
STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 2

Conservation of Natural Habitats and Habitats of Species

Control of potentially damaging operations

Notification of potentially damaging operations

23.—(1) This regulation and regulation 24 apply where a notification is in force under section 28 of the WCA 1981 (sites of special scientific interest)^{M1} in relation to land which is or forms part of a European site.

(2) The appropriate nature conservation body may, for the purpose of securing compliance with the requirements of the Directives, at any time vary the notification with respect to—

- (a) the flora, fauna or geological or physiographical features by reason of which the land is of special interest; or
- (b) any operations appearing to the appropriate nature conservation body to be likely to damage that flora or fauna or those features.

Marginal Citations

M1 Section 28 was substituted by the [Countryside and Rights of Way Act 2000 \(c. 37\), Schedule 9, paragraph 1](#), and amended by the [Natural Environment and Rural Communities Act 2006 \(c. 16\), Schedule 11, paragraph 79](#); and the Marine Act, Schedule 13, Part 2, paragraph 2.

Assessment of implications for European sites

24.—(1) Where it appears to the appropriate nature conservation body that a notice of a proposal under section 28E(1)(a) of the WCA 1981 relates to an operation which is or forms part of a plan or project which—

- (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of that site,

it must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

(2) In the light of the conclusions of the assessment, it may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) This regulation does not apply in relation to a site which is a European site by reason of regulation 8(1)(c).

Status: Point in time view as at 30/11/2017.

Changes to legislation: The Conservation of Habitats and Species Regulations 2017, Cross Heading: Control of potentially damaging operations is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Sites of special scientific interest which become European sites: duty to review

25.—(1) This regulation applies where a consent for an operation has been given under section 28E(3)(a) of the WCA 1981 ^{M2} (or has effect as if given under that section ^{M3}) in relation to land included in a site of special scientific interest which, after the date of that consent, becomes land within a European site.

(2) The appropriate nature conservation body must, as soon as reasonably practicable, review the consent and affirm, modify or withdraw it.

(3) Regulation 24 applies for the purposes of paragraph (2), as if—

- (a) the reference in regulation 24(1) to a notice of a proposal under section 28E(1)(a) of the WCA 1981 were a reference to a consent under section 28E(3)(a) of that Act; and
- (b) the reference to giving consent in regulation 24(2) were a reference to affirming that the consent should remain in force.

Marginal Citations

M2 Section 28E(3)(a) was amended by the [Natural Environment and Rural Communities Act 2006 \(c. 16\), Schedule 11, paragraph 79](#).

M3 See paragraph 8(1)(b) of Schedule 11 to the [Countryside and Rights of Way Act 2000 \(c. 37\)](#).

Farm capital grants

26.—(1) Where an application for a farm capital grant is made as respects expenditure incurred or to be incurred for the purpose of activities on land within a European site, the appropriate authority—

- (a) must, so far as may be consistent with the purposes of the grant provisions, exercise its functions so as to further the conservation of the protected features; and
- (b) where the appropriate nature conservation body has objected to the making of the grant on the ground that the activities in question have destroyed or damaged, or will destroy or damage, those protected features, must not make the grant except after considering the objection.

(2) Where in consequence of an objection by the appropriate nature conservation body, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will destroy or damage protected features, the appropriate nature conservation body must, within three months of its receiving notice of the appropriate authority's decision, offer to enter into a management agreement in the terms of a draft submitted to the applicant—

- (a) imposing restrictions as respects those activities; and
- (b) providing for the making by it of payments to the applicant.

(3) In this regulation—

“farm capital grant” means—

- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants) ^{M4}; or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972 ^{M5} to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;

“grant provisions” means—

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- (a) in the case of a grant described in paragraph (a) of the definition of “farm capital grant”, the scheme under which the grant is made and section 29 of the Agriculture Act 1970;
 - (b) in the case of a grant of a kind described in paragraph (b) of the definition of “farm capital grant”, the regulations under which the grant is made and the EU instrument in pursuance of which the regulations were made;
- “protected features”, in relation to a European site, means the flora, fauna, or geological or physiological features by reason of which the land is a European site.

Marginal Citations

- M4** 1970 c. 40. Section 29 was amended by the Agriculture (Miscellaneous Provisions) Act 1976 (c. 55), **section 15**; the Criminal Justice Act 1982 (c. 48), **sections 37, 38 and 46**; and the Statute Law (Repeals) Act 1986 (c. 12).
- M5** 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), **section 27(1)**; and the European Union (Amendment) Act 2008 (c. 7), **Schedule 1(1)**, paragraph 1.

Status:

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