
STATUTORY INSTRUMENTS

2017 No. 1013

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

PART 5

LICENCES

Power to grant licences

55.—(1) Regulations 40, 42 and 43 do not apply to anything done under and in accordance with the terms of a licence granted by the relevant administration under this paragraph, and—

- (a) in the interests of preserving public health, public safety or air safety;
- (b) for the purpose of preventing serious damage to fisheries;
- (c) for the purpose of protecting flora or fauna;
- (d) for scientific or educational purposes; or
- (e) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds (including any breeding necessary for those purposes).

(2) The relevant administration must not grant a licence for any purpose mentioned in paragraph (1) unless satisfied that, as regards that purpose, there is no other satisfactory solution.

(3) The relevant administration may grant a licence to permit the capture, keeping or other judicious use of certain wild birds notwithstanding that the licence is not for a purpose within paragraph (1).

(4) The relevant administration must not grant a licence under paragraph (3) unless satisfied that—

- (a) there is no other satisfactory solution than granting the licence; and
- (b) the grant of the licence would be consistent with the restrictions in Article 9(1)(c) of the Wild Birds Directive (namely “under strictly supervised conditions and on a selective basis” and in respect of a small number of birds).

(5) Regulations 40, 42 and 43 do not apply to anything done under and in accordance with the terms of a licence granted by the relevant administration under paragraph (3).

(6) Regulations 45, 47 and 49 do not apply to anything done under and in accordance with the terms of a licence granted by the relevant administration under this paragraph, and—

- (a) in the interests of public health or public safety or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (b) for the purpose of preventing serious damage to fisheries;
- (c) for the purpose of preventing serious damage to property,
- (d) in the interest of protecting wild flora or fauna or conserving natural habitats;

- (e) for the purpose of preventing the spread of disease;
 - (f) for scientific or educational purposes; or
 - (g) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild animals or wild plants (including any breeding or artificial propagation necessary for those purposes).
- (7) The relevant administration must not grant a licence under paragraph (6) unless satisfied—
- (a) that there is no satisfactory alternative; and
 - (b) that the action authorised will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.
- (8) The relevant administration may grant a licence to permit the taking or keeping of certain specimens of any of the species or subspecies listed in Annex II(b) (other than any bryophyte) or Annex IV to the Habitats Directive notwithstanding that the licence is not for a purpose within paragraph (6).
- (9) The relevant administration must not grant a licence under paragraph (8) unless satisfied—
- (a) that the grant of the licence would be consistent with the restrictions in Article 16(1)(e) of the Habitats Directive (namely “under strictly supervised conditions, on a selective basis and to a limited extent” and “in limited numbers”);
 - (b) that there is no satisfactory alternative; and
 - (c) that the action authorised will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.
- (10) Regulations 45, 47 and 49 do not apply to anything done under and in accordance with the terms of a licence granted by the relevant administration under paragraph (8).
- (11) Regulation 54 does not apply to anything done under and in accordance with the terms of a licence granted by the relevant administration under this paragraph.
- (12) The relevant administration must not grant a licence under paragraph (11) unless satisfied that the action authorised by the licence will not prejudice natural habitats within their natural range or wild native fauna or flora.
- (13) The relevant administration must not grant a licence for any purpose under this regulation unless it has been advised by the Joint Committee as to the circumstances in which, in the Joint Committee’s opinion, licences should be granted for the purpose in question.
- (14) The relevant administration may charge for a licence under this regulation such reasonable sum as it may determine.
- (15) In this regulation “the relevant administration” means—
- (a) in relation to the licensing of anything done—
 - (i) in any part of the waters comprising the offshore marine area outside the Scottish offshore region and the Welsh offshore region, or
 - (ii) in the course of carrying on any activity specified in paragraph (16) in any part of the offshore marine area,the Secretary of State; and
 - (b) in relation to the licensing of anything done in the course of carrying out any activity other than one specified in paragraph (16)—
 - (i) in the Scottish offshore region, the Scottish Ministers; and
 - (ii) in the Welsh offshore region, the Welsh Ministers.
- (16) The activities specified in this paragraph are—

- (a) an activity for which a licence under section 3 of the Petroleum Act 1998⁽¹⁾ is required or which is permitted by section 2 of the Petroleum (Production) Act 1934⁽²⁾ (licences to search for and get petroleum);
- (b) constructing or maintaining a pipeline in respect of any part of which an authorisation (within the meaning of Part 3 of the Petroleum Act 1998) is in force;
- (c) establishing or maintaining an offshore installation (within the meaning of Part 4 of the Petroleum Act 1998)⁽³⁾;
- (d) taking any installation abandonment measures;
- (e) an activity for which a licence under section 4 or 18 of the Energy Act 2008⁽⁴⁾ is required (gas unloading, storage and recovery, and carbon dioxide storage);
- (f) any activity other than those specified in sub-paragraphs (a) to (e), relating to a matter which is a reserved matter by virtue of section D2 (oil and gas) in Part 2 of Schedule 5 to the Scotland Act 1998⁽⁵⁾;
- (g) any activity relating to a matter which is a reserved matter by virtue of paragraph 9 of Part 1 of that Schedule (defence); and
- (h) any activity relating to a matter which is a reserved matter by virtue of section E3 (marine transport) in Part 2 of that Schedule.

(17) For the purposes of paragraph (15)(a), a thing is to be treated as done in a part of the waters referred to in paragraph (i) of that paragraph if it is done on any ship in, or any British aircraft flying over, any such part, or on any aircraft flying over an offshore marine installation in any such part, or on or under any such offshore marine installation.

(18) In relation to an application for a licence received by the Secretary of State before these Regulations come into force, paragraph (15)(b)(ii) applies as if for “the Welsh Ministers” there were substituted “the Secretary of State”.

(1) 1998 c. 17. Section 3 was amended by the Scotland Act 2016, section 48; and by S.I. 2016/898.

(2) 1934 c. 36. The whole of the Petroleum (Production) Act 1934 was repealed by Part 1 of Schedule 5 to the Petroleum Act 1998 (c. 17) subject to savings in respect of licences in force immediately before the coming into force of that Act (paragraph 4 of Schedule 3).

(3) Section 44, which defines “offshore installation”, was amended by the Energy Act 2008 (c. 32), Schedule 1, paragraph 11.

(4) 2008 c. 32. Section 4 was amended by the Energy Act 2016 (c. 20), Schedule 1, paragraphs 41 and 42; and by S.I. 2017/524. Section 18 was amended by the Energy Act 2016 (c. 20), Schedule 1, paragraphs 41 and 53; and by S.I. 2011/2453 and 2017/524; and by S.S.I. 2011/224.

(5) 1998 c. 46.