

STATUTORY INSTRUMENTS

**1994 No. 2716**

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

[<sup>F1</sup>PART II **E+W+S**

**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), 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)

*European sites*

[<sup>F2</sup>**Duty to designate special areas of conservation** **S**

7.—(1) The Scottish Ministers must, having regard to the priorities established under regulation 8, designate as special areas of conservation such sites in Scotland as they consider to be 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 which range over wide areas, those sites determined to be of national importance must correspond to places within the natural range of such species, which is distinct in providing 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 Scottish Ministers must—

- (a) apply the Annex III criteria;
- (b) make their 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 Scottish Ministers;
  - (c) 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
  - (d) 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 Scottish Ministers must—
  - (a) in relation to the application of stage 1 of those criteria, have regard to the advice of the appropriate nature conservation body; and
  - (b) in relation to the application of stage 2 of those 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**

**F2** Reg. 7 substituted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, 8; 2020 c. 1, Sch. 5 para. 1(1)

**[<sup>F3</sup>Priorities for designating special areas of conservation E+W+S**

**8.—(1)** The Scottish Ministers must, in accordance with paragraph (2), establish priorities for designating as special areas of conservation such sites as they have 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 UK site network; and
  - (c) the threats of degradation or destruction to which the sites are exposed.]

**Textual Amendments**

**F3** Reg. 8 substituted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, 8; 2020 c. 1, **Sch. 5 para. 1(1)**

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

<sup>F4</sup> 9. ....

**Textual Amendments**

- F4** Reg. 9 omitted (31.12.2020) by virtue of The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 9; 2020 c. 1, Sch. 5 para. 1(1)

**[<sup>F5</sup>Special protection area: classification of sites **S****

**9A.**—(1) The Scottish Ministers must classify as special protection areas such sites (including sites in the Scottish inshore region) as they consider necessary to ensure that the objective specified in paragraph (2) is attained.

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

are classified as special protection areas, in so far as they consist of sites in Scotland.

(3) The Scottish Ministers must make their decision as to the sites to be classified under 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 criteria set out in Article 4(1) of the Wild Birds Directive, and
- (b) in the case of a site to be classified for the purpose mentioned in paragraph (2)(b), on the basis of criteria set out in Article 4(2) of that Directive.

(4) In this regulation—

<sup>F6</sup>(a) . . . . .

(b) “Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland.]

[<sup>F7</sup>(5) In applying the criteria referred to in paragraphs (3)(a) and (b) in relation to any species, references in Articles 4(1) and 4(2) of the 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.]

**Textual Amendments**

- F5** Regs. 9A-9C inserted (6.4.2011) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2011 (S.S.I. 2011/155), regs. 1(1), 4
- F6** Reg. 9A(4)(a) omitted (31.12.2020) by virtue of The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 10(2); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Reg. 9A(5) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 10(3); 2020 c. 1, Sch. 5 para. 1(1)

[<sup>F5</sup>**Special protection area: notification of proposal** **S**]

**9B.**—(1) The Scottish Ministers must if they propose to classify a site as a special protection area give to the appropriate nature conservation body—

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

(2) The appropriate nature conservation body must on being given notice of a proposal, provide a copy of the proposal and the accompanying statement—

- (a) to such persons as the Scottish Ministers may direct, and
- (b) where, in their opinion, it is appropriate to do so to—
  - (i) any other person (including owners or occupiers of land or premises), and
  - (ii) every competent authority which exercises functions in relation to the site, or in relation to an area adjacent to the site.

(3) The appropriate nature conservation body must when they provide a copy of a proposal and accompanying document to any such person or authority specify the period of not less than 12 weeks (the “consultation period”) during which representations may be made to them with respect to the proposal by that person or authority.

(4) The appropriate nature conservation body must as soon as reasonably practicable after expiry of the consultation period provide to the Scottish Ministers a report (the “consultation report”)—

- (a) describing any representations made in that period, or
- (b) stating that no representations have been made.

(5) The Scottish Ministers must consider the consultation report when determining whether to classify a site as a special protection area.

(6) The Scottish Ministers may—

- (a) give guidance to the appropriate nature conservation body for the purpose of the exercise by them of functions under this regulation, and
- (b) vary or revoke a direction under paragraph (2)(a).

(7) The appropriate nature conservation body must have regard to any guidance under paragraph (6)(a) in discharging a function referred to in that paragraph.]

**Textual Amendments**

**F5** [Regs. 9A-9C](#) inserted (6.4.2011) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2011 \(S.S.I. 2011/155\)](#), regs. 1(1), 4

[<sup>F5</sup>**Special protection area: hearing and representations in respect of a proposal** **S**]

**9C.**—(1) The Scottish Ministers may give any person the opportunity of—

- (a) making written representations to, or
- (b) being heard by,

a person appointed by them for the purpose of deciding whether to classify a site as a special protection area.

(2) Any person being heard by the appointed person may—

- (a) be represented by another person,
- (b) call persons to give evidence,

- (c) make written representations before or at the hearing,
  - (d) put questions to any person who gives evidence at the hearing, including any person who gives expert evidence.
- (3) The Scottish Ministers must have regard to the report of an appointed person when deciding whether to so classify a site.]

#### Textual Amendments

**F5** Regs. 9A-9C inserted (6.4.2011) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2011 \(S.S.I. 2011/155\)](#), regs. 1(1), 4

#### [<sup>F8</sup>Management objectives of the UK site network **S**

**9D.**—(1) The Scottish Ministers must, in co-operation with any other authority having a corresponding responsibility, manage, and where necessary adapt, the UK site network, so far as it consists of European sites in Scotland, with a view to contributing to the achievement of the management objectives of the UK site network.

- (2) The management objectives of the UK 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; and
    - (ii) the species listed in Annex II to that Directive whose natural range includes any part of the United Kingdom’s territory; and
  - (b) to contribute, in their area of distribution, to ensuring the survival and reproduction, and securing compliance with the requirements of Article 2 of the Wild Birds Directive for the purposes of the duty in regulation 3(1), of—
    - (i) species of birds listed in Annex I to the Wild Birds Directive which naturally occur in the United Kingdom’s territory; and
    - (ii) regularly occurring migratory species of birds not listed in that Annex which naturally occur in the United Kingdom’s territory.
- (3) In complying with the obligation in paragraph (1), the Scottish Ministers must have regard —
- (a) in relation to any European site which is not of a kind mentioned in regulation 10(1)(d), to the considerations mentioned in paragraph (4); and
  - (b) in relation to European sites of a kind mentioned in regulation 10(1)(d), to the considerations mentioned in paragraph (5).
- (4) The considerations referred to in paragraph (3)(a) are—
- (a) the importance of the sites for the maintenance at, or restoration to, a favourable conservation status, throughout their natural range, of the natural habitat types and species mentioned in paragraph (2)(a);
  - (b) the importance of the sites for the coherence of the UK site network; and
  - (c) the threats of degradation or destruction (including deterioration and disturbance of protected features) to which the sites are exposed.
- (5) The considerations referred to in paragraph (3)(b) are—
- (a) the importance of the sites for ensuring the survival and reproduction of, and securing compliance with the requirements of Article 2 of the Wild Birds Directive for the purposes

- of the duty in regulation 3(1) in relation to, the species of birds mentioned in paragraph (2) (b), in their area of distribution;
  - (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 UK site network; and
  - (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.]

**Textual Amendments**

**F8** Reg. 9D inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **11**; 2020 c. 1, Sch. 5 para. 1(1)

**Meaning of “European site” in these Regulations** E+W+S

- 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 [<sup>F9</sup>before exit day],
  - <sup>F10</sup>(c) .....
  - (d) an area classified [<sup>F11</sup>before exit day] pursuant to [<sup>F12</sup>Article 4(1) or (2) of Council Directive 1979/409/EEC on the conservation of wild birds or] Article 4(1) or (2) of the Wild Birds Directive [<sup>F13</sup>or classified after exit day under the retained transposing regulations][<sup>F14</sup>, or]
  - <sup>F15</sup>(e) a site which before exit day has been proposed to the European Commission in accordance with Article 4(1) of the Habitats Directive until such time as—
    - (i) the site is designated as a special area of conservation under regulation 7 or under the equivalent provision in the other retained transposing regulations; or
    - (ii) the Scottish Ministers give notice of their intention not to designate the site, setting out the reasons for their decision, in accordance with regulation 112(3).]
  - <sup>F16</sup>(2) .....

**Textual Amendments**

- F9** Words in [reg. 10\(1\)\(b\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **12(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** [Reg. 10\(1\)\(c\)](#) omitted (31.12.2020) by virtue of [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **12(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in [reg. 10\(1\)\(d\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **12(2)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

- F12** Words in reg. 10(1)(d) inserted (14.9.2015) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2015 (S.S.I. 2015/249), regs. 1, **2(2)**
- F13** Words in reg. 10(1)(d) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **12(2)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** 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)
- F15** Reg. 10(1)(e) substituted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **12(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Reg. 10(2) omitted (31.12.2020) by virtue of The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **12(3)**; 2020 c. 1, Sch. 5 para. 1(1)

**Commencement Information**

- I1** 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** **E+W+S**

**11.**—(1) The Secretary of State [<sup>F17</sup>must make arrangements for the establishment and maintenance of] a register of European sites in Great Britain.

(2) [<sup>F18</sup>The register must specify]—

- (a) special areas of conservation, as soon as they are designated by him;
- (b) sites of Community importance [<sup>F19</sup>which before exit day were] 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;

<sup>F20</sup>(c) .....

(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>F21</sup>; and]

[<sup>F22</sup>(e) any site in Scotland which before exit day has been proposed to the European Commission in accordance with Article 4(1) of the Habitats Directive until such time as regulation 10(1) (e)(i) or (ii) applies.]

(3) He may, if appropriate, amend [<sup>F23</sup>, or make arrangements for the amendment of,] the entry in the register relating to a European site.

(4) He shall remove [<sup>F24</sup>, or make arrangements for the removal of] the relevant entry—

- [<sup>F25</sup>(a) relating to a site which is no longer a European site; or]
- (b) if a site otherwise ceases to fall within any of the categories listed in paragraph (2) above.

(5) [<sup>F26</sup>The register must be] available for public inspection at all reasonable hours and free of charge.

[<sup>F27</sup>(6) The arrangements mentioned in paragraph (1) may in particular authorise the appropriate nature conservation body to establish and maintain the register.]

### Textual Amendments

- F17** Words in **reg. 11(1)** substituted (6.12.2019) by **The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019 (S.S.I. 2019/320)**, regs. 1(1), **3(1)(a)**
- F18** Words in **reg. 11(2)** substituted (6.12.2019) by **The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019 (S.S.I. 2019/320)**, regs. 1(1), **3(1)(b)**
- F19** Words in **reg. 11(2)(b)** substituted (31.12.2020) by **The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113)**, regs. 1, **13(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** **Reg. 11(2)(c)** omitted (31.12.2020) by virtue of **The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113)**, regs. 1, **13(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** **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)
- F22** **Reg. 11(2)(e)** substituted (31.12.2020) by **The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113)**, regs. 1, **13(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in **reg. 11(3)** inserted (6.12.2019) by **The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019 (S.S.I. 2019/320)**, regs. 1(1), **3(1)(c)**
- F24** Words in **reg. 11(4)** inserted (6.12.2019) by **The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019 (S.S.I. 2019/320)**, regs. 1(1), **3(1)(d)**
- F25** **Reg. 11(4)(a)** substituted (31.12.2020) by **The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113)**, regs. 1, **13(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F26** Words in **reg. 11(5)** substituted (6.12.2019) by **The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019 (S.S.I. 2019/320)**, regs. 1(1), **3(1)(e)**
- F27** **Reg. 11(6)** inserted (6.12.2019) by **The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019 (S.S.I. 2019/320)**, regs. 1(1), **3(1)(f)**

### Commencement Information

- I2** Reg. 11 in force at 30.10.1994, see **reg. 1(2)**

### Notification to appropriate nature conservation body **E+W+S**

**12.—(1)** The Secretary of State shall notify the appropriate nature conservation body as soon as may be [<sup>F28</sup>after—

- (a) a site becomes a European site;
- (b) the specification of a European site is amended;
- (c) a site ceases to fall within any of the categories listed in regulation 11(2).]

[<sup>F29</sup>(2) Except where arrangements are made authorising the appropriate conservation body to establish and maintain the register, the notification under paragraph (1) of a site becoming a European site must be accompanied by a copy of the register entry.]

[<sup>F30</sup>(3) Except where arrangements are made authorising the appropriate conservation body to establish and maintain the register, the notification under paragraph (1) of the amendment of the specification of a European site must 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.



#### Textual Amendments

- F28** Words in [reg. 12\(1\)](#) substituted (6.12.2019) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/320\)](#), regs. 1(1), **3(2)(a)**
- F29** [Reg. 12\(2\)](#) substituted (6.12.2019) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/320\)](#), regs. 1(1), **3(2)(b)**
- F30** [Reg. 12\(3\)](#) substituted (6.12.2019) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/320\)](#), regs. 1(1), **3(2)(c)**

#### Commencement Information

- I3** [Reg. 12](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

#### Notice to landowners, relevant authorities, &c. **E+W+S**

**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

- I4** [Reg. 13](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

#### Local registration: England and Wales **E+W+S**

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

#### Commencement Information

- I5** [Reg. 14](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

#### Local registers: Scotland **E+W+S**

**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

**I6** Reg. 15 in force at 30.10.1994, see [reg. 1\(2\)](#)

### *Management agreements*

#### Management agreements **E+W+S**

**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
- (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<sup>(1)</sup> (which enables the [<sup>F31</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;

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(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.

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

**F31** 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

**I7** Reg. 16 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Continuation in force of existing agreement, &c. **E+W+S**

17.—(1) [<sup>F32</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>F32</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.

(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).

(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).

(5) 1981 c. 69.

#### Textual Amendments

- F32** 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

- I8** Reg. 17 in force at 30.10.1994, see [reg. 1\(2\)](#)

### *[<sup>F33</sup>Control of potentially damaging operations]*

#### Textual Amendments

- F33** 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>F34</sup>**Notification of potentially damaging operations** **E+W+S**

**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

- F34** 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

- I9** Reg. 18 in force at 30.10.1994, see [reg. 1\(2\)](#)

### <sup>F34</sup>**Application of Chapters 2, 3 and 4 of Part 2 of the 2004 Act** **E+W+S**

**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

**F34** 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

**I10** Reg. 19 in force at 30.10.1994, see [reg. 1\(2\)](#)

### [<sup>F34</sup>Chapter 2 of Part 2 of the 2004 Act **E+W+S**

**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) [<sup>F35</sup>in subsection (2)(a) for “special interest,” there were substituted “significance in relation to the requirements of the Directives (within the meaning of regulation 2(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716)),”]
  - (ii) [<sup>F36</sup>in subsection (2)(b), after “an international obligation” there were inserted “and the requirements of the Directives (within the meaning of regulation 2(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716))”]
  - (iii) in subsection (3)(b) for the words from “special interest” to “features,” there was substituted “significance in relation to the [<sup>F37</sup>requirements of the Directives

(within the meaning of regulation 2(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716))”] 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

- F34** 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)
- F35** Reg. 20(a)(i) substituted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **14(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F36** Reg. 20(a)(ii) substituted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **14(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in reg. 20(a)(iii) substituted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **14(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I11** Reg. 20 in force at 30.10.1994, see [reg. 1\(2\)](#)

### [<sup>F34</sup>Chapter 3 of Part 2 of the 2004 Act **E+W+S**]

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

- F34** 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

- I12** Reg. 21 in force at 30.10.1994, see [reg. 1\(2\)](#)

[<sup>F38</sup>Special nature conservation orders]

**Textual Amendments**

**F38** 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>F34</sup>Chapter 4 of Part 2 of the 2004 Act **E+W+S**]

**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**

**F34** [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. 22 in force at 30.10.1994, see [reg. 1\(2\)](#)

**Restriction on carrying out operations specified in order** **E+W**

<sup>F39</sup>23. ....

**Textual Amendments**

**F39** 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** **E+W**

<sup>F39</sup>24. ....

**Textual Amendments**

**F39** 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** **E+W**

<sup>F39</sup>25. ....

**Textual Amendments**

**F39** 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** **E+W**

<sup>F39</sup>26. ....

**Textual Amendments**

**F39** 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)



**Continuation in force of existing orders, &c.** **E+W**

<sup>F39</sup>27. ....

**Textual Amendments**

**F39** 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** **E+W**

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

*Byelaws*

**Power to make byelaws** **E+W+S**

**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.

(6) [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

**I14** Reg. 28 in force at 30.10.1994, see [reg. 1\(2\)](#)

#### Byelaws: limitation on effect **E+W+S**

**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>F40</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

**F40** 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

**I15** Reg. 29 in force at 30.10.1994, see [reg. 1\(2\)](#)

#### Compensation for effect of byelaws **E+W+S**

**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

**I16** Reg. 30 in force at 30.10.1994, see [reg. 1\(2\)](#)

## Continuation in force of existing byelaws **E+W+S**

**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

**I17** Reg. 31 in force at 30.10.1994, see [reg. 1\(2\)](#)

## *Powers of compulsory acquisition*

## Powers of compulsory acquisition **E+W**

<sup>F41</sup>**32.** . . . . .

### Textual Amendments

**F41** 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 **E+W+S**

**33.**—(1) The appropriate nature conservation body may [<sup>F42</sup>deposit or remove] markers indicating the existence and extent of a European marine site.

This power is exercisable subject to the obtaining of any necessary [<sup>F43</sup>marine licence under Part 4 of the Marine (Scotland) Act 2010].

(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.

### Textual Amendments

**F42** Words in [reg. 33\(1\)](#) substituted (6.4.2011) by [The Marine \(Scotland\) Act 2010 \(Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/202\)](#), arts. 1, [11\(a\)](#)

**F43** Words in [reg. 33\(1\)](#) substituted (6.4.2011) by [The Marine \(Scotland\) Act 2010 \(Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/202\)](#), arts. 1, [11\(b\)](#)

### Commencement Information

**I18** Reg. 33 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Management scheme for European marine site **E+W+S**

**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 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

**I19** Reg. 34 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Direction to establish or amend management scheme **E+W+S**

**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

**I20** Reg. 35 in force at 30.10.1994, see [reg. 1\(2\)](#)

### Byelaws for protection of European marine site **E+W**

**36.**—(1) The appropriate nature conservation body may make byelaws for the protection of a European marine site under section 37 of the Wildlife and Countryside Act 1981 (byelaws for protection of marine nature reserves).

(2) The provisions of subsections (2) to (11) of that section apply in relation to byelaws made by virtue of this regulation with the substitution for the references to marine nature reserves of references to European marine sites.

(3) Nothing in byelaws 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).

**Commencement Information**

**I21** Reg. 36 in force at 30.10.1994, see [reg. 1\(2\)](#)

*Miscellaneous*

**Nature conservation policy in planning contexts** **E+W+S**

**37.**—(1) For the purposes of [<sup>F44</sup>section 15(1)(a) of the Town and Country Planning (Scotland) Act 1997, the reference to policies as to the development and use of 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.

<sup>F45</sup>(2) .....

<sup>F46</sup>(3) .....

**Textual Amendments**

**F44** Words in [reg. 37\(1\)](#) substituted (16.8.2012) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), [regs. 1\(1\), 5\(a\)](#) (with [reg. 5\(2\)](#))

**F45** [Reg. 37\(2\)](#) omitted (16.8.2012) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2012 \(S.S.I. 2012/228\)](#), [regs. 1\(1\), 5\(b\)](#) (with [reg. 5\(2\)](#))

**F46** [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](#))

**Commencement Information**

**I22** Reg. 37 in force at 30.10.1994, see [reg. 1\(2\)](#)

**[<sup>F47</sup>Surveillance of conservation status of habitats and species** **E+W+S**

**37A.**—(1) The Scottish Ministers shall make arrangements [<sup>F48</sup>in accordance with paragraphs (5) to (7)] for the carrying out of surveillance of the conservation status of natural habitats of [<sup>F49</sup>national] interest and species of [<sup>F49</sup>national] 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>F50</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).]]

[<sup>F51</sup>(9) In this regulation—

“natural habitats of national interest” means natural habitat types listed in Annex I to the Habitats Directive;

“species of national interest” means species of wild fauna and flora listed in Annex II, IV or V to the Habitats Directive.]

#### Textual Amendments

**F47** 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**

**F48** 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)**

**F49** Word in [reg. 37A\(1\)](#) substituted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **15(2)**; 2020 c. 1, Sch. 5 para. 1(1)

**F50** [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)**

**F51** [Reg. 37A\(9\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **15(3)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Protection of certain animals and plants from exploitation **E+W**

<sup>F1</sup>**37B.** . . . . .

**Introduction of new species from ships** **E+W**

<sup>F1</sup>37C. ....

**Licensing the introduction of new species** **E+W**

<sup>F1</sup>37D. ....

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

<sup>F1</sup>37E. ....]

**Changes to legislation:**

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