WELSH STATUTORY INSTRUMENTS

2011 No. 555 (W.78)

ENVIRONMENTAL PROTECTION, WALES
LICENSING (MARINE), WALES
MARINE POLLUTION, WALES

The Marine Licensing (Application Fees) (Wales) Regulations 2011

Made - - - -	*25 February 2011*
Laid before the National Assembly for Wales - -	*1 March 2011*
Coming into force - -	*6 April 2011*

The Welsh Ministers, as the appropriate licensing authority under section 113(4)(b) of the Marine and Coastal Access Act 2009(**1**), make the following Regulations in exercise of the powers conferred by sections 67(2), (3)(b) and 316(1)(b) of that Act.

Title and commencement

1.—(1) The title of these Regulations is the Marine Licensing (Application Fees) (Wales) Regulations 2011.

(2) These Regulations come into force on 6 April 2011.

Application

2. These Regulations apply in relation to any application for a marine license in relation to which the Welsh Ministers are the appropriate licensing authority(**2**).

Interpretation

3.—(1) In these Regulations—

(**1**) 2009 c. 23.

(**2**) By virtue of section 113(4)(b) of the Marine and Coastal Access Act 2009 (c. 23), the Welsh Ministers are the appropriate licensing authority as respects anything done in the course of carrying on a licensable marine activity in relation to Wales and the Welsh inshore region, other than activities for which the Secretary of State is the appropriate licensing authority by virtue of sections 113(4)(a) and (5) of that Act. *See* section 322(1) for a definition of the Welsh inshore region.

"application for a marine licence" ("*cais am drwydded forol*") means an application for a licence to carry on one or more licensable marine activities;

"environmentally sensitive area" ("*ardal amgylcheddol sensitif*") means—

(a) a marine nature reserve, within the meaning given by section 36 of the Wildlife and Countryside Act 1981(**3**);

(b) a Ramsar site, within the meaning given by section 37A of the Wildlife and Countryside Act 1981(**4**);

(c) a site of special scientific interest within the meaning given by section 28 of the Wildlife and Countryside Act 1981(**5**);

(d) a special area of conservation, within the meaning given by Article 1(l) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive)(**6**);

(e) a special protection area, within the meaning given by the Conservation of Habitats and Species Regulations 2010(**7**);

"environmental sensitivity supplement" ("*tâl atodol sensitifrwydd amgylcheddol*") means a supplement to the fee payable in relation to certain applications for a marine licence;

"fee" ("*ffi*") means the fee payable for determining an application for a marine licence.

(2) In these Regulations a reference to a numbered table is a reference to the table bearing that number in the Schedule.

Payment and recovery of fees

4.—(1) All fees are payable to the Welsh Ministers.

(2) All fees are payable on demand.

(3) Payment of any fee may be made by electronic means.

(4) A fee is received by the Welsh Ministers when they are in possession of cleared funds for the whole amount of the fee.

(5) Any unpaid fee or part of any fee is recoverable by the Welsh Ministers as a civil debt.

(**3**) 1981 (c. 69). Section 36 is amended by section 3 of, and paragraph 6 of Schedule 1 to, the Territorial Sea Act 1987 (c. 49); section 105 of, and paragraph 85 of Part 1 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16); section 66(6) of, and paragraph 65(4) of Schedule 16 to, the Local Government (Wales) Act 1994 (c. 19); section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51); section 32(5) of, and Schedule 3 to, the Pilotage Act 1987 (c. 21). There are other amendments which are not relevant for these purposes. Functions of the Secretary of State in so far as exercisable in relation to Wales are transferred to the Welsh Ministers by article 2 of Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**4**) 1981 (c. 69). Section 37A was inserted by section 77 of the Countryside and Rights of Way Act 2000 (c. 37), and amended by section 105 of, and paragraph 86 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16).

(**5**) 1981 (c. 69). New section 28 substituted by section 75(1) of, and paragraph 1 of Schedule 9 to, the Countryside and Rights of Way Act 2000 (c. 37). Amended by section 105(1) of, and paragraph 79 of Part 1 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16). There are other amendments which are not relevant for these purposes. Section 28 should be read in accordance with section 27AA. Functions of the Secretary of State in so far as exercisable in relation to Wales are transferred to the Welsh Ministers by article 2 of Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**6**) O.J. No L 206 22.7.1992 p.7-50.

(**7**) S.I.2010/490. New regulation 12A, which defines "special protection area" inserted by the Conservation of Habitats and Species (Amendment) Regulations 2011 (S.I. 2011/625).

Construction projects

5.—(1) In the case of an application for a marine licence that relates to a construction project that does not fall within regulation 9 (offshore renewable energy projects), the fee is determined by reference to the scale of fees set out in table 1.

(2) But, except in the case of an application to which band 1 of table 1 applies, paragraph (1) is subject to paragraph (3).

(3) Where one or more of the licensable marine activities which form the subject matter of the application referred to in paragraph (1), is to be carried on in or near an environmentally sensitive area, an environmental sensitivity supplement is payable.

(4) Where an environmental sensitivity supplement is payable, the amount of the supplement is determined by reference to the amounts set out in table 2.

Disposal — marine dredging

6.—(1) In the case of an application for a marine licence that relates to the disposal of dredged material, which does not fall within paragraph (4), the fee is determined by reference to the scales of fees set out in table 3.

(2) Where the dredged material referred to in paragraph (1) comes from capital dredging, the scale of fees in the third column of table 3 applies.

(3) Where the dredged material referred to in paragraph (1) comes from maintenance dredging, the scale of fees in the fourth column of table 3 applies.

(4) In the case of an application for a marine licence which relates to the disposal, for beneficial use, of dredged material, the fee is determined by reference to the scale of fees set out in table 4.

(5) But paragraph (4) is subject to paragraph (6).

(6) Where one or more of the licensable marine activities which form the subject matter of the application referred to in paragraph (4), is to take place in or near an environmentally sensitive area, an environmental sensitivity supplement is payable.

(7) Where an environmental sensitivity supplement is payable, the amount of the supplement is determined by reference to the amounts set out in table 2, subject to the modification in paragraph (8).

(8) Where paragraph (7) applies, a reference to project cost in table 2 is to be read as a reference to the cost of the project from which the dredged material to be disposed of, comes.

(9) In this regulation—

"beneficial use" ("*defnydd llesiannol*") means use which is beneficial to the environment;

"dredged material" ("*deunydd a dreillir*") means any substance or object which comes from marine dredging.

Disposal — fish waste

7. Where an application for a marine licence relates to the disposal of fish waste, the fee is determined by reference to table 5.

Extraction of minerals by marine dredging

8.—(1) In the case of an application for a marine licence which relates to the extraction of minerals by marine dredging, the fee is determined by reference to the second column of table 6.

(2) But paragraph (1) is subject to paragraph (3).