
STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 6

Assessment of plans and projects

CHAPTER 2

Planning

Development consent under Planning Act 2008

[^{F1}Regulations 85A to 85C: interpretation

85D.—(1) In regulations 85A to 85C and this regulation, the following terms have the meanings given by section 96L of the Water Industry Act 1991—

- “catchment permitting area”;
- “environmental permit”;
- “habitats site”;
- “nitrogen significant plant”;
- “nitrogen nutrient pollution standard”;
- “nutrient pollution standard”;
- “nutrient significant plant”;
- “phosphorus significant plant”;
- “phosphorus nutrient pollution standard”;
- “plant”;
- “sensitive catchment area”;
- “sewerage system”, in relation to a sewerage undertaker;
- “standard concentration”;
- “treated effluent”;
- “upgrade date”.

(2) In regulations 85A to 85C and this regulation—

“catchment permitting area plant” means a nutrient significant plant that discharges (or will discharge) treated effluent into a catchment permitting area;

“non-catchment permitting area plant” means a nutrient significant plant that discharges (or will discharge) treated effluent into a sensitive catchment area other than a catchment permitting area.

Changes to legislation: The Conservation of Habitats and Species Regulations 2017, Section 85D is up to date with all changes known to be in force on or before 03 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

- (3) For the purposes of regulations 85A and 85B, “outperformance” by a plant, which is a non-catchment permitting area plant and in relation to a nutrient pollution standard, occurs where—
- (a) the plant meets the standard before the upgrade date, or
 - (b) the total nitrogen concentration (in the case of a nitrogen significant plant), or total phosphorus concentration (in the case of a phosphorus significant plant), in treated effluent that it discharges is less than the concentration specified in section 96F(1)(a)(i) or (2)(a)(i), under section 96C(4)(e) or 96D(5) or by virtue of regulations made under section 96D(11) (as the case may be) of the Water Industry Act 1991 that applies to the plant.
- (4) For the purposes of regulations 85A and 85B, the “applicable date”, in relation to a catchment permitting area, is to be determined in accordance with section 96G(6)(a) of the Water Industry Act 1991.
- (5) For the purposes of regulation 85C(4)—
- (a) a habitats site is “associated” with a catchment permitting area if water released into the area would drain into the site;
 - (b) “nutrients”—
 - (i) in relation to an area designated under section 96C(1) of the Water Industry Act 1991, means nutrients comprising nitrogen or compounds of nitrogen;
 - (ii) in relation to an area designated under section 96C(2) of that Act, means nutrients comprising phosphorus or compounds of phosphorus.]

Textual Amendments

- F1** Regs. 85A-85D inserted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(6), Sch. 15 para. 11 (with s. 247)

Changes to legislation:

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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\(3\)\(a\)](#)