
STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

PART II

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

European sites

Selection of sites eligible for identification as of Community importance

7.—(1) On the basis of the criteria set out in Annex III (Stage 1) to the Habitats Directive, and relevant scientific information, the Secretary of State shall propose a list of sites indicating with respect to each site—

- (a) which natural habitat types in Annex I to the Directive the site hosts, and
- (b) which species in Annex II to the Directive that are native to Great Britain the site hosts.

(2) For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction.

For aquatic species which range over wide areas, such sites shall be proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction.

(3) Where appropriate the Secretary of State may propose modification of the list in the light of the results of the surveillance referred to in Article 11 of the Habitats Directive.

(4) The list shall be transmitted to the Commission on or before 5th June 1995, together with information on each site including—

- (a) a map of the site,
- (b) its name, location and extent, and
- (c) the data resulting from application of the criteria specified in Annex III (Stage 1),

provided in a format established by the Commission.

Adoption of list of sites: designation of special areas of conservation

8.—(1) Once a site of Community importance in Great Britain has been adopted in accordance with the procedure laid down in paragraph 2 of Article 4 of the Habitats Directive, the Secretary of State shall designate that site as a special area of conservation as soon as possible and within six years at most.

(2) The Secretary of State shall establish priorities for the designation of sites in the light of—

- (a) the importance of the sites for the maintenance or restoration at a favourable conservation status of—
 - (i) a natural habitat type in Annex I to the Habitats Directive, or

- (ii) a species in Annex II to the Directive,
and for the coherence of Natura 2000; and
- (b) the threats of degradation or destruction to which those sites are exposed.

Consultation as to inclusion of site omitted from the list

9. If consultation is initiated by the Commission in accordance with Article 5(1) of the Habitats Directive with respect to a site in Great Britain hosting a priority natural habitat type or priority species and—

- (a) the Secretary of State agrees that the site should be added to the list transmitted in accordance with regulation 7, or
- (b) the Council, acting on a proposal from the Commission in pursuance of paragraph 2 of Article 5 of the Habitats Directive, so decides,

the site shall be treated as added to the list as from the date of that agreement or decision.

Meaning of “European site” in these Regulations

10.—(1) In these Regulations a “European site” means—

- (a) a special area of conservation,
- (b) a site of Community importance which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive,
- (c) a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), or
- (d) an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive.

(2) Sites which are European sites by virtue only of paragraph (1)(c) are not within regulations 20(1) and (2), 24 and 48 (which relate to the approval of certain plans and projects); but this is without prejudice to their protection under other provisions of these Regulations.

Register of European sites

Duty to compile and maintain register of European sites

11.—(1) The Secretary of State shall compile and maintain, in such form as he thinks fit, a register of European sites in Great Britain.

(2) He shall include in the register—

- (a) special areas of conservation, as soon as they are designated by him;
- (b) sites of Community importance as soon as they are placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive, until they are designated as special areas of conservation;
- (c) any site hosting a priority natural habitat type or priority species in respect of which consultation is initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a Council decision under Article 5(3); and
- (d) areas classified by him pursuant to Article 4(1) or (2) of the Wild Birds Directive, as soon as they are so classified or, if they have been classified before the commencement of these Regulations, as soon as practicable after commencement.

(3) He may, if appropriate, amend the entry in the register relating to a European site.

- (4) He shall remove the relevant entry—
 - (a) if a special area of conservation is declassified by the Commission under Article 9 of the Habitats Directive; or
 - (b) if a site otherwise ceases to fall within any of the categories listed in paragraph (2) above.
- (5) He shall keep a copy of the register available for public inspection at all reasonable hours and free of charge.

Notification to appropriate nature conservation body

12.—(1) The Secretary of State shall notify the appropriate nature conservation body as soon as may be after including a site in the register, amending an entry in the register or removing an entry from the register.

(2) Notification of the inclusion of a site in the register shall be accompanied by a copy of the register entry.

(3) Notification of the amendment of an entry in the register shall be accompanied by a copy of the amended entry.

(4) Each nature conservation body shall keep copies of the register entries relating to European sites in their area available for public inspection at all reasonable hours and free of charge.

Notice to landowners, relevant authorities, &c.

13.—(1) As soon as practicable after a nature conservation body receive notification under regulation 12 they shall give notice to—

- (a) every owner or occupier of land within the site,
- (b) every local planning authority in whose area the site, or any part of it, is situated, and
- (c) such other persons or bodies as the Secretary of State may direct.

(2) Notice of the inclusion of a site in the register, or of the amendment of an entry in the register, shall be accompanied by a copy of so much of the relevant register entry as relates to land owned or occupied by or, as the case may be, to land within the area of, the person or authority to whom the notice is given.

(3) The Secretary of State may give directions as to the form and content of notices to be given under this regulation.

Local registration: England and Wales

14. An entry in the register relating to a European site in England and Wales is a local land charge.

Local registers: Scotland

15.—(1) A planning authority in Scotland shall keep available at their principal office for free public inspection a register of all the European sites of which they have been given notice under regulation 13(1)(b).

(2) A planning authority in Scotland may keep available at any other of their offices for free public inspection such part of the register referred to in paragraph (1) as appears to them to relate to that part of their area in which such office is situated.

(3) A planning authority shall supply to any person, on payment of such reasonable fee as they may determine, a copy, certified by the proper officer of the authority to be a true copy, of any entry in the register kept by them under paragraph (1).

*Management agreements***Management agreements**

16.—(1) The appropriate nature conservation body may enter into an agreement (a “management agreement”) with every owner, lessee and occupier of land forming part of a European site, or land adjacent to such a site, for the management, conservation, restoration or protection of the site, or any part of it.

(2) A management agreement may impose such restrictions as may be expedient for the purposes of the agreement on the exercise of rights over the land by the persons who can be bound by the agreement.

(3) A management agreement—

- (a) may provide for the management of the land in such manner, the carrying out thereon of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement;
- (b) may provide for any of the matters mentioned in sub-paragraph (a) being carried out, or for the costs thereof being defrayed, either by the said owner or other persons or by the appropriate nature conservation body, or partly in one way and partly in another;
- (c) may contain such other provisions as to the making of payments by the appropriate nature conservation body, and in particular for the payment by them of compensation for the effect of the restrictions mentioned in paragraph (2), as may be specified in the agreement.

(4) Where land in England and Wales is subject to a management agreement, the appropriate nature conservation body shall, as respects the enforcement of the agreement against persons other than the original contracting party, have the like rights as if—

- (a) they had at all material times been the absolute owners in possession of ascertained land adjacent to the land subject to the agreement and capable of being benefited by the agreement, and
- (b) the management agreement had been expressed to be for the benefit of that adjacent land;

and section 84 of the Law of Property Act 1925(1) (which enables the Lands Tribunal to discharge or modify restrictive covenants) shall not apply to the agreement.

(5) A management agreement affecting land in Scotland may be registered either—

- (a) in a case where the land affected by the agreement is registered in that register, in the Land Register of Scotland, or
- (b) in any other case, in the General Register of Sasines;

and, on being so recorded, it shall be enforceable at the instance of the appropriate nature conservation body against any person having an interest in the land and against any person deriving title from him:

Provided that a management agreement shall not be so enforceable against a third party who has *bona fide* onerously acquired right (whether completed by infetment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.

Continuation in force of existing agreement, &c.

17.—(1) Any agreement previously entered into under—

(1) 1925 c. 20; by virtue of section 28(1) of the Law of Property Act 1969 (c. 59) section 84 has effect as set out in Schedule 3 to that Act.

- (a) section 16 of the National Parks and Access to the Countryside Act 1949⁽²⁾ (nature reserves),
- (b) section 15 of the Countryside Act 1968⁽³⁾ (areas of special scientific interest), or
- (c) section 49A of the Countryside (Scotland) Act 1967⁽⁴⁾ (management agreements),

in relation to land which on or after the commencement of these Regulations becomes land within a European site, or adjacent to such a site, shall have effect as if entered into under regulation 16 above.

Regulation 32(1)(b) (power of compulsory acquisition in case of breach of agreement) shall apply accordingly.

(2) Any other thing done or deemed to have been done under any provision of Part III or VI of the National Parks and Access to the Countryside Act 1949, or under section 49A of the Countryside (Scotland) Act 1967, in respect of any land prior to that land becoming land within a European site, or adjacent to such a site, shall continue to have effect as if done under the corresponding provision of these Regulations.

For the purposes of this paragraph Part III of the 1949 Act shall be deemed to include section 15 of the Countryside Act 1968 and anything done or deemed to be done under that section and to which this paragraph applies shall have effect as if done or deemed to be done under section 16 of the 1949 Act.

(3) Any reference in an outlying enactment to a nature reserve within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949 shall be construed as including a European site.

For this purpose an “outlying enactment” means an enactment not contained in, or in an instrument made under, the National Parks and Access to the Countryside Act 1949 or the Wildlife and Countryside Act 1981⁽⁵⁾.

Control of potentially damaging operations

Notification of potentially damaging operations

18.—(1) Any notification in force in relation to a European site under section 28 of the Wildlife and Countryside Act 1981 (areas of special scientific interest) specifying—

- (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest, and
- (b) any operations appearing to the appropriate nature conservation body to be likely to damage that flora or fauna or those features,

shall have effect for the purposes of these Regulations.

(2) The appropriate nature conservation body may, for the purpose of securing compliance with the requirements of the Habitats Directive, at any time amend the notification with respect to any of the matters mentioned in paragraph (1)(a) or (b).

(3) Notice of any amendment shall be given—

- (a) to every owner and occupier of land within the site who in the opinion of the appropriate nature conservation body may be affected by the amendment, and
- (b) to the local planning authority;

and the amendment shall come into force in relation to an owner or occupier upon such notice being given to him.

(2) 1949 c. 97; section 16 was amended by paragraph 1 of Schedule 1 to the Nature Conservancy Council Act 1973 (c. 54).

(3) 1968 c. 41; section 15 was amended by paragraph 9 of Schedule 1 to the Nature Conservancy Council Act 1973 (c. 54).

(4) 1967 c. 86; section 49A was inserted by section 9 of the Countryside (Scotland) Act 1981 (c. 44).

(5) 1981 c. 69.

- (4) The provisions of—
- (a) section 28(11) of the Wildlife and Countryside Act 1981 (notification to be local land charge in England and Wales), and
 - (b) section 28(12) to (12B)(6) of that Act (local registration of notification in Scotland),
- apply, with the necessary modifications, in relation to an amendment of a notification under this regulation as in relation to the original notification.

Restriction on carrying out operations specified in notification

19.—(1) The owner or occupier of any land within a European site shall not carry out, or cause or permit to be carried out, on that land any operation specified in a notification in force in relation to the site under regulation 18, unless—

- (a) one of them has given the appropriate nature conservation body written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out, and
- (b) one of the conditions specified in paragraph (2) is fulfilled.

(2) Those conditions are—

- (a) that the operation is carried out with the written consent of the appropriate nature conservation body;
- (b) that the operation is carried out in accordance with the terms of a management agreement;
- (c) that four months have expired from the giving of the notice under paragraph (1)(a).

(3) A person who, without reasonable excuse, contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) For the purposes of paragraph (3) it is a reasonable excuse for a person to carry out an operation—

- (a) that the operation was an emergency operation particulars of which (including details of the emergency) were notified to the appropriate nature conservation body as soon as practicable after the commencement of the operation; or
- (b) that the operation was authorised by a planning permission granted on an application under Part III of the Town and Country Planning Act 1990(7) or Part III of the Town and Country Planning (Scotland) Act 1972(8).

(5) The appropriate nature conservation body has power to enforce this regulation; but nothing in this paragraph shall be construed as authorising the institution of proceedings in Scotland for an offence.

(6) Proceedings in England and Wales for an offence under this regulation shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the appropriate nature conservation body.

Supplementary provisions as to consents

20.—(1) Where it appears to the appropriate nature conservation body that an application for consent under regulation 19(2)(a) relates to an operation which is or forms part of a plan or project which—

- (a) is not directly connected with or necessary to the management of the site, and

(6) Subsections (12) to (12B) were substituted by section 2(8) of the Wildlife and Countryside (Amendment) Act 1985 (c. 31).

(7) 1990 c. 8.

(8) 1972 c. 52.

(b) is likely to have a significant effect on the site (either alone or in combination with other plans or projects),

they shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) In the light of the conclusions of the assessment, they may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) The above provisions do not apply in relation to a site which is a European site by reason only of regulation 10(1)(c) (site protected in accordance with Article 5(4)).

(4) Where in any case, whether in pursuance of this regulation or otherwise, the appropriate nature conservation body have not given consent for an operation, but they consider that there is a risk that the operation may nevertheless be carried out, they shall notify the Secretary of State.

(5) They shall take such steps as are requisite to secure that any such notification is given at least one month before the expiry of the period mentioned in regulation 19(2)(c) (period after which operation may be carried out in absence of consent).

Provision as to existing notices and consents

21.—(1) Any notice or consent previously given under section 28(5)(a) or (6)(a) of the Wildlife and Countryside Act 1981 in relation to land which on or after the commencement of these Regulations becomes land within a European site shall have effect, subject as follows, as if given under regulation 19(1)(a) or (2)(a) above.

(2) The appropriate nature conservation body shall review any such consent as regards its compatibility with the conservation objectives of the site, and may modify or withdraw it.

(3) Notice of any such modification or withdrawal of consent shall be given to every owner and occupier of land within the site who in the opinion of the appropriate nature conservation body may be affected by it; and the modification or withdrawal shall come into force in relation to an owner or occupier upon such notice being given to him.

(4) The modification or withdrawal of a consent shall not affect anything done in reliance on the consent before the modification or withdrawal takes effect.

(5) Where or to the extent that an operation ceases to be covered by a consent by reason of the consent being modified or withdrawn, the period after which in accordance with regulation 19(2)(c) the operation may be carried out in the absence of consent shall be four months from the giving of notice of the modification or withdrawal under paragraph (3) above.

(6) Regulation 20(4) and (5) (provisions as to notification of Secretary of State) apply in such a case, with the following modifications—

- (a) for the reference to consent not having been given substitute a reference to consent being modified or withdrawn;
- (b) for the reference to the period specified in regulation 19(2)(c) substitute a reference to the period specified in paragraph (5) above.

Special nature conservation orders

Power to make special nature conservation order

22.—(1) The Secretary of State may, after consultation with the appropriate nature conservation body, make in respect of any land within a European site an order (a “special nature conservation order”) specifying operations which appear to him to be likely to destroy or damage the flora, fauna, or geological or physiographical features by reason of which the land is a European site.

- (2) A special nature conservation order may be amended or revoked by a further order.
- (3) Schedule 1 has effect with respect to the making, confirmation and coming into operation of special nature conservation orders and amending or revoking orders.
- (4) A special nature conservation order in relation to land in England and Wales is a local land charge.
- (5) A special nature conservation order in relation to land in Scotland shall be registered either—
- (a) in a case where the land affected by the order is registered in that Register, in the Land Register of Scotland; or
 - (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (6) A report submitted by a nature conservation body to the Secretary of State under paragraph 20 of Schedule 6 to the Environmental Protection Act 1990⁽⁹⁾ or section 10(2) of the Natural Heritage (Scotland) Act 1991⁽¹⁰⁾ shall set out particulars of any land in their area as respects which a special nature conservation order has come into operation during the year to which the report relates.

Restriction on carrying out operations specified in order

- 23.**—(1) No person shall carry out on any land within a European site in respect of which a special nature conservation order is in force any operation specified in the order, unless the operation is carried out, or caused or permitted to be carried out, by the owner or occupier of the land and—
- (a) one of them has, after the making of the order, given the appropriate nature conservation body written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out, and
 - (b) one of the conditions specified in paragraph (2) is fulfilled.
- (2) Those conditions are—
- (a) that the operation is carried out with the written consent of the appropriate nature conservation body;
 - (b) that the operation is carried out in accordance with the terms of a management agreement.
- (3) A person who, without reasonable excuse, contravenes paragraph (1) commits an offence and is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) For the purposes of paragraph (3) it is a reasonable excuse for a person to carry out an operation—
- (a) that the operation was an emergency operation particulars of which (including details of the emergency) were notified to the appropriate nature conservation body as soon as practicable after the commencement of the operation; or
 - (b) that the operation was authorised by a planning permission granted on an application under Part III of the Town and Country Planning Act 1990 or Part III of the Town and Country Planning (Scotland) Act 1972.

Supplementary provisions as to consents

- 24.**—(1) Where it appears to the appropriate nature conservation body that an application for consent under regulation 23(2)(a) relates to an operation which is or forms part of a plan or project which—

⁽⁹⁾ 1990 c. 43.

⁽¹⁰⁾ 1991 c. 28.

- (a) is not directly connected with or necessary to the management of the site, and
- (b) is likely to have a significant effect on the site (either alone or in combination with other plans or projects),

they shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) In the light of the conclusions of the assessment, they may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) Where the appropriate nature conservation body refuse consent in accordance with paragraph (2) they shall give reasons for their decision.

(4) The owner or occupier of the land in question may—

- (a) within two months of receiving notice of the refusal of consent, or
- (b) if no notice of a decision is received by him within three months of an application for consent being made,

by notice in writing to the appropriate nature conservation body require them to refer the matter forthwith to the Secretary of State.

(5) If on the matter being referred to the Secretary of State he is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (6), may be of a social or economic nature), he may direct the appropriate nature conservation body to give consent to the operation.

(6) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (5) must be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- (b) other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

(7) Where the Secretary of State directs the appropriate nature conservation body to give consent under this regulation, he shall secure that such compensatory measures are taken as are necessary to ensure that the overall coherence of Natura 2000 is protected.

(8) This regulation does not apply in relation to a site which is a European site by reason only of regulation 10(1)(c) (site protected in accordance with Article 5(4)).

Compensation for effect of order

25.—(1) Where a special nature conservation order is made, the appropriate nature conservation body shall pay compensation to any person having at the time of the making of the order an interest in land comprised in an agricultural unit comprising land to which the order relates who, on a claim made to the appropriate nature conservation body within the time and in the manner prescribed by regulations, shows that the value of his interest is less than it would have been if the order had not been made.

(2) For this purpose an “agricultural unit” means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land.

(3) No claim for compensation shall be made under this regulation in respect of an order unless the Secretary of State has given notice under paragraph 6(1) or (2) of Schedule 1 of his decision in respect of the order.

Restoration where order contravened

26.—(1) Where a person is convicted of an offence under regulation 23, the court by which he is convicted may, in addition to dealing with him in any other way, make an order requiring him to carry out, within such period as may be specified in the order, such operations for the purpose of restoring the land to its former condition as may be so specified.

(2) An order under this regulation made on conviction on indictment shall be treated for the purposes of section 30 of the Criminal Appeal Act 1968⁽¹¹⁾ (effect of appeals on orders for the restitution of property) as an order for the restitution of property.

(3) In the case of an order under this regulation made by a magistrates' court the period specified in the order shall not begin to run—

- (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;
- (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.

(4) At any time before an order under this regulation has been complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.

(5) If a person fails without reasonable excuse to comply with an order under this regulation, he commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale; and if the failure continues after conviction, he may be proceeded against for a further offence from time to time until the order is complied with.

(6) If, within the period specified in an order under this regulation, any operations specified in the order have not been carried out, the appropriate nature conservation body may enter the land and carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.

(7) In the application of this regulation to Scotland—

- (a) paragraphs (2) and (3) shall not apply, and
- (b) for the purposes of any appeal or review, an order under this regulation is a sentence.

Continuation in force of existing orders, &c.

27.—(1) Where an order is in force under section 29 of the Wildlife and Countryside Act 1981⁽¹²⁾ (special protection for certain areas of special scientific interest) in relation to land which on or after the commencement of these Regulations becomes land within a European site, the order shall have effect as if made under regulation 22 above.

(2) Any notice previously given under section 29(4)(a)⁽¹³⁾ (notice by owner or occupier of proposal to carry out operation) shall have effect as if given under regulation 23(1)(a) and, if the appropriate nature conservation body have neither given nor refused consent, shall be dealt with under these Regulations.

(3) Any consent previously given under section 29(5)(a) shall be reviewed by the appropriate nature conservation body as regards its compatibility with the conservation objectives of the site, and may be modified or withdrawn.

(4) Notice of any such modification or withdrawal of consent shall be given to every owner and occupier of land within the site who in the opinion of the appropriate nature conservation body may

⁽¹¹⁾ 1968 c. 19; section 30 was substituted by paragraph 28 of Schedule 15 to the Criminal Justice Act 1988 (c. 33).

⁽¹²⁾ 1981 c. 69.

⁽¹³⁾ Section 29(4)(a) was amended by paragraph 11(9) and (10) of Schedule 9 to the Environmental Protection Act 1990 (c. 43).

be affected by it; and the modification or withdrawal shall come into force in relation to an owner or occupier upon such notice being given to him.

(5) The modification or withdrawal of a consent shall not affect anything done in reliance on the consent before the modification or withdrawal takes effect.

(6) Section 29(5)(c), (6) and (7) shall cease to apply and the carrying out, or continuation, of any operation on land within a European site which is not otherwise authorised in accordance with these Regulations shall be subject to the prohibition in regulation 23(1).

Byelaws

Power to make byelaws

28.—(1) The appropriate nature conservation body may make byelaws for the protection of a European site under section 20 of the National Parks and Access to the Countryside Act 1949(14) (byelaws for protection of nature reserves).

(2) Without prejudice to the generality of paragraph (1), byelaws under that section as it applies by virtue of this regulation may make provision of any of the following kinds.

(3) They may—

- (a) provide for prohibiting or restricting the entry into, or movement within, the site of persons, vehicles, boats and animals;
- (b) prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description in the site, the taking, destruction or disturbance of eggs of any such creature, the taking of, or interference with, vegetation of any description in the site, or the doing of anything in the site which will interfere with the soil or damage any object in the site;
- (c) contain provisions prohibiting the depositing of rubbish and the leaving of litter in the site;
- (d) prohibit or restrict, or provide for prohibiting or restricting, the lighting of fires in the site or the doing of anything likely to cause a fire in the site.

(4) They may prohibit or restrict any activity referred to in paragraph (3) within such area surrounding or adjoining the site as appears to the appropriate nature conservation body requisite for the protection of the site.

(5) They may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising—

- (a) entry into the site or any such surrounding or adjoining area as is mentioned in paragraph (4), or
- (b) the doing of anything within the site, or any such surrounding or adjoining area,

where such entry, or doing that thing, would otherwise be unlawful under the byelaws.

(6) They may be made so as to relate either to the whole or to any part of the site, or of any such surrounding or adjoining area as is mentioned in paragraph (4), and may make different provision for different parts thereof.

(7) This regulation does not apply in relation to a European marine site (but see regulation 36).

(14) 1949 c. 97; section 20 was amended by paragraph 1 of Schedule 1 to the Nature Conservancy Council Act 1973 (c. 54), paragraph 28(1) of Schedule 4 to the Telecommunications Act 1984 (c. 12) and paragraph 13(1) of Schedule 25 to the Water Act 1989 (c. 15).

Byelaws: limitation on effect

29. Byelaws under section 20 of the National Parks and Access to the Countryside Act 1949 as it applies by virtue of regulation 28 shall not interfere with—

- (a) the exercise by any person of a right vested in him as owner, lessee or occupier of land in the European site, or in any such surrounding or adjoining area as is mentioned in paragraph (4) of that regulation;
- (b) the exercise of any public right of way;
- (c) the exercise of any functions of statutory undertakers;
- (d) the exercise of any functions of an internal drainage board, a district salmon fishery board or the Commissioners appointed under the Tweed Fisheries Act 1969⁽¹⁵⁾; or
- (e) the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system.

Compensation for effect of byelaws

30. Where the exercise of any right vested in a person, whether by reason of his being entitled to any interest in land or by virtue of a licence or agreement, is prevented or hindered by the coming into operation of byelaws under section 20 of the National Parks and Access to the Countryside Act 1949 as it applies by virtue of regulation 28, he shall be entitled to receive from the appropriate nature conservation body compensation in respect thereof.

Continuation in force of existing byelaws

31. Any byelaws in force under section 20 of the National Parks and Access to the Countryside Act 1949 in relation to land which on or after the commencement of these Regulations becomes land within a European site, or adjacent to such a site, shall have effect as if made under the said section 20 as it applies by virtue of regulation 28 and shall be construed as if originally so made.

*Powers of compulsory acquisition***Powers of compulsory acquisition**

32.—(1) Where the appropriate nature conservation body are satisfied—

- (a) that they are unable, as respects any interest in land within a European site, to conclude a management agreement on terms appearing to them to be reasonable, or
- (b) where they have entered into a management agreement as respects such an interest, that a breach of the agreement has occurred which prevents or impairs the satisfactory management of the European site,

they may acquire that interest compulsorily.

(2) Such a breach as is mentioned in paragraph (1)(b) shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the appropriate nature conservation body requiring the remedying thereof.

(3) Any dispute arising whether there has been such a breach of a management agreement shall be determined—

- (a) in the case of land in England and Wales, by an arbitrator appointed by the Lord Chancellor;

(15) 1969 c.xxiv.

- (b) in the case of land in Scotland, by an arbiter appointed by the Lord President of the Court of Session.

Special provisions as to European marine sites

Marking of site and advice by nature conservation bodies

33.—(1) The appropriate nature conservation body may install markers indicating the existence and extent of a European marine site.

This power is exercisable subject to the obtaining of any necessary consent under section 34 of the Coast Protection Act 1949(16) (restriction of works detrimental to navigation).

(2) As soon as possible after a site becomes a European marine site, the appropriate nature conservation body shall advise other relevant authorities as to—

- (a) the conservation objectives for that site, and
- (b) any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, for which the site has been designated.

Management scheme for European marine site

34.—(1) The relevant authorities, or any of them, may establish for a European marine site a management scheme under which their functions (including any power to make byelaws) shall be exercised so as to secure in relation to that site compliance with the requirements of the Habitats Directive.

(2) Only one management scheme may be made for each European marine site.

(3) A management scheme may be amended from time to time.

(4) As soon as a management scheme has been established, or is amended, a copy of it shall be sent by the relevant authority or authorities concerned to the appropriate nature conservation body.

Direction to establish or amend management scheme

35.—(1) The relevant Minister may give directions to the relevant authorities, or any of them, as to the establishment of a management scheme for a European marine site.

(2) Directions may, in particular—

- (a) require conservation measures specified in the direction to be included in the scheme;
- (b) appoint one of the relevant authorities to co-ordinate the establishment of the scheme;
- (c) set time limits within which any steps are to be taken;
- (d) provide that the approval of the Minister is required before the scheme is established; and
- (e) require any relevant authority to supply to the Minister such information concerning the establishment of the scheme as may be specified in the direction.

(3) The relevant Minister may give directions to the relevant authorities, or any of them, as to the amendment of a management scheme for a European marine site, either generally or in any particular respect.

(4) Any direction under this regulation shall be in writing and may be varied or revoked by a further direction.

(16) 1949 c. 74; section 34 was amended by section 36(1) to (4) of the Merchant Shipping Act 1988 (c. 12).

(5) In this regulation “the relevant Minister” means, in relation to a site in England, the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly and in any other case the Secretary of State.

Byelaws for protection of European marine site

36.—(1) The appropriate nature conservation body may make byelaws for the protection of a European marine site under section 37 of the Wildlife and Countryside Act 1981 (byelaws for protection of marine nature reserves).

(2) The provisions of subsections (2) to (11) of that section apply in relation to byelaws made by virtue of this regulation with the substitution for the references to marine nature reserves of references to European marine sites.

(3) Nothing in byelaws made by virtue of this regulation shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).

Miscellaneous

Nature conservation policy in planning contexts

37.—(1) For the purposes of the planning enactments mentioned below, policies in respect of the conservation of the natural beauty and amenity of the land shall be taken to include policies encouraging the management of features of the landscape which are of major importance for wild flora and fauna.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems of marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

(2) The enactments referred to in paragraph (1) are—

- (a) in the Town and Country Planning Act 1990(**17**), section 12(3A) (unitary development plans), section 31(3) (structure plans) and section 36(3)(**18**) (local plans);
- (b) in the Town and Country Planning (Scotland) Act 1972(**19**), section 5(3)(a) (structure plans) and section 9(3)(a) (local plans)(**20**).

(17) 1990 c. 8.

(18) Section 12(3A) was inserted, and sections 31(3) and 36(3) were substituted, by paragraphs 2(1), 16 and 17 respectively of Schedule 4 to the Planning and Compensation Act 1991 (c. 34).

(19) 1972 c. 52.

(20) The relevant passages in sections 5(3)(a) and 9(3)(a) were inserted by paragraphs 3 and 4 of Schedule 13 to the Planning and Compensation Act 1991 (c. 34).