
STATUTORY INSTRUMENTS

2007 No. 1842

**The Offshore Marine Conservation
(Natural Habitats, &c.) Regulations 2007**

PART 5

LICENCES

Power to grant licences

49.—(1) Regulations 34, 36 and 37 do not apply to anything done—

- (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),

if it is done under and in accordance with the terms of a licence granted by the Secretary of State under this paragraph.

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

(3) The Secretary of State 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 Secretary of State must not grant a licence under paragraph (3) unless he is 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 34, 36 and 37 do not apply to anything done under and in accordance with the terms of a licence granted by the Secretary of State under paragraph (3).

(6) Regulations 39, 41 and 43 do not apply to anything done—

- (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),

if it is done under and in accordance with the terms of a licence granted by the Secretary of State under this paragraph.

(7) The Secretary of State must not grant a licence under paragraph (6) unless he is 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 Secretary of State 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 Secretary of State must not grant a licence under paragraph (8) unless he is 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 39, 41 and 43 do not apply to anything done under and in accordance with the terms of a licence granted by the Secretary of State under paragraph (8).

(11) Regulation 48 does not apply to anything done under and in accordance with the terms of a licence granted by the Secretary of State under this paragraph.

(12) The Secretary of State must not grant a licence under paragraph (11) unless he is 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 Secretary of State must not grant a licence for any purpose under this regulation unless he has been advised by the Joint Nature Conservation Committee as to the circumstances in which, in its opinion, licences should be granted for the purpose in question.

(14) The Secretary of State may charge for a licence under this regulation such reasonable sum as he may determine.

Licences: supplementary provisions

50.—(1) Subject to the provisions of this regulation, a licence under regulation 49—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person; and
- (c) may be subject to compliance with any specified conditions.

(2) For the purposes of such a licence the definition of a class of persons may be framed by reference to their being authorised by any other person, or by reference to any other circumstances whatever.

(3) A licence under regulation 49(1) or (3) must specify—

- (a) the species of wild birds in respect of which, the circumstances in which, and the conditions subject to which, any action authorised by the licence may be taken; and
- (b) the methods, means or arrangements which are authorised or required for the taking of the action.

(4) A licence under regulation 49(6) which authorises any person to kill wild animals must specify the area within which and the means or methods by which the wild animals may be killed.

(5) A licence under regulation 49(8) may only be granted to such persons as are named in the licence.

(6) A licence under regulation 49(8) must specify—

- (a) the species of animal or plant specimens of which may be taken or kept;
- (b) the maximum number of specimens which may be taken or kept or which particular specimens may be taken or kept;
- (c) the conditions subject to which the action authorised by the licence may be taken and in particular—
 - (i) the methods, means or arrangements by which the specimens may be taken or kept;
 - (ii) when or over what period the action authorised by the licence may be taken; and
 - (iii) where it authorises any person to take specimens, the area from which they may be taken.

(7) A licence under regulation 49 may be modified or revoked at any time by the Secretary of State, but otherwise it is valid for the period stated in the licence.

False statements made for obtaining licence

51.—(1) A person is guilty of an offence if, for the purposes of obtaining (whether for himself or another) the grant of a licence under regulation 49—

- (a) he makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular; or
- (b) he recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular.

(2) A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.