

2019 No. 320

NATURE CONSERVATION

**The Conservation (Natural Habitats, &c.) Amendment (No. 2)
(Scotland) Regulations 2019**

<i>Made</i>	- - - -	<i>9th October 2019</i>
<i>Laid before the Scottish Parliament</i>		<i>11th October 2019</i>
<i>Coming into force</i>	- -	<i>6th December 2019</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation, commencement and extent

- 1.**—(1) These Regulations may be cited as the Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2019.
- (2) These Regulations come into force on 6 December 2019.
- (3) These Regulations extend to Scotland only.

Amendment of the Conservation (Natural Habitats, &c.) Regulations 1994

2. The Conservation (Natural Habitats, &c.) Regulations 1994(b) are amended in accordance with regulations 3 and 4.

Register of European Sites

- 3.**—(1) In regulation 11 (duty to compile and maintain register of European sites)—
- (a) in paragraph (1), for “shall compile and maintain, in such form as he thinks fit,” substitute “must make arrangements for the establishment and maintenance of”,
- (b) in paragraph (2), for “He shall include in the register” substitute “The register must specify”,
- (c) in paragraph (3), after “amend” insert “, or make arrangements for the amendment of”,
- (d) in paragraph (4), after “remove” insert “, or make arrangements for the removal of”,

(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Section 2(2) is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16).

(b) S.I. 1994/2716.

- (e) in paragraph (5), for “He shall keep a copy of the register” substitute “The register must be”,
 - (f) after paragraph (5), insert—
 - “(6) The arrangements mentioned in paragraph (1) may in particular authorise the appropriate nature conservation body to establish and maintain the register.”.
- (2) In regulation 12 (notification to appropriate nature conservation body)—
- (a) in paragraph (1), for “after” to the end substitute—
 - “after—
 - (a) a site becomes a European site;
 - (b) the specification of a European site is amended;
 - (c) a site ceases to fall within any of the categories listed in regulation 11(2).”,
 - (b) for paragraph (2), substitute—
 - “(2) Except where arrangements are made authorising the appropriate conservation body to establish and maintain the register, the notification under paragraph (1) of a site becoming a European site must be accompanied by a copy of the register entry.”,
 - (c) for paragraph (3), substitute—
 - “(3) Except where arrangements are made authorising the appropriate conservation body to establish and maintain the register, the notification under paragraph (1) of the amendment of the specification of a European site must be accompanied by a copy of the amended entry.”.

Marine licences

4. After regulation 53A (control of operations requiring consent), insert—

“Marine licences

Marine licences: duty to review

53B.—(1) Subject to paragraph (3), regulations 50 (review of existing decisions and consents, &c.) and 51 (consideration on review) do not apply where—

- (a) a licence was granted by the Scottish Ministers; and
- (b) the conditions in paragraph (2) are met in accordance with that licence.

(2) The conditions mentioned in paragraph (1) are—

- (a) if the activity to which the licence relates includes an activity mentioned in items 1 or 2 of section 21(1) of the 2010 Act, that the substance or object has been fully deposited;
- (b) if the activity to which the licence relates includes an activity mentioned in items 3 to 7, 9 or 10 of section 21(1) of the 2010 Act, that the activity to which the licence relates has been completed;
- (c) if the activity to which the licence relates includes an activity mentioned in item 8 of section 21(1) of the 2010 Act, that the explosive substance or article has been fully used, or fully deposited and used.

(3) If a licence was granted by the Scottish Ministers and the activity to which that licence relates includes the construction, alteration or improvement of a generating station, regulations 50 and 51 do not apply to that licence after the date on which that generating station is first operated.

(4) In this regulation—

“the 2010 Act” means the Marine (Scotland) Act 2010^(a);

“activity” means a licensable marine activity and is to be construed in accordance with section 21 of the 2010 Act;

“generating station” has the meaning given by section 64(1) of the Electricity Act 1989^(b);

“licence” means a marine licence granted under Part 4 of the 2010 Act.”.

St Andrew’s House,
Edinburgh
9th October 2019

ROSEANNA CUNNINGHAM
A member of the Scottish Government

(a) 2010 asp 5.
(b) 1989 c.29.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 Regulations”) to make provision about the register of European sites and review of marine licences.

Regulation 3 requires the Scottish Ministers to make arrangements for the establishment and maintenance of a register of European sites. The term “European site” is defined by regulation 10(1) of the 1994 Regulations. As part of those arrangements, the Scottish Ministers may in particular authorise the appropriate conservation body to establish and maintain the register.

Regulation 4 provides that the duty to review decisions, consents or other authorisations in accordance with regulations 50 and 51 of the 1994 Regulations does not apply to certain marine licences. These Regulations only extend to Scotland and come into force on 6 December 2019.

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