

Survey for the Joint Post-Implementation Review (PIR) of the Conservation of Habitats and Species regulations 2017 and the Conservation of Offshore Marine Habitat Species regulations 2017

Overview

This survey aims to gather the views of stakeholders and users of the 'Conservation of Habitats and Species Regulations 2017 as amended' and the 'Conservation of Offshore Marine Habitats and Species Regulations 2017 as amended' (hereby termed the onshore and offshore Habitats Regulations respectively). The evidence gathered will inform the post-implementation review of these regulations (linked on the next page of this survey) and may also support any future wider policy work regarding improvements to the onshore and offshore Habitats Regulations.

We expect this review to be of interest to regulators, environmental NGOs, and industry groups, as well as others who have an interest in the regulations and how protected sites and species are regulated in the UK.

Scope of this survey

As part of Defra's statutory obligation to regularly review its regulations, we are conducting a joint post-implementation review of the onshore and offshore Habitats Regulations. This is being conducted under Regulation 142 in the onshore regulations and Regulation 82 in the offshore regulations.

Broadly, the onshore and offshore Habitats Regulations set out rules for designating, protecting and managing sites that are important for a defined list of habitats and species requiring strict protection. A more extensive summary is included below.

This survey seeks to gain stakeholder views to inform the post-implementation review, by collecting views and evidence regarding the effectiveness of the implementation, any unintended consequences of the onshore and offshore Habitats Regulations, and suggestions for possible refinements to the entirety of the onshore and offshore Habitats Regulations.

Views expressed in this survey should focus on the time period from 2017 to present, however evidence relating to implementation of the onshore and offshore Habitats Regulations before 2017 can be included where relevant. The review of the onshore regulations (which includes adjacent territorial seas up to 12 nautical miles) covers England only. The offshore regulations and therefore the offshore review covers the whole of the UK offshore marine area. There will be opportunity in this survey to indicate whether you are answering in relation to the onshore regulations, offshore regulations, or both.

The purpose of this post-implementation review of the onshore and offshore Habitats Regulations is to provide evidence to assess:

the extent to which the regulations' objectives have been achieved and whether they remain appropriate,
the effectiveness of the regulations' implementation to date,
and whether the objectives could be achieved with less regulation.

As well as capturing the views and experiences of a wide range of interested stakeholders via this survey, this review will also analyse the extensive existing evidence base surrounding implementation of the onshore and offshore Habitats Regulations. Therefore, when answering this survey, please refer to existing evidence sources and previous consultation or survey responses where possible, including reports and reviews already published or held by your organisation. The last question allows you to upload documents for this purpose.

Please note that views expressed in this survey may also be used in wider relevant policy development, including longer-term improvements to implementation of the onshore and offshore Habitats Regulations.

We are aware that respondents might also be feeding into related engagement surveys, and we are coordinating with these areas to share relevant findings. Therefore when answering this survey, if an answer that you have previously submitted to a recent Defra stakeholder engagement activity is relevant (for example Defra's recent Habitats Regulations Assessment (HRA) Guidance survey which closed 22nd March 2024), you are welcome to refer to this in your answer by writing 'see x's response to x engagement survey', and we will follow up accordingly.

Scope of the onshore and offshore Habitats Regulations

Summary of key aspects of the onshore Habitats Regulations 2017:

The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 and subsequent amending instruments. These regulations are assimilated from the EU Habitats and Wild Birds Directives, and must secure compliance with the requirements of the Directives (as per Regulation 9 in the onshore regulations). Note that the onshore and offshore Habitats Regulations were amended in 2019 to ensure their functionality when the UK left the EU, with no change to policy (see the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 No.579).

Part 1 requires public bodies to exercise their nature conservation functions to comply with the Habitats Directive and the new Wild Birds Directive, as well as imposing duties on public bodies in relation to wild bird habitats and requires nature conservation bodies to review and report on whether the obligations have been met.

Part 2 makes provision for the selection, designation or classification, registration and notification of sites to be protected under the Habitats Directive. Part 2 also makes provision in respect of European sites for control of damaging operations, special nature conservation orders and restoration orders, byelaws and compulsory purchase.

Part 3 provides for the protection of certain wild animals and plants, making it an offence, subject to exceptions, deliberately to capture, kill or disturb those animals or to trade in them, as well as prohibiting the use of certain methods of capturing or killing wild animals. Part 3 also makes it an offence, with exceptions, to deliberately pick, collect, cut, destroy or trade in certain plants.

Part 4 imposes a duty on the Secretary of State and Welsh Ministers to make arrangements for the surveillance of the conservation status of natural habitats and species protected under the Habitats Directive and requires them to make arrangements to establish a system to monitor the incidental capture and killing of certain animals. Part 4 also makes it an offence deliberately to introduce from a ship into the sea new species that are not native to Great Britain.

Part 5 provides for the licensing of certain activities relating to animals and plants, including making it an offence to make false representation in order to obtain a licence and failing to comply with a licence condition.

Part 6 requires the effect on a European site to be considered before the granting of consents or authorisations of a kind specified in regulations 70 to 104.

Part 7 sets out enforcement powers including powers of entry, search and taking of samples.

Part 8 contains provisions relating to the advisory roles of named Arm's Length Bodies in England and Wales, as well as containing amendments and revocations consequential on the consolidation.

Summary of key aspects of the offshore Habitats Regulations 2017:

The Conservation of Offshore Marine Habitats and Species Regulations 2017 consolidate the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, and make minor modifications reflecting changes to related legislation. The Regulations make provision in relation to the offshore marine area, offshore marine installations and certain ships and aircraft. These regulations are assimilated from the EU Habitats and Wild Birds Directives, and must secure compliance with the requirements of the Directives (as per Regulation 6 in the offshore regulations).

Part 1 identifies the competent authorities for the purposes of these Regulations and 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.

Part 3 creates offences for the protection of wild birds, animals and plants, which in some instances are subject to defences.

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 the Scottish Ministers, the Welsh Ministers and Northern Ireland departments must also take measures to protect species. Part 4 also 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 54.

Part 6 sets out enforcement powers including powers of search and entry, search and evidence gathering.

Part 7 deals with matters such as education, research and reporting to the European Commission on the implementation of the Habitats Directive.

The published Explanatory Notes of the onshore and offshore Habitats Regulations, which summarise the key elements of the regulations, can be found here:

[The Conservation of Habitats and Species Regulations 2017 Explanatory Note \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2017/1012/note/made) <<https://www.legislation.gov.uk/uk/si/2017/1012/note/made>>

[The Conservation of Offshore Marine Habitats and Species Regulations 2017 Explanatory Note \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2017/1013/note/made)

<<https://www.legislation.gov.uk/uk/si/2017/1013/note/made>> . .

The regulations in full are linked below:

[The Conservation of Habitats and Species Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2017/1012/contents) <<https://www.legislation.gov.uk/uk/si/2017/1012/contents>>

[The Conservation of Offshore Marine Habitats and Species Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2017/1013/contents/made) <<https://www.legislation.gov.uk/uk/si/2017/1013/contents/made>>

The 2019 amendments to the regulations are linked below:

[The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2019/579/introduction/made)

<<https://www.legislation.gov.uk/uk/si/2019/579/introduction/made>>

Regulation 142 of the onshore regulations and Regulation 82 of the offshore regulations, which state the requirements to conduct this review, are linked below:

[The Conservation of Habitats and Species Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2017/1012/regulation/142) <<https://www.legislation.gov.uk/uk/si/2017/1012/regulation/142>>

[The Conservation of Offshore Marine Habitats and Species Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/si/2017/1013/regulation/82/made)

<<https://www.legislation.gov.uk/uk/si/2017/1013/regulation/82/made>>

The EU Habitats and Wild Birds Directives which the onshore and offshore Habitats Regulations 2017 are assimilated from (collectively termed the 'Nature Directives') are linked below:

The 'Habitats Directive': [EUR-Lex - 01992L0043-20070101 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20070101) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20070101>

The 'Wild Birds Directive': [EUR-Lex - 02009L0147-20190626 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0147-20190626) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0147-20190626>

Introductory Section: Your information and background

1 Would you like your response to be confidential?

Please select only one item

Yes

No

If you answered Yes to this question, please give your reason.

Confidentiality and data protection information

1. A summary of responses to this consultation will be published on the Government website at: [www.gov.uk/defra](https://eur03.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.gov.uk%2Fdefra&data=05%7C02%7CJane.Tye%40defra.gov.uk%7C7100b30bd6804a3320ab08dc36ddf45c%7C770a245002274c6290c74) <https://eur03.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.gov.uk%2Fdefra&data=05%7C02%7CJane.Tye%40defra.gov.uk%7C7100b30bd6804a3320ab08dc36ddf45c%7C770a245002274c6290c74>. An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details.

1.1 Defra may publish the content of your response to this consultation to make it available to the public without your personal name and private contact details (e.g. ho

1.2 If you click on 'Yes' in response to the question asking if you would like anything in your response to be kept confidential, you are asked to state clearly what informa are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have o these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consu

1.3 If you click on 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of yo

1.4 There may be occasions when Defra will share the information you provide in response to the consultation, including any personal data with external analysts. This i

1.5 This consultation is being conducted in line with the Cabinet Office "Consultation Principles" and be found at: <https://www.gov.uk/government/publications/cons guidance&data=05%7C02%7CJane.Tye%40defra.gov.uk%7C7100b30bd6804a3320ab08dc36ddf45c%7C770a245002274c6290c74e38537f1102%7C0%7C0%7C638>

1.6 Please find our latest privacy notice uploaded as a related document alongside our consultation document.

1.7 If you have any comments or complaints about the consultation process, please email: consultation.coordinator@defra.gov.uk

2 What is your name?

Name

3 What is your email address?

Email

4 What is your organisation?

Organisation

5 What is your main interest in responding to this survey?

Please select only one item

- Local Planning Authority
- Statutory Nature Conservation Body
- Developer
- Environmental NGO
- Consultant
- Government Department
- Ecologist (consultant)
- Ecologist (other) (please specify)
- Other (please specify)

If 'Other', please enter your main interest in the text box below

6 Will you be answering this survey in relation to the onshore regulations (the Conservation of Habitats and Species Regulations 2017), the offshore regulations (the Conservation of Offshore Marine Habitats and Species Regulations 2017), or both?

Please select only one item

- The onshore regulations only
- The offshore regulations only
- Both the onshore and offshore regulations
- Either or both regulations, varying according to the question. I will state in the open text box for each question whether my answer refers to the onshore regulations, the offshore regulations, or both.

Section 1: The extent to which the regulations have met their original objectives

Please remember to state in the open text box, where relevant, whether your answer refers to the onshore regulations, the offshore regulations, or both. Please also state, where relevant, which element of the regulations your answer refers to.

7 To what extent do you believe the regulations have succeeded in their objectives?

Further information on the objectives of the regulations

The onshore and offshore Habitats Regulations lay down rules for the protection and management of habitats and the protection and exploitation of species. The regulations are assimilated from the EU Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive') and elements of the EU Council Directive 2009/147/EC on the conservation of wild birds (the 'Wild Birds Directive'). There is a duty within the regulations to secure compliance with the requirements of the Habitats and Wild Birds Directives (see regulation 9 in the onshore regulations).

The objectives of the Habitats and Wild Birds Directive, which the onshore and offshore regulations must comply with, are below:

The objective of the Habitats Directive is to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest (see Article 2.2 of the Habitats Directive, linked in page 1 of this survey). The objective of the Wild Birds Directive is to preserve, maintain or re-establish a sufficient diversity and area of habitats for all species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty applies (see Article 3.1 of the Wild Birds Directive, linked in page 1 of this survey).

The onshore and offshore Habitats Regulations ensure that the UK meets its international commitments including under The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) and The Convention on the Conservation of Migratory Species of Wild Animals (the Bonn Convention).

Please select only one item

- Have surpassed objectives
- Have met objectives
- Have partially met objectives
- Have not met objectives at all
- Don't know

Please explain your answer, including outlining the reasons you consider the regulations have or have not met the objectives (optional)

8 Do you consider the original objectives of the regulations remain appropriate?

Please select only one item

- Yes
- No
- Don't know

Please explain your answer

9 To what extent do you consider the regulations are still appropriate to address those objectives?

Please select only one item

- Very appropriate
- Appropriate
- Neither appropriate nor inappropriate
- Not at all appropriate
- Don't know

Please explain your answer, and give examples of what you feel would be more appropriate where possible (optional)

10 Based on your experiences, have there been any unintended effects caused by the regulations?

Please select only one item

- Yes
- No
- Don't know

Please explain your answer and give examples where possible (optional)

11 What are the costs that you/your organisation incurs in relation to the implementation of the regulations, if any? Please quantify these where possible, considering costs such as staff time/wages, fees, consultants etc. If this is not possible, please provide a qualitative description of the costs. Please describe the aspect of the regulations this cost relates to.

Text box provided

12 What do you view as the key benefits of the regulations? Please quantify these where possible or provide a qualitative description of the benefits to you / your organisation.

More information

Benefits could include benefits that are felt directly by your organisation, or may be felt by society in general, for example societal welfare and wellbeing.

Text box provided

13 Based on your experiences, how has the impact of the regulations on small and micro-organisations differed to the impact on larger organisations?

Please select only one item

- Much bigger impact
- Slightly bigger impact
- The same impact/no difference
- Slightly smaller impact
- Much smaller impact
- Don't know

Please explain your answer and give examples where possible (optional)

Section 2: The effectiveness of implementation of the regulations

Please remember to state in the open text box, where relevant, whether your answer refers to the onshore regulations, the offshore regulations, or both. Please also state, where relevant, which element of the regulations your answer refers to.

14 In your opinion, how effectively have the regulations been applied and implemented in practice?

Please select only one item

- Very Well
- Well
- Fairly
- Poorly
- Very poorly
- Don't know

Please explain your answer and give examples where possible (optional)

15 In your opinion, how well understood and interpreted are the regulations among your organisation?

Please select only one item

- Very well understood
- Well understood
- Fairly understood
- Poorly understood
- Very poorly understood
- Don't know

Please explain your answer and give examples where possible (optional)

16 Please only answer this question if you are responding to this survey on behalf of a regulator. What is the regulator's assessment of organisations' compliance rates against these regulations? Please provide evidence if possible.

Please select only one item

- Highly compliant
- Fairly compliant
- Somewhat compliant
- Not at all compliant
- Don't Know
- Not applicable

Please explain your answer and give evidence of compliance rates where possible

17 In your opinion, how effective are the enforcement mechanisms for the regulations?

More information

The enforcement powers of wildlife inspectors, constables and other authorised persons set out in the regulations include powers of entry, search and powers to take specimens and samples (see Part 7 and Part 6 of the onshore and offshore regulations respectively).

Please select only one item

- Very effective
- Effective
- Neither effective nor ineffective
- Not at all effective
- Don't know

Please explain your answer and give examples where possible (optional)

18 Based on your experiences, do you think there will be any future unintended effects of the regulations, different from those already mentioned?

Please select only one item

- Yes
- No
- Don't know

Please explain your answer and give examples where possible (optional)

19 What are the likely costs that you/your organisation will incur in relation to the implementation of the regulations moving forwards, if these differ to current costs already mentioned? (Please quantify these where possible, considering costs such as staff time/wages, fees, consultants etc. If this is not possible, please provide a qualitative description of the costs. Please describe the aspect of the regulations this cost relates to.)

Text box provided

20 As part of the post-implementation review, we will be reviewing how implementation compares to implementation of the Habitats and Wild Birds Directives in EU member states (linked below), and international comparison where relevant. Does your organisation have any views or evidence sources on how implementation compares to implementation in other countries?

More information

The EU Habitats and Wild Birds Directives which the onshore and offshore Habitats Regulations 2017 transpose (collectively termed the 'Nature Directives') are linked below:

The 'Habitats Directive': [EUR-Lex - 01992L0043-20070101 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20070101) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20070101>>

The 'Wild Birds Directive': [EUR-Lex - 02009L0147-20190626 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0147-20190626) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0147-20190626>>

Please select only one item

- Yes
- No
- Don't know

Please explain your answer (optional)

Section 3: Your views on potential refinements to the regulations

Please remember to state in the open text box, where relevant, whether your answer refers to the onshore regulations, the offshore regulations, or both. Please also state, where relevant, which element of the regulations your answer refers to.

21 Do you believe that refinements or changes could be made to improve implementation of the regulations and enhance benefits?

Please select only one item

- Yes
- No
- Don't know

Please explain your answer and give examples of possible refinements to the regulations in order to enhance the regulations' benefits (optional)

22 If you believe that the regulations place burdens or costs on organisations, do you consider that refinements could be made to the regulations in order to reduce burden on organisations and reduce costs?

Please select only one item

- Yes
- No
- Don't know
- I don't believe that the regulations place burdens or costs on organisations

Please explain your answer and give examples of possible refinements (optional)

23 Do you consider that refinements could be made to reduce the scope of the regulations to take organisations out of the regulatory obligations?

Please select only one item

- Yes
- No
- Don't know

Please explain your answer and give examples of possible refinements (optional)

24 Please only answer this question if you are responding on behalf of a regulator. Do you consider that refinements could be made to improve the enforcement and / or compliance rates of these regulations?

Please select only one item

- Yes
- No
- Don't know
- Not applicable

Please explain your answer and give examples

25 Please only answer this question if you are responding on behalf of an end-user of the regulations. Do you consider that refinements could be made to improve the enforcement of these regulations?

Please select only one item

- Yes
- No
- Don't know
- Not applicable

Please explain your answer and give examples

Section 4: Further comments and evidence sources

26 Do you have any further thoughts that you have not expressed in the above answers, including evidence sources from your organisation not previously referred to, that would be helpful for us to consider in this review?

Text box provided (optional)

Please attach a copy of any documents you wish to include to this printout.

Please upload any relevant evidence sources from your organisation you wish to share with us here

27 Would you be interested in taking part in further research on this subject?

Please select only one item

- Yes
- No

Consultee Feedback on the Online Survey

Dear Consultee

Thank you for taking your time to participate in this online survey. It would be appreciated, if you can provide us with an insight into how you view the tool and the area(s) you feel is in need of improvement, by completing our feedback questionnaire.

28 Overall, how satisfied are you with our online consultation tool?

Please select only one item

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dis-satisfied
- Very dissatisfied
- Don't know

Please give us any comments you have on the tool, including suggestions on how we could improve it.