
STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 6

Assessment of plans and projects

CHAPTER 8

Land Use Plans

Planning Act 2008

[^{F1}Direction that assumptions are not to apply

110B.—(1) The assumptions in regulation [110A\(2\)](#) do not apply in relation to a particular plant and a particular nutrient pollution standard if the Secretary of State so directs.

(2) A direction under this regulation may be made in relation to a plant and a standard only if the Secretary of State is satisfied—

- (a) where the plant is a non-catchment permitting area plant, that the plant will not be able to meet the standard by the upgrade date;
 - (b) where the plant is a catchment permitting area plant—
 - (i) that the plant will not be able to meet the standard by the applicable date, or
 - (ii) that the first effect described in paragraph [\(4\)](#) will, on the applicable date, be more significant than the second effect described in that paragraph.
- (3) The Secretary of State may revoke a direction under this regulation if satisfied—
- (a) where the plant is a non-catchment permitting area plant, that the plant will meet the standard by the upgrade date;
 - (b) where the plant is a catchment permitting area plant—
 - (i) that the plant will meet the standard by the applicable date, or
 - (ii) that the first effect described in paragraph [\(4\)](#) will, on the applicable date, be the same or less significant than the second effect described in that paragraph.
- (4) For the purposes of paragraphs [\(2\)\(b\)](#) and [\(3\)\(b\)](#)—
- (a) the “first effect” is the overall effect on the habitats site associated with the catchment permitting area of nutrients in treated effluent discharged by all plants that discharge into the area;
 - (b) the “second effect” is the overall effect on the site of nutrients in treated effluent that would be discharged by all plants that discharge into the area if—
 - (i) the upgrade date that applied to nutrient significant plants that discharge into the area was the same as the applicable date,

Changes to legislation: *The Conservation of Habitats and Species Regulations 2017, Section 110B is up to date with all changes known to be in force on or before 15 July 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) View outstanding changes*

- (ii) the standard concentration (of nutrients) applied to those nutrient significant plants, and
 - (iii) those nutrient significant plants were (on that basis) meeting the nutrient pollution standard on the applicable date.
- (5) In deciding whether to make a direction under this regulation in relation to a plant and a standard, the Secretary of State may, in particular, have regard—
- (a) where the plant is a non-catchment permitting area plant, to when the plant can be expected to meet the standard;
 - (b) where the plant is a catchment permitting area plant, to when—
 - (i) the plant can be expected to meet the standard, and
 - (ii) the sewerage undertaker for the plant can be expected to be in compliance with conditions in the environmental permit for the plant imposed in pursuance of section 96G(3)(b) of the Water Industry Act 1991.
- (6) Before making or revoking a direction under this regulation, the Secretary of State must consult—
- (a) the Environment Agency,
 - (b) Natural England,
 - (c) the Water Services Regulation Authority,
 - (d) any plan-making authority who it appears to the Secretary of State would be affected by the direction or revocation,
 - (e) the sewerage undertaker whose sewerage system includes the plant, and
 - (f) any other persons that the Secretary of State considers appropriate.
- (7) A direction or revocation under this regulation—
- (a) is to be made in writing, and
 - (b) takes effect—
 - (i) on the day specified in the direction or revocation, or
 - (ii) if none is specified, on the day on which it is made.
- (8) As soon as practicable after making or revoking a direction under this regulation, the Secretary of State must—
- (a) notify—
 - (i) the Environment Agency,
 - (ii) Natural England,
 - (iii) every plan-making authority who appears to the Secretary of State to be affected by the direction or revocation, and
 - (iv) any other persons that the Secretary of State considers appropriate, and
 - (b) publish the direction or revocation.]

Textual Amendments

F1 Regs. 110A-110C inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\), s. 255\(6\), Sch. 15 para. 16](#) (with s. 247)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 41(2)(aa) inserted by [2023 c. 55 Sch. 8 para. 38\(5\)](#)
- reg. 108(6) inserted by [2023 c. 55 Sch. 8 para. 39\(6\)](#)
- reg. 111(2)(aa)(ab) substituted for reg. 111(2)(a)(b) by [2023 c. 55 Sch. 8 para. 40\(3\)\(a\)](#)