
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 1

INTRODUCTORY AND GENERAL PROVISIONS

Interpretation

3.—(1) In these Regulations—

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949(1);

“the 1994 Regulations” means the Conservation (Natural Habitats, &c.) Regulations 1994(2);

“the 2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(3);

“the appropriate authority” means the Secretary of State in relation to England, and the Welsh Ministers in relation to Wales (but see modifications of that term in regulations 9(7), 67(1)(b) and (3)(c), 94(6) and 106(3)(b));

“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;

“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(4) (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);

(1) 1949 c. 97.

(2) S.I. 1994/2716, amended by the Environment Act 1995 (c. 25), paragraph 233 of Schedule 22, the Land Reform (Scotland) Act 2003 (asp 2), paragraphs 14 to 16 of Schedule 2, and S.I. 1996/525, S.I. 1996/973, S.I. 1997/3055, S.I. 1999/1820, S.I. 2000/192, S.S.I. 2000/323, S.I. 2000/1973, S.I. 2003/2155, S.S.I. 2004/475, S.I. 2005/3389, S.S.I. 2006/270, S.I. 2006/1282, S.S.I. 2007/80, S.S.I. 2007/349, S.S.I. 2007/485, S.S.I. 2007/517, S.I. 2007/1843, S.I. 2007/3538, S.S.I. 2008/17, S.S.I. 2008/425, S.S.I. 2008/427, S.I. 2008/2172, S.I. 2009/6, S.S.I. 2009/222, S.S.I. 2009/343, S.I. 2009/1307, S.I. 2009/2438, S.I. 2009/3160 and S.I. 2010/489 (W. 55).

(3) S.I. 2007/1842, amended by S.S.I. 2007/485, S.I. 2009/7 and S.I. 2010/491.

(4) 1978 c. 30.

“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;

“the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora;

“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⁽⁵⁾;

“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⁽⁶⁾;

“marine area” means (subject to regulation 9(8)) 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);

“the new Wild Birds Directive” means Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds⁽⁷⁾;

“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;

“the old Wild Birds Directive” means Council Directive [79/409/EEC](#) on the conservation of wild birds⁽⁸⁾;

“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;

(5) 1990 c. 8.

(6) 2009 c. 23.

(7) OJ No L 20, 26.1.2010, p. 7.

(8) OJ No L 103, 25.4.1979, p. 1; the old Wild Birds Directive was repealed by the new Wild Birds Directive.

“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⁽⁹⁾;

“the WCA 1981” means the Wildlife and Countryside Act 1981⁽¹⁰⁾; and

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

(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; and

⁽⁹⁾ 1990 c. 8.
⁽¹⁰⁾ 1981 c. 69.

- (d) any reference to Great Britain includes the English inshore region, the Welsh inshore region and the Scottish 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” and “Scottish inshore region”; or
 - (b) paragraph (8).
- (8) For the purposes of these Regulations—
 - (a) the sea adjacent to England is so much of the sea adjacent to Great Britain as is not the sea adjacent to Wales or the sea adjacent to Scotland;
 - (b) “the 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⁽¹¹⁾ (the sea adjacent to Wales); and
 - (c) “the 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⁽¹²⁾.
- (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.

⁽¹¹⁾ 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.

⁽¹²⁾ S.I. 1999/1126.