
STATUTORY INSTRUMENTS

2007 No. 1843

**The Conservation (Natural Habitats,
&c.) (Amendment) Regulations 2007**

Citation

1. These Regulations may be cited as the Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007.

Commencement

- 2.—(1) Subject to paragraph (2), these Regulations come into force on 21st August 2007.
(2) Paragraph (21) of regulation 5 comes into force on 21st November 2007.

Extent

3.—(1) Except as provided for in this regulation, these Regulations extend to England and Wales only.

(2) Regulations 1, 2 and 4 and this regulation also extend to Scotland so far as necessary.

(3) In regulation 5, paragraphs (2)(a), (2)(d) (except in respect of the definitions “premises” and “sample”), (3) (in respect of the insertion of paragraph (2B) only), (6), (22), (23)(a), (c) and (d), (24)(b), (25) to (27), (29)(c) and (d), (30), (33) to (35), (37) to (39), (41), (42), (44), (45) and (61) also extend to Scotland.

(4) Paragraphs (28), (29)(b), (32), (40), (47), (49) and (51) to (54) of regulation 5 extend to Scotland only.

(5) Regulations 6 and 7 also extend to any place (except Scotland) to which the enactments they amend extend.

Interpretation

4. In these Regulations, “the 1994 Regulations” means the Conservation (Natural Habitats, &c.) Regulations 1994 ^{M1}.

Marginal Citations

M1 [S.I. 1994/2716](#). The 1994 Regulations make provision for the purpose of implementing, for Great Britain, Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. In relation to Wales, the functions of the Secretary of State under the 1994 Regulations were transferred to the National Assembly for Wales (with the exception of those under regulations 71 to 78) by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraphs 30 and 32 of Schedule 11 to the [Government of Wales Act 2006 \(c. 32\)](#), the relevant functions were transferred from the National Assembly for Wales to the Welsh Ministers. In relation to Scotland, the functions of the Secretary of State under the 1994 Regulations were, so far as they are exercisable within devolved competence, transferred

to the Scottish Ministers by section 53 of the Scotland Act 1998. Relevant amendments to the 1994 Regulations are noted in footnotes below.

Amendments of the 1994 Regulations

5.—(1) The 1994 Regulations are amended as follows.

(2) In regulation 2 ^{M2} (interpretation and application), in paragraph (1)—

[^{F1}(a) before the definition of “agriculture Minister” insert the following definition—

““the 2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 ^{M3}.”;]

^{F2}(b)

^{F2}(c)

(d) [^{F3}in the appropriate places insert the following definitions—

““British fishery limits” has the meaning given by the Fishery Limits Act 1976 ^{M4}.”;

^{F4c} ... ”;

““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.”;

““the offshore marine area” means—

(a) any part of the seabed and subsoil situated in any area designated under section 1(7) of the Continental Shelf Act 1964 ^{M5}; 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);”;

““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 ^{M6}.”;]

^{F5c} ... ”;

^{F5c} ... ”; and

^{F6}(e)

(3) After paragraph (2) of regulation 2 (interpretation and application) insert—

^{F7c}(2A)

[^{F8}(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.”].

^{F9}(4)

^{F9}(5)

[^{F10}(6) For regulation 4 (nature conservation bodies) substitute the following regulation—

“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.”.]

- ^{F11}(7)
- ^{F11}(8)
- ^{F11}(9)
- ^{F11}(10)
- ^{F11}(11)
- ^{F11}(12)
- ^{F11}(13)
- ^{F11}(14)
- ^{F11}(15)
- ^{F11}(16)
- ^{F11}(17)
- ^{F11}(18)
- ^{F11}(19)
- ^{F11}(20)
- ^{F11}(21)

[^{F12}(22) In regulation 47 (application of provisions of this Part)—

- (a) in paragraph (1)(a), after “European sites” insert “ in Great Britain and European offshore marine sites ”;
- (b) in paragraph (2)(b), after “European site” insert “ in Great Britain or European offshore marine site ”; and
- (c) after paragraph (2), add—

“(3) Nothing in these Regulations requires an appropriate assessment of any plan or project to be carried out on or in any part of the waters or on or in any part of the seabed or subsoil comprising the offshore marine area, or on or in relation to an offshore marine installation.”.]

(23) In regulation 48 (assessment of implications for European site)—

[^{F13}(a) in paragraph (1)(a), after “Great Britain” insert “ or a European offshore marine site ”;]

^{F14}(b)

[^{F15}(c) in paragraph (5), after “European site” insert “ or European offshore marine site (as the case may be) ”;]

[^{F15}(d) for paragraph (7), substitute—

“(7) This regulation does not apply in relation to a site which is—

- (a) a European site by reason of regulation 10(1)(c); or
- (b) a European offshore marine site by reason of regulation 15(c) of the 2007 Regulations.”; and]

^{F16}(e)

(24) In regulation 49 (considerations of overriding public interest)—

^{F17}(a)

[^{F18}(b) in paragraph (5) for “a European site” substitute “ the site concerned ”.]

[^{F19}(25) In regulation 50 (review of existing decisions and consents, &c), in paragraph (1), after “European site” insert “ or a European offshore marine site ”.]

[^{F19}(26) In regulation 52 (co-ordination where more than one competent authority involved), in sub-paragraphs (a) and (b) of paragraph (3), after “European site” insert “ or a European offshore marine site ”.]

[^{F19}(27) In regulation 53 (compensatory measures), in paragraph (a), after “European site” insert “ or European offshore marine site ”.]

(28) In regulation 53A ^{M7} (control of operations requiring consent)—

- (a) in paragraph (1) for “European site” substitute “ European sites in Great Britain and European offshore marine sites ”; and
- (b) in paragraph (2), after “European site” insert “ or European offshore marine site ”.

(29) In regulation 54 (grant of planning permission)—

^{F20}(a)

- (b) in paragraph (2) for “European site” substitute “ European sites in Great Britain and European offshore marine sites ”;

[^{F21}(c) in paragraph (3), after “European site” insert “ or European offshore marine site ”; and]

[^{F21}(d) in paragraph (4), after “European site” insert “ or European offshore marine site ”.]

[^{F22}(30) In regulation 56(3) (planning permission: consideration on review), after “European site” insert “ or European offshore marine site ”.]

^{F23}(31)

(32) In regulation 58(6) (effect of orders made on review: Scotland), after “European site” insert “or European offshore marine site”.

[^{F24}(33) In regulation 60 (general development orders), in paragraph (1)(a), after “Great Britain” insert “ or a European offshore marine site ”.]

[^{F24}(34) In regulation 62 (general development orders: approval of local planning authority), in paragraph (6)—

- (a) after “In any other case” insert “ in which the application has been sent to the appropriate nature conservation body, ”; and
- (b) after “European site” insert “ or European offshore marine site ”.]

[^{F24}(35) In regulation 64 (special development orders)—

- (a) in paragraph (2), for “this regulation” substitute “ paragraph (1) ”; and
- (b) after paragraph (2) insert the following paragraph—

“(3) A special development order made on or after 21st August 2007 may not grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).”.]

^{F25}(36)

[^{F26}(37) After regulation 65 (simplified planning zones) insert the following regulation—

“Simplified planning zones and European offshore marine sites

65A. The adoption or approval of a simplified planning zone scheme on or after 21st August 2007 shall not have effect to grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).”.]

[^{F26}(38) After regulation 66 (enterprise zones) insert the following regulation—

“Enterprise zones and European offshore marine sites

66A. An order designating an enterprise zone, or the approval of a modified scheme, if made or given on or after 21st August 2007, shall not have effect to grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).”.]

[^{F26}(39) In regulation 69 (construction or improvement of highways or roads)—

- (a) in paragraph (1) for “European site” substitute “ European sites in Great Britain and European offshore marine sites ”; and
- (b) in paragraph (2) after “European site” insert “ or European offshore marine site ”.]

(40) In regulation 69A(1) ^{M8} (core and other paths) for “European site” substitute “ European sites in Great Britain and European offshore marine sites ”.

^{F27}(41)

^{F27}(42)

^{F27}(43)

[^{F28}(44) In regulation 83 (authorisations under Part I of the Environmental Protection Act 1990)—

- (a) omit paragraphs (1) and (2);
- (b) in paragraph (3), for “such authorisation as is mentioned in paragraph (1)” substitute “ authorisation under Part I of the Environmental Protection Act 1990 ”; and
- (c) in paragraph (5) omit “agreeing to a plan or project, or”.]

[^{F28}(45) In regulation 84 (licences under Part II of the Environmental Protection Act 1990)—

- (a) in paragraph (1)—
 - (i) for “European site” substitute “ European sites in Great Britain and European offshore marine sites ”,
 - (ii) at the end of sub-paragraph (a) add “, and”,
 - (iii) at the end of sub-paragraph (b) omit “, and”, and
 - (iv) omit sub-paragraph (c);
- (b) in paragraph (2) after “European site” insert “ or European offshore marine site ”; and
- (c) in paragraph (4) after “European site” insert “ or European offshore marine site ”.]

F²⁹(46)

(47) In regulation 84A (permits under the Pollution Prevention and Control (Scotland) Regulations 2000) as it has effect in Scotland—

- (a) in paragraph (1), for “European site” substitute “ European sites in Great Britain and European offshore marine sites ”;
- (b) in paragraph (2), after “European site” insert “ or European offshore marine site ”; and
- (c) in paragraph (4), after “European site” insert “ or European offshore marine site ”.

F³⁰(48)

(49) In regulation 84B ^{M9} (abstraction and works authorised under water legislation) as it has effect in Scotland—

- (a) in paragraph (2), after “European site” insert “ or European offshore marine site ”; and
- (b) in paragraph (4), after “European site” insert “ or European offshore marine site ”.

F³¹(50)

(51) In regulation 85B ^{M10} (assessment of implications for European site) as it has effect in Scotland—

- (a) in paragraph (1)(a), after “Great Britain” insert “ or a European offshore marine site ”;
- (b) in paragraph (4), after “European site” insert “ or the European offshore marine site (as the case may be) ”; and
- (c) for paragraph (6) substitute—
 - “(6) This regulation does not apply in relation to a site which is—
 - (a) a European site by reason of regulation 10(1)(c); or
 - (b) a European offshore marine site by reason of regulation 15(c) of the 2007 Regulations.”.

(52) In regulation 85C ^{M11} (considerations of overriding public interest) as it has effect in Scotland—

- (a) in paragraph (1), after “European site” insert “ or the European offshore marine site (as the case may be) ”; and
- (b) in paragraph (5), for “a European site” substitute “ the site concerned ”.

(53) In regulation 85D ^{M12} (co-ordination for land use plan prepared by more than one planning authority) as it has effect in Scotland, in sub-paragraphs (a) and (b) of paragraph (3), after “European site”, insert “ or a European offshore marine site ”.

(54) In regulation 85E ^{M13} as it has effect in Scotland, after “European site” insert “ or a European offshore marine site ”.

F³²(55)

F³²(56)

F³²(57)

F³²(58)

F³²(59)

F³²(60)

[^{F33}(61) After regulation 108 (service of notices) add the following regulations—

“Advisory role of the JNCC

109.—(1) The Joint Nature Conservation Committee may provide advice or make representations to any competent authority in relation to—

- (a) any question as to whether that authority is obliged to carry out an appropriate assessment in relation to a European offshore marine site under these Regulations;
- (b) any appropriate assessment on which that authority is obliged to consult the Committee under these Regulations;
- (c) any application made pursuant to regulation 62 of these Regulations and sent to the Committee by that authority pursuant to regulation 62(4); and
- (d) any decision of the Secretary of State in respect of which notice has been served on it by him under regulation 72(2)(b), 76(2)(b) or 80(2)(b) of these Regulations.

(2) The Joint Nature Conservation Committee may undertake, commission or support (whether by financial means or otherwise) such research and scientific work as it considers is required for the purposes of providing advice or making representations under this regulation.

(3) In this regulation and regulation 110 of these Regulations, “research” includes inquiries and investigations.

Advisory role of Natural England, the Countryside Council for Wales and Scottish Natural Heritage

110.—(1) Natural England may—

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

(2) The Countryside Council for Wales may—

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

(3) Scottish Natural Heritage may—

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

^{F34}(62)

Textual Amendments

F1 Reg. 5(2)(a) revoked (E.W.N.I.) (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), [Sch. 7 Pt. 2](#) (with reg. 125)

- F2** Reg. 5(2)(b)(c) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F3** Words in reg. 5(2)(d) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F4** Words in reg. 5(2)(d) revoked (S.) (16.8.2012) by The Conservation (Natural Habitats, c.) Amendment (Scotland) Regulations 2012 (S.S.I. 2012/228), reg. 1(1), **sch.**
- F5** Words in reg. 5(2)(d) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F6** Reg. 5(2)(e) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F7** Words in reg. 5(3) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F8** Words in reg. 5(3) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F9** Reg. 5(4)(5) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F10** Reg. 5(6) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F11** Reg. 5(7)-(21) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F12** Reg. 5(22) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F13** Reg. 5(23)(a) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F14** Reg. 5(23)(b) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F15** Reg. 5(23)(c)(d) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F16** Reg. 5(23)(e) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F17** Reg. 5(24)(a) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F18** Reg. 5(24)(b) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F19** Reg. 5(25)-(27) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F20** Reg. 5(29)(a) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F21** Reg. 5(29)(c)(d) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F22** Reg. 5(30) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F23** Reg. 5(31) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F24** Reg. 5(33)-(35) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F25** Reg. 5(36) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F26** Reg. 5(37)-(39) revoked (E.W.N.I.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F27** Reg. 5(41)(42)(43) revoked (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)

- F28** Reg. 5(44)(45) revoked (E.W.N.I.) (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F29** Reg. 5(46) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F30** Reg. 5(48) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F31** Reg. 5(50) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F32** Reg. 5(55)-(60) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)
- F33** Reg. 5(61) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 2** (with reg. 125)
- F34** Reg. 5(62) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 7 Pt. 1** (with reg. 125)

Marginal Citations

- M2** The definition of “the Habitats Directive” in regulation 2(1) of the 1994 Regulations was previously amended by regulation 2(2) of the [Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 1997 \(S.I. 1997/3055\)](#).
- M3** [S.I. 2007/1842](#).
- M4** [1976 c.86](#).
- M5** [1964 c.29](#). Section 1(7) was amended by the [Oil and Gas \(Enterprise\) Act 1982 \(c.23\)](#) section 37 and Schedule 3, paragraph 1. Areas have been designated under section 1(7) by [S.I. 2000/3062](#) and [2001/3670](#).
- M6** [2004 c.20](#). An area has been designated under section 84(4) by [S.I. 2004/2668](#).
- M7** Regulation 53A was inserted by regulations 3 and 16(b) of the [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#).
- M8** Regulation 69A was inserted by section 99 of, and paragraphs 14 and 16 of Schedule 2 to, the [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#).
- M9** Regulation 84B (as it has effect in Scotland) was inserted by regulation 20 of the [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#).
- M10** Regulation 85B (as it has effect in Scotland) was inserted by regulation 22 of and Schedule 1 to the [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#).
- M11** Regulation 85C (as it has effect in Scotland) was inserted by regulation 22 of and Schedule 1 to the [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#).
- M12** Regulation 85D (as it has effect in Scotland) was inserted by regulation 22 of and Schedule 1 to the [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#).
- M13** Regulation 85E (as it has effect in Scotland) was inserted by regulation 22 of and Schedule 1 to the [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#).

Amendment of the Conservation of Seals Act 1970

6. In section 10 (power to grant licences) of the Conservation of Seals Act 1970 ^{M14}—
- (a) after subsection (4) insert the following subsection—
- “(4A) A licence under this section does not authorise the use of any method of killing or taking seals which is inconsistent with regulation 41 of the Conservation (Natural Habitats, &c.) Regulations 1994 or any other enactment for the time being in force for the purpose of giving effect to Article 15 of the Habitats Directive (as read subject to any derogation permitted by Article 16 of that Directive).”;
- and
- (b) after subsection (5) add the following subsection—

“(6) In subsection (4A), the Habitats Directive means the Directive of the Council of the European Communities dated 21st May 1992 (No. [92/43/EEC](#)) on the conservation of natural habitats and of wild flora and fauna.”

Marginal Citations

M14 1970 c.30. Section 10 has been amended by section 1(1)(b) and (7) of, and paragraph 10 of Schedule 1 to, the [Nature Conservancy Act 1973 \(c.54\)](#); sections 12 and 73 of, and paragraph 7 of Schedule 7 and Schedule 17 to, the [Wildlife and Countryside Act 1981 \(c.69\)](#); section 132 of, and paragraph 5 of Schedule 9 to, the [Environmental Protection Act 1990 \(c. 43\)](#); sections 76(1) and 102 of, and paragraph 4 of Part 2 of Schedule 10 to, and Part 3 of Schedule 16 to the [Countryside and Rights of Way Act 2000 \(c.37\)](#); section 57 of, and paragraph 3(a) of Schedule 7 to, the [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#); and section 105(1) of, and paragraph 57(1), (2) and (3) of Part 1 of Schedule 11 to, the [Natural Environment and Rural Communities Act 2006 \(c.14\)](#).

Amendment of the Wildlife and Countryside Act 1981

7.—(1) The Wildlife and Countryside Act 1981 ^{M15} is amended as follows.

(2) In section 1 (protection of wild birds, their nests and eggs)—

(a) in subsection (3A)—

(i) in paragraph (c), for the words “Council Directive [79/409/EEC](#) on the conservation of wild birds” substitute “the Wild Birds Directive”, and

(ii) in paragraph (d), for the words “the Council Directive referred to in paragraph (c)” substitute “the Wild Birds Directive”; and

(b) in subsection (6A), for the words “the Directive of the Council of the European Communities dated 2nd April 1979 (No [1979/409/EEC](#)) on the conservation of wild birds” substitute “the Wild Birds Directive”.

(3) In section 6 (sale etc of live or dead wild birds, eggs etc), in subsection (5A), for the words “the Directive of the Council of the European Communities dated 2nd April 1979 (No [1979/409/EEC](#)) on the conservation of wild birds” substitute “the Wild Birds Directive”.

(4) In section 9 ^{M16} (protection of certain wild animals), for subsection (4) substitute the following subsection—

“(4) Subject to the provisions of this Part, a person is guilty of an offence if intentionally or recklessly—

(a) he damages or destroys any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection;

(b) he disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or

(c) he obstructs access to any structure or place which any such animal uses for shelter or protection.”

(5) In section 16 (power to grant licences), in subsection (9A), for the words “the Directive of the Council of the European Communities dated 2nd April 1979 (No [1979/409/EEC](#)) on the conservation of wild birds” substitute “the Wild Birds Directive”.

(6) In section 27 (interpretation of Part I), before the definition of “wild plant” insert the following definition—

““the Wild Birds Directive” means Council Directive [79/409/EEC](#) on the conservation of wild birds ^{M17}.”

- (7) In Schedule 5^{M18}(animals which are protected)—
- (a) after each of “Butterfly, Large Blue”, “Cat, Wild”, “Dormouse”, “Lizard, Sand”, “Otter, Common”, “Snake, Smooth”, “Sturgeon”, and “Toad, Natterjack”, insert “ (in respect of section 9(4)(b) and (c) and (5) only) ”;
 - (b) after “Bats, Horseshoe (all species)” insert “ but in respect of section 9(4)(b) and (c) and (5) only ”;
 - (c) after “Bats, Typical (all species)” insert “ but in respect of section 9(4)(b) and (c) and (5) only ”;
 - (d) for “Newt, Great Crested (otherwise known as Warty newt)” substitute “ Newt, Great Crested or Warty (in respect of section 9(4)(b) and (c) and (5) only) ”;
 - (e) omit “Turtles, Marine (all species)” and “Dermochelyidae and Cheloniidae”;
 - (f) after “Whales (all species)” insert “ but in respect of section 9(4A) and (5) only ”;
 - (g) omit any entries relating to dolphins or porpoises; and
 - (h) add at the appropriate place the following entries—

“Dolphins (all species but in respect of Cetacea”
section 9(4A) and (5) only)

“Porpoises (all species but in respect of Cetacea”
section 9(5) only)

“Turtle, Flatback Natator depressus”

“Turtle, Green Sea (in respect of Chelonia mydas”
section 9(4)(b) and (c) and (5) only)

“Turtle, Hawksbill (in respect of Eretmochelys imbricata”
section 9(4)(b) and (c) and (5) only)

“Turtle, Kemp's Ridley Sea (in respect of Lepidochelys kempii”
section 9(4)(b) and (c) and (5) only)

“Turtle, Leatherback Sea (in respect of Dermochelys coriacea”
section 9(4)(b) and (c) and (5) only)

“Turtle, Loggerhead Sea (in respect of Caretta caretta”
section 9(4)(b) and (c) and (5) only)

“Turtle, Olive Ridley Lepidochelys olivacea”.

- (8) In Schedule 8^{M19} (plants which are protected)—
- (a) after “Dock, Shore” insert “ (in respect of section 13(2) only) ”;
 - (b) after “Fern, Killarney” insert “ (in respect of section 13(2) only) ”;
 - (c) after “Gentian, Early” insert “ (in respect of section 13(2) only) ”;
 - (d) after “Lady's-slipper” insert “ (in respect of section 13(2) only) ”;
 - (e) after “Marshwort, Creeping” insert “ (in respect of section 13(2) only) ”;
 - (f) after “Naiad, Slender” insert “ (in respect of section 13(2) only) ”;
 - (g) after “Orchid, Fen” insert “ (in respect of section 13(2) only) ”;
 - (h) after “Plantain, Floating Water” insert “ (in respect of section 13(2) only) ”; and
 - (i) after “Saxifrage, Marsh” insert “ (in respect of section 13(2) only) ”.

Marginal Citations

- M15** [1981 c.69](#). There are amendments to the [Wildlife and Countryside Act 1981 \(c.69\)](#) that are not relevant for the purposes of these Regulations, though relevant amendment are noted in footnotes below.
- M16** [Section 9\(4\)](#) of the [Wildlife and Countryside Act 1981 \(c.69\)](#) was amended by section 81(1) of, and paragraph 5(a) of Schedule 12 to, the [Countryside and Rights of Way Act 2000 \(c.37\)](#). Section 9(4A) was inserted into the [Wildlife and Countryside Act 1981 \(c. 69\)](#) by section 81(1) of, and paragraph 5(b) of Schedule 12 to, the [Countryside and Rights of Way Act 2000 \(c.37\)](#).
- M17** Council Directive 79/409/EEC (OJ No. L103, 25.4.1979, p.1). The Directive was last amended by Council Directive 2006/105/EC of 20 November 2006 adapting Directives 79/409/EEC, 92/43/EEC, 97/68/EC, 2001/80/EC and 2001/81/EC in the field of environment, by reason of the accession of Bulgaria and Romania (O.J. No. L363, 20.12.2006, p. 368; and see O.J. L80, 21.3.2007, p. 15, for the Corrigendum amending the original title).
- M18** The entries relating to the wild cat, dolphins (all species), the dormouse, porpoises (all species) and marine turtles (all species) were inserted by article 2 of the [Wildlife and Countryside Act 1981 \(Variation of Schedules\) Order 1988, S.I. 1988/288](#). The entry relating to the sturgeon was inserted by article 2 of the [Wildlife and Countryside Act 1981 \(Variation of Schedules 5 and 8\) Order 1992 \(S.I. 1992/2350\)](#).
- M19** The entry relating to the creeping marshwort was inserted by article 3 of the [Wildlife and Countryside Act 1981 \(Variation of Schedules\) Order 1988 \(S.I. 1988/288\)](#). The entries relating to the shore dock, the early gentian, the slender naiad, the floating water plantain and the marsh saxifrage were inserted by article 3 of the [Wildlife and Countryside Act 1981 \(Variation of Schedules 5 and 8\) Order 1992 \(S.I. 1992/2350\)](#).

Amendment of the Countryside and Rights of Way Act 2000

8. Omit sub-paragraph (a) of paragraph 5 of Schedule 12 to the Countryside and Rights of Way Act 2000 ^{M20}.

Marginal Citations

- M20** [2000 c.37](#).

Transitional provisions

9.—(1) In relation to any offence alleged to have been committed under regulation 39(2)(a) of the 1994 Regulations before 21st November 2007, it shall be a defence for any person to show—

- (a) that an application for a licence under regulation 44 of the 1994 Regulations had been made by him (or on his behalf) to the appropriate authority before that date to authorise the possession or control of the animal, part of an animal or other thing in question;
- (b) that the application had not been refused by the appropriate authority to whom the application had been made; and
- (c) that—
 - (i) the animal in question, or the animal from which the part or the thing in question is derived, had not been taken or killed, or had been lawfully taken or killed, before 21st August 2007; or
 - (ii) the animal, part of an animal or other thing in question had been lawfully sold (whether to him or to any other person) before 21st August 2007.

(2) In relation to any offence alleged to have been committed under regulation 43(2)(a) of the 1994 Regulations before 21st November 2007, it shall be a defence for any person to show—

- (a) that an application for a licence under regulation 44 of the 1994 Regulations had been made by him (or on his behalf) to the appropriate authority before that date to authorise the possession or control of the plant, part of a plant or other thing in question; and
- (b) that the application had not been refused by the appropriate authority to whom the application had been made; and
- (c) that the plant, part of a plant or other thing in question had been lawfully sold (whether to him or to any other person) before 21st August 2007.

(3) In this regulation—

“appropriate authority” means—

- (a) where the offence is alleged to have been committed in England, the Secretary of State or Natural England; or
- (b) where the offence is alleged to have been committed in Wales, the Welsh Ministers or the Countryside Council for Wales; and

“lawfully” means without any contravention of the 1994 Regulations or Part 1 of the Wildlife and Countryside Act 1981.

Department for Environment, Food and Rural
Affairs

Barry Gardiner
Parliamentary Under Secretary of State,

Changes to legislation:

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007.