

SCHEDULE 6

Regulation 132

AMENDMENTS OF LEGISLATION

PART 1

PRIMARY LEGISLATION

Amendment of the Harbours Act 1964

1. In the Harbours Act 1964(1), 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”(2) 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(3), in subsection (4A)(4) 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(5), in section 105A(6) (environmental impact assessments), in subsection (6)(i)(7), 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(8), in Part 3 of Schedule 14(9) (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) Regulations 1994 (SI 1994/2716)” substitute “Regulation 34(3) of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490)”.

Amendment of the Marine Act

5.—(1) The Marine Act is amended as follows.

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- (1) 1964 c. 40.
 - (2) The definition of “sensitive area” was amended by S.I. 1999/3445; the Countryside and Rights of Way Act 2000 (c. 37), paragraph 3 of Schedule 10, paragraph 4 of Schedule 15 and Part 3 of Schedule 16; the Nature Conservation (Scotland) Act 2004 (asp 6), paragraph 1 of Schedule 7; the Transport and Works (Scotland) Act 2007 (asp 8), section 25(1) and (5)(a)(ii) and (iii); and S.S.I. 2008/202.
 - (3) 1970 c. 30.
 - (4) Subsection (4A) was inserted, in relation to England and Wales, by S.I. 2007/1843 (subsection (4A) was inserted in relation to Scotland by S.S.I. 2007/80).
 - (5) 1980 c. 66.
 - (6) Section 105A was inserted by S.I. 1988/1241 and substituted by S.I. 1999/369.
 - (7) Subsection (6) was amended by the Countryside and Rights of Way Act 2000 (c. 37), paragraph 5 of Schedule 10, paragraph 5 of Schedule 15 and Part 3 of Schedule 16.
 - (8) 2005 c. 4.
 - (9) There are amendments to Part 3 of Schedule 14 not relevant to these Regulations.

Status: This is the original version (as it was originally made).

- (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. In the 1994 Regulations, in regulation 3(10) (implementation of Directive), after paragraph (4) add—

“(5) This regulation does not apply in relation to functions which relate to reserved matters (within the meaning of Schedule 5 to the Scotland Act 1998).”.

Amendment of the 2007 Regulations

7.—(1) The 2007 Regulations are amended as follows.

(2) In paragraph (2) of regulation 2(11) (interpretation)—

(a) after the definition of “the 1994 Regulations” insert—

““the 2010 Regulations” means the Conservation of Habitats and Species Regulations 2010(12);”; 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”.

(10) There are amendments to regulation 3 not relevant to these Regulations.

(11) There are amendments to regulation 2 not relevant to these Regulations.

(12) S.I. 2010/490.

(3) In paragraph (12) of regulation 19(**13**) (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(**14**) (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(**15**) (review of existing decisions and consents), for paragraph (8) substitute—

“(8) Regulations 87 and 88 of the 2010 Regulations (consents under Electricity Act 1989(**16**): 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(**17**) or 37(**18**) 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).”.

(13) There are amendments to regulation 19 not relevant to these Regulations.

(14) There are amendments to regulation 25 not relevant to these Regulations.

(15) There are amendments to regulation 27 not relevant to these Regulations.

(16) 1989 c. 29.

(17) 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.

(18) Section 37 was amended by the Planning Act 2008 (c. 29), paragraphs 31 and 33 of Schedule 2.