
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 8

FINAL PROVISIONS

Powers of drainage authorities

127.—(1) Where the appropriate nature conservation body or any other person enter into an agreement with a drainage authority for the doing by that authority of any work on land in a European site, no limitation imposed by law on the capacity of the drainage authority by virtue of its constitution operates so as to prevent the authority carrying out the agreement.

(2) In paragraph (1) “drainage authority” means the Environment Agency or an internal drainage board⁽¹⁾.

Advisory role of the Joint Nature Conservation Committee

128.—(1) The Joint Nature Conservation Committee may provide advice or make representations to any competent authority in relation to—

- (a) any question as to whether that authority is obliged to carry out an appropriate assessment in relation to a European offshore marine site under these Regulations;
- (b) any appropriate assessment on which that authority is obliged to consult the Committee under these Regulations;
- (c) any application made pursuant to regulation 75 (general development orders: approval of local planning authority) and sent to the Committee by that authority pursuant to regulation 75(3);
- (d) any decision of the Secretary of State in respect of which notice has been served on the Committee under paragraph (2)(b) of regulation 87 (consents under Electricity Act 1989: procedure on review) or 91 (authorisations under Pipe-lines Act 1962: procedure on review); and
- (e) any decision of the appropriate authority in respect of which notice has been served on the Committee under paragraph (2)(b) of regulation 95 (orders under Transport and Works Act 1992: procedure on review).

(2) The Joint Nature Conservation Committee may undertake, commission or support (whether by financial means or otherwise) such research and scientific work as they consider is required for the purposes of providing advice or making representations under this regulation.

Advisory role of Natural England, the Countryside Council for Wales and Scottish Natural Heritage

129.—(1) Natural England may—

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

- (a) provide advice and assistance, or make representations, to any competent authority on any matter which relates to England and is connected with the discharge of the competent authority's functions under these Regulations; and
 - (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as they consider is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).
- (2) The Countryside Council for Wales may—
- (a) provide advice and assistance, or make representations, to any competent authority on any matter which relates to Wales and is connected with the discharge of the competent authority's functions under these Regulations; and
 - (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as they consider is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).
- (3) Scottish Natural Heritage may—
- (a) provide advice and assistance, or make representations, to any competent authority on any matter which relates to Scotland and is connected with the discharge of the competent authority's functions under these Regulations; and
 - (b) undertake, commission or support (whether by financial means or otherwise) such research and scientific work as they consider is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).

Local inquiries

130.—(1) The appropriate authority may cause a local inquiry to be held for the purposes of the exercise of any of their functions under these Regulations.

(2) The provisions of section 250(2) to (5) of the Local Government Act 1972(2) (which relate to evidence and costs in inquiries) apply in relation to an inquiry held under this regulation.

Notices

131.—(1) Any notice required or authorised to be served under these Regulations to any person may be given by—

- (a) delivering it to the person;
 - (b) leaving it at the person's proper address; or
 - (c) sending it by post to the person at that address.
- (2) Any such notice may—
- (a) in the case of a body corporate, be served on an officer of the body;
 - (b) in the case of a limited liability partnership, Scottish partnership or unincorporated partnership, be served on a partner or a person having the control or management of the partnership business; and
 - (c) in the case of an unincorporated body other than an unincorporated partnership, be served on an officer of that body.

(2) 1972 c. 70; section 250 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; the Housing and Planning Act 1986 (c. 63), Part 3 of Schedule 12; and the Statute Law (Repeals) Act 1989 (c. 43).

(3) For the purposes of this regulation and section 7 of the Interpretation Act 1978⁽³⁾ (service of documents by post) in its application to this regulation, the proper address of any person on whom a notice is to be served is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body;
- (b) in the case of a limited liability partnership or a Scottish partnership, the address of the registered or principal office of the partnership;
- (c) in the case of an unincorporated partnership or any other unincorporated body, the address of the principal office of the partnership or body;
- (d) in the case of a person on whom the notice is served in reliance on paragraph (2), the proper address of the body corporate, partnership or other unincorporated body in question; and
- (e) in any other case, the last known address of the person in question.

(4) If a person on whom a notice is to be served under these Regulations has specified an address for service of such a notice, that address is also to be treated, for the purposes of this regulation and section 7 of the Interpretation Act 1978 in its application to this regulation, as that person's proper address.

(5) If the name or address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(6) This regulation is subject to any provision of these Regulations, or to any direction given under these Regulations, which relates to the service of any notice under these Regulations.

(7) This regulation does not apply to the service of any notice required or authorised to be served under the Acquisition of Land Act 1981⁽⁴⁾, as applied by these Regulations (see regulation 34 (powers of compulsory acquisition)).

(8) In this regulation—

- (a) “body corporate” does not include a limited liability partnership or a Scottish partnership; and
- (b) references to serving include references to similar expressions (such as giving or sending).

Amendments of legislation

132. Schedule 6 (which makes amendments to legislation) has effect.

Revocations

133.—(1) The 1994 Regulations are revoked as provided in paragraphs (2) and (3).

(2) The following provisions are revoked—

- (a) regulation 37(3)⁽⁵⁾ (national policy statement under Part 2 of Planning Act 2008);
- (b) in paragraph (2)(d) of regulation 54 (grant of planning permission), the words “section 5(1) of the Pipe-lines Act 1962 or paragraph 7 of Schedule 8 to the Electricity Act 1989,”;
- (c) regulations 67A, 67B and 68(2)⁽⁶⁾ (development consents under Planning Act 2008);
- (d) regulations 71 to 74 (consents under Electricity Act 1989);
- (e) regulations 75 to 78 (authorisations under Pipe-lines Act 1962); and

(3) 1978 c. 30.

(4) 1981 c. 67.

(5) Regulation 37(3) was inserted by S.I. 2009/2438.

(6) Regulations 67A and 67B were inserted, and regulation 68 was substituted, by S.I. 2009/2438.

- (f) both regulations 85F(7) (national policy statement under Part 2 of Planning Act 2008).
- (3) Provisions of the 1994 Regulations not specified in paragraph (2) are revoked so far as required so that those provisions, as they continue to have effect, extend to Scotland only.
- (4) Schedule 7 (revocations) has effect as follows in relation to enactments other than the 1994 Regulations—
- (a) Part 1 specifies provisions of enactments which are revoked; and
 - (b) Part 2 specifies provisions of enactments which are revoked so far as required so that those provisions, as they continue to have effect, extend to Scotland only.

Transitional provisions

134.—(1) Any licence granted by Natural England under any of sub-paragraphs (a) to (d) of regulation 44(2) of the 1994 Regulations (grant of licences for certain purposes) before 1st April 2010, to the extent that it relates to the restricted English inshore region, is to have effect from that date as a licence granted by the Marine Management Organisation under regulation 53(1) of these Regulations (licences for certain activities relating to animals or plants) for a purpose specified in the corresponding sub-paragraph of paragraph (2) of that regulation.

(2) Any application to Natural England for a licence under any of sub-paragraphs (a) to (d) of regulation 44(2) of the 1994 Regulations, to the extent that it relates to the restricted English inshore region, and which was made, but not determined or withdrawn, before 1st April 2010, is to be treated as an application made to the Marine Management Organisation on or after 1st April 2010 under regulation 53(1) of these Regulations for a purpose specified in the corresponding sub-paragraph of paragraph (2) of that regulation.

- (3) Any licence granted before 1st April 2010—
- (a) under regulation 37D(8) of the 1994 Regulations (licensing the introduction of new species),
 - (b) under any of sub-paragraphs (a) to (d) of regulation 44(2) of the 1994 Regulations—
 - (i) by Natural England, to the extent that the licence relates to an area other than the restricted English inshore region, or
 - (ii) by the Countryside Council for Wales,
 - (c) under any of sub-paragraphs (e) to (g) of regulation 44(2) of the 1994 Regulations, or
 - (d) under regulation 44(2A)(9) of those Regulations,

is to have effect from that date as a licence granted under regulation 53(1) (for a purpose specified in the corresponding sub-paragraph of paragraph (2) of that regulation), regulation 53(4) or 54 of these Regulations (whichever is the corresponding provision).

- (4) Any application—
- (a) for a licence under regulation 37D of the 1994 Regulations,
 - (b) for a licence under any of sub-paragraphs (a) to (d) of regulation 44(2) of the 1994 Regulations—
 - (i) made to Natural England, to the extent that the licence relates to an area other than the restricted English inshore region, or
 - (ii) made to the Countryside Council for Wales,

(7) Both regulations 85F were inserted by [S.I. 2009/2438](#), one applying in England and Wales and the other in Scotland.

(8) Regulation 37D was inserted by [S.I. 2007/1843](#).

(9) Paragraph (2A) of regulation 44 was inserted by [S.I. 2007/1843](#).

(c) for a licence under any of sub-paragraphs (e) to (g) of regulation 44(2) of the 1994 Regulations, or

(d) for a licence under regulation 44(2A) of those Regulations,

which was made, but not determined or withdrawn, before 1st April 2010 is to be treated as an application made on or after 1st April 2010 under regulation 53(1) (for a purpose specified in the corresponding sub-paragraph of paragraph (2) of that regulation), regulation 53(4) or 54 of these Regulations (whichever is the corresponding provision).

(5) Any agreement previously entered into by Natural England or the Countryside Council for Wales under regulation 16 of the 1994 Regulations (management agreements), or having effect as if it had been entered into by either of those bodies under that provision, and which is in force immediately before 1st April 2010, has effect as if it were a management agreement entered into by Natural England or the Countryside Council for Wales (as the case may be) under regulation 16 (management agreements) of these Regulations.

(6) Nothing in this regulation prejudices the application of section 16 (general savings) or 17 (repeal and re-enactment) of the Interpretation Act 1978⁽¹⁰⁾ to any case not provided for in this regulation.

⁽¹⁰⁾ 1978 c. 30.