
STATUTORY INSTRUMENTS

1994 No. 2716

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

[^{F1}PART I

INTRODUCTORY PROVISIONS

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), 12.12.2014 in so far as not already in force) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

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.

Commencement Information

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

Interpretation and application

- 2.—(1) In these Regulations—
- [^{F2}“the 2004 Act” means the Nature Conservation (Scotland) Act 2004;]
- [^{F3}“the 2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;]
- “agriculture Minister” means the Minister of Agriculture, Fisheries and Food or the Secretary of State;
- [^{F4}“British fishery limits” has the meaning given by the Fishery Limits Act 1976;]
- “competent authority” shall be construed in accordance with regulation 6;
- [^{F5}“conservation” has the meaning given by Article 1(a) of the Habitats Directive;]
- [^{F5}“conservation status” and “favourable conservation status” have the meanings given by paragraphs (e) (in relation to habitats) and (i) (in relation to species) of Article 1 of the Habitats Directive;]
- “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;

Status: Point in time view as at 18/03/2021.

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

[^{F6}“the Directives” means the Habitats Directive and the Wild Birds Directive;]

^{F7} ...

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

[^{F4}“European offshore marine site” means a European offshore marine site within the meaning of regulation 15 (meaning of European offshore marine site) of the 2007 Regulations;]

“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;

[^{F8}“the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora as amended from time to time [^{F9}, but subject to paragraph (2A)];]

[^{F10}“land” includes buildings and other structures, land covered with water, and any right or interest in or over land;]

“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;

[^{F11}“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;]

“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
- (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 [^{F12}(but see paragraphs (6) and (7))];

[^{F13}“natural feature” in relation to land means—

- (a) any of its flora or fauna, or
- (b) any natural habitat existing on that land;]

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

[^{F4}“the offshore marine area” means—

(1) 1978 c. 30.
 (2) 1990 c. 8.
 (3) 1973 c. 65.

- (a) any part of the seabed and subsoil situated in any area designated under section 1(7) of the Continental Shelf Act 1964; and
- (b) any part of the waters within British fishery limits (except the internal waters of, and the territorial sea adjacent to, the United Kingdom, the Channel Islands and the Isle of Man);]

[^{F4}“offshore marine installation” means any artificial island, installation or structure (other than a ship) which is situated—

- (a) in any part of the waters in any area designated under section 1(7) of the Continental Shelf Act 1964; or
- (b) in any part of the waters in any area designated under section 84(4) of the Energy Act 2004;]

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

[^{F14}“priority natural habitat types” has the meaning given by Article 1(d) of the Habitats Directive;]

[^{F14}“priority species” has the meaning given by Article 1(h) of the Habitats Directive;]

“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;

[^{F15}“the requirements of the Directives” is to be interpreted in accordance with regulation 2A(3) and (4);]

[^{F15}“the retained transposing regulations” means—

- (a) the Conservation of Habitats and Species Regulations 2017;
- (b) the Conservation of Offshore Marine Habitats and Species Regulations 2017;
- (c) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995; and
- (d) these Regulations,]

[^{F15}“the other retained transposing regulations” means the retained transposing regulations other than these Regulations;]

[^{F16}“Scottish marine area” means the area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to Scotland;]

[^{F17}“site” has the meaning given by Article 1(j) of the Habitats Directive;]

[^{F17}“site of Community importance” has the meaning given by Article 1(k) of the Habitats Directive;]

[^{F17}“special area of conservation” has the meaning given by Article 1(l) of the Habitats Directive and includes any such site designated after exit day under the retained transposing regulations;]

[^{F18}“statutory undertaker” has the meaning given in section 58(1) of the 2004 Act;]

[^{F19}“the UK site network” means the network of sites in the United Kingdom’s territory consisting of such sites as—

- (a) immediately before exit day formed part of Natura 2000; or
- (b) at any time on or after exit day are European sites, European marine sites and European offshore marine sites for the purposes of any of the retained transposing regulations;]

Status: Point in time view as at 18/03/2021.

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

[^{F19}“the United Kingdom’s territory” means the United Kingdom and the offshore marine area;]

[^{F20}“wild bird” means a bird which is—

- (a) a member of a species referred to in Article 1 of the Wild Birds Directive; and
- (b) wild; and]

[^{F21}“the Wild Birds Directive” means Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds, as amended from time to time [^{F22}, but subject to paragraph (2A)]]].

[^{F23}(1A) An animal shall not be treated as bred in captivity for the purposes of Part III of these Regulations unless its parents were lawfully held in captivity—

- (a) where the animal is of a viviparous species, when it was born;
- (b) where the animal is of an oviparous species, when the egg was laid.

(1B) The reference in paragraph (1A) to “lawfully” means without any contravention of these Regulations or Part I of the Wildlife and Countryside Act 1981.]

[^{F24}(2) Unless the context otherwise requires, expressions not defined in paragraph (1) which are used in these Regulations and also in the Habitats Directive have the same meaning as in that Directive.]

[^{F25}(2ZA) Unless the context otherwise requires, expressions [^{F26}not defined in paragraph (1) which are] used in the Wild Birds Directive and in these Regulations have the same meaning as in that Directive.]

[^{F27}(2A) In these Regulations references to any Annex to the Habitats Directive or, as the case may be, any Annex to the Wild Birds Directive, are references to that Annex as it had effect immediately before exit day, or as subsequently amended under regulation 114.]

[^{F28}(2B) Any reference to a numbered provision of these Regulations is—

- (a) in relation to England and Wales, to the provision of that number which has effect in England and Wales; and
 - (b) in relation to Scotland, to the provision of that number which has effect in Scotland.]
- (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—

- (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.

[^{F29}(6) For the purposes of—

- (a) these Regulations; and
- (b) any guidance issued before exit day by the Scottish Ministers or the appropriate nature conservation body relating to the application of these Regulations,

on or after exit day references to “Natura 2000” (other than in this regulation) are to be construed as references to the UK site network.

(7) Paragraph (6) does not affect the interpretation of these Regulations as they had effect, or any guidance as it applied, before exit day.]

Textual Amendments

- F2** Words in [reg. 2\(1\)](#) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **4(a)(i)** (with regs. 20, 21)
- F3** Words in [reg. 2\(1\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(2)(a)** (with reg. 9)
- F4** Words in [reg. 2\(1\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(2)(d)** (with reg. 9)
- F5** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **4(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in [reg. 2](#) inserted (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), **3(1)(a)**
- F7** Words in [reg. 2](#) omitted (16.8.2012) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), **3(1)(b)**
- F8** Words in [reg. 2\(1\)](#) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **5(a)**
- F9** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **4(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in [reg. 2\(1\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **4(a)(iii)** (with regs. 20, 21)
- F11** Words in [reg. 2](#) inserted (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), **3(1)(c)**
- F12** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **4(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in [reg. 2\(1\)](#) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **4(a)(iv)** (with regs. 20, 21)
- F14** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by virtue of [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **4(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **4(2)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in [reg. 2](#) inserted (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), **3(1)(d)**
- F17** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by virtue of [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **4(2)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in [reg. 2\(1\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **4(a)(v)** (with regs. 20, 21)

Status: Point in time view as at 18/03/2021.

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

- F19** Words in reg. 2(1) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **4(2)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in reg. 2 inserted (16.8.2012) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2012 (S.S.I. 2012/228), regs. 1(1), **3(1)(e)**
- F21** Words in reg. 2(1) substituted (6.4.2011) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2011 (S.S.I. 2011/155), regs. 1(1), **3(a)**
- F22** Words in reg. 2(1) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **4(2)(h)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Reg. 2(1A)(1B) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **4(b)** (with regs. 20, 21)
- F24** Reg. 2(2) substituted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **4(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Reg. 2(2ZA) inserted (6.4.2011) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2011 (S.S.I. 2011/155), regs. 1(1), **3(b)**
- F26** Words in reg. 2(2ZA) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **4(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Reg. 2(2A) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **4(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Reg. 2(2B) inserted (S.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(3)** (with reg. 9)
- F29** Reg. 2(6)(7) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **4(6)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I2** Reg. 2 in force at 30.10.1994, see reg. 1(2)

^{F30} Interpretation: the Directives

- 2A.**—(1) The Habitats Directive is to be construed for the purposes of these Regulations as if—
- any reference to “the European territory of the Member States to which the Treaty applies” included a reference to the United Kingdom;
 - any reference to “Member State” or “Member States” included a reference to the United Kingdom;
 - any reference to “of Community interest” included, in relation to the United Kingdom, a reference to “of national interest”;
 - in Article 1(d) and (h), references to “the Community” were references to “the European Union or the United Kingdom”; and
 - in Article 1(l), the reference to “a site of Community importance designated by the Member States” included, in relation to the United Kingdom, a reference to a site of national importance designated under any of the retained transposing regulations.
- (2) The Wild Birds Directive is to be construed for the purposes of these Regulations as if—
- any reference to “the European territory of the Member States to which the Treaty applies” included a reference to the United Kingdom; and
 - any reference to “Member State” or “Member States” included a reference to the United Kingdom.
- (3) Any reference in these Regulations to “the requirements of the Directives” is to be construed as if the objectives of the Directives included the objectives referred to in regulation 9D(2).

(4) The Scottish Ministers may, after consultation with the appropriate nature conservation body and such other bodies or persons as they consider appropriate, issue guidance as to the interpretation of the requirements of the Directives.

(5) Any guidance issued under paragraph (4) must be published by the Scottish Ministers in such manner as they consider appropriate.]

Textual Amendments

F30 Reg. 2A inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 5; 2020 c. 1, Sch. 5 para. 1(1)

[^{F31}Duties relating to compliance with the Directives

3.—(1) The Scottish Ministers, the appropriate nature conservation body and, in relation to the Scottish marine area, a competent authority must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the Directives.

(2) Paragraph (1) applies in particular to functions under the following enactments:—

the Dockyard Ports Regulation Act 1865;

the Hill Farming Act 1946;

Part III of the National Parks and Access to the Countryside Act 1949;

the Land Drainage (Scotland) Act 1958;

the Harbours Act 1964;

[^{F32}the Forestry and Land Management (Scotland) Act 2018];

section 49A of the Countryside (Scotland) Act 1967 (management agreements);

section 15 of the Countryside Act 1968 (areas of special scientific interest);

Part II of the Control of Pollution Act 1974 (pollution of water);

Part I and section 35 of the Wildlife and Countryside Act 1981;

sections 120 to 122 of the Civic Government (Scotland) Act 1982 (control of the seashore, adjacent waters and inland waters);

sections 2, 3, 5, 7 and 11 of the Natural Heritage (Scotland) Act 1991;

the Sea Fisheries Acts within the meaning of section 1 of the Sea Fisheries (Wildlife Conservation) Act 1992 (conservation in the exercise of sea fisheries functions);

the Environment Act 1995;

the Deer (Scotland) Act 1996;

the Town and Country Planning (Scotland) Act 1997;

the National Parks (Scotland) Act 2000;

Part 1 of the Land Reform (Scotland) Act 2003 (access rights);

Part 1 of the Water Environment and Water Services (Scotland) Act 2003(5) (protection of the water environment);

Part 2 of the Nature Conservation (Scotland) Act 2004 (conservation and enhancement of natural features);

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

Status: Point in time view as at 18/03/2021.

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

the Natural Environment and Rural Communities Act 2006;
the Flood Risk Management (Scotland) Act 2009;
the Marine (Scotland) Act 2010;
the Water Environment (Controlled Activities) (Scotland) Regulations 2011; and
these Regulations.

(3) Without prejudice to the preceding provisions, a competent authority, in exercising their functions, must have regard to the requirements of the Directives so far as they may be affected by the exercise of those functions.]

[^{F33}(4) In complying with their duties under paragraphs (1) and (3), the Scottish Ministers, the appropriate nature conservation body and a competent authority must have regard to any guidance issued under regulation 2A(4).]

Textual Amendments

- F31** Regs. 3-3B substituted for reg. 3 (S.) (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), **4**
- F32** Words in reg. 3(2) substituted (18.3.2021) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential, Saving and Transitional Provisions\) Regulations 2021 \(S.S.I. 2021/44\)](#), regs. 1(1), **2(2)**
- F33** Reg. 3(4) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **6**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I3** Reg. 3 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F34}Reports

3ZA.—(1) Within six years from exit day, and at least every six years thereafter, the Scottish Ministers must publish, in such form as they see fit, a report on the implementation of the measures taken for the purpose of giving effect to the provisions of the Directives, and the achievement of the objectives set out in Article 2 of the Habitats Directive and Articles 2 and 3 of the Wild Birds Directive.

- (2) The report under paragraph (1) must include in particular—
- (a) information concerning conservation measures taken under Article 6(1) of the Habitats Directive;
 - (b) information on provisions mentioned in Article 12 of the Wild Birds Directive;
 - (c) an evaluation of the impact of those conservation measures on the conservation status of—
 - (i) the natural habitat types listed in Annex I of the Habitats Directive, and
 - (ii) the species listed in Annex II of that Directive; and
 - (d) the main results of the surveillance and monitoring undertaken under regulations 37A and 41A.]

Textual Amendments

- F34** [Reg. 3ZA](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **7**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F31}Duties in relation to wild bird habitat

3A.—(1) Without prejudice to regulation 3(1), the Scottish Ministers, the appropriate nature conservation body and, in relation to the Scottish marine area, a competent authority must take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3), so far as lies within their powers.

(2) Except in relation to the Scottish marine area, the Scottish Environment Protection Agency, ^{F35}... local authorities and National Park authorities must take such steps in the exercise of their functions as they consider appropriate to contribute to the achievement of the objective in paragraph (3).

(3) The objective is the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in Scotland in implementation of Article 3 of the Wild Birds Directive (including by means of the upkeep, management and creation of such habitat, as appropriate), having regard to the requirements of Article 2 of that Directive.

(4) Paragraphs (1) and (2) apply in particular to functions under the following enactments:—

sections [^{F36}23A to 24] of the Hill Farming Act 1946;

sections 16 to 18, 20 and 21 of the National Parks and Access to the Countryside Act 1949 (agreements for management of nature reserves, powers of compulsory acquisition of land for nature reserves, and powers to make byelaws for the protection of nature reserves);

section 49A of the Countryside (Scotland) Act 1967 (management agreements);

[^{F37}the Forestry and Land Management (Scotland) Act 2018];

section 15 of the Countryside Act 1968 (areas of special scientific interest);

sections 14D to 14P of the Wildlife and Countryside Act 1981 (species control orders);

sections 7, 8 and 10 of the Deer (Scotland) Act 1996;

section 1 of the National Parks (Scotland) Act 2000;

section 22 of the Water Environment and Water Services (Scotland) Act 2003;

Part 2 of the Nature Conservation (Scotland) Act 2004 (conservation and enhancement of natural features);

the Marine (Scotland) Act 2010;

the Water Environment (Controlled Activities) (Scotland) Regulations 2011; and

any function exercisable in relation to town and country planning.

(5) In section 79(3)(a) of the Marine (Scotland) Act 2010 (creation of network of conservation sites), the reference to “the conservation or improvement of the marine environment” includes the objective in paragraph (3), and accordingly the duty in section 103 (reports to Parliament) of that Act applies in relation to that objective.

(6) In considering which measures may be appropriate for the purpose of securing or contributing to the objective in paragraph (3), regard may be had to economic and recreational requirements.

(7) The Scottish Ministers must take any measures they consider necessary to facilitate or co-ordinate arrangements to secure the taking of steps under paragraphs (1) and (2) by the persons mentioned in those paragraphs.

(8) So far as lies within its powers, a competent authority must use all reasonable endeavours to avoid pollution or deterioration of habitats of wild birds in Scotland.]

Status: Point in time view as at 18/03/2021.

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

Textual Amendments

- F31** Regs. 3-3B substituted for reg. 3 (S.) (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), 4
- F35** Words in reg. 3A(2) omitted (18.3.2021) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential, Saving and Transitional Provisions\) Regulations 2021 \(S.S.I. 2021/44\)](#), regs. 1(1), 2(3)(a)
- F36** Words in reg. 3A(4) substituted (1.11.2019) by [The Conservation \(Natural Habitats, &c.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/364\)](#), regs. 1(2), 3
- F37** Words in reg. 3A(4) substituted (18.3.2021) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential, Saving and Transitional Provisions\) Regulations 2021 \(S.S.I. 2021/44\)](#), regs. 1(1), 2(3)(b)

[^{F31}Review and guidance

3B.—(1) The appropriate nature conservation body must from time to time—

- (a) review the extent to which the objective in regulation 3A(3) has been met, other than in relation to the Scottish marine area;
- (b) set out the conclusions of the review in a report, including any recommendations for further action; and
- (c) send the report to the Scottish Ministers.

(2) In carrying out the review, the appropriate nature conservation body must, so far as is reasonable, take account of any measures taken which contribute to the achievement of that objective, whether or not taken pursuant to a requirement imposed by any enactment.

(3) After consultation with the appropriate nature conservation body, the Scottish Ministers must give guidance to the Scottish Environment Protection Agency,^{F38} ... local authorities and National Park authorities—

- (a) to facilitate the determination by those bodies of the extent to which the diversity and area of wild bird habitat is sufficient; and
- (b) on the steps that it may be appropriate to take pursuant to regulation 3A(1) or (2).

(4) In exercising a function to which regulation 3A(1) or (2) applies, a body to which guidance has been given under paragraph (3) of this regulation must have regard to that guidance.]

Textual Amendments

- F31** Regs. 3-3B substituted for reg. 3 (S.) (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), 4
- F38** Words in reg. 3B(3) omitted (18.3.2021) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential, Saving and Transitional Provisions\) Regulations 2021 \(S.S.I. 2021/44\)](#), regs. 1(1), 2(4)

[^{F39}Nature conservation bodies

4.—(1) Subject to paragraph (2), in these Regulations “nature conservation body” means Natural 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.

(2) In Parts IV and IVA of these Regulations, “nature conservation body” also includes the Joint Nature Conservation Committee, and references to “the appropriate nature conservation body” in relation to a European offshore marine site shall be construed as meaning the Joint Nature Conservation Committee.]

Textual Amendments

F39 Reg. 4 substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(6)** (with reg. 9)

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(4);
- (e) a harbour authority within the meaning of the Harbours Act 1964(5);
- (f) a lighthouse authority;
- (g) [^{F40}the Scottish Environment Protection Agency] or a district salmon fishery board;
- (h) a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966(6) or any authority exercising the powers of such a committee;
- [^{F41}(i) a National Park authority established by order under section 6 of the National Parks (Scotland) Act 2000.]

Textual Amendments

F40 Words in reg. 5(g) substituted (S.) (1.4.1996) by [The Environment Act 1995 \(Consequential and Transitional Provisions\) \(Scotland\) Regulations 1996 \(S.I. 1996/973\)](#), reg. 1, **Sch. para. 18**

F41 Reg. 5(i) inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, 7

Commencement Information

I4 Reg. 5 in force at 30.10.1994, see reg. 1(2)

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.

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

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

(6) 1966 c. 38.

Status: Point in time view as at 18/03/2021.

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

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

(2) In paragraph (1)—

- (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 [^{F42}or money paid out of the Scottish Consolidated Fund].

(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, [^{F43}county borough,] council or community council, and

^{F44}(c)

“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(7), 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(8).]

Textual Amendments

- F42** Words in [reg. 6\(2\)\(c\)](#) inserted (1.7.1999) by [The Scotland Act 1998 \(Consequential Modifications\) \(No.2\) Order 1999 \(S.I. 1999/1820\)](#), art. 1(2), [Sch. 2 para. 155](#) (with art. 5)
- F43** Words in [reg. 6\(3\)](#) substituted (1.4.1996) by [The Local Government Reorganisation \(Wales\) \(Consequential Amendments\) Order 1996 \(S.I. 1996/525\)](#), arts. 1, 3, [Sch. para. 18\(2\)](#)
- F44** [Reg. 6\(3\)\(c\)](#) omitted (16.8.2012) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), regs. 1(1), [3\(2\)](#)

Commencement Information

- I5** [Reg. 6](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

(7) 1972 c. 70.

(8) 1973 c. 65; the expressions “joint board” and “joint committee” are defined in section 235(1) of the Act.

Status:

Point in time view as at 18/03/2021.

Changes to legislation:

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