

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) with subsequent amending instruments, and make minor modifications reflecting changes to related legislation.

These Regulations also implement aspects of the Marine and Coastal Access Act 2009 (c. 23) (“the Marine Act”).

These Regulations extend to England and Wales (including the adjacent territorial sea). They extend to Scotland (including the adjacent territorial sea), in respect of reserved matters. They also extend to Northern Ireland (including the adjacent territorial sea), in respect of excepted matters. These Regulations transpose Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora (OJ No. L 206, 22.7.1992, p.7) (“the Habitats Directive”).

Part 1 – Introductory and general provisions

Regulation 9 requires public bodies to exercise their nature conservation functions so as to comply with the Habitats Directive and the new Wild Birds Directive (as defined in regulation 3(1)). Regulation 10 imposes duties on public bodies in relation to wild bird habitats and regulation 11 requires nature conservation bodies to review and report on whether the obligations under regulation 10 have been met.

Part 2 – Conservation of natural habitats and habitats of species

Regulations 12 to 19 make provision for the selection, designation (or, in the case of special protection areas, classification), registration and notification of sites to be protected under the Habitats Directive (“European sites”). Regulations 20 to 22 make provision for management agreements for European sites. Regulations 23 to 36 make provision in respect of European sites for (i) control of damaging operations, (ii) special nature conservation orders and restoration orders, (iii) byelaws and (iv) compulsory purchase. Regulations 37 to 40 make provision for the protection of European marine sites.

Part 3 – Protection of species

Part 3 provides for the protection of certain wild animals and plants. In particular, regulation 43 makes it an offence, subject to exceptions, deliberately to capture, kill or disturb those animals or to trade in them. Regulation 45 prohibits the use of certain methods of capturing or killing wild animals. Regulation 47 makes it an offence, subject to exceptions, deliberately to pick, collect, cut or destroy those plants or to trade in them.

Part 4 – Additional protection of habitats and wild animals and plants

Regulation 50 imposes a duty on the Secretary of State and Welsh Ministers to make arrangements for the surveillance of the conservation status of natural habitats and species protected under the Habitats Directive. Regulation 52 requires them to make arrangements to establish a system to monitor the incidental capture and killing of animals listed in Annex IV(a) to the Habitats Directive. Regulation 54 makes it an offence deliberately to introduce from a ship into the sea new species that are not native to Great Britain.

Status: Point in time view as at 01/10/2022.

Changes to legislation: The Conservation of Habitats and Species Regulations 2017 is up to date with all changes known to be in force on or before 06 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Part 5 – Licences

Part 5 provides for the licensing of certain activities relating to animals and plants. The offences under Part 3 do not apply to anything done in accordance with a licence. Regulation 59 makes it an offence to make a false statement or representation for the purposes of obtaining a licence. Regulation 60 makes it an offence to contravene or fail to comply with a licence condition.

Part 6 – Assessment of plans and projects

Regulations 63 to 69 require the effect on a European site to be considered before the granting of consents or authorisations of a kind specified in regulations 70 to 104, including the grant of planning permission, plans or projects to construct or improve highways, consents under the Electricity Act 1989 (c. 29), authorisations under the Pipe-lines Act 1962 (c. 58), orders under the Transport and Works Act 1992 (c. 42), environmental permits, abstraction licences and marine works. Regulation 63 provides that a competent authority may not authorise a plan or project that may adversely affect the integrity of a European site, subject to the exceptions set out in regulation 64 (considerations of overriding public interest).

Chapter 8 of Part 6 sets out similar requirements in relation to land-use plans and national policy statements, and Chapter 9 of Part 6 similar requirements in relation to marine policy statements and marine plans.

Part 7 – Enforcement

Part 7 sets out the enforcement powers of wildlife inspectors and constables, including powers of entry, search and taking of samples. It also sets out certain further offences, including offences of obstruction in connection with the exercise of powers of entry and powers to take specimens and samples (regulations 123 to 125).

Part 8 – Final provisions

Regulations 134 and 135 contain provisions relating to the advisory role of the Joint Nature Conservation Committee, Natural England, the Natural Resources Body for Wales and Scottish Natural Heritage.

Regulation 139 and 140 and Schedules 6 and 7 contain amendments and revocations consequential on the consolidation. Regulation 141 contains transitional provisions.

An impact assessment has not been produced for this instrument as no impact on business or the private or voluntary sector is foreseen. As regards Wales, the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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