

STATUTORY INSTRUMENTS

2017 No. 1013

**The Conservation of Offshore Marine
Habitats and Species Regulations 2017**

PART 7

MISCELLANEOUS

Research

74.—(1) The Secretary of State must take such steps to encourage research and scientific work relating to the offshore marine area as the Secretary of State considers necessary—

- (a) having regard to the objectives in Article 2, and the obligation in Article 11, of the Habitats Directive; and
- (b) for the purpose of the protection or management, and in relation to the use, of any population of wild birds.

^{F1}(2)

(3) In deciding what steps to take under paragraph (1), the Secretary of State must have particular regard to the need for research and scientific work—

- (a) on the subjects listed in Annex V to the Wild Birds Directive; or
- (b) which may be required to implement Article 4 of the Habitats Directive.

(4) This regulation applies to—

- (a) the Scottish Ministers as it applies to the Secretary of State, but as if, in paragraphs (1) and (2), the reference to the offshore marine area were a reference to the Scottish offshore region; and
- (b) the Welsh Ministers as it applies to the Secretary of State, but as if, in paragraphs (1) and (2), the reference to the offshore marine area were a reference to the Welsh offshore region.

(5) Before the Secretary of State takes any steps under this regulation in relation to the Scottish offshore region or the Welsh offshore region under this regulation, the Secretary of State must consult the Scottish Ministers or the Welsh Ministers (respectively).

Textual Amendments

F1 Reg. 74(2) omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, 66; 2020 c. 1, Sch. 5 para. 1(1)

Nature conservation education

75. The Joint Committee must take such steps as it considers appropriate to promote public awareness of, and to disseminate information on—

- (a) the need to protect species of wild flora and fauna found in the offshore marine area; and
- (b) the need to conserve the habitats of such flora and fauna and natural habitats found in the offshore marine area.

Re-introduction of species

76.—(1) If the relevant administration considers that re-introducing a species to which this regulation applies into any part of the waters comprised in the offshore marine area might contribute to the conservation of that species, the relevant administration—

- (a) must make arrangements for a study to be carried out to consider the desirability of doing so; and
- (b) may, if the relevant administration considers it appropriate, carry out or cause to be carried out an investigation in accordance with paragraph (5) for the purpose of ascertaining whether the re-introduction of the species would contribute effectively to re-establishing the species at a favourable conservation status.

(2) Paragraph (3) applies if the study under paragraph (1)(a) concludes that any such re-introduction would be desirable—

- (a) in the light of an investigation carried out under paragraph (1)(b); or
- (b) where no such investigation has been carried out, subject to such an investigation being carried out and reaching a conclusion in the affirmative.

(3) Where this paragraph applies, and subject to paragraph (4), the relevant administration may make arrangements to re-introduce the species into such waters after—

- (a) carrying out such an investigation; and
- (b) consulting such persons as the relevant administration considers may have an interest in the re-introduction.

(4) The relevant administration must not proceed with the re-introduction unless the conclusion of the investigation carried out under paragraph (1)(b) is in the affirmative.

(5) Any investigation under paragraph (1)(b) must—

- (a) consider whether the species concerned has been re-introduced in the territory of [F2any] member States or elsewhere; and
- (b) take account of any evidence relating to any such re-introductions which is relevant for the purposes of the investigation.

(6) This regulation applies to such species in Annex IV of the Habitats Directive as are native to the offshore marine area.

(7) Before the Secretary of State exercises any functions under this regulation in relation to the waters comprising the Scottish offshore region or the waters comprising the Welsh offshore region under this regulation, the Secretary of State must consult the Scottish Ministers or the Welsh Ministers, respectively.

(8) In this regulation, “the relevant administration” means—

- (a) in relation to the re-introduction of species in any part of the waters comprised in the Scottish offshore region, the Scottish Ministers;
- (b) in relation to the re-introduction of species in any part of the waters comprised in the Welsh offshore region, the Welsh Ministers; and
- (c) in relation to the re-introduction of species in other any part of the waters comprising the offshore marine area, the Secretary of State.

Textual Amendments

F2 Word in reg. 76(5)(a) substituted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **67**; 2020 c. 1, Sch. 5 para. 1(1)

Advisory role of the Joint Committee

77.—(1) The Joint Committee may—

- (a) provide advice and assistance, or make representations, to a competent authority on a nature conservation matter which is connected with the discharge of the competent authority's functions under these Regulations; and
- (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as the Joint Committee considers is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).

(2) In this regulation and regulation 78, “research” includes inquiries and investigations.

Advice on appropriate assessments

78.—(1) Natural England may provide advice and may make representations to a competent authority in relation to—

- (a) any question as to whether that authority is obliged to carry out an appropriate assessment upon which it must consult Natural England under these Regulations; and
- (b) any appropriate assessment upon which that authority must consult Natural England under these Regulations.

(2) The Natural Resources Body for Wales may provide advice or make representations to a competent authority in relation to—

- (a) any question as to whether that authority is obliged to carry out an appropriate assessment upon which it must consult the Natural Resources Body for Wales under these Regulations; and
- (b) any appropriate assessment upon which that authority must consult the Natural Resources Body for Wales under these Regulations.

(3) Scottish Natural Heritage may provide advice and may make representations to a competent authority in relation to—

- (a) any question as to whether that authority is obliged to carry out an appropriate assessment upon which it must consult Scottish Natural Heritage under these Regulations; and
- (b) any appropriate assessment upon which that authority must consult Scottish Natural Heritage under these Regulations.

(4) Natural England, the Natural Resources Body for Wales and Scottish Natural Heritage may each undertake, commission or support (whether by financial means or otherwise) such research and scientific work as they think is required for the purposes of providing advice or making representations under this regulation.

Reports to the Commission

^{F3}79.

Textual Amendments

- F3** Reg. 79 omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **68**; 2020 c. 1, Sch. 5 para. 1(1)

Form of communications

80.—(1) Subject to paragraph (2), where—

- (a) a person is required to give notice to any person of any matter,
- (b) a person may make representations on a matter to any person, or
- (c) a request must be submitted to the Secretary of State,

the notice, representations or request (together with any accompanying information or documents) must be in writing.

(2) A notice, representations or a request (and any accompanying information or documents) may be given or sent by means of an electronic communication if the intended recipient consents.

(3) In this regulation and in regulation 81, “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 ^{M1}.

Marginal Citations

- M1** 2000 c. 7. The definition of “electronic communication” in section 15(1) was amended by the [Communications Act 2003 \(c. 21\)](#), **paragraph 158** of Schedule 17.

Notices

81.—(1) Any notice required under these Regulations may be given to a person by—

- (a) leaving it at that person's proper address;
- (b) sending it by post to that person at that address; or
- (c) where an address for receipt by electronic communication has been given by that person, sending it by means of electronic communication to that person at that address.

(2) Any such notice may—

- (a) in the case of a body corporate (other than a limited liability partnership) be given to the secretary or clerk of that body;
- (b) in the case of a limited liability partnership, be given to a member; and
- (c) in the case of a partnership (other than a limited liability partnership), be given to a partner or person having control or management of the partnership business.

(3) For the purpose of this regulation and of section 7 of the Interpretation Act 1978 ^{M2} (reference to service by post) in its application to this regulation, the proper address of any person to whom any such notice is to be given is the person's last known address, except that—

- (a) in the case of a body corporate (other than a limited liability partnership) or its secretary or clerk, it is the address of the registered or principal office of that body;
- (b) in the case of a limited liability partnership or a member of a limited liability partnership, it is the registered or principal office of that partnership; and
- (c) in the case of a partnership (other than a limited liability partnership) or person having control of the partnership business, it is the principal office of that partnership.

(4) For the purposes of paragraph (3) the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(5) If a person (“P”) to be given any such notice has specified an address in the United Kingdom other than P’s proper address within the meaning of paragraph (3) as the one at which P or another person on P’s behalf will accept notices of the same description as that notice, that address is also to be treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as P’s proper address.

(6) Where a notice is given by means of an electronic communication, it is deemed to be given by properly addressing and transmitting the electronic communication.

(7) Where a notice given by means of electronic communication is received by the recipient outside that person’s normal office hours, it will be taken to have been received on the next working day.

(8) In this regulation “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 ^{M3}.

Marginal Citations

M2 1978 c. 30.

M3 1971 c. 80.

Review

82.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Habitats Directive and the Wild Birds Directive are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the coming into force of these Regulations.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Revocations

83. The following are revoked—

- (a) the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 ^{M4};
- (b) the Offshore Marine Conservation (Natural Habitats, &c.) (Amendment) Regulations 2009 ^{M5};

- (c) the Offshore Marine Conservation (Natural Habitats, &c.) (Amendment) Regulations 2010 ^{M6};
- (d) the Offshore Marine Conservation (Natural Habitats, &c.) (Amendment) Regulations 2012 ^{M7}.

Marginal Citations

- M4** [S.I. 2007/1842](#), amended by [S.I. 2009/7](#), [2010/491](#) and [2012/1928](#).
- M5** [S.I. 2009/7](#).
- M6** [S.I. 2010/491](#).
- M7** [S.I. 2012/1928](#).

Consequential amendments

84. Schedule 4 (amendments to legislation) has effect.

[^{F4}Amendment of Schedules

84A.—(1) The Secretary of State may, where satisfied that the natural range of a species of animal listed in Annex IV(a) to the Habitats Directive includes any part of the offshore marine area, by regulations amend Schedule 1 as appropriate in the light of that conclusion.

(2) The Secretary of State may make such other amendment as he considers necessary for adapting Schedules 1 to 3A to technical and scientific progress.

(3) Before exercising the power under paragraph (1) or (2), the Secretary of State must obtain the consent of the devolved administrations.]

Textual Amendments

- F4** [Regs. 84A, 84B](#) inserted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **69**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F4}Statutory instruments

84B.—(1) The power to make an amendment under paragraph (1) or (2) of regulation 84(A) is exercisable by statutory instrument.

(2) A statutory instrument made by the Secretary of State under regulation 84A(1) may not be made unless a draft of the statutory instrument has been laid before, and approved by a resolution of, each House of Parliament;

(3) A statutory instrument made by the Secretary of State under regulation 84A(2) is subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F4** [Regs. 84A, 84B](#) inserted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **69**; 2020 c. 1, Sch. 5 para. 1(1)

Saving

85. Notwithstanding the revocation of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, regulation 75 (amendments to the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 ^{M8}) continues to have effect.

Marginal Citations

M8 [S.I. 2001/1754](#).

Transitional provisions

86.—(1) Any licence granted by a relevant administration before 30th November 2017 under regulation 49(1), (3), (6), (8) or (11) of the 2007 Regulations (power to grant licences) has effect from that date as a licence granted under regulation 55(1), (3), (6), (8) or (11), respectively, of these Regulations (power to grant licences).

(2) Any application for a licence under regulation 49(1), (3), (6), (8) or (11) of the 2007 Regulations (power to grant licences) which is made before 30th November 2017, and which is not withdrawn or determined before that date, is to be treated as an application made under regulation 55(1), (3), (6), (8) or (11), respectively, of these Regulations (power to grant licences).

(3) Any management scheme established by a competent authority under regulation 19 of the 2007 Regulations (management schemes for offshore marine sites) which is in force immediately before 30th November 2017 has effect from that date as if it were a management scheme established by the competent authority in question under regulation 22 (management schemes for European offshore marine sites) of these Regulations.

(4) Any authorisation of a wildlife officer under regulation 52 of the 2007 Regulations (wildlife officers) which is in force immediately before 30th November 2017 has effect from that date as if it were an authorisation granted under regulation 58 of these Regulations (wildlife officers).

(5) In this regulation, the “2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 ^{M9}.

Marginal Citations

M9 [S.I. 2007/1842](#), as amended by [S.I. 2009/7](#), [S.I. 2010/490](#), [S.I. 2010/491](#), [S.I. 2010/1513](#), [S.I. 2011/2043](#), [S.I. 2012/1809](#), [S.I. 2012/1928](#), [S.I. 2013/755](#), [S.I. 2015/191](#), [S.I. 2016/912](#), [S.S.I. 2007/485](#) and [SSI 2015/320](#).

[^{F5}Transitional provisions: EU exit

86A.—(1) Where before exit day a site in the offshore marine area has been adopted in accordance with the procedure laid out in Article 4(2) of the Habitats Directive (list of sites of Community importance), the relevant administration must designate that site as a special area of conservation as soon as possible and no later than six years from the date of adoption of that site.

(2) Paragraph (3) applies where before exit day a site in the offshore marine area—

(a) has been proposed as eligible for identification as of Community importance in accordance with the procedure laid out in Article 4(2) of the Habitats Directive (list of sites of Community importance) as part of a list of sites transmitted to the European Commission; and

(b) has not yet been so identified as being of Community importance.

Changes to legislation: There are currently no known outstanding effects for the The Conservation of Offshore Marine Habitats and Species Regulations 2017, PART 7. (See end of Document for details)

- (3) Where this paragraph applies, the relevant administration must within six years of exit day—
- (a) designate the site as a special area of conservation; or
 - (b) give notice to the Joint Committee of its intention not to designate the site, and publish, in such form as it sees fit, its reasons for not designating the site, having regard the objective in regulation 7(3).]

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Textual Amendments

- F5** Reg. 86A inserted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, 70; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Conservation of Offshore Marine Habitats and Species Regulations 2017, PART 7.