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STATUTORY INSTRUMENTS

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**2010 No. 490**

**The Conservation of Habitats and Species Regulations 2010**

**PART 1**

**INTRODUCTORY AND GENERAL PROVISIONS**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Conservation of Habitats and Species Regulations 2010.

(2) Except as provided by paragraphs (3) and (4), these Regulations come into force on 1st April 2010.

(3) In regulation 6 (relevant authorities in relation to marine areas and European marine sites), paragraph (i) (inshore fisheries and conservation authority) comes into force immediately after section 153 of the Marine Act<sup>(1)</sup> (management of inshore fisheries) comes into force.

(4) The following provisions come into force immediately after section 134 of the Marine Act (orders for protection of marine conservation zones in Wales) comes into force (so far as not already brought into force)—

- (a) paragraph (2) of regulation 38 (European marine sites: byelaws and orders), and paragraphs (3), (4) and (5) of that regulation in so far as they relate to paragraph (2); and
- (b) paragraph (3) of regulation 133 (revocations), in so far as that paragraph relates to the revocation, as regards Wales, of—
  - (i) the entry “sections 36 and 37 of the Wildlife and Countryside Act 1981 (marine nature reserves),” in paragraph (3) of regulation 3 (implementation of Directive) of the 1994 Regulations<sup>(2)</sup>, and
  - (ii) regulation 36 (byelaws for protection of European marine site) of the 1994 Regulations.

**Extent**

2.—(1) Except as provided in this regulation, these Regulations extend to England and Wales only.

(2) The following provisions also extend to Scotland—

- (a) regulation 3(8) (interpretation in relation to adjacent sea);
- (b) regulation 9 (exercise of functions in accordance with Habitats Directive);
- (c) regulation 39(4) (statement under Planning Act 2008<sup>(3)</sup>);
- (d) in regulation 68 (grant of planning permission)—

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<sup>(1)</sup> 2009 c. 23.

<sup>(2)</sup> S.I. 1994/2716.

<sup>(3)</sup> 2008 c. 29.

- (i) paragraph (1)(e)(ii) and (iii) (deemed grant of planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997<sup>(4)</sup> and section 5(1) of the Pipe-lines Act 1962<sup>(5)</sup>), and
  - (ii) paragraph (2) in so far as that paragraph relates to paragraph (1)(e)(ii) and (iii) of that regulation;
  - (e) in regulation 69 (planning permission: duty to review), in paragraph (3)—
    - (i) sub-paragraph (b) (direction under section 5(1) of the Pipe-lines Act 1962), and
    - (ii) sub-paragraph (d) in so far as that sub-paragraph relates to a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997;
  - (f) regulations 81, 82 and 83(2) (development consent under Planning Act 2008);
  - (g) Chapter 4 of Part 6 (electricity);
  - (h) Chapter 5 of Part 6 (pipe-lines);
  - (i) regulation 106 (national policy statements under Planning Act 2008), and regulations 102, 103 and 105 in so far as they apply in relation to a national policy statement by virtue of regulation 106; and
  - (j) in Schedule 6 (amendments of legislation)—
    - (i) sub-paragraph (3) of paragraph 5 (amendment of section 123 of the Marine Act),
    - (ii) sub-paragraph (5) of that paragraph (amendment of section 237 of that Act), and
    - (iii) paragraph 7 (amendment of the 2007 Regulations<sup>(6)</sup>),
 and regulation 132 in so far as it relates to those provisions.
- (3) The following provisions also extend to Scotland in so far as they have effect in relation to the provisions specified in paragraph (2)—
- (a) regulations 3 (interpretation), 5 (nature conservation bodies), 7 (competent authorities) and 8 (European sites and European marine sites);
  - (b) Chapter 1 of Part 6 (general provisions in relation to Part 6 (assessment of plans and projects)); and
  - (c) regulations 128 (advisory role of the Joint Nature Conservation Committee), 129(3) (advisory role of Scottish Natural Heritage) and 131 (notices).
- (4) The following provisions also extend to Northern Ireland—
- (a) sub-paragraph (3) of paragraph 5 of Schedule 6 (amendment of section 123 of the Marine Act),
  - (b) sub-paragraph (5) of that paragraph (amendment of section 237 of that Act), and
  - (c) paragraph 7 of Schedule 6 (amendment of the 2007 Regulations),
- and regulation 132 in so far as it relates to those provisions.
- (5) Paragraph 6 of Schedule 6 (amendment of the 1994 Regulations), and regulation 132 in so far as it relates to that paragraph, extend to Scotland only.
- (6) The revocation of an enactment by any provision of regulation 133 (revocations) or Schedule 7 (revocations) has the same extent as the enactment revoked, except that the following provisions do not extend to Scotland—
- (a) paragraph (3) of that regulation, and paragraph (1) of that regulation so far as it relates to paragraph (3); and

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(4) 1997 c. 8.

(5) 1962 c. 58; section 5(1) was amended by S.I. 1999/742, paragraph 2(3) of the Schedule.

(6) S.I. 2007/1842.

(b) paragraph (4)(b) of that regulation and Part 2 of that Schedule.

## Interpretation

### 3.—(1) In these Regulations—

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949(7);

“the 1994 Regulations” means the Conservation (Natural Habitats, &c.) Regulations 1994(8);

“the 2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(9);

“the appropriate authority” means the Secretary of State in relation to England, and the Welsh Ministers in relation to Wales (but see modifications of that term in regulations 9(7), 67(1)(b) and (3)(c), 94(6) and 106(3)(b));

“competent authority” is to be construed in accordance with regulation 7 (competent authorities);

“conservation” has the meaning given by Article 1(a) of the Habitats Directive;

“conservation status” and “favourable conservation status” have the meanings given by paragraphs (e) (in relation to habitats) and (i) (in relation to species) of Article 1 of the Habitats Directive;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” is to be construed accordingly;

“the devolved administrations” means the Welsh Ministers, the Department of the Environment in Northern Ireland and the Scottish Ministers;

“enactment” includes a local enactment and an enactment contained in subordinate legislation, and “subordinate legislation” has the same meaning as in the Interpretation Act 1978(10) (see section 21 of that Act);

“English inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to England;

“European marine site” has the meaning given by paragraph (4) of regulation 8 (European sites and European marine sites);

“European offshore marine site” means a European offshore marine site within the meaning of regulation 15 of the 2007 Regulations (meaning of European offshore marine site);

“European site” has the meaning given by regulation 8 (European sites and European marine sites);

“functions” includes powers and duties;

“the Habitats Directive” means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“land” includes land covered by water;

(7) 1949 c. 97.

(8) S.I. 1994/2716, amended by the Environment Act 1995 (c. 25), paragraph 233 of Schedule 22, the Land Reform (Scotland) Act 2003 (asp 2), paragraphs 14 to 16 of Schedule 2, and S.I. 1996/525, S.I. 1996/973, S.I. 1997/3055, S.I. 1999/1820, S.I. 2000/192, S.S.I. 2000/323, S.I. 2000/1973, S.I. 2003/2155, S.S.I. 2004/475, S.I. 2005/3389, S.S.I. 2006/270, S.I. 2006/1282, S.S.I. 2007/80, S.S.I. 2007/349, S.S.I. 2007/485, S.S.I. 2007/517, S.I. 2007/1843, S.I. 2007/3538, S.S.I. 2008/17, S.S.I. 2008/425, S.S.I. 2008/427, S.I. 2008/2172, S.I. 2009/6, S.S.I. 2009/222, S.S.I. 2009/343, S.I. 2009/1307, S.I. 2009/2438, S.I. 2009/3160 and S.I. 2010/489 (W. 55).

(9) S.I. 2007/1842, amended by S.S.I. 2007/485, S.I. 2009/7 and S.I. 2010/491.

(10) 1978 c. 30.

“local planning authority” means, except as otherwise provided, any authority having any function as a local planning authority or mineral planning authority under the TCPA 1990<sup>(11)</sup>;

“management agreement” means an agreement made, or having effect as if made, under regulation 16 (management agreements);

“the Marine Act” means the Marine and Coastal Access Act 2009<sup>(12)</sup>;

“marine area” means (subject to regulation 9(8)) the English inshore region and the Welsh inshore region;

“Natura 2000” means the European network of special areas of conservation, and special protection areas under the old Wild Birds Directive or the new Wild Birds Directive, provided for by Article 3(1) of the Habitats Directive;

“natural habitats” has the meaning given by Article 1(b) of the Habitats Directive;

“nature conservation body” and “appropriate nature conservation body” have the meaning given by regulation 5 (nature conservation bodies);

“the new Wild Birds Directive” means Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds<sup>(13)</sup>;

“officer”—

- (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, and
- (b) in relation to an unincorporated body, means any member of its governing body or a chief executive, manager or other similar officer of the body;

“the old Wild Birds Directive” means Council Directive [79/409/EEC](#) on the conservation of wild birds<sup>(14)</sup>;

“priority natural habitat types” has the meaning given by Article 1(d) of the Habitats Directive;

“priority species” has the meaning given by Article 1(h) of the Habitats Directive;

“the register” means the register of European sites provided for by regulation 13 (register of European sites);

“relevant authorities”, in relation to marine areas and European marine sites, is to be construed in accordance with regulation 6 (relevant authorities in relation to marine areas and European marine sites);

“relevant licensing body” has the meaning given by regulation 56 (relevant licensing body);

“research” includes inquiries and investigations;

“restricted English inshore region” means so much of the English inshore region as lies to seaward of mean low water mark;

“sample” means a sample of blood, tissue or other biological material;

“Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland;

“sea” includes—

- (a) any area submerged at mean high water spring tide, and
- (b) the waters of every estuary, river or channel, so far as the tide flows at mean high water spring tide,

and any reference to an area of sea includes the bed and subsoil of the sea within that area;

<sup>(11)</sup> 1990 c. 8.

<sup>(12)</sup> 2009 c. 23.

<sup>(13)</sup> OJ No L 20, 26.1.2010, p. 7.

<sup>(14)</sup> OJ No L 103, 25.4.1979, p. 1; the old Wild Birds Directive was repealed by the new Wild Birds Directive.

“ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which permanently rests on, or is permanently attached to, the seabed;

“site” has the meaning given by Article 1(j) of the Habitats Directive;

“site of Community importance” has the meaning given by Article 1(k) of the Habitats Directive;

“special area of conservation” has the meaning given by Article 1(l) of the Habitats Directive;

“specimen”—

(a) for the purposes of Part 7 (enforcement), means any animal or plant, or any part of, or anything derived from, an animal or plant, and

(b) for all other purposes has the meaning given by Article 1(m) of the Habitats Directive;

“statutory undertaker” means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the TCPA 1990 (statutory undertakers);

“the TCPA 1990” means the Town and Country Planning Act 1990(15);

“the WCA 1981” means the Wildlife and Countryside Act 1981(16); and

“Welsh inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Wales.

(2) The area of sea referred to in sub-paragraph (a) of the definition of “sea” in paragraph (1) includes waters in any area—

(a) which is closed, whether permanently or intermittently, by a lock or other artificial means against the regular action of the tide, but

(b) into and from which seawater is caused or permitted to flow, whether continuously or from time to time.

(3) Terms not defined in paragraph (1) which are used in these Regulations and also in the Habitats Directive have the meaning they bear in that Directive.

(4) In these Regulations, any reference to an Annex to the Habitats Directive is a reference to that Annex to that Directive as amended from time to time.

(5) Subject to regulation 83(1)(which relates to the construction of provisions of Chapter 2 of Part 6 as one with the TCPA 1990), these Regulations apply to the Isles of Scilly as if the Isles were a county and the Council of the Isles were a county council.

(6) Except as provided by paragraph (7), for the purposes of these Regulations—

(a) any reference to England includes the English inshore region;

(b) any reference to Wales includes the Welsh inshore region;

(c) any reference to Scotland includes the Scottish inshore region; and

(d) any reference to Great Britain includes the English inshore region, the Welsh inshore region and the Scottish inshore region.

(7) Paragraph (6) does not apply for the purposes of—

(a) in paragraph (1), the definitions of “English inshore region”, “Welsh inshore region” and “Scottish inshore region”; or

(b) paragraph (8).

(8) For the purposes of these Regulations—

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(15) 1990 c. 8.

(16) 1981 c. 69.

- (a) the sea adjacent to England is so much of the sea adjacent to Great Britain as is not the sea adjacent to Wales or the sea adjacent to Scotland;
- (b) “the sea adjacent to Wales” is to be construed in accordance with article 6 of and Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 1999<sup>(17)</sup> (the sea adjacent to Wales); and
- (c) “the sea adjacent to Scotland” is to be construed in accordance with article 3 of and Schedule 1 to the Scottish Adjacent Waters Boundaries Order 1999<sup>(18)</sup>.

(9) Nothing in these Regulations is to be construed as excluding the application of the provisions of Part 1 of the WCA 1981 (wildlife) in relation to animals or plants also protected under Part 3, 4 or 5 of these Regulations.

### **Plans or projects relating to offshore marine area or offshore marine installations**

4.—(1) Nothing in these Regulations requires an appropriate assessment of any plan or project so far as that plan or project is to be carried out on, in or in relation to any part of the sea in the offshore marine area, or on or in relation to an offshore marine installation.

(2) In paragraph (1)—

- (a) “offshore marine area” means—
  - (i) any part of the seabed and subsoil situated in any area designated under subsection (7) of section 1 of the Continental Shelf Act 1964<sup>(19)</sup> (exploration and exploitation of continental shelf), and
  - (ii) any part of the waters within British fishery limits<sup>(20)</sup> (except the internal waters of, and the territorial sea adjacent to, the United Kingdom, the Channel Islands and the Isle of Man); and
- (b) “offshore marine installation” means any artificial island, installation or structure (other than a ship) which is situated—
  - (i) in any part of the waters in any area designated under section 1(7) of the Continental Shelf Act 1964, or
  - (ii) in any part of the waters in any area designated under subsection (4) of section 84 of the Energy Act 2004<sup>(21)</sup> (exploitation of areas outside the territorial sea for energy production).

### **Nature conservation bodies**

5.—(1) Except as provided by paragraphs (2) and (3), in these Regulations—

- (a) “nature conservation body” means Natural England or the Countryside Council for Wales; and
- (b) “the appropriate nature conservation body” means—
  - (i) Natural England, in relation to England, or
  - (ii) the Countryside Council for Wales, in relation to Wales.

(2) In regulations 48 (surveillance of conservation status of habitats and species), 50 (monitoring of incidental capture and killing) and Part 6 (assessment of plans and projects)—

<sup>(17)</sup> S.I. 1999/672. These provisions continue to have effect as if made under section 158(3) of the Government of Wales Act 2006 (c. 32), by virtue of paragraph 26(3) of Schedule 11 to that Act.

<sup>(18)</sup> S.I. 1999/1126.

<sup>(19)</sup> 1964 c. 29; section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), paragraph 1 of Schedule 3. Areas have been designated under section 1(7) by S.I. 1987/1265, 2000/3062 and 2001/3670.

<sup>(20)</sup> As defined by section 1 of the Fishery Limits Act 1976 (c. 86).

<sup>(21)</sup> 2004 c. 20. An area has been designated under section 84(4) by S.I. 2004/2668.

- (a) “nature conservation body” means Natural England, the Countryside Council for Wales or the Joint Nature Conservation Committee<sup>(22)</sup>; and
  - (b) in relation to a European offshore marine site, “the appropriate nature conservation body” means the Joint Nature Conservation Committee.
- (3) In the regulations referred to in regulation 2(2)(a) and (c) to (j) and (3)—
- (a) “nature conservation body” means Natural England, the Countryside Council for Wales or Scottish Natural Heritage; and
  - (b) except where paragraph (2)(b) applies, “the appropriate nature conservation body” means—
    - (i) Natural England, in relation to England,
    - (ii) the Countryside Council for Wales, in relation to Wales, or
    - (iii) Scottish Natural Heritage, in relation to Scotland.

### **Relevant authorities in relation to marine areas and European marine sites**

6. For the purposes of these Regulations the relevant authorities, in relation to a marine area or European marine site, are such of the following as have functions in relation to land or waters within or adjacent to that area or site—

- (a) a nature conservation body;
- (b) a county council, county borough council, district council or London borough council;
- (c) the Environment Agency;
- (d) the Marine Management Organisation;
- (e) a water undertaker or sewerage undertaker, or an internal drainage board;
- (f) a navigation authority within the meaning of the Water Resources Act 1991<sup>(23)</sup>;
- (g) a harbour authority within the meaning of the Harbours Act 1964<sup>(24)</sup>;
- (h) a lighthouse authority;
- (i) an inshore fisheries and conservation authority established under Part 6 of the Marine Act<sup>(25)</sup> (management of inshore fisheries);
- (j) a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966<sup>(26)</sup> or any authority exercising the powers of such a committee; and
- (k) a National Park authority.

### **Competent authorities**

7.—(1) For the purposes of these Regulations, “competent authority” includes—

- (a) any Minister of the Crown (as defined in the Ministers of the Crown Act 1975<sup>(27)</sup>), government department, statutory undertaker, public body of any description or person holding a public office;
- (b) the Welsh Ministers; and
- (c) any person exercising any function of a person mentioned in sub-paragraph (a) or (b).

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(22) The Joint Nature Conservation Committee was established by the Environmental Protection Act 1990 (c. 43), section 128(4), and reconstituted by the Natural Environment and Rural Communities Act 2006 (c. 16), section 31 and Schedule 4.

(23) 1991 c. 57; see definition of “navigation authority” in section 221(1).

(24) 1964 c. 40; see definition of “harbour authority” in section 57(1).

(25) No inshore fisheries and conservation authorities are yet established.

(26) 1966 c. 38.

(27) 1975 c. 26.



(2) In the following provisions (and as provided in regulation 67(3)(a)), “competent authority” includes the Scottish Ministers—

- (a) paragraph (2) of regulation 68 (grant of planning permission), in so far as that paragraph relates to a deemed grant of planning permission under—
  - (i) section 57(2) of the Town and Country Planning (Scotland) Act 1997(28), as mentioned in regulation 68(1)(e)(ii), or
  - (ii) section 5(1) of the Pipe-lines Act 1962(29), as mentioned in regulation 68(1)(e)(iii);
- (b) Chapter 4 of Part 6 (electricity); and
- (c) Chapter 5 of Part 6 (pipe-lines).

(3) In paragraph (1)—

- (a) “public body” includes any local authority, joint board, joint committee or National Park authority; and
- (b) “public office” means—
  - (i) an office under the Crown,
  - (ii) an office created or continued in existence by a public general Act or by legislation passed by the National Assembly for Wales, or
  - (iii) an office the remuneration in respect of which is paid out of money provided by Parliament or the National Assembly for Wales.

(4) In paragraph (3)(a)—

“local authority” means—

- (a) in relation to England, a county council, a district council, a parish council, a London borough council, the Common Council of the City of London, the sub-treasurer of the Inner Temple or the under treasurer of the Middle Temple, and
  - (b) in relation to Wales, a county council, a county borough council or a community council;
- “joint board” means a joint planning board within the meaning of section 2(30) of the TCPA 1990 (joint planning boards); and
- “joint committee” means a joint committee appointed under subsection (1)(b) of section 102 of the Local Government Act 1972(31) (appointment of committees).

### **European sites and European marine sites**

8.—(1) Subject to paragraph (2), in these Regulations a “European site” means—

- (a) a special area of conservation;
- (b) a site of Community importance which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive;
- (c) a site hosting a priority natural habitat type or priority species protected in accordance with Article 5(4) of the Habitats Directive (a site in respect of which consultation has been initiated under Article 5(1) of that Directive, during the consultation period or pending a decision of the Council under Article 5(3));

(28) 1997 c. 8.

(29) 1962 c. 58; section 5(1) was amended by S.I. 1999/742, paragraph 2(3) of the Schedule.

(30) Relevant amendments were made to section 2 by the Local Government (Wales) Act 1994 (c. 19), section 19(1) and (4)(a) and Schedule 18.

(31) 1972 c. 70; section 102(1) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), paragraph 16 of Schedule 9; the Children Act 1989 (c. 41), paragraph 31 of Schedule 13; and the Local Government and Housing Act 1989 (c. 42), paragraph 25(a) of Schedule 11.



- (d) an area classified pursuant to Article 4(1) or (2) of the old Wild Birds Directive or the new Wild Birds Directive; or
  - (e) a site which has been proposed to the European Commission under regulation 10 (selection of sites eligible for identification as of Community importance), until such time as—
    - (i) the site is placed on the list of sites of Community importance referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive, or
    - (ii) agreement is reached or a decision is taken pursuant to Article 4(2) of that Directive not to place the site on that list.
- (2) In these Regulations, a reference to a European site—
- (a) in Part 6 (assessment of plans and projects), is a reference to a European site in Great Britain; and
  - (b) in any other provision of these Regulations, except where otherwise indicated, is a reference to a European site in England or Wales.
- (3) In any enactment other than these Regulations, a reference to a European site within the meaning of these Regulations is a reference to a European site as defined in paragraph (1).
- (4) In these Regulations a “European marine site” means a European site so far as consisting of marine areas.

### **Exercise of functions in accordance with the Habitats Directive**

- 9.—(1) The appropriate authority and the nature conservation bodies must exercise their functions under the enactments relating to nature conservation so as to secure compliance with the requirements of the Habitats Directive.
- (2) Paragraph (1) applies, in particular, to functions under the following enactments—
- (a) Part 3 of the 1949 Act (nature conservation);
  - (b) section 15 of the Countryside Act 1968(32) (areas of special scientific interest);
  - (c) Part 1 (wildlife) and sections 28 to 28S(33) and 31 to 35(34) of the WCA 1981 (which relate to sites of special scientific interest);

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(32) 1968 c. 41; section 15 was amended by the WCA 1981, section 72(8) and Part 1 of Schedule 17; the Environmental Protection Act 1990 (c. 43), paragraph 4(2) of Schedule 9 and Part 6 of Schedule 16; the Countryside and Rights of Way Act 2000 (c. 37), section 75(3); the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), paragraph 29(1) and (2) of Schedule 12; and the Natural Environment and Rural Communities Act 2006 (c. 16), paragraph 48 of Schedule 11 and Schedule 12.

(33) Section 28 was substituted, and sections 28A to 28R were inserted, by the Countryside and Rights of Way Act 2000 (c. 37), paragraph 1 of Schedule 9; sections 28 to 28R were amended by the Natural Environment and Rural Communities Act 2006 (c. 16) (“the 2006 Act”), paragraph 79 of Schedule 11; section 28D was amended by the 2006 Act, section 56; section 28E was amended by the 2006 Act, paragraph 80 of Schedule 11; section 28G was amended by the 2006 Act, paragraph 81 of Schedule 11 and Schedule 12; section 28P was amended by the 2006 Act, section 55; and section 28S was inserted by the 2006 Act, section 58(1).

(34) Sections 31 to 34 were repealed as regards Scotland by the Nature Conservation (Scotland) Act 2004 (asp 6), paragraph 4 of Schedule 7; section 31 was amended by the Criminal Justice Act 1982 (c. 48), sections 37 and 46, by the Countryside and Rights of Way Act 2000 (c. 37) (“the 2000 Act”), paragraph 3 of Schedule 9, by the Constitutional Reform Act 2005 (c. 4), paragraph 37 of Schedule 9, and by the Natural Environment and Rural Communities Act 2006 (c. 16) (“the 2006 Act”), section 55(5) and paragraph 79 of Schedule 11; section 32 was amended by the Agriculture Act 1986 (c. 49), section 20(1), (2) and (3), by the 2000 Act, paragraph 4 of Schedule 9 and Part 3 of Schedule 16, and by the 2006 Act, paragraph 79 of Schedule 11; section 33 was amended by the 2006 Act, paragraph 82 of Schedule 11; section 34 was amended by the Local Government Act 1985 (c. 51), paragraph 7 of Schedule 3, by the Planning (Consequential Provisions) Act 1990 (c. 11), paragraph 54(1) of Schedule 2, by the Local Government (Wales) Act 1994 (c. 19), paragraph 65(3) of Schedule 16, by the 2000 Act, section 78, and by the 2006 Act, paragraph 83 of Schedule 11 and Schedule 12; section 34A was inserted by the 2006 Act, paragraph 84 of Schedule 11; and section 35 was amended by the 2006 Act, paragraph 85 of Schedule 11.

- (d) sections 131, 132 and 134(35) of the Environmental Protection Act 1990 (which relate to nature conservation functions of the Countryside Council for Wales);
- (e) the Natural Environment and Rural Communities Act 2006(36); and
- (f) these Regulations.
- (3) A competent authority must, in relation to a marine area, exercise any of their functions which are relevant to marine conservation so as to secure compliance with the requirements of the Habitats Directive.
- (4) Paragraph (3) applies, in particular, to functions under the following enactments—
- (a) the Sea Fisheries Acts within the meaning of section 1 of the Sea Fisheries (Wildlife Conservation) Act 1992(37) (conservation in the exercise of sea fisheries functions);
- (b) the Dockyard Ports Regulation Act 1865(38);
- (c) subsection (2) of section 2 of the Military Lands Act 1900(39) (provision as to byelaws relating to the sea, tidal water or shore);
- (d) the Harbours Act 1964(40);
- (e) Part 2 of the Control of Pollution Act 1974(41) (pollution of water);
- (f) the Water Resources Act 1991(42);
- (g) the Land Drainage Act 1991(43);
- (h) the Planning Act 2008(44);
- (i) the Marine Act; and
- (j) these Regulations.
- (5) Without prejudice to the preceding provisions, a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.
- (6) This regulation applies, in relation to Scotland, only in relation to functions which relate to reserved matters (within the meaning of Schedule 5 to the Scotland Act 1998(45) (reserved matters)).
- (7) To the extent that paragraph (1) relates to functions exercised in relation to Scotland, the reference in that paragraph to the appropriate authority includes the Secretary of State exercising functions in relation to Scotland.
- (8) In paragraph (3), “marine area” includes the Scottish inshore region.

(35) 1990 c. 43; section 131 was amended by the Natural Environment and Rural Communities Act 2006 (c. 16) (“the 2006 Act”), paragraph 120 of Schedule 11; section 132 was amended by the 2006 Act, paragraph 121 of Schedule 11 and Schedule 12; and section 134 was amended by the 2006 Act, paragraph 123 of Schedule 11.

(36) 2006 c. 16.

(37) 1992 c. 36; a relevant amendment was made by S.I. 1999/1820.

(38) 1865 c. 125.

(39) 1900 c. 56; section 2(2) was amended by SR & O 1924/1370, the Crown Estate Act 1961 (c. 55), section 1, and S.I. 1964/488.

(40) 1964 c. 40.

(41) 1974 c. 40.

(42) 1991 c. 57.

(43) 1991 c. 59.

(44) 2008 c. 29.

(45) 1998 c. 46.