
STATUTORY INSTRUMENTS

1994 No. 2716

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

[^{F1}PART I

INTRODUCTORY PROVISIONS

[^{F1}]^{F2}Duties in relation to wild bird habitat

3A.—(1) Without prejudice to regulation 3(1), the Scottish Ministers, the appropriate nature conservation body and, in relation to the Scottish marine area, a competent authority must take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3), so far as lies within their powers.

(2) Except in relation to the Scottish marine area, the Scottish Environment Protection Agency, ^{F3}... local authorities and National Park authorities must take such steps in the exercise of their functions as they consider appropriate to contribute to the achievement of the objective in paragraph (3).

(3) The objective is the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in Scotland in implementation of Article 3 of the Wild Birds Directive (including by means of the upkeep, management and creation of such habitat, as appropriate), having regard to the requirements of Article 2 of that Directive.

(4) Paragraphs (1) and (2) apply in particular to functions under the following enactments:—

sections [^{F4}23A to 24] of the Hill Farming Act 1946;

sections 16 to 18, 20 and 21 of the National Parks and Access to the Countryside Act 1949 (agreements for management of nature reserves, powers of compulsory acquisition of land for nature reserves, and powers to make byelaws for the protection of nature reserves);

section 49A of the Countryside (Scotland) Act 1967 (management agreements);

[^{F5}the Forestry and Land Management (Scotland) Act 2018];

section 15 of the Countryside Act 1968 (areas of special scientific interest);

sections 14D to 14P of the Wildlife and Countryside Act 1981 (species control orders);

sections 7, 8 and 10 of the Deer (Scotland) Act 1996;

section 1 of the National Parks (Scotland) Act 2000;

section 22 of the Water Environment and Water Services (Scotland) Act 2003;

Part 2 of the Nature Conservation (Scotland) Act 2004 (conservation and enhancement of natural features);

the Marine (Scotland) Act 2010;

the Water Environment (Controlled Activities) (Scotland) Regulations 2011; and

any function exercisable in relation to town and country planning.

(5) In section 79(3)(a) of the Marine (Scotland) Act 2010 (creation of network of conservation sites), the reference to “the conservation or improvement of the marine environment” includes the objective in paragraph (3), and accordingly the duty in section 103 (reports to Parliament) of that Act applies in relation to that objective.

(6) In considering which measures may be appropriate for the purpose of securing or contributing to the objective in paragraph (3), regard may be had to economic and recreational requirements.

(7) The Scottish Ministers must take any measures they consider necessary to facilitate or co-ordinate arrangements to secure the taking of steps under paragraphs (1) and (2) by the persons mentioned in those paragraphs.

(8) So far as lies within its powers, a competent authority must use all reasonable endeavours to avoid pollution or deterioration of habitats of wild birds in Scotland.]]

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| 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) |
| F2 | Regs. 3-3B substituted for reg. 3 (S.) (16.8.2012) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2012 (S.S.I. 2012/228) , regs. 1(1), 4 |
| F3 | Words in reg. 3A(2) omitted (18.3.2021) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44) , regs. 1(1), 2(3)(a) |
| F4 | Words in reg. 3A(4) substituted (1.11.2019) by The Conservation (Natural Habitats, &c.) (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/364) , regs. 1(2), 3 |
| F5 | Words in reg. 3A(4) substituted (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44) , regs. 1(1), 2(3)(b) |

Modifications etc. (not altering text)

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| C1 | Reg. 3A power to disapply or modify conferred (26.12.2023) by Energy Act 2023 (c. 52) , ss. 293(4)(5), 334(3)(j) (with s. 293(6)) |
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Changes to legislation:

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, Section 3A.