
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for implementing Council Directive [79/409/EEC](#) on the conservation of wild birds (O.J. No. L103, 25.4.79, p.1.) and Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora (O.J. No. L206, 22.7.92, p.7) in relation to marine areas where the United Kingdom has jurisdiction beyond its territorial sea. That is to say, the Regulations make provision in relation to the offshore marine area, offshore marine installations and certain ships and aircraft. The “offshore marine area” is defined in regulation 2(1).

Part 1 contains introductory provisions. Regulation [6](#) imposes a duty on competent authorities exercising functions relevant to marine conservation to do so in such a way as to secure compliance with the requirements of the Directives.

Part 2 makes provision for the conservation of natural habitats and habitats of species. Regulation [5](#) identifies the competent authorities for the purposes of these Regulations. Regulations [717](#) make provision for the selection, registration and notification of sites in the offshore marine area to be protected under the Habitats and Wild Birds Directives (“European offshore marine sites”, which term is defined in regulation 15). Regulations [1821](#) make provision about the management of European offshore marine sites, including provision enabling management schemes to be made for these sites. Regulation [22](#) makes provision requiring competent authorities to establish conservation measures in respect of special areas of conservation in the offshore marine area that have been designated under regulation 11. Regulation [23](#) makes provision requiring competent authorities to exercise their functions to secure that steps are taken to avoid the disturbance of species and deterioration of habitat in respect of the offshore marine sites specified in regulation 23(3) and (4). Regulations [2530](#) require (amongst other things) the effect of plans and projects in the offshore marine area (or on offshore marine installations) that are likely to have a significant effect on a European offshore marine site or a European site (as defined in regulation 24) to be considered before the plan or project is authorised. Subject to certain exceptions, the authorisation of such plans and projects is prevented where the integrity of the site would be adversely affected. Regulations [27](#) and [28](#) also require certain authorisations granted before a site became a European offshore marine site or European site to be reviewed and in certain circumstances revoked where the integrity of the site would be adversely affected. Regulation [32](#) creates new offences in relation to offshore marine sites, as regards the intentional disturbance of animals for the protection of which the site has been designated or listed; the intentional disturbance of wild birds in a classified site; and the intentional or reckless damage or destruction of habitats.

Part 3 creates offences for the protection of wild birds, animals and plants, which in some instances are subject to defences. In particular, regulations [34](#) and [39](#) make it an offence deliberately to kill or take, respectively, wild birds or their eggs, and animals belonging to the species listed in Schedule 1. Protection is also afforded to birds’ nests, and to the breeding sites and resting places of the species of animals specified in Schedule 1. Regulations [36](#) and [41](#) create offences prohibiting the use of certain methods of killing and taking wild birds and animals (respectively). Regulations [37](#), [39\(2\)](#) and [43](#) make it an offence, subject to certain exceptions, to trade in or keep wild birds and certain species of wild animals and plants.

Part 4 requires the Secretary of State to make arrangements for surveillance and monitoring of species and habitats in the offshore marine area and to take further action for the protection of species, in the light of that surveillance or monitoring. In certain cases Scottish Ministers and Northern Ireland

departments must also take measures to protect species under this Part. Regulation 48 makes it an offence deliberately to introduce a non-native animal or plant.

Part 5 makes provision for the licensing of activities which would otherwise be offences under Part 3 and regulation 48 (in Part 4).

Part 6 gives to the Secretary of State and competent authorities power to appoint or make arrangements for the appointment of persons (“wildlife officers”) to investigate offences under the Regulations. Powers to search and enter and gather evidence are provided to wildlife officers. Part 6 also makes supplementary provision relating to offences under the Regulations.

Part 7 deals with a number of miscellaneous matters including education, research and reporting to the European Commission on the implementation of the Habitats Directive. Under Articles 16 and 17 of the Habitats Directive respectively, member States must provide reports to the Commission on derogations granted under the Directive and on its implementation. Regulation 72 of these Regulations ensures that there is an authority responsible for sending those reports, namely the Secretary of State. Regulation 75 makes amendments to the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001.

A transposition note setting out how the Regulations transpose the two Directives mentioned above has been prepared. A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has also been prepared. Both of these documents are available from the Wildlife Habitats and Biodiversity Division, Defra, Temple Quay, Bristol, BS1 6EB. In addition, copies of both of these documents have been placed in the libraries of both Houses of Parliament.