
STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 1

Introductory and General Provisions

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) (meaning of adjacent sea);
- (b) regulations 9 and 10 (duties relating to compliance with the Directive and wild bird habitat, respectively), 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)(**1**));
- (c) regulation 41(4) (national policy statement under Planning Act 2008(**2**));
- (d) 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);
- (e) in regulation 70 (grant of planning permission)—
 - (i) paragraph (1)(e)(ii) and (iii) (deemed grant of planning permission under section 57(2) and (2A) of the Town and Country Planning (Scotland) Act 1997(**3**) and section 5(1) of the Pipe-lines Act 1962(**4**));
 - (ii) paragraph 1(f) (variation of permission deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997), in so far as that paragraph relates to a direction under section 57(2ZA) of the Town and Country Planning (Scotland) Act 1997 (development with government authorisation)(**5**); and
 - (iii) paragraph (2) in so far as that paragraph relates to sub-paragraph (1)(e)(ii) or (iii), or (1)(f) of that regulation;
- (f) in regulation 71 (planning permission: duty to review), in paragraph (4)—
 - (i) sub-paragraph (b);

(1) 1998 c. 46. Schedule 5 was amended by the Scotland Act 2012 (c. 11), section 10; the Energy Act 2013 (c. 32), Schedule 12, paragraph 72; the Scotland Act 2016 (c. 11), sections 40, 45, 47 and 50(1), (6) and (7); and by S.I. 2000/3252, 2002/1629, 2004/3329, 2014/1559 and 2015/1379.

(2) 2008 c. 29.

(3) 1997 c. 8. Section 57(2) was substituted by the Growth and Infrastructure Act 2013 (c. 27), section 21(5).

(4) 1962 c. 58. Section 5(1) was amended by S.I. 1999/742.

(5) Section 57(2ZA) was inserted by the Growth and Infrastructure Act 2013, section 21(5).

- (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;
 - (iii) sub-paragraph (e) in so far as that sub-paragraph relates to a direction under section 57(2ZA) of the Town and Country Planning (Scotland) Act 1997;
- and paragraph (3) in so far as it relates to directions specified in those sub-paragraphs;
- (g) regulations 84, 85 and 86(2) (development consent under Planning Act 2008);
 - (h) Chapter 4 of Part 6 (electricity);
 - (i) Chapter 5 of Part 6 (pipe-lines);
 - (j) regulation 103 (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(6);
 - (k) regulation 110 (national policy statements under Planning Act 2008), and regulations 105, 107 and 109 in so far as they apply in relation to a national policy statement by virtue of regulation 110;
 - (l) regulation 112 (marine policy statement), in so far as it applies in relation to the exercise of any power by the Secretary of State, and regulations 105, 107 and 109 in so far as they apply to marine policy statements by virtue of regulation 112; and
 - (m) in Part 1 of Schedule 6 (consequential amendments to primary legislation)—
 - (i) sub-paragraphs (2) and (4) of paragraph 8 (amendment of section 123 of the Marine Act); and
 - (ii) sub-paragraph (1) of paragraph 8 in so far as it relates to sub-paragraph (2) and (4); and regulation 139 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 1 (citation and commencement), 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 (assessment of plans and projects); and
 - (c) regulations 134, 135(3) and 138 (advisory role of the Joint Nature Conservation Committee, advisory role of Scottish Natural Heritage, notices, respectively).
- (4) The following provisions also extend to Northern Ireland—
- (a) regulations 9 and 10, 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(7));
 - (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 103, 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

(6) 1985 c. 48. Part 2 was amended by the Environment Protection Act 1990 (c. 43), sections 146 and 147; the Petroleum Act 1998 (c. 17), Schedule 4, paragraph 20; the Food Standards Act 1999 (c. 28), Schedule 3, paragraph 16; the Energy Act 2008 (c. 32), Schedule 1, paragraph 2; the Marine Act, Schedule 8, paragraphs 2, 5 and 6; by S.I. 1999/1756; and by SSI 2011/202. It is prospectively amended by the Digital Economy Act 2017 (c. 30), Schedule 3, paragraphs 22 and 23, from a date to be appointed. By virtue of the amendments made by the Marine Act, Part 2 of the Food and Environment Protection Act 1985 only applies to the Scottish inshore region.

(7) 1998 c. 47.

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 112, in so far as it applies in relation to the exercise of any power by the Secretary of State, and regulations 105, 107 and 109 in so far as they apply to marine policy statements by virtue of regulation 112; and

(e) in Part 1 of Schedule 6—

(i) sub-paragraphs (2) and (4) of paragraph 8;

(ii) sub-paragraph (1) of paragraph 8 in so far as it relates to sub-paragraphs (2) and (4); and regulation 139 in so far as it relates to those provisions.

(5) This regulation and regulations 1, 3, 5, 7, 8, 134 and 138 also extend to Northern Ireland in so far as they have effect in relation to the provisions specified in paragraph (4).

(6) Chapter 1 of Part 6 also extends to Northern Ireland in so far as it has effect for the purposes of regulation 103, to the extent that that regulation extends to Northern Ireland by virtue of paragraph (4) (c).

(7) The amendment of any enactment by regulation 139 and Part 2 of Schedule 6 (consequential amendments to secondary legislation) has the same extent as the enactment amended.

(8) The revocation of any enactment by regulation 140 and Schedule 7 (revocations) has the same extent as the enactment revoked.