
STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

[^{F1}PART V

SUPPLEMENTARY PROVISIONS

[^{F1}General supplementary provisions

F1 Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3), 12.12.2014 in so far as not already in force) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Powers of drainage authorities

105.—(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 shall operate so as to prevent the authority carrying out the agreement.

(2) In paragraph (1) “drainage authority” means the National Rivers Authority or an internal drainage board.

Commencement Information

II Reg. 105 in force at 30.10.1994, see [reg. 1\(2\)](#)

Offences by bodies corporate, &c.

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

For this purpose “director”, in relation to a body corporate whose affairs are managed by its members, means any member of the body.

(2) Where an offence under these Regulations committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner, he (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, Cross Heading: General supplementary provisions. (See end of Document for details)

Commencement Information

I2 Reg. 106 in force at 30.10.1994, see [reg. 1\(2\)](#)

Application of criminal offences to the Crown

^{F1}**106A.**

Local inquiries

107.—(1) The Secretary of State may cause a local inquiry to be held for the purposes of the exercise of any of his functions under these Regulations.

(2) The provisions of section 250(2) to (5) of the Local Government Act 1972(1) or section 210(4) to (8) of the Local Government (Scotland) Act 1973(2) (local inquiries: evidence and costs) apply in relation to an inquiry held under this regulation.

Commencement Information

I3 Reg. 107 in force at 30.10.1994, see [reg. 1\(2\)](#)

Service of notices

108.—(1) Section 329 of the Town and Country Planning Act 1990(3) or section 269 of the Town and Country Planning (Scotland) Act 1972(4) (service of notices) apply to notices and other documents required or authorised to be served under these Regulations.

(2) Paragraph (1) does not apply to the service of any notice required or authorised to be served under the Acquisition of Land Act 1981(5) or the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(6), as applied by these Regulations.

Commencement Information

I4 Reg. 108 in force at 30.10.1994, see [reg. 1\(2\)](#)

^{F2}**Advisory role of the JNCC**

109.—(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 62 of these Regulations and sent to the Committee by that authority pursuant to regulation 62(4); and

(1) 1972 c. 70.
(2) 1973 c. 65.
(3) 1990 c. 8.
(4) 1972 c. 52.
(5) 1981 c. 67.
(6) 1947 c. 42.

- (d) any decision of the Secretary of State in respect of which notice has been served on it by him under regulation 72(2)(b), 76(2)(b) or 80(2)(b) of these Regulations.
- (2) The Joint Nature Conservation Committee may undertake, commission or support (whether by financial means or otherwise) such research and scientific work as it considers is required for the purposes of providing advice or making representations under this regulation.
- (3) In this regulation and regulation 110 of these Regulations, “research” includes inquiries and investigations.

F2 Regs. 109, 110 inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(61)** (with reg. 9)

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

- 110.**—(1) Natural England may—
- (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 it considers 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 it considers 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 it considers is required for the purposes of providing advice or assistance or making representations under sub-paragraph (a).]]

F2 Regs. 109, 110 inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(61)** (with reg. 9)

[^{F3}Research

- 111.**—(1) The Scottish Ministers must take such steps to encourage research and scientific work as they consider necessary—
- (a) having regard to the objectives in Article 2, and the obligation in Article 11, of the Habitats Directive; and
 - (b) for the purpose of the protection or management, and in relation to the use, of any population of wild bird.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, Cross Heading: General supplementary provisions. (See end of Document for details)

^{F4}(2)

(3) In deciding what steps to take under paragraph (1), the Scottish Ministers must have particular regard to the need for research and scientific work—

- (a) on the subjects listed in Annex V to the Wild Birds Directive; or
- (b) which may be required to implement Articles 4 and 10 of the Habitats Directive.]

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| <p>F3 Reg. 111 inserted (S.) (16.8.2012) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2012 (S.S.I. 2012/228), regs. 1(1), 6</p> <p>F4 Reg. 111(2) omitted (31.12.2020) by virtue of The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 24; 2020 c. 1, Sch. 5 para. 1(1)</p> |
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[^{F5}Transitional provisions: EU exit

112.—(1) Where before exit day a site in Scotland has been adopted in accordance with the procedure set out in Article 4(2) of the Habitats Directive (list of sites of Community importance), the Scottish Ministers must designate that site as a special area of conservation as soon as possible and no later than six years from the date of adoption of that site.

(2) Paragraph (3) applies where a site in Scotland—

- (a) has before exit day been proposed, in a list of sites transmitted to the European Commission, as eligible for identification as of Community importance in accordance with the procedure laid out in Article 4(2) of the Habitats Directive (list of sites of Community importance); and
- (b) has not yet been so identified as being of Community importance.

(3) Where this paragraph applies, the Scottish Ministers must within six years of exit day designate the site as a special area of conservation or give notice of their intention not to designate the site as such and in that case must publish, in such form as they see fit, their reasons for not designating it.]

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| <p>F5 Regs. 112-115 inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 25; 2020 c. 1, Sch. 5 para. 1(1)</p> |
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[^{F5}Amendment of Schedules

113.—(1) The Scottish Ministers may by regulations amend schedule 2 or 4 for the purpose of adding, to schedule 2 or 4, any species listed in Annex IV(a) or (b) to the Habitats Directive, where they are satisfied that the natural range of that species includes any area in Scotland.

(2) The Scottish Ministers may by regulations make such other amendments as they consider necessary for adapting schedules 2 to 4 to technical and scientific progress.

(3) Regulation 115 applies in relation to any amendment made under paragraph (1) or (2).]

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| <p>F5 Regs. 112-115 inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 25; 2020 c. 1, Sch. 5 para. 1(1)</p> |
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[^{F5}Amendment of the Annexes to the Directives

114.—(1) Paragraph (2) applies for the purposes of the application of the Annexes so far as they are relevant to any reference in these Regulations to—

- (a) the Directives;
 - (b) the Annexes; or
 - (c) any provisions of the Directives to which the Annexes relate.
- (2) The Scottish Ministers may by regulations make such amendments to the Annexes as they consider necessary for the purpose of adapting them to technical and scientific progress.
- (3) Regulation 115 applies in relation to any amendment made under paragraph (2).
- (4) In this regulation, “the Annexes” means—
- (a) Annexes I to IV to the Habitats Directive; and
 - (b) Annexes I to V to the Wild Birds Directive.]

F5 Regs. 112-115 inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **25**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F5}Regulations

115.—(1) Regulations made under regulation 113(2) amending schedule 2, or under regulation 114 amending Annex IV to the Habitats Directive, are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(2) Regulations made in any other case are subject to the negative procedure.]

F5 Regs. 112-115 inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **25**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, Cross Heading: General supplementary provisions.