WELSH STATUTORY INSTRUMENTS

2011 No. 557 (W. 79)

ENVIRONMENTAL PROTECTION, WALES

MARINE POLLUTION, WALES

The Marine Licensing (Register of Licensing Information) (Wales) Regulations 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument prescribes the particulars of the matters required by section 101(1) of the Marine and Coastal Access Act 2009 ("the Act") to be contained in the register of information maintained by the Welsh Ministers as a licensing authority. Section 66 of the Act identifies licensable marine activities.

Regulation 2 defines certain terms used in the Regulations, and regulation 3 provides for the application of the Regulations. Regulation 4 makes provision for the form in which the register may be kept, and prescribed information.

Regulation 5 prescribes the particulars that must be included in the register relating to applications and licences. Regulations 6 to 12 prescribe additional particulars relating to particular types of applications and licences. Regulations 13 and 14 prescribe particulars relating to variations, revocations, suspensions and transfers of licences. Regulations 15 to 17 prescribe particulars relating to convictions, other enforcement action and remedial action.

Section 101(5) of the Act prohibits inclusion in the register of certain information on the grounds of national security or commercial confidentiality. See paragraph 7 of Schedule 9 to the Act for transitional provisions relating to the register maintained under section 14 of the Food and Environment Protection Act 1985.

Enquiries as to the form in which the register is made available should be directed to the Marine Consents Unit of the Welsh Assembly Government at the address below.

A full impact assessment of the effect of the marine licensing system established under the Marine and Coastal Access Act 2009 has been prepared and is available from the Marine Consents Unit, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ or at the welsh Assembly Government website at www.wales.gov.uk.

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The Marine Licensing (Register of Licensing Information) (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 101(2) and (3) and 316(1) of that Act.

Title and commencement

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

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

Interpretation

2.—(1) In these Regulations—

"the Act" (*"y Ddeddf"*) means the Marine and Coastal Access Act 2009;

"application" (*"cais"*) means an application for a licence, but does not include an application for a licence submitted and subsequently withdrawn;

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

"co-ordinates" (*"cyfesurynnau"*) means—

(a) co-ordinates of latitude and longitude on the World Goedetic System 1984; or

(b) co-ordinates on the National Grid used by the Ordnance Survey;

"licence" (*"trwydded"*) means a marine licence;

"the licensing authority" (*"yr awdurdod trwyddedu"*) means the Welsh Ministers acting in their capacity as the appropriate licensing authority under section 113 of the Act;

"the register" (*"y gofrestr"*) means the register of licensing information maintained under section 101 of the Act by the Welsh Ministers as the appropriate licensing authority.

(2) A reference in these Regulations to a numbered item is a reference to that numbered item in section 66(1) of the Act (which identifies licensable marine activities).

Application

3. These Regulations apply in relation to any licensable marine activity for which the Welsh Ministers are the appropriate licensing authority under section 113 of the Act(**1**).

The register and prescribed information

4.—(1) The register may be kept in any form.

(2) The register must contain the particulars prescribed in these Regulations.

(3) Regulation 5 prescribes particulars in relation to all applications and licences.

(4) Regulations 6 to 12 prescribe additional particulars relating to particular types of applications and licences.

(5) Regulations 13 and 14 prescribe particulars relating to variations, revocations, suspensions and transfers of licences.

(6) Regulations 15 to 17 prescribe particulars relating to convictions, other enforcement action and remedial action.

(7) The licensing authority must include in the register the particulars prescribed by regulations 5 to

(**1**) Under section 113(4)(b) of the Act, the Welsh Ministers are the appropriate licensing authority as respects anything done in the course of carrying on licensable marine activities in Wales and the Welsh inshore region, other than activities for which the Secretary of State is the appropriate licensing authority by virtue of section 113(4)(a) and (5) of the Act. See section 322(1) for the definition of the Welsh inshore region.

14 as soon as practicable after receiving or generating the information in question.

General particulars for applications and licences

5. The particulars in relation to all applications and licences are—

(a) the date on which the application was made;

(b) the application reference number or licence number issued by the licensing authority;

(c) the application reference number or licence number of any other application or licence that the licensing authority considers is related to the application in question;

(d) the name and address of the applicant or licence holder;

(e) the name and address of any agent, contractor or sub-contractor proposed to be engaged in the activity to which the application or the licence relates;

(f) any marine plan area(**1**) to which the application or licence relates;

(g) the dates of commencement and expiry of the licence (as applied for in the case of an application, or as granted , in the case of a licence);

(h) the date on which the licence was granted;

(i) details of any conditions subject to which the licence was granted;

(j) the details supplied with the application of any studies of the potential environmental and human health effects of the activity to be licensed; and

(k) details of any information supplied, article produced, or the result of any investigation, examination or test carried out under section 67(4) of the Act (power to require applicant to supply information etc) and any such information, article or result otherwise supplied or produced as part of the application.

Deposit of substances or objects

6.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 1, 2 or 3 (deposit of substances or objects).

(2) The additional particulars are—

(a) the description, composition and quantity of the substance or object to be deposited;

(**1**) See section 51(1) of the Act.

(b) the name and description of any vehicle, vessel, aircraft, marine structure or floating container from which the deposit is to be made, and, in the case of any vessel, its registration number and country of registration;

(c) the co-ordinates at which the deposit is to be made;

(d) where the activity falls within item 1(c), the co-ordinates of the structure on land from which the deposit is to be made;

(e) where the activity falls within item 3, the co-ordinates at which the loading is to take place;

(f) in the case of deposit for the purposes of disposal, details of any alternative methods of disposal considered by the applicant and the reason for deposit of the substance or object in the sea.

Scuttling

7.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 4, 5 or 6 (scuttling of vessels or floating containers).

(2) The additional particulars are—

(a) the intended date of the scuttling;

(b) the name of the vessel or floating container to be scuttled and, in the case of any vessel, its registration number and country of registration;

(c) the co-ordinates at which the vessel or floating container is to be scuttled;

(d) a description of any cargo of the vessel or floating container by reference to its composition and quantity.

Construction, alteration or improvement of works

8.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 7 (construction, alteration or improvement of works).

(2) The additional particulars are—

(a) a description of the works to be carried out and the dates on or between which the works are to be carried out;

(b) the co-ordinates at which the construction, alteration or improvement of works is to take place.

Use of vehicle etc to remove substances or objects from sea bed

9.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 8 (use of vehicle, vessel etc to remove substances or objects from the sea bed).

(2) The additional particulars are—

(a) a description of the substance or object to be removed from the sea bed;

(b) the name and description of any vehicle, vessel, aircraft, marine structure or floating container intended to be used to remove the substance or object from the sea bed, and, in the case of any vessel, its registration number and country of registration;

(c) the co-ordinates at which the object or substance is to be removed;

(d) the reason for removal of the substance or object from the sea bed;

(e) details of any alternative methods of removal considered by the applicant.

Dredging

10.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 9 (dredging).

(2) The additional particulars are—

(a) details of the type of dredging to be carried out;

(b) the co-ordinates at which the dredging is to be carried out;

(c) details of any information held by the licensing authority as to the contamination of the material to be dredged.

Deposit or use of explosives

11.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 10 (deposit or use of explosive substance or article).

(2) The additional particulars are—

(a) the co-ordinates at which the explosive substance or article is to be deposited or used;

(b) a description, including its quantity, of that explosive substance or article;

(c) details of the reason for the deposit or use of that explosive substance or article.

Incineration or loading a vehicle etc for incineration

12.—(1) This regulation applies in relation to applications and licences to carry on a licensable marine activity which falls within item 11, 12 or 13 (incineration of substances or objects or loading of vehicle, vessel etc for incineration).

(2) The additional particulars are—

(a) a description of the substance or object to be incinerated, together with its composition and quantity;

(b) the name and description of any vehicle, vessel, aircraft, marine structure or floating container on which the incineration is to take place or which is to be loaded, and, in the case of any vessel, its registration number and country of registration;

(c) the co-ordinates at which the incineration is to take place;

(d) where the activity falls within item 13, the co-ordinates at which the loading is to take place;

(e) details of any alternatives to incineration considered by the applicant and the reason for the incineration of the substance or object.

Variation, revocation or suspension of licences

13. The particulars in relation to any variation, revocation or suspension of a licence are—

(a) the licence number;

(b) the date of the variation, revocation or suspension;

(c) the reason for the variation, revocation or suspension;

(d) in the case of a variation, details of the variation.

Transfer of licences

14. The particulars in relation to any transfer of a licence are—

(a) the licence number;

(b) the name and address of the person to whom the licence has been transferred;

(c) the date of the transfer.

Convictions

15.—(1) The particulars in relation to any conviction for any offence under Part 4 of the Act are—

(a) the provision of the Act under which the person has been convicted;

(b) the licence number (where applicable);

(c) the name and address of the person convicted;

(d) the date of the offence;

(e) the reason for the prosecution;

(f) the court where the case was heard;

(g) the date of conviction;

(h) any penalty imposed by the court.

(2) In paragraph (1), "conviction" does not include a conviction that has been overturned on appeal.

Other enforcement action

16.—(1) The particulars in relation to any enforcement action taken in relation to Part 4 of the Act are—

(a) the licence number (where applicable);

(b) the name and address of the person against whom the enforcement action was taken;

(c) the type of enforcement action taken;

(d) the date of the offence or other activity in relation to which the enforcement action was taken;

(e) the reason for the enforcement action;

(f) details of any fixed monetary penalty or variable monetary penalty imposed(**1**) or any payment made to discharge a proposed fixed monetary penalty.

(2) In paragraph (1), "enforcement action" ("camau gorfodi") means—

(a) the issue of a compliance notice, remediation notice, stop notice, or emergency safety notice(**2**),

(b) the imposition of a fixed monetary penalty (or its discharge before imposition) or a variable monetary penalty under the Marine Licensing (Civil Sanctions)(Wales) Order 2011(**3**),

but does not include any such notice or penalty that has been overturned on appeal.

Remedial action taken by the licensing authority

17. The particulars relating to any works carried out by the licensing authority under section 106 of the Act (power to take remedial action) are—

(**1**) See section 115(1) of the Act for definitions of these terms.
(**2**) See section 115(1) of the Act for definitions of these terms.
(**3**) 2011/ (W)

(a) the licence number (if applicable);

(b) the date of the works;

(c) the type of works undertaken;

(d) the co-ordinates at which the works were carried out;

(e) the reason for the works.

Jane Davidson

Minister for Environment, Sustainability and Housing, one of the Welsh Ministers

25 February 2011