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## STATUTORY INSTRUMENTS

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# 2017 No. 1012

## The Conservation of Habitats and Species Regulations 2017

### PART 2 **E+W+S**

#### Conservation of Natural Habitats and Habitats of Species

##### *European sites*

#### [<sup>F1</sup>Duty to designate special areas of conservation **E+W**

12.—(1) The appropriate authority must, having regard to the priorities established under regulation 13, designate as special areas of conservation such sites in England and Wales as the authority considers to be sites of national importance.

(2) Sites of national importance are sites which contribute significantly to the objective in paragraph (3)(a) or the objective in paragraph (3)(b).

(3) The objectives referred to in paragraph (2) are—

- (a) the maintenance, or restoration, at favourable conservation status in their natural range of the natural habitat types listed in Annex I to the Habitats Directive or the species listed in Annex II to that Directive; and
- (b) the maintenance of biological diversity within the Atlantic biogeographic region.

(4) For animal species ranging over wide areas, those sites determined to be of national importance must correspond to places within the natural range of such species, which present the physical or biological factors essential to their life and reproduction.

(5) For aquatic species which range over wide areas, such sites are to be determined to be of national importance only where there is a clearly identifiable area which is distinct in providing the physical and biological factors essential to their life and reproduction.

(6) In determining which sites are of national importance for the purposes of paragraph (1), the appropriate authority must—

- (a) apply the Annex III criteria;
- (b) make its determination only on the basis of relevant scientific information; and
- (c) have regard to the importance of the population of a species or area of a habitat found in the United Kingdom for the purpose of meeting the objectives in paragraph (3).

(7) For the purposes of paragraph (6)(a), the Annex III criteria are to be construed as if—

- (a) for “Community importance” there were substituted “national importance”;
- (b) a reference to a “Member State” is to be taken to be a reference to the appropriate authority;
- (b) for “continuous ecosystem situated on both sides of one or more internal Community frontiers” there were substituted “continuous ecosystem extending beyond the borders of the United Kingdom”; and

*Changes to legislation: The Conservation of Habitats and Species Regulations 2017, Cross Heading: European sites is up to date with all changes known to be in force on or before 07 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) View outstanding changes*

- (c) for “the biogeographical regions concerned and/or for the whole of the territory referred to in Article 2” there were substituted “the Atlantic biogeographical region”.
- (8) In applying the Annex III criteria, the appropriate authority must—
  - (a) in relation to the application of stage 1 of the Annex III criteria, have regard to the advice of the appropriate nature conservation body; and
  - (b) in relation to the application of stage 2 of the Annex III criteria, have regard to the advice of the Joint Nature Conservation Committee.
- (9) In this regulation, “the Annex III criteria” means the criteria set out in Annex III to the Habitats Directive.]

**Textual Amendments**

**F1** Regs. 12, 13 substituted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **10**; 2020 c. 1, Sch. 5 para. 1(1)

**[<sup>F1</sup>Priorities for designating special areas of conservation E+W**

**13.**—(1) The appropriate authority must, in accordance with paragraph (2), establish priorities for designating as special areas of conservation such sites as it has determined to be sites of national importance.

- (2) Priorities for the purpose of paragraph (1) must be established in the light of—
  - (a) the importance of the sites for the maintenance at or restoration to a favourable conservation status of—
    - (i) a natural habitat type specified in Annex I to the Habitats Directive; or
    - (ii) a species specified in Annex II to the Habitats Directive;
  - (b) the importance of such sites for the coherence of the national site network; and
  - (c) the threats of degradation or destruction to which the sites are exposed.]

**Textual Amendments**

**F1** Regs. 12, 13 substituted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **10**; 2020 c. 1, Sch. 5 para. 1(1)

**Consultation as to inclusion of site omitted from the list E+W**

<sup>F2</sup>**14.** .....

**Textual Amendments**

**F2** Reg. 14 omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **11**; 2020 c. 1, Sch. 5 para. 1(1)

**Classification of sites as special protection areas E+W**

**15.**—(1) The appropriate authority must classify as special protection areas such sites in England and Wales as the authority considers necessary to ensure that the objective in paragraph (2) is met.

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(2) The objective referred to in paragraph (1) is that those sites across the United Kingdom's territory which are most suitable in number and size for—

- (a) the conservation of the species listed in Annex 1 to the new Wild Birds Directive which naturally occur in that territory, and
- (b) the conservation of regularly occurring migratory species of birds not listed in Annex 1 which naturally occur in that territory,

are classified as special protection areas.

(3) The appropriate authority must make a decision as to the sites to be classified for the purpose mentioned in paragraph (1) only on the basis of relevant scientific information and—

- (a) in the case of a site to be classified for the purpose mentioned in paragraph (2)(a), on the basis of the criteria set out in Article 4(1) of the new Wild Birds Directive (classification of special protection areas); and
- (b) in the case of a site to be classified for the purpose mentioned in paragraph (2)(b), on the basis of the criteria set out in Article 4(2) of the new Wild Birds Directive.

[<sup>F3</sup>(4) In applying the criteria referred to in sub-paragraphs (3)(a) and (b) in relation to any species, references in Articles 4(1) and (2) of the new Wild Birds Directive to classifying the most suitable territories “in the geographical sea and land area where this Directive applies” are to be construed as referring to the most suitable territories in the United Kingdom’s territory, having regard to the importance of such territories for ensuring the survival and reproduction of that species in their area of distribution]

<sup>F4</sup>(5) .....

<sup>F4</sup>(6) .....

**Textual Amendments**

**F3** Reg. 15(4) substituted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **12(2)**; 2020 c. 1, Sch. 5 para. 1(1)

**F4** Reg. 15(5)(6) omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **12(3)**; 2020 c. 1, Sch. 5 para. 1(1)

**Notification of a proposal to classify a special protection area** **E+W**

**16.—**(1) If the appropriate authority proposes to classify a site as a special protection area under regulation 15, the authority must give to the appropriate nature conservation body—

- (a) notice of that proposal; and
- (b) an accompanying statement of the reasons for that proposal.

(2) Where the appropriate nature conservation body is given notice of a proposal under paragraph (1), the body must give notice of that proposal and provide a copy of the appropriate authority's statement of reasons for that proposal to—

- (a) any of the following who in its opinion ought to be notified—
  - (i) competent authorities which exercise functions in relation to the site;
  - (ii) competent authorities which exercise functions in relation to an area adjacent to the site; and
  - (iii) every owner and occupier of the site;
- (b) such other persons as in its opinion ought to be notified; and
- (c) such other persons as the appropriate authority directs.

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(3) A notice under paragraph (2) must specify the date (being not less than 12 weeks from the date of the giving of the notice) by which representations with respect to the proposal may be made to the appropriate nature conservation body.

(4) The appropriate nature conservation body must provide to the appropriate authority a report describing the representations duly made, if any, that it received about the proposal, or, where no such representations have been received, stating that fact.

(5) The appropriate authority must consider the report provided under paragraph (4).

(6) The appropriate authority may issue guidance to the appropriate nature conservation body for the purposes of its functions under this regulation, and the appropriate nature conservation body must have regard to that guidance in discharging any of those functions.

(7) The appropriate authority may vary or revoke a direction under paragraph (2)(c).

#### **[<sup>F5</sup>Management objectives of the national site network E.W.**

**16A.**—(1) The appropriate authority must, in co-operation with any other authority having a corresponding responsibility, manage, and where necessary adapt, the national site network, so far as it consists of European sites, with a view to contributing to the achievement of the management objectives of the national site network.

(2) The management objectives of the national site network are—

(a) to maintain at, or where appropriate restore to, a favourable conservation status in their natural range (so far as it lies in the United Kingdom's territory, and so far as is proportionate)—

(i) the natural habitat types listed in Annex I to the Habitats Directive;

(ii) the species listed in Annex II to that Directive whose natural range includes any part of the United Kingdom's territory;

(b) to contribute, in their area of distribution, to ensuring the survival and reproduction of—

(i) the species of birds listed in Annex I to the new Wild Birds Directive which naturally occur in the United Kingdom's territory;

(ii) regularly occurring migratory species of birds not listed in that Annex which naturally occur in the United Kingdom's territory;

(c) to contribute, to securing compliance with the requirements of Article 2 of the new Wild Birds Directive for the purposes of the duty in regulation 9(1) in relation to the species of birds in paragraph (b) within their area of distribution.

(3) In complying with the obligation in paragraph (1), the appropriate authority must have regard—

(a) in relation to any European sites which are not of a kind mentioned in regulation 8(1)(d), to the considerations mentioned in paragraph (4);

(b) in relation to European sites of a kind mentioned in regulation 8(1)(d), to the considerations mentioned in paragraph (5).

(4) The considerations mentioned in paragraph (3)(a) are—

(a) the importance of the sites for meeting the objective in paragraph (2)(a);

(b) the importance of the sites for the coherence of national site network;

(c) the threats of degradation or destruction (including deterioration and disturbance of protected features) to which the sites are exposed.

(5) The considerations mentioned in paragraph (3)(b) are—

(a) the importance of the sites for meeting the objectives in paragraph 2(b) and (c);

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- (b) in the case of migratory species, the importance of their breeding, moulting and wintering areas and staging points along their migration routes;
  - (c) the importance of the sites for the coherence of national site network;
  - (d) the threats of degradation or destruction (including deterioration and disturbance of protected features) to which the sites are exposed.
- (6) In paragraph (2)(a), “proportionate” means proportionate to the relative importance of—
- (a) the part of the natural range lying in the United Kingdom’s territory, and
  - (b) the part of the natural range lying outside the United Kingdom’s territory,
- for achieving a favourable conservation status.]

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#### **Textual Amendments**

**F5** Reg. 16A inserted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **13**; 2020 c. 1, **Sch. 5 para. 1(1)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 41(2)(aa) inserted by [2023 c. 55 Sch. 8 para. 38\(5\)](#)
- reg. 108(6) inserted by [2023 c. 55 Sch. 8 para. 39\(6\)](#)
- reg. 111(2)(aa)(ab) substituted for reg. 111(2)(a)(b) by [2023 c. 55 Sch. 8 para. 40\(3\)\(a\)](#)