
STATUTORY INSTRUMENTS

2017 No. 1013

**The Conservation of Offshore Marine
Habitats and Species Regulations 2017**

PART 2

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Plans and projects

Protection of European offshore marine sites and European sites

28.—(1) Before deciding to undertake, or give any consent, permission or other authorisation for, a relevant plan or project, a competent authority must make an appropriate assessment of the implications of the plan or project for the site in view of that site's conservation objectives.

(2) In paragraph (1), a “relevant plan or project” is a plan or project which—

- (a) is to be carried out on or in any part of the waters or on or in any part of the seabed or subsoil comprising the offshore marine area, or on or in relation to an offshore marine installation;
- (b) is likely to have a significant effect on a European offshore marine site or a European site (either alone or in combination with other plans or projects); and
- (c) is not directly connected with or necessary to the management of the site.

(3) A person applying to a competent authority for any consent, permission or other authorisation for a plan or project in the offshore marine area must provide such information as the competent authority may reasonably require—

- (a) to enable it to determine whether an assessment under paragraph (1) is required; or
- (b) for the purposes of an assessment under paragraph (1).

(4) The competent authority must for the purposes of the assessment—

- (a) where it relates to a European offshore marine site, consult the Joint Committee;
- (b) where it relates to a European site in England, consult Natural England;
- (c) where it relates to a European site in Wales, consult the Natural Resources Body for Wales;
- (d) where it relates to a European site in Scotland, consult Scottish Natural Heritage;
- (e) where it relates to a European site in Northern Ireland, consult the DAERA; and
- (f) if it considers it appropriate, take the opinion of the general public and if it does so, take such steps for that purpose as it considers appropriate.

(5) In the light of the conclusions of the assessment, and subject to regulation 29, the competent authority may agree to the plan or project only if it has ascertained that it will not adversely affect the integrity of the European offshore marine site or European site (as the case may be).

(6) In considering whether a plan or project will adversely affect the integrity of a site, the competent authority must have regard to the manner in which it is proposed to be carried out and to any conditions or restrictions subject to which the competent authority proposes that the consent, permission or other authorisation should be given.

(7) This regulation does not apply in relation to—

^{F1}(a)

^{F2}(b)

(c) the granting by the Secretary of State [^{F3}or the agreement to the grant] of any Petroleum Act approval, Petroleum Act authorisation, Petroleum or Energy Act consent, Petroleum Act licence, or Energy Act licence.

(8) Where a plan or project requires an appropriate assessment both under this regulation and under the Conservation Regulations, the assessment so far as relating to that part of it that is to be carried out in the offshore marine area need not identify the extent to which the effects of the plan or project are specifically attributable to that part, provided that an assessment made for the purposes of this regulation and the Conservation Regulations assesses the effects of the plan or project as a whole.

(9) In paragraph (8) “the Conservation Regulations” means the 1994 Regulations or the 2017 Regulations (as the case may be).

(10) In this regulation—

“England” includes so much of the internal waters and territorial sea of the United Kingdom as are not part of Northern Ireland, Scotland or Wales; and

“Northern Ireland” has the same meaning as in the Northern Ireland Act 1998 ^{M1}.

Textual Amendments

- F1** Reg. 28(7)(a) omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **49**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 28(7)(b) omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **49**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 28(7) inserted (31.12.2020 immediately before 11 p.m.) by [The Offshore Oil and Gas Exploration, Production, Unloading and Storage \(Environmental Impact Assessment\) Regulations 2020 \(S.I. 2020/1497\)](#), reg. 1(1), **Sch. 7 para. 6(3)** (with reg. 1(2)-(6), 20)

Modifications etc. (not altering text)

- C1** Reg. 28 power to disapply or modify conferred (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 293(4)(5), 334(3)(j)** (with s. 293(6))

Marginal Citations

- M1** 1998 c. 47.

Changes to legislation:

There are currently no known outstanding effects for the The Conservation of Offshore Marine Habitats and Species Regulations 2017, Section 28.