

SCHEDULE 1

Regulation 25(3)

SPECIAL NATURE CONSERVATION ORDERS: PROCEDURE

Coming into operation

- 1.—(1) An original order or a restrictive amending order takes effect on its being made.
- (2) The appropriate authority must consider every such order, and the order ceases to have effect nine months after it is made unless—
 - (a) that authority have previously given notice under paragraph 6 that the order has been considered and that it is not proposed to amend or revoke it; or
 - (b) the order has been revoked.
- (3) Subject to paragraphs 3(2) and 4(4), a revoking order, or an amending order which is not restrictive, does not take effect until confirmed by the appropriate authority.
- (4) An amending or revoking order requiring confirmation is to be treated as being revoked if the appropriate authority give notice under paragraph 6 that it is not to be confirmed.

Publicity for orders

- 2.—(1) The appropriate authority must, where an order has been made, give notice setting out the order (or describing its general effect) and stating that it has taken effect or, as the case may be, that it has been made and requires confirmation.
- (2) The notice must—
 - (a) name a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
 - (b) specify the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (3) The notice must be given—
 - (a) by publication in the London Gazette and also at least one local newspaper circulating in the area in which the land to which the order relates is situated;
 - (b) by serving an equivalent notice—
 - (i) on every owner and occupier of that land (subject to sub-paragraph (4)); and
 - (ii) on the local planning authority within whose area the land is situated.
- (4) The appropriate authority may, in any particular case, direct that it is not necessary to comply with sub-paragraph (3)(b)(i).
- (5) Where the appropriate authority give a direction under paragraph (4) in the case of an order specifying any operation carried out, or proposed to be carried out, on any land—
 - (a) in addition to publication the notice must be addressed to “The owners and any occupiers” of the land (describing it), describing details of the operation and the details of the European site to which the order relates; and
 - (b) a copy or copies of the notice must be affixed to some conspicuous object or objects on the land.

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Unopposed orders

3.—(1) Where an order has taken effect immediately and no representations or objections are duly made in respect of it, or any so made are withdrawn, the appropriate authority must, as soon as practicable after considering the order, decide either to take no action on it or to make an order amending or revoking it.

(2) Where an amending or revoking order is made under sub-paragraph (1)—

- (a) it takes effect immediately;
- (b) it does not require confirmation; and
- (c) it is not necessary to consider any representation or objection made in respect of it.

(3) Where an order requiring confirmation (in accordance with paragraph 1(3)) is made and no representations or objections are duly made in respect of it, or any so made are withdrawn, the appropriate authority may confirm the order (with or without modifications).

Opposed orders

4.—(1) If any representation or objection duly made with respect to an order is not withdrawn, the appropriate authority must, as soon as practicable (in the case of an order having immediate effect) or (in the case of an order requiring confirmation) before confirming the order—

- (a) cause a local inquiry to be held; or
- (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the appropriate authority for the purpose.

(2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the appropriate authority—

- (a) if the order has already taken effect, must decide either to take no action on the order or to make an order amending or revoking it as appropriate in the light of the report, representations or objections; and
- (b) if the order requires confirmation, may confirm it (with or without modifications).

(3) The provisions of section 250(2) to (5) of the Local Government Act 1972(1) (which relate to evidence and costs in inquiries) apply in relation to an inquiry held under this paragraph.

(4) Where an amending or revoking order is made under sub-paragraph (2)(a)—

- (a) it takes effect immediately;
- (b) it does not require confirmation; and
- (c) it is not necessary to consider any representation or objection made in respect of it.

Restriction on power to amend orders or confirm them with modifications

5. The appropriate authority may not, by virtue of paragraph 3(1) or 4(2), amend an order which has taken effect, or confirm any other order with modifications, so as to extend the area to which the order applies.

(1) 1972 c. 70; section 250 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; the Housing and Planning Act 1986 (c. 63), Part 3 of Schedule 12; and the Statute Law (Repeals) Act 1989 (c. 43).

Notice of final decision on order

6.—(1) The appropriate authority must, as soon as practicable after making an order under paragraph 3(1) or 4(2)(a), give notice—

- (a) setting out the order (or describing its effect) and stating that it has taken effect; and
- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.

(2) The appropriate authority must give notice of any of the following decisions as soon as practicable after making the decision—

- (a) a decision under paragraph 3(1) or 4(2)(a) to take no action on an order which has already taken effect;
- (b) a decision to confirm or not to confirm an order requiring confirmation under this Schedule.

(3) A notice under this paragraph of a decision to confirm an order must—

- (a) set out the order as confirmed (or describe its general effect) and state the day on which the order took effect; and
- (b) name a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours.

(4) Any notice under this paragraph must be given by publishing it in accordance with paragraph 2(3)(a) and serving a copy of it on any person on whom a notice was required to be served under paragraph 2(3)(b).

Proceedings for questioning validity of orders

7.—(1) This paragraph applies to any order which has taken effect and as to which the appropriate authority have given notice under paragraph 6 of a decision to take no action or to amend the order in accordance with paragraph 4 (“the relevant notice”).

(2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the ground that it is not within the powers of regulation 25 (power to make special nature conservation order), or that any of the requirements of this Schedule have not been complied with in relation to it, that person may within six weeks from the date of the relevant notice make an application to the High Court.

(3) On any such application the High Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.

(4) Except as provided by this paragraph, the validity of an order may not be questioned in any legal proceedings whatsoever.

Interpretation

8. In this Schedule—

“amending order” and “revoking order” mean an order which amends or, as the case may be, revokes a previous order;

“order” means an order under regulation 25 (special nature conservation order);

“original order” means an order other than an amending or revoking order; and

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“restrictive”, in relation to an amending order, means extending the area to which a previous order applies.

SCHEDULE 2

Regulation 40(1)

EUROPEAN PROTECTED SPECIES OF ANIMALS

Common name	Scientific name
Bats, Horseshoe (all species)	Rhinolophidae
Bats, Typical (all species)	Vespertilionidae
Butterfly, Large Blue	Maculinea arion
Cat, Wild	Felis silvestris
Dolphins, porpoises and whales (all species)	Cetacea
Dormouse	Muscardinus avellanarius
Frog, Pool	Rana lessonae
Lizard, Sand	Lacerta agilis
Moth, Fisher’s Estuarine	Gortyna borelii lunata
Newt, Great Crested (or Warty)	Triturus cristatus
Otter, Common	Lutra lutra
Snail, Lesser Whirlpool Ram’s-horn	Anisus vorticulus
Snake, Smooth	Coronella austriaca
Sturgeon	Acipenser sturio
Toad, Natterjack	Bufo calamita
Turtles, Marine	Caretta caretta
	Chelonia mydas
	Lepidochelys kempii
	Eretmochelys imbricata
	Dermochelys coriacea

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names must not be taken into account.

SCHEDULE 3

Regulation 42(8)(a)

EXCLUDED POPULATIONS OF CERTAIN SPECIES

(1) Common name	(2) Scientific name	(3) Excluded countries and areas
Beaver, Eurasian	Castor fiber	Estonia, Finland, Latvia, Lithuania, Poland and Sweden
Hamster, Common (or Black bellied)	Cricetus cricetus	Hungary
Wolf, Grey	Canis lupus	Bulgaria, Estonia, Greece north of the 39th parallel, Latvia, Lithuania, Poland, Slovakia, Spain north of the River Duero, and the reindeer management area in Finland as defined in paragraph 2 of Finnish Act No. 848/90 of 14th September 1990 on reindeer management(2)
Lynx, Eurasian	Lynx lynx	Estonia
Viper, Seoane's	Vipera seoanni	Spain

NOTE: The common name or names given in the first column to this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names must not be taken into account.

SCHEDULE 4

Regulation 43(1)(a)

ANIMALS WHICH MAY NOT BE CAPTURED OR KILLED IN CERTAIN WAYS

Common name	Scientific name
Barbel	Barbus barbus
Grayling	Thymallus thymallus
Hare, Mountain	Lepus timidus
Lamprey, River	Lampetra fluviatilis
Marten, Pine	Martes martes
Polecat	Mustela putorius (otherwise known as Putorius putorius)
Salmon, Atlantic	Salmo salar (only in fresh water)
Seal, Bearded	Erignathus barbatus

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(2) A copy of this Finnish Act can be obtained from the Wildlife Species Conservation Division, Defra, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB.

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Common name	Scientific name
Seal, Common	Phoca vitulina
Seal, Grey	Halichoerus grypus
Seal, Harp	Phoca groenlandica (otherwise known as Pagophilus groenlandicus)
Seal, Hooded	Cystophora cristata
Seal, Ringed	Phoca hispida (otherwise known as Pusa hispida)
Shad, Allis	Alosa alosa
Shad, Twaite	Alosa fallax
Vendace	Coregonus albula
Whitefish	Coregonus lavaretus

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names must not be taken into account.

SCHEDULE 5

Regulation 44(1)

EUROPEAN PROTECTED SPECIES OF PLANTS

Common name	Scientific name
Dock, Shore	Rumex rupestris
Fern, Killarney	Trichomanes speciosum
Gentian, Early	Gentianella anglica
Lady's-slipper	Cypripedium calceolus
Marshwort, Creeping	Apium repens
Naiad, Slender	Najas flexilis
Orchid, Fen	Liparis loeselii
Plantain, Floating-leaved water	Luronium natans
Saxifrage, Yellow Marsh	Saxifraga hirculus

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names must not be taken into account.

SCHEDULE 6

Regulation 132

AMENDMENTS OF LEGISLATION

PART 1

PRIMARY LEGISLATION

Amendment of the Harbours Act 1964

1. In the Harbours Act 1964(3), in Part 1 of Schedule 3 (procedure for making harbour revision and empowerment orders), in paragraph 1 (interpretation), for paragraph (j) of the definition of “sensitive area”(4) substitute—

“(j) a European site within the meaning of the Conservation of Habitats and Species Regulations 2010 (see regulation 8);”.

Amendment of the Conservation of Seals Act 1970

2. In the Conservation of Seals Act 1970(5), in subsection (4A)(6) of section 10 (power to grant licences), for “regulation 41 of the Conservation (Natural Habitats, &c) Regulations 1994” substitute “regulation 43 of the Conservation of Habitats and Species Regulations 2010”.

Amendment of the Highways Act 1980

3. In the Highways Act 1980(7), in section 105A(8) (environmental impact assessments), in subsection (6)(i)(9), for “regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994” substitute “the Conservation of Habitats and Species Regulations 2010 (see regulation 8)”.

Amendment of the Constitutional Reform Act 2005

4. In the Constitutional Reform Act 2005(10), in Part 3 of Schedule 14(11) (appointments by the Lord Chancellor: offices to which paragraph 2(2)(d) of Schedule 12 applies), in the column entitled “enactment”, for the entry “Regulation 32(3)(a) of the Conservation (Natural Habitats, &c) Regulations 1994 (SI 1994/2716)” substitute “Regulation 34(3) of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490)”.

Amendment of the Marine Act

5.—(1) The Marine Act is amended as follows.

(3) 1964 c. 40.

(4) The definition of “sensitive area” was amended by S.I. 1999/3445; the Countryside and Rights of Way Act 2000 (c. 37), paragraph 3 of Schedule 10, paragraph 4 of Schedule 15 and Part 3 of Schedule 16; the Nature Conservation (Scotland) Act 2004 (asp 6), paragraph 1 of Schedule 7; the Transport and Works (Scotland) Act 2007 (asp 8), section 25(1) and (5)(a)(ii) and (iii); and S.S.I. 2008/202.

(5) 1970 c. 30.

(6) Subsection (4A) was inserted, in relation to England and Wales, by S.I. 2007/1843 (subsection (4A) was inserted in relation to Scotland by S.S.I. 2007/80).

(7) 1980 c. 66.

(8) Section 105A was inserted by S.I. 1988/1241 and substituted by S.I. 1999/369.

(9) Subsection (6) was amended by the Countryside and Rights of Way Act 2000 (c. 37), paragraph 5 of Schedule 10, paragraph 5 of Schedule 15 and Part 3 of Schedule 16.

(10) 2005 c. 4.

(11) There are amendments to Part 3 of Schedule 14 not relevant to these Regulations.

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- (2) In section 12 (certain consents under section 36 of the Electricity Act 1989), subsection (5) (c) is omitted.
- (3) In subsection (9) of section 123 (creation of network of conservation sites), in paragraph (a) of the definition of “European marine site”—
- (a) after “within the meaning of” insert “— (i)”; and
 - (b) after “, or” insert—
 - “(ii) the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) (see regulation 8), or”.
- (4) In subsection (6)(d) of section 158 (byelaws: supplementary provision), for “the Conservation (Natural Habitats, &c) Regulations 1994 (S.I. 1994/2716)” substitute “the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) (see regulation 8)”.
- (5) In subsection (2) of section 237 (enforcement of nature conservation legislation)—
- (a) omit paragraphs (c) and (d); and
 - (b) after paragraph (h) add—
 - “(i) regulations 41, 43, 45, 52, 57, 58 and 116(1) and (2) of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490);
 - (j) any byelaws or orders made by virtue of regulation 30 or 38 of those Regulations.
- (6) Paragraph 4 of Schedule 11 (amendment of the 1994 Regulations) is omitted.

PART 2

SUBORDINATE LEGISLATION

Amendment of the 1994 Regulations

6. In the 1994 Regulations, in regulation 3(12) (implementation of Directive), after paragraph (4) add—

“(5) This regulation does not apply in relation to functions which relate to reserved matters (within the meaning of Schedule 5 to the Scotland Act 1998).”.

Amendment of the 2007 Regulations

7.—(1) The 2007 Regulations are amended as follows.

(2) In paragraph (2) of regulation 2(13) (interpretation)—

(a) after the definition of “the 1994 Regulations” insert—

““the 2010 Regulations” means the Conservation of Habitats and Species Regulations 2010(14);”; and

(b) in paragraph (a) of the definition of “management scheme”, for “or regulation 29 of the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995” substitute “, regulation 29 of the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 or regulation 36 of the 2010 Regulations”.

(12) There are amendments to regulation 3 not relevant to these Regulations.

(13) There are amendments to regulation 2 not relevant to these Regulations.

(14) S.I. 2010/490.

(3) In paragraph (12) of regulation 19(**15**) (management schemes for European offshore marine sites), for “or the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995.” substitute “, the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 or the 2010 Regulations.”.

(4) In regulation 25(**16**) (protection of European offshore marine sites and European sites)—

(a) in paragraph (7), for “1994” substitute “Conservation” (in both places); and

(b) after paragraph (7) insert—

“(7A) In paragraph (7) “the Conservation Regulations” means either the 1994 Regulations or the 2010 Regulations (as the case may be).”.

(5) In regulation 27(**17**) (review of existing decisions and consents), for paragraph (8) substitute—

“(8) Regulations 87 and 88 of the 2010 Regulations (consents under Electricity Act 1989(**18**): procedure on review and effect of review) apply in relation to any decision under paragraph (4) revoking or modifying a consent granted under section 36(**19**) or 37(**20**) of the Electricity Act 1989 as they apply in relation to a decision pursuant to regulation 86 of the 2010 Regulations revoking or varying any such consent, but with the modifications specified in paragraphs (9) and (10).

(9) In regulation 87—

(a) in paragraph (1)—

(i) for “86(3), (5) or (6)” substitute “86(3) or (5)”,

(ii) omit “or a direction deeming planning permission to be granted”,

(iii) in sub-paragraph (a), omit “or, as the case may be, in whose favour the direction was made”, and

(iv) in sub-paragraph (b), omit “in the case of a consent under section 36 of the Electricity Act 1989,”;

(b) omit paragraph (2)(a); and

(c) in paragraph (4)—

(i) omit “, or the relevant planning authority,”, and

(ii) in sub-paragraph (a), omit “or the relevant planning authority (as the case may be)”.

(10) In regulation 88—

(a) in paragraph (1)—

(i) for “86(3), (5) or (6)” substitute “86(3) or (5)”, and

(ii) omit “or a direction deeming planning permission to be granted”; and

(b) in paragraphs (2) and (3), omit “or direction” (in all places).”.

(15) There are amendments to regulation 19 not relevant to these Regulations.

(16) There are amendments to regulation 25 not relevant to these Regulations.

(17) There are amendments to regulation 27 not relevant to these Regulations.

(18) 1989 c. 29.

(19) Section 36 was amended by the Energy Act 2004 (c. 20), section 93(1) and (3); the Planning Act 2008 (c. 29), paragraphs 31 and 32 of Schedule 2; the Marine and Coastal Access Act 2009 (c. 23), section 12(7)(a) and (8); and, in relation to Scotland, by S.I. 2006/1054, paragraph 1(1) and (2) of Schedule 1.

(20) Section 37 was amended by the Planning Act 2008 (c. 29), paragraphs 31 and 33 of Schedule 2.

Status: This is the original version (as it was originally made).

SCHEDULE 7

Regulation 133(4)

REVOCATIONS

PART 1

REVOCATIONS

Title	S.I. number	Extent of revocation
The National Park Authorities (Wales) Order	1995/2803	Paragraph 20 of Schedule 5, and article 18 in so far as it relates to that paragraph
Local Government Reorganisation (Consequential Amendments) Order 1996	1996/525	Paragraph 18 of the Schedule, and article 3 in so far as it relates to that paragraph
The National Park Authorities (England) Order	1996/1243	Paragraph 14 of Schedule 5, and article 18 in so far as it relates to that paragraph
Conservation (Natural Habitats, &c.) (Amendment) (England) Regulations 2000	2000/192	The whole Regulations
Pollution Prevention and Control (England and Wales) Regulations 2000	2000/1973 (21)	Paragraph 37 of Schedule 10, and regulation 39 in so far as it relates to that paragraph
The New Forest National Park Authority (Establishment) Order	2005/421	Paragraph 11 of Schedule 3, and article 16 in so far as it relates to that paragraph
Serious Organised Crime and Police Act 2005 (Powers of Arrest) (Consequential Amendments) Order 2005	2005/3389	Article 9
Town and Country Planning (Application of Subordinate Legislation to the Crown) Order 2006	2006/1282	Article 15
Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007	2007/1843	In regulation 5, paragraphs (2)(b) and (c), (2)(d) (in respect of the definitions of “premises” and “sample” only), (2)(e), (3) (in respect of the insertion of paragraph (2A) only), (4), (5), (7) to (21), (23)(b) and (e), (24)(a), (29)(a), (31), (36), (41),

(21) [S.I. 2000/1973](#) was revoked by [S.I. 2007/3538](#), but regulation 72(9) of [S.I. 2007/3538](#) contains a saving in relation to amendments to enactments made by [S.I. 2000/1973](#).

Title	S.I. number	Extent of revocation
		(42), (43), (46), (48), (50), (55) to (60) and (62)
Environmental Permitting (England and Wales) Regulations 2007	2007/3538	Paragraph 35 of Schedule 21, and regulation 73 in so far as it relates to that paragraph
Conservation (Natural Habitats, &c.) (Amendment) (England and Wales) Regulations 2008	2008/2172	Regulations 2 and 3
Conservation (Natural Habitats, &c.) (Amendment) (England and Wales) Regulations 2009	2009/6	The whole Regulations
Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009	2009/1307	Paragraphs 48, 49 and 52 of Schedule 2, and article 5(3) in so far as it relates to those paragraphs
Conservation (Natural Habitats, &c.) (Amendment) (No. 2) Regulations 2009	2009/2438	The whole Regulations, except for regulation 6(2) in so far as it relates to regulation 68(1)(b) of the 1994 Regulations
Nitrate Pollution Prevention (Amendment) Regulations 2009	2009/3160	Regulation 11
Nitrate Pollution Prevention (Amendment) (Wales) Regulations 2010	2010/489	Regulation 11

PART 2

REVOCATIONS NOT EXTENDING TO SCOTLAND

Title	S.I. number	Extent of revocation
Conservation (Natural Habitats, &c.) (Amendment) Regulations 1997	1997/3055	The whole Regulations
Communications Act 2003 (Consequential Amendments) Order 2003	2003/2155	Paragraph 36 of Schedule 1, and article 3(1) in so far as it relates to that paragraph
Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007	2007/1843	In regulation 5, paragraphs (2) (a), (2)(d) (except in respect of the definitions of “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)

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Title	S.I. number	Extent of revocation
Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009	2009/1307	and (d), (30), (33) to (35), (37) to (39), (44), (45) and (61) Paragraphs 46, 47, 50 and 51 of Schedule 2, and article 5(3) in so far as it relates to those paragraphs
Conservation (Natural Habitats, &c.) (Amendment) (No. 2) Regulations 2009	2009/2438	Regulation 6(2) in so far as it relates to regulation 68(1)(b) of the 1994 Regulations