
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019

PART 2

**AMENDMENT OF THE CONSERVATION
(NATURAL HABITATS, &C.) REGULATIONS 1994**

Amendment of regulation 2

- 4.—**(1) Regulation 2 (interpretation and application) is amended as follows.
- (2) In paragraph (1)—
- (a) after the definition of “competent authority”, insert—
 - ““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;”
 - (b) in the definition of “Habitats Directive” , after “time to time” insert “, but subject to paragraph (2A)(1)”,
 - (c) in the definition of “Natura 2000”, at the end insert “(but see paragraphs (6) and (7))”,
 - (d) after the definition of “premises”, insert—
 - ““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;”
 - (e) after the definition of “relevant authorities”, insert—
 - ““the requirements of the Directives” is to be interpreted in accordance with regulation 2A(3) and (4);
 - “the retained transposing regulations” means—
 - (a) the Conservation of Habitats and Species Regulations 2017(2);
 - (b) the Conservation of Offshore Marine Habitats and Species Regulations 2017 (3);

(1) The effect of paragraph 2 of Schedule 8 to the European Union (Withdrawal) Act 2018 is that the reference to the Habitats Directive as amended “from time to time” ceases to have ambulatory effect on exit day and is thereafter to be read as a reference to that Directive as it had effect immediately before exit day.

(2) [S.I. 2017/1012](#).

(3) [S.I. 2017/1013](#).

- (c) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(4); and
 - (d) these Regulations,
- “the other retained transposing regulations” means the retained transposing regulations other than these Regulations;”;
- (f) after the definition of “sample”, insert—
 - ““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 and includes any such site designated after exit day under the retained transposing regulations;”;
 - (g) after the definition of “statutory undertaker”, insert—
 - ““the UK site network” means the network of sites in the United Kingdom’s territory consisting of such sites as—
 - (a) immediately before exit day formed part of Natura 2000; or
 - (b) at any time on or after exit day are European sites, European marine sites and European offshore marine sites for the purposes of any of the retained transposing regulations;
 - “the United Kingdom’s territory” means the United Kingdom and the offshore marine area;”;
 - (h) in the definition of “the Wild Birds Directive”, after “time to time” insert “, but subject to paragraph (2A)(5)”.
- (3) For paragraph (2) substitute—
- “(2) Unless the context otherwise requires, expressions not defined in paragraph (1) which are used in these Regulations and also in the Habitats Directive have the same meaning as in that Directive.”.
- (4) In paragraph (2ZA), after “expressions” insert “not defined in paragraph (1) which are”.
- (5) After paragraph (2ZA) insert—
- “(2A) In these Regulations references to any Annex to the Habitats Directive or, as the case may be, any Annex to the Wild Birds Directive, are references to that Annex as it had effect immediately before exit day, or as subsequently amended under regulation 114.”.
- (6) After paragraph (5), insert—
- “(6) For the purposes of—
 - (a) these Regulations; and
 - (b) any guidance issued before exit day by the Scottish Ministers or the appropriate nature conservation body relating to the application of these Regulations,
- on or after exit day references to “Natura 2000” (other than in this regulation) are to be construed as references to the UK site network.

(4) S.R.(N.I.) 1995 No. 380. Amendments have been made by the Marine Act (Northern Ireland) 2013 (c.10) (N.I.), section 40, by S.R. 2004 No. 435, 2007 No. 345, 2009 No. 8, 2011 No. 216, 2012 No. 368 and 2015 No. 182.

(5) The effect of paragraph 2 of Schedule 8 to the European Union (Withdrawal) Act 2018 is that the reference to the Wild Birds Directive as amended “from time to time” ceases to have ambulatory effect on exit day and is thereafter to be read as a reference to that Directive as it had effect immediately before exit day.

(7) Paragraph (6) does not affect the interpretation of these Regulations as they had effect, or any guidance as it applied, before exit day.”