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STATUTORY INSTRUMENTS

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**1994 No. 2716**

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

[<sup>F1</sup>PART II

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

**Textual Amendments**

- F1** Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

*European sites*

**Selection of sites eligible for identification as of Community importance**

7.—(1) On the basis of the criteria set out in Annex III (Stage 1) to the Habitats Directive, and relevant scientific information, the Secretary of State shall propose a list of sites indicating with respect to each site—

- (a) which natural habitat types in Annex I to the Directive the site hosts, and
- (b) which species in Annex II to the Directive that are native to Great Britain the site hosts.

(2) For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction.

For aquatic species which range over wide areas, such sites shall be proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction.

(3) Where appropriate the Secretary of State may propose modification of the list in the light of the results of the surveillance referred to in Article 11 of the Habitats Directive.

(4) The list shall be transmitted to the Commission on or before 5th June 1995, together with information on each site including—

- (a) a map of the site,
- (b) its name, location and extent, and
- (c) the data resulting from application of the criteria specified in Annex III (Stage 1),

provided in a format established by the Commission.

**Commencement Information**

- II** Reg. 7 in force at 30.10.1994, see [reg. 1\(2\)](#)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

### Adoption of list of sites: designation of special areas of conservation

8.—(1) Once a site of Community importance in Great Britain has been adopted in accordance with the procedure laid down in paragraph 2 of Article 4 of the Habitats Directive, the Secretary of State shall designate that site as a special area of conservation as soon as possible and within six years at most.

- (2) The Secretary of State shall establish priorities for the designation of sites in the light of—
- (a) the importance of the sites for the maintenance or restoration at a favourable conservation status of—
    - (i) a natural habitat type in Annex I to the Habitats Directive, or
    - (ii) a species in Annex II to the Directive,
 and for the coherence of Natura 2000; and
  - (b) the threats of degradation or destruction to which those sites are exposed.

#### Commencement Information

**I2** Reg. 8 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Consultation as to inclusion of site omitted from the list

9. If consultation is initiated by the Commission in accordance with Article 5(1) of the Habitats Directive with respect to a site in Great Britain hosting a priority natural habitat type or priority species and—

- (a) the Secretary of State agrees that the site should be added to the list transmitted in accordance with regulation 7, or
- (b) the Council, acting on a proposal from the Commission in pursuance of paragraph 2 of Article 5 of the Habitats Directive, so decides,

the site shall be treated as added to the list as from the date of that agreement or decision.

#### Commencement Information

**I3** Reg. 9 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Meaning of “European site” in these Regulations

10.—(1) In these Regulations a “European site” means—

- (a) a special area of conservation,
- (b) a site of Community importance which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive,
- (c) a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), <sup>F2</sup>...
- (d) an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive [<sup>F3</sup>, or
- (e) a site <sup>F4</sup>... included in a list of sites proposed under regulation 7(1).]

(2) Sites which are European sites by virtue only of paragraph (1)(c) are not within [<sup>F5</sup>regulation] 48 (which [<sup>F6</sup>relates] to the approval of certain plans and projects); but this is without prejudice to their protection under other provisions of these Regulations.

#### Textual Amendments

- F2** Word in reg. 10(1)(c) omitted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **6(a)** (with regs. 20, 21)
- F3** Reg. 10(1)(e) and word inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **6(b)** (with regs. 20, 21)
- F4** Words in reg. 10(1)(e) omitted (S.) (15.2.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **8**
- F5** Word in reg. 10(2) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **6(c)(i)** (with regs. 20, 21)
- F6** Word in reg. 10(2) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **6(c)(ii)** (with regs. 20, 21)

#### Commencement Information

- I4** Reg. 10 in force at 30.10.1994, see [reg. 1\(2\)](#)

### *Register of European sites*

#### **Duty to compile and maintain register of European sites**

**11.**—(1) The Secretary of State shall compile and maintain, in such form as he thinks fit, a register of European sites in Great Britain.

(2) He shall include in the register—

- (a) special areas of conservation, as soon as they are designated by him;
- (b) sites of Community importance as soon as they are placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive, until they are designated as special areas of conservation;
- (c) any site hosting a priority natural habitat type or priority species in respect of which consultation is initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a Council decision under Article 5(3); and
- (d) areas classified by him pursuant to Article 4(1) or (2) of the Wild Birds Directive, as soon as they are so classified or, if they have been classified before the commencement of these Regulations, as soon as practicable after commencement [<sup>F7</sup>; and
- (e) any site in Scotland included in a list of sites proposed under regulation 7(1).]

(3) He may, if appropriate, amend the entry in the register relating to a European site.

(4) He shall remove the relevant entry—

- (a) if a special area of conservation is declassified by the Commission under Article 9 of the Habitats Directive; or
- (b) if a site otherwise ceases to fall within any of the categories listed in paragraph (2) above.

(5) He shall keep a copy of the register available for public inspection at all reasonable hours and free of charge.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

#### Textual Amendments

- F7** Reg. 11(2)(e) and word inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), 7 (with regs. 20, 21)

#### Commencement Information

- I5** Reg. 11 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Notification to appropriate nature conservation body

**12.**—(1) The Secretary of State shall notify the appropriate nature conservation body as soon as may be after including a site in the register, amending an entry in the register or removing an entry from the register.

(2) Notification of the inclusion of a site in the register shall be accompanied by a copy of the register entry.

(3) Notification of the amendment of an entry in the register shall be accompanied by a copy of the amended entry.

(4) Each nature conservation body shall keep copies of the register entries relating to European sites in their area available for public inspection at all reasonable hours and free of charge.

#### Commencement Information

- I6** Reg. 12 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Notice to landowners, relevant authorities, &c.

**13.**—(1) As soon as practicable after a nature conservation body receive notification under regulation 12 they shall give notice to—

- (a) every owner or occupier of land within the site,
- (b) every local planning authority in whose area the site, or any part of it, is situated, and
- (c) such other persons or bodies as the Secretary of State may direct.

(2) Notice of the inclusion of a site in the register, or of the amendment of an entry in the register, shall be accompanied by a copy of so much of the relevant register entry as relates to land owned or occupied by or, as the case may be, to land within the area of, the person or authority to whom the notice is given.

(3) The Secretary of State may give directions as to the form and content of notices to be given under this regulation.

#### Commencement Information

- I7** Reg. 13 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Local registration: England and Wales

**14.** An entry in the register relating to a European site in England and Wales is a local land charge.

**Commencement Information**

**18** Reg. 14 in force at 30.10.1994, see [reg. 1\(2\)](#)

**Local registers: Scotland**

**15.—(1)** A planning authority in Scotland shall keep available at their principal office for free public inspection a register of all the European sites of which they have been given notice under regulation 13(1)(b).

(2) A planning authority in Scotland may keep available at any other of their offices for free public inspection such part of the register referred to in paragraph (1) as appears to them to relate to that part of their area in which such office is situated.

(3) A planning authority shall supply to any person, on payment of such reasonable fee as they may determine, a copy, certified by the proper officer of the authority to be a true copy, of any entry in the register kept by them under paragraph (1).

**Commencement Information**

**19** Reg. 15 in force at 30.10.1994, see [reg. 1\(2\)](#)

*Management agreements*

**Management agreements**

**16.—(1)** The appropriate nature conservation body may enter into an agreement (a “management agreement”) with every owner, lessee and occupier of land forming part of a European site, or land adjacent to such a site, for the management, conservation, restoration or protection of the site, or any part of it.

(2) A management agreement may impose such restrictions as may be expedient for the purposes of the agreement on the exercise of rights over the land by the persons who can be bound by the agreement.

(3) A management agreement—

- (a) may provide for the management of the land in such manner, the carrying out thereon of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement;
- (b) may provide for any of the matters mentioned in sub-paragraph (a) being carried out, or for the costs thereof being defrayed, either by the said owner or other persons or by the appropriate nature conservation body, or partly in one way and partly in another;
- (c) may contain such other provisions as to the making of payments by the appropriate nature conservation body, and in particular for the payment by them of compensation for the effect of the restrictions mentioned in paragraph (2), as may be specified in the agreement.

(4) Where land in England and Wales is subject to a management agreement, the appropriate nature conservation body shall, as respects the enforcement of the agreement against persons other than the original contracting party, have the like rights as if—

- (a) they had at all material times been the absolute owners in possession of ascertained land adjacent to the land subject to the agreement and capable of being benefited by the agreement, and

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(b) the management agreement had been expressed to be for the benefit of that adjacent land; and section 84 of the Law of Property Act 1925(1) (which enables the [<sup>F8</sup>Upper Tribunal] to discharge or modify restrictive covenants) shall not apply to the agreement.

(5) A management agreement affecting land in Scotland may be registered either—

(a) in a case where the land affected by the agreement is registered in that register, in the Land Register of Scotland, or

(b) in any other case, in the General Register of Sasines;

and, on being so recorded, it shall be enforceable at the instance of the appropriate nature conservation body against any person having an interest in the land and against any person deriving title from him:

Provided that a management agreement shall not be so enforceable against a third party who has *bona fide* onerously acquired right (whether completed by infestment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.

#### Textual Amendments

**F8** Words in [reg. 16\(4\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 2 para. 46](#) (with [Sch. 5](#))

#### Commencement Information

**I10** [Reg. 16](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

### Continuation in force of existing agreement, &c.

17.—(1) [<sup>F9</sup>Any agreement previously entered into under—

(a) section 16 of the National Parks and Access to the Countryside Act 1949(2) (nature reserves),

(b) section 15 of the Countryside Act 1968(3) (areas of special scientific interest), or

(c) section 49A of the Countryside (Scotland) Act 1967(4) (management agreements),

in relation to land which on or after the commencement of these Regulations becomes land within a European site, or adjacent to such a site, shall have effect as if entered into under regulation 16 above.

Regulation 32(1)(b) (power of compulsory acquisition in case of breach of agreement) shall apply accordingly.]

(2) [<sup>F9</sup>Any other thing done or deemed to have been done under any provision of Part III or VI of the National Parks and Access to the Countryside Act 1949, or under section 49A of the Countryside (Scotland) Act 1967, in respect of any land prior to that land becoming land within a European site, or adjacent to such a site, shall continue to have effect as if done under the corresponding provision of these Regulations.]

For the purposes of this paragraph Part III of the 1949 Act shall be deemed to include section 15 of the Countryside Act 1968 and anything done or deemed to be done under that section and to which this paragraph applies shall have effect as if done or deemed to be done under section 16 of the 1949 Act.

(1) [1925 c. 20](#); by virtue of section 28(1) of the Law of Property Act 1969 ([c. 59](#)) section 84 has effect as set out in Schedule 3 to that Act.

(2) [1949 c. 97](#); section 16 was amended by paragraph 1 of Schedule 1 to the Nature Conservancy Council Act 1973 ([c. 54](#)).

(3) [1968 c. 41](#); section 15 was amended by paragraph 9 of Schedule 1 to the Nature Conservancy Council Act 1973 ([c. 54](#)).

(4) [1967 c. 86](#); section 49A was inserted by section 9 of the Countryside (Scotland) Act 1981 ([c. 44](#)).

(3) Any reference in an outlying enactment to a nature reserve within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949 shall be construed as including a European site.

For this purpose an “outlying enactment” means an enactment not contained in, or in an instrument made under, the National Parks and Access to the Countryside Act 1949 or the Wildlife and Countryside Act 1981(5).

#### Textual Amendments

- F9** Reg. 17(1)(2) omitted (S.) (29.11.2004) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **8** (with regs. 20, 21)

#### Commencement Information

- I11** Reg. 17 in force at 30.10.1994, see [reg. 1\(2\)](#)

### *[<sup>F10</sup>Control of potentially damaging operations]*

#### Textual Amendments

- F10** Regs. 18-22 substituted (S.) for regs. 18-22 and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **9** (with regs. 20, 21)

### *[<sup>F11</sup>Notification of potentially damaging operations]*

**18.**—(1) Any person who intentionally or recklessly damages any natural feature by reason of which land is a European site is, subject to paragraph (2), guilty of an offence.

(2) Any person who does anything which would, but for this paragraph, amount to an offence under paragraph (1) is not guilty of the offence if it is shown that—

- (a) the act was the incidental result of a lawful operation,
- (b) the person who carried out the lawful operation—
  - (i) took reasonable precautions for the purpose of avoiding carrying out the act, or
  - (ii) did not foresee, and could not reasonably have foreseen, that the act would be an incidental result of the carrying out of the lawful operation, and
- (c) that person took such steps as were reasonably practicable in all the circumstances to minimise the damage caused.

(3) Any person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale,
- (b) on conviction on indictment, to a fine.]

#### Textual Amendments

- F11** Regs. 18-22 substituted (S.) for regs. 18-22 and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **9** (with regs. 20, 21)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

### Commencement Information

**I12** Reg. 18 in force at 30.10.1994, see [reg. 1\(2\)](#)

### [<sup>F11</sup>Application of Chapters 2, 3 and 4 of Part 2 of the 2004 Act

**19.**—(1) Subject to paragraph (2) and regulations 20 to 22, the following provisions of Part 2 of the 2004 Act apply, for the purposes of these Regulations, in relation to European sites—

- (a) Chapter 2 (nature conservation orders) and schedule 2 (nature conservation orders and related orders: procedure);
- (b) Chapter 3 (land management orders) and schedule 3 (land management orders and related orders: procedure); and
- (c) in Chapter 4—
  - (i) section 39 (acquisition of land by SNH);
  - (ii) section 40 (restoration orders);
  - (iii) section 41 (signs, etc.);
  - (iv) section 43 (powers of investigation etc.: police);
  - (v) section 44 (powers of entry: authorised persons) and schedule 4 (powers of entry of authorised persons: further provision); and
  - (vi) section 46 (offences: penalties and time limits);

(2) For the purposes of these Regulations, any reference in the provisions referred to in paragraph (1)(a) to (c)—

- (a) to a “natural feature” shall be construed as if it was a reference to a “natural feature” within the meaning of regulation 2 of these Regulations;
- (b) to a “site of special scientific interest” shall be construed as if it was a reference to a European site;
- (c) to the 2004 Act or any Part thereof, shall be construed as if it was a reference to these Regulations;
- (d) to a term defined in the 2004 Act shall, unless the context otherwise requires, bear the same meaning as in that Act.]

### Textual Amendments

**F11** Regs. 18-22 substituted (S.) for regs. 18-22 and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), 9 (with regs. 20, 21)

### Commencement Information

**I13** Reg. 19 in force at 30.10.1994, see [reg. 1\(2\)](#)

### [<sup>F11</sup>Chapter 2 of Part 2 of the 2004 Act

**20.** The provisions of Chapter 2 of Part 2 of the 2004 Act apply for the purposes of these Regulations as if—

- (a) in section 23 (nature conservation orders)—
  - (i) in subsection (2)(a) for “special interest,” there was substituted—



“significance in relation to the objectives of—

- (i) Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded; and
  - (ii) Council Directive [79/409/EEC](#) on the conservation of wild birds as last amended by that Act”;
  - (ii) the reference to “international obligation” in subsection (2)(b) included the obligations set out in the Directives referred to in subsection (2)(a) of that section; and
  - (iii) in subsection (3)(b) for the words from “special interest” to “features,” there was substituted “ significance in relation to the objectives of the Directives referred to in subsection (2)(a) ”; and
- (b) in section 27 (offences in relation to nature conservation orders) the reference to “£40,000” was a reference to “level 5 on the standard scale”.]

#### Textual Amendments

- F11** [Regs. 18-22](#) substituted (S.) for [regs. 18-22](#) and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 9](#) (with [regs. 20, 21](#))

#### Commencement Information

- I14** [Reg. 20](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

### [<sup>F11</sup>Chapter 3 of Part 2 of the 2004 Act

**21.** The provisions of Chapter 3 of Part 2 of the 2004 Act apply for the purposes of these Regulations as if—

- (a) any reference to a “management agreement” included a reference to a management agreement entered into under regulation 16 of these Regulations;
- (b) in section 29(2)(b) (proposals for land management orders) for “specified in an SSSI notification” there was substituted “ by reason of which land is a European site ”;
- (c) in section 36(3)(a) (offences in relation to land management orders) the reference to “£40,000” was a reference to “level 5 on the standard scale”.]

#### Textual Amendments

- F11** [Regs. 18-22](#) substituted (S.) for [regs. 18-22](#) and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 9](#) (with [regs. 20, 21](#))

#### Commencement Information

- I15** [Reg. 21](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

*[<sup>F12</sup>Special nature conservation orders]*

**Textual Amendments**

**F12** Regs. 18-22 substituted (S.) for regs. 18-22 and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), 9 (with regs. 20, 21)

**[<sup>F11</sup>Chapter 4 of Part 2 of the 2004 Act**

**22.** The provisions of Chapter 4 of Part 2 of the 2004 Act referred to in regulation 19(1)(c) apply for the purposes of these Regulations as if—

- (a) any reference to “protected natural feature” was a reference to a natural feature—
  - (i) by reason of which the land is a European site; or
  - (ii) by reason of which a nature conservation order has effect;
- (b) in section 40 (restoration orders)—
  - (i) in subsection (1)(b), the reference to “19(3)” was omitted; and
  - (ii) in subsection (4)(a), the reference to “£40,000” was a reference to “level 5 on the standard scale”;
- (c) in section 41(1) (signs etc.) for the words from “any land” to the end there was substituted “a European site”;
- (d) in section 43 (powers of investigation etc.: police) the references to “this Part” in each place where they occur were references to regulations 18 to 22 of these Regulations; and
- (e) in section 44 (powers of entry: authorised persons)—
  - (i) in subsection (i)—
    - (a) paragraphs (a) and (j) were omitted;
    - (b) in paragraphs (c) and (d), the reference to “management agreement” included a reference to a management agreement entered into under regulation 16 of these Regulations;
    - (c) in paragraph (f), for the words from “section 19(1)” to “20” there were substituted references to regulations 18 to 22 of these Regulations;
    - (d) in paragraph (l), the reference to “section 48(10)” was a reference to regulation 108 of these Regulations; and
  - (ii) in subsection (2)(c), the reference to “section 48(10)” was a reference to regulation 108 of these Regulations.]

**Textual Amendments**

**F11** [Regs. 18-22](#) substituted (S.) for regs. 18-22 and cross-headings (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), 9 (with regs. 20, 21)

**Commencement Information**

**I16** Reg. 22 in force at 30.10.1994, see [reg. 1\(2\)](#)

## Restriction on carrying out operations specified in order

<sup>F13</sup>23. ....

### Textual Amendments

**F13** Regs. 23-27 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(a)** (with regs. 20, 21); and Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

## Supplementary provisions as to consents

<sup>F13</sup>24. ....

### Textual Amendments

**F13** Regs. 23-27 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(a)** (with regs. 20, 21); and Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

## Compensation for effect of notice

<sup>F13</sup>25. ....

### Textual Amendments

**F13** Regs. 23-27 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(a)** (with regs. 20, 21); and Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

## Restoration where order contravened

<sup>F13</sup>26. ....

### Textual Amendments

**F13** Regs. 23-27 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(a)** (with regs. 20, 21); and Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

**Continuation in force of existing orders, &c.**

<sup>F13</sup>27. ....

**Textual Amendments**  
**F13** Regs. 23-27 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(a)** (with regs. 20, 21); and Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

**Interpretation**

<sup>F1</sup>27A. ....

*Byelaws*

**Power to make byelaws**

**28.—(1)** The appropriate nature conservation body may make byelaws for the protection of a European site under section 20 of the National Parks and Access to the Countryside Act 1949<sup>(6)</sup> (byelaws for protection of nature reserves).

(2) Without prejudice to the generality of paragraph (1), byelaws under that section as it applies by virtue of this regulation may make provision of any of the following kinds.

(3) They may—

- (a) provide for prohibiting or restricting the entry into, or movement within, the site of persons, vehicles, boats and animals;
- (b) prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description in the site, the taking, destruction or disturbance of eggs of any such creature, the taking of, or interference with, vegetation of any description in the site, or the doing of anything in the site which will interfere with the soil or damage any object in the site;
- (c) contain provisions prohibiting the depositing of rubbish and the leaving of litter in the site;
- (d) prohibit or restrict, or provide for prohibiting or restricting, the lighting of fires in the site or the doing of anything likely to cause a fire in the site.

(4) They may prohibit or restrict any activity referred to in paragraph (3) within such area surrounding or adjoining the site as appears to the appropriate nature conservation body requisite for the protection of the site.

(5) They may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising—

- (a) entry into the site or any such surrounding or adjoining area as is mentioned in paragraph (4), or
- (b) the doing of anything within the site, or any such surrounding or adjoining area,

where such entry, or doing that thing, would otherwise be unlawful under the byelaws.

<sup>(6)</sup> 1949 c. 97; section 20 was amended by paragraph 1 of Schedule 1 to the Nature Conservancy Council Act 1973 (c. 54), paragraph 28(1) of Schedule 4 to the Telecommunications Act 1984 (c. 12) and paragraph 13(1) of Schedule 25 to the Water Act 1989 (c. 15).

(6) They may be made so as to relate either to the whole or to any part of the site, or of any such surrounding or adjoining area as is mentioned in paragraph (4), and may make different provision for different parts thereof.

(7) This regulation does not apply in relation to a European marine site (but see regulation 36).

**Commencement Information**

**I17** Reg. 28 in force at 30.10.1994, see [reg. 1\(2\)](#)

**Byelaws: limitation on effect**

**29.** Byelaws under section 20 of the National Parks and Access to the Countryside Act 1949 as it applies by virtue of regulation 28 shall not interfere with—

- (a) the exercise by any person of a right vested in him as owner, lessee or occupier of land in the European site, or in any such surrounding or adjoining area as is mentioned in paragraph (4) of that regulation;
- (b) the exercise of any public right of way;
- (c) the exercise of any functions of statutory undertakers;
- (d) the exercise of any functions of an internal drainage board, a district salmon fishery board or the Commissioners appointed under the Tweed Fisheries Act 1969(7); or
- [<sup>F14</sup>(e) the provision of an electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the provider of any such network.]

**Textual Amendments**

**F14** Reg. 29(e) substituted (17.9.2003) by [The Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), [Sch. 1 para. 36](#)

**Commencement Information**

**I18** Reg. 29 in force at 30.10.1994, see [reg. 1\(2\)](#)

**Compensation for effect of byelaws**

**30.** Where the exercise of any right vested in a person, whether by reason of his being entitled to any interest in land or by virtue of a licence or agreement, is prevented or hindered by the coming into operation of byelaws under section 20 of the National Parks and Access to the Countryside Act 1949 as it applies by virtue of regulation 28, he shall be entitled to receive from the appropriate nature conservation body compensation in respect thereof.

**Commencement Information**

**I19** Reg. 30 in force at 30.10.1994, see [reg. 1\(2\)](#)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

## Continuation in force of existing byelaws

**31.** Any byelaws in force under section 20 of the National Parks and Access to the Countryside Act 1949 in relation to land which on or after the commencement of these Regulations becomes land within a European site, or adjacent to such a site, shall have effect as if made under the said section 20 as it applies by virtue of regulation 28 and shall be construed as if originally so made.

### Commencement Information

**I20** Reg. 31 in force at 30.10.1994, see [reg. 1\(2\)](#)

## *Powers of compulsory acquisition*

### Powers of compulsory acquisition

<sup>F15</sup>**32.** . . . . .

### Textual Amendments

**F15** Reg. 32 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 22\(b\)](#) (with [regs. 20, 21](#)); and Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), [regs. 1\(2\)\(4\)\(b\), 133\(3\)](#) (with [regs. 125, 134](#))

## *Special provisions as to European marine sites*

### Marking of site and advice by nature conservation bodies

**33.—(1)** The appropriate nature conservation body may install markers indicating the existence and extent of a European marine site.

This power is exercisable subject to the obtaining of any necessary consent under section 34 of the Coast Protection Act 1949<sup>(8)</sup> (restriction of works detrimental to navigation).

**(2)** As soon as possible after a site becomes a European marine site, the appropriate nature conservation body shall advise other relevant authorities as to—

- (a) the conservation objectives for that site, and
- (b) any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, for which the site has been designated.

### Commencement Information

**I21** Reg. 33 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Management scheme for European marine site

**34.—(1)** The relevant authorities, or any of them, may establish for a European marine site a management scheme under which their functions (including any power to make byelaws) shall be

<sup>(8)</sup> [1949 c. 74](#); section 34 was amended by section 36(1) to (4) of the Merchant Shipping Act [1988 \(c. 12\)](#).

exercised so as to secure in relation to that site compliance with the requirements of the Habitats Directive.

(2) Only one management scheme may be made for each European marine site.

(3) A management scheme may be amended from time to time.

(4) As soon as a management scheme has been established, or is amended, a copy of it shall be sent by the relevant authority or authorities concerned to the appropriate nature conservation body.

#### Commencement Information

I22 Reg. 34 in force at 30.10.1994, see [reg. 1\(2\)](#)

#### Direction to establish or amend management scheme

35.—(1) The relevant Minister may give directions to the relevant authorities, or any of them, as to the establishment of a management scheme for a European marine site.

(2) Directions may, in particular—

- (a) require conservation measures specified in the direction to be included in the scheme;
- (b) appoint one of the relevant authorities to co-ordinate the establishment of the scheme;
- (c) set time limits within which any steps are to be taken;
- (d) provide that the approval of the Minister is required before the scheme is established; and
- (e) require any relevant authority to supply to the Minister such information concerning the establishment of the scheme as may be specified in the direction.

(3) The relevant Minister may give directions to the relevant authorities, or any of them, as to the amendment of a management scheme for a European marine site, either generally or in any particular respect.

(4) Any direction under this regulation shall be in writing and may be varied or revoked by a further direction.

(5) In this regulation “the relevant Minister” means, in relation to a site in England, the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly and in any other case the Secretary of State.

#### Commencement Information

I23 Reg. 35 in force at 30.10.1994, see [reg. 1\(2\)](#)

#### [<sup>F16</sup>Byelaws for protection of European marine site][<sup>F16</sup>Protection of European marine sites]

36.—[<sup>F16</sup>(1) The MMO may make byelaws for the protection of a European marine site in England under section 129 of the Marine and Coastal Access Act 2009 (byelaws for protection of marine conservation zones).

(2) The Welsh Ministers may make orders for the protection of a European marine site in Wales under section 134 of that Act (orders for protection of marine conservation zones).

(3) The provisions of Chapter 1 of Part 5 of that Act relating to byelaws under section 129 or orders under section 134 apply, with the modifications described in paragraph (4) of this regulation, in relation to byelaws made by virtue of paragraph (1) of this regulation or (as the case may be) orders made by virtue of paragraph (2) of this regulation.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II. (See end of Document for details)*

- (4) The modifications are—
  - (a) any reference to an MCZ is to be read as a reference to a European marine site;
  - (b) in sections 129(1) and 134(1), the reference to furthering the conservation objectives of an MCZ is to be read as a reference to protecting a European marine site;
  - (c) the reference in section 129(3)(c) to hindering the conservation objectives stated for an MCZ is to be read as a reference to damaging a European marine site.
- (5) Nothing in byelaws or orders made by virtue of this regulation shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).]

**Textual Amendments**

**F16** Reg. 36 substituted (E.W.) (12.1.2010 for specified purposes) by [Marine and Coastal Access Act 2009](#) (c. 23), s. 146, **Sch. 11 para. 4**

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**Commencement Information**

**I24** Reg. 36 in force at 30.10.1994, see [reg. 1\(2\)](#)

*Miscellaneous*

**Nature conservation policy in planning contexts**

**37.**—(1) For the purposes of the planning enactments mentioned below, policies in respect of the conservation of the natural beauty and amenity of the land shall be taken to include policies encouraging the management of features of the landscape which are of major importance for wild flora and fauna.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems of marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

- (2) The enactments referred to in paragraph (1) are—
  - (a) in the Town and Country Planning Act 1990**(9)**, section 12(3A) (unitary development plans), section 31(3) (structure plans) and section 36(3)**(10)** (local plans);
  - (b) in the Town and Country Planning (Scotland) Act 1972**(11)**, section 5(3)(a) (structure plans) and section 9(3)(a) (local plans)**(12)**.

<sup>F17</sup>(3) .....

**Textual Amendments**

**F17** Reg. 37(3) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010](#) (S.I. 2010/490), regs. 1(2), **133(2)(a)** (with regs. 125, 134)

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(9) 1990 c. 8.  
 (10) Section 12(3A) was inserted, and sections 31(3) and 36(3) were substituted, by paragraphs 2(1), 16 and 17 respectively of Schedule 4 to the Planning and Compensation Act 1991 (c. 34).  
 (11) 1972 c. 52.  
 (12) The relevant passages in sections 5(3)(a) and 9(3)(a) were inserted by paragraphs 3 and 4 of Schedule 13 to the Planning and Compensation Act 1991 (c. 34).



### Commencement Information

**I25** Reg. 37 in force at 30.10.1994, see [reg. 1\(2\)](#)

### [<sup>F18</sup>Surveillance of conservation status of habitats and species

**37A.**—(1) The Scottish Ministers shall make arrangements [<sup>F19</sup>in accordance with paragraphs (5) to (7)] for the carrying out of surveillance of the conservation status of natural habitats of Community interest and species of Community interest, and in particular priority natural habitat types and priority species.

(2) Where, in the case of any species of wild fauna and flora listed in Annex V to the Habitats Directive, the Scottish Ministers consider that the results of surveillance under paragraph (1) makes it necessary to do so, they shall make arrangements for ensuring that the taking in the wild of specimens of such species, and their exploitation, is compatible with their being maintained at favourable conservation status.

(3) The arrangements to be made under paragraph (2) shall include arrangements for the carrying out of surveillance of the conservation status of the species in question, for the purpose of establishing whether the taking in the wild of specimens of such species, and their exploitation, is compatible with their being maintained at favourable conservation status.

(4) The Scottish Ministers shall, from time to time, review the arrangements they have made under paragraphs (1), (2) or (3) and if they think it appropriate, revise those arrangements.

[  
<sup>F20</sup>(5) The arrangements made by the Scottish Ministers under paragraph (1) shall ensure that Scottish Natural Heritage implements a strategy for the surveillance of the conservation status of relevant habitats and species in Scotland.

(6) In implementing that strategy Scottish Natural Heritage shall—

- (a) assess how and to what extent surveillance of the conservation status of relevant habitats and species needs to be carried out, having regard to—
  - (i) whether a habitat or species is a priority natural habitat type or a priority species; and
  - (ii) the conservation status of the habitat or species; and
- (b) ensure that surveillance is carried out on an ongoing basis.

(7) Surveillance for the purposes of this regulation may be carried out by—

- (a) Scottish Natural Heritage; or
- (b) any other body or person pursuant to an agreement with Scottish Natural Heritage, provided that Scottish Natural Heritage is satisfied as to the standards and methods of surveillance used by that body or person.

(8) In paragraphs (5) and (6) a relevant habitat or species means a habitat or species of a type referred to in paragraph (1).]]

### Textual Amendments

**F18** Reg. 37A inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **9**

**F19** Words in [reg. 37A\(1\)](#) inserted (26.1.2009) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/425\)](#), regs. 1(1), **3(a)**

**F20** [Reg. 37A\(5\)-\(8\)](#) inserted (26.1.2009) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/425\)](#), regs. 1(1), **3(b)**

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*Status: Point in time view as at 01/04/2010.*

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**Protection of certain animals and plants from exploitation**

**F137B.** .....

**Introduction of new species from ships**

**F137C.** .....

**Licensing the introduction of new species**

**F137D.** .....

**False statements made for obtaining a licence under regulation 37D**

**F137E.** .....]

**Status:**

Point in time view as at 01/04/2010.

**Changes to legislation:**

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART II.