
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 113

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

PART 2

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

Amendment of regulations 7 and 8

8. For regulation 7 (selection of sites eligible for identification as of Community importance) and 8 (adoption of list of sites: designation of special areas of conservation), substitute—

“Duty to designate special areas of conservation

7.—(1) The Scottish Ministers must, having regard to the priorities established under regulation 8, designate as special areas of conservation such sites in Scotland as they consider to be of national importance.

(2) Sites of national importance are sites which contribute significantly to the objective in paragraph (3)(a) or the objective in paragraph (3)(b).

(3) The objectives referred to in paragraph (2) are—

- (a) the maintenance, or restoration, at favourable conservation status in their natural range of the natural habitat types listed in Annex I to the Habitats Directive or the species listed in Annex II to that Directive; and
- (b) the maintenance of biological diversity within the Atlantic biogeographic region.

(4) For animal species which range over wide areas, those sites determined to be of national importance must correspond to places within the natural range of such species, which is distinct in providing the physical or biological factors essential to their life and reproduction.

(5) For aquatic species which range over wide areas, such sites are to be determined to be of national importance only where there is a clearly identifiable area which is distinct in providing the physical and biological factors essential to their life and reproduction.

(6) In determining which sites are of national importance for the purposes of paragraph (1), the Scottish Ministers must—

- (a) apply the Annex III criteria;
- (b) make their determination only on the basis of relevant scientific information; and
- (c) have regard to the importance of the population of a species or area of a habitat found in the United Kingdom for the purpose of meeting the objectives in paragraph (3).

(7) For the purposes of paragraph (6)(a), the Annex III criteria are to be construed as if—

- (a) for “Community importance” there were substituted “national importance”;
 - (b) a reference to a “Member State” is to be taken to be a reference to the Scottish Ministers;
 - (c) for “continuous ecosystem situated on both sides of one or more internal Community frontiers” there were substituted “continuous ecosystem extending beyond the borders of the United Kingdom”; and
 - (d) for “the biogeographical regions concerned and/or for the whole of the territory referred to in Article 2” there were substituted “the Atlantic biogeographical region”;
- (8) In applying the Annex III criteria, the Scottish Ministers must—
- (a) in relation to the application of stage 1 of those criteria, have regard to the advice of the appropriate nature conservation body; and
 - (b) in relation to the application of stage 2 of those criteria, have regard to the advice of the Joint Nature Conservation Committee.
- (9) In this regulation, “the Annex III criteria” means the criteria set out in Annex III to the Habitats Directive.

Priorities for designating special areas of conservation

8.—(1) The Scottish Ministers must, in accordance with paragraph (2), establish priorities for designating as special areas of conservation such sites as they have determined to be sites of national importance.

- (2) Priorities for the purpose of paragraph (1) must be established in the light of—
- (a) the importance of the sites for the maintenance at, or restoration to, a favourable conservation status of—
 - (i) a natural habitat type specified in Annex I to the Habitats Directive; or
 - (ii) a species specified in Annex II to the Habitats Directive;
 - (b) the importance of such sites for the coherence of the UK site network; and
 - (c) the threats of degradation or destruction to which the sites are exposed.”.