc. dialing code)

Fax No.
(inc. dialing code)

--	--

Company Registration No.

Email

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4. Pre-application Online Consultation Event

Please describe below or, where there is insufficient space, in a document attached to this form the pre-application online consultation event

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5. Information provided by the Prospective Applicant at the Pre-application Online Consultation Event

Please provide below or, where there is insufficient space, in a document attached to this form details of any information provided by the prospective applicant for a marine licence at the pre-application online consultation event

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6. Information received by the Prospective Applicant at the Pre-application Online Consultation Event

Please provide below or, where there is insufficient space, in a document attached to this form details of any comments and objections received by the prospective applicant for a marine licence at the pre-application online consultation event

7. Amendments made, or to be made, to the Application for a Marine Licence by the Prospective Applicant following their Consideration of Comments and/or Objections received at the Pre-application Online Consultation Event

Where any amendments are made, or are to be made, by the prospective applicant for a marine licence to the marine licence application as a direct result of their consideration of comments and/or objections received at the pre-application online consultation event, please provide below or, where there is insufficient space, in a document attached to this form details of such amendments

8. Explanation of Approach taken by the Prospective Applicant where, following Relevant Comments and/or Objections being received by the Prospective Applicant at the Pre-application Online Consultation Event, no Relevant Amendment is made to the Application for a Marine Licence

Where, following comments and/or objections having been received by the prospective applicant for a marine licence at the pre-application online consultation event, no relevant amendment is made to the application for a marine licence by the prospective applicant, then please provide below or, where there is insufficient space, in a document attached to this form an explanation for the approach taken

--

CERTIFICATION

Insert name

Insert Address

Town
County
Postcode

I certify that I have complied with the legislative requirements relating to pre-application consultation and that the pre-application consultation has been undertaken in accordance with the statutory requirements.

Signature _____

Date _____

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make temporary modifications to the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 Regulations”) and the Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013 (“the 2013 Regulations”). The modifications made by these Regulations are necessary as a result of coronavirus (severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)). These modifications alter requirements to make information or documentation available for inspection in a public place, to provide hard copies of EIA reports, and to hold public events.

Regulation 2 amends the 2013 Regulations. These amendments provide that during the relevant period and in the period of 6 weeks immediately following the end of the relevant period an online event rather than a public event is to be held as part of pre-application consultation procedures, and also makes consequential modifications.

Regulation 3 amends the 2017 Regulations. These amendments provide that during the relevant period an applicant is not required to ensure that copies of an EIA report are available for inspection at a physical location or required to provide hard copies of an EIA report to the Scottish Ministers.

The relevant period begins on 21 May 2020 and its end point is provided for by reference to section 12 of the Coronavirus (Scotland) Act 2020 (regulation 2).

A Business and Regulatory Impact Assessment in relation to these Regulations has been prepared and is available online at www.legislation.gov.uk.

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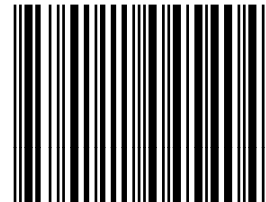
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