
STATUTORY INSTRUMENTS

2017 No. 1013

The Conservation of Offshore Marine Habitats and Species Regulations 2017

PART 2

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Site protection and management

Establishment of nature conservation objectives

21. As soon as is reasonably practicable after a European offshore marine site has been included in the register, the Joint Committee must—

- (a) establish conservation objectives for the site and notify those objectives to such competent authorities as it considers appropriate; and
- (b) advise such competent authorities as it considers appropriate of any operations which in its opinion may adversely affect the integrity of the site.

Management schemes for European offshore marine sites

22.—(1) Any competent authority which exercises functions in relation to a European offshore marine site may establish a management scheme for that site.

(2) A management scheme—

- (a) must set out how a competent authority establishing the scheme proposes to exercise its functions so as to secure in relation to that site compliance with the requirements of the Habitats Directive or the Wild Birds Directive; and
- (b) where it relates to a site which has been designated as a special area of conservation, must set out how, for the purposes of securing compliance with the requirements of Article 6(1) of the Habitats Directive, the competent authority establishing it proposes to exercise its functions in order to maintain or restore to a favourable conservation status—
 - (i) the natural habitat types listed in Annex I to the Habitats Directive which are found at the site; and
 - (ii) the species listed in Annex II to that Directive which are found at the site.

(3) Before establishing a management scheme, the competent authorities concerned must consult—

- (a) the Joint Committee;
- (b) such other competent authorities having functions in relation to the site as they consider appropriate; and
- (c) where the site adjoins a European marine site, such other persons who are parties to a management scheme for that European marine site as they consider appropriate.

(4) Any competent authority consulted under paragraph (3)(b) must be given the opportunity of participating in the establishment of the scheme.

(5) A competent authority may establish a single management scheme for two or more European offshore marine sites.

(6) Only one management scheme may be established for each European offshore marine site.

(7) A competent authority which has established a management scheme must review the scheme periodically, initially by the fifth anniversary of the date of the scheme's establishment and thereafter by each fifth anniversary of that date.

(8) A management scheme may be amended at any time, but before amending a scheme the competent authority which established it must—

- (a) consult the Joint Committee; and
- (b) consult such other persons as it considers appropriate.

(9) Before establishing or amending a management scheme for a site, the competent authorities concerned must have regard to—

- (a) any conservation objectives established for the site under regulation 21(a); and
- (b) any advice provided under regulation 21(b) relating to that site.

(10) As soon as a management scheme has been established or is amended, the competent authorities concerned must ensure that a copy of the scheme, or the amended scheme (as the case may be) is provided to—

- (a) the Secretary of State;
- (b) the devolved administrations;
- (c) those consulted under paragraph (3);
- (d) such other persons as the Secretary of State may direct;
- (e) in the case of a management scheme entered into by a competent authority in Scotland in relation to a site in the Scottish offshore region, such other persons as the Scottish Ministers may direct; and
- (f) in the case of a management scheme entered into by a competent authority in Wales in relation to a site in the Welsh offshore region, such other persons as the Welsh Ministers may direct.

(11) The Secretary of State may vary or revoke a direction under paragraph (10)(d), the Scottish Ministers may vary or revoke a direction under paragraph (10)(e) and the Welsh Ministers may vary or revoke a direction under paragraph (10)(f).

(12) In paragraph (3)(c), “European marine site” means any site which is a European marine site for the purposes of the 1994 Regulations, the Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995^{M1} or the 2017 Regulations.

Marginal Citations

M1 S.R. (N.I.) 1995 No. 380.

Duty in relation to management schemes

23. Where a management scheme has been established, any competent authority which established that scheme must take reasonable steps to exercise its functions in accordance with that scheme.

Co-ordinated management of sites

24.—(1) Where a European offshore marine site, other than any such site in the Scottish offshore region or the Welsh offshore region, adjoins a special area of conservation or a special protection area which has been (respectively) designated or classified by [F1a] member State, the Secretary of State must consult that State in relation to the co-ordinated management of the site and the area in question.

(2) Where a European offshore marine site in the Scottish offshore region adjoins a special area of conservation or a special protection area which has been (respectively) designated or classified by [F1a] member State, the Scottish Ministers must, and the Secretary of State may, consult that State in relation to the co-ordinated management of the site and the area in question.

(3) Where a European offshore marine site in the Welsh offshore region adjoins a special area of conservation or a special protection area which has been (respectively) designated or classified by [F1a] member State, the Welsh Ministers must, and the Secretary of State may, consult that State in relation to the co-ordinated management of the site and the area in question.

(4) Before the Secretary of State consults under paragraph (2) in relation to a site, or a part of a site, in relation to which the Scottish Ministers must consult under that paragraph, the Secretary of State must consult the Scottish Ministers.

(5) Before the Secretary of State consults under paragraph (3) in relation to a site, or a part of a site, in relation to which the Welsh Ministers must consult under that paragraph, the Secretary of State must consult the Welsh Ministers.

Textual Amendments

F1 Word in reg. 24(1)-(3) substituted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, 46; 2020 c. 1, Sch. 5 para. 1(1)

Conservation measures relating to special areas of conservation

25.—(1) In relation to any site designated as a special area of conservation under regulation 11, competent authorities must, in so far as their functions may be so exercised, exercise such of their functions as they consider appropriate for the purpose of giving effect to Article 6(1) of the Habitats Directive by taking conservation measures corresponding to the ecological requirements of—

- (a) the natural habitat types listed in Annex I to that Directive present on the site; and
- (b) the species listed in Annex II to that Directive which are present on the site.

(2) In considering what conservation measures may be necessary for the purposes of paragraph (1) in relation to a site, competent authorities must have regard to—

- (a) the need to maintain at, or restore to, favourable conservation status the natural habitat types and species mentioned in paragraph (1) which are present on the site;
- (b) the matters referred to in Article 2(3) of the Habitats Directive; and
- (c) any management scheme which has been established for the site.

(3) In so far as the duty in paragraph (1) has been met in respect of a site by any competent authority in Scotland or competent authority in Wales, that paragraph does not apply to any other competent authority in respect of that site.

(4) Before a competent authority (other than a competent authority in Scotland or Wales) exercises any relevant function for the purposes of complying with paragraph (1), it must first consult the Scottish Ministers and the Welsh Ministers.

(5) Where, in relation to any site designated as a special area of conservation under regulation 11, paragraph (1) imposes a duty on more than one competent authority—

- (a) where the competent authorities do not include a competent authority in Scotland or Wales, the Secretary of State may give a direction that, in respect of any measure that may be necessary, the duty of the competent authorities in question is to be satisfied by the taking of that measure by such competent authority or authorities as the Secretary of State may specify in the direction, and any such direction has effect in the terms stated in the direction; and
- (b) where the competent authorities include one or more competent authorities in Scotland or Wales, the relevant administration may give a direction that, in respect of any measure that may be necessary, the duty of the competent authorities in question is to be satisfied by the taking of that measure by such competent authority or authorities as the relevant administration may specify in the direction, and any such direction has effect in the terms stated in the direction.

(6) A direction under paragraph (5)(b) may not be given unless the Scottish Ministers or the Welsh Ministers (as the case may be) and the Secretary of State have agreed that it may.

(7) In this regulation—

“the relevant administration” means—

- (a) in relation to a competent authority in Scotland, the Scottish Ministers;
- (b) in relation to a competent authority in Wales, the Welsh Ministers; and
- (c) in relation to a competent authority other than a competent authority in Scotland or in Wales, the Secretary of State; and

“relevant function” means any function exercisable for the purpose of securing any result which may instead be secured by the exercise of any function of either the Scottish Ministers or the Welsh Ministers.

Prevention of deterioration of habitats and disturbance of species

26.—(1) In so far as their functions may be exercised to secure that appropriate steps are taken for the purpose mentioned in paragraph (2), competent authorities must exercise their functions to secure that such steps are taken.

(2) The purpose referred to in paragraph (1) is the avoidance of—

- (a) the disturbance of species specified in paragraph (3); and
- (b) the deterioration of habitat or habitat types specified in paragraph (4).

(3) The disturbance of species referred to in paragraph (2)(a) is—

- (a) in any site designated as a special area of conservation under regulation 11, the disturbance of any of the species listed in Annex II to the Habitats Directive for which the site was so designated, in so far as such disturbance could be significant in relation to the objectives of that Directive;
- (b) in any site in the offshore marine area which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive, the disturbance of any of the species listed in Annex II to the Habitats Directive for which the site was placed on that list, in so far as such disturbance could be significant in relation to the objectives of that Directive; [^{F2}and]

^{F3}(c)

- (d) in any site classified as a special protection area under regulation 12 or 13, the disturbance of any of the species of bird for which the site was so classified, in so far as such disturbance

could be significant in relation to the objectives of the Habitats Directive or the Wild Birds Directive.

- (4) The deterioration of habitat or habitat types referred to in paragraph (2)(b) is—
- (a) in any site designated as a special area of conservation under regulation 11—
 - (i) the deterioration of the habitat of any of the species listed in Annex II to the Habitats Directive for which the site was so designated; and
 - (ii) the deterioration of any of the natural habitat types listed in Annex I to the Habitats Directive for which the site was so designated;
 - (b) in any site in the offshore marine area which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive—
 - (i) the deterioration of the habitat of any of the species listed in Annex II to the Habitats Directive for which the site was placed on that list; and
 - (ii) the deterioration of any of the natural habitat types listed in Annex I to the Habitats Directive for which the site was placed on that list; ^{F4}and]
 - ^{F5}(c)
 - (d) in any site classified as a special protection area under regulation 12 or 13, the deterioration of the habitats of any of the species of bird for which the site was so classified.
 - ^{F6}(5)
- (6) In considering the steps (if any) to be taken under paragraph (1), competent authorities must have regard to—
- (a) the need to maintain at, or restore to, favourable conservation status the natural habitat types and species specified in paragraphs (3) and (4), and the habitats of those species, which are present on the site concerned;
 - (b) the matters referred to in Article 2(3) of the Habitats Directive;
 - (c) any management scheme which has been established for the site concerned; and
 - (d) the objectives of the Habitats Directive and, where appropriate, the Wild Birds Directive.
- (7) In so far as the duty in paragraph (1) has been met in respect of a site by any competent authority in Scotland or competent authority in Wales, that paragraph does not apply to any other competent authority in respect of that site.
- (8) Before a competent authority (other than a competent authority in Scotland or competent authority in Wales) exercises any relevant function for the purposes of complying with paragraph (1), it must first consult the Scottish Ministers or the Welsh Ministers (as the case may be), and for this purpose, a “relevant function” means any function exercisable for the purpose of securing any result which may instead be secured by the exercise of any function of the Scottish Ministers or the Welsh Ministers.
- (9) Where, in respect of any site mentioned in paragraph (3) or (4), paragraph (1) imposes a duty on more than one competent authority—
- (a) where the competent authorities do not include a competent authority in Scotland or in Wales, the Secretary of State may give a direction that, in respect of any step that may be necessary, the duty of the competent authorities in question is to be satisfied by the taking of that step by such competent authority or authorities as the Secretary of State may specify in the direction, and any such direction has effect in the terms stated in the direction; and
 - (b) where the competent authorities include one or more competent authorities in Scotland or in Wales, the relevant administration may give a direction that, in respect of any step that may be necessary, the duty of the competent authorities in question is to be satisfied by the taking of that step by such competent authority or authorities as the relevant administration

may specify in the direction, and any such direction has effect in the terms stated in the direction.

(10) A direction under paragraph (9)(b) may not be given unless the Scottish Ministers or the Welsh Ministers (as the case may be) and the Secretary of State have agreed that it may.

(11) So far as lies within its powers, a competent authority in exercising any function in or in relation to the offshore marine area must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds (except habitats beyond the outer limits of the area to which the Wild Birds Directive applies).

(12) Paragraph (1) does not apply where—

- (a) the cause of the disturbance of species or deterioration of habitat or habitat types specified in paragraph (3) or (4) is a plan or project that has been agreed to under regulation 28; or
- (b) the disturbance of species specified in paragraph (3) is not a criminal offence under regulation 38 or Part 3.

(13) In this regulation—
“the relevant administration” means—

- (a) in relation to a competent authority in Scotland, the Scottish Ministers;
- (b) in relation to a competent authority in Wales, the Welsh Ministers; and
- (c) in relation to any other competent authority, the Secretary of State.

Textual Amendments

- F2** Word in reg. 26(3)(b) inserted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **47(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 26(3)(c) and word omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **47(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in reg. 26(4)(b)(ii) inserted (31.12.2020) by [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **47(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Reg. 26(4)(c) omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **47(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Reg. 26(5) omitted (31.12.2020) by virtue of [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/579\)](#), regs. 1, **47(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Conservation of Offshore Marine Habitats and Species Regulations 2017, Cross Heading: Site protection and management.