

SCHEDULE 4

Regulation 152(2)

The TEN-E Regulation: Savings

1. Chapter III (permit granting and public participation) of, and Annex VI (guidelines for transparency and public participation) to, the TEN-E Regulation continue to apply on and after exit day as if that Regulation had not been revoked, in relation to an existing permit application.

2. In paragraph 1, “an existing permit application” means an application for a permit to carry out works in the United Kingdom or in the UK marine area in relation to a relevant project, for which the statutory permit granting procedure started before exit day.

3. In paragraph 2—

“a relevant project” means—

- (a) a project which, immediately before exit day, was on the Union list of projects of common interest referred to in Article 3 of the TEN-E Regulation; or
- (b) a project which had previously been on that list and, immediately before exit day, maintained the rights and obligations arising from Chapter III of the TEN-E Regulation by virtue of the second subparagraph of Article 5(9) of that Regulation;

“the statutory permit granting procedure” has the meaning given in Article 10(1)(b) of the TEN-E Regulation;

“the UK marine area” has the meaning given in section 42 of the Marine and Coastal Access Act 2009⁽¹⁾.

4. Where Chapter III of and Annex VI to the TEN-E Regulation apply by virtue of paragraph 1, they apply with the following modifications.

5. Article 7 applies as if paragraphs 4 to 7, and the second subparagraph of paragraph 8, were omitted.

6. Article 8 applies as if—

- (a) in paragraph 1, for “By 16 November 2013, each Member State shall designate one national competent authority which shall be”, there were substituted “The Secretary of State is the competent authority”;
- (b) in paragraph 2, in the first subparagraph, in point (a), for “the competent authority notifies the Commission of that delegation and the information therein” there were substituted “notice of that delegation”;
- (c) in paragraph 3—
 - (i) in the first subparagraph, for “Union law” in each place that it occurs, there were substituted “retained EU law”;
 - (ii) the third subparagraph were omitted.
- (d) in paragraph 4, for “Member States may apply different schemes as set out in paragraph 3” there were substituted “Different schemes as set out in paragraph 3 may be applied”;
- (e) in paragraph 5—
 - (i) for the words from “two” to “themselves” there were substituted “the United Kingdom and in one or more member States, the competent authority must endeavour to cooperate efficiently and effectively and coordinate with the competent authorities of those member States”;

(1) 2009 c. 23.

- (ii) for “Member States shall endeavour to provide for joint procedures”, there were substituted “The Secretary of State must endeavour to provide for joint procedures with those member States”.

7. Article 9 applies as if—

- (a) in paragraph 1—
 - (i) the first sentence were omitted;
 - (ii) for the second sentence there were substituted “The Secretary of State must update as necessary the manual of procedures for the permit granting process applicable to projects of common interest published under this Article as it applied before exit day, and make it available to the public.”;
- (b) in paragraph 2, for “Union law” there were substituted “retained EU law”;
- (c) in paragraph 4, in the first subparagraph, in the second sentence, after “according to” there were inserted “retained EU law which, immediately before exit day, implemented”;
- (d) in paragraph 5—
 - (i) for “two or more Member States” there were substituted “the United Kingdom and one or more member States”;
 - (ii) for “each of the Member States concerned” there were substituted “the United Kingdom”;
- (e) in paragraph 6—
 - (i) in the first sentence, after “where”, there were inserted “retained EU law which, immediately before exit day, implemented”;
 - (ii) the second sentence were omitted;
- (f) in paragraph 7, in the first subparagraph, there were omitted “which shall be linked to the Commission website and”.

8. Article 10 applies as if—

- (a) in paragraph 1—
 - (i) in point (a), for the third paragraph, there were substituted—

“The start of the permit granting process is the date of signature by the competent authority of an acknowledgement of the project promoter’s notification of the project, or, if the United Kingdom and one or more member States are concerned, the date of signature of an acknowledgement by the last of the competent authorities concerned.”;
 - (ii) in point (b)—
 - (aa) at the end of the first sentence, there were inserted “or any shorter period specified by legislation”; and
 - (bb) the second sentence were omitted;
- (b) in paragraph 2—
 - (i) in the first subparagraph, for the second sentence there were substituted—

“However, where the competent authority considers that the statutory permit granting procedure will not be completed before the time limit in paragraph 1(b), it may decide, before its expiry and on a case by case basis, to extend that time limit by a maximum of nine months.”;
 - (ii) the second subparagraph were omitted;
- (c) in paragraph 3, for “In Member States where” there were substituted “Where”;

- (d) paragraphs 4 and 5 were omitted; and
 - (e) in paragraph 6, for “Union law” there were substituted “retained EU law”.
9. Annex VI applies as if—
- (a) points (2) and (5) were omitted; and
 - (b) in point (6)(a), for “referred to in point (5)” there were substituted “published under point (5) as it applied before exit day”.