

1988 No. 1218

FISH FARMING

**The Environmental Assessment (Salmon Farming in
Marine Waters) Regulations 1988**

Made - - - - - *12th July 1988*

Coming into force *15th July 1988*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on him by the said section 2 and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Environmental Assessment (Salmon Farming in Marine Waters) Regulations 1988 and shall come into force on the third day following the day on which they are made.

(2) These Regulations apply in any case where an application for consent for salmon farming in marine waters is received by the Crown Estate Commissioners on or after 15th July 1988.

Interpretation

2. In these Regulations, unless the contrary intention appears—

“document” includes a map, diagram, illustration or other descriptive matter in any form and also includes where appropriate a copy of a document;

“environmental information” means—

- (a) any environmental statement required to be provided by these Regulations;
- (b) any representations made by any authority, body or person required by these Regulations to be invited to make representations or consulted; and
- (c) any representations duly made by any other person about the likely environmental effects of the proposed development;

“environmental statement” means such a statement as is described in Schedule 1;

“inland waters” means waters within Great Britain which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows;

“local planning authority” means any authority which is a local planning authority for the purposes of the Town and Country Planning Act 1971(c);

“marine waters” means waters within the seaward limits of the territorial sea adjacent to Great Britain, other than—

- (a) inland waters; and
- (b) waters within the jurisdiction of a local planning authority;

(a) S.I. 1988/785.
(b) 1972 c.68.
(c) 1971 c.78.

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“planning authority” means a district planning authority or general planning authority as defined in section 172(4) of the Local Government (Scotland) Act 1973(a);

“river purification board” means a river purification board established under section 135 of the Local Government (Scotland) Act 1973(b);

“salmon farming” means keeping live salmon (whether or not for profit) with a view to their sale or to their transfer to other marine waters; and

references to Schedules are references to Schedules to these Regulations.

Prohibition on the granting of consent without environmental information

3.—(1) The Crown Estate Commissioners shall not grant consent for salmon farming in marine waters where the proposed development will be likely to have significant effects on the environment by virtue *inter alia* of its nature, size or location unless they have taken into consideration environmental information in respect of the proposed development.

(2) For the purposes of paragraph (1), a proposed development shall only be taken to be likely to have significant effects on the environment by virtue *inter alia* of its nature, size or location where the Crown Estate Commissioners consider that this is the case.

Application for consent

4.—(1) An application for consent for salmon farming in marine waters shall be accompanied by—

- (a) a plan showing the location and extent of the site of the proposed salmon farm;
- (b) a brief outline of the proposed scale of production and the equipment to be installed on site; and
- (c) a statement of the proposed servicing methods and of any intended development on land.

(2) On receipt of any such application—

- (a) the Crown Estate Commissioners shall consider whether the proposed development is one to which the prohibition in regulation 3 applies;
- (b) where the Crown Estate Commissioners consider that the applicant has not provided them with sufficient information to enable them to form an opinion, they may ask him for further information;
- (c) where it appears to the Crown Estate Commissioners that an application for development is an application to which the prohibition in regulation 3 applies, they shall within 6 weeks beginning with the date of receipt of the application notify the applicant in writing of their view and that without consideration of environmental information they may not grant consent;
- (d) in coming to a view as to whether consideration of environmental information is required the Crown Estate Commissioners shall consult such of the authorities, bodies or persons mentioned in Schedule 2 as they consider appropriate.

Provision of information for environmental statement

5. Where the Crown Estate Commissioners are of the view that the application is one to which the prohibition in regulation 3 applies they shall—

- (a) inform such of the authorities, bodies and persons mentioned in Schedule 2 as shall be appropriate according to the circumstances mentioned therein—
 - (i) of the application and of the requirement for an environmental statement; and
 - (ii) that they may be required to make available to the applicant, in accordance with regulation 6(1), any information in their possession which he or they consider relevant to the preparation of an environmental statement; and
- (b) inform the applicant—
 - (i) of what they have done under paragraph (a);
 - (ii) of their view that he should provide an environmental statement; and

(a) 1973 c.65.

(b) Section 135 was amended by the Control of Pollution Act 1974 (c.40), Schedule 4.

- (iii) that he shall supply the authorities, bodies and persons mentioned in Schedule 2 with such further information about the proposed development as they may request.

Provision of relevant information

6.—(1) Subject to paragraph (2), any authority, body or person informed by the Crown Estate Commissioners under regulation 5 that a person has applied for consent for a development to which the prohibition in regulation 3 applies shall, if requested by the applicant, or may, without any such request, enter into consultation with him with a view to ascertaining whether they have any information in their possession which he or they consider relevant to the preparation of the environmental statement and shall make any such information available to him.

(2) Nothing in paragraph (1) shall require the disclosure of any information which the body concerned are entitled or bound to hold in confidence.

Publicity for environmental statement

7.—(1) When an environmental statement is submitted, the Crown Estate Commissioners shall publish as soon as possible a notice in a newspaper circulating in the locality nearest to the proposed development and in the Edinburgh Gazette, or London Gazette as the case may be, stating—

- (a) where the application and the environmental statement may be inspected, which shall be at a Post Office in the locality nearest to the proposed development;
- (b) the address at which copies of the application and the environmental statement may be acquired;
- (c) the cost of a copy of the environmental statement;
- (d) that representations in writing may be made within a specified period being not less than 28 days from the date of the said notice.

(2) Where the Crown Estate Commissioners are required to publish a notice in accordance with paragraph (1) of this regulation, the applicant shall pay the cost to be incurred by them in arranging such advertisements.

Consultation on environmental statement

8.—(1) Where the Crown Estate Commissioners receive an environmental statement relating to an application to which the prohibition in regulation 3 applies, they shall consult the authorities, bodies and persons mentioned in Schedule 2, according to the circumstances mentioned therein, about the environmental statement and such other persons, groups or bodies as they consider appropriate.

(2) Where an applicant submits an environmental statement to the Crown Estate Commissioners, he shall supply them with enough copies of the environmental statement or parts thereof to enable them to comply with paragraph (1) of this regulation and one additional copy.

(3) Where, under this regulation, the Crown Estate Commissioners consult any authority, body or person—

- (a) they shall give not less than 28 days' notice to such authority, body or person that environmental information is to be taken into consideration; and
- (b) they shall not grant consent for the development to which the environmental information relates until after the expiration of the period of such notice.

(4) Where any authority, body or person which the Crown Estate Commissioners are required to consult under this regulation consider that consultation with them is not required in respect of any environmental statement relating to any case or class of case, or relating to any specified area they shall so inform the Crown Estate Commissioners in writing and notwithstanding the foregoing provisions of this regulation the Crown Estate Commissioners shall not be required so to consult them.

Further information and evidence relating to environmental statements

9.—(1) The Crown Estate Commissioners, when dealing with an application in relation to which an environmental statement has been provided, may in writing require the applicant

to provide such further information as may be specified to enable the application to be determined, or concerning any matter which is required to be dealt with in the environmental statement; and where in the opinion of the Crown Estate Commissioners—

- (a) the applicant could (having regard in particular to current knowledge and methods of assessment) provide further information about any matter mentioned in paragraph 3 of Schedule 1; and
- (b) that further information is reasonably required to give proper consideration to the likely environmental effects of the proposed development,

they shall notify the applicant in writing and the applicant shall provide that further information.

(2) The Crown Estate Commissioners may in writing require to be produced to them such evidence, in respect of any environmental statement which it falls to them to take into consideration, as they may reasonably call for to verify any information it contains.

Intimation of decision

10. Where the Crown Estate Commissioners have decided an application to which the prohibition in regulation 3 applies, they shall inform the applicant and all authorities, bodies or persons consulted under regulation 8 of their decision, and of any conditions attached to it.

Charges

11.—(1) A reasonable charge reflecting the costs of printing, copying and distribution may be made to the public for copies of an environmental statement made available to them under regulation 7 and for copies in excess of one copy for each authority, body or person consulted under regulation 8.

(2) An authority, body or person entering into consultation under regulation 8, having been requested to do so, may make a reasonable charge reflecting the costs of making available information which they had in their possession.

St. Andrew's House, Edinburgh
12th July 1988

Malcolm Rifkind
One of Her Majesty's
Principal Secretaries of State

ENVIRONMENTAL STATEMENTS

1. An environmental statement comprises a document or series of documents prepared by the applicant and providing, for the purpose of taking into consideration environmental information in respect of a proposed development, the information specified in paragraph 2 (referred to in this Schedule as "the specified information").

2. The specified information is-

- (a) a description of the proposed development, comprising information about the site, and the design and the size or scale of the proposed development;
- (b) the data necessary to identify and assess the main effects which that development is likely to have on the environment;
- (c) a description of the likely significant effects, direct and indirect, on the environment of the proposed development, explained by reference to its possible impact on-
 - A. human beings;
 - B. flora;
 - C. fauna;
 - D. soil;
 - E. water;
 - F. air;
 - G. climate;
 - H. the landscape;
 - I. the inter-action between any of the foregoing;
 - J. material assets;
 - K. the cultural heritage;
- (d) where significant adverse effects are identified with respect to any of the foregoing, a description of the measures envisaged in order to avoid, reduce or remedy those effects; and
- (e) a summary in non-technical language of the information specified above.

3. An environmental statement may include, by way of explanation or amplification of any specified information, further information on any of the following matters-

- (a) the physical characteristics of the proposed development, and any land-use requirements during the construction and operational phases;
- (b) the main characteristics of any production processes proposed, including the nature and quality of the materials to be used;
- (c) the estimated type and quantity of any expected residues and emissions (including pollutants of water, air or soil, noise, vibration, light, heat and radiation) resulting from the proposed development when in operation;
- (d) (in outline) the main alternatives, if any, studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects;
- (e) the likely significant direct and indirect effects on the environment of the proposed development which may result from-
 - (i) the use of natural resources;
 - (ii) the emission of pollutants, the creation of nuisances, and the elimination of waste;
- (f) the forecasting methods used to assess any effects on the environment about which information is given under sub-paragraph (e); and
- (g) any difficulties, such as technical deficiencies or lack of know-how, encountered in compiling any specified information.

In paragraph (e) "effects" includes secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects.

4. Where further information is included in an environmental statement pursuant to paragraph 3, a non-technical summary of that information shall also be provided.

BODIES TO BE CONSULTED

1. Any planning authority or any local planning authority whose area adjoins the area of marine waters where the proposed development is to be situated.
2. (a) The Secretary of State for Scotland and the Countryside Commission for Scotland, where the proposed development is to be situated in an area of marine waters adjoining Scotland;
(b) the Secretary of State for the Environment or the Secretary of State for Wales or both as appropriate, and the Countryside Commission, where the proposed development is to be situated in an area of marine waters adjoining England or Wales.
3. The Nature Conservancy Council.
4. Any river purification board whose area comprises or adjoins the area of marine waters in which the proposed development is to be situated.
5. Any water authority in England and Wales whose area comprises or adjoins the area of marine waters in which the proposed development is to be situated.
6. Where the proposed development is to be situated in the marine waters landward of a line drawn between Burrow Head and St Bees Head—
 - (a) both the North West Water Authority and the Solway River Purification Board; and
 - (b) both the Secretary of State for Scotland and the Secretary of State for the Environment and the Countryside Commission for Scotland and the Countryside Commission.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations implement for Great Britain Council Directive 85/337/EEC (O.J. No. L175, 5.7.85, p.40) on the assessment of the environmental effects of certain projects in respect of salmon farming in marine waters.

The Regulations provide that decisions on whether consideration of environmental information in respect of any particular application for salmon farming in marine waters is required shall be taken by the Crown Estate Commissioners.

Regulation 3 provides that the Crown Estate Commissioners shall not grant consent for salmon farming in marine waters where the project is likely to have significant effects on the environment, without taking into consideration environmental information in respect of the proposed project.

Regulation 4 provides procedures for allowing the Crown Estate Commissioners to come to a view on whether consideration of environmental information is required.

Regulation 5 provides for relevant bodies to be informed of the need for consideration of environmental information.

Regulation 6 provides that any bodies with relevant information in their possession shall make it available to the applicant.

Regulation 7 provides that the environmental statement shall be publicised through press advertisement and made available for public inspection, with the opportunity for representations to be made.

Regulation 8 provides that the Crown Estate Commissioners shall consult the bodies mentioned in Schedule 2 about the environmental statement.

Regulation 9 enables the Commissioners, when taking into consideration environmental information, to require further information or the verification of information.

Regulation 10 requires the Crown Estate Commissioners to make known their decision in cases involving consideration of environmental information.

Regulation 11 provides that a reasonable charge may be made for making available copies of the environmental statement and of any relevant information in the preparation thereof.

Schedule 1 sets out the information that is required in an environmental statement and Schedule 2 lists the bodies to be consulted by the Crown Estate Commissioners under the Regulations.