
STATUTORY INSTRUMENTS

2017 No. 588

The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017

Amendment of regulation 10

- 10.**—(1) Regulation 10 (exceptions) is amended as follows.
- (2) In paragraph (1)(1)—
- (a) for “an Annex I” substitute “a Schedule A1”;
 - (b) for “an Annex II” substitute “a Schedule A2”;
 - (c) in sub-paragraph (b)(i), after “assessment of any” insert “significant”.
- (3) In paragraph (2), for “shall” substitute “must”.
- (4) After paragraph (2), insert—
- “(2A) Where the appropriate authority determines in accordance with paragraph (1)(a) that an environmental impact assessment is not required in relation to a regulated activity, it must—
- (a) consider whether another form of assessment of the likely significant effects of the project on the environment is appropriate; and
 - (b) make available to the public concerned—
 - (i) the determination, including an explanation of the reasons for it; and
 - (ii) the information obtained under any other assessment referred to in sub-paragraph (a).”.
- (5) In paragraph (3)(b)(ii)(2), for “, the 2009 Act or the 2010 Act” substitute “or the 2009 Act”.
- (6) After paragraph (3), insert—
- “(3A) Paragraphs (4) to (4J) apply where the appropriate authority determines in accordance with paragraph (1)(b) that an environmental impact assessment is not required in relation to a regulated activity by reason of an assessment carried out by another consenting authority.”.
- (7) For paragraph (4)(3) substitute—
- “(4) The regulator—
- (a) must not grant regulatory approval unless it has determined that to do so would be compatible with the other consenting authority’s measures to comply with the EIA Directive; and
 - (b) for the purpose of so determining must consider whether it is appropriate to seek the views of the other consenting authority.”.
- (8) After paragraph (4) insert—

(1) Paragraph (1) was amended by [S.I. 2011/735](#) and [2015/446](#).

(2) Paragraph (3) was amended by [S.I. 2015/446](#). Sub-paragraph (b)(ii) of paragraph (3) was substituted by [S.I. 2011/735](#).

(3) Paragraph (4) was substituted by [S.I. 2011/735](#).

“(4A) Any decision to grant a regulatory approval must take into account the following information relating to the other consenting authority’s assessment referred to in paragraph (1)(b)—

- (a) the conclusion of the assessment;
- (b) any relevant conditions attached to any consent granted in respect of the project by the other consenting authority and which relate to the likely significant environmental effects of the project on the environment;
- (c) a description of any features of the project and any measures envisaged in order to avoid, prevent, reduce and, if possible, offset likely significant adverse effects of the project on the environment;
- (d) any monitoring measures considered appropriate by the other consenting authority in relation to the project; and
- (e) any comments of the other consenting authority relating to the regulated activity.

(4B) The regulator must be satisfied that the information incorporated in the other consenting authority’s assessment and consent (if any) is up to date at the time that the regulatory decision is taken, but that information and the other consenting authority’s assessment and consent (if any) must be taken to be up to date if, in the opinion of the regulator, they address the significant effects that the proposed project is likely to have on the environment.

(4C) 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 other consenting authority’s decision is published.

(4D) Where the regulator decides to refuse regulatory approval, the regulator must state the main reasons for the refusal.

(4E) Where the regulator decides to grant regulatory approval, the regulator must incorporate in the regulatory decision—

- (a) a summary of the other consenting authority’s conclusion referred to in paragraph (4A)(a);
- (b) any environmental conditions, 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 have been incorporated or otherwise addressed.

(4F) 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) every consultation body to whom the other consenting authority sent written notice of its decision;

- (d) the authorities of any EEA State to whom the other consenting authority sent written notice of its decision; and
 - (e) any other person or body consulted by the regulator under section 8(11B) of the 1985 Act⁽⁴⁾ or section 69(4) of the 2009 Act.
- (4G) The regulator must, as soon as possible after its decision is sent to the applicant pursuant to paragraph (4F), ensure that—
- (a) notice of that decision is published on the regulator’s website and in such other manner as it considers appropriate; and
 - (b) it promptly makes a written copy of the regulatory decision available for public inspection.
- (4H) In paragraph (4G), “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 by the appropriate authority under regulation 16(2)(e).
- (4I) The notice in paragraph (4G)(a) 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 referred to in paragraph (4H)(b) may be inspected.
- (4J) A decision to grant regulatory approval which includes a monitoring measure may include 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.”

(4) Section 8(11B) was inserted by paragraph 16(4) of Part 3 of Schedule 3 to the Food Standards Act 1999 (c. 28).