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STATUTORY INSTRUMENTS

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**2017 No. 1012**

**The Conservation of Habitats and Species Regulations 2017**

**PART 8**

**Final Provisions**

**Powers of drainage authorities**

**133.**—(1) Where the appropriate nature conservation body or any other person enters into an agreement with a drainage authority for the carrying out by that authority of any work on land in a European site, no limitation imposed by law on the capacity of the drainage authority by virtue of its constitution operates so as to prevent the authority carrying out the agreement.

(2) In paragraph (1) “drainage authority” means—

- (a) an internal drainage board<sup>(1)</sup>; or
- (b) the relevant environmental authority.

(3) In paragraph (2)(b), “the relevant environmental authority” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales.

**Advisory role of the Joint Nature Conservation Committee**

**134.**—(1) The Joint Nature Conservation Committee may provide advice or make representations to any competent authority in relation to—

- (a) any question as to whether that authority is obliged to carry out an appropriate assessment in relation to a European offshore marine site under these Regulations;
- (b) any appropriate assessment on which that authority is obliged to consult the Committee under these Regulations;
- (c) any application made pursuant to regulation 77 and sent to the Committee by that authority pursuant to regulation 77(3);
- (d) any decision of the Secretary of State in respect of which notice has been served on the Committee under regulation 90(3)(b) or 94(3)(b); and
- (e) any decision of the appropriate authority in respect of which notice has been served on the Committee under regulation 98(3)(b).

(2) The Joint Nature Conservation Committee may undertake, commission or support (whether by financial means or otherwise) such research and scientific work as they consider is required for the purposes of providing advice or making representations under this regulation.

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<sup>(1)</sup> See section 1 of the Land Drainage Act 1991 (c. 59) for the meaning of “internal drainage board”.

### **Advisory role of Natural England, the Natural Resources Body for Wales and Scottish Natural Heritage**

**135.**—(1) Natural England may—

- (a) provide advice and assistance, or make representations, to any competent authority on any matter which relates to England and is connected with the discharge of the competent authority's functions under these Regulations; and
- (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as it considers is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).

(2) The Natural Resources Body for Wales may—

- (a) provide advice and assistance, or make representations, to any competent authority on any matter which relates to Wales and is connected with the discharge of the competent authority's functions under these Regulations; and
- (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as it considers is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).

(3) Scottish Natural Heritage may—

- (a) provide advice and assistance, or make representations, to any competent authority on any matter which relates to Scotland and is connected with the discharge of the competent authority's functions under these Regulations; and
- (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as it considers is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).

### **Research**

**136.**—(1) The appropriate authority must take such steps to encourage research and scientific work as it considers necessary—

- (a) having regard to the objectives in Article 2 (aims of the Directive), and the obligation in Article 11 (surveillance), of the Habitats Directive; and
- (b) for the purpose of the protection or management, and in relation to the use, of any population of wild birds.

(2) The appropriate authority must supply such information as it considers appropriate to the European Commission and, in the case of information supplied for the purposes of the Habitats Directive, to member States, to further the proper co-ordination of research carried out the European Commission or by member States for the purposes of the Directives.

(3) In deciding what steps to take under paragraph (1), the appropriate authority must have particular regard to the need for research and scientific work—

- (a) on the subjects listed in Annex V to the new Wild Birds Directive (subjects for research); or
- (b) which may be required to implement Articles 4 and 10 of the Habitats Directive (classification of special protection areas, research, respectively).

### **Local inquiries**

**137.**—(1) The appropriate authority may cause a local inquiry to be held for the purposes of the exercise of any of its functions under these Regulations.

(2) The provisions of section 250(2) to (5) of the Local Government Act 1972<sup>(2)</sup> (which relate to evidence and costs in inquiries) apply in relation to an inquiry held under this regulation.

## Notices

**138.**—(1) Any notice required or authorised to be served under these Regulations to any person may be given by—

- (a) delivering it to the person;
- (b) leaving it at the person's proper address; or
- (c) sending it by post to the person at that address.

(2) Any such notice may—

- (a) in the case of a body corporate, be served on an officer of the body;
- (b) in the case of a limited liability partnership, Scottish partnership or unincorporated partnership, be served on a partner or a person having the control or management of the partnership business; and
- (c) in the case of an unincorporated body other than an unincorporated partnership, be served on an officer of that body.

(3) For the purposes of this regulation and section 7 of the Interpretation Act 1978<sup>(3)</sup> (service of documents by post) in its application to this regulation, the proper address of any person on whom a notice is to be served is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body;
- (b) in the case of a limited liability partnership or a Scottish partnership, the address of the registered or principal office of the partnership;
- (c) in the case of an unincorporated partnership or any other unincorporated body, the address of the principal office of the partnership or body;
- (d) in the case of a person on whom the notice is served in reliance on paragraph (2), the proper address of the body corporate, partnership or other unincorporated body in question; and
- (e) in any other case, the last known address of the person in question.

(4) If a person on whom a notice is to be served under these Regulations has specified an address for service of such a notice, that address is also to be treated, for the purposes of this regulation and section 7 of the Interpretation Act 1978 in its application to this regulation, as that person's proper address.

(5) If the name or address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(6) This regulation is subject to any provision of these Regulations, or to any direction given under these Regulations, which relates to the service of any notice under these Regulations.

(7) This regulation does not apply to the service of any notice required or authorised to be served under the Acquisition of Land Act 1981<sup>(4)</sup>, as applied by these Regulations (see regulation 36 (powers of compulsory acquisition)).

(8) In this regulation—

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(2) 1972 c. 70; section 250 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; the Housing and Planning Act 1986 (c. 63), Schedule 12, Part 3; and the Statute Law (Repeals) Act 1989 (c. 43).

(3) 1978 c. 30.

(4) 1981 c. 67.

- (a) “body corporate” does not include a limited liability partnership or a Scottish partnership; and
- (b) references to serving include references to similar expressions (such as giving or sending).

### Consequential Amendments

**139.** Schedule 6 (which makes amendments to legislation) has effect.

### Revocations

**140.** Schedule 7 (revocations) has effect.

### Transitional provisions

**141.**—(1) Any licence granted for any purpose by Natural England, the Countryside Council for Wales, the Natural Resources Body for Wales or the Marine Management Organisation before 30th November 2017 under regulation 53(1) or (4) or 54 of the 2010 Regulations (licences for certain activities relating to animals or plants, licences for the introduction of new species, respectively), or which immediately before that date has effect as if it were granted by any of those bodies under any of those provisions<sup>(5)</sup>, is to have effect from that date as a licence granted for that purpose under regulation 55(1) or (4) or 56 of these Regulations, respectively.

(2) Any application for a licence made before 30th November 2017 under regulation 53(1) or (4) or 54 of the 2010 Regulations, or which immediately before that date is treated as made under any of those provisions<sup>(6)</sup>, and which (in either case) is not determined or withdrawn before that date, is to be treated as an application made under regulation 55(1), or (4) or 56 of these Regulations, respectively.

(3) Any agreement previously entered into by Natural England, the Countryside Council for Wales or the Natural Resources Body for Wales under regulation 16 of the 2010 Regulations (management agreements), or having effect as if it had been entered into by any of those bodies under that provision<sup>(7)</sup>, which is in force immediately before 30th November 2017 has effect as if it were a management agreement entered into by Natural England or the Natural Resources Body for Wales (as the case may be) under regulation 20 (management agreements) of these Regulations.

(4) Any management scheme previously established by any of the relevant authorities under regulation 36 of the 2010 Regulations (management scheme for European marine site)<sup>(8)</sup> which is in force immediately before 30th November 2017 has effect as if it were a management scheme established by the authority in question under regulation 38 (management scheme for European marine site) of these Regulations.

(5) Any byelaw—

- (a) made under section 20 of the 1949 Act as applied by virtue of regulation 30 of the 2010 Regulations (power to make byelaws)<sup>(9)</sup>,
- (b) to which regulation 33 of those Regulations (continuation in force of existing byelaws) applies; or

<sup>(5)</sup> See regulation 134(1) of the 2010 Regulations.

<sup>(6)</sup> See regulation 134(2) of the 2010 Regulations.

<sup>(7)</sup> See regulations 17 and 134(5) of the 2010 Regulations.

<sup>(8)</sup> Regulation 36(1) was amended by [S.I. 2012/1927](#).

<sup>(9)</sup> Section 20 was amended by the Telecommunications Act 1984 (c. 12), Schedule 4, paragraph 28; the Water Act 1989 (c. 15), Schedule 25, paragraph 13; the Communications Act 2003 (c. 21), Schedule 17, paragraph 20(1) and (2); and the Natural Environment and Rural Communities Act 2006 (c. 16), Schedule 11, paragraph 15(d).

- (c) made under regulation 38 of the 2010 Regulations (European marine sites: byelaws and orders)(**10**),

and which is in force immediately before 30th November 2017, has effect as if it were a byelaw made under section 20 of the 1949 Act (byelaws for protection of nature reserves) as applied by virtue of regulation 32 (power to make byelaws), or under regulation 40 (European marine sites: byelaws and orders) of these Regulations, respectively.

(6) An authorisation of a wildlife inspector under regulation 108 of the 2010 Regulations (wildlife inspectors), is to have effect as if granted under regulation 114 of these Regulations (wildlife inspectors).

### **Review: England**

**142.**—(1) The Secretary of State, in relation to England, must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first review must be published before 30th November 2022.

(3) Subsequent reviews must be carried out at intervals of not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(**11**) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directives are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 33 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

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(10) Regulation 38(5) was revoked by [S.I. 2012/1927](#).

(11) [2015 c. 2](#); section 30(3) was amended by the Enterprise Act [2016 \(c. 12\)](#), section 19.