
STATUTORY INSTRUMENTS

1994 No. 2716

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

[^{F1}PART V

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)

Supplementary provisions as to management agreements

Powers of limited owners, &c. to enter into management agreements

86.—(1) In the case of settled land in England and Wales—

- (a) the tenant for life may enter into a management agreement relating to the land, or any part of it, either for consideration or gratuitously;
- (b) the Settled Land Act 1925(1) shall apply as if the power conferred by sub-paragraph (a) had been conferred by that Act; and
- (c) for the purposes of section 72 of that Act (which relates to the mode of giving effect to a disposition by a tenant for life and to the operation thereof), and of any other relevant statutory provision, entering into a management agreement shall be treated as a disposition.

The above provisions of this paragraph shall be construed as one with the Settled Land Act 1925.

(2) Section 28 of the Law of Property Act 1925(2) (which confers the powers of a tenant for life on trustees for sale) shall apply as if the power of a tenant for life under paragraph (1)(a) above had been conferred by the Settled Land Act 1925.

(3) A university or college to which the Universities and College Estates Act 1925(3) applies may enter into a management agreement relating to any land belonging to it in England and Wales either for consideration or gratuitously.

That Act shall apply as if the power conferred by this paragraph had been conferred by that Act.

(4) In the case of glebe land or other land belonging to an ecclesiastical benefice—

- (a) the incumbent of the benefice, and
- (b) in the case of land which is part of the endowment of any other ecclesiastical corporation, the corporation,

(1) 1925 c. 18.
(2) 1925 c. 20.
(3) 1925 c. 24.

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

may with the consent of the Church Commissioners enter into a management agreement either for consideration or gratuitously.

The Ecclesiastical Leasing Acts shall apply as if the power conferred by this paragraph had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice shall not be requisite.

- (5) In the case of any land in Scotland, any person being—
 - (a) the liferenter, or
 - (b) the heir of entail,

in possession of the land shall have power to enter into a management agreement relating to the land or any part of it.

(6) The Trusts (Scotland) Act 1921(4) shall have effect as if among the powers conferred on trustees by section 4 of that Act (which relates to the general powers of trustees) there were included a power to enter into management agreements relating to the trust estate or any part of it.

Commencement Information

II Reg. 86 in force at 30.10.1994, see [reg. 1\(2\)](#)

Supplementary provisions as to potentially damaging operations

Carrying out of operation after expiry of period

^{F2}**87.**

F2 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Duties of agriculture Ministers with respect to European sites

^{F3}**88.**

F3 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Payments under certain agreements offered by authorities

^{F4}**89.**

F4 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and Regulations

(4) 1921 c. 58.

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)) 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 entry

F590.

F5 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Compensation: amount and assessment

F691.

F6 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Compensation: other supplementary provisions

F792.

F7 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Compensation: procedural provisions

F893.

F8 Regs. 87-93 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **22(c)** (with regs. 20, 21); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Supplementary provisions as to byelaws

Procedure for making byelaws, penalties, &c.

94.—(1) Sections 236 to 238 of the Local Government Act 1972⁽⁵⁾ or sections 201 to 204 of the Local Government (Scotland) Act 1973⁽⁶⁾ (procedure, &c. for byelaws; offences against byelaws; evidence of byelaws) apply to all byelaws made under section 20 of the National Parks and Access to the Countryside Act 1949⁽⁷⁾ as it applies by virtue of regulation 28 as if the appropriate nature conservation body were a local authority within the meaning of that Act.

(2) In relation to byelaws so made the confirming authority for the purposes of the said section 236 or section 201 shall be the Secretary of State.

(3) The appropriate nature conservation body shall have power to enforce byelaws made by them: Provided that nothing in this paragraph shall be construed as authorising the institution of proceedings in Scotland for an offence.

Commencement Information

I2 Reg. 94 in force at 30.10.1994, see [reg. 1\(2\)](#)

Powers of entry

95.—(1) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable under regulation 30 in respect of that or any other land, an officer of the Valuation Office or person duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.

(2) A person authorised under this regulation to enter upon any land shall, if so required, produce evidence of his authority before entering.

(3) A person shall not under this regulation demand admission as of right to any land which is occupied unless at least 14 days' notice in writing of the intended entry has been given to the occupier.

(4) A person who intentionally obstructs a person in the exercise of his powers under this regulation commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I3 Reg. 95 in force at 30.10.1994, see [reg. 1\(2\)](#)

Compensation: England and Wales

^{F1}**96.**

Compensation: Scotland

97.—(1) The following provisions have effect as to compensation under regulation 30 (compensation for effect of byelaws) in respect of land in Scotland.

(5) 1972 c. 70.
(6) 1973 c. 65.
(7) 1949 c. 97.

(2) Any dispute arising on a claim for any such compensation shall be determined by the Lands Tribunal for Scotland.

(3) For the purposes of any such reference to the Lands Tribunal for Scotland section 8 of the Land Compensation (Scotland) Act 1963 (which relates to expenses) has effect with the substitution for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.

(4) Rules (2) to (4) of the Rules set out in section 12 of that Act (which provides rules for valuation 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 heritable security—

- (a) any such compensation in respect of the depreciation of that interest shall be calculated as if the interest were not subject to the heritable security;
- (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 creditor in a heritable security 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) a creditor in a heritable security shall not be entitled to any such compensation in respect of his interest as such; and
- (d) any compensation payable in respect of the interest subject to the heritable security shall be paid to the creditor or, where there is more than one creditor in a heritable security, to the creditor whose heritable security has priority over any other heritable securities secured on the land, and shall in either case be applied by him as if it were proceeds of sale.

Commencement Information

I4 Reg. 97 in force at 30.10.1994, see [reg. 1\(2\)](#)

Supplementary provisions as to compulsory acquisition

Supplementary provisions as to acquisition of land

F⁹98.

F9 Regs. 98, 99 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 22\(d\)](#) (with [regs. 20, 21](#)); and 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)) 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 entry

F¹⁰99.

F10 Regs. 98, 99 revoked (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 22\(d\)](#) (with [regs. 20, 21](#)); and 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)) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), [regs. 1\(2\)\(4\)\(b\), 133\(3\)](#) (with [regs. 125, 134](#))

Supplementary provisions as to protection of species

Attempts and possession of means of committing offence

100.—(1) A person who attempts to commit an offence under Part III of these Regulations is guilty of an offence and punishable in like manner as for that offence.

(2) A person who, for the purposes of committing an offence under Part III of these Regulations, has in his possession anything capable of being used for committing the offence is guilty of an offence and punishable in like manner as for that offence.

(3) References below to an offence under Part III include an offence under this regulation.

Commencement Information

I5 Reg. 100 in force at 30.10.1994, see [reg. 1\(2\)](#)

Enforcement

101.—(1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under Part III of these Regulations, the constable may without warrant—

(a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;

(b) [^{F11}search for,] search or examine any thing which that person may then be using or [^{F12}may have used, or may have or have had in his possession,] if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found [^{F13}in or] on that thing;

[^{F14}(ba) arrest that person;]

(c) seize and detain for the purposes of proceedings under that Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under regulation 103.

(2) If a constable suspects with reasonable cause that any person is committing [^{F15}or has committed] an offence under Part III of these Regulations, he may, for the purposes of exercising the powers conferred by paragraph (1) or arresting a person in accordance with section 25 of the Police and Criminal Evidence Act 1984(8) for such an offence, enter any land other than a [^{F16}dwelling or lockfast premises].

(3) If a justice of the peace is satisfied by [^{F17}evidence] on oath that there are reasonable grounds for suspecting that an offence under regulation 39, 41 or 43 has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable [^{F18}to enter those premises, if necessary using reasonable force, and search them] for the purpose of obtaining that evidence.

In the application of this paragraph to Scotland, the reference to a justice of the peace includes a sheriff.

[^{F19}(4) A warrant under paragraph (3) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.

(5) A constable authorised by virtue of this regulation to enter any land must, if required to do so by the occupier or anyone acting on the occupier's behalf, produce evidence of the constable's authority.

(8) 1984 c. 60.

- (6) A constable who enters any land in the exercise of a power conferred by this regulation—
- (a) may—
 - (i) be accompanied by any other persons; and
 - (ii) take any machinery, other equipment or materials on to the land, for the purpose of assisting the constable in the exercise of that power;
 - (b) may take samples of any articles or substances found there and remove the samples from the land.
- (7) A power specified in paragraph (6)(a) or (b) which is exercisable under a warrant is subject to the terms of the warrant.
- (8) A constable leaving any land which has been entered in exercise of a power conferred by paragraph (2) or by a warrant under paragraph (3), being either unoccupied land or land from which the occupier is temporarily absent, must leave it as effectively secured against unauthorised entry as the constable found it.]

- F11** Words in reg. 101(1)(b) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(a)(i)** (with regs. 20, 21)
- F12** Words in reg. 101(1)(b) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(a)(ii)** (with regs. 20, 21)
- F13** Words in reg. 101(1)(b) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(a)(iii)** (with regs. 20, 21)
- F14** Reg. 101(1)(ba) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(b)** (with regs. 20, 21)
- F15** Words in reg. 101(2) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(c)(i)** (with regs. 20, 21)
- F16** Words in reg. 101(2) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(c)(ii)** (with regs. 20, 21)
- F17** Word in reg. 101(3) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(d)(i)** (with regs. 20, 21)
- F18** Words in reg. 101(3) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(d)(ii)** (with regs. 20, 21)
- F19** Reg. 101(4)-(8) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(e)** (with regs. 20, 21)

Commencement Information

- I6** Reg. 101 in force at 30.10.1994, see **reg. 1(2)**

[^{F20}Application of sections 19ZC and 19ZD of the Wildlife and Countryside Act 1981

101A.—(1) Subject to paragraphs (2) to (4), sections 19ZC (wildlife inspectors: Scotland) and 19ZD (power to take samples: Scotland) of the Wildlife and Countryside Act 1981 apply, for the purposes of these Regulations.

(2) For the purposes of these Regulations, any reference in section 19ZC or 19ZD of the Wildlife and Countryside Act 1981 to that Act or any part thereof, shall be construed as a reference to these Regulations.

(3) The provisions of section 19ZC of the Wildlife and Countryside Act 1981 apply for the purposes of these Regulations as if—

- (a) in subsection (3)—

- (i) in paragraph (a), the reference to “section 6, 9(5) [F21 11I(1)] or 13(2)” was a reference to regulation [F22 39(3)] or 43(2) of these Regulations;
- (ii) paragraphs (b) to (d) were omitted; and
- (iii) in paragraph (e)(i) and (ii), “registration or” was omitted;
- (b) in subsection (4)—
 - (i) in paragraph (a), for “paragraphs (a) to (c) do” there was substituted “paragraph (a) does”;
 - (ii) in paragraph (a)(i) and (ii) “registration or” was omitted; and
 - (iii) paragraph (b) was omitted;
- (c) in subsection (5), for the words from “section 6” to “[F23 14K]” there was substituted a reference to regulation [F24 39(3)] or 43(2) of these Regulations;
- (d) in subsection (6), “bird or other” was omitted in each place where it occurs;
- (e) for subsection (9) there was substituted—
 - “(9) In this section—
 - “relevant licence” means a licence under regulation 44 of the Conservation (Natural Habitats, &c.) Regulations 1994 which authorises anything which would otherwise be an offence under regulation [F25 39(3)] or 43(2) of those Regulations;
 - “specimen” means any animal or plant or any part of, or anything derived from, an animal or plant.”; and
- (f) after subsection (9) there was inserted—
 - “(10) A person guilty of an offence under this section is liable on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.”.
- (4) the provisions of section 19ZD of the Wildlife and Countryside Act 1981 apply for the purposes of these Regulations as if—
 - (a) in subsection (1)—
 - (i) the reference to “section 19” was a reference to regulation 101 of these Regulations; and
 - (ii) the reference to “this Part” was a reference to Part III of these Regulations;
 - (b) in subsection (2), the reference to “this Part” was a reference to Part III of these Regulations;
 - (c) in subsection (3)—
 - (i) for the words from “section 6” to “[F26 14K]” there was substituted a reference to regulation [F27 39(3)] or 43(2) of these Regulations; and
 - (ii) “to (d)” was omitted;
 - (d) in subsection (4), for the words from “section 6” to “[F28 14K]” there was substituted a reference to regulation [F29 39(3)] or 43(2) of these Regulations;
 - (e) in subsection (5), “bird, other” was omitted;
 - (f) in subsections (6) and (7), “bird or other” was omitted;
 - (g) in subsection (8), the reference to “section 19(2)” was a reference to regulation 101(2) of these Regulations;
 - (h) in subsection (10)(b)—

- (i) for “a bird, other” there was substituted “ an ”; and
- (ii) “bird, other” was omitted; and
- (i) after subsection (10) there was inserted–
 - “(11) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.”.]

F20	Reg. 101A inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475) , regs. 1(1), 18 (with regs. 20, 21)
F21	Word in reg. 101A(3)(a)(i) inserted (2.7.2012) by The Wildlife and Natural Environment (Scotland) Act 2011 (Consequential Modifications) Order 2012 (S.S.I. 2012/215) , reg. 1, sch. para. 4(a)
F22	Word in reg. 101A(3)(a) substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80) , regs. 2, 23
F23	Word in reg. 101A(3)(c) substituted (2.7.2012) by The Wildlife and Natural Environment (Scotland) Act 2011 (Consequential Modifications) Order 2012 (S.S.I. 2012/215) , reg. 1, sch. para. 4(b)
F24	Word in reg. 101A(3)(c) substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80) , regs. 2, 23
F25	Word in reg. 101A(3)(e) substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80) , regs. 2, 23
F26	Word in reg. 101A(4)(c)(i) substituted (2.7.2012) by The Wildlife and Natural Environment (Scotland) Act 2011 (Consequential Modifications) Order 2012 (S.S.I. 2012/215) , reg. 1, sch. para. 4(b)
F27	Word in reg. 101A(4)(c) substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80) , regs. 2, 23
F28	Word in reg. 101A(4)(d) substituted (2.7.2012) by The Wildlife and Natural Environment (Scotland) Act 2011 (Consequential Modifications) Order 2012 (S.S.I. 2012/215) , reg. 1, sch. para. 4(b)
F29	Word in reg. 101A(4)(d) substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80) , regs. 2, 23

Offences in connection with constables’ powers to take samples

^{F1}**101B.**

Wildlife inspectors

^{F1}**101C.**

Powers of wildlife inspectors to enter premises

^{F1}**101D.**

Wildlife inspectors’ powers for examining specimens and taking samples

^{F1}**101E.**

Offences in connection with wildlife inspectors’ enforcement powers

^{F1}**101F.**

Restrictions on taking samples from live specimens

^{F1}**101G.**

Codes of practice

^{F1}**101H.**

Advice and assistance from nature conservation bodies

^{F1}**101I.**

Proceedings for offences: venue, time limits

102.—(1) An offence under Part III of these Regulations shall, for the purposes of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

(2) Summary proceedings [^{F30}for any such offence][^{F31}(other than for an offence under regulation 39 or 41)] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

But no such proceedings shall be brought by virtue of this paragraph more than [^{F32}three] years after the commission of the offence [^{F33}or, in the case of a continuous contravention, after the last date on which the offence was committed].

(3) For the purposes of paragraph (2) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

- F30** Words in [reg. 102\(2\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **19(a)** (with regs. 20, 21)
- F31** Words in [reg. 102\(2\)](#) inserted (30.11.2020) by [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020 \(asp 14\), ss. 9\(4\), 22\(2\)](#); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)
- F32** Word in [reg. 102\(2\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **19(b)** (with regs. 20, 21)
- F33** Words in [reg. 102\(2\)](#) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **19(c)** (with regs. 20, 21)

Commencement Information

I7 Reg. 102 in force at 30.10.1994, see [reg. 1\(2\)](#)

Power of court to order forfeiture

103.—(1) The court by which a person is convicted of an offence under Part III of these Regulations—

- (a) shall order the forfeiture of any animal, plant or other thing in respect of which the offence was committed; and
- (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence.

(2) In paragraph (1)(b) “vehicle” includes aircraft, hovercraft and boat.

Commencement Information

I8 Reg. 103 in force at 30.10.1994, see [reg. 1\(2\)](#)

Saving for other protective provisions

104. Nothing in these Regulations shall be construed as excluding the application of the provisions of Part I of the Wildlife and Countryside Act 1981(9) (protection of wildlife) in relation to animals or plants also protected under Part III of these Regulations.

Commencement Information

I9 Reg. 104 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F34} Application of criminal offences to the Crown

104A.—(1) No contravention by the Crown of any provision of these Regulations makes the Crown criminally liable; but the Court of Session may, on the application of any public body or office holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(2) Despite paragraph (1), the provisions of these Regulations apply to persons in the public service of the Crown as they apply to other persons.]

F34 [Reg. 104A](#) inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, 24

General supplementary provisions

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

I10 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.

Commencement Information

I11 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(**10**) or section 210(4) to (8) of the Local Government (Scotland) Act 1973(**11**) (local inquiries: evidence and costs) apply in relation to an inquiry held under this regulation.

Commencement Information

I12 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(**12**) or section 269 of the Town and Country Planning (Scotland) Act 1972(**13**) (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(**14**) or the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(**15**), as applied by these Regulations.

Commencement Information

I13 Reg. 108 in force at 30.10.1994, see [reg. 1\(2\)](#)

^{F35}**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;

(10) 1972 c. 70.
 (11) 1973 c. 65.
 (12) 1990 c. 8.
 (13) 1972 c. 52.
 (14) 1981 c. 67.
 (15) 1947 c. 42.

- (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
- (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.

F35 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).]]

F35 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)

[^{F36}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.

^{F37}(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.]

F36 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

F37 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)

[^{F38}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.]

F38 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)

[^{F38}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).]

F38 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)

[^{F38} **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.]

F38 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)

[^{F38} **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.]

F38 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, PART V.