
STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

PART I

INTRODUCTORY PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the Conservation (Natural Habitats, &c.) Regulations 1994.

(2) These Regulations shall come into force on the tenth day after that on which they are made.

Interpretation and application

2.—(1) In these Regulations—

“agriculture Minister” means the Minister of Agriculture, Fisheries and Food or the Secretary of State;

“competent authority” shall be construed in accordance with regulation 6;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” shall be construed accordingly;

“enactment” includes a local enactment and an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978(1);

“European site” has the meaning given by regulation 10 and “European marine site” means a European site which consists of, or so far as it consists of, marine areas;

“functions” includes powers and duties;

“the Habitats Directive” has the meaning given by regulation 3(1);

“land” includes land covered by water and as respects Scotland includes salmon fishings;

“livestock” includes any animal which is kept—

- (a) for the provision of food, skins or fur,
- (b) for the purpose of its use in the carrying on of any agricultural activity, or
- (c) for the provision or improvement of shooting or fishing;

“local planning authority” means—

- (a) in England and Wales, except as otherwise provided, any authority having any function as a local planning authority or mineral planning authority under the Town and Country Planning Act 1990(2), and

(1) 1978 c. 30.

(2) 1990 c. 8.

(b) in Scotland, a planning authority within the meaning of section 172(1) of the Local Government (Scotland) Act 1973⁽³⁾;

“management agreement” means an agreement entered into, or having effect as if entered into, under regulation 16;

“marine area” means any land covered (continuously or intermittently) by tidal waters or any part of the sea in or adjacent to Great Britain up to the seaward limit of territorial waters;

“Natura 2000” means the European network of special areas of conservation, and special protection areas under the Wild Birds Directive, provided for by Article 3(1) of the Habitats Directive;

“nature conservation body”, and “appropriate nature conservation body” in relation to England, Wales or Scotland, have the meaning given by regulation 4;

“occupier”, for the purposes of Part III (protection of species), includes, in relation to any land other than the foreshore, any person having any right of hunting, shooting, fishing or taking game or fish;

“planning authority”, in Scotland, means a planning authority within the meaning of section 172(1) of the Local Government (Scotland) Act 1973;

“the register” means the register of European sites in Great Britain provided for by regulation 11;

“relevant authorities”, in relation to marine areas and European marine sites, shall be construed in accordance with regulation 5;

“statutory undertaker” has the same meaning as in the National Parks and Access to the Countryside Act 1949⁽⁴⁾;

“the Wild Birds Directive” means Council Directive [79/409/EEC](#)⁽⁵⁾ on the conservation of wild birds.

(2) Unless the context otherwise requires, expressions used in these Regulations and in the Habitats Directive have the same meaning as in that Directive.

The following expressions, in particular, are defined in Article 1 of that Directive—

“priority natural habitat types” and “priority species”;

“site” and “site of Community importance”; and

“special area of conservation”.

(3) In these Regulations, unless otherwise indicated—

(a) any reference to a numbered regulation or Schedule is to the regulation or Schedule in these Regulations which bears that number, and

(b) any reference in a regulation or Schedule to a numbered paragraph is to the paragraph of that regulation or Schedule which bears that number.

(4) Subject to regulation 68 (which provides for Part IV to be construed as one with the Town and Country Planning Act 1990), these Regulations apply to the Isles of Scilly as if the Isles were a county and the Council of the Isles were a county council.

(5) For the purposes of these Regulations the territorial waters of the United Kingdom adjacent to Great Britain shall be treated as part of Great Britain and references to England, Wales and Scotland shall be construed as including the adjacent territorial waters.

For the purposes of this paragraph—

(3) [1973 c. 65](#).

(4) [1949 c. 97](#).

(5) O.J. No. L103, 25.4.79 p.1.

- (a) territorial waters include any waters landward of the baselines from which the breadth of the territorial sea is measured; and
- (b) any question as to whether territorial waters are to be treated as adjacent to England, Wales or Scotland shall be determined by the Secretary of State or, for any purpose in relation to which the Minister of Agriculture, Fisheries and Food has responsibility, by the Secretary of State and that Minister acting jointly.

Implementation of Directive

3.—(1) These Regulations make provision for the purpose of implementing, for Great Britain, Council Directive 92/43/EEC(6) on the conservation of natural habitats and of wild fauna and flora (referred to in these Regulations as “the Habitats Directive”).

(2) The Secretary of State, the Minister of Agriculture, Fisheries and Food and the nature conservation bodies shall exercise their functions under the enactments relating to nature conservation so as to secure compliance with the requirements of the Habitats Directive.

Those enactments include—

Part III of the National Parks and Access to the Countryside Act 1949(7),
section 49A of the Countryside (Scotland) Act 1967(8) (management agreements),
section 15 of the Countryside Act 1968(9) (areas of special scientific interest),
Part I and sections 28 to 38 of the Wildlife and Countryside Act 1981(10),
sections 131 to 134 of the Environmental Protection Act 1990(11),
sections 2, 3, 5, 6, 7 and 11 of the Natural Heritage (Scotland) Act 1991(12), and these Regulations.

(3) In relation to marine areas any competent authority having functions relevant to marine conservation shall exercise those functions so as to secure compliance with the requirements of the Habitats Directive.

This applies, in particular, to functions under the following enactments—

the Sea Fisheries Acts within the meaning of section 1 of the Sea Fisheries (Wildlife Conservation) Act 1992(13),
the Dockyard Ports Regulation Act 1865(14),
section 2(2) of the Military Lands Act 1900(15) (provisions as to use of sea, tidal water or shore),
the Harbours Act 1964(16),
Part II of the Control of Pollution Act 1974(17),

(6) O.J. No. L206, 22.7.92 p.7.

(7) 1949 c. 97; Part III was amended by paragraph 1 of Schedule 1 to the Nature Conservancy Council Act 1973 (c. 54).

(8) 1967 c. 86; section 49A was inserted by section 9 of the Countryside (Scotland) Act 1981 (c. 44).

(9) 1968 c. 41; section 15 was amended by paragraph 9 of Schedule 1 to the Nature Conservancy Council Act 1973 (c. 54) and section 73(8) of the Wildlife and Countryside Act 1981 (c. 69).

(10) 1981 c. 69; relevant amendments have been made by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), the Wildlife and Countryside (Service of Notices) Act 1985 (c. 59) and the Wildlife and Countryside (Amendment) Act 1991 (c. 39).

(11) 1990 c. 43.

(12) 1991 c. 28.

(13) 1992 c. 36.

(14) 1865 c. 125.

(15) 1900 c. 56; the power conferred by section 2(2) was extended by section 7 of the Lands Powers (Defence) Act 1958 (c. 30).

(16) 1964 c. 40; relevant amendments were made by Part III of the Docks and Harbours Act 1966 (c. 28), Schedule 6 to the Transport Act 1981 (c. 56) and section 63 of, and Schedule 3 to, the Transport and Works Act 1992 (c. 42).

(17) 1974 c. 40.

sections 36 and 37 of the Wildlife and Countryside Act 1981⁽¹⁸⁾ (marine nature reserves), sections 120 to 122 of the Civic Government (Scotland) Act 1982⁽¹⁹⁾ (control of the seashore, adjacent waters and inland waters), the Water Resources Act 1991⁽²⁰⁾, the Land Drainage Act 1991⁽²¹⁾, and these Regulations.

(4) Without prejudice to the preceding provisions, every competent authority in the exercise of any of their functions, shall have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

Nature conservation bodies

4. In these Regulations “nature conservation body” means the Nature Conservancy Council for England, the Countryside Council for Wales or Scottish Natural Heritage; and references to “the appropriate nature conservation body”, in relation to England, Wales or Scotland, shall be construed accordingly.

Relevant authorities in relation to marine areas and European marine sites

5. For the purposes of these Regulations the relevant authorities, in relation to a marine area or European marine site, are such of the following as have functions in relation to land or waters within or adjacent to that area or site—

- (a) a nature conservation body;
- (b) a county council, district council, London borough council or, in Scotland, a regional, islands or district council;
- (c) the National Rivers Authority, a water undertaker or sewerage undertaker, or an internal drainage board;
- (d) a navigation authority within the meaning of the Water Resources Act 1991⁽²²⁾;
- (e) a harbour authority within the meaning of the Harbours Act 1964⁽²³⁾;
- (f) a lighthouse authority;
- (g) a river purification board or a district salmon fishery board;
- (h) a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966⁽²⁴⁾ or any authority exercising the powers of such a committee.

Competent authorities generally

6.—(1) For the purposes of these Regulations the expression “competent authority” includes any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office.

The expression also includes any person exercising any function of a competent authority in the United Kingdom.

(2) In paragraph (1)—

⁽¹⁸⁾ 1981 c. 69.

⁽¹⁹⁾ 1982 c. 45.

⁽²⁰⁾ 1991 c. 57.

⁽²¹⁾ 1991 c. 59.

⁽²²⁾ The expression “navigation authority” is defined in section 221(1) of that Act.

⁽²³⁾ The expression “harbour authority” is defined in section 57 of that Act.

⁽²⁴⁾ 1966 c. 38.

- (a) “public body” includes any local authority, joint board or joint committee; and
- (b) “public office” means—
 - (a) an office under Her Majesty,
 - (b) an office created or continued in existence by a public general Act of Parliament, or
 - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.
- (3) In paragraph (2)(a)—

“local authority”—

 - (a) in relation to England, means a county council, district council or London borough council, the Common Council of the City of London, the sub-treasurer of the Inner Temple, the under treasurer of the Middle Temple or a parish council,
 - (b) in relation to Wales, means a county council, district council or community council, and
 - (c) in relation to Scotland, means a regional, islands or district council;

“joint board” and “joint committee” in relation to England and Wales mean—

 - (a) a joint or special planning board constituted for a National Park by order under paragraph 1 or 3 of Schedule 17 to the Local Government Act 1972⁽²⁵⁾, or a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990, and
 - (b) a joint committee appointed under section 102(1)(b) of the Local Government Act 1972, and in relation to Scotland have the same meaning as in the Local Government (Scotland) Act 1973⁽²⁶⁾.

⁽²⁵⁾ 1972 c. 70.

⁽²⁶⁾ 1973 c. 65; the expressions “joint board” and “joint committee” are defined in section 235(1) of the Act.