
STATUTORY INSTRUMENTS

2001 No. 1754

PETROLEUM

**The Offshore Petroleum Activities
(Conservation of Habitats) Regulations 2001**

<i>Made</i>	- - - -	<i>8th May 2001</i>
<i>Laid before Parliament</i>		<i>8th May 2001</i>
<i>Coming into force</i>	- -	<i>31st May 2001</i>

The Secretary of State, being a Minister designated^{M1} for the purposes of section 2(2) of the European Communities Act 1972^{M2} in relation to measures relating to the conservation of natural habitats and of wild fauna and flora, in exercise of the powers conferred upon him by that section hereby makes the following Regulations:—

Modifications etc. (not altering text)

- C1** Regulations applied (with modifications) (1.7.2010) by [The Energy Act 2008 \(Consequential Modifications\) \(Offshore Environmental Protection\) Order 2010 \(S.I. 2010/1513\)](#), arts. 1(1), **3(1)-(5)**

Marginal Citations

- M1** [S.I. 1992/2870](#).
M2 [1972 c. 68](#).

Citation and commencement

1. These Regulations may be cited as the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 and shall come into force on 31st May 2001.

Interpretation

2.—(1) In these Regulations—

“the 1998 Act” means the Petroleum Act 1998^{M3};

[^{F1}“the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017;]

“address”, in relation to electronic communication, includes any number or address used for the purposes of such communication;

[^{F2}“appropriate nature conservation body” means such body with responsibilities for providing relevant advice on nature conservation in relation to the land or waters within or adjacent to the relevant site, which the Secretary of State considers appropriate;]

“approval” means approval of an abandonment programme pursuant to Part IV of the 1998 Act;

“authorisation” means an authorisation granted pursuant to section 14 of the 1998 Act relating to the construction or use of a pipe-line;

[^{F3}“consent” is to be construed in accordance with regulation 4(3);]

[^{F4}“designated area” means any area for the time being designated under section 1(7) of the Continental Shelf Act 1964;]

“the Directives” means the Habitats Directive and the Wild Birds Directive;

“electronic communication” means the same as in the Electronic Communications Act 2000^{M4};

“the Habitats Directive” means Council Directive 92/43 of May 21, 1992 on the conservation of natural habitats and of wild fauna and flora^{M5};

“Natura 2000” means the European network of special areas of conservation, and special protection areas under the Wild Birds Directive, provided for by Article 3(1) of the Habitats Directive;

[^{F5}“offshore oil and gas activities” means oil and gas activities carried out wholly or partly in a relevant area;]

[^{F6}“OGA” means the Oil and Gas Authority;]

[^{F5}“oil and gas activities” means any activities carried out for or in connection with the exploration for or production of petroleum;]

“petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

[^{F7}“Petroleum Act licence” means a licence which is granted under or has effect as if granted under the 1998 Act or a licence which is to be granted under that Act;]

[^{F7}“relevant area” means an area comprising any of the following—

- (a) UK waters;
- (b) waters in a designated area; or
- (c) the seabed and subsoil under the waters referred to in paragraphs (a) and (b) above;]

“relevant function” means any function exercisable by the Secretary of State [^{F8}or the OGA] in relation to or in connection with [^{F9}offshore oil and gas activities] including, without limitation, functions exercisable under the 1998 Act or any licence granted or having effect as if granted under that Act;

“relevant power” means any power exercisable by the Secretary of State [^{F8}or the OGA] in relation to or in connection with [^{F9}offshore oil and gas activities] including, without limitation, powers exercisable under the 1998 Act or any licence granted or having effect as if granted under that Act;

“relevant project” means any plan or project which relates to [^{F9}offshore oil and gas activities];

“relevant 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) ^{F10} ...
- (d) [^{F11}an area classified, as a special protection area, before exit day pursuant to Article 4(1) or (2) of the Wild Birds Directive or classified as such after exit day under any of the retained transposing regulations, or]
- (e) a site included in the list of sites which has been transmitted to the Commission by the United Kingdom pursuant to Article 4 of the Habitats Directive ^{F12}...
- (f) ^{F13} ...

A site shall cease to qualify as a site under paragraph (e) above at such time as—

the draft list of sites of Community importance is established under the first sub-paragraph of Article 4(2) of the Habitats Directive where in any case the site is not included in that list, or

the list of sites referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive is adopted by the Commission in accordance with that sub-paragraph.

^{F14} ...

[^{F15}“the retained transposing regulations” means—

- (a) the Conservation (Natural Habitats, &c.) Regulations 1994;
- (b) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995;
- (c) the Conservation of Offshore Marine Habitats and Species Regulations 2017;
- (d) the 2017 Regulations;]

^{F16} ...

^{F17} ...

[^{F18}“UK waters” means parts of the sea in or adjacent to the United Kingdom from the low water mark up to the seaward limits of territorial waters; and]

^{F19} ...

[^{F20}“the Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds].

(2) [^{F21}Subject to paragraphs (3) and (4),] unless the context otherwise requires, expressions used in these Regulations and in the Habitats Directive or in the Wild Birds Directive have the same meaning as in those Directives.

[^{F22}(3) For the purposes of these Regulations—

- (a) the Habitats Directive is to be construed as if—
 - (i) any reference to “the European territory of the Member States to which the Treaty applies” included a reference to the United Kingdom;
 - (ii) any reference to “Member State” or “Member States” included a reference to the United Kingdom;
 - (iii) any reference to “of Community interest” included, in relation to the United Kingdom, a reference to “of national interest”;
 - (iv) in Article 1(d) and (h), references to “the Community” were references to “the European Union or the United Kingdom”;
 - (v) in Article 1(l), the reference to “a site of Community importance designated by the Member State” included, in relation to the United Kingdom, a reference to “a site of national importance designated under any of the retained transposing regulations”;

- (b) the Wild Birds Directive is to be construed as if—
- (i) any reference to “the European territory of the Member States to which the Treaty applies” included a reference to the United Kingdom;
 - (ii) any reference to “Member State” or “Member States” included a reference to the United Kingdom.

(4) Any reference in these Regulations to the “requirements” or “objectives” of the Directives is to be construed as if the objectives of the Directives included the objectives referred to regulation 16A(2) of the 2017 Regulations.]

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|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| F1 | Words in reg. 2(1) inserted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579) , regs. 1, 74(2)(a) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F2 | Words in reg. 2(1) inserted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(a) |
| F3 | Words in reg. 2(1) substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(b) |
| F4 | Words in reg. 2(1) inserted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(c) |
| F5 | Words in reg. 2(1) inserted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(d) |
| F6 | Words in reg. 2(1) inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912) , regs. 1(1), 8(2)(a) |
| F7 | Words in reg. 2(1) inserted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(e) |
| F8 | Words in reg. 2(1) inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912) , regs. 1(1), 8(2)(b) |
| F9 | Words in reg. 2(1) substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(f) |
| F10 | Words in reg. 2(1) omitted (31.12.2020) by virtue of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579) , regs. 1, 74(2)(b)(i) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F11 | Words in reg. 2(1) substituted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579) , regs. 1, 74(2)(b)(ii) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F12 | Word in reg. 2 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842) , regs. 1, 75(a)(ii) (with reg. 3) |
| F13 | Words in reg. 2 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842) , regs. 1, 75(a)(iii) (with reg. 3) |
| F14 | Words in reg. 2 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842) , regs. 1, 75(a)(iv) (with reg. 3) |
| F15 | Words in reg. 2(1) inserted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579) , regs. 1, 74(2)(c) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F16 | Words in reg. 2(1) omitted (18.2.2007) by virtue of The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(h) |
| F17 | Words in reg. 2(1) omitted (1.7.2010) by virtue of The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) , arts. 1(1), 3(6)(a) |
| F18 | Words in reg. 2(1) inserted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(k) |
| F19 | Words in reg. 2(1) omitted (18.2.2007) by virtue of The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77) , regs. 1, 2(2)(j) |
| F20 | Words in reg. 2(1) substituted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) , arts. 1(1), 3(6)(b) |

- F21** Words in reg. 2(2) inserted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, **74(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** Reg. 2(3)(4) inserted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, **74(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M3** 1998 c. 17.
- M4** 2000 c. 7.
- M5** O.J. 1992, L206/7, as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive 97/62/EC, O.J. 1997, L305.

Application of the Directives

[^{F23}3.—(1) To the extent not already provided for by [^{F24}the 2017 Regulations], the Secretary of State [^{F25}and the OGA] shall exercise [^{F26}their respective,] relevant functions ^{F27}... in such manner and to such extent as [^{F28}each] shall consider necessary to secure that offshore oil and gas activities are carried out in a manner that is consistent with the requirements of the Directives.

^{F29}(2)]

- F23** Reg. 3 substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77), regs. 1, **2(3)**
- F24** Words in reg. 3(1) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 13(a)**
- F25** Words in reg. 3(1) inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(3)(a)**
- F26** Words in reg. 3(1) inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(3)(b)**
- F27** Words in reg. 3(1) omitted (1.10.2016) by virtue of The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(3)(c)**
- F28** Word in reg. 3(1) substituted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(3)(d)**
- F29** Reg. 3(2) omitted (31.12.2020) by virtue of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, **75**; 2020 c. 1, Sch. 5 para. 1(1)

Consent for geological surveys

[^{F30}4.—(1) In so far as they relate to oil and gas activities, the following activities or procedures shall not be carried out in a relevant area without the prior written consent of the Secretary of State—

- (a) prospecting or carrying out geological surveys by physical or chemical means;
- (b) drilling for the purpose of obtaining geological information about strata; or
- (c) testing the surveying or drilling equipment to be used in the activities or procedures falling within (a) or (b).

(2) Paragraph (1) above shall apply notwithstanding any provision in any Petroleum Act licence.

(3) For the purposes of regulations 5 and 7 below, “consent” means—

- (a) a consent granted pursuant to paragraph (1) above; or
- (b) a consent granted pursuant to a Petroleum Act licence, including any consent required pursuant to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 [^{F31}or the Offshore Oil and Gas Exploration,

Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020].]

- F30** Reg. 4 substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77), regs. 1, **2(4)**
- F31** Words in reg. 4(3)(b) inserted (31.12.2020 immediately before 11 p.m.) by The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (S.I. 2020/1497), reg. 1(1), **Sch. 7 para. 1** (with reg. 1(2)-(6), 20)

Appropriate assessments

5.—^{F32}(A1) The OGA shall not grant any Petroleum Act licence, consent or authorisation without the agreement of the Secretary of State.]

(1) The Secretary of State shall, before ^{F33}agreeing to the grant of] any ^{F34}Petroleum Act licence], any consent, ^{F35}or] any authorisation, or ^{F36}granting any consent or approval], where he considers that anything that might be done or any activity which might be carried on pursuant to such a licence, consent, authorisation or approval is likely to have a significant effect on a relevant site, whether individually or in combination with any other plan or project, including but not limited to any other relevant project, make an appropriate assessment of the implications for the site in view of the site’s conservation objectives.

(2) The Secretary of State shall for the purposes of the assessment consult the ^{F37}appropriate nature conservation body] and have regard to any representations made by that body within such reasonable time as the Secretary of State may specify and shall also, if he considers appropriate, take the opinion of the general public.

(3) Subject to regulation 6 below, in the light of the conclusions of the assessment the Secretary of State shall ^{F38}agree to the grant of any such licence, consent, or authorisation or grant any such consent or approval] only after having ascertained that nothing that might be done and no activity that might be carried out pursuant thereto would have an adverse effect on the integrity of a relevant site.

^{F39}(4)

- F32** Reg. 5(A1) inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(4)(a)**
- F33** Words in reg. 5(1) substituted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(4)(b)(i)**
- F34** Words in reg. 5(1) substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77), regs. 1, **2(5)(a)**
- F35** Word in reg. 5(1) inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(4)(b)(ii)**
- F36** Words in reg. 5(1) substituted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(4)(b)(iii)**
- F37** Words in reg. 5(2) substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77), regs. 1, **2(5)(b)**
- F38** Words in reg. 5(3) substituted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(4)(c)**
- F39** Reg. 5(4) omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(b)** (with reg. 3)

Modifications etc. (not altering text)

- C2** Reg. 5 applied (16.5.2017) by S.I. 2010/1513, art. 3(5) (as substituted by The Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 (S.I. 2017/582), regs. 1, 60 (with reg. 58)

Projects which should be carried out for imperative reasons of overriding public interest

6.—(1) Subject to paragraph (2) below, [^{F40}regulation 5(3)] above shall not apply to the doing of anything in connection with the carrying out of any relevant project affecting a relevant site—

- (a) to which, in the opinion of the Secretary of State, there is no satisfactory alternative; and
- (b) which the Secretary of State has certified in writing as a project which should be carried out for imperative reasons of overriding public interest, which may include reasons of a social or economic nature.

(2) The Secretary of State shall not give a certification pursuant to paragraph (1)(b) above in respect of a project that is likely to have an adverse effect on the integrity of a site hosting a priority natural habitat type or a priority species unless—

- (a) the reason for so certifying relates to human health or public safety, or to beneficial consequences of primary importance for the environment; or

[^{F41}(b) the Secretary of State has consulted, and had regard to the opinion of—

- (i) the Joint Nature Conservation Committee;
- (ii) the Scottish Ministers;
- (iii) the Department of Agriculture, Environment and Rural Affairs;
- (iv) the Welsh Ministers; and
- (v) any other person the Secretary of State considers appropriate.]

(3) Where the Secretary of State has given a certification pursuant to paragraph (1)(b) above, he shall secure that any necessary compensatory measures are taken to ensure that the overall coherence of [^{F42}the national site network] is protected, and in determining what such necessary compensatory measures may be, he shall consult the [^{F43}appropriate nature conservation body].

(4) The Secretary of State shall—

- (a) at such intervals as he shall think fit carry out or cause to be carried out such investigation as he shall consider appropriate in relation to the effects of [^{F44}offshore oil and gas activities] on the conservation status of natural habitats and species of wild fauna and flora, with particular regard to priority habitat types and priority species; and
- (b) in the light of the results of such investigation consider whether he ought to exercise any relevant power for the purposes of protecting such a natural habitat or species.

[^{F45}(5) In this regulation, “the national site network” means such sites as—

- (a) immediately before exit day formed part of Natura 2000, or
- (b) at any time on or after exit day are a relevant site.]

F40 Words in reg. 6(1) substituted (21.8.2007) by The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, 75(c) (with reg. 3)

F41 Reg. 6(2)(b) substituted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, 76(2); 2020 c. 1, Sch. 5 para. 1(1)

F42 Words in reg. 6(3) substituted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, 76(3); 2020 c. 1, Sch. 5 para. 1(1)

- F43** Words in reg. 6(3) substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77), regs. 1, **2(6)(a)**
- F44** Words in reg. 6(4)(a) substituted (18.2.2007) by The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007 (S.I. 2007/77), regs. 1, **2(6)(b)**
- F45** Reg. 6(5) inserted (31.12.2020) by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/579), regs. 1, **76(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Control of activities under licence

7.—(1) Where the Secretary of State is satisfied that anything done, being done or proposed to be done pursuant to a [^{F46}Petroleum Act licence, consent,] authorisation or approval—

- (a) has had, is having, or is likely to have an adverse effect on the integrity of a relevant site; or
- (b) has caused, is causing, or is likely to cause deterioration of natural habitats or the habitats of species in such a site or disturbance of species for which that site may be or has been designated or classified pursuant to either of the Directives, in so far as such disturbance could be significant in relation to the objectives of the Habitats Directive; and
- (c) steps can be taken to avoid, reverse, reduce or eliminate that effect, deterioration or disturbance,

he shall, subject to paragraphs (3), (4), (5) and (6) below, give a direction in writing requiring the person to whom it is addressed to take such steps or refrain from taking such steps as may be specified in the direction.

(2) Without prejudice to the generality of paragraph (1) above, a direction given pursuant to this regulation may require within such period as may be specified in the direction—

- (a) the submission to the Secretary of State for his approval of a plan of the steps to be taken;
- (b) the carrying out of a plan of the kind referred to in sub-paragraph (a) above which has been approved by the Secretary of State;
- (c) the installation on a fixed or floating structure used in connection with [^{F47}offshore oil and gas activities] of such equipment as may be specified in the direction; or
- (d) the carrying out of a modification of such a structure or the manner in which it is operated.

(3) Prior to any direction being given pursuant to this regulation the Secretary of State shall consult the [^{F48}appropriate nature conservation body] as to the steps to be specified in the direction.

(4) Any direction given pursuant to this regulation may revoke or modify the terms and conditions of a consent, authorisation or approval.

(5) Any direction given pursuant to this regulation shall be in writing and shall not have effect unless it has been served on the person to whom it is addressed.

(6) Subject to paragraph (7) below, the Secretary of State shall not give a direction to any person pursuant to this regulation unless—

- (a) he has served on that person a copy of a draft of the direction that he is proposing to give;
- (b) that person has been afforded a reasonable opportunity of making representations regarding the content of the proposed direction; and
- (c) the Secretary of State has taken into account any representations made by that person.

(7) Paragraph (6) above shall not apply in a case of urgency where the Secretary of State is of the opinion that the giving of a direction is necessary for the purposes set out in paragraph (1) above or (9) below.

(8) A direction given pursuant to this regulation may be modified or revoked by a further direction given by the Secretary of State.

(9) A direction shall be given under this regulation in respect of an area which is not a relevant site, but as to which the Secretary of State, having consulted the [^{F49}appropriate nature conservation body], is of the opinion that it would be likely to be classified as a special protection area [^{F50}under any of the retained transposing regulations] where the Secretary of State is satisfied that anything done, being done or proposed to be done pursuant to a [^{F51}Petroleum Act licence, consent,] authorisation or approval—

- (a) has had, is having, or is likely to have an adverse effect on the integrity of that area; or
- (b) has caused, is causing, or is likely to cause pollution or deterioration of natural habitats or disturbance of species for which that site is likely to be classified in so far as such disturbance could be significant in relation to the objectives of Article 4 of the Wild Birds Directive; and
- (c) steps can be taken to avoid, reverse, reduce or eliminate that effect, pollution, deterioration or disturbance.

- F46** Words in [reg. 7\(1\)](#) substituted (18.2.2007) by [The Offshore Petroleum Activities \(Conservation of Habitats\) \(Amendment\) Regulations 2007 \(S.I. 2007/77\)](#), regs. 1, [2\(7\)\(a\)](#)
- F47** Words in [reg. 7\(2\)\(c\)](#) substituted (18.2.2007) by [The Offshore Petroleum Activities \(Conservation of Habitats\) \(Amendment\) Regulations 2007 \(S.I. 2007/77\)](#), regs. 1, [2\(7\)\(b\)](#)
- F48** Words in [reg. 7\(3\)](#) substituted (18.2.2007) by [The Offshore Petroleum Activities \(Conservation of Habitats\) \(Amendment\) Regulations 2007 \(S.I. 2007/77\)](#), regs. 1, [2\(7\)\(c\)](#)
- F49** Words in [reg. 7\(9\)](#) substituted (18.2.2007) by [The Offshore Petroleum Activities \(Conservation of Habitats\) \(Amendment\) Regulations 2007 \(S.I. 2007/77\)](#), regs. 1, [2\(7\)\(d\)\(i\)](#)
- F50** Words in [reg. 7\(9\)](#) substituted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, [77](#); 2020 c. 1, Sch. 5 para. 1(1)
- F51** Words in [reg. 7\(9\)](#) substituted (18.2.2007) by [The Offshore Petroleum Activities \(Conservation of Habitats\) \(Amendment\) Regulations 2007 \(S.I. 2007/77\)](#), regs. 1, [2\(7\)\(d\)\(ii\)](#)

Modifications etc. (not altering text)

- C3** [Reg. 7](#) applied (16.5.2017) by [S.I. 2010/1513](#), [art. 3\(5\)](#) (as substituted by [The Offshore Petroleum Production and Pipe-lines \(Environmental Impact Assessment and other Miscellaneous Provisions\) \(Amendment\) Regulations 2017 \(S.I. 2017/582\)](#), regs. 1, 60 (with [reg. 58](#)))

Review of directions given by the Secretary of State

8.—(1) Subject to paragraph (2) below, where a direction pursuant to regulation 7 above has been served on a person by the Secretary of State, the Secretary of State shall review the appropriateness of the direction if requested to do so by that person.

(2) The Secretary of State shall only be bound to carry out a review pursuant to a request of the kind referred to in paragraph (1) above, where, in the case of the first request to review it, that request is made no earlier than the first anniversary of the giving of the direction and in relation to any subsequent request, the period of one year has elapsed since a request was last made.

(3) Where, having carried out a review of a direction pursuant to paragraph (1) above, the Secretary of State is satisfied that the direction is no longer appropriate, he shall modify or revoke it.

(4) The Secretary of State shall give notice in writing to the applicant of any decision made under this regulation.

[^{F52}Review of existing decisions

8A.—(1) Where, before the date on which a site becomes a relevant site, the Secretary of State or the OGA has made an existing decision in respect of a plan or project to which regulation 5(1)

(appropriate assessments) would apply if it were to be considered at that date, the Secretary of State shall, as soon as reasonably practicable, review that decision.

- (2) The Secretary of State, for the purpose of carrying out the review under paragraph (1)—
- (a) shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives and the provisions of regulation 5(2) shall apply; and
 - (b) may require a person to whom the existing decision applies to provide such information as the Secretary of State might reasonably require to enable the review to be carried out.
- (3) Where the Secretary of State reviews an existing decision under this regulation, the Secretary of State shall—
- (a) where the existing decision was made by the OGA or is treated as made by the OGA, notify the OGA as to the outcome of the review and whether the OGA must affirm, revoke or modify the decision (and where the outcome is that the decision is to be modified, include details of the modifications to be made); or
 - (b) where the existing decision was made by the Secretary of State, affirm, modify or revoke the decision.
- (4) Nothing in this regulation—
- (a) requires a review where a site is a relevant site by reason of paragraph (c) of the definition of “relevant site” in regulation 2(1) (interpretation); or
 - (b) affects anything done in pursuance of the existing decision before the date this regulation comes into force.
- (5) In this regulation and regulation 8B, “an existing decision” means a consent, authorisation or approval.

F52 Regs. 8A, 8B inserted (16.5.2017) by [The Offshore Petroleum Production and Pipe-lines \(Environmental Impact Assessment and other Miscellaneous Provisions\) \(Amendment\) Regulations 2017 \(S.I. 2017/582\)](#), regs. 1, **59** (with reg. 58)

Consideration on review

8B.—(1) This regulation applies where an existing decision falls to be reviewed under regulation 8A.

(2) In considering whether the continuance of a plan or project would adversely affect the integrity of the relevant site, the provisions of regulation 5(3) and regulation 6(1) to (3) apply with the appropriate modifications in relation to the decision on the review.

(3) The existing decision may be affirmed if it appears to the Secretary of State that action taken or to be taken will secure that the plan or project does not adversely affect the integrity of the relevant site.

(4) Where the avoidance of an adverse effect on the integrity of a relevant site may be secured in a number of ways, the Secretary of State shall seek to ensure that the action to be taken is the least onerous to those affected.

(5) Any modification or revocation under regulation 8A(4) shall be carried out under existing statutory procedures where such procedures exist.]

F52 Regs. 8A, 8B inserted (16.5.2017) by [The Offshore Petroleum Production and Pipe-lines \(Environmental Impact Assessment and other Miscellaneous Provisions\) \(Amendment\) Regulations 2017 \(S.I. 2017/582\)](#), regs. 1, **59** (with reg. 58)

Appeal to High Court, High Court of Northern Ireland or Court of Session

9.—(1) Subject to paragraph (6) below, any person aggrieved by a direction given to him pursuant to regulation 7 above (or by any decision in relation to that direction) may appeal to the court.

(2) Subject to paragraph (4) below, the expression “the court” means—

- (a) in respect of a direction or decision relating to the English area, the High Court;
- (b) in respect of a direction or decision relating to the Scottish area, the Court of Session; or
- (c) in respect of a direction or decision relating to the Northern Irish area, the High Court in Northern Ireland.

(3) The expressions “the English area”, “the Scottish area” and “the Northern Irish Area” shall have the same meaning as in the Civil Jurisdiction (Offshore Activities) Order 1987 ^{M6}.

(4) Where the direction or decision relates to activities in more than one of the areas referred to in paragraph (2) above, then any of the courts having jurisdiction in those areas shall have jurisdiction in relation to the decision in question.

(5) Unless the court otherwise orders, any direction or decision of the Secretary of State which is the subject of an appeal under paragraph (1) above shall remain in force pending the final disposal of that appeal.

(6) An appeal under this regulation shall be made within 28 days of written notification of the direction or decision in question.

Marginal Citations

M6 S.I. 1987/2197.

Protection of certain creatures

^{F53}10.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007 \(revoked\) 2007 \(S.I. 2007/1842\)](#), regs. 1, **75(d)** (with reg. 3)

Protection of certain birds

^{F53}11.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007 \(revoked\) 2007 \(S.I. 2007/1842\)](#), regs. 1, **75(d)** (with reg. 3)

Protection of certain plants

^{F53}12.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007 \(revoked\) 2007 \(S.I. 2007/1842\)](#), regs. 1, **75(d)** (with reg. 3)

Lawful activities

^{F53}13.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(d)** (with reg. 3)

Activities affecting creatures or plants which are necessary for imperative reasons of overriding public interest

^{F53}14.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(d)** (with reg. 3)

Activities affecting birds which are necessary for imperative reasons of overriding public interest

^{F53}15.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(d)** (with reg. 3)

Prohibition of certain methods of capturing or killing species listed under Annex IV(a) of the Habitats Directive

^{F53}16.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(d)** (with reg. 3)

Prohibition of certain methods of capturing or killing birds

^{F53}17.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(d)** (with reg. 3)

Prohibition of certain methods of capturing or killing species listed under Annex V of the Habitats Directive

^{F53}18.

F53 Regs. 10-18 omitted (21.8.2007) by virtue of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (revoked) 2007 (S.I. 2007/1842), regs. 1, **75(d)** (with reg. 3)

Offences

19.—^{F54}(1) A person is guilty of an offence if, without reasonable excuse, he fails to comply with a direction given in accordance with regulation 7 above.]

(2) A person guilty of an offence under ^{F55}paragraph (1)] above shall on summary conviction be liable to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

^{F56}(3)

(4) Where an offence under this regulation by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, paragraph (4) above shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

(7) Proceedings for an offence under this regulation may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.

(8) Section 3 of the Territorial Waters Jurisdiction Act 1878 ^{M7} (restriction on prosecutions) shall not apply to any proceedings for an offence under this regulation.

(9) No prosecution shall be commenced in England and Wales or Northern Ireland except by the Secretary of State or with his consent.

- F54** Reg. 19(1) substituted (21.8.2007) by [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007 \(revoked\) 2007 \(S.I. 2007/1842\)](#), regs. 1, **75(e)(i)** (with reg. 3)
- F55** Words in reg. 19(2) substituted (21.8.2007) by [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007 \(revoked\) 2007 \(S.I. 2007/1842\)](#), regs. 1, **75(e)(ii)** (with reg. 3)
- F56** Reg. 19(3) omitted (21.8.2007) by virtue of [The Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007 \(revoked\) 2007 \(S.I. 2007/1842\)](#), regs. 1, **75(e)(iii)** (with reg. 3)

Marginal Citations

M7 1878 41 & 42 Vict. c. 73.

Service of notices and other documents

20.—(1) Any notice or other document required or authorised to be given to, or served on, any person under these Regulations may be given or served by—

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

(2) Any notice or other document required or authorised to be served on, or given to, any body corporate or unincorporated association other than a partnership shall be duly given to, or served on, the secretary or clerk or other similar officer of that body.

(3) Any notice or other document required or authorised to be served on, or given to, any partnership (including a Scottish partnership) shall be duly given or served on, or given to, a partner or a person having the control or management of the partnership business.

(4) For the purpose of this regulation, the proper address of any person on whom or to whom any such notice or document is to be served or given shall be his last known address except that such address shall be—

- (a) in the case of a body corporate or their secretary or clerk, the address of the registered office or principal office of the body corporate;
- (b) in the case of an unincorporated association (other than a partnership) or their secretary or clerk, the address of the principal office of the association; and
- (c) in the case of a partnership (including a Scottish partnership) or a person having control or the management of the partnership business, the address of the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.

[^{F57}Fees

20A.—(1) The Secretary of State may charge fees in respect of—

- (a) granting, rejecting, modifying, transferring, surrendering or revoking consent under regulation 4(1);
 - [providing advice with respect to—
 - ^{F58}(aa) (i) whether consent is required under regulation 4(1),
 - (ii) the preparation of an application for such consent, or
 - (iii) a proposal to modify, transfer, surrender or revoke such consent;
 - (ab) monitoring compliance with a consent under regulation 4(1);]
 - (b) making an appropriate assessment under regulation 5(1) where that assessment is made only to support a decision on a specific application for a [^{F59}Petroleum Act licence,] consent, authorisation or approval;
 - (c) consulting appropriate nature conservation bodies on any matter under these Regulations;
 - [consulting any person under regulation 6(2)(b);]
 - ^{F60}(ca)
 - (d) giving a certification under regulation 6(1)(b);
 - (e) determining compensatory measures under regulation 6(3) and securing that such measures are taken;
 - (f) giving, modifying or revoking a direction under regulation 7; and
 - (g) reviewing the appropriateness of a direction under regulation 8.

(2) A fee charged under paragraph (1) is

$$(A \times B) + (C \times D)$$

where—

A is the number of hours work carried out by specialist officers;

B is [^{F61}£201];

C is the number of hours work carried out by non-specialist officers; and

D is [^{F62}£104].

(3) For the purposes of paragraph (2), the number of hours work may be expressed as a fraction where—

- (a) less than one hour’s work has been carried out; or
- (b) the total amount of time worked is more than one hour but cannot be expressed as a whole number in hours.

(4) Any fee must be paid on demand.

(5) In this regulation, “specialist officers” means persons engaged on behalf of the Secretary of State to carry out the functions of the Secretary of State referred to in paragraph (1) and “non-specialist officers” means any other persons engaged on behalf of the Secretary of State to provide administrative support to those specialist officers.]

- F57** Reg. 20A inserted (22.7.2015) by [The Pollution Prevention and Control \(Fees\) \(Miscellaneous Amendments and Other Provisions\) Regulations 2015 \(S.I. 2015/1431\)](#), regs. 1(2), **9**
- F58** Reg. 20A(1)(aa)(ab) inserted (1.6.2016) by [The Pollution Prevention and Control \(Fees\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/529\)](#), regs. 1(2), **4(a)**
- F59** Words in reg. 20A(1)(b) inserted (1.12.2016) by [The Pollution Prevention and Control \(Fees\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2016 \(S.I. 2016/1042\)](#), regs. 1, **3**
- F60** Reg. 20A(ca) inserted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **78**; 2020 c. 1, Sch. 5 para. 1(1)
- F61** Sum in reg. 20A(2) substituted (17.6.2022) by [The Pollution Prevention and Control \(Fees\) \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/672\)](#), regs. 1(2), **2(a)**
- F62** Sum in reg. 20A(2) substituted (17.6.2022) by [The Pollution Prevention and Control \(Fees\) \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/672\)](#), regs. 1(2), **2(b)**

Modifications etc. (not altering text)

- C4** Reg. 20A applied (16.5.2017) by [S.I. 2010/1513](#), [art. 3\(5\)](#) (as substituted by [The Offshore Petroleum Production and Pipe-lines \(Environmental Impact Assessment and other Miscellaneous Provisions\) \(Amendment\) Regulations 2017 \(S.I. 2017/582\)](#), regs. 1, 60 (with reg. 58))

Use of electronic communication

21. Wherever a person is required under these Regulations to serve or give any notice or other document in writing, that requirement may be satisfied by the use of such means of electronic communication as the Secretary of State may determine.

[^{F63}**Review**

22.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how the Directives (which are implemented by these Regulations), are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved;

- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which this regulation comes into force.
- (5) Subsequent reports under this regulation must be published at intervals not exceeding five years.]

F63 Reg. 22 inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), **8(5)**

Peter Hain,
Minister for Energy and Competitiveness in
Europe,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive 92/43 of May 21, 1992 (O.J. 1992, L206/7) on the conservation of natural habitats and of wild fauna and flora and Council Directive 79/409 of April 2, 1979 (O.J. 1979, L103/1) on the conservation of wild birds, in relation to oil and gas activities carried out wholly or partly on the UK continental shelf.

Regulations have already been made (the Conservation (Natural Habitats,&c) Regulations 1994, S.I. 1994/2716, amended by the Conservation (Natural Habitats,&c) (Amendment) Regulations 2000, S.I. 2000/192) which implement the Directive in relation to activities carried out onshore and in territorial waters.

Regulation 2 deals with definitions. Regulation 3 requires the Secretary of State to exercise functions consistently with the requirements of the Directives. Regulation 4 requires consent to be obtained for certain geological surveys. Regulation 5 provides for appropriate assessment of the effects of certain oil and gas activities where the activity is likely to have a significant effect on a relevant site. Regulation 6 provides for derogation from regulation 5. Regulation 7 requires the Secretary of State to give directions in the circumstances set out, in order to avoid, reverse, reduce or eliminate adverse effects on relevant sites, or deterioration or disturbance of certain natural habitats or species. Regulations 8 and 9 confer a right to request a review of directions given under regulation 7 and a right of appeal to a court against any such direction.

Regulations 10 to 12 provide for the protection of certain creatures, birds and plants. Regulation 13 makes provision to protect lawful activities. Regulations 14 and 15 provide for derogations from regulations 10 and 11. Regulations 16, 17 and 18 prohibit certain methods of capturing or killing in the circumstances set out in each regulation. Regulation 19 creates offences and provides for penalties. Regulations 20 and 21 deal with service of documents.

These Regulations come into force on 31st May 2001.

A regulatory impact assessment has been prepared and copies can be obtained from Oil and Gas Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (Tel. 020 7215 5098). Copies have been placed in the Libraries of both Houses of Parliament.

Changes to legislation:

There are currently no known outstanding effects for the The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001.