
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 1

INTRODUCTORY AND GENERAL PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the Conservation of Habitats and Species Regulations 2010.

(2) Except as provided by paragraphs (3) and (4), these Regulations come into force on 1st April 2010.

(3) In regulation 6 (relevant authorities in relation to marine areas and European marine sites), paragraph (i) (inshore fisheries and conservation authority) comes into force immediately after section 153 of the Marine Act ^{M1} (management of inshore fisheries) comes into force.

(4) The following provisions come into force immediately after section 134 of the Marine Act (orders for protection of marine conservation zones in Wales) comes into force (so far as not already brought into force)—

- (a) paragraph (2) of regulation 38 (European marine sites: byelaws and orders), and paragraphs (3), (4) and (5) of that regulation in so far as they relate to paragraph (2); and
- (b) paragraph (3) of regulation 133 (revocations), in so far as that paragraph relates to the revocation, as regards Wales, of—
 - (i) the entry “sections 36 and 37 of the Wildlife and Countryside Act 1981 (marine nature reserves),” in paragraph (3) of regulation 3 (implementation of Directive) of the 1994 Regulations ^{M2}, and
 - (ii) regulation 36 (byelaws for protection of European marine site) of the 1994 Regulations.

Marginal Citations

M1 2009 c. 23.

M2 S.I. 1994/2716.

Extent

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

(2) The following provisions also extend to Scotland—

- (a) regulation 3(8) (interpretation in relation to adjacent sea);

- [^{F1}(b) regulations 9 (duties relating to compliance with the Directives) and 9A (duties in relation to wild bird habitat), in so far as those regulations apply in relation to the exercise of a function which relates to a reserved matter (within the meaning of Schedule 5 to the Scotland Act 1998 (reserved matters));]
- (c) regulation 39(4) (statement under Planning Act 2008 ^{M3});
- [^{F2}(ca) Chapter 1 of Part 6 (assessment of plans and projects: general provisions), in so far as that Chapter applies in relation to plans and projects—
- (i) which do not relate to a matter specified in Chapters 2 to 9 of that Part, and
- (ii) which relate to a reserved matter (within the meaning of Schedule 5 to the Scotland Act 1998);]
- (d) in regulation 68 (grant of planning permission)—
- (i) paragraph (1)(e)(ii) and (iii) (deemed grant of planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 ^{M4} and section 5(1) of the Pipe-lines Act 1962 ^{M5}), and
- (ii) paragraph (2) in so far as that paragraph relates to paragraph (1)(e)(ii) and (iii) of that regulation;
- (e) in regulation 69 (planning permission: duty to review), in paragraph (3)—
- (i) sub-paragraph (b) (direction under section 5(1) of the Pipe-lines Act 1962), and
- (ii) sub-paragraph (d) in so far as that sub-paragraph relates to a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997;
- (f) regulations 81, 82 and 83(2) (development consent under Planning Act 2008);
- (g) Chapter 4 of Part 6 (electricity);
- (h) Chapter 5 of Part 6 (pipe-lines);
- [^{F3}(ha) regulation 100 (marine works) in so far as it applies to the granting of a licence under Part 2 of the Food and Environment Protection Act 1985;]
- (i) regulation 106 (national policy statements under Planning Act 2008), and regulations 102, 103 and 105 in so far as they apply in relation to a national policy statement by virtue of regulation 106; ^{F4}...
- [^{F5}(ia) regulation 107A, in so far as it applies in relation to the exercise of any power by the Secretary of State, and regulations 102, 103 and 105 in so far as they apply to marine policy statements by virtue of regulation 107A;]
- (j) in Schedule 6 (amendments of legislation)—
- (i) sub-paragraph (3) of paragraph 5 (amendment of section 123 of the Marine Act),
- (ii) sub-paragraph (5) of that paragraph (amendment of section 237 of that Act), and
- (iii) paragraph 7 (amendment of the 2007 Regulations ^{M6}),
- and regulation 132 in so far as it relates to those provisions.
- (3) The following provisions also extend to Scotland in so far as they have effect in relation to the provisions specified in paragraph (2)—
- (a) regulations [^{F6}1 (citation and commencement) and 2 (extent)] 3 (interpretation), 5 (nature conservation bodies), 7 (competent authorities) and 8 (European sites and European marine sites);
- (b) Chapter 1 of Part 6 (general provisions in relation to Part 6 (assessment of plans and projects)); and

- (c) regulations 128 (advisory role of the Joint Nature Conservation Committee), 129(3) (advisory role of Scottish Natural Heritage) and 131 (notices).

[^{F7}(4) The following provisions also extend to Northern Ireland—

- (a) regulations 9 and 9A, in so far as those regulations apply in relation to the exercise of a function which relates to an excepted matter (within the meaning given by section 4(1) of the Northern Ireland Act 1998);
- (b) Chapter 1 of Part 6, in so far as that Chapter applies in relation to plans and projects—
 - (i) which do not relate to a matter specified in Chapters 2 to 9 of that Part, and
 - (ii) which relate to an excepted matter (within the meaning given by section 4(1) of the Northern Ireland Act 1998);
- (c) regulation 100, in so far as it applies in relation to a marine licence under Part 4 of the Marine Act in respect of anything done in the course of carrying on an activity which relates to a matter which is an excepted matter by virtue of paragraph 4 of Schedule 2 to the Northern Ireland Act 1998 (defence of the realm etc.);
- (d) regulation 107A, in so far as it applies in relation to the exercise of any power by the Secretary of State, and regulations 102, 103 and 105 in so far as they apply to marine policy statements by virtue of regulation 107A; and
- (e) in Schedule 6—
 - (i) sub-paragraphs (3) and (5) of paragraph 5, and sub-paragraph (1) of paragraph 5 in so far as it relates to those sub-paragraphs, and
 - (ii) paragraph 7,and regulation 132 in so far as it relates to those provisions.

(4A) This regulation and regulations 1, 3, 5, 7, 8, 128 and 131 also extend to Northern Ireland in so far as they have effect in relation to the provisions specified in paragraph (4).

(4B) Chapter 1 of Part 6 also extends to Northern Ireland in so far as it has effect in relation to the provision specified in paragraph (4)(c).]

[^{F8}(5)

(6) The revocation of an enactment by any provision of regulation 133 (revocations) or Schedule 7 (revocations) has the same extent as the enactment revoked, except that the following provisions do not extend to Scotland—

- (a) paragraph (3) of that regulation, and paragraph (1) of that regulation so far as it relates to paragraph (3); and
- (b) paragraph (4)(b) of that regulation and Part 2 of that Schedule.

Textual Amendments	
F1	Reg. 2(2)(b) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927) , regs. 1(1), 3(2)(a)
F2	Reg. 2(2)(ca) inserted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927) , regs. 1(1), 3(2)(b)
F3	Reg. 2(2)(ha) inserted (6.4.2011) by The Conservation of Habitats and Species (Amendment) Regulations 2011 (S.I. 2011/625) , regs. 1(1), 3(a)(i)
F4	Word in reg. 2(2)(i) omitted (6.4.2011) by virtue of The Conservation of Habitats and Species (Amendment) Regulations 2011 (S.I. 2011/625) , regs. 1(1), 3(a)(ii)
F5	Reg. 2(2)(ia) inserted (6.4.2011) by The Conservation of Habitats and Species (Amendment) Regulations 2011 (S.I. 2011/625) , regs. 1(1), 3(a)(iii)

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Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010, PART 1. (See end of Document for details)

- F6** Words in reg. 2(3)(a) inserted (6.4.2011) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2011 \(S.I. 2011/625\)](#), regs. 1(1), **3(b)**
- F7** Reg. 2(4)-(4B) substituted for reg. 2(4) (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **3(3)**
- F8** Reg. 2(5) omitted (16.8.2012) by virtue of [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **3(4)**

Marginal Citations

- M3** 2008 c. 29.
- M4** 1997 c. 8.
- M5** 1962 c. 58; section 5(1) was amended by [S.I. 1999/742](#), **paragraph 2(3)** of the Schedule.
- M6** [S.I. 2007/1842](#).

Interpretation

3.—(1) In these Regulations—

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949 ^{M7};

“the 1994 Regulations” means the Conservation (Natural Habitats, &c.) Regulations 1994 ^{M8};

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

[^{F9}“the appropriate authority” means the Secretary of State in relation to England and the Welsh Ministers in relation to Wales (but see modifications of the meaning of that term in regulations 9(4) and 9A(12)(a), and modifications of references to that term in regulations 67(1)(b), (3)(c), (5) and (8)(b), 94(6), 106(3)(b) and 107A(3)(c)), and any person exercising any function of the Secretary of State or the Welsh Ministers;]

“competent authority” is to be construed in accordance with regulation 7 (competent authorities);

“conservation” has the meaning given by Article 1(a) of the Habitats Directive;

“conservation status” and “favourable conservation status” have the meanings given by paragraphs (e) (in relation to habitats) and (i) (in relation to species) of Article 1 of the Habitats Directive;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” is to be construed accordingly;

“the devolved administrations” means the Welsh Ministers, the Department of the Environment in Northern Ireland and the Scottish Ministers;

[^{F10}“the Directives” means the Habitats Directive and the new Wild Birds Directive;]

“enactment” includes a local enactment and an enactment contained in subordinate legislation, and “subordinate legislation” has the same meaning as in the Interpretation Act 1978 ^{M10} (see section 21 of that Act);

“English inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to England;

“European marine site” has the meaning given by paragraph (4) of regulation 8 (European sites and European marine sites);

“European offshore marine site” means a European offshore marine site within the meaning of regulation 15 of the 2007 Regulations (meaning of European offshore marine site);

“European site” has the meaning given by regulation 8 (European sites and European marine sites);

- “functions” includes powers and duties;
- “the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora;
- “land” includes land covered by water;
- “local planning authority” means, except as otherwise provided, any authority having any function as a local planning authority or mineral planning authority under the TCPA 1990 ^{M11};
- “management agreement” means an agreement made, or having effect as if made, under regulation 16 (management agreements);
- “the Marine Act” means the Marine and Coastal Access Act 2009 ^{M12};
- “marine area” means (subject to [^{F11}regulations 9(5) and 9A(12)(b)]) the English inshore region and the Welsh inshore region;
- “Natura 2000” means the European network of special areas of conservation, and special protection areas under the old Wild Birds Directive or the new Wild Birds Directive, provided for by Article 3(1) of the Habitats Directive;
- “natural habitats” has the meaning given by Article 1(b) of the Habitats Directive;
- “nature conservation body” and “appropriate nature conservation body” have the meaning given by regulation 5 (nature conservation bodies);
- “the new Wild Birds Directive” means Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds ^{M13};
- [^{F12}“Northern Ireland inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Northern Ireland;]
- “officer”—
- (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, and
 - (b) in relation to an unincorporated body, means any member of its governing body or a chief executive, manager or other similar officer of the body;
- “the old Wild Birds Directive” means Council Directive [79/409/EEC](#) on the conservation of wild birds ^{M14};
- “priority natural habitat types” has the meaning given by Article 1(d) of the Habitats Directive;
- “priority species” has the meaning given by Article 1(h) of the Habitats Directive;
- “the register” means the register of European sites provided for by regulation 13 (register of European sites);
- “relevant authorities”, in relation to marine areas and European marine sites, is to be construed in accordance with regulation 6 (relevant authorities in relation to marine areas and European marine sites);
- “relevant licensing body” has the meaning given by regulation 56 (relevant licensing body);
- “research” includes inquiries and investigations;
- “restricted English inshore region” means so much of the English inshore region as lies to seaward of mean low water mark;
- “sample” means a sample of blood, tissue or other biological material;
- “Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland;
- “sea” includes—

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- (a) any area submerged at mean high water spring tide, and
- (b) the waters of every estuary, river or channel, so far as the tide flows at mean high water spring tide,

and any reference to an area of sea includes the bed and subsoil of the sea within that area;

“ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which permanently rests on, or is permanently attached to, the seabed;

“site” has the meaning given by Article 1(j) of the Habitats Directive;

“site of Community importance” has the meaning given by Article 1(k) of the Habitats Directive;

“special area of conservation” has the meaning given by Article 1(l) of the Habitats Directive;

“specimen”—

- (a) for the purposes of Part 7 (enforcement), means any animal or plant, or any part of, or anything derived from, an animal or plant, and

- (b) for all other purposes has the meaning given by Article 1(m) of the Habitats Directive;

“statutory undertaker” means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the TCPA 1990 (statutory undertakers);

“the TCPA 1990” means the Town and Country Planning Act 1990^{M15};

“the WCA 1981” means the Wildlife and Countryside Act 1981^{M16}; ^{F13} ...

“Welsh inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to [^{F14}Wales;]

[^{F15}“wild bird” means a bird which is—

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

(2) The area of sea referred to in sub-paragraph (a) of the definition of “sea” in paragraph (1) includes waters in any area—

- (a) which is closed, whether permanently or intermittently, by a lock or other artificial means against the regular action of the tide, but
- (b) into and from which seawater is caused or permitted to flow, whether continuously or from time to time.

(3) Terms not defined in paragraph (1) which are used in these Regulations and also in the Habitats Directive have the meaning they bear in that Directive.

(4) In these Regulations, any reference to an Annex to the Habitats Directive is a reference to that Annex to that Directive as amended from time to time.

(5) Subject to regulation 83(1)(which relates to the construction of provisions of Chapter 2 of Part 6 as one with the TCPA 1990), these Regulations apply to the Isles of Scilly as if the Isles were a county and the Council of the Isles were a county council.

(6) Except as provided by paragraph (7), for the purposes of these Regulations—

- (a) any reference to England includes the English inshore region;
- (b) any reference to Wales includes the Welsh inshore region;
- (c) any reference to Scotland includes the Scottish inshore region; ^{F16} ...
- (d) any reference to Great Britain includes the English inshore region, the Welsh inshore region and the [^{F17}Scottish inshore region;]

- [^{F18}(e) any reference to Northern Ireland includes the Northern Ireland inshore region; and]
- [^{F18}(f) any reference to the United Kingdom includes its internal waters and the English inshore region, the Welsh inshore region, the Scottish inshore region and the Northern Ireland inshore region.]
- (7) Paragraph (6) does not apply for the purposes of—
- (a) in paragraph (1), the definitions of “English inshore region”, [^{F19}“Welsh inshore region”, “Scottish inshore region” and “Northern Ireland inshore region”];^{F20} ...
- [^{F21}(b) paragraph (8); or
- (c) regulation 4(2)(a)(ii).]
- (8) For the purposes of these Regulations—
- [^{F22}(a) the territorial sea adjacent to England is so much of the territorial sea adjacent to the United Kingdom as is not the territorial sea adjacent to Wales, the territorial sea adjacent to Scotland or the territorial sea adjacent to Northern Ireland;]
- (b) [^{F23}“the territorial sea adjacent to Wales”] is to be construed in accordance with article 6 of and Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 1999^{M17} (the sea adjacent to Wales);^{F24} ...
- (c) [^{F25}“the territorial sea adjacent to Scotland”] is to be construed in accordance with article 3 of and Schedule 1 to the Scottish Adjacent Waters Boundaries [^{F26}Order 1999^{M18}; and]
- [^{F27}(d) “the territorial sea adjacent to Northern Ireland” is to be construed in accordance with article 2 of the Adjacent Waters Boundaries (Northern Ireland) Order 2002.]
- (9) Nothing in these Regulations is to be construed as excluding the application of the provisions of Part 1 of the WCA 1981 (wildlife) in relation to animals or plants also protected under Part 3, 4 or 5 of these Regulations.

Textual Amendments

- F9** Words in reg. 3(1) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(a)
- F10** Words in reg. 3(1) inserted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(b)
- F11** Words in reg. 3(1) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(c)
- F12** Words in reg. 3(1) inserted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(d)
- F13** Word in reg. 3(1) omitted (16.8.2012) by virtue of The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(e)
- F14** Word in reg. 3(1) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(f)
- F15** Words in reg. 3(1) inserted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(g)
- F16** Word in reg. 3(6)(c) omitted (16.8.2012) by virtue of The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(3)(a)
- F17** Words in reg. 3(6)(d) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(3)(b)
- F18** Reg. 3(6)(e)(f) added (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(3)(c)
- F19** Words in reg. 3(7)(a) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(4)(a)

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- F20** Word in reg. 3(7)(a) omitted (16.8.2012) by virtue of The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(4)(b)**
- F21** Reg. 3(7)(b)(c) substituted for reg. 3(7)(b) (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(4)(c)**
- F22** Reg. 3(8)(a) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(5)(a)**
- F23** Words in reg. 3(8)(b) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(5)(b)(i)**
- F24** Word in reg. 3(8)(b) omitted (16.8.2012) by virtue of The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(5)(b)(ii)**
- F25** Words in reg. 3(8)(c) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(5)(c)(i)**
- F26** Words in reg. 3(8)(c) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(5)(c)(ii)**
- F27** Reg. 3(8)(d) added (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), **4(5)(d)**

Marginal Citations

- M7** 1949 c. 97.
- M8** S.I. 1994/2716, amended by the Environment Act 1995 (c. 25), **paragraph 233** of Schedule 22, the Land Reform (Scotland) Act 2003 (asp 2), **paragraphs 14 to 16** of Schedule 2, and S.I. 1996/525, S.I. 1996/973, S.I. 1997/3055, S.I. 1999/1820, S.I. 2000/192, S.S.I. 2000/323, S.I. 2000/1973, S.I. 2003/2155, S.S.I. 2004/475, S.I. 2005/3389, S.S.I. 2006/270, S.I. 2006/1282, S.S.I. 2007/80, S.S.I. 2007/349, S.S.I. 2007/485, S.S.I. 2007/517, S.I. 2007/1843, S.I. 2007/3538, S.S.I. 2008/17, S.S.I. 2008/425, S.S.I. 2008/427, S.I. 2008/2172, S.I. 2009/6, S.S.I. 2009/222, S.S.I. 2009/343, S.I. 2009/1307, S.I. 2009/2438, S.I. 2009/3160 and S.I. 2010/489 (W. 55).
- M9** S.I. 2007/1842, amended by S.S.I. 2007/485, S.I. 2009/7 and S.I. 2010/491.
- M10** 1978 c. 30.
- M11** 1990 c. 8.
- M12** 2009 c. 23.
- M13** OJ No L 20, 26.1.2010, p. 7.
- M14** OJ No L 103, 25.4.1979, p. 1; the old Wild Birds Directive was repealed by the new Wild Birds Directive.
- M15** 1990 c. 8.
- M16** 1981 c. 69.
- M17** S.I. 1999/672. These provisions continue to have effect as if made under section 158(3) of the Government of Wales Act 2006 (c. 32), by virtue of paragraph 26(3) of Schedule 11 to that Act.
- M18** S.I. 1999/1126.

Plans or projects relating to offshore marine area or offshore marine installations

4.—(1) Nothing in these Regulations requires an appropriate assessment of any plan or project so far as that plan or project is to be carried out on, in or in relation to any part of the sea in the offshore marine area, or on or in relation to an offshore marine installation.

(2) In paragraph (1)—

(a) “offshore marine area” means—

(i) any part of the seabed and subsoil situated in any area designated under subsection (7) of section 1 of the Continental Shelf Act 1964 ^{M19} (exploration and exploitation of continental shelf), and

- (ii) any part of the waters within British fishery limits ^{M20} (except the internal waters of, and the territorial sea adjacent to, the United Kingdom, the Channel Islands and the Isle of Man); and
- (b) “offshore marine installation” means any artificial island, installation or structure (other than a ship) which is situated—
 - (i) in any part of the waters in any area designated under section 1(7) of the Continental Shelf Act 1964, or
 - (ii) in any part of the waters in any area designated under subsection (4) of section 84 of the Energy Act 2004 ^{M21} (exploitation of areas outside the territorial sea for energy production).

Marginal Citations

- M19** 1964 c. 29; section 1(7) was amended by the [Oil and Gas \(Enterprise\) Act 1982 \(c. 23\)](#), [paragraph 1](#) of Schedule 3. Areas have been designated under section 1(7) by [S.I. 1987/1265](#), [2000/3062](#) and [2001/3670](#).
- M20** As defined by section 1 of the [Fishery Limits Act 1976 \(c. 86\)](#).
- M21** [2004 c. 20](#). An area has been designated under section 84(4) by [S.I. 2004/2668](#).

Nature conservation bodies

- 5.—(1) Except as provided by [^{F28}paragraphs (2) to (4)], in these Regulations—
- (a) “nature conservation body” means Natural England or the Countryside Council for Wales; and
 - (b) “the appropriate nature conservation body” means—
 - (i) Natural England, in relation to England, or
 - (ii) the Countryside Council for Wales, in relation to Wales.
- [^{F29}(2) In regulations 48 (surveillance of conservation status of habitats and species) and 50 (monitoring of incidental capture and killing), “nature conservation body” means Natural England, the Countryside Council for Wales or the Joint Nature Conservation Committee.
- (3) In a provision of Part 6 (assessment of plans and projects) which extends to England and Wales only, “the appropriate nature conservation body” means—
- (a) Natural England, in relation to England, or
 - (b) the Countryside Council for Wales, in relation to Wales,
- except in relation to an effect on a European offshore marine site, in which case it means the Joint Nature Conservation Committee.
- (4) In a provision of Part 6 which extends to Scotland or Northern Ireland, “the appropriate nature conservation body” means—
- (a) Natural England, in relation to England,
 - (b) the Countryside Council for Wales, in relation to Wales,
 - (c) Scottish Natural Heritage, in relation to Scotland, or
 - (d) the Department of the Environment in Northern Ireland, in relation to Northern Ireland,
- except in relation to an effect on a European offshore marine site, in which case it means the Joint Nature Conservation Committee.]

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Textual Amendments

- F28** Words in reg. 5(1) substituted (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **5(a)**
- F29** Reg. 5(2)-(4) substituted for reg. 5(2)(3) (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **5(b)**

Relevant authorities in relation to marine areas and European marine sites

6. For the purposes of these Regulations the relevant authorities, in relation to a marine area or European marine site, are such of the following as have functions in relation to land or waters within or adjacent to that area or site—

- (a) a nature conservation body;
- (b) a county council, county borough council, district council or London borough council;
- (c) the Environment Agency;
- (d) the Marine Management Organisation;
- (e) a water undertaker or sewerage undertaker, or an internal drainage board;
- (f) a navigation authority within the meaning of the Water Resources Act 1991 ^{M22};
- (g) a harbour authority within the meaning of the Harbours Act 1964 ^{M23};
- (h) a lighthouse authority;
- [^{F30}(i) an inshore fisheries and conservation authority established under Part 6 of the Marine Act (management of inshore fisheries); and]
- ^{F31}(j)
- (k) a National Park authority.

Textual Amendments

- F30** Reg. 6(i) substituted (1.4.2011) by [The Marine and Coastal Access Act 2009 \(Transitional and Savings Provisions\) Order 2011 \(S.I. 2011/603\)](#), art. 1(2), **Sch. 2 para. 12(a)**
- F31** Reg. 6(j) omitted (1.4.2011) by virtue of [The Marine and Coastal Access Act 2009 \(Transitional and Savings Provisions\) Order 2011 \(S.I. 2011/603\)](#), art. 1(2), **Sch. 2 para. 12(b)**

Marginal Citations

- M22** 1991 c. 57; see definition of “navigation authority” in section 221(1).
- M23** 1964 c. 40; see definition of “harbour authority” in section 57(1).

Competent authorities

- 7.—(1) For the purposes of these Regulations, “competent authority” includes—
- (a) any Minister of the Crown (as defined in the Ministers of the Crown Act 1975 ^{M24}), government department, statutory undertaker, public body of any description or person holding a public office;
 - (b) the Welsh Ministers; and
 - (c) any person exercising any function of a person mentioned in sub-paragraph (a) or (b).

(2) In the following provisions (and as provided in regulation 67(3)(a)), “competent authority” includes the Scottish Ministers—

(a) paragraph (2) of regulation 68 (grant of planning permission), in so far as that paragraph relates to a deemed grant of planning permission under—

(i) section 57(2) of the Town and Country Planning (Scotland) Act 1997 ^{M25}, as mentioned in regulation 68(1)(e)(ii), or

(ii) section 5(1) of the Pipe-lines Act 1962 ^{M26}, as mentioned in regulation 68(1)(e)(iii);

(b) Chapter 4 of Part 6 (electricity); and

(c) Chapter 5 of Part 6 (pipe-lines).

(3) In paragraph (1)—

(a) “public body” includes [^{F32}the Broads Authority and] any local authority, joint board, joint committee or National Park authority; and

(b) “public office” means—

(i) an office under the Crown,

(ii) an office created or continued in existence by a public general Act or by legislation passed by the National Assembly for Wales, or

(iii) an office the remuneration in respect of which is paid out of money provided by Parliament or the National Assembly for Wales.

(4) In paragraph (3)(a)—

“local authority” means—

(a) in relation to England, a county council, a district council, a parish council, a London borough council, the Common Council of the City of London, the sub-treasurer of the Inner Temple or the under treasurer of the Middle Temple, and

(b) in relation to Wales, a county council, a county borough council or a community council;

“joint board” means a joint planning board within the meaning of section 2 ^{M27} of the TCPA 1990 (joint planning boards); and

“joint committee” means a joint committee appointed under subsection (1)(b) of section 102 of the Local Government Act 1972 ^{M28} (appointment of committees).

Textual Amendments

F32 Words in [reg. 7\(3\)\(a\)](#) inserted (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), 6

Marginal Citations

M24 1975 c. 26.

M25 1997 c. 8.

M26 1962 c. 58; section 5(1) was amended by [S.I. 1999/742](#), [paragraph 2\(3\)](#) of the Schedule.

M27 Relevant amendments were made to section 2 by the [Local Government \(Wales\) Act 1994 \(c. 19\)](#), [section 19\(1\)](#) and (4)(a) and Schedule 18.

M28 1972 c. 70; section 102(1) was amended by the [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), [paragraph 16](#) of Schedule 9; the [Children Act 1989 \(c. 41\)](#), [paragraph 31](#) of Schedule 13; and the [Local Government and Housing Act 1989 \(c. 42\)](#), [paragraph 25\(a\)](#) of Schedule 11.

European sites and European marine sites

- 8.—(1) Subject to paragraph (2), 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;
 - (c) a site hosting a priority natural habitat type or priority species protected in accordance with Article 5(4) of the Habitats Directive (a site in respect of which consultation has been initiated under Article 5(1) of that Directive, during the consultation period or pending a decision of the Council under Article 5(3));
 - (d) an area classified pursuant to Article 4(1) or (2) of the old Wild Birds Directive or the new Wild Birds Directive; or
 - (e) a site which has been proposed to the European Commission under regulation 10 (selection of sites eligible for identification as of Community importance), until such time as—
 - (i) the site is placed on the list of sites of Community importance referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive, or
 - (ii) agreement is reached or a decision is taken pursuant to Article 4(2) of that Directive not to place the site on that list.
- (2) In these Regulations, a reference to a European site—
- (a) in Part 6 (assessment of plans and projects), is a reference to a European site in [^{F33}the United Kingdom]; and
 - (b) in any other provision of these Regulations, except where otherwise indicated, is a reference to a European site in England or Wales.
- (3) In any enactment other than these Regulations, a reference to a European site within the meaning of these Regulations is a reference to a European site as defined in paragraph (1).
- (4) In these Regulations a “European marine site” means a European site so far as consisting of marine areas.

Textual Amendments

- F33** Words in [reg. 8\(2\)\(a\)](#) substituted (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), [regs. 1\(1\), 7](#)

[^{F34}Duties relating to compliance with the Directives

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

- (2) Paragraph (1) applies, in particular, to functions under the following enactments—
- the Dockyard Ports Regulation Act 1865,
 - subsection (2) of section 2 of the Military Lands Act 1900 (provision as to byelaws relating to the sea, tidal water or shore),
 - Part 3 of the 1949 Act (nature conservation),
 - the Harbours Act 1964,
 - section 15 of the Countryside Act 1968 (areas of special scientific interest),
 - Part 2 of the Control of Pollution Act 1974 (pollution of water),

Part 1 (wildlife) and sections 28 to 28S and 31 to 35A of the WCA 1981 (which relate to sites of special scientific interest),
sections 131, 132 and 134 of the Environmental Protection Act 1990 (which relate to nature conservation functions of the Countryside Council for Wales),
the Water Resources Act 1991,
the Land Drainage Act 1991,
the Sea Fisheries Acts within the meaning of section 1 of the Sea Fisheries (Wildlife Conservation) Act 1992 (conservation in the exercise of sea fisheries functions),
the Natural Environment and Rural Communities Act 2006,
the Planning Act 2008,
the Marine Act, in particular any functions under Parts 3, 4, 5 and 6 of that Act (marine planning, marine licensing, nature conservation and management of inshore fisheries, respectively), and
these Regulations.

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

(4) The reference in paragraph (1) to the appropriate authority—

- (a) to the extent that that paragraph applies in relation to Scotland, includes the Secretary of State exercising functions in relation to Scotland; and
- (b) to the extent that that paragraph applies in relation to Northern Ireland, includes the Secretary of State exercising functions in relation to Northern Ireland.

(5) In paragraph (1), “marine area” includes—

- (a) the Northern Ireland inshore region; and
- (b) the Scottish inshore region.

Textual Amendments

F34 Regs. 9-9B substituted for reg. 9 (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **8**

Duties in relation to wild bird habitat

9A.—(1) Without prejudice to regulation 9(1), the appropriate authority, the nature conservation bodies and, in relation to the marine area, a competent authority must take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3), so far as lies within their powers.

(2) Except in relation to the marine area, the Environment Agency, the Forestry Commissioners, local authorities, the Broads Authority and National Park authorities must take such steps in the exercise of their functions as they consider appropriate to contribute to the achievement of the objective in paragraph (3).

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

(4) Paragraph (1) applies, in particular, to—

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- (a) functions under the following enactments—
- sections 17, 18, 20 and 21(6) of the 1949 Act (which relate to nature reserves),
 - section 7 (management agreements) of the Natural Environment and Rural Communities Act 2006,
 - Parts 3, 4, 5 and 6 (marine planning, marine licensing, nature conservation and management of inshore fisheries, respectively) of the Marine Act, and
 - these Regulations; and
- (b) any function exercisable in relation to town and country planning.
- (5) Paragraph (2) applies, in particular, to—
- (a) functions under the following enactments—
- sections 21 and 90 of the 1949 Act (which relate to nature reserves and local authority byelaws, respectively),
 - sections 3 (management of forestry land) and 10 (application for felling licence and decision of Commissioners thereon) of the Forestry Act 1967,
 - sections 3 and 6 of the Norfolk and Suffolk Broads Act 1988 (the Broads Plan and byelaws, respectively);
 - section 66 of the Environment Act 1995 (National Park Management Plans);
 - sections 38 and 39 of the Flood and Water Management Act 2010 (which relate to incidental flooding or coastal erosion), and
 - these Regulations; and
- (b) any function exercisable in relation to town and country planning.
- (6) In subsection (3)(a) of section 123 of the Marine Act (creation of network of conservation sites), as it applies in relation to the marine area, the reference to “the conservation or improvement of the marine environment” includes the objective in paragraph (3), and accordingly the duty in section 124 of the Marine Act (report) applies in relation to that objective.
- (7) In considering which measures may be appropriate for the purpose of securing or contributing to the objective in paragraph (3), appropriate account must be taken of economic and recreational requirements.
- (8) So far as lies within their powers, a competent authority in exercising any function in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds (except habitats beyond the outer limits of the area to which the new Wild Birds Directive applies).
- (9) The appropriate authority must take any steps they consider necessary to facilitate or co-ordinate arrangements to secure the taking of steps under paragraphs (1) and (2) by the bodies mentioned in those paragraphs.
- (10) After consultation with the appropriate nature conservation body, the appropriate authority must give guidance to the Environment Agency, the Forestry Commissioners, local authorities, the Broads Authority, National Park authorities and any other competent authority they consider appropriate—
- (a) to facilitate the determination by those bodies of the extent to which the diversity and area of habitat for wild birds is sufficient; and
 - (b) on the steps that it may be appropriate to take under paragraph (1) or (2).
- (11) In exercising a function to which paragraph (1) or (2) applies, a body to which guidance has been given under paragraph (10) must have regard to that guidance.
- (12) In this regulation—

- (a) references in paragraphs (1), (9) and (10) to the appropriate authority—
 - (i) to the extent that this regulation applies in relation to Scotland, include the Secretary of State exercising functions in relation to Scotland, and
 - (ii) to the extent that this regulation applies in relation to Northern Ireland, include the Secretary of State exercising functions in relation to Northern Ireland;
- (b) in paragraphs (1) and (2), “marine area” includes—
 - (i) the Northern Ireland inshore region, and
 - (ii) the Scottish inshore region; and
- (c) “local authority” has the same meaning as in regulation 7.

Textual Amendments

F34 Regs. 9-9B substituted for reg. 9 (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **8**

Review by appropriate nature conservation body

- 9B.**—(1) The appropriate nature conservation body must, from time to time—
- (a) review the extent to which the objective in regulation 9A(3) has been met, other than in relation to the marine area;
 - (b) set out the conclusions of the review in a report, including any recommendations for further action; and
 - (c) send the report to the appropriate authority.
- (2) In carrying out the review, the nature conservation bodies must, so far as is reasonable, take account of any measures taken which contribute to the achievement of that objective, whether or not taken pursuant to a requirement imposed by any enactment.
- (3) The nature conservation bodies may act together to fulfil the duty under paragraph (1) .]

Textual Amendments

F34 Regs. 9-9B substituted for reg. 9 (16.8.2012) by [The Conservation of Habitats and Species \(Amendment\) Regulations 2012 \(S.I. 2012/1927\)](#), regs. 1(1), **8**

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