
MARINE STRATEGY REGULATIONS 2011

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**Subsidiary
2011/013**

Subsidiary Legislation made under s. 18(c).

MARINE STRATEGY REGULATIONS 2011**(LN. 2011/013)**

Commencement **10.2.2011**

Amending enactments	Relevant current provisions	Commencement date
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EU Legislation/International Agreements involved:
Directive 2008/56/EC

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In exercise of the powers conferred upon it by section 18(c) of the Environment Act 2005 and all other enabling powers, and for the purposes of transposing into the law of Gibraltar Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy, the Government has made the following Regulations—

**PART 1
Preliminary**

Title and commencement.

1. These Regulations may be cited as the Marine Strategy Regulations 2011 and come into operation on the day of publication.

Interpretation.

- 2.(1) In these Regulations—

“baseline” means the baseline from which the breadth of the territorial sea is measured;

“Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, as amended from time to time;

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

“coastal water” means surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial sea is measured, extending where appropriate up to the outer limit of transitional waters;

“the Commission” means the European Commission;

“competent authority” has the meaning given by regulation 4;

“the Council” means the Council of the European Union;

“criteria” means distinctive technical features that are closely linked to qualitative descriptors;

“Directive” means Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy, as amended from time to time;

“environmental status” means the overall state of the environment in marine waters, taking into account the structure, function and processes of the constituent marine ecosystems together with natural physiographic, geographic, biological, geological and climatic factors, as well as physical, acoustic and chemical conditions, including those resulting from human activities inside or outside the area concerned;

“environmental target” means a qualitative or quantitative statement on the desired condition of the different components of, and pressures and impacts on, marine waters in respect of each marine region or sub-region and such targets are established in accordance with regulation 8;

“good environmental status” means the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding the potential for uses and activities by current and future generations, that is—

- (a) the structure, functions and processes of the constituent marine ecosystems, together with the associated physiographic, geographic, geological and climatic factors, allow those ecosystems to function fully and to maintain their resilience to human-induced environmental change. Marine species and habitats are protected, human-induced decline of biodiversity is prevented and diverse biological components function in balance;
- (b) hydro-morphological, physical and chemical properties of the ecosystems, including those properties which result from human activities in the area concerned, support the ecosystems as described in paragraph (a) above. Anthropogenic inputs of substances and energy, including noise, into the marine environment do not cause pollution effects;

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“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“Habitats Directive” means Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time.

“inland water” means all standing or flowing water on the surface of the land, and all groundwater on the landward side of the baseline from which the breadth of territorial sea is measured;

“marine protected area” means any geographically defined area within the marine strategy area which is subject to measures for the conservation of species or habitats;

“marine region” and “marine sub-region” means a sea region or sub-region which is identified under Article 4 of the Directive;

“marine strategy” means the strategy to be developed and implemented in respect of each marine region or sub-region concerned as laid down in Article 5 of the Directive;

“marine strategy area” has the meaning given by subregulation (3);

“marine waters” means—

- (a) waters, the seabed and subsoil on the seaward side of the baseline from which the extent of territorial sea is measured extending to the outmost reach of the area where a Member State has and/or exercises jurisdictional rights, in accordance with the United Nations Convention on the Law of the Sea 1982, and, in the case of Gibraltar, the marine waters are those waters within the marine strategy area; and
- (b) coastal waters as defined by rule 2(1) of the Public Health (Water Framework) Rules 2004, their seabed and their subsoil, in so far as particular aspects of the environmental status of the marine environment are not already addressed through those Rules or any other EU legislation;

“Maritime Administrator” means the person appointed under section 3 of the Gibraltar Merchant Shipping (Safety, etc.) Act 1993;

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“pollution” means the direct or indirect introduction into the marine environment, as a result of human activity, of substances or energy, including human-induced marine underwater noise, which results or is likely to result in deleterious effects such as harm to living resources and marine ecosystems, including loss of biodiversity, hazards to human health, the hindering of marine activities, including fishing, tourism and recreation and other legitimate uses of the sea, impairment of the quality for use of sea water and reduction of amenities or, in general, impairment of the sustainable use of marine goods and services;

“Port Authority” means the Gibraltar Port Authority established by section 3 of the Gibraltar Port Authority Act 2005;

“public authority” means a public body or public officer, other than a Minister or a Government department;

“Regional Sea Convention” means any of the international conventions or international agreements together with their governing bodies established for the purpose of protecting the marine environment of the marine regions referred to in Article 4 of the Directive, such as the Convention on the Protection of the Marine Environment of the Baltic Sea, the Convention for the Protection of the Marine Environment of the North-east Atlantic and the Convention for the Marine Environment and the Coastal Region of the Mediterranean Sea;

“surface water” means inland waters, except groundwater; transitional waters and coastal waters, except in respect of chemical status for which it shall also include territorial waters;

“transitional waters” means bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows;

“Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, as amended from time to time.

(2) Good environmental status defined in this regulation shall be determined at the level of the marine region or sub-region as referred to in Article 4 of the Directive, on the basis of the qualitative descriptors in Schedule 1; and adaptive management on the basis of the ecosystem

approach shall be applied with the aim of attaining good environmental status.

(3) For the purposes of these Regulations, the “marine strategy area” means—

- (a) BGTW; and
- (b) any area of sea, the sea bed and subsoil within the limits of the exclusive economic zone adjacent to Gibraltar, when and if that zone is established.

(4) In sub-regulation (3), “sea” includes coastal water, but does not include any transitional waters.

(5) Any expression used in both these Regulations and the Directive and not otherwise defined in these Regulations has the same meaning for the purposes of these Regulations as it has for the purposes of the Directive.

Scope and application of these Regulations.

3.(1) These Regulations shall—

- (a) apply only in relation to the marine strategy area; and
- (b) where applicable, take account of the transboundary effects on the quality of the marine environment of third countries in the same marine region or sub-region as the marine strategy area.

(2) The Government and the competent authority shall, when implementing and enforcing these Regulations, take due account of the fact that BGTW forms an integral part of the Mediterranean Sea marine region and the Western Mediterranean Sea sub-region as referred to respectively in Article 4(1)(c) and Article 4(2)(b)(i) of the Directive.

(3) These Regulations shall not apply to activities the sole purpose of which is the defence or the national security of Gibraltar.

(4) The competent authority shall, however, endeavour to ensure that the activities referred to in subregulation (3) are conducted in a manner that is compatible, so far as reasonable and practicable, with the objectives of the Directive and these Regulations.

(5) These Regulations shall contribute to coherence between, and aim to ensure the integration of environmental concerns into, the different policies,

agreements and enactments which have an impact on the marine environment.

PART 2 General duties

The competent authority.

4.(1) The Department of Environment of the Government is designated the competent authority for Gibraltar for the purposes of the Directive and of these Regulations, including for the cooperation and coordination referred to in Articles 5(2) and 6 of the Directive, in accordance with the fourth subparagraph of Article 7(1) of the Directive, and in Article 11 of the Directive.

(2) The competent authority shall exercise its functions under these Regulations so as to secure compliance with the requirements of the Directive, including the requirement to take necessary measures to achieve or maintain good environmental status of marine waters within the marine strategy area by 31 December 2020.

(3) The Government must ensure that the Commission is informed of any changes to the name or status of the competent authority referred to in subregulation (1) within six months of such a change coming into effect.

Functions of the competent authority.

5.(1) The competent authority shall develop a marine strategy for the marine strategy area in accordance with the plan of action set out in regulations 6(1), 7(1), 8(1), 9(1) and 10(1) in order to—

- (a) protect and preserve the marine environment, prevent its deterioration or, where practicable, restore marine ecosystems in areas where they have been adversely affected; and
- (b) prevent and reduce inputs into the marine environment, with a view to phasing out pollution, so as to ensure they do not give rise to any significant impacts on or risks to marine biodiversity, marine ecosystems, human health or legitimate uses of the sea.

(2) The marine strategy must apply an ecosystem-based approach to the management of human activities within the marine strategy area.

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(3) The marine strategy shall consist of the elements required by regulations 6 to 10.

(4) For the purpose of this regulation, an “ecosystem-based approach” means an approach which—

- (a) ensures that the collective pressure of human activities within the marine strategy area is kept within levels compatible with the achievement of good environmental status; and
- (b) does not compromise the capacity of marine ecosystems to respond to human-induced changes,

while enabling the sustainable use of marine goods and services by the present and future generations.

(5) In order to develop the marine strategy under this regulation, the competent authority shall—

- (a) prepare proposals for the establishment, determination, review or update of the monitoring programmes and the programme of measures for the marine strategy area;
- (b) collect information, including information for any review or update, to support—
 - (i) the assessment of marine waters within the marine strategy area;
 - (ii) the determination of the characteristics of good environmental status for the marine waters within the marine strategy area taking into account, where relevant, any distinct hydrological, oceanographic and biogeographic features within that area; and
 - (iii) the development of environmental targets and indicators for the marine waters within the marine strategy area taking into account, where relevant, any distinct hydrological, oceanographic and biogeographic features within that area; and
- (c) gather such other information as the competent authority may reasonably require for the purpose of securing compliance with the Directive.

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(6) The competent authority shall cooperate with the competent authorities of Member States which have waters in the same marine region or sub-region as Gibraltar with a view to ensuring that the measures required to achieve the objectives of the Directive, in particular the different elements of the marine strategy, are coherent and coordinated across the common marine region or sub-region in question.

(7) Where the status of the sea is so critical as to require urgent action, the competent authority shall endeavour to agree, with the competent authority of any Member State which has a border with Gibraltar in the same marine region or sub-region, on a plan of action which includes—

- (a) an entry into operation of programmes of measures prior to the dates set out in regulation 10(1) and (8); and
- (b) if possible, stricter protective measures than those set out in these Regulations,

provided that such action does not prevent good environmental status from being achieved or maintained in another marine region or sub-region.

(8) Where action pursuant to subregulation (7) has been taken, the Government shall—

- (a) ensure that the Commission is informed of the revised time table; and
- (b) proceed with the plan of action accordingly.

(9) The competent authority and each public authority must, in the exercise of any of their functions in so far as they affect the marine strategy area, have regard to any marine strategy developed under this regulation.

PART 3

Elements of the marine strategy

Assessment of marine waters.

6.(1) By 15 July 2012, the competent authority must carry out an assessment of the marine waters within the marine strategy area in accordance with Article 8 of the Directive, taking account of available existing data.

(2) The assessment must, in particular, include an economic and social analysis of the use of those waters and the cost of degradation of the marine environment.

(3) The analyses referred to in paragraphs (a) and (b) of Article 8 (1) of the Directive must take into account—

- (a) elements regarding coastal, transitional and territorial waters covered by the Public Health (Water Framework) Rules 2004; and
- (b) or use as their basis, other relevant assessments such as those carried out jointly in the context of Regional Sea Conventions, if any, so as to produce a comprehensive assessment of the status of the marine environment.

(4) In preparing assessments under this regulation, the competent authority shall, by means of the coordination established under Articles 5 and 6 of the Directive, make every effort to ensure that—

- (a) assessment methodologies are consistent across the marine region or sub-region; and
- (b) transboundary impacts and transboundary features are taken into account.

(5) The competent authority must periodically review and update the results of the assessment required by subregulation (1), by each sixth anniversary of the date on which the assessment was published.

Determination of good environmental status.

7.(1) By 15 July 2012, the competent authority must determine the characteristics of good environmental status for the marine waters within the marine strategy area in accordance with Article 9 of the Directive.

(2) The characteristics of good environmental status must be determined on the basis of each of the qualitative descriptors listed in Schedule 1 and if the competent authority considers that it is not appropriate to use one or more of those descriptors, it shall ensure that the Commission is provided with a justification in the framework of the notification made under regulation 14(1) (b).

(3) The competent authority must take account of—

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- (a) the indicative list of elements in Table 1 of Schedule 3; and
- (b) the impact of human activity in the marine strategy area, having regard to the list of pressures and impacts in Table 2 of Schedule 3.

(4) The competent authority must periodically review and update the characteristics of good environmental status determined under subregulation (1), by each sixth anniversary of the date on which the characteristics of good environmental status are determined, to ensure that those characteristics are kept up to date.

Environmental targets and indicators.

8.(1) By 15 July 2012, the competent authority must establish environmental targets and indicators for the marine waters within the marine strategy area to help secure the good environmental status of those waters, in accordance with Article 10 of the Directive.

(2) In establishing targets and indicators, the competent authority must take account of—

- (a) the indicative lists of pressure and impacts in Table 2 of Schedule 3 and the characteristics in Schedule 4; and
- (b) the continuing application of relevant existing environmental targets laid down at international, EU or domestic level in respect of the same waters, ensuring that these targets are mutually compatible and that relevant transboundary impacts and transboundary features are also taken into account, to the extent possible.

(3) The competent authority must periodically review and update the environmental targets and indicators established pursuant to subregulation (1), by each sixth anniversary of the date of the establishment of those targets and indicators, to ensure that the targets and indicators are kept up to date.

Monitoring.

9.(1) By 15 July 2014, the competent authority must establish and implement a programme for monitoring the environmental status of the marine waters within the marine strategy area, in accordance with Article 11 of the Directive.

(2) The competent authority must establish and implement the monitoring programme—

- (a) on the basis of the indicative lists of elements in Schedule 3;
- (b) on the basis of the requirements in Schedule 5; and
- (c) by reference to the environmental targets established under regulation 8.

(3) The competent authority shall ensure that the monitoring programme builds upon, and is compatible with, relevant provisions for assessment and monitoring laid down by EU legislation, including the Habitats and Birds Directives, or under international agreements.

(4) The competent authority shall cooperate with competent authorities in Member States which share with Gibraltar the same marine region or sub-region with a view to ensuring that their respective monitoring programmes are compatible and consistent with the aims of coherence and coordination set out in Article 11(2) of the Directive.

(5) The competent authority must periodically review the monitoring programme by each sixth anniversary of the date on which that monitoring programme was established, to ensure that the programme is kept up to date.

Programme of measures.

10.(1) By 31 December 2015, the competent authority must publish a programme of measures necessary to achieve or maintain good environmental status for the marine waters within the marine strategy area, in accordance with Article 13 of the Directive.

(2) The competent authority must develop the programme of measures on the basis of the assessment required by regulation 6 taking account of—

- (a) the environmental targets and indicators required by regulation 8;
- (b) the control measures listed in Schedule 6;
- (c) sustainable development; and
- (d) the social and economic impact of any proposed measure.

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(3) The programme of measures shall include spatial protection measures, contributing to coherent and representative networks of marine protected areas, in accordance with Article 13(4) and (5) of the Directive, and shall, in particular, adequately cover the diversity of the constituent ecosystems such as—

- (a) special areas of conservation, established pursuant to the Habitats Directive;
- (b) special protection areas, established pursuant to the Birds Directive; and
- (c) marine protected areas, as agreed by the EU or in the framework of relevant international or regional agreements.

(3A) Where it is considered that the management of human activity at European Union or international level is likely to have a significant impact on the marine environment, particularly in the areas addressed in subregulation (3), the competent authority shall individually or jointly with the competent authority of any Member State or international organisation, address the competent authority or international organisation concerned with a view to the possible consideration or adoption of measures that may be necessary in order to achieve the objectives of the Directive so as to enable the integrity, structure and functioning of ecosystems to be maintained or, where appropriate, restored.

(4) The competent authority must integrate the measures devised under this regulation into the programme of measures, taking into account relevant measures required under any applicable EU provision, any other applicable international obligation and domestic legislation, in particular, under—

- (a) the Public Health (Water Framework) Rules 2004;
- (b) the Public Health (Urban Waste Water Collection and Treatment) Regulations 1999; and
- (c) the Environment (Quality of Bathing Water) Regulations 2009.

(5) By 31 December 2013, the competent authority must publish relevant information on the areas referred to in sub-regulation (3) and (3A).

(6) The competent authority must—

- (a) include in the programme of measures a description of how the measures will be implemented and how they will contribute to

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the achievement of the environmental targets established under regulation 8; and

- (b) consider the implications of any programme of measures on marine waters beyond the marine strategy area in order—
 - (i) to minimise the risk of damage to those waters;
 - (ii) if possible, to have a positive impact on those waters.

(7) Before the programme of measures comes into operation, the competent authority must—

- (a) satisfy itself that the measures proposed are cost-effective and technically feasible;
- (b) carry out an impact assessment, including a cost-benefit analysis, of any proposed measure; and
- (c) consult the Port Authority and the Maritime Administrator on any proposed measure.

(8) The competent authority must ensure that the programme of measures is made operational by 31 December 2016 or one year after the publication of the programme of measures, whichever is earlier.

(9) The competent authority must periodically review the programme of measures required by subregulation (1), by each sixth anniversary after the date of its publication, to ensure that the programme of measures is kept up to date.

Exceptions.

11.(1) Subject to the provisions of this regulation and of regulation 12, where the competent authority has identified an exceptional case, within the meaning of paragraphs (a) to (e) of regulation 12(2), the duty under these Regulations to take the measures necessary to achieve the environmental targets or good environmental status does not apply.

(2) The Government must ensure that the Commission is notified of the justification for any such exceptional cases identified by the competent authority.

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(3) The duty under these Regulations to develop or implement any element of the marine strategy, other than the assessment of marine waters, does not require the taking of any steps—

- (a) in so far as the omission to take steps would not pose a significant risk to the marine environment; or
- (b) the costs would be disproportionate taking account of the risks to the marine environment,

provided that the omission to take those steps does not result in the further deterioration of the marine waters concerned.

(4) Where the competent authority relies on either exception under subregulation (3)—

- (a) the Government must ensure that the Commission is provided with the necessary justification; and
- (b) the competent authority must avoid the achievement of good environmental status being permanently compromised.

Identification of exceptional cases.

12.(1) The competent authority may identify instances in the marine waters within the marine strategy area where, for any of the reasons listed under paragraphs (a) to (d) of subregulation (2), the environmental targets or good environmental status cannot be achieved in every aspect through measures taken by the competent authority, or, for reasons referred to in paragraph (e) of subregulation (2), they cannot be achieved within the time schedule concerned.

(2) The reasons justifying an exceptional case are—

- (a) action or inaction for which Gibraltar is not responsible;
- (b) natural causes;
- (c) force majeure;
- (d) modifications or alterations to the physical characteristics of marine waters brought about by actions taken for reasons of overriding public interest which outweigh the negative impact on the environment, including any transboundary impact; or

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- (e) natural conditions which do not allow timely improvement in the status of the marine waters concerned.

(3) In respect of a case falling within subregulation (2) (b), (c) or (d), the competent authority must take such measures as it considers appropriate which aim–

- (a) to make progress towards the environmental targets established under regulation 8 to prevent further deterioration of the status of the affected marine waters; and
- (b) to mitigate the adverse impact of such a case at the level of the Mediterranean Sea marine region, the Western Mediterranean Sea sub-region or in the marine waters of a Member State.

(4) Such measures must, as far as practicable, be integrated into the programme of measures.

(5) In the situation covered by subregulation (2)(d), the competent authority must ensure that the modifications or alterations do not permanently preclude or compromise the achievement of good environmental status at the level of the Mediterranean Sea marine region, the Western Mediterranean Sea sub-region or in the marine waters of a Member State.

(6) In identifying any exceptional case as referred to in subregulation (2), the competent authority must–

- (a) consider the consequences for Member States in the Mediterranean Sea marine region or the Western Mediterranean Sea sub-region; and
- (b) clearly identify such cases in the programme of measures.

Recommendations for Community action.

13.(1) Where the competent authority identifies an issue which has an impact on the environmental status of Gibraltar’s marine waters and which cannot be tackled by measures adopted by the Government, or which is linked to another EU policy or international agreement, it must ensure that the Commission is informed accordingly and is provided with a justification substantiating the competent authority’s view.

(2) Where action by the EU institutions is needed, the Government must make appropriate recommendations for measures regarding the issues

referred to in subregulation (1) so that the Commission and the Council may take them into account.

PART 4

Procedural requirements

Notification and review.

14.(1) The Government shall ensure that the Commission is notified of—

- (a) an assessment under regulation 6, within three months of the determination of the characteristics of good environmental status under regulation 7;
- (b) the determination of the characteristics of good environmental status under regulation 7, within three months of that determination;
- (c) the environmental targets and indicators under regulation 8, within three months of the establishment of those targets and indicators;
- (d) the monitoring programme under regulation 9, within three months of its establishment;
- (e) the programme of measures under regulation 10, within three months of its publication; and
- (f) any changes made to any element of the marine strategy, within three months of the publication of any review.

(2) The Government must ensure that the Commission is provided with a brief interim report describing progress on the implementation of the programme of measures within three years of its publication and within three years of any update to that programme.

(3) The Government shall ensure that the information under subregulation (1)(e) and (f) is also notified to any Member State concerned within the same time limits.

Public participation, consultation and information.

15.(1) The competent authority shall consult the public, the Port Authority and the Maritime Administrator where it proposes to prepare, modify or review any—

- (a) assessment required by regulation 6;
- (b) determination of good environmental status required by regulation 7;
- (c) environmental targets and indicators required by regulation 8;
- (d) monitoring programme required by regulation 9; or
- (e) programme of measures required by regulation 10.

(1A) The competent authority must publish, and make available to the public for comment, summaries of the following elements of its marine strategy, or the related updates, as follows–

- (a) the initial assessment and the determination of good environmental status, as provided for in regulations 6(1) and 7(1) respectively;
- (b) the environmental targets established pursuant to regulation 8(1);
- (c) the monitoring programmes established pursuant to regulation 9(1);
- (d) the programmes of measures established pursuant to regulation 10(1).

(2) The competent authority must–

- (a) inform the public, the Port Authority and the Maritime Administrator as to its proposal, including a summary of the relevant element of the marine strategy mentioned in subregulation (1A), any relevant background information, and the right of the public to participate in the relevant decision-making process;
- (b) specify the means by which the public can participate in the consultation, including an address for responses, and a reasonable timescale for the consultation; and
- (c) take account of the consultation responses in making any relevant decision.

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(3) The competent authority must take such steps as it considers appropriate to ensure that the proposals contained in the consultation draft are brought to the attention of the public, including any persons who are likely to be interested in, or affected by, the proposed policies.

(4) Where the competent authority takes a decision in relation to its proposal, following a consultation, it must—

- (a) inform the public, the Port Authority and the Maritime Administrator of that decision;
- (b) provide information as to the reasons and considerations on which that decision is based; and
- (c) provide a statement of the steps taken by the competent authority to comply with subregulations (1) to (4), as appropriate.

(5) With regard to access to environmental information, the Freedom of Access to Information on the Environment Regulations 2005 shall apply.

(6) The Government must, in accordance with the provisions of the Environment (Infrastructure for Spatial Information) Regulations 2010, ensure that the Commission is provided with access and use rights in respect of data and information resulting from the initial assessments made under regulation 6 and from the monitoring programme established under regulation 9.

(7) The data and information referred to in subregulation (6) must also be made available to the European Environmental Agency not later than six months after they have become available.

Exchange of information, etc.

16. The competent authority is—

- (a) responsible for receiving and transmitting requests relating to any matter concerning these Regulations; and
- (b) the contact point in Gibraltar for any international information or coordination issues.

Relationship with Water Framework Directive.

17. Nothing in these Regulations requires any action in coastal waters in so far as the objectives of the Directive are achieved by any enactment implementing the Water Framework Directive or any other EU instrument.

Directions to, and assistance from, public authorities.

18.(1) The competent authority may give directions to any public authority for the purpose of implementing the Directive.

(2) The competent authority may not give directions in relation to any decision on an application for an order granting development consent under the Town Planning Act.

(3) Any direction given under these Regulations must be in writing and may be varied or revoked by a further direction.

(4) For the purpose of this regulation, a direction—

- (a) may be of a general or specific character for the purpose of giving effect to the Directive; and
- (b) without prejudice to the generality of sub-paragraph (a), may direct a public authority to exercise or not to exercise—
 - (i) specified powers;
 - (ii) its powers in specified circumstances; or
 - (iii) its powers in a specified manner.

(5) Directions given under this regulation must be publicised in such manner as the competent authority considers appropriate for the purpose of bringing the matters to which the directions relate to the attention of persons likely to be affected by them.

(6) A public authority must comply with any direction which is given to it under this regulation.

Guidance.

19.(1) The competent authority may give guidance to any person with respect to the practical implementation of the Directive.

(2) Any person to whom guidance is given under this regulation must have regard to it.

SCHEDULE 1

Regulations 2 and 7

Qualitative descriptors for determining good environmental status

1. Biological diversity is maintained. The quality and occurrence of habitats and the distribution and abundance of species are in line with prevailing physiographic, geographic and climatic conditions.
2. Non-indigenous species introduced by human activities are at levels that do not adversely alter the ecosystems.
3. Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.
4. All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity.
5. Human-induced eutrophication is minimised, especially adverse effects thereof, such as losses in biodiversity, ecosystem degradation, harmful algae blooms and oxygen deficiency in bottom waters.
6. Sea-floor integrity is at a level that ensures that the structure and functions of the ecosystems are safeguarded and benthic ecosystems, in particular, are not adversely affected.
7. Permanent alteration of hydrographical conditions does not adversely affect marine ecosystems.
8. Concentrations of contaminants are at levels not giving rise to pollution effects.
9. Contaminants in fish and other seafood for human consumption do not exceed levels established by Community legislation or other relevant standards.
10. Properties and quantities of marine litter do not cause harm to the coastal and marine environment.

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11. Introduction of energy, including underwater noise, is at levels that do not adversely affect the marine environment.

SCHEDULE 2

Regulation 4(3)(a)

Competent Authority

1. Name and address of the competent authority — the official name and address of the competent authority or authorities identified.
2. Legal status of the competent authority — a brief description of the legal status of the competent authority, or authorities.
3. Responsibilities — a brief description of the legal and administrative responsibilities of the competent authority or authorities, and of its role in relation to the marine waters concerned.
4. Membership — when the competent authority acts as a coordinating body for other competent authorities, a list of these is required together with a summary of the institutional relationships established in order to ensure coordination.
5. Regional or sub-regional coordination — a summary is required of the mechanisms established in order to ensure coordination between the Member States whose marine waters fall within the same marine region or sub-region.

SCHEDULE 3

Regulations 7(3)(a), 8(2)(a), 9(2)(a)

Indicative lists of characteristics, pressures and impacts

Table 1
Characteristics

Physical and chemical Features	<p>— Topography and bathymetry of the seabed;</p> <p>— annual and seasonal temperature regime and ice cover, current velocity, upwelling, wave exposure, mixing characteristics, turbidity, residence time;</p> <p>— spatial and temporal distribution of salinity;</p> <p>— spatial and temporal distribution of nutrients (DIN, TN, DIP, TP, TOC) and oxygen;</p> <p>— pH, pCO₂ profiles or equivalent information used to measure marine acidification.</p>
Habitat types	<p>—The predominant seabed and water column habitat type(s) with a description of the characteristic physical and chemical features, such as depth, water temperature regime, currents and other water movements, salinity, structure and substrata composition of the seabed;</p> <p>— identification and mapping of special habitat types, especially those recognised or identified under Community legislation (the Habitats Directive and the Birds Directive) or international conventions as being of special scientific or biodiversity interest;</p> <p>— habitats in areas which by virtue of their characteristics, location or strategic importance merit a particular reference. This may include areas subject to intense or specific pressures or areas which merit a specific protection regime.</p>
Biological features	—A description of the biological communities

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	<p>associated with the predominant seabed and water column habitats. This would include information on the phytoplankton and zooplankton communities, including the species and seasonal and geographical variability;</p> <p>— information on angiosperms, macro-algae and invertebrate bottom fauna, including species composition, biomass and annual/seasonal variability;</p> <p>— information on the structure of fish populations, including the abundance, distribution and age/size structure of the populations;</p> <p>— a description of the population dynamics, natural and actual range and status of species of marine mammals and reptiles occurring in the marine region or subregion;</p> <p>— a description of the population dynamics, natural and actual range and status of species of seabirds occurring in the marine region or subregion;</p> <p>— a description of the population dynamics, natural and actual range and status of other species occurring in the marine region or subregion which are the subject of Community legislation or international agreements;</p> <p>— an inventory of the temporal occurrence, abundance and spatial distribution of nonindigenous, exotic species or, where relevant, genetically distinct forms of native species, which are present in the marine region or subregion.</p>
Other features	<p>—A description of the situation with regard to chemicals, including chemicals giving rise to concern, sediment contamination, hotspots, health issues and contamination of biota (especially biota meant for human consumption);</p> <p>— a description of any other features or characteristics typical of or specific to the marine region or subregion.</p>

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Table 2
Pressure and impacts

Physical loss	<p>—Smothering (e.g. by man-made structures, disposal of dredge spoil);</p> <p>— sealing (e.g. by permanent constructions).</p>
Physical damage	<p>—Changes in siltation (e.g. by outfalls, increased run-off, dredging/disposal of dredge spoil);</p> <p>— abrasion (e.g. impact on the seabed of commercial fishing, boating, anchoring);</p> <p>— selective extraction (e.g. exploration and exploitation of living and non-living resources on seabed and subsoil).</p>
Other physical disturbance	<p>— Underwater noise (e.g. from shipping, underwater acoustic equipment);</p> <p>— marine litter.</p>
Interference with hydrological processes	<p>— Significant changes in thermal regime (e.g. by outfalls from power stations);</p> <p>— significant changes in salinity regime (e.g. by constructions impeding water movements, water abstraction).</p>
Contamination by hazardous substances	<p>— Introduction of synthetic compounds (e.g. priority substances under the Public Health (Water Framework) Rules 2004 which are relevant for the marine environment such as pesticides, antifoulants, pharmaceuticals, resulting, for example, from losses from diffuse sources, pollution by ships, atmospheric deposition and biologically active substances);</p> <p>— introduction of non-synthetic substances and compounds (e.g. heavy metals, hydrocarbons, resulting, for example, from pollution by ships and oil, gas and mineral exploration and exploitation,</p>

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	<p>atmospheric deposition, riverine inputs);</p> <p>— introduction of radio-nuclides.</p>
<p>Systematic and/or intentional release of substances</p>	<p>— Introduction of other substances, whether solid, liquid or gas, in marine waters, resulting from their systematic and/or intentional release into the marine environment, as permitted in accordance with other Community legislation and/or international conventions.</p>
<p>Nutrient and organic matter enrichment</p>	<p>— Inputs of fertilisers and other nitrogen — and phosphorus-rich substances (e.g. from point and diffuse sources, including agriculture, aquaculture, atmospheric deposition);</p> <p>— inputs of organic matter (e.g. sewers, mariculture, riverine inputs).</p>
<p>Biological disturbance</p>	<p>—Introduction of microbial pathogens;</p> <p>— introduction of non-indigenous species and translocations;</p> <p>— selective extraction of species, including incidental non-target catches (e.g. by commercial and recreational fishing).</p>

SCHEDULE 4

Regulation 8(2)(a)

Indicative list of characteristics to be taken into account for setting environmental targets

1. Adequate coverage of the elements characterising marine waters under the sovereignty or jurisdiction of Member States within a marine region or subregion.
2. Need to set—
 - (a) targets establishing desired conditions based on the definition of good environmental status;
 - (b) measurable targets and associated indicators that allow for monitoring and assessment; and
 - (c) operational targets relating to concrete implementation measures to support their achievement.
3. Specification of environmental status to be achieved or maintained and formulation of that status in terms of measurable properties of the elements characterising the marine waters of a Member State within a marine region or sub-region.
4. Consistency of the set of targets; absence of conflicts between them.
5. Specification of the resources needed for the achievement of targets.
6. Formulation of targets, including possible interim targets, with a timescale for their achievement.
7. Specification of indicators intended to monitor progress and guide management decisions with a view to achieving targets.
8. Where appropriate, specification of reference points (target and limit reference points).
9. Due consideration of social and economic concerns in the setting of targets.

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10. Examination of the set of environmental targets, associated indicators and limit and target reference points developed in light of the environmental objectives laid down in Article 1 of the Directive, in order to assess whether the achievement of the targets would lead the marine waters falling under the sovereignty or jurisdiction of Member States within a marine region to a status matching them.

11. Compatibility of targets with objectives to which the Community and its Member States have committed themselves under relevant international and regional agreements, making use of those that are most relevant for the marine region or subregion concerned with a view to achieving the environmental objectives laid down in Article 1 of the Directive.

12. When the set of targets and indicators has been assembled, they should be examined together relative to the environmental objectives laid down in Article 1 to assess whether the achievement of the targets would lead the marine environment to a status matching them.

SCHEDULE 5

Regulation 9(2)(b)

Monitoring programmes

1. Need to provide information for an assessment of the environmental status and for an estimate of the distance from, and progress towards, good environmental status in accordance with Schedule 3 and with the criteria and methodological standards to be defined pursuant to Article 9(3) of the Directive.
2. Need to ensure the generation of information enabling the identification of suitable indicators for the environmental targets provided for in Article 10.
3. Need to ensure the generation of information allowing the assessment of the impact of the measures referred to in Article 13 of the Directive.
4. Need to include activities to identify the cause of the change and hence the possible corrective measures that would need to be taken to restore the good environmental status, when deviations from the desired status range have been identified.
5. Need to provide information on chemical contaminants in species for human consumption from commercial fishing areas.
6. Need to include activities to confirm that the corrective measures deliver the desired changes and not any unwanted side effects.
7. Need to aggregate the information on the basis of marine regions or sub-regions in accordance with Article 4 of the Directive.
8. Need to ensure comparability of assessment approaches and methods within and between marine regions and/or sub-regions.
9. Need to develop technical specifications and standardised methods for monitoring at Community level, so as to allow comparability of information.
10. Need to ensure, as far as possible, compatibility with existing programmes developed at regional and international level with a view to fostering consistency between these programmes and avoiding duplication of effort, making use of those monitoring guidelines that are the most relevant for the marine region or subregion concerned.

11. Need to include, as part of the initial assessment provided for in Article 8, an assessment of major changes in the environmental conditions as well as, where necessary, new and emerging issues.

12. Need to address, as part of the initial assessment provided for in Article 8, the relevant elements listed in Schedule 3 including their natural variability and to evaluate the trends towards the achievement of the environmental targets laid down pursuant to Article 10(1) of the Directive, using, as appropriate, the indicators established and their limit or target reference points.

SCHEDULE 6

Regulation 10(2)(b)

Programmes of measures

1. Input controls: management measures that influence the amount of a human activity that is permitted.
2. Output controls: management measures that influence the degree of perturbation of an ecosystem component that is permitted.
3. Spatial and temporal distribution controls: management measures that influence where and when an activity is allowed to occur.
4. Management coordination measures: tools to ensure that management is coordinated.
5. Measures to improve the traceability, where feasible, of marine pollution.
6. Economic incentives: management measures which make it in the economic interest of those using the marine ecosystems to act in ways which help to achieve the good environmental status objective.
7. Mitigation and remediation tools: management tools which guide human activities to restore damaged components of marine ecosystems.
8. Communication, stakeholder involvement and raising public awareness.