

SCHEDULE 1

Regulation 4

Damage to protected species, natural habitats and sites of special scientific interest

Damage to protected species and natural habitats

1.—(1) In the case of protected species or natural habitat (other than damage on a site of special scientific interest to which paragraph 4 applies) the damage must be such that it has a significant adverse effect on reaching or maintaining the favourable conservation status of the protected species or natural habitat taking into account—

- (a) the conservation status at the time of the damage;
- (b) the services provided by the amenities they produce;
- (c) their capacity for natural regeneration;
- (d) the number of individuals, their density or the area covered;
- (e) the role of the particular individuals or of the damaged area in relation to the species or to the habitat conservation and the rarity of the species or habitat assessed at the relevant level whether local, regional [^{F1}, national or in their natural range];
- (f) the capacity of the species for propagation, its viability or the capacity of the habitat for natural regeneration; and
- (g) the capacity of the species or habitat to recover within a short time of the damage being caused to a condition that leads to its state at the time of the damage or better without any intervention other than increased protection measures.

Textual Amendments

- F1** Words in Sch. 1 para. 1(1)(e) substituted (31.12.2020) by [The Environmental Damage \(Prevention and Remediation\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/244\)](#), regs. 1, **2(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Conservation status of natural habitats

2.—(1) A natural habitat's conservation status is the sum of the influences acting on that habitat and its typical species that may affect its long term natural distribution, structure and functions as well as the long term survival of its typical species.

- (2) Its conservation status is favourable if—
- (a) the natural range and areas covered within that natural range are stable or increasing;
 - (b) the specific structure and functions which are necessary for the long term maintenance of the natural habitat exist and are likely to continue to exist for the foreseeable future; and
 - (c) the conservation status of its typical species is favourable.

Conservation status of species

3.—(1) A species' conservation status is the sum of the influences acting on the species concerned that may affect the long term distribution and abundance of its populations.

- (2) The conservation status is favourable if—
- (a) the population dynamics data on the species concerned indicate that it is maintaining itself on a long term basis as a viable component of its natural habitat;

Changes to legislation: There are currently no known outstanding effects for the *The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009, SCHEDULE 1.* (See end of Document for details)

- (b) the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future; and
- (c) there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long term basis.

Sites of special scientific interest

4.—(1) In the case of a site of special scientific interest, the damage must be to—

- (a) the species or habitats notified under section 28 of the Wildlife and Countryside Act 1981^{M1}; or
- (b) protected species or natural habitats.

(2) The damage must have an adverse effect on the integrity of the site (that is, the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats or the levels of populations of the species affected).

Marginal Citations

M1 1981 c. 69. Part II of the Act (which includes section 28) was inserted by Schedule 9 to the [Countryside and Rights of Way Act 2000 \(c. 37\)](#) and subsequently amended by Schedule 11 to the [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#).

Express authorisation

[^{F2}5.—(1) Damage to a protected species or natural habitat and damage to a site of special scientific interest does not include damage caused by an act expressly authorised by the relevant authorities in accordance with—

- (a) the Conservation (Natural Habitats, &c.) Regulations 1994;
- (b) the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001;
- (c) the Conservation of Habitats and Species Regulations 2010;
- (d) the Conservation of Habitats and Species Regulations 2017;
- (e) the Conservation of Offshore Marine Habitats and Species Regulations 2017.

(2) Damage to sites of special scientific interest does not include, in the case of a site that is not a European site damage caused by an act expressly authorised by the relevant authorities in accordance with Part 2 of the Wildlife and Countryside Act 1981.

(3) In sub-paragraph (2), “European site” has the same meaning as in regulation 8 of the Conservation of Habitats and Species Regulations 2017.]

Textual Amendments

F2 Sch. 1 para. 5 substituted (17.12.2018) by [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **8(3)**

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009, SCHEDULE 1.