
STATUTORY INSTRUMENTS

2019 No. 1350

The Environment (Legislative Functions
from Directives) (EU Exit) Regulations 2019

PART 5

Marine strategy

Retention of functions from Directive 2008/56/EC

23. In the Marine Strategy Regulations 2010(1), after regulation 20 insert—

“PART 6

Powers to make regulations

Power to lay down standardised methods for monitoring and assessment of the status of the marine environment

21. The Secretary of State may, by regulations, make provision laying down specifications and standardised methods for monitoring and assessment with the purpose of ensuring comparability of those assessments across the marine strategy area.

Power to make provision in relation to ecosystem elements, anthropogenic pressures and human activities, characteristics for setting environmental targets, and monitoring programmes

22.—(1) The Secretary of State may, by regulations, make provision—

- (a) specifying indicative lists of ecosystem elements, anthropogenic pressures and human activities relevant to the marine waters (see Annex 3 to the Directive);
- (b) specifying an indicative list of characteristics to be taken into account for setting environmental targets (see Annex 4 to the Directive);
- (c) specifying requirements for monitoring programmes (see Annex 5 to the Directive).

(2) The provision which may be made under paragraph (1) includes—

- (a) requiring a reference to a relevant Annex to the Directive (or a reference which encompasses that Annex) to be read as a reference to that Annex with modifications;
- (b) amending a provision which corresponds to that made by a relevant Annex.

(3) Regulations under paragraph (1) may amend any subordinate legislation (which, for the purpose of this regulation, has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018) or retained direct EU legislation.

(4) The Secretary of State may only exercise the power in paragraph (1) to the extent that the Secretary of State considers it appropriate to do so as a result of scientific and technical progress.

(5) When exercising the power in paragraph (1) the Secretary of State must take into account the period for review and updating of the marine strategy (or elements of it) developed in accordance with regulation 5 of these Regulations.

(6) The relevant Annexes to the Directive are—

- (a) Annex 3 (indicative lists of ecosystem elements, anthropogenic pressures and human activities relevant to marine waters);
- (b) Annex 4 (indicative list of characteristics to be taken into account for setting environmental targets);
- (c) Annex 5 (monitoring programmes).

Power to establish standardised methods

23. The Secretary of State may, by regulations, make provision specifying standardised methods relating to the application of—

- (a) any qualitative descriptors for determining good environmental status (see Annex 1 to the Directive);
- (b) any ecosystem elements, anthropogenic pressures and human activities relevant to marine waters (see Annex 3 to the Directive);
- (c) any characteristics to be taken into account for setting environmental targets (see Annex 4 to the Directive);
- (d) any monitoring programmes (see Annex 5 to the Directive).

Regulations: general

24.—(1) The Secretary of State may make regulations under this Part in relation to the whole of the marine strategy area.

(2) Before making any regulations under this Part, the Secretary of State must obtain the consent of—

- (a) for regulations applying in relation to Scotland (which has the meaning given by section 126(1) of the Scotland Act 1998⁽²⁾), the Scottish Ministers;
- (b) for regulations applying in relation to Wales (which has the meaning given by section 158(1) of the Government of Wales Act 2006⁽³⁾), the Welsh Ministers;
- (c) for regulations applying in relation to Northern Ireland (which has the meaning given by section 98(1) of the Northern Ireland Act 1998⁽⁴⁾), the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

(3) Before making any regulations under this Part which affect or are likely to affect the exercise of any devolved function, the Secretary of State must obtain the consent of the relevant devolved policy authority.

(2) 1998 c.46.

(3) 2006 c.32.

(4) 1998 c.47.

(4) Where any devolved policy authority requests that the Secretary of State make regulations under this Part, the Secretary of State must have regard to that request.

Regulations: consultation

25.—(1) Before making any regulations under this Part, the Secretary of State must consult—

- (a) the devolved policy authorities;
- (b) such bodies or persons as appear to the Secretary of State to be interested in or affected by the making of the regulations, including the OSPAR Commission (the Commission established by Article 10 of the Convention for the Protection of the Marine Environment of the North-East Atlantic) and any other interested organ of an international organisation.

(2) After taking any decision following consultation under paragraph (1), the Secretary of State must publish a report in respect of that decision.

Regulations: procedure

26.—(1) Any power to make regulations under this Part is exercisable by statutory instrument.

(2) A statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Regulations made under this Part may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments or retained direct EU legislation);
- (b) make different provision for different purposes.”.