
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 2

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Byelaws

Power to make byelaws

30.—(1) The appropriate nature conservation body may make byelaws for the protection of a European site under section 20 of the 1949 Act⁽¹⁾ (byelaws for protection of nature reserves).

(2) Such byelaws may, in particular, make the kinds of provision mentioned in this regulation, subject to regulation 31(1).

(3) Byelaws may—

- (a) provide for prohibiting or restricting the entry into, or movement within, the site of persons, vehicles, boats or 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; and
- (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) Byelaws 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 necessary for the protection of the site.

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

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

(7) This regulation does not apply in relation to a European marine site (but see regulation 38 (European marine sites: byelaws and orders)).

Byelaws: supplementary provisions

31.—(1) Relevant byelaws must not interfere with—

- (a) the exercise by any person of a right vested in that person as owner, lessee or occupier of land in the European site, or in any such surrounding or adjoining area as is mentioned in regulation 30(4);
- (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⁽²⁾ or the Commissioners appointed under the Tweed Fisheries Act 1969⁽³⁾; or
- (e) the provision of an electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the provider of any such network.

(2) Sections 236 to 238 of the Local Government Act 1972⁽⁴⁾ (procedure, etc., for byelaws; offences against byelaws; evidence of byelaws) apply to all relevant byelaws as if the appropriate nature conservation body were a local authority within the meaning of that Act.

(3) In relation to relevant byelaws, the confirming authority for the purposes of section 236⁽⁵⁾ of the Local Government Act 1972 is the appropriate authority.

(4) The appropriate nature conservation body may take such steps as may be necessary for the purpose of enforcing byelaws made by them.

(5) In this regulation and in regulations 32 and 33, “relevant byelaws” means byelaws under section 20 of the 1949 Act as it applies by virtue of regulation 30.

Compensation for effect of byelaws

32.—(1) Where the exercise of any right vested in a person (“P”), whether by reason of P’s 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 relevant byelaws, P is entitled to receive compensation from the appropriate nature conservation body.

(2) Any dispute arising on a claim for any such compensation is to be determined by the Upper Tribunal.

(3) For the purposes of any such reference to the Upper Tribunal, section 4 of the Land Compensation Act 1961⁽⁶⁾ (costs) has effect with the substitution for references to the acquiring authority of references to the authority from whom the compensation in question is claimed.

(2) See section 1 of the Land Drainage Act 1991 (c. 59).

(3) 1969 c. xxiv.

(4) 1972 c. 70; section 236 was amended by the Civil Aviation Act 1982 (c. 16), paragraph 11 of Schedule 15; the Local Government Act 1985 (c. 51), paragraph 31(1) of Schedule 14; the Water Act 1989 (c. 15), Part 1 of Schedule 27; the Local Government (Wales) Act 1994 (c. 19), paragraph 50 of Schedule 15; the Greater London Authority Act 1999 (c. 29), sections 76 and 166; S.I. 2001/3719; the Local Government and Public Involvement in Health Act 2007 (c. 28), section 129(1) and (2); and the Local Democracy, Economic Development and Construction Act 2009 (c. 20) (“the 2009 Act”), paragraphs 10 and 34 of Schedule 6. Section 238 was amended by S.I. 2001/3719 and the 2009 Act, paragraphs 10 and 36 of Schedule 6.

(5) See definition of “the confirming authority” in subsection (11).

(6) 1961 c. 33; section 4 was amended by S.I. 2009/1307.

(4) Rules (2) to (4) of the Rules set out in section 5(7) of that Act (rules for assessing compensation on a compulsory acquisition) apply to the calculation of any such compensation, in so far as it is calculated by reference to the depreciation of the value of an interest in land.

(5) In the case of an interest in land subject to a mortgage—

- (a) any such compensation in respect of the depreciation of that interest is to be calculated as if the interest were not subject to the mortgage;
- (b) a claim or application for the payment of any such compensation may be made by any person who when the byelaws giving rise to the compensation were made was the mortgagee of the interest, or by any person claiming under such a person, but without prejudice to the making of a claim or application by any other person;
- (c) subject to sub-paragraph (d), a mortgagee is not entitled to any such compensation in respect of that mortgagee's interest as such; and
- (d) any compensation payable in respect of the interest subject to the mortgage must be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and must in either case be applied by the mortgagee as if it were proceeds of sale.

Continuation in force of existing byelaws

33. Any byelaws in force under section 20 of the 1949 Act in relation to land which on or after 1st April 2010 becomes land within a European site, or adjacent to such a site—

- (a) have effect as if they are relevant byelaws; and
- (b) are to be construed as if originally made as such byelaws.

(7) Section 5 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 1 of Schedule 15 and Part 3 of Schedule 19, and by S.I. 2009/1307.