

## [F1]SCHEDULE A1

Regulations 7, 10 and 10A

### Descriptions of projects that are Schedule A1 Projects

#### Textual Amendments

**F1** Sch. A1 inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), reg. 1(1), **Sch. 1** (with reg. 34)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude-oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more.

3. Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors (except research installations for the production and conversion of fissionable and fertile material, whose maximum power does not exceed 1 kilowatt continuous thermal load).

4. Installations for the reprocessing of irradiated nuclear fuel.

5. Installations designed—

- (a) for the production or enrichment of nuclear fuel;
- (b) for the processing of irradiated nuclear fuel or high-level radioactive waste;
- (c) for the final disposal of irradiated nuclear fuel;
- (d) solely for the final disposal of radioactive waste;
- (e) solely for the storage (planned for more than ten years) of irradiated nuclear fuels or radioactive waste in a different site from the production site.

6. Integrated works for the initial smelting of cast-iron and steel.

7. Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.

8. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—

- (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;
- (b) for friction material, with an annual production of more than 50 tonnes of finished products; and
- (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.

9. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—

- (a) for the production of basic organic chemicals;
- (b) for the production of basic inorganic chemicals;
- (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
- (d) for the production of basic plant health products and of biocides;

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007. (See end of Document for details)

- (e) for the production of basic pharmaceutical products using a chemical or biological process;
  - (f) for the production of explosives.
10. Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more.
  11. Construction of motorways and express roads.
  12. Construction of a new road of four or more lanes, or realignment or widening of an existing road of two lanes or less, so as to provide four or more lanes, where such new road, or realigned or widened section of road, would be 10 kilometres or more in a continuous length.
  13. Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.
  14. Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.
  15. Waste disposal installations for the incineration, chemical treatment (as defined in Annex I to [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste<sup>(1)</sup> under heading D9), or landfill of hazardous waste as defined in Article 3(2) of that Directive.
  16. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to [Directive 2008/98/EC](#) under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.
  17. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
  18. Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year.
  19. In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.
  20. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2(6) of Council [Directive 91/271/EEC](#) of the European Parliament and of the Council concerning urban waste-water treatment<sup>(2)</sup>.
  21. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.
  22. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
  23. Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres for the transport of—
    - (a) gas, oil or chemicals;
    - (b) carbon dioxide streams for the purposes of geological storage, including associated booster stations.
  24. Installations for the intensive rearing of poultry or pigs with more than—
    - (a) 85,000 places for broilers or 60,000 places for hens;

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(1) [1972 c.70](#).

(2) [1954 c.33 \(N.I.\)](#).

- (b) 3,000 places for production pigs (over 30 kg); or
  - (c) 900 places for sows.
- 25.** Industrial plants for—
- (a) the production of pulp from timber or similar fibrous materials;
  - (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.
- 26.** Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.
- 27.** Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
- 28.** Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.
- 29.** Storage sites pursuant to [Directive 2009/31/EC\(3\)](#) of the European Parliament and of the Council on the geological storage of carbon dioxide.
- 30.** Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to [Directive 2009/31/EC](#) from installations referred to in this Schedule, or where the total yearly capture of carbon dioxide is 1.5 megatonnes or more
- 31.** Any change to or extension of project specified in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.
- 32.** In this Schedule—
- “airport” means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14);
- “express road” means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15th November 1975; and
- “nuclear power station” and “other nuclear reactor” do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor is to be treated as development of the description mentioned in paragraph 3 of this Schedule.]

[<sup>F2</sup>SCHEDULE A2

Regulations 8, 10 and 10A

Descriptions of projects that are Schedule A2 projects

**Textual Amendments**

- F2** [Sch. A2](#) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), reg. 1(1), [Sch. 1](#) (with reg. 34)

**Agriculture, silviculture and aquaculture**

1. Projects for the restructuring of rural land holdings.

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(3) [S.I. 1997/796 \(S.75\)](#).

**Status:** Point in time view as at 16/05/2017.

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2. Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes.
3. Water management projects for agriculture, including irrigation and land drainage projects.
4. Initial afforestation and deforestation for the purposes of conversion to another type of land use.
5. Intensive livestock installations (unless included in Schedule A1).
6. Intensive fish farming.
7. Reclamation of land from the sea.

### **Extractive industry**

8. Quarries, open cast mining and peat extraction (unless included in Schedule A1).
9. Underground mining.
10. Extraction of minerals by fluvial or marine dredging;
11. Deep drillings, in particular—
  - (a) geothermal drilling;
  - (b) drilling for the storage of nuclear waste material;
  - (c) drilling for water supplies,

with the exception of drillings for investigating the stability of the soil.

12. Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

### **Energy**

13. Industrial installations for the production of electricity, steam and hot water (unless included in Schedule A1).
14. Industrial installations for carrying gas, steam and hot water and transmission of electrical energy by overhead cables (unless included in Schedule A1).
15. Surface storage of natural gas.
16. Underground storage of combustible gases.
17. Surface storage of fossil fuels.
18. Industrial briquetting of coal and lignite.
19. Installations for the processing and storage of radioactive waste (unless included in Schedule A1).
20. Installations for hydroelectric energy production.
21. Installations for the harnessing of wind power for energy production (wind farms).
22. Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to [Directive 2009/31/EC](#) from installations not included in Schedule A1.

### **Production and processing of metals**

23. Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting.

24. Installations for the processing of ferrous metals—
  - (a) hot-rolling mills;
  - (b) smithies with hammers;
  - (c) application of protective metal coats.
25. Ferrous metal foundries.
26. Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.).
27. Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process.
28. Manufacture and assembly of motor vehicles and manufacture of motor vehicle engines.
29. Shipyards.
30. Installations for the construction and repair of aircraft.
31. Manufacture of railway equipment.
32. Swaging by explosives.
33. Installations for the roasting and sintering of metallic ores.

#### **Mineral industry**

34. Coke ovens (dry coal distillation).
35. Installations for the manufacture of cement.
36. Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule A1).
37. Installations for the manufacture of glass including glass fibre.
38. Installations for smelting mineral substances including the production of mineral fibres.
39. Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

#### **Chemical industry (unless included in Schedule A1)**

40. Treatment of intermediate products and production of chemicals.
41. Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides.
42. Storage facilities for petroleum, petrochemical and chemical products.

#### **Food industry**

43. Manufacture of vegetable and animal oils and fats.
44. Packing and canning of animal vegetable products.
45. Manufacture of dairy products.
46. Brewing and malting.
47. Confectionery and syrup manufacture.
48. Installations for the slaughter of animals.

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007. (See end of Document for details)

- 49. Industrial starch manufacturing installations.
- 50. Fish-meal and fish-oil factories.
- 51. Sugar factories.

#### **Textile, leather, wood and paper industries**

- 52. Industrial plants for the production of paper and board (unless included in Schedule A1).
- 53. Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles.
- 54. Plants for the tanning of hides and skins.
- 55. Cellulose-processing and production installations.

#### **Rubber industry**

- 56. Manufacture and treatment of elastomer-based products.

#### **Infrastructure projects**

- 57. Industrial estate development projects.
- 58. Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas.
- 59. Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule A1).
- 60. Construction of railways (unless included in Schedule A1).
- 61. Construction of airfields (unless included in Schedule A1).
- 62. Construction of roads (unless included in Schedule A1).
- 63. Construction of harbours and port installations including fishing harbours (unless included in Schedule A1).
- 64. Inland-waterway construction not included in Schedule A1, canalisation and flood-relief works.
- 65. Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule A1).
- 66. Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.
- 67. Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the purposes of geological storage (unless included in Schedule A1).
- 68. Installations of long-distance aqueducts.
- 69. Coastal work to combat erosion and maritime works capable of altering the coast through the construction of, for example, dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works.
- 70. Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule A1.
- 71. Works for the transfer of water resources between river basins not included in Schedule A1.

72. Motorway service areas.

### Other projects

- 73. Permanent racing and test tracks for motorised vehicles.
- 74. Installations for the disposal of waste (unless included in Schedule A1).
- 75. Waste-water treatment plants (unless included in Schedule A1).
- 76. Sludge-deposition sites.
- 77. Storage of scrap iron, including scrap vehicles.
- 78. Test benches for engines, turbines or reactors.
- 79. Installations for the manufacture of artificial mineral fibres.
- 80. Installations for the recovery or destruction of explosive substances.
- 81. Knackers' yards.

### Tourism and leisure

- 82. Ski-runs, ski-lifts and cable-cars, and associated developments.
- 83. Marinas.
- 84. Holiday villages and hotel complexes outside urban areas and associated developments.
- 85. Theme parks.
- 86. Permanent camp sites and caravan sites.
- 87. Golf courses and associated developments.

### Changes and extensions

88. Any change to or extension of development of a description listed in Schedule A1 (other than a change or extension falling within paragraph 31 of that Schedule) where that development is already authorised, executed or in the process of being executed.

89. Any change to or extension of development of a description listed in paragraphs 1 to 87 of this Schedule where that development is already authorised, executed or in the process of being executed.

90. Development of a description mentioned in Schedule A1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.]

[<sup>F3</sup>SCHEDULE 1

Regulation 8(2)

Matters relevant to consideration of whether or not a Schedule A2 project is likely to have significant effects on the environment

#### Textual Amendments

- F3** Sch. 1 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 29, **Sch. 2** (with reg. 34)

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007. (See end of Document for details)

### **Characteristics of the project**

1. The characteristics of the project, with particular regard to—
  - (a) the size and design of the whole project;
  - (b) cumulation with other existing or approved projects ;
  - (c) the use of natural resources, in particular land, soil, water and biodiversity;
  - (d) the production of waste;
  - (e) pollution and nuisances;
  - (f) the risk of major accidents or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge; and
  - (g) the risks to human health (for example due to water contamination or air pollution).

### **Location of the project**

2. The environmental sensitivity of geographical areas likely to be affected by the project, with particular regard to—
  - (a) the existing and approved land use;
  - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and below ground in that area;
  - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
    - (i) wetlands, riparian areas, river mouths;
    - (ii) coastal zones and the marine environment;
    - (iii) mountain and forest areas;
    - (iv) nature reserves and parks;
    - (v) areas classified or protected under national legislation, Natura 2000 areas designated or classified by member States pursuant to the Habitats Directive or the Wild Birds Directive;
    - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in EU legislation and relevant to the project, or in which it is considered that there is such a failure;
    - (vii) densely populated areas; and
    - (viii) landscapes and sites of historical, cultural or archaeological significance.

### **Types and characteristics of the potential impact**

3. The likely significant effects of projects on the environment in relation to the matters set out in paragraphs 1 and 2, with regard to the impact of the project on the factors specified in regulation 21A(2)(a) to (e) and with regard to—
  - (a) the magnitude and spatial extent of the impact (for example the geographical area and the size of the population likely to be affected);
  - (b) the nature of the impact;
  - (c) the transboundary nature of the impact;
  - (d) the intensity and complexity of the impact;
  - (e) the probability of the impact;
  - (f) the expected onset, duration, frequency and reversibility of the impact;

- (g) the cumulation of the impact with the impact of other existing or approved projects;
- (h) the possibility of effectively reducing the impact.]

## SCHEDULE 2

Regulation 11(4)

### SCREENING OPINIONS

#### **Request for a screening opinion**

1.—(1) A request for a screening opinion must be accompanied by—

(a) a chart or map (or both) sufficient to identify the location of the project and of the regulated activity;

[<sup>F4</sup>(b) a description of the project, including in particular—

(i) a description of the physical characteristics of the whole project and, where relevant, of demolition works; and

(ii) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment likely to be significantly affected by the project; and

(d) a description of any likely significant effects of the project on the environment, to the extent of the information available on such effects resulting from—

(i) the expected residues and emission and the production of waste, where relevant,

(ii) the use of natural resources, in particular soil, land, water and biodiversity; and]

[<sup>F5</sup>(e) such further information or representations as the applicant may wish to provide or make, including a description of any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.]

[<sup>F6</sup>(1A) The selection criteria set out in Schedule 1 must be taken into account, where relevant, when compiling the information required by paragraph (1)(b) to (d) above.

(1B) The applicant must take into account any other relevant and reasonably obtainable assessment carried out in accordance with an EU obligation under the law of any part of the United Kingdom other than under the EIA Directive.]

(2) Where the regulated activity comprises the whole of (or forms part of) a project in respect of which the applicant has made an application to a consenting authority other than the regulator, an applicant seeking a screening opinion must—

(a) inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of any such application;

(b) if any such consenting authority has requested an environmental statement in respect of that project, inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of that request; and

(c) if so requested by the appropriate authority, provide the appropriate authority with a copy of any environmental statement and of any other environmental information provided to any such consenting authority.

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007. (See end of Document for details)

### Textual Amendments

- F4** Sch. 2 para. 1(1)(b)-(d) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(2)** (with reg. 34)
- F5** Sch. 2 para. 1(1)(e) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(3)** (with reg. 34)
- F6** Sch. 2 para. 1(1A)(1B) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(4)** (with reg. 34)

### Payment of a fee for a screening opinion

- 2.—(1) The appropriate authority may require an applicant to pay a reasonable fee in respect of—
- (a) the administrative expenses of providing a screening opinion; and
  - (b) the cost of carrying out any examinations or tests that, in the opinion of the appropriate authority, are necessary or expedient to enable the appropriate authority to produce its screening opinion.
- (2) If the appropriate authority considers that it is appropriate to do so, it may—
- (a) require the applicant to make a reasonable advance payment against the fee that it is entitled to charge for its screening opinion;
  - (b) determine the balance of the fee payable after carrying out the work necessary to produce its screening opinion in accordance with the remaining provisions of this Schedule; and
  - (c) require the applicant to pay the balance of the fee that it is entitled to charge prior to the notification of its screening opinion.

### Procedure for reaching a screening opinion

3.—(1) The appropriate authority must, if it considers that it has not been provided with sufficient information to enable it to give a screening opinion, notify the applicant in writing of the matters on which it requires further information and the applicant must supply that further information to the appropriate authority within such period as the appropriate authority may reasonably require.

(2) The applicant must supply the appropriate authority with such number of additional copies of the documentation as the appropriate authority may reasonably require.

(3) The appropriate authority need not deal further with the request for a screening opinion until the applicant has complied with the requirements of sub-paragraphs (1) and (2).

(4) Where an applicant has failed to comply with the requirements of sub-paragraph (1) or (2) 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 to which the request relates 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.

[<sup>F7</sup>(5) Where the appropriate authority must give a screening opinion under these Regulations, the authority must take into account in making that decision—

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

#### Textual Amendments

- F7** Sch. 2 para. 3(5) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(5)** (with reg. 34)

#### Consultation

4.—(1) The appropriate authority must consult such of the consultation bodies as it considers appropriate before giving a screening opinion.

(2) When carrying out any consultation under sub-paragraph (1), the appropriate authority must allow the consultation body a reasonable period within which to respond, and that period must not be less than 28 days from the date of the letter to the consultation body from the appropriate authority or such other period as may be agreed between the consultation body and the appropriate authority.

#### [<sup>F8</sup>Giving a screening opinion

- 4A. Where the appropriate authority gives a screening opinion, the screening opinion must—
- (a) state the main reasons for the conclusion with reference to the relevant criteria listed in Schedule 1; and
  - (b) if it is determined that the regulated activity does not require an environmental impact assessment, state any features of the project or measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment.]

#### Textual Amendments

- F8** Sch. 2 para. 4A inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(6)** (with reg. 34)

#### [<sup>F9</sup>Notification of a screening opinion

5.—(1) Where the applicant requests a screening opinion under regulation 11(1) in accordance with paragraph 1(1), the appropriate authority must provide its screening opinion to—

- (a) the applicant;
- (b) if the appropriate authority is not also the regulator, the regulator; and
- (c) such of the consultation bodies as it consulted in accordance with paragraph 4.

(2) The appropriate authority must provide the opinion as soon as possible within a period of 90 days beginning with the day on which the request is made.

(3) In exceptional cases, where the nature, complexity, location or size of the project demands a longer period for determination, the appropriate authority may extend the period specified in sub-paragraph (2), informing the applicant in writing of the reasons justifying the extension and of the date on which its screening opinion is expected.]

#### Textual Amendments

- F9** Sch. 2 para. 5 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(7)** (with reg. 34)

**Status:** Point in time view as at 16/05/2017.

**Changes to legislation:** There are currently no known outstanding effects for the The Marine Works (Environmental Impact Assessment) Regulations 2007. (See end of Document for details)

### Availability of screening opinions for inspection

6.—(1) Subject to sub-paragraph (2), the appropriate authority must ensure that, as soon as possible after being sent to the applicant, its screening opinion is—

- (a) publicised in such manner as it considers appropriate; and
  - [<sup>F10</sup>(b) in the case of an activity requiring regulatory approval under the 1985 Act<sup>[F11]</sup> or the 2009 Act], made available on the relevant Public Register.]
- (2) Sub-paragraph (1) does not require disclosure of any excluded information.

#### Textual Amendments

**F10** Sch. 2 para. 6(1)(b) substituted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, **11**

**F11** Words in Sch. 2 para. 6(1)(b) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **30(8)** (with reg. 34)

## [<sup>F12</sup>SCHEDULE 3

Regulation 12(2)

### Information to be included in an environmental statement

#### Textual Amendments

**F12** Sch. 3 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), reg. 1(1), **Sch. 3** (with reg. 34)

1. A description of the project and of the regulated activity, including in particular:
  - (a) a description of the location of the project and the regulated activity;
  - (b) a description of the physical characteristics of the whole project and regulated activity, including where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - (c) a description of the main characteristics of the operational phase of the project and the regulated activity (in particular any production process): for instance, energy demand and energy used, the nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
  - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases) resulting from the operation of the proposed project and the regulated activity.
2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the applicant, which are relevant to the proposed project, the regulated activity and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario), and an outline of the likely evolution thereof without implementation of the project, as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in regulation 21A(2)(a) to (e) likely to be significantly affected by the project and the regulated activity: population, human health, biodiversity (for example, fauna and flora), land (for example, land take), soil (for example, organic matter, erosion, compaction, sealing), water (for example, hydromorphological changes, quantity and quality), air, climate (for example, greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5. A description of the likely significant effects of the project and the regulated activity on the environment resulting from, inter alia—

- (a) the construction and existence of the project and the regulated activity, including, where relevant, demolition works;
- (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- (d) the risks to human health, cultural heritage or the environment (for example, due to accidents or disasters);
- (e) the cumulation of effects with other existing or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the project on climate (for example, the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

6. The description of the likely significant effects on the factors specified in regulation 21A(2) (a) to (e) must cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project and the regulated activity. This description must take into account the environmental protection objectives established at Union or member State level which are relevant to the project and the regulated activity.

7. A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment including details of difficulties (for example, technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

8. A description of the measures envisaged to avoid, prevent, reduce or if possible offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example, the preparation of a post-project analysis). That description must explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and must cover both the construction and operational phases.

9. A description of the expected significant adverse effects of the project and the regulated activity on the environment deriving from the vulnerability of the project and the regulated activity to risks of major accidents or disasters which are relevant to the project and the regulated activity concerned. Relevant information available and obtained through risk assessments pursuant to EU legislation such as [Directive 2012/18/EU](#) of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#) or Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations or UK environmental assessments may be used for this purpose provided that the requirements of the EIA Directive are met. Where appropriate, this description must include measures envisaged to prevent or mitigate the

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significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

10. A non-technical summary of the information provided under paragraphs 1 to 9.

11. A reference list detailing the sources used for the descriptions and assessments included in the report.]

## SCHEDULE 4

Regulation 13(2)

### SCOPING OPINIONS

#### Request for a scoping opinion

1. A request for a scoping opinion must be accompanied by—

(a) a chart, plan or map sufficient to identify the location of the regulated activity and of other activities to be carried out in the course of the project;

[<sup>F13</sup>(b) a brief description of the specific characteristics of the regulated activity and the project, including their nature, purpose, location and technical capacity;]

[<sup>F14</sup>(ba) an explanation of the likely significant effects of the regulated activity and the project on the environment;]

(c) such other information or representations as the applicant may wish to provide or make.

#### Textual Amendments

**F13** Sch. 4 para. 1(b) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(2)** (with reg. 34)

**F14** Sch. 4 para. 1(ba) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(3)** (with reg. 34)

#### Information required where another application has been made

2. Where the regulated activity is to be carried out in the course of a project in respect of which the applicant has made an application to a consenting authority other than the regulator, an applicant seeking a scoping opinion must—

(a) inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of any such application;

(b) if any such consenting authority has requested an environmental statement in respect of that project, inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of that request; and

(c) if so requested by the appropriate authority or the regulator, provide the appropriate authority with a copy of any environmental statement and of any other environmental information provided to any such consenting authority.

#### Payment of a fee for a scoping opinion

3.—(1) The appropriate authority may require an applicant to pay a reasonable fee in respect of—

(a) the administrative expenses of providing a scoping opinion; and

- (b) the cost of carrying out any examinations or tests that, in the opinion of the appropriate authority, are necessary or expedient to enable the appropriate authority to produce its scoping opinion.
- (2) If the appropriate authority considers that it is appropriate to do so, it may—
- (a) require the applicant to make a reasonable advance payment against the fee that it is entitled to charge for its scoping opinion;
  - (b) determine the balance of the fee payable after carrying out the work necessary to produce its scoping opinion in accordance with the remaining provisions of this Schedule; and
  - (c) require the applicant to pay the balance of the fee that it is entitled to charge prior to the notification of its scoping opinion.

### **Procedure for reaching a scoping opinion**

4.—(1) The appropriate authority must, if it considers that it has not been provided with sufficient information to enable it to give a scoping opinion, notify the applicant in writing of the matters on which it requires further information and the applicant must supply that further information to the appropriate authority within such period as the appropriate authority may reasonably require.

(2) The applicant must supply the appropriate authority with such number of additional copies of the documentation as the appropriate authority may reasonably require.

(3) The appropriate authority need not deal further with the request for a scoping opinion until the applicant has complied with the requirements of sub-paragraphs (1) and (2).

(4) Where an applicant has failed to comply with the requirements of sub-paragraph (1) or (2) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

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

### **Matters to be considered in reaching a scoping opinion**

5. In reaching a scoping opinion, the appropriate authority must [<sup>F15</sup>take into account]—
- (a) the specific characteristics of the project [<sup>F16</sup>, including its location and technical capacity];
  - (b) the nature and purpose of regulated activities of the type concerned in the project;
  - (c) the environmental features likely to be affected by the project; and
  - [<sup>F17</sup>(d) any information provided by the applicant about the project and the regulated activity.]

#### **Textual Amendments**

**F15** Words in Sch. 4 para. 5 substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(4)** (with reg. 34)

**F16** Words in Sch. 4 para. 5(a) inserted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(5)** (with reg. 34)

**F17** Sch. 4 para. 5(d) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), **32(6)** (with reg. 34)

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## Consultation

6.—(1) The appropriate authority must consult such of the consultation bodies as it considers appropriate before giving a scoping opinion.

(2) When carrying out any consultation under sub-paragraph (1), the appropriate authority must allow the consultation body a reasonable period within which to respond and that period must not be less than 28 days from the date of the letter that the consultation body receives from the appropriate authority or such other period as may be agreed between the consultation body and the appropriate authority.

## Notification of a scoping opinion

7. The appropriate authority must, as soon as reasonably practicable, provide its scoping opinion and a written statement of the reasons for its opinion to—

- (a) the applicant;
- (b) if the appropriate authority is not also the regulator, the regulator; and
- (c) such of the consultation bodies as it consulted in accordance with paragraph 6.

## Availability of scoping opinions for inspection

8.—<sup>[F18]</sup>(1) Subject to sub-paragraph (2), the appropriate authority must ensure that, as soon as possible after being sent to the applicant, its scoping opinion is—

- (a) publicised in such a manner as it considers appropriate; and
- (b) in the case of an activity requiring regulatory approval under the 1985 Act<sup>[F19]</sup> or the 2009 Act], made available on the relevant Public Register.]

(2) Sub-paragraph (1) does not require disclosure of any excluded information.

### Textual Amendments

**F18** Sch. 4 para. 8(1) substituted (6.4.2011) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2011 \(S.I. 2011/735\)](#), regs. 1, 12

**F19** Words in Sch. 4 para. 8(1)(b) substituted (16.5.2017) by [The Marine Works \(Environmental Impact Assessment\) \(Amendment\) Regulations 2017 \(S.I. 2017/588\)](#), regs. 1(1), 32(7) (with reg. 34)

## SCHEDULE 5

Regulations 21 and 22(a)(iv)

### CONSIDERATION OF REPRESENTATIONS FROM THE PUBLIC

1.—(1) In relation to each representation made pursuant to the statement referred to in regulation 16(2)(g), the appropriate authority must consider whether or not the representation is capable of being dealt with in accordance with this Schedule.

(2) If the appropriate authority concludes that the representation is not capable of being dealt with in accordance with this Schedule—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

2.—(1) If the appropriate authority concludes in accordance with paragraph 1(1) that the representation is capable of being dealt with in accordance with this Schedule, it must consider whether or not the representation is relevant to the EIA consent decision.

(2) If the appropriate authority concludes that the representation is not relevant to the EIA consent decision, it must consider whether it is relevant in some other way to the project in the course of which the regulated activity is to be carried out.

(3) If the appropriate authority concludes that the representation is not relevant to that project in any other way—

- (a) it need not have any further regard to the representation; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

(4) If the appropriate authority concludes that the representation is relevant in some other way to the project in the course of which the regulated activity is to be carried out—

- (a) it must copy the representation to the regulator and any consenting authorities in so far as the appropriate authority regards the representation as relevant to any of their functions that are relevant to compliance with the EIA Directive;
- (b) it need not have any further regard to the representation; and
- (c) the remaining provisions of this Schedule do not apply to the representation.

3.—(1) If the appropriate authority concludes in accordance with paragraph 2(1) that the representation is relevant to the regulated activity, it must consider whether the representation is capable of being addressed by an arrangement made between it, the applicant and the maker of the representation.

(2) If the appropriate authority concludes that the representation is capable of being addressed by means of such an arrangement, it may invite the applicant and the maker of the representation to enter into discussions with it and each other with a view to making the arrangement.

(3) If an arrangement is made—

- (a) the appropriate authority must have regard to the arrangement when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

4.—(1) If either—

- (a) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is capable of being satisfied by an arrangement made between it, the applicant and the maker of the representation but no such arrangement is made within a reasonable period, or
- (b) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is not capable of being satisfied by an arrangement made between it, the applicant and the maker of the representation,

the appropriate authority must consider whether the representation gives rise to a dispute that calls for resolution of a question of fact in order to enable it to make its EIA consent decision.

(2) If the appropriate authority concludes that the representation gives rise to such a dispute, it may, if it considers that it is appropriate to do so—

- (a) instigate a local inquiry; or
- (b) appoint a person whom it considers expert in the subject-matter of the dispute to report to it on the question of fact.

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(3) If the appropriate authority concludes that the representation does not give rise to such a dispute or if it does not think that it is appropriate to instigate a local inquiry or appoint a person to report to it—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision;
- (b) the remaining provisions of this Schedule do not apply to the representation.

**5.—**(1) If the appropriate authority instigates a local inquiry in accordance with paragraph 4(2) (a)—

- (a) it must give notice of that inquiry in such manner as it thinks fit; and
- (b) all persons interested are permitted to attend, and be heard at, the inquiry.

(2) The appropriate authority must not reach its EIA consent decision until the inquiry has been completed.

(3) The appropriate authority must have regard to the outcome of the inquiry when reaching its EIA consent decision.

**6.—**(1) Subsections (2) to (5) of section 250 (power to direct inquiries) of the Local Government Act 1972<sup>(1)</sup> apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in England or Wales as they apply in relation to an inquiry held under that section.

(2) Schedule A1 (provisions applicable to inquiries and investigations) to the Interpretation Act (Northern Ireland) 1954<sup>(2)</sup> applies in relation to an inquiry instigated under paragraph 4(2)(a) and held in Northern Ireland as it applies to an inquiry held under an enactment passed or made as mentioned in section 23 (inquiries and investigations) of that Act.

(3) The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997<sup>(3)</sup> apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in Scotland as they apply to an inquiry held under those Rules.

**7.—**(1) If the appropriate authority appoints a person to report to it in accordance with paragraph 4(2)(b), it must—

- (a) notify the applicant and the maker of the representation, and the regulator (if the appropriate authority is not also the regulator)—
  - (i) that it has so done; and
  - (ii) its reasons for doing so;
- (b) send details of the appointed person and of the question of fact to the applicant and the maker of the representation and to the regulator (if the appropriate authority is not also the regulator).

(2) The appointed person must provide such opportunity for each of the applicant, the maker of the representation, the appropriate authority and the regulator (if the appropriate authority is not also the regulator) to address him orally or in writing, or both, as he considers expedient for the purposes of making his report.

(3) The appropriate authority must not reach its EIA consent decision until either the appointed person has made his report or a reasonable period has expired.

(4) The appointed person's report to the appropriate authority should contain his findings of fact on the subject-matter of the dispute and should be sent to the appropriate authority and the regulator

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(1) 1972 c.70.

(2) 1954 c.33 (N.I.).

(3) S.I. 1997/796 (S.75).

(if the appropriate authority is not also the regulator) and copied to the applicant and the maker of the representation.

- (5) When reaching its EIA consent decision, the appropriate authority must—
  - (a) have regard to the appointed person's report; and
  - (b) have such regard as the appropriate authority considers appropriate in all the circumstances to any representations made to the appointed person.

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