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STATUTORY INSTRUMENTS

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**2010 No. 490**

**The Conservation of Habitats and Species Regulations 2010**

**PART 2**

**CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES**

*Management agreements*

**Management agreements**

**16.**—(1) The appropriate nature conservation body may, for the purposes specified in paragraph (2), make an agreement (a “management agreement”) with a person who has an interest in—

- (a) land which forms part of a European site, or
- (b) land adjacent to such a site,

about the management or use of the land.

(2) A management agreement may be made for the purposes of the management, conservation, restoration or protection of the site, or any part of it.

(3) A management agreement may, in particular—

- (a) impose on the person who has an interest in the land obligations in respect of the use of the land;
- (b) impose on the person who has an interest in the land restrictions on the exercise of rights over the land;
- (c) provide for the carrying out of such work as may be expedient for the purposes of the agreement by any person or persons;
- (d) provide for any matter for which a management scheme relating to a site of special scientific interest provides (or could provide);
- (e) provide for the making of payments by either party to the other party or to any other person;
- (f) contain incidental and consequential provision.

(4) A management agreement is, unless the agreement otherwise provides—

- (a) binding on persons deriving title under or from the person with whom the appropriate nature conservation body make the agreement; and
- (b) enforceable by the appropriate nature conservation body against those persons.

(5) Paragraphs 1 to 3 of Schedule 2 to the Forestry Act 1967(1) (which makes provision for certain persons to enter into forestry dedication covenants) apply to management agreements as they apply to forestry dedication covenants.

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(1) 1967 c. 10; paragraphs 1 to 3 of Schedule 2 were amended by the Endowments and Glebe Measure 1976 (1976 No. 4), Schedule 7; the Trusts of Land and Appointment of Trustees Act 1996 (c. 47), Schedule 4; and the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1), paragraph 14 of Schedule 5.

(6) In this regulation—

- (a) “interest in land” has the same meaning as in the 1949 Act; and
- (b) “management scheme” and “site of special scientific interest” have the same meaning as in Part 2 (nature conservation, countryside and national parks) of the WCA 1981.

### Existing agreements

17.—(1) For the purposes of these Regulations, any agreement made before 1st April 2010 in relation to land in England or Wales which on or after that date becomes land within a European site, or adjacent to such a site, being an agreement made under—

- (a) section 16 of the 1949 Act<sup>(2)</sup> (agreements for management of nature reserves),
- (b) section 15 of the Countryside Act 1968<sup>(3)</sup> (areas of special scientific interest), or
- (c) section 7 of the Natural Environment and Rural Communities Act 2006<sup>(4)</sup> (management agreements),

has effect upon the designation of the site as if it were a management agreement entered into by Natural England or the Countryside Council for Wales (as the case may be) under regulation 16.

(2) Any other thing done or deemed to have been done under—

- (a) any provision of Part 3 (nature conservation) of the 1949 Act, or under Part 6 (general, financial and supplementary) of that Act so far as it applies for the purposes of Part 3, or
- (b) section 15 of the Countryside Act 1968,

in respect of any land prior to that land becoming land within a European site, or adjacent to such a site, continues to have effect as if done under the corresponding provision of these Regulations.

(3) Any reference in a relevant enactment to a nature reserve within the meaning of section 15<sup>(5)</sup> (meaning of “nature reserve”) of the 1949 Act is to be construed as including a reference to a European site, and in this paragraph “a relevant enactment” means an enactment not contained in, or in an instrument made under, the 1949 Act or the WCA 1981.

### Certain payments under management agreements

18.—(1) This regulation applies where the appropriate nature conservation body offer to enter into a management agreement providing for the making of payments by them to—

- (a) a person who has given notice under paragraph (1)(a) of regulation 20 (restriction on carrying out operations specified in notification) or paragraph (5)(a)(ii) or (b) of regulation 26 (restriction on carrying out operations specified in order); or
- (b) a person whose application for a farm capital grant within the meaning of regulation 24 has been refused in consequence of an objection by that body.

(2) Subject to paragraph (3), such payments must be of such amounts as may be determined by the appropriate nature conservation body in accordance with guidance given by the appropriate authority.

(2) Relevant amendments were made to section 16 by the Natural Environment and Rural Communities Act 2006 (c. 16), paragraph 14 of Schedule 11.

(3) 1968 c. 41; relevant amendments were made to section 15 by the WCA 1981, section 72(8) and Part 1 of Schedule 17; the Environmental Protection Act 1990 (c. 43), paragraph 4(2) of Schedule 9 and Part 6 of Schedule 16; the Countryside and Rights of Way Act 2000 (c. 37), section 75(3); and the Natural Environment and Rural Communities Act 2006 (c. 16), paragraph 48 of Schedule 11 and Schedule 12.

(4) 2006 c. 16.

(5) Section 15 was substituted by the Natural Environment and Rural Communities Act 2006 (c. 16), paragraph 12 of Schedule 11.

(3) If the person with whom the agreement is to be made so requires within one month of receiving the offer, the determination of those amounts must be referred to an arbitrator to be appointed, in default of agreement, by the appropriate authority.

(4) Where the amounts determined by the arbitrator exceed those determined by the appropriate nature conservation body, that body must—

- (a) amend the offer so as to give effect to the arbitrator's determination; or
- (b) except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the appropriate nature conservation body, withdraw the offer.