Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

STATUTORY INSTRUMENTS

2010 No. 490

WILDLIFE COUNTRYSIDE

The Conservation of Habitats and Species Regulations 2010

Made - - - 1st March 2010
Laid before Parliament 8th March 2010
Laid before the National Assembly for Wales - - 8th March 2010
Coming into force in accordance with regulation 1(2), (3) and (4)

The Secretary of State is designated F1 for the purposes of section 2(2) of the European Communities Act 1972 F2 in relation to the environment, and the Welsh Ministers are designated F3 for those purposes in relation to the conservation of natural habitats and of wild fauna and flora.

In exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972 and paragraph 1A of Schedule 2 F4 to that Act, and by section 307(3) and (5) of the Criminal Justice Act 2003 F5, the Secretary of State and the Welsh Ministers make these Regulations, the Welsh Ministers in relation to Wales, to the extent that they are designated to do so, and the Secretary of State in relation to every other aspect.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State and to the Welsh Ministers that it is expedient for any reference in these Regulations to an Annex to Council Directive 92/43/EEC (on the conservation of natural habitats and of wild fauna and flora F6) to be construed as a reference to that Annex as amended from time to time.

F1 S.I. 2008/301.
F2 1972 c. 68.
F3 S.I. 2002/248. The designation is subject to the exceptions set out in Schedule 2 to that Order. The functions conferred on the National Assembly for Wales by means of that Order are now exercisable by the Welsh Ministers, by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
F4 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).
F5 2003 c. 44.
PART 1
INTRODUCTORY AND GENERAL PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the Conservation of Habitats and Species Regulations 2010.

(2) Except as provided by paragraphs (3) and (4), these Regulations come into force on 1st April 2010.

(3) In regulation 6 (relevant authorities in relation to marine areas and European marine sites), paragraph (i) (inshore fisheries and conservation authority) comes into force immediately after section 153 of the Marine Act 2009 c. 23 (management of inshore fisheries) comes into force.

(4) The following provisions come into force immediately after section 134 of the Marine Act (orders for protection of marine conservation zones in Wales) comes into force (so far as not already brought into force)—

(a) paragraph (2) of regulation 38 (European marine sites: byelaws and orders), and paragraphs (3), (4) and (5) of that regulation in so far as they relate to paragraph (2); and

(b) paragraph (3) of regulation 133 (revocations), in so far as that paragraph relates to the revocation, as regards Wales, of—

(i) the entry “sections 36 and 37 of the Wildlife and Countryside Act 1981 (marine nature reserves),” in paragraph (3) of regulation 3 (implementation of Directive) of the 1994 Regulations S.I. 1994/2716, and

(ii) regulation 36 (byelaws for protection of European marine site) of the 1994 Regulations.

F7 2009 c. 23.
F8 S.I. 1994/2716.

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) (interpretation in relation to adjacent sea);

(b) regulations 9 (duties relating to compliance with the Directives) and 9A (duties in relation to wild bird habitat), 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));

(c) regulation 39(4) (statement under Planning Act 2008 F10);

(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);

(d) in regulation 68 (grant of planning permission)—
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

(i) paragraph (1)(e)(ii) and (iii) (deemed grant of planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 F12 and section 5(1) of the Pipe-lines Act 1962 F13), and

(ii) paragraph (2) in so far as that paragraph relates to paragraph (1)(e)(ii) and (iii) of that regulation;

(e) in regulation 69 (planning permission: duty to review), in paragraph (3)—

(i) sub-paragraph (b) (direction under section 5(1) of the Pipe-lines Act 1962), and

(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;

(f) regulations 81, 82 and 83(2) (development consent under Planning Act 2008);

(g) Chapter 4 of Part 6 (electricity);

(h) Chapter 5 of Part 6 (pipe-lines);

3

3
(c) regulation 100, 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 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 107A, in so far as it applies in relation to the exercise of any power by the Secretary of State, and regulations 102, 103 and 105 in so far as they apply to marine policy statements by virtue of regulation 107A; and

(e) in Schedule 6—
   (i) sub-paragraphs (3) and (5) of paragraph 5, and sub-paragraph (1) of paragraph 5 in so far as it relates to those sub-paragraphs, and
   (ii) paragraph 7, and regulation 132 in so far as it relates to those provisions.

(4A) This regulation and regulations 1, 3, 5, 7, 8, 128 and 131 also extend to Northern Ireland in so far as they have effect in relation to the provisions specified in paragraph (4).

(4B) Chapter 1 of Part 6 also extends to Northern Ireland in so far as it has effect in relation to the provision specified in paragraph (4)(c).

(5) The revocation of an enactment by any provision of regulation 133 (revocations) or Schedule 7 (revocations) has the same extent as the enactment revoked, except that the following provisions do not extend to Scotland—

(a) paragraph (3) of that regulation, and paragraph (1) of that regulation so far as it relates to paragraph (3); and

(b) paragraph (4)(b) of that regulation and Part 2 of that Schedule.

Interpretation

3.—(1) In these Regulations—
“the 1949 Act” means the National Parks and Access to the Countryside Act 1949 F21;
“the 1994 Regulations” means the Conservation (Natural Habitats, &c.) Regulations 1994 F22;
“the 2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 F23;

[ F24 the appropriate authority” means the Secretary of State in relation to England and the Welsh Ministers in relation to Wales (but see modifications of the meaning of that term in regulations 9(4) and 9A(12)(a), and modifications of references to that term in regulations 67(1)(b), (3)(c), (5) and (8)(b), 94(6), 106(3)(b) and 107A(3)(c)), and any person exercising any function of the Secretary of State or the Welsh Ministers;]
“competent authority” is to be construed in accordance with regulation 7 (competent authorities);
“conservation” has the meaning given by Article 1(a) of the Habitats Directive;
“conservation status” and “favourable conservation status” have the meanings given by paragraphs (e) (in relation to habitats) and (i) (in relation to species) of Article 1 of the Habitats Directive;
“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” is to be construed accordingly;
“the devolved administrations’ means the Welsh Ministers, the Department of the Environment in Northern Ireland and the Scottish Ministers;
[ F25 the Directives” means the Habitats Directive and the new Wild Birds Directive;]
“enactment” includes a local enactment and an enactment contained in subordinate legislation, and “subordinate legislation” has the same meaning as in the Interpretation Act 1978 F26 (see section 21 of that Act);
“English inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to England;
“European marine site” has the meaning given by paragraph (4) of regulation 8 (European sites and European marine sites);
“European offshore marine site” means a European offshore marine site within the meaning of regulation 15 of the 2007 Regulations (meaning of European offshore marine site);
“European site” has the meaning given by regulation 8 (European sites and European marine sites);
“functions” includes powers and duties;
“land” includes land covered by water;
“local planning authority” means, except as otherwise provided, any authority having any function as a local planning authority or mineral planning authority under the TCPA 1990 F27;
“management agreement” means an agreement made, or having effect as if made, under regulation 16 (management agreements);
“the Marine Act” means the Marine and Coastal Access Act 2009 F28;
“marine area” means (subject to [ F29 regulations 9(5) and 9A(12)(b)]) the English inshore region and the Welsh inshore region;
“Natura 2000” means the European network of special areas of conservation, and special protection areas under the old Wild Birds Directive or the new Wild Birds Directive, provided for by Article 3(1) of the Habitats Directive;

“natural habitats” has the meaning given by Article 1(b) of the Habitats Directive;

“nature conservation body” and “appropriate nature conservation body” have the meaning given by regulation 5 (nature conservation bodies);


[Northern Ireland inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Northern Ireland;]

“officer”—

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, and

(b) in relation to an unincorporated body, means any member of its governing body or a chief executive, manager or other similar officer of the body;


“priority natural habitat types” has the meaning given by Article 1(d) of the Habitats Directive;

“priority species” has the meaning given by Article 1(h) of the Habitats Directive;

“the register” means the register of European sites provided for by regulation 13 (register of European sites);

“relevant authorities”, in relation to marine areas and European marine sites, is to be construed in accordance with regulation 6 (relevant authorities in relation to marine areas and European marine sites);

“relevant licensing body” has the meaning given by regulation 56 (relevant licensing body);

“research” includes inquiries and investigations;

“restricted English inshore region” means so much of the English inshore region as lies to seaward of mean low water mark;

“sample” means a sample of blood, tissue or other biological material;

“Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland;

“sea” includes—

(a) any area submerged at mean high water spring tide, and

(b) the waters of every estuary, river or channel, so far as the tide flows at mean high water spring tide,

and any reference to an area of sea includes the bed and subsoil of the sea within that area;

“ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which permanently rests on, or is permanently attached to, the seabed;

“site” has the meaning given by Article 1(j) of the Habitats Directive;

“site of Community importance” has the meaning given by Article 1(k) of the Habitats Directive;

“special area of conservation” has the meaning given by Article 1(l) of the Habitats Directive;

“specimen”—
(a) for the purposes of Part 7 (enforcement), means any animal or plant, or any part of, or anything derived from, an animal or plant, and

(b) for all other purposes has the meaning given by Article 1(m) of the Habitats Directive;

“statutory undertaker” means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the TCPA 1990 (statutory undertakers);

“the TCPA 1990” means the Town and Country Planning Act 1990 F33;

“the WCA 1981” means the Wildlife and Countryside Act 1981 F34, F35...

“Welsh inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Wales;

“wild bird” means a bird which is—

(a) a member of a species referred to in Article 1 of the new Wild Birds Directive, and

(b) wild.

(2) The area of sea referred to in sub-paragraph (a) of the definition of “sea” in paragraph (1) includes waters in any area—

(a) which is closed, whether permanently or intermittently, by a lock or other artificial means against the regular action of the tide, but

(b) into and from which seawater is caused or permitted to flow, whether continuously or from time to time.

(3) Terms not defined in paragraph (1) which are used in these Regulations and also in the Habitats Directive have the meaning they bear in that Directive.

(4) In these Regulations, any reference to an Annex to the Habitats Directive is a reference to that Annex to that Directive as amended from time to time.

(5) Subject to regulation 83(1)(which relates to the construction of provisions of Chapter 2 of Part 6 as one with the TCPA 1990), these Regulations apply to the Isles of Scilly as if the Isles were a county and the Council of the Isles were a county council.

(6) Except as provided by paragraph (7), for the purposes of these Regulations—

(a) any reference to England includes the English inshore region;

(b) any reference to Wales includes the Welsh inshore region;

(c) any reference to Scotland includes the Scottish inshore region; F38...

(d) any reference to Great Britain includes the English inshore region, the Welsh inshore region and the Scottish inshore region; F39...

(e) any reference to Northern Ireland includes the Northern Ireland inshore region; and

(f) any reference to the United Kingdom includes its internal waters and the English inshore region, the Welsh inshore region, the Scottish inshore region and the Northern Ireland inshore region.

(7) Paragraph (6) does not apply for the purposes of—

(a) in paragraph (1), the definitions of “English inshore region”, “Welsh inshore region”, “Scottish inshore region” and “Northern Ireland inshore region”;

(b) paragraph (8); or

(c) regulation 4(2)(a)(ii).

(8) For the purposes of these Regulations—
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

(a) the territorial sea adjacent to England is so much of the territorial sea adjacent to the United Kingdom as is not the territorial sea adjacent to Wales, the territorial sea adjacent to Scotland or the territorial sea adjacent to Northern Ireland;

(b) the territorial sea adjacent to Wales is to be construed in accordance with article 6 of and Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 1999 (the sea adjacent to Wales);...

(c) the territorial sea adjacent to Scotland is to be construed in accordance with article 3 of and Schedule 1 to the Scottish Adjacent Waters Boundaries Order 1999; and

(d) “the territorial sea adjacent to Northern Ireland” is to be construed in accordance with article 2 of the Adjacent Waters Boundaries (Northern Ireland) Order 2002.

(9) Nothing in these Regulations is to be construed as excluding the application of the provisions of Part 1 of the WCA 1981 (wildlife) in relation to animals or plants also protected under Part 3, 4 or 5 of these Regulations.

F21 1949 c. 97.
F26 1978 c. 30.
F27 1990 c. 8.
F28 2009 c. 23.
F31 Words in reg. 3(1) inserted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(d)
F32 OJ No L 103, 25.4.1979, p. 1; the old Wild Birds Directive was repealed by the new Wild Birds Directive.
F33 1990 c. 8.
F34 1981 c. 69.
F37 Words in reg. 3(1) inserted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(2)(g)
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

F41 Words in reg. 3(7)(a) substituted (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(4)(a)
F43 Reg. 3(7)(b)(c) substituted for reg. 3(7)(b) (16.8.2012) by The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 4(4)(c)
F46 S.I. 1999/672. These provisions continue to have effect as if made under section 158(3) of the Government of Wales Act 2006 (c. 32), by virtue of paragraph 26(3) of Schedule 11 to that Act.
F50 S.I. 1999/1126.

Plans or projects relating to offshore marine area or offshore marine installations

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Nature conservation bodies

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Relevant authorities in relation to marine areas and European marine sites

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Competent authorities

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7
European sites and European marine sites

F52.8. .................................

F52  Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Duties relating to compliance with the Directives

F52.9. .................................

F52  Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Duties in relation to wild bird habitat

F52.9A. ...............................

F52  Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Review by appropriate nature conservation body

F52.9B. ...............................

F52  Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

PART 2

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

European sites

Selection of sites eligible for identification as of Community importance

F52.10. ...............................

F52  Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Designation of special areas of conservation

F52.11. ...............................

F52  Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7
## Consultation as to inclusion of site omitted from the list

**F52 12.** .................................

| **F52** | Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7 |

## Classification of sites as special protection areas

**F52 12A.** .................................

| **F52** | Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7 |

## Notification of a proposal to classify a special protection area

**F52 12B.** .................................

| **F52** | Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7 |

### Register of European sites

## Register of European sites

**F52 13.** .................................

| **F52** | Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7 |

## Notification of changes to the register

**F52 14.** .................................

| **F52** | Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7 |

## Notice to landowners and other bodies

**F52 15.** .................................

| **F52** | Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7 |
Management agreements

F52 16. ......................................................

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Existing agreements

F52 17. ......................................................

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Certain payments under management agreements

F52 18. ......................................................

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Control of potentially damaging operations

Notification of potentially damaging operations

F52 19. ......................................................

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Restriction on carrying out operations specified in notification

F52 20. ......................................................

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Assessment of implications for European sites

F52 21. ......................................................

F52 Regs. 4-21 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7
### Notification of appropriate authority in case of risk


### Sites of special scientific interest which become European sites: duty to review

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

### Farm capital grants

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

### Special nature conservation orders

#### Power to make special nature conservation order

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

#### Restriction on carrying out operations specified in order

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

#### Assessment of implications for European sites after service of stop notice

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

#### Compensation for effect of stop notice

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

Restoration orders

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Byelaws

Power to make byelaws

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Byelaws: supplementary provisions

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Compensation for effect of byelaws

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Continuation in force of existing byelaws

F54 Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Powers of compulsory acquisition

Powers of compulsory acquisition
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

European marine sites

Marking of site and advice by nature conservation bodies

European marine sites: byelaws and orders

Nature conservation policy in planning contexts
## PART 3

### PROTECTION OF SPECIES

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#### Protection of plants

#### Protection of plants

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Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

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PART 4
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Surveillance and monitoring

Protection of certain animals and plants from exploitation

Monitoring of incidental capture and killing
Protection from incidental capture and killing

**F54 S1.**

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**F54**  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

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Introduction of new species

Introduction of new species from ships

**F54 S2.**

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**F54**  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

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PART 5

LICENCES

Grant of licences

Licences for certain activities relating to animals or plants

**F54 S3.**

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**F54**  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

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Licences for the introduction of new species

**F54 S4.**

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**F54**  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

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Licences: general provisions

**F54 S5.**

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**F54**  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7
### Relevant licensing body

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<td>Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7</td>
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#### Offence of breaching licence condition

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**PART 6**

**ASSESSMENT OF PLANS AND PROJECTS**

**CHAPTER 1**

**GENERAL PROVISIONS**

### Interpretation of Part 6

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### Application of provisions of Chapter 1

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</table>
General provisions for protection of European sites and European offshore marine sites

Assessment of implications for European sites and European offshore marine sites

61. ............................

F54  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Considerations of overriding public interest

62. ............................

F54  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Review of existing decisions and consents

63. ............................

F54  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Consideration on review

64. ............................

F54  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Co-ordination where more than one competent authority involved

65. ............................

F54  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Compensatory measures

66. ............................

F54  Regs. 23-72 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Modifications of regulations 61 to 66 in certain cases

67. ............................
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PLANNING

Planning permission

Grant of planning permission

Planning permission: duty to review

Planning permission: consideration on review

Planning permission: effect of orders made on review

Planning permission: supplementary provisions as to compensation
General development orders

[F5573.—(1) It is a condition of any planning permission granted by a general development order, whether made before or after 1st April 2010, that development which—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of the site,

must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 75 (approval of local planning authority).

(2) It is a condition of any planning permission granted by a general development order made before 1st April 2010 that development which—

(a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects),
(b) is not directly connected with or necessary to the management of the site, and
(c) was begun but not completed before that date,

must not be continued until the developer has received written notification of the approval of the local planning authority under regulation 75.

(3) Nothing in this regulation affects anything done pursuant to any such planning permission before 1st April 2010.]

Modifications etc. (not altering text)

C1 Reg. 73 excluded (1.9.2010) by The Port of Bristol (Deep Sea Container Terminal) Harbour Revision Order 2010 (S.I. 2010/2020), art. 1(1), Sch. 4 para. 2 (with Sch. 4 para. 3)
C2 Reg. 73 excluded (7.4.2011) by The Associated British Ports (Grimsby Riverside Ro-Ro Terminal) Harbour Revision Order 2011 (S.I. 2011/950), arts. 1, 20(1)(2)
C3 Reg. 73 excluded (16.8.2012) by The Hinkley Point Harbour Empowerment Order 2012 (S.I. 2012/1914), arts. 1(1), 36 (with arts. 34, 35, 37, 40)
C4 Reg. 73 excluded (cond.) (3.12.2014) by The Associated British Ports (Fisher Fleet Quay) Harbour Revision Order 2014 (S.I. 2014/2933), arts. 1, 16 (with art. 14)
C5 Reg. 73 excluded (E.W.S.) (10.7.2015) by The Poole Harbour (Works) Revision Order 2015 (S.I. 2015/1390), arts. 1(1), 19(1) (with arts. 16-18, 19(2))

General development orders: opinion of appropriate nature conservation body

[F5674. ..........................]

F56 Regs. 74-76 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

General development orders: approval of local planning authority

[F5675. ..........................]
General development orders: supplementary

Special development orders

Special development orders

(1) A special development order may not grant planning permission for development which—
   (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects); and
   (b) is not directly connected with or necessary to the management of the site.

(2) A special development order made before 1st April 2010 is not to be taken to grant planning permission for development of a kind mentioned in paragraph (1), whether or not the development authorised by the permission has been begun.

(3) Nothing in this regulation affects anything done pursuant to a special development order before 1st April 2010.

(4) A special development order may not grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).

Local development orders

Local development orders

A local development order may not grant planning permission for development which—
   (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and
   (b) is not directly connected with or necessary to the management of the site.
Neighbourhood development orders

Reg. 78A and cross-heading inserted (6.4.2012) by The Neighbourhood Planning (General) Regulations 2012 (S.I. 2012/637), reg. 1, Sch. 2 para. 3

Neighbourhood development orders

A neighbourhood development order may not grant planning permission for development which—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and

(b) is not directly connected with or necessary to the management of the site.

Reg. 78A revoked in part (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Simplified planning zones and enterprise zones

Simplified planning zones

Reg. 79—(1) Where a simplified planning zone scheme is adopted or approved, that scheme is not to be taken to grant planning permission for development which—

(a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects); and

(b) is not directly connected with or necessary to the management of the site.

(2) A simplified planning zone scheme in force before 1st April 2010 is not to be taken to grant planning permission for development of a kind mentioned in paragraph (1), whether or not the development authorised by the permission has been begun.

(3) Where a simplified planning zone scheme is adopted or approved, that scheme is not to be taken to grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).

(4) A simplified planning zone scheme adopted or approved on or after 21st August 2007 and before 1st April 2010 is not to be taken to grant planning permission for development of a kind mentioned in paragraph (3).

Reg. 79 revoked in part (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Enterprise zones

Reg. 80—(1) Where an order designating an enterprise zone is made, or where a modified enterprise zone scheme is approved, that order or scheme is not to be taken to grant planning permission for development which—

(a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects); and

(b) is not directly connected with or necessary to the management of the site.
(2) Where such an order was made or such a scheme was approved before 1st April 2010, that order or scheme is not to be taken to grant planning permission for development of a kind mentioned in paragraph (1), whether or not the development authorised by the permission has been begun.

(3) Where an order designating an enterprise zone is made, or where a modified enterprise zone scheme is approved, that order or scheme is not to be taken to grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).

(4) Where such an order was made or such a scheme was approved on or after 21st August 2007 and before 1st April 2010, that order or scheme is not to be taken to grant planning permission for development of a kind mentioned in paragraph (3).]

F62 Reg. 80 revoked in part (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Development consent under Planning Act 2008

Grant of development consent

F63 81. ......................................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Development consent: review

F63 82. ......................................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Interpretation of Chapter 2

F63 83. ......................................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

CHAPTER 3
HIGHWAYS AND ROADS

Construction or improvement of highways or roads

F63 84. ......................................................
Cycle tracks and other ancillary works

**F63** 85. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**F63** 86. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**F63** 87. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**F63** 88. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**F63** 89. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**CHAPTER 4**

**ELECTRICITY**

Consents under Electricity Act 1989: application of assessment and review provisions

**F63** 86. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Consents under Electricity Act 1989: procedure on review

**F63** 87. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Consents under Electricity Act 1989: effect of review

**F63** 88. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Consents under Electricity Act 1989: compensation

**F63** 89. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**CHAPTER 5**

**PIPE-LINES**

Authorisations under Pipe-lines Act 1962: application of assessment and review provisions

**F63** 90. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Authorisations under Pipe-lines Act 1962: procedure on review

F63 91. .................................................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Authorisations under Pipe-lines Act 1962: effect of review

F63 92. .................................................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Authorisations under Pipe-lines Act 1962: compensation

F63 93. .................................................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

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TRANSPORT AND WORKS

Orders under Transport and Works Act 1992: application of assessment and review provisions

F63 94. .................................................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Orders under Transport and Works Act 1992: procedure on review

F63 95. .................................................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Orders under Transport and Works Act 1992: effect of review

F63 96. .................................................................
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

REGS. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

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REGS 98. 

Abstraction and works authorised under water legislation
REGS 99. 

Marine works
REGS 100. 

Derogations in relation to nitrate pollution prevention legislation
REGS 101. 

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Land use plans

Assessment of implications for European sites and European offshore marine sites

F63102. .................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Assessment of implications for European site: neighbourhood development plans

F63102A. .................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Considerations of overriding public interest

F63103. .................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Co-ordination for land use plan prepared by more than one authority

F63104. .................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Compensatory measures

F63105. .................................

F63 Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Planning Act 2008

National policy statements

F63106. .................................
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

Interpretation of Chapter 8

Marine policy statement

Marine plan

PART 7
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Wildlife inspectors


Powers of entry

Powers of entry: constables

Powers of entry: wildlife inspectors

Powers of entry: other authorised persons

Powers of search, etc.

Constables' powers of search, etc.

Powers in relation to specimens and samples

Powers in relation to samples: constables

Powers in relation to specimens and samples: wildlife inspectors
Restrictions on taking samples from live specimens

Attempts and possession of means of committing offence

Obstruction of persons exercising powers of entry under regulation 111

Obstruction in connection with constables’ powers to take samples

Offences in connection with wildlife inspectors’ enforcement powers

Codes of practice
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

Miscellaneous

Advice and assistance from nature conservation bodies

F63 121. ..............................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Forfeiture

F63 122. ..............................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Proceedings for offences: venue and time limits

F63 123. ..............................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Offences by bodies corporate etc.

F63 124. ..............................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Application of criminal offences to the Crown

F63 125. ..............................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Interpretation of Part 7

F63 126. ..............................................

F63  Regs. 81-131 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7
### PART 8

**FINAL PROVISIONS**

#### Powers of drainage authorities

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#### Advisory role of the Joint Nature Conservation Committee

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#### Advisory role of Natural England, the Natural Resources Body for Wales and Scottish Natural Heritage

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#### Research

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#### Local inquiries

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Amendments of legislation

132. Schedule 6 (which makes amendments to legislation) has effect.

Revocations

133. Schedule 6 has effect.

Revocations

Regs. 133-135 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Transitional provisions

134. Schedule 6 has effect.

Transitional provisions

Regs. 133-135 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Review

135. Schedule 6 has effect.

Review

Regs. 133-135 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

Department for Environment, Food and Rural Affairs

Huw Irranca-Davies
Parliamentary Under Secretary of State

Jane Davidson
Minister for Environment, Sustainability and Housing

One of the Welsh Ministers
**Changes to legislation:** There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

### SCHEDULE 1

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<td>F69 Sch. 5 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7</td>
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SCHEDULE 6

AMENDMENTS OF LEGISLATION

PART 1

PRIMARY LEGISLATION

Amendment of the Harbours Act 1964

1. In the Harbours Act 1964 F70, in Part 1 of Schedule 3 (procedure for making harbour revision and empowerment orders), in paragraph 1 (interpretation), for paragraph (j) of the definition of “sensitive area” F71 substitute—

“(j) a European site within the meaning of the Conservation of Habitats and Species Regulations 2010 (see regulation 8);”.

Amendment of the Conservation of Seals Act 1970

2. In the Conservation of Seals Act 1970 F72, in subsection (4A) F73 of section 10 (power to grant licences), for “regulation 41 of the Conservation (Natural Habitats, &c) Regulations 1994” substitute “ regulation 43 of the Conservation of Habitats and Species Regulations 2010 “.

Amendment of the Highways Act 1980

3. In the Highways Act 1980 F74, in section 105A F75 (environmental impact assessments), in subsection (6)(i) F76, for “regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994” substitute “ the Conservation of Habitats and Species Regulations 2010 (see regulation 8) “.

Amendment of the Constitutional Reform Act 2005

4. In the Constitutional Reform Act 2005 F77, in Part 3 of Schedule 14 F78 (appointments by the Lord Chancellor: offices to which paragraph 2(2)(d) of Schedule 12 applies), in the column entitled “enactment”, for the entry “Regulation 32(3)(a) of the Conservation (Natural Habitats, &c)
Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010. (See end of Document for details)


F77 2005 c. 4.  
F78 There are amendments to Part 3 of Schedule 14 not relevant to these Regulations.

Amendment of the Marine Act

5.—(1) The Marine Act is amended as follows.
(2) In section 12 (certain consents under section 36 of the Electricity Act 1989), subsection (5) (c) is omitted.
(3) In subsection (9) of section 123 (creation of network of conservation sites), in paragraph (a) of the definition of “European marine site”—
   (a) after “within the meaning of” insert “ — (i) ”; and
   (b) after “, or” insert—
      “(ii) the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) (see regulation 8), or”.
(4) In subsection (6)(d) of section 158 (byelaws: supplementary provision), for “the Conservation (Natural Habitats, &c) Regulations 1994 (S.I. 1994/2716)” substitute “ the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) (see regulation 8) ”.
(5) In subsection (2) of section 237 (enforcement of nature conservation legislation)—
   (a) omit paragraphs (c) and (d); and
   (b) after paragraph (h) add—
      “(i) regulations 41, 43, 45, 52, 57, 58 and 116(1) and (2) of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490);
      (j) any byelaws or orders made by virtue of regulation 30 or 38 of those Regulations. ”.
(6) Paragraph 4 of Schedule 11 (amendment of the 1994 Regulations) is omitted.

PART 2

SUBORDINATE LEGISLATION

Amendment of the 1994 Regulations

6. 

F79 Sch. 6 para. 6 omitted (16.8.2012) by virtue of The Conservation of Habitats and Species (Amendment) Regulations 2012 (S.I. 2012/1927), regs. 1(1), 24

Amendment of the 2007 Regulations

7.—(1) The 2007 Regulations are amended as follows.
(2) In paragraph (2) of regulation 2 (interpretation)—
   (a) after the definition of “the 1994 Regulations” insert—
“‘the 2010 Regulations’ means the Conservation of Habitats and Species Regulations 2010 \(^{F81}\);”; and

(b) in paragraph (a) of the definition of “management scheme”, for “or regulation 29 of the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995” substitute “, regulation 29 of the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 or regulation 36 of the 2010 Regulations.”.

(3) In paragraph (12) of regulation 19 \(^{F82}\) (management schemes for European offshore marine sites), for “or the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995.” substitute “, the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 or the 2010 Regulations.”.

(4) In regulation 25 \(^{F83}\) (protection of European offshore marine sites and European sites)—

(a) in paragraph (7), for “1994” substitute “Conservation” (in both places); and

(b) after paragraph (7) insert—

“(7A) In paragraph (7) “the Conservation Regulations” means either the 1994 Regulations or the 2010 Regulations (as the case may be).”.

(5) In regulation 27 \(^{F84}\) (review of existing decisions and consents), for paragraph (8) substitute—

“(8) Regulations 87 and 88 of the 2010 Regulations (consents under Electricity Act 1989 \(^{F85}\); procedure on review and effect of review) apply in relation to any decision under paragraph (4) revoking or modifying a consent granted under section 36 \(^{F86}\) or 37 \(^{F87}\) of the Electricity Act 1989 as they apply in relation to a decision pursuant to regulation 86 of the 2010 Regulations revoking or varying any such consent, but with the modifications specified in paragraphs (9) and (10).

(9) In regulation 87—

(a) in paragraph (1)—

(i) for “86(3), (5) or (6)” substitute “86(3) or (5)”,

(ii) omit “or a direction deeming planning permission to be granted”,

(iii) in sub-paragraph (a), omit “or, as the case may be, in whose favour the direction was made”, and

(iv) in sub-paragraph (b), omit “in the case of a consent under section 36 of the Electricity Act 1989.”;

(b) omit paragraph (2)(a); and

(c) in paragraph (4)—

(i) omit “, or the relevant planning authority,”, and

(ii) in sub-paragraph (a), omit “or the relevant planning authority (as the case may be)”.

(10) In regulation 88—

(a) in paragraph (1)—

(i) for “86(3), (5) or (6)” substitute “86(3) or (5)”, and

(ii) omit “or a direction deeming planning permission to be granted”; and

(b) in paragraphs (2) and (3), omit “or direction” (in all places).”.

\(^{F80}\) There are amendments to regulation 2 not relevant to these Regulations.

\(^{F81}\) S.I. 2010/490.

\(^{F82}\) There are amendments to regulation 19 not relevant to these Regulations.
Changes to legislation: There are currently no known outstanding effects for the Conservation of Habitats and Species Regulations 2010. (See end of Document for details)

F83 There are amendments to regulation 25 not relevant to these Regulations.
F84 There are amendments to regulation 27 not relevant to these Regulations.
F85 1989 c. 29.
F86 Section 36 was amended by the Energy Act 2004 (c. 20), section 93(1) and (3); the Planning Act 2008 (c. 29), paragraphs 31 and 32 of Schedule 2; the Marine and Coastal Access Act 2009 (c. 23), section 12(7)(a) and (8); and, in relation to Scotland, by S.I. 2006/1054, paragraph 1(1) and (2) of Schedule 1.
F87 Section 37 was amended by the Planning Act 2008 (c. 29), paragraphs 31 and 33 of Schedule 2.

F88 Sch. 7 revoked (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), Sch. 7

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 Regulations”). They also implement aspects of the Marine and Coastal Access Act 2009 (“the Marine Act”).

These Regulations extend to England and Wales (including the adjacent territorial sea). They also extend to Scotland (including the adjacent territorial sea) to a limited degree. They revoke the 1994 Regulations except (generally) as they extend to Scotland. In addition, in respect of reserved matters, these Regulations replace the 1994 Regulations as they extend to Scotland.


Part 1 – Introductory and general provisions

Regulation 9 provides that public bodies must exercise their nature conservation functions so as to comply with the Habitats Directive.

Part 2 – Conservation of natural habitats and habitats of species

Regulations 10 to 15 make provision for the selection, designation, registration and notification of sites to be protected under the Habitats Directive (“European sites”). Regulations 16 to 18 make provision for management agreements for European sites. Regulations 19 to 34 make provision in respect of European sites for (i) control of damaging operations, (ii) special nature conservation orders and restoration orders, (iii) byelaws and (iv) compulsory purchase. Regulations 35 to 38 make provision for the protection of European marine sites.

Part 3 – Protection of species

Part 3 provides for the protection of certain wild animals and plants. In particular, regulation 41 makes it an offence, subject to exceptions, deliberately to capture, kill or disturb those animals or to trade in them. Regulation 45 makes it an offence, subject to exceptions, to pick, collect, cut
or destroy those plants or to trade in them. (These offences correspond to offences in the 1994 Regulations).

Part 4 – Additional protection of habitats and wild animals and plants

Regulation 48 imposes a duty on the Secretary of State and Welsh Ministers to make arrangements for the surveillance of the conservation status of natural habitats and species protected under the Habitats Directive. Regulation 50 requires them to make arrangements to establish a system to monitor the incidental capture and killing of animals listed in Annex IV(a) to the Habitats Directive.

Regulation 52 makes it an offence deliberately to introduce from a ship into the sea new species that are not native to Great Britain. (This corresponds to an offence in the 1994 Regulations).

Part 5 – Licences

Part 5 provides for the licensing of certain activities relating to animals and plants. The offences under Part 3 do not apply to anything done in accordance with a licence. Regulation 56(2) (a)(i) transfers certain licensing functions from Natural England to the Marine Management Organisation in respect of the territorial sea seaward of mean low water mark.

Part 6 – Assessment of plans and projects

Regulations 60 to 67 require the effect on a European site to be considered before the granting of consents or authorisations of a kind specified in regulations 68 to 101, including the grant of planning permission, consents under the Electricity Act 1989, authorisations under the Pipe-lines Act 1962, orders under the Transport and Works Act 1992, environmental permits, abstraction licences and marine works. Regulation 61 provides that a competent authority may not authorise a plan or project that may adversely affect the integrity of a European site, subject to the exceptions set out in regulation 62 (considerations of overriding public interest).

Chapter 8 of Part 6 sets out similar requirements in relation to land-use plans and national policy statements.

Part 7 – Enforcement

Part 7 sets out the enforcement powers of wildlife inspectors and constables. It also sets out certain further offences, including the offence of intentionally obstructing a wildlife inspector (regulation 119). (Again, these offences correspond to offences in the 1994 Regulations).

Part 8 – Final provisions

Regulation 132 and paragraph 5 of Schedule 6 amend the Marine Act. Paragraph 5(5) extends the powers conferred by that Act on marine enforcement officers in respect of the 1994 Regulations to offences under regulations 57, 58 and 116 of these Regulations.

An impact assessment prepared during the passage of the Marine Act can be found on the Department for Environment, Food and Rural Affairs' website at www.defra.gov.uk. An impact assessment has not been produced for this instrument as no impact on business or the private or voluntary sector is foreseen.
Changes to legislation:
There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010.