

STATUTORY INSTRUMENTS

2007 No. 1518

**The Marine Works (Environmental
Impact Assessment) Regulations 2007**

[^{F1}PART 3

ENVIRONMENTAL IMPACT ASSESSMENTS

Textual Amendments

- F1** Regulations revoked (S.) (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/115\)](#), [reg. 42\(a\)](#) (with regs. 1(2), 40, 41)

Application for a regulatory approval in relation to a regulated activity

12.—(1) Where an application is made for a regulatory approval in relation to a regulated activity to which this Part applies, neither the regulator nor the appropriate authority may deal with the application or exercise any functions under these Regulations in relation to it until the appropriate authority has received the following material from the applicant—

- (a) a chart or map (or both) sufficient to identify where the regulated activity would be carried out and the extent of any operations which it would involve;
- (b) a description (including a plan) of the nature of the project, identifying the regulated activity to be carried out in the course of that project;
- (c) a statement of the working methods to be used in the course of the project and in carrying out the regulated activity;
- (d) an environmental statement in respect of the project; and
- (e) a copy of any environmental statement in respect of the project provided or to be provided to any other consenting authority.

(2) An environmental statement must—

- (a) be in writing;^{F2}...
- [^{F3}(b) include at least—
 - (i) a description of the project and the regulated activity, comprising information on the site, design, size and other relevant features of the project and the regulated activity;
 - (ii) a description of the likely significant effects of the project and the regulated activity on the environment;
 - (iii) a description of the features of the project and the regulated activity or the measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
 - (iv) a description of the reasonable alternatives studied by the applicant which are relevant to the project and its specific characteristics, and an indication of the main

reasons for the option chosen, taking into account the effects of the project on the environment;

- (v) a non-technical summary of the information referred to in paragraphs (i) to (iv); and
- (vi) any additional information specified in Schedule 3 relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected;]

[^{F4}(c) where a scoping opinion has been given in accordance with regulation 13 and Schedule 4, be based on the most recent scoping opinion given (so far as the project remains materially the same as the project which was subject to that opinion);

- (d) include the information reasonably required for reaching a conclusion about the significant effects of the project on the environment, taking into account current knowledge and methods of assessment;
- (e) (with a view to avoiding duplication of assessments), be prepared taking into account the results of any relevant UK environmental assessment which are reasonably available to the applicant;
- (f) be prepared by competent persons; and
- (g) be accompanied by a statement from the applicant outlining the relevant experience or qualifications of such persons.]

(3) The appropriate authority may specify—

- (a) the format in which the applicant must provide the material referred to in paragraph (1); and
- (b) the number of copies of the material in that format that the applicant must provide to it and to the regulator (if the regulator is not also the appropriate authority).

[^{F5}(3A) The appropriate authority must ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental statement.]

(4) The applicant must comply with any reasonable requirement made in accordance with paragraph (3) and, until this has been done—

- (a) neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application; and
- (b) the regulator must not reach its regulatory decision.

(5) Where an applicant has failed to comply with the requirements of paragraphs (1) and (2), or any requirements of the appropriate authority under paragraph (3), within such reasonable period as the appropriate authority has specified or such longer period as the appropriate authority may reasonably allow—

- (a) the regulator may treat the application as having been withdrawn; and
- (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

Textual Amendments

- F2** Word in reg. 12(2)(a) omitted (16.5.2017) by virtue of *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **12(2)(a)** (with reg. 34)
- F3** Reg. 12(2)(b) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **12(2)(b)** (with reg. 34)
- F4** Reg. 12(2)(c)-(g) inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017* (S.I. 2017/588), regs. 1(1), **12(2)(c)** (with reg. 34)

F5 Reg. 12(3A) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **12(3)** (with reg. 34)

Scoping opinions

- 13.**—(1) The applicant may request a scoping opinion from the appropriate authority.
- (2) The procedures for requesting and giving scoping opinions are set out in Schedule 4.
- (3) Where a scoping opinion is given—
- (a) the appropriate authority must not deliver its environmental impact assessment, and
 - (b) the regulator must not reach its regulatory decision,

unless the applicant has submitted an environmental statement containing all of the information specified in the scoping opinion.

Provision of further information

- 14.**—^{F6}(1) Where the appropriate authority reasonably considers that—
- (a) it requires relevant further information, and
 - (b) the applicant is (or should be) able to provide such information,

the appropriate authority must notify the applicant in writing of the matters on which it requires further information.]

^{F7}(1A) In paragraph (1), “relevant further information” means—

- (a) further information properly to consider the likely significant environmental effects of the project which gives rise to the regulated activity covered by the application; or
- (b) where—
 - (i) the applicant has submitted an environmental statement, or
 - (ii) a scoping opinion has been given in accordance with regulation 13 and Schedule 4, further information which is directly relevant to reaching a conclusion about the significant effects of the project described in the environmental statement.]

(2) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until any further information required in accordance with paragraph (1) has been provided to the appropriate authority and to the regulator (if the regulator is not also the appropriate authority).

(3) Where an applicant has failed to provide any information required in accordance with paragraph (1) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

- (a) the regulator may treat the application as having been withdrawn; and
- (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

Textual Amendments

F6 Reg. 14(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **13(2)** (with reg. 34)

F7 Reg. 14(1A) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **13(3)** (with reg. 34)

Availability of information held by regulator

15.—(1) The regulator and the appropriate authority (if the regulator is not also the appropriate authority) may make available to the applicant any information in their possession which may be relevant to—

- (a) the preparation of the environmental statement, or
- (b) the provision of the further information required in accordance with regulation 14(1).

(2) Subject to paragraphs (3) and (4), the regulator and the appropriate authority (if the regulator is not also the appropriate authority) must make such information available if the applicant so requests.

(3) Paragraph (2) does not require the disclosure of any excluded information.

(4) Where an applicant requests information under paragraph (2), the regulator or the appropriate authority (as the case may be) may impose, as a condition of providing the information, a reasonable charge reflecting the cost of identifying, preparing and copying the information.

[^{F8}Co-ordination

15A. Where, in respect of a regulated activity, there is a requirement to carry out—

- (a) an environmental impact assessment; and
- (b) an assessment under [^{F9}any law of any part of the United Kingdom that implemented] the Habitats Directive or the Wild Birds Directive,

the appropriate authority must, where appropriate, ensure that the assessments are co-ordinated.]

Textual Amendments

F8 Reg. 15A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **14** (with reg. 34)

F9 Words in reg. 15A(b) inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Publicity

16.—[^{F10}(1) The appropriate authority must, as soon as reasonably possible, publicise the application and the environmental statement in respect of the project to which it relates or, as the case may be, any further information provided by the applicant pursuant to a notification under regulation 14, by—

- (a) publishing a notice containing the information set out in paragraph (2) on the appropriate authority's website; and
- (b) publishing, or directing the applicant to publish, the notice—
 - (i) in two successive weeks, in such newspapers or other publications as the authority thinks fit; or
 - (ii) in such other manner (if any) as the authority considers appropriate.]

(2) The information referred to in paragraph (1)(a)(i) is—

- (a) the applicant's name and address;

- (b) a statement that an application for a licence or consent for a regulated activity has been made and that the environmental statement has been prepared or, as the case may be, that the further information has been furnished to the appropriate authority;
 - (c) a statement of the nature, size and location of the project;
 - [^{F11}(d) the fact that the project is subject to an environmental impact assessment and, where relevant, that regulation 18 applies;]
 - [^{F12}(da) details of the appropriate authority responsible for making the EIA consent decision and, where the appropriate authority is not the regulator, details of the regulator;
 - (db) the nature of possible decisions, including any decision to grant regulatory approval;]
 - [^{F13}(e) the address of an office of the appropriate authority, or other place nominated by the appropriate authority, at which the documents listed in paragraph (2A) may be inspected free of charge at all reasonable hours within 42 days beginning with the date of first publication of the notice under paragraph (1)(b)(i);]
 - [^{F14}(f) the contact details of the appropriate authority for obtaining copies of the documents listed in paragraph (2A) and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying), of the charge;]
 - (g) a statement that any person wishing to make representations regarding the application and environmental statement or, as the case may be, the further information should make them in writing to the appropriate authority at an address specified by the appropriate authority, within 42 days beginning [^{F15}with the date of first publication of the notice under paragraph (1)(b)(i); and]
 - [^{F16}(h) details of the arrangements for public participation in accordance with Schedule 5.]
- [^{F17}(2A) The appropriate authority must take steps to secure that the following documents relating to the application are made available for public inspection at all reasonable hours at the address referred to in paragraph (2)(e)—
- (a) any screening opinion given in accordance with regulation 11 and Schedule 2;
 - (b) any scoping opinion given in accordance with regulation 13 and Schedule 4 (including any written statement of reasons);
 - (c) the environmental statement and any further information provided by the applicant pursuant to a notification under regulation 14; and
 - (d) in accordance with national legislation, the main reports or advice issued to the appropriate authority at the time when the public concerned is first notified under paragraph (1).
- (2B) The appropriate authority must ensure that the documents listed in paragraph (2A) are electronically accessible to the public, through at least an appropriate central portal or easily accessible points of access.
- (2C) The applicant must ensure that a reasonable number of copies of the environmental statement and any further information provided by the applicant pursuant to a notification under regulation 14 are available at the address notified under paragraph (2)(e).]
- (3) The applicant must comply with any reasonable direction made in accordance with paragraph (1)(b) and neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, unless or until this has been done.
- (4) Where the applicant has failed to comply with a direction made in accordance with paragraph (1)(b) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—
- (a) the regulator may treat the application as having been withdrawn, and

(b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

(5) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the period for representations has expired.

Textual Amendments

- F10** Reg. 16(1) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(2)** (with reg. 34)
- F11** Reg. 16(2)(d) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(3)(a)** (with reg. 34)
- F12** Reg. 16(2)(da)(db) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(3)(b)** (with reg. 34)
- F13** Reg. 16(2)(e) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(3)(c)** (with reg. 34)
- F14** Reg. 16(2)(f) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(3)(d)** (with reg. 34)
- F15** Words in reg. 16(2)(g) substituted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(3)(e)** (with reg. 34)
- F16** Reg. 16(2)(h) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(3)(f)** (with reg. 34)
- F17** Reg. 16(2A)-(2C) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), **15(4)** (with reg. 34)

Consultation on proposed regulated activity

17.—(1) The appropriate authority must [^{F18}as soon as reasonably possible] either—

(a) supply the following material to such of the consultation bodies as it considers appropriate—

- (i) a copy of the application;
- (ii) a copy of the environmental statement;
- (iii) a copy of any further information supplied by the applicant to the appropriate authority; and
- (iv) a letter stating that any representations in response to consultation regarding the application should be made in writing to the appropriate authority, at an address specified by the appropriate authority, within 42 days from the date of the letter (or such longer period as may be agreed between the consultation body and the appropriate authority in accordance with paragraph (2)); or

(b) direct the applicant to do so.

(2) The appropriate authority may agree a longer consultation period with a consultation body where, in the opinion of the appropriate authority, it is reasonable to do so.

(3) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the applicant has complied with any direction made in accordance with paragraph (1)(b).

(4) Where the applicant has failed to comply with a direction made in accordance with paragraph (1)(b) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

- (a) the regulator may treat the application as having been withdrawn, and
- (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

(5) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the consultation period (including any extension agreed in accordance with paragraph (2)) has expired.

Textual Amendments

F18 Words in reg. 17(1) inserted (16.5.2017) by The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588), regs. 1(1), 16 (with reg. 34)

^{F19}Provision of information to affected EEA States

- 18.**—(1) The appropriate authority must as soon as possible comply with paragraph (2) where—
- (a) it comes to the attention of the appropriate authority that a proposed project is the subject of an environmental impact assessment and is likely to have significant effects on the environment in ^{F20}an]EEA State; or
 - (b) ^{F21}an]EEA State likely to be significantly affected by the project so requests.
- (2) The appropriate authority must—
- (a) send to the EEA State the particulars mentioned in paragraph (3) and such of the information referred to in paragraph (5) as is relevant;
 - (b) publish, or direct the applicant to publish, those particulars in a notice placed in the relevant Gazette indicating the address where additional information is available; and
 - (c) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.
- (3) The particulars referred to in paragraph (2)(a) are—
- (a) a description of the project together with any available information on its possible significant effect on the environment in ^{F22}that]EEA State; and
 - (b) information on the nature of the decision which may be taken.
- (4) The appropriate authority must send these particulars, and such of the information referred to in paragraph (5) as is relevant, to the authorities of the EEA State—
- (a) as soon as possible; and
 - (b) in any event, no later than the date on which the particulars are published in the relevant Gazette.
- (5) The information referred to in paragraph (2)(a) is—
- (a) a copy of the application for regulatory approval;
 - (b) a copy of the environmental statement in respect of the project to which that application relates;
 - (c) a copy of any further information provided by the applicant pursuant to a notification under regulation 14(1); and
 - (d) any relevant information regarding the procedure under these Regulations including an explanation of the decisions that the regulator can make in relation to the application.

(6) Where a EEA State indicates, in accordance with paragraph (2)(c), that it wishes to participate in the procedure for which these Regulations provide, the appropriate authority must, as soon as possible, send to that EEA State the following information—

- (a) any information provided by the applicant;
- (b) the results of any relevant EU environmental assessment which are reasonably available to the appropriate authority; and
- (c) such of the selection criteria set out in Schedule 1 as are relevant to the project.

(7) Paragraphs (2) and (6) do not require the disclosure of any excluded information.

(8) Neither the regulator nor the appropriate authority need deal further with, or exercise any functions under these Regulations in relation to, the application, and the regulator must not reach its regulatory decision, until the period for consultation under regulation 20 has expired.

(9) In this regulation, “the relevant Gazette” means—

- (a) in relation to projects in the English inshore region or the English offshore region, the London Gazette;
- (b) in relation to projects in the Welsh inshore region or the Welsh offshore region, the London Gazette;
- (c) in relation to projects in the Northern Ireland inshore region or the Northern Ireland offshore region, the Belfast Gazette;
- (d) in relation to projects in the Scottish inshore region or the Scottish offshore region, the Edinburgh Gazette.

(10) In paragraph (9), the expressions—

- (a) English inshore region,
- (b) English offshore region,
- (c) Northern Ireland inshore region,
- (d) Northern Ireland offshore region,
- (e) Welsh inshore region, and
- (f) Welsh offshore region,

have the meanings given by section 322 of the 2009 Act.]

Textual Amendments

- F19** Reg. 18 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **17** (with reg. 34)
- F20** Word in reg. 18(1)(a) substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Word in reg. 18(1)(b) substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** Word in reg. 18(3)(a) substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Provision of information to other EEA States

^{F23}**19.**

Textual Amendments

- F23** Reg. 19 omitted (16.5.2017) by virtue of [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **18** (with reg. 34)

Consultation of EEA States

20. The appropriate authority must—

- (a) consult the authorities of any EEA State to which information has been provided under regulation 18^{F24}...; and
- [^{F25}(b) allow such reasonable period as may have been agreed with those authorities for them to—
 - (i) ensure that the authorities and the public concerned in that EEA State are given an opportunity to forward their opinion on the information supplied; and
 - (ii) make representations as to—
 - (aa) the possible significant effects of the regulated activity on the environment in that EEA State; and
 - (bb) the measures envisaged to reduce or eliminate such effects.]

Textual Amendments

- F24** Words in reg. 20(a) omitted (16.5.2017) by virtue of [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **19(a)** (with reg. 34)
- F25** Reg. 20(b) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **19(b)** (with reg. 34)

[^{F26}Projects in [^{F27}an]EEA State likely to have significant transboundary effects

20A.—(1) Where an appropriate authority receives from an EEA State ^{F28}... information which that EEA State has gathered in respect of a proposed project in that EEA State which is likely to have significant effects on the environment in the relevant UK area, the appropriate authority must ^{F29}...—

- (a) enter into consultations with that EEA State regarding the potential transboundary effects of the proposed project on the environment and the measures envisaged to reduce or eliminate such effects; and
 - (b) determine in agreement with that EEA State a reasonable period, before EIA consent for the project is granted, during which members of the public may submit to the competent authority in that EEA State representations ^{F30}....
- (2) The appropriate authority must also—
- (a) arrange for the information referred to in paragraph (1) to be made available within a reasonable time, and for a period of no fewer than 30 days, to the authorities which are likely to be concerned by the project by reason of their specific environmental responsibilities and to the public concerned;
 - (b) ensure that those authorities and the public concerned are given an opportunity, before EIA consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied; and
 - (c) make available to the public concerned any information received from the competent authority of the relevant EEA State ^{F31}....

(3) In paragraph (1), the “relevant UK area” means the United Kingdom and the UK marine area but does not include the Scottish inshore region, except in respect of activities and operations in that region for which a licence is required under Part 2 of the 1985 Act.]

Textual Amendments

- F26** Reg. 20A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **20** (with reg. 34)
- F27** Word in reg. 20A heading substituted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in reg. 20A(1) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in reg. 20A(1) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in reg. 20A(1)(b) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in reg. 20A(2)(c) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(7)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Consideration of representations from the public

21.—(1) Subject to paragraph (2), the appropriate authority must apply the provisions of Schedule 5 in relation to each representation it receives pursuant to the statement referred to in regulation 16(2)(g).

(2) To the extent that the appropriate authority considers that representations made to it pursuant to the statement referred to in regulation 16(2)(g) are similar in material respects or deal with similar or related issues, it may group such representations and apply the provisions of Schedule 5 to each such group.

[^{F32}Conclusion about environmental impact

21A.—(1) The appropriate authority must consider (ensuring that in doing so it has or has access to any expertise it considers necessary)—

- (a) the environmental statement;
- (b) any further information provided by the applicant pursuant to a notification under regulation 14(1);
- (c) the outcome of the process set out in Schedule 5 in relation to any representations received pursuant to the statement referred to in regulation 16(2)(g);
- (d) any representations in response to consultation made by the consultation bodies pursuant to the letter referred to in regulation 17(1)(a)(iv);
- (e) the outcome of any consultation of the authorities of ^{F33}... EEA States carried out in accordance with regulation 20; and
- (f) any features of the project in relation to the regulated activity being carried out, or measures which the applicant proposes to take, which would have the effect of avoiding, preventing,

reducing or offsetting any likely significant adverse environmental effects of the regulated activity.

(2) Following the consideration required by paragraph (1), the appropriate authority must reach a conclusion about the likely significant effects of the project (including the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters) on—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under [^{F34}any law of any part of the United Kingdom that implemented] the Habitats Directive and the Wild Birds Directive;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).]

Textual Amendments

- F32** Reg. 21A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **21** (with reg. 34)
- F33** Word in reg. 21A(1)(e) omitted (31.12.2020) by virtue of [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in reg. 21A(2)(b) inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/25\)](#), regs. 1(1), **6(8)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F35}The EIA consent decision

22.—(1) In reaching its EIA consent decision, the appropriate authority must have regard to the relevant legislation and must consider—

- (a) the application;
- (b) its conclusion under regulation 21A(2) (including whether the conclusion is up to date);
- (c) whether monitoring of the significant adverse environmental effects of the regulated activity is appropriate and, if so—
 - (i) whether (in order to avoid duplication) existing monitoring arrangements in accordance with an obligation under the law of any part of the United Kingdom can be relied on; and
 - (ii) whether conditions need to be attached to the regulatory approval;
- (d) if monitoring is considered to be appropriate, whether conditions need to be attached to the regulatory approval to make provision for potential remedial action; and
- (e) whether any other conditions need to be attached to the regulatory approval with respect to the likely significant effects of the project.

(2) The appropriate authority must not, following its consideration under regulation paragraph (1) (c), attach conditions to a regulatory approval in respect of a regulated activity unless it is satisfied that the type of parameters to be monitored and the duration of monitoring are proportionate to the nature, location and size of the regulated activity and the significance of its effect on the environment.

(3) The appropriate authority must not make a decision under paragraphs (1) and (2) unless it is satisfied that any conclusion under regulation 21A(2) in respect of the regulated activity is up to date

(and a conclusion is taken to be up to date if, in the opinion of the appropriate authority, it addresses the likely significant environmental effects of the project).

(4) Taking into account the nature and complexity of the application and the regulated activity, the appropriate authority must reach its EIA consent decision within a reasonable period of time beginning with the date on which it is given all the information it is required to consider under regulation 21A(1).]

Textual Amendments

F35 Reg. 22 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 22 (with reg. 34)

Notification and publication of [^{F36}EIA consent] decisions

23.—(1) The appropriate authority must [^{F37}as soon as reasonably possible] send written confirmation of its EIA consent decision to—

- (a) the applicant;
- (b) if the appropriate authority is not also the regulator, the regulator;
- (c) any person from whom the appropriate authority received representations pursuant to the statement referred to in regulation 16(2)(g);
- (d) any consultation body that responded to the consultation pursuant to the letter referred to in regulation 17(1)(a)(iv); and
- (e) the authorities of any EEA State who were consulted in accordance with regulation 20.

[^{F38}(2) The written confirmation must include the following—

- (a) a statement which includes—
 - (i) the main reasons and considerations on which the EIA consent decision is based including, if relevant, information about the participation of the public; and
 - (ii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results (in particular, in circumstances where regulation 20 applies, the comments received from an EEA State pursuant to consultation under that regulation) have been incorporated or otherwise addressed;
- (b) if the EIA consent decision is to grant EIA consent—
 - (i) the conclusion referred to in regulation 21A(2); and
 - (ii) any conditions attached to the EIA consent decision pursuant to regulation 22(1)(c) to (e), including any mitigating or monitoring measures; and
- (c) if the EIA consent decision is to refuse EIA consent, the main reasons for the refusal.

(3) The appropriate authority must, as soon as possible after written confirmation is sent to the applicant pursuant to paragraph (1), ensure that—

- (a) notice of its EIA consent decision is published—
 - (i) on the appropriate authority's website;
 - (ii) in those newspapers or other publications where the application was published under regulation 16(1)(b)(i); and
 - (iii) in such other manner (if any) as the appropriate authority considers appropriate; and
- (b) it promptly makes available for public inspection the information referred to in paragraph (2).]

[^{F39}(4) In paragraph (3)(b), “public inspection” means:

- (a) in the case of an activity requiring regulatory approval under the 1985 Act or the 2009 Act, inspection on the relevant Public Register; and
- (b) in the case of other regulated activities, inspection at the address nominated under regulation 16(2)(e).

(5) The notice in paragraph (3)(a) must state the times at which the relevant Public Register or information may be inspected at the address nominated under regulation 16(2)(e).]

Textual Amendments

- F36** Words in reg. 23 heading inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588)*, regs. 1(1), **23(2)** (with reg. 34)
- F37** Words in reg. 23(1) inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588)*, regs. 1(1), **23(3)** (with reg. 34)
- F38** Reg. 23(2)(3) substituted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588)*, regs. 1(1), **23(4)** (with reg. 34)
- F39** Reg. 23(4)(5) inserted (16.5.2017) by *The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (S.I. 2017/588)*, regs. 1(1), **23(5)** (with reg. 34)

Effect of EIA consent decision on application and regulatory decision

24.—[^{F40}(1) Where the appropriate authority has given EIA consent in respect of a regulated activity, the regulator may proceed to deal with the application and take its regulatory decision in accordance with the relevant legislation.]

[^{F41}(1A) When the regulator proceeds to deal with the application and take its regulatory decision in accordance with paragraph (1), the regulator must have regard to the written confirmation of the EIA consent decision and in particular to any conditions, including any mitigating or monitoring measures, attached to that decision pursuant to regulation 22(1)(c) to (e).

(1B) Where the regulator decides to grant regulatory approval, the regulator must incorporate in the regulatory decision—

- (a) the conclusion reached by the appropriate authority in accordance with regulation 21A(2);
- (b) any conditions, including any mitigating or monitoring measures, attached to the regulatory decision; and
- (c) a statement including—
 - (i) the main reasons and considerations on which the regulatory decision is based including, if relevant, information about the participation of the public; and
 - (ii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results (in particular, in circumstances where regulation 18 applies, the comments received from an EEA State pursuant to consultation under that regulation) have been incorporated or otherwise addressed.

(1C) Where the regulator decides to refuse regulatory approval, the regulator must state the main reasons for the refusal.

(1D) The regulator must be satisfied that the information incorporated in the EIA consent decision, under regulation 23(2), is up to date at the time that the regulatory decision is taken, but that information must be taken to be up to date if, in the opinion of the regulator, it addresses the significant effects that are likely to arise as a result of the project proposed.

(1E) The regulatory decision must be taken within a period of time which—

- (a) is reasonable, taking into account the nature and complexity of the regulated activity; and
- (b) begins with the date on which the EIA consent decision is published.]

(2) Where the appropriate authority has refused EIA consent in respect of a regulated activity, the regulator may not grant a regulatory approval for that regulated activity and must treat the application for that regulated activity as having been withdrawn.

Textual Amendments

- F40** Reg. 24(1) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **24(2)** (with reg. 34)
- F41** Reg. 24(1A)-(1E) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **24(3)** (with reg. 34)

[^{F42}N] Notification and publication of regulatory decisions

24ZA.—(1) The regulator must, as soon as reasonably possible, send a copy of its regulatory decision to--

- (a) the applicant;
- (b) if the regulator is not also the appropriate authority, the appropriate authority;
- (c) any person from whom the appropriate authority received representations pursuant to the statement referred to in regulation 16(2)(g);
- (d) any consultation body that responded to the consultation pursuant to the letter referred to in regulation 17(1)(a)(iv); and
- (e) the authorities of any EEA State who were consulted in accordance with regulation 20.

(2) The regulator must, as soon as possible after its decision is sent to the applicant pursuant to paragraph (1), ensure that—

- (a) notice of that decision is published—
 - (i) on the regulator’s website;
 - (ii) in any newspapers or other publications where the application was published under regulation 16(1)(b)(i); and
 - (iii) in such other manner as it considers appropriate; and
- (b) it promptly makes a written copy of the regulatory decision available for public inspection.

(3) In paragraph (2)(b), “public inspection” means:

- (a) in the case of an activity requiring regulatory approval under the 1985 Act or the 2009 Act, inspection on the relevant Public Register; and
- (b) in the case of other regulated activities, inspection at the address nominated under regulation 16(2)(e).

(4) The notice in paragraph (2)(a) above must state—

- (a) that the regulator has made available for public inspection the written copy of the regulatory decision; and
- (b) the times at which the relevant Public Register or the information at the address nominated under regulation 16(2)(e) may be inspected.]

Textual Amendments

- F42** Reg. 24ZA inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **25** (with reg. 34)

[^{F43}Fees in relation to the assessment etc. of the results of monitoring measures

24A.—(1) A decision to grant regulatory approval which includes a monitoring condition may include a fee condition of the kind described in paragraph (3).

(2) For the purposes of this regulation, a monitoring condition is a condition requiring any measure to be taken relating to monitoring of a kind referred to in regulation [^{F44}23(2)(b)(ii)].

(3) A fee condition of the kind referred to in paragraph (1) is a condition as to the payment of a reasonable fee, determined in accordance with regulation 3(4) and (5), in respect of expenses incurred in assessing and interpreting the results of any monitoring measure.]]

Textual Amendments

- F43** Reg. 24A inserted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **10**
- F44** Word in reg. 24A(2) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **26** (with reg. 34)

Changes to legislation:

There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007, PART 3.