
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 4

**ADDITIONAL PROTECTION OF HABITATS
AND WILD ANIMALS AND PLANTS**

Surveillance and monitoring

Surveillance of conservation status of habitats and species

48.—(1) The appropriate authority must make arrangements in accordance with paragraphs (4) to (6) for the surveillance of the conservation status of natural habitat types of Community interest and species of Community interest, and in particular priority natural habitat types and priority species.

(2) In respect of the arrangements made by the Secretary of State under paragraph (1), the Secretary of State must, from time to time—

- (a) consult the devolved administrations;
- (b) provide the devolved administrations with such information as the Secretary of State considers appropriate that has been derived from the surveillance which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(3) In respect of the arrangements made by the Welsh Ministers under paragraph (1), the Welsh Ministers must, from time to time—

- (a) consult the Secretary of State and the other devolved administrations;
- (b) provide the Secretary of State and the other devolved administrations with such information as the Welsh Ministers consider appropriate that has been derived from the surveillance which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(4) The appropriate nature conservation body must—

- (a) assess how and to what extent surveillance of the conservation status of each relevant habitat and species is to be carried out, having regard to—
 - (i) whether a habitat or species is a priority natural habitat type or priority species, and
 - (ii) the conservation status of the habitat or species; and
- (b) advise the appropriate authority as to the need for such surveillance.

(5) The appropriate authority must ensure that the necessary surveillance is carried out on an ongoing basis.

(6) Surveillance for the purposes of this regulation may be carried out by—

- (a) a nature conservation body;

- (b) any other person acting pursuant to, and in accordance with, an agreement with the appropriate authority or a nature conservation body.
- (7) In paragraph (4), a “relevant” habitat or species means a habitat or species of a type referred to in paragraph (1).
- (8) In this regulation—
 - (a) “natural habitat types of Community interest” has the meaning given by Article 1(c) of the Habitats Directive; and
 - (b) “species of Community interest” has the meaning given by Article 1(g) of the Habitats Directive.

Protection of certain animals and plants from exploitation

49.—(1) The appropriate authority must, as required in the light of information derived from surveillance arranged under regulation 48 or otherwise arranged for the purpose of Article 11 of the Habitats Directive, ensure that measures are taken for the purpose specified in paragraph (2).

- (2) The purpose is to ensure that—
 - (a) the taking in the wild of specimens of a species listed in Annex V to the Habitats Directive, and
 - (b) the exploitation of such specimens,

are compatible with the maintenance of that species at a favourable conservation status.

(3) Where measures are required under paragraph (1), the appropriate authority must make arrangements for surveillance for the purpose of establishing whether the taking in the wild of specimens of the species concerned, and the exploitation of specimens of that species, are compatible with the maintenance of that species at a favourable conservation status.

Monitoring of incidental capture and killing

50.—(1) The appropriate authority must make arrangements in accordance with paragraphs (4) to (6) to establish a system to monitor the incidental capture or killing of animals of the species listed in Annex IV(a) to the Habitats Directive.

(2) In respect of the arrangements made by the Secretary of State under paragraph (1), the Secretary of State must, from time to time—

- (a) consult the devolved administrations;
- (b) provide the devolved administrations with such information as the Secretary of State considers appropriate that has been derived from the monitoring which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(3) In respect of the arrangements made by the Welsh Ministers under paragraph (1), the Welsh Ministers must, from time to time—

- (a) consult the Secretary of State and the other devolved administrations;
- (b) provide the Secretary of State and the other devolved administrations with such information as the Welsh Ministers consider appropriate that has been derived from the monitoring which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(4) The appropriate nature conservation body must, in relation to the species of animals listed in Annex IV(a) to the Habitats Directive which are found in England or Wales—

- (a) identify the risks of incidental capture and killing to which those species are subject, and the activities which give rise to such risks;
 - (b) maintain a record of instances of incidental capture or killing of animals of those species of which the nature conservation body are aware as a result of the surveillance carried out under regulation 48 (surveillance of conservation status of habitats and species), the monitoring carried out under this regulation or otherwise;
 - (c) assess to what extent monitoring of incidental capture and killing is needed, having regard to—
 - (i) the risks identified under sub-paragraph (a),
 - (ii) the instances of incidental capture or killing recorded under sub-paragraph (b),
 - (iii) whether the species is a priority species, and
 - (iv) the conservation status of the species; and
 - (d) advise the appropriate authority as to the need for such monitoring.
- (5) The appropriate authority must ensure that the necessary monitoring of incidental capture and killing is carried out.
- (6) Monitoring for the purposes of this regulation may be carried out by—
- (a) a nature conservation body;
 - (b) any other competent authority;
 - (c) any other person acting pursuant to, and in accordance with—
 - (i) an agreement with the appropriate authority or a nature conservation body, or
 - (ii) a condition of a licence or other authorisation granted by a competent authority.

Protection from incidental capture and killing

51.—(1) The appropriate authority, as required in the light of information derived from monitoring arranged under regulation 50 or otherwise arranged for the purpose of Article 12(4) of the Habitats Directive, must make arrangements for further research for, or ensure that conservation measures are taken for, the purpose specified in paragraph (2).

(2) The purpose is to ensure that any incidental capture or killing of animals of a species listed in Annex IV(a) to the Habitats Directive does not have a significant negative impact on that species.

Introduction of new species

Introduction of new species from ships

52.—(1) It is an offence for any person on board a ship in any relevant part of the marine area deliberately to introduce into that area, other than in accordance with paragraph (3), any live animal or plant of a kind having a natural range which does not include any area in Great Britain.

(2) For the purposes of paragraph (1), “relevant part” means any part where the introduction would give rise to a risk of prejudice to natural habitats within their natural range or a risk of prejudice to wild native flora or fauna (whether in the place of introduction or elsewhere).

- (3) An introduction is in accordance with this paragraph if—
- (a) it resulted from a discharge of water carried as ballast and the discharge was necessary for the purpose of protecting the safety of any person or ship; and
 - (b) all reasonably practicable steps were taken—

- (i) to avoid its occurring in an area where it would give rise to a risk of prejudice to natural habitats within their natural range or a risk of prejudice to wild native flora or fauna (whether in the place of introduction or elsewhere), and
- (ii) to minimise any risk of such prejudice.

(4) In any proceedings for an offence under this regulation, it is for the defendant to show that the introduction in question was in accordance with paragraph (3).

(5) The appropriate authority may issue guidance about steps which may be taken to avoid committing an offence under this regulation.

(6) In any proceedings for an offence under this regulation—

- (a) where the offence is alleged to have been committed in England, a court must have regard to any guidance issued by the Secretary of State under paragraph (5); and
- (b) where the offence is alleged to have been committed in Wales, a court must have regard to any guidance issued by the Welsh Ministers under paragraph (5).

(7) A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

(8) Section 14(1) of the WCA 1981 (introduction of new species etc.) does not apply in relation to any act which is an offence under this regulation.

(1) A relevant amendment to section 14 was made by the Countryside and Rights of Way Act 2000 (c. 37), Part 4 of Schedule 16.