

European Marine Sites in England & Wales

A Guide to the Conservation
(Natural Habitats &c.) Regulations 1994
and to the Preparation and Application
of Management Schemes



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Introduction

- 0.1 The Council Directives on the conservation of natural habitats and of wild fauna and flora (92/43/EEC) (the *Habitats Directive*) and on the conservation of wild birds (79/409/EEC) (the *Birds Directive*) require, respectively, the designation of Special Areas of Conservation (SACs) and *classification*¹ of Special Protection Areas (SPAs).
- 0.2 The Conservation (Natural Habitats &c.) Regulations 1994 (the *Habitats Regulations*) transpose the requirements of the Habitats Directive into national law and provide for the conservation of SACs and SPAs in Great Britain.
- 0.3 This guide gives advice to *relevant authorities*, *competent authorities*², owners and occupiers, right holders, users and other interested bodies about the provisions of the Habitats Regulations and the preparation and application of management schemes for marine SACs and SPAs (*European marine sites*).
- 0.4 This document is not a guide to specific management measures which might be appropriate for such management schemes. Other publications provide supplementary information and advice on the management of coastal or marine areas and some are referred to in this document. The statutory nature conservation agencies are continuing to provide advice on other aspects of the development of management schemes for European marine sites.

¹ Hereafter the term “designation” will be used to mean classification of SPAs and designation of SACs.

² Paragraphs 3.14-3.20 explain the terms *relevant authorities* and *competent authorities*; Appendix E includes their definitions in the Habitats Regulations.

Part 1 – The Context

- 1.1 Conservation of the marine environment is receiving increasing attention both in the UK and worldwide. Already there is a range of environmental initiatives in the UK including action arising from international treaties, measures with national priority and local agreements and projects. Some sectoral measures, such as controls on pollution, waste disposal and fisheries conservation are not confined to specific locations. Other approaches are geographically based and often demand a coordinated inter-agency approach in order to manage competing pressures successfully. These include: coastal zone management plans, estuary management plans, shoreline management plans and, under the Wildlife and Countryside Act 1981, Marine Nature Reserves. Some are purely voluntary in nature, whereas others are reinforced by statutory powers or duties.
- 1.2 Implementation of the EC Habitats Directive gives particular emphasis to the need to conserve specific areas. A principal means by which the aims of the Habitats Directive will be achieved is the designation and protection of a network of areas, including marine areas, across the European Community. The framework for conservation of European marine sites in the Habitats Regulations relies on integrated inter-agency action similar to that which has been successfully developed under coastal management initiatives. Successful application will also draw on experience gained from the management of Marine Nature Reserves. This guide is concerned with the conservation management of these marine areas, which are referred to as *European marine sites* by the Habitats Regulations. It also describes the approach to selection, consultation and designation of European marine sites in England and Wales.
- 1.3 The Habitats Regulations use the term *European sites* to encompass sites where protection is required under the Birds and Habitats Directives and *European marine sites* for those which are established in the intertidal area and at sea to the limit of territorial waters (Box 1).
- 1.4 The increasing recognition of the importance of the marine environment and the pressures on it has heightened awareness of the need for careful management of coastal and marine areas around the UK. The publication "Managing the Coast" (issued jointly by the Department of the Environment and the Welsh Office in October 1993) encourages an inter-agency approach to coastal management. A number of models are being developed.

Box 1 – European marine sites

In the Regulations implementing the Habitats Directive a *European marine site* is described as a *European site* so far as it consists of *marine areas*.

A *European site* is any one of the following:

- a special area of conservation;
- a site of Community importance which has been placed on the list referred to in the third subparagraph of Article 4(2) of the Habitats Directive;
- a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), or;
- an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive.

The Regulations describe *marine area* as any land covered (continuously or intermittently) by tidal water, or any part of the sea, in or adjacent to Great Britain, up to the seaward limit of territorial waters.

- 1.5 The English and Welsh Coastal Fora bring together, at national level, industrial, commercial, regulatory, recreation and conservation interests to discuss and advise on issues relating to the coastal environment. These integrated approaches involving the public, private and voluntary sectors are replicated in many local and regional initiatives.

PART 2 – The Guiding Principles

International conservation priorities

- 2.1 The Habitats and Birds Directives are part of a series of conservation instruments and conventions which have developed agreed international action for nature conservation. The Biodiversity Convention, signed at the Earth Summit at Rio de Janeiro in June 1992, is the most recent and has led to the preparation of the UK Biodiversity Action Plan published in January 1994. Implementation of the Habitats and Birds Directives is one of the central aims of the 20 year strategy contained in the Biodiversity Action Plan.
- 2.2 The main aim of the Habitats Directive is to promote the maintenance of biodiversity, taking account of economic, social, cultural requirements and regional and local characteristics. The Habitats Directive and the Birds Directive require Member States of the European Community to act together to conserve rare and threatened species and habitat types.
- 2.3 The Habitats Directive sets out measures aimed at maintaining or restoring, at favourable conservation status³, natural habitats and species of wild fauna and flora of Community interest. The attainment of favourable conservation status for certain habitat types and species is a goal which the Habitats Directive aims in part to be achieved through the designation and protection of a network, known as "Natura 2000", of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) across the European Community. Member States must take appropriate steps to avoid the deterioration of habitats or significant disturbance of species for which the sites are designated.
- 2.4 Sustainable development is one of the fundamental principles of the Habitats Directive. As stated in the preamble, the Directive makes a contribution to the general objective of sustainable development. The maintenance of biodiversity may, in certain cases, require the maintenance, or indeed the encouragement, of human activities. In other words the aim is not to exclude human activities from European sites, but rather to ensure that they are undertaken in ways which do not threaten the nature conservation interest, and wherever possible, in ways which support it.
- 2.5 Much of our wildlife and important habitats can be sustained alongside human activities. It is assumed that, where they are not causing deterioration or significant disturbance, activities and management practices which have coexisted with nature conservation interests will continue when areas become European marine sites. Where this is not the case the Directive requires appropriate action to be taken to ensure that any continuation is compatible with the nature conservation objectives of the site.

³ Article 1 of the Habitats Directive defines both *conservation status* and *favourable* – part of the text of the Habitats Directive is reproduced in Appendix F.

Box 2 – Sustainable development

The Bruntland Commission's definition of the concept of sustainable development is:

"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

- 2.6 The Government is committed to using the best scientific information available to assess the impact of human activities. Precipitate action on the basis of inadequate information is the wrong response. However, when damage to the site is both potentially significant and uncertain, it will be appropriate to act on the basis of the precautionary principle.
- 2.7 All forms of environmental risk should be tested against the precautionary principle which means that where there are real risks to the site, lack of full scientific certainty should not be used as a reason for postponing measures that are likely to be cost effective in preventing such damage. It does not however imply that the suggested cause of such damage must be eradicated unless proved to be harmless and it cannot be used as a licence to invent hypothetical consequences. Moreover, it is important, when considering whether the information available is sufficient, to take account of the associated balance of likely costs, including environmental costs, and benefits.

Site selection and designation process

- 2.8 Under the Birds Directive, Member States are required to designate the most suitable territories as SPAs for bird species in Annex I of the Directive and for regularly occurring migratory species. Under the Habitats Directive, Member States are required to propose sites hosting the habitat types and species listed in Annexes I and II of the Directive and to designate those that are adopted by the Commission as being of Community importance.
- 2.9 Some European marine sites are already in place through the past designation of SPAs covering the intertidal area. The SPA programme of consultation and designation began in 1981 and continues. A list of designated and potential European marine SPAs is at Appendix C.
- 2.10 The Habitats Directive sets out a procedure for the selection of SACs. The Directive also sets out a timetable for the selection and designation of the qualifying sites, which is indicated in Box 3.

Box 3 – The Habitats Directive key dates

| | |
|----------------------------|---|
| May 1992 | Directive adopted by the Council of Ministers |
| June 1992 | Directive notified to Members States |
| October 1994 | Conservation (Natural Habitats, &c) Regulations 1994 entered into force |
| June 1995 | Date for submission of national list of proposed SACs to the Commission |
| June 1998 | Date for adoption of list of Sites of Community Importance, ie deserving of designation as SACs |
| Within 6 years of SCI list | Completion of SAC designation by Member States |

- 2.11 The statutory nature conservation agencies, English Nature, Scottish Natural Heritage and the Countryside Council for Wales, through the Joint Nature Conservation Committee, advise the Government on areas which would qualify as candidate SACs for the UK's contribution to Natura 2000. Their advice is based on the procedures, scientific principles and criteria contained in Article 4 and Annex III of the Habitats Directive (JNCC Report 270 – "The Habitats Directive: selection of Special Areas of Conservation in the UK"). The Government's first list of possible SACs was published for consultation in March 1995. Consultation on a second list was launched in October 1997. Parts of the list were submitted to the European Commission in June 1995, January 1996, October 1996, October 1997 and March 1998. The sites to complete the UK's contribution are being put forward in further groups, following continuing consultation. At the time of publication the majority of Member States have not submitted a complete national list.
- 2.12 Under the Habitats Directive, following agreement between the Commission and the Member State, the European Commission will adopt a list of sites as sites of Community importance. The Government considers that all the sites it submits as candidate SACs are likely to qualify as sites of Community importance and that, following adoption by the Commission, it should be possible for SAC designation to take place without delay.
- 2.13 Certain areas may be designated as both SPA and SAC, in whole or in part, according to the species or habitat types for which sites are important. The documentation for each site will always state the particular features which qualify the site for designation and the associated maps will show the SPA and/or SAC boundaries. This information will be the starting point for the preparation of conservation objectives for the site.

Consultation

- 2.14 The selection, designation and protection of European marine sites is a significant innovation in the conservation of the marine environment. Although models of voluntary inter-agency working have already been applied in the coastal zone, the legislative framework for marine areas in the Habitats Regulations is new. Specific local applications within the framework can develop only over time. The Government is committed to effective implementation and considers that the best way to achieve this is through continuing consultation and co-operation, particularly at a local level.
- 2.15 The principal objective of conserving the nature conservation interest of European sites will not be realised without the co-operation and commitment of those who own, live, work or take pleasure in and around the areas. To enable the activities of local individuals and enterprises and of statutory users of marine areas to be sustained, together with the conservation of habitats and species, it is essential to promote understanding between all relevant bodies.
- 2.16 Sensitive, step by step consultation is important to encourage co-operation and commitment to the protection of European marine sites. The Government and the statutory nature conservation agencies consult a wide range of interests about each SPA designation and the lists of possible SACs. The issues raised during the consultation process are thoroughly considered and, if possible, resolved before candidate SACs are submitted to the European Commission, and before SPAs are designated. Continuing liaison with all those with an interest in the sites will be essential after designation to ensure that management is effective.

PART 3 – The Legislative Framework in the United Kingdom

General principles

- 3.1 For areas on land the Habitats Regulations built largely on the existing legislation relating to Sites of Special Scientific Interest (SSSIs), but for marine areas a new approach was necessary. In intertidal areas both the land based and marine systems apply.
- 3.2 Many European marine sites will include intertidal areas (see Box 1 definition). The boundaries will encompass the appropriate habitat types or species occurring there. In some cases, particularly in sites where there are many habitat types and species which qualify the site for designation, the site operates as an ecologically functional whole. A site boundary dividing the land and the sea would be artificial. However, historically in the UK, as in most other countries, the statutory provisions applying to land and sea have different origins and structures. On land much of the legislation reflects the fact of ownership and rights of ownership over territory. At sea the statutory emphasis is on regulation of certain activities or operations against the background of common and public rights and the recognition of international rights of innocent passage. In the intertidal zone these two types of system naturally overlap.
- 3.3 The provisions introduced by the Habitats Regulations maintain the fundamentals of the land- and sea-based legislative systems and build the requirements of the Habitats Directive on to existing regulatory mechanisms.

Box 4 – Powers, duties and functions

Where used in this guidance, a competent authority's *duty* is something that the Regulations say must be done to comply with the law.

Legal powers enable statutory authorities to undertake an operation, activity or regulatory action.

Functions are used to describe the activities that authorities have powers, and sometimes also duties, to carry out.

- 3.4 For marine areas within their jurisdictions, competent and relevant authorities (See Box 5 and Appendix E) have a new duty under the Habitats Regulations (Reg 3(3)) to exercise their existing functions for the purposes of securing compliance with the Directive.

- 3.5 European sites on land should have been first notified and confirmed as SSSIs. Therefore those parts of European marine sites which lie above the mean low water mark, or which are otherwise within local planning authority boundaries⁴, while managed as part of marine sites, will also be SSSIs and subject to the protection systems for European sites on land.
- 3.6 The provisions of the Habitats Regulations relating to the protection of European sites apply from the point at which, under the Habitats Directive, the Commission adopts the site as a site of Community importance (to be designated as an SAC), or, under the Birds Directive, from the point at which a site is designated. The Regulations do not formally apply to potential SPAs, nor to candidate SACs submitted but not yet adopted by the Commission. Nonetheless, it is the Government's policy that such candidate SACs and potential SPAs should be protected as if they were already designated. For sites that are likely to need management schemes (see paras 3.7 – 3.12), it is desirable to establish voluntary management schemes as soon as possible after sites have been identified and before the formal statutory obligations apply and to act in the spirit of the Directive in the meantime.

The need for management schemes

- 3.7 Article 6(1) of the Habitats Directive requires Member States to establish conservation measures for SACs which correspond to the ecological requirements of the relevant natural habitat types and species. The Directive allows a wide range of types of conservation measures from management agreements to voluntary arrangements.
- 3.8 In addition, Article 6(2) requires that appropriate steps be taken to avoid deterioration of the natural habitats and the habitats of species as well as significant disturbance of the species for which the areas have been designated.
- 3.9 Article 7 of the Habitats Directive applies Article 6(2)⁵ to SPAs designated under the Birds Directive, but not Article 6(1). The Habitats Directive makes a distinction between “management plans” in Article 6(1) and avoidance of deterioration and significant disturbance in Article 6(2). However, the Government believes that, particularly in the marine environment, in practice the management scheme may be an appropriate mechanism for the avoidance of deterioration and disturbance as well as for the delivery of Article 6(1). The Habitats Regulations therefore enable relevant authorities to establish management schemes for both SPA and SAC European marine sites in order to deliver the requirements of both Article 6(1) and 6(2), and to give effect to their statutory duty under Regulation 3(3).

⁴ Some local authority jurisdictions extend below the mean low water mark. It would be advisable for local authorities involved in management schemes to check with their legal advisers on the extent to which their particular jurisdiction extends beyond the mean low water mark.

⁵ and Article 6(3) and 6(4)

- 3.10 In cases where there is a low general level of human activity, or where there is only one type of activity to be managed, the need for the establishment of a management scheme through inter-agency coordination may be limited. In other cases, particularly SPAs which rarely extend beyond the low water mark, the seaward reach of land-based conservation measures may be sufficient to meet the nature conservation objectives of the site. However, the marine SACs sites identified around the English and Welsh coasts are generally complex areas with a mixture of commercial and recreational activities. They therefore seem likely to require a coordinated inter-agency approach, including where necessary the integration of land-based and marine measures across the intertidal zone.
- 3.11 Where a management scheme exists relevant authorities are obliged by Regulation 34(1) to exercise their functions under the scheme to secure the requirements of the Directive.
- 3.12 There can be only one statutory management scheme for each European marine site. There will however be areas where marine SACs and SPAs overlap, either partially or entirely. In such cases, whilst the Regulations allow separate management schemes to be established for each site, there will often be practical advantages in establishing a single management scheme to cover both. In such cases the specific management measures may vary in different parts of the whole area according to the respective nature conservation interests. In other circumstances, two or more European marine sites may be adjacent. A single scheme covering the sites would be legitimate and if separate schemes are established co-ordination efforts should be made to ensure they are complementary.

Register of European sites

- 3.13 Regulation 11 of the Habitats Regulations requires the Secretary of State to maintain a register of European sites. The statutory nature conservation agencies must notify all affected land owners and occupiers, local planning authorities and any other person or body as directed by the Secretary of State, that a site is included in the register. The notification must include a copy of the register entry. The definitive map of the site and a document which states the nature conservation interest for which the site has been designated will also be enclosed. For European marine sites the statutory nature conservation agencies will, also as directed, notify all relevant and competent authorities and other relevant interests. These are likely to include the bodies which have already been consulted during the process leading to designation and those who will advise in drawing up the management scheme (see paragraph 4.4).

Competent authorities and relevant authorities

- 3.14 The Habitats Regulations use the terms *relevant authorities* and *competent authorities* to describe statutory bodies to which the Regulations apply. Regulations 5 and 6 define the terms *relevant authorities* and *competent authorities*. A general description is given in Box 5. Regulation 5 specifically lists those bodies that can be relevant authorities eg harbour authorities, local authorities, or sea fisheries committees.

- 3.15 Some of the competent authorities are also relevant authorities regulating activities in the marine environment. They have additional responsibilities applying specifically to European marine sites.

Competent authorities and their obligations

- 3.16 The Regulations state that, where they have functions relevant to marine conservation, all competent authorities are legally bound to exercise them to secure compliance with the requirements of the Habitats Directive. This will be the case regardless of whether those powers were originally intended for nature conservation purposes. Regulation 3(3) of the Habitats Regulations enables such powers to be used to meet the requirements of the Habitats Directive with reference to the established nature conservation objectives of each European marine site. The Habitats Regulations also give all competent authorities duties to have regard to the requirements of the Habitats Directive in the exercise of *any* of their functions (Regulation 3(4)). This applies both on land and in the marine area. Some competent authorities will have responsibilities in respect of more than one European site.
- 3.17 In addition to general management and regulatory functions, many competent authorities have statutory functions to make decisions on applications for consents, authorisations, licences and permissions as governed by statute. Such consents, authorisations, licences and permissions are *plans* or *projects* within the meaning of Article 6 of the Habitats Directive and are covered briefly in Part 5 of this guidance.

Box 5 – Competent authorities and relevant authorities

The term *competent authorities* includes any statutory body or public office exercising legislative powers – whether on land or at sea.

The term *relevant authorities* is intended to identify certain of the competent authorities with local powers or functions which have, or could have, an impact on the marine area within or adjacent to a European marine site. Relevant authorities also have powers to establish a management scheme for a European marine site.

All *relevant authorities* are also *competent authorities*.

Regulations 5 and 6 of the Habitats Regulations define these terms.

Relevant authorities and management schemes

- 3.18 Regulation 34 of the Habitats Regulations provides for the establishment by the relevant authorities of an agreed management scheme for any site. Such management schemes will set the framework within which activities will be managed, either voluntarily or through regulation, so as to achieve the conservation objectives of the European marine site. Where new regulation is needed the measures may be based entirely upon the existing powers of the relevant authorities if they are capable of being used to achieve the objectives of designation. In other cases, relevant authorities may need to consider seeking changes to the ways in which their existing statutory jurisdiction is applied using the established procedures for that purpose. For example, a Sea Fisheries Committee may use its existing byelaw powers under the Sea Fisheries Regulation Act 1966, while a harbour authority might need to apply for new powers by means of an order under the Harbours Act 1964.

- 3.19 It is possible that activities controlled by relevant authorities outside the designated sites could affect the conservation objectives. Regulation 5 provides that such authorities can be relevant authorities if they exercise functions in an area adjacent to the site. The area need not be contiguous with the site; where exercise of the functions is likely to affect the site it will probably be necessary for such authorities to participate in the development of relevant management schemes.
- 3.20 Although regulation 34 states that relevant authorities, "or any of them," may create a management scheme, there can be only one management scheme for each site. This means in practice that the management scheme should be developed and agreed by all the relevant authorities whose functions affect the area. No relevant authority will have precedence or powers over any of the others. However, if there are no pre-existing consultation mechanisms between relevant authorities, it may be desirable for one of the relevant authorities to take the lead in order to initiate, and if necessary co-ordinate, the process of developing a management scheme. Each relevant authority should consider whether such a step is necessary and whether it should take the lead, taking into account the importance, for the site in question, of the activity for which it is responsible. The Government has powers to appoint a lead authority and may consider doing so if there is delay or dispute about setting the process in train (see paragraph 3.22).

Statutory nature conservation agencies' duty to advise

- 3.21 English Nature and the Countryside Council for Wales are required by regulation 33(2) to advise other relevant authorities as to the conservation objectives of a European marine site and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of the species for which it has been designated. This advice will guide the relevant authorities in developing the management scheme through which they must comply with their own duties under the Regulations. The agencies' scientific expertise and practical experience will continue to be available to guide the process of developing an appropriate inter-agency management scheme for the area and to advise competent and relevant authorities and user groups and interested bodies generally on nature conservation issues.

Government powers of direction

- 3.22 Current experience suggests that plans prepared by local bodies and suited to local circumstances are more effective than those imposed from outside. It is expected that all relevant authorities will wish to co-operate to draw up management schemes without urging from Government. However there are reserve powers for Ministers⁶, under regulation 35, to direct the relevant authorities. Ministers may consider making directions if it becomes clear that local liaison, co-ordination and consultation is inadequate, if there are undue delays or if the conservation objectives for the site are not being achieved.
- 3.23 Directions may include one or more of the following: the appointment of one of the relevant authorities to coordinate the establishment of a scheme; a requirement to include certain conservation measures in a scheme; the establishment of a timetable; a requirement to seek Ministers' approval to a proposed scheme or a requirement to provide Ministers with relevant information. The powers of direction can be used as appropriate at any time after a site becomes a European marine site. They cannot be used to confer additional powers on relevant authorities.

Statutory nature conservation agencies' byelaw powers

- 3.24 Regulation 36 makes available the agencies' byelaw-making powers for Marine Nature Reserves (MNRs) (section 37 of the Wildlife and Countryside Act 1981) for use as necessary in European marine sites. Unlike MNR byelaws, these powers are not limited to three nautical miles from the baseline of the territorial sea. It is anticipated that most regulatory controls on sites will be applied by relevant authorities other than the statutory nature conservation agencies. The agencies are not empowered to act so as to interfere with or override the exercise of the functions of any other relevant authority. However, regulation 36 enables them to act where there is no other relevant authority or where the relevant authority is unable to act for legal reasons or for practical reasons, such as in the case of a moribund harbour authority.
- 3.25 Management schemes for European marine sites should also, where appropriate, take account of the provisions and effects of other legislative systems which give effect to the Habitats Directive.

⁶ In Wales this means the Secretary of State, in England the Secretary of State and Minister of Agriculture Fisheries and Food acting jointly.

Land-based controls

- 3.26 For example, Para 3.5 explains that the intertidal parts of European marine sites will also be subject to the statutory provisions for the conservation of European sites on land. Regulations 16 to 32 contain the relevant provisions which add to the basic notification and protection system for Sites of Special Scientific Interest (SSSIs) under nature conservation legislation. English Nature's leaflet "Natura 2000 – European Wildlife Sites in England" and the Countryside Council for Wales's leaflet "European Habitats Directive" explain how these provisions operate.
- 3.27 In addition, the Department of the Environment's "Planning Policy Guidance – Nature Conservation" (PPG9), and the Welsh Office's Planning Guidance (Wales) Planning Policy and Technical Advice Note on Nature Conservation provide guidance on the effects of the Habitats Regulations for planning and development control. Additional guidance is available in the Department of the Environment's "Planning Policy Guidance on Coastal Planning" (PPG20) and in the Welsh Office's Planning Guidance (Wales) Planning Policy and Technical Advice Note 13.

PART 4 – Setting up management schemes

Getting started

- 4.1 The development of a management scheme for a European marine site should start with the establishment, by the relevant authorities, of a joint management group. There may be existing structures which could be adapted to the purpose, but in other cases any relevant authority may take the initiative if necessary to establish a management group from scratch.
- 4.2 There are already examples of various authorities, and other groups and non-statutory bodies with a wider remit, developing voluntary coastal management plans. The DOE Guide “Coastal Zone Management – Towards Best Practice” (1996) illustrates this. The scope of such voluntary plans may extend beyond, or alternatively have a narrower focus than, that which is required of the relevant authorities by the Habitats Regulations both in terms of the objectives they are intended to achieve and the geographical areas they cover. Where such plans are already in place or in preparation, consideration should be given to how far they are already making a valuable contribution to nature conservation and whether they could, with any necessary modification, be used to help construct management schemes for European marine sites. Careful consideration should be given to how the management scheme could effectively build on, or run in parallel with, other plans to secure the conservation objectives of the European marine site.
- 4.3 Although there can be only one statutory management scheme for a European marine site, a single set of objectives or measures need not apply uniformly across the whole of the site. It may be appropriate to apply certain measures in one part of a site which are different, or of a different intensity, from those applied in another part of the same site. Local circumstances will dictate the most appropriate approach to the task. For the larger, or more complex, European marine sites for example, it may be appropriate to phase the development of the management scheme into two or more stages, or to divide the site geographically whilst retaining the overall framework.

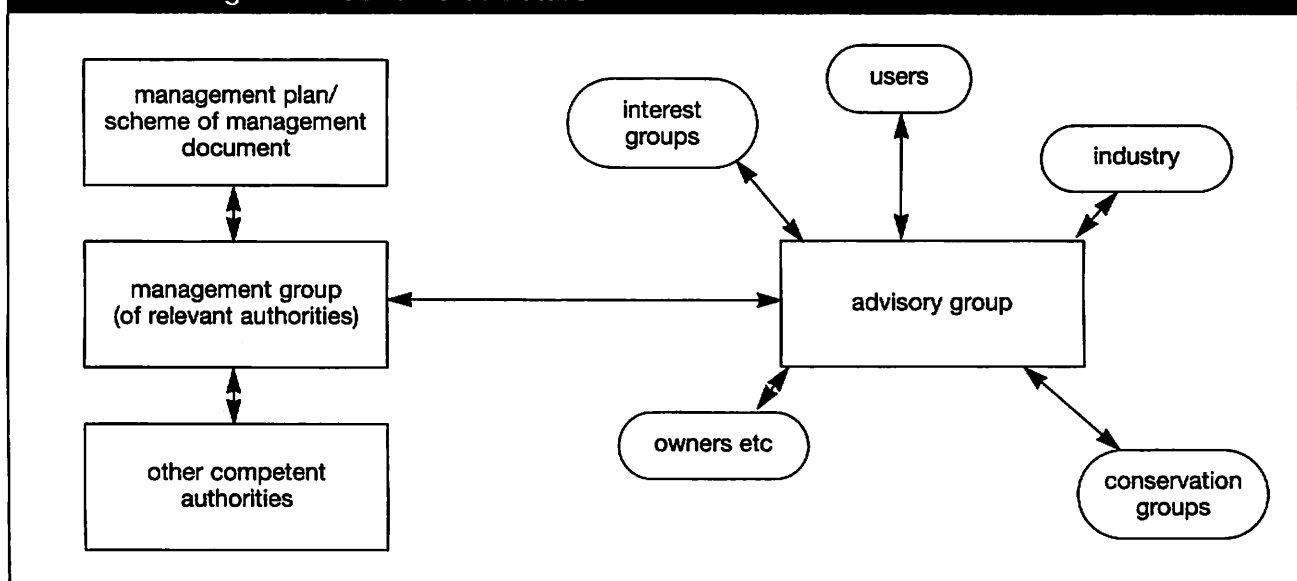
Box 6 – Management scheme terminology

Where used in this guidance *management group* is the body of relevant authorities formed to manage the European marine site.

Advisory group is the body of representatives from local interests, user groups and conservation groups, formed to advise the management group.

The *management scheme* is the resulting management document.

- 4.4 Although only relevant authorities have the statutory responsibility for establishing the management scheme, it is essential that owners and occupiers, rightholders, local interests, user groups and conservation groups should be encouraged to participate in the process of developing the scheme at the earliest opportunity. The management group should take note of the best practice adopted for estuary and shoreline management plans and meet periodically to consult with representatives from such interest groups in one or more advisory groups. Care should be taken to ensure that the membership of such groups reflects a balanced range of interests. Regular cycles of meetings should be established, the frequency of which would be dependent on the particular needs of each site. Full public consultation should be undertaken on any proposals for managing the site and wide publicity should be given at appropriate stages.
- 4.5 Relevant authorities and competent authorities which are not also relevant authorities should take particular care to consult with one another, especially where those competent authorities have a significant role in the management of a European marine site, eg Ministry of Defence harbours or the Crown Estate. Since all competent authorities are bound by the duty under regulation 3(3) it is important for those which are not empowered to establish a statutory management scheme to fulfill their duty in a way that is consistent with the management scheme adopted by the relevant authorities.

Box 7 – Management Scheme structure

Establishing the conservation objectives

- 4.6 The statutory nature conservation agencies are required, by regulation 33(2) of the Habitats Regulations, to advise all relevant authorities as to the conservation objectives for the sites. The agencies' formal duty under regulation 33(2) arises as soon as possible after the site becomes a European marine site. But normally once the management group has been established, even where this is on a voluntary basis prior to adoption of the site by the European Commission (see paragraph 3.2), the agencies will propose conservation objectives for discussion with the aim of establishing agreed objectives.

- 4.7 In formulating their advice the agencies should undertake discussions with the management group and, through it, with the advisory group to take account of the range of knowledge and expertise that may be available. Following such discussions and taking them into account the agency should provide its formal advice on conservation objectives to the management group from which a strategy for meeting the objectives can be derived. The relevant authorities should rely on the statutory nature conservation agencies' formal advice.

Evaluation of current use against the conservation objectives

- 4.8 The statutory nature conservation agencies are also required by regulation 33(2) to advise as to the operations which may cause deterioration of habitats or the disturbance of species for which the sites have been designated. These too should be discussed as widely as possible by the management group in consultation with the advisory group and established in the light of current activities and patterns of usage.
- 4.9 The sites selected have qualified for designation against the background of current use. It follows therefore that such uses at current level should usually be broadly compatible with the maintenance of the conservation interest. However, an essential step in developing a management scheme will be the evaluation of the effect of existing regulatory systems, voluntary agreements and unregulated patterns of use against the conservation objectives of the site. The management group should be aware that the effects of certain activities may take some time to manifest themselves. Appendix A gives some guidance on the kinds of issues which should be addressed.
- 4.10 Each part of the site should be evaluated to construct a clear picture of the effects of current use and to establish whether additional measures will be required to meet the conservation objectives. It will be necessary to make an assessment of the extent to which existing measures of control, management and use are, or can be made, consistent with the conservation objectives.

What changes are needed?

- 4.11 In the light of the conservation objectives and the evaluation of existing use, the management group as a whole should develop a strategy for meeting the conservation objectives. This also should be done in consultation with the advisory group. Once this has been agreed the management group should consider, in consultation with the advisory group, what prescriptions are necessary to fulfill the strategy. It will not be necessary to regulate in every case. In some cases the prescriptions will be an endorsement of the status quo. Some changes may be applied on a voluntary basis. New statutory regulation may only be needed where voluntary measures are not proving effective or where the existing regulatory framework is, or risks, causing or allowing damage to the site. In introducing any changes the management group should have regard to the precautionary principle (see paragraphs 2.6 and 2.7).

Box 8 – The management scheme process

- Establish a management group and advisory structure;
- Establish conservation objectives for the site;
- Establish the operations which may cause deterioration of habitat or disturbance of species;
- Evaluate current use and operations against the conservation objectives;
- Agree on a strategy for achieving the conservation objectives;
- Establish what action is needed by whom and the timescales for that action;
- Implement through agreements, working practices, byelaws, and/or orders
- Monitor effects
- Feedback

- 4.12 In establishing the extent to which the management scheme will need to provide for change, the presumptions in most cases are expected to be:-
- a) For continuing day to day use of the areas in general.
 - b) To retain the existing regulatory regime where it does not damage the features for which the site is designated and maintains the associated biological and physical processes.
 - c) To change or add to the existing regime where necessary to avoid deterioration of the conservation interest of the European marine site and significant disturbance of the protected species, taking a long term view of possible cumulative effects, and considering indirect as well as direct effects.
 - d) For responses to marine emergencies to continue to be pursued in accordance with the priorities of those situations.
- 4.13 If a management scheme is established it provides the legal framework for the actions of relevant authorities insofar as they affect the conservation objectives of European marine sites. The management scheme should therefore be endorsed by all the relevant authorities. If agreement cannot be reached Ministers may use their reserve powers under regulation 35. The management scheme should also be endorsed by those competent authorities that are not also relevant authorities (see paragraph 4.5) and, as far as possible, by all parties involved in the process of developing the scheme.

Documenting the scheme

- 4.14 The process described above must result in a published document, the *management scheme*. The document should set out the nature conservation objectives and the strategy for meeting them. It should describe the process by which the management scheme was established and the authorities and organisations involved in it. It should also describe what action is needed to implement the strategy e.g. a mixture of voluntary agreement, working practices and statutory controls such as byelaws, orders etc. In addition, the scheme should include any decisions regarding organisational structures and decision making frameworks, financial arrangements and provisions for monitoring and review. Existing management plans may provide useful models of documentation and some examples are listed for reference in Appendix D.

Box 9 – The management scheme document

The document should include the following information:

- the conservation objectives;
- a summary of the background information considered and the issues raised;
- a strategy for meeting the conservation objectives;
- targets against which the effectiveness of the strategy can be evaluated;
- a statement detailing
 - action to be taken to implement the strategy
 - who is responsible for each of the actions
 - timetable for implementation;
- a framework for monitoring and periodic assessment and review

Monitoring and feedback

- 4.15 Strategies for surveillance and the monitoring of effects in relation to the conservation objectives should be an integral part of the management scheme. The relevant authorities are responsible for monitoring enforcement of those measures under the management scheme which fall within their functions. The statutory nature conservation agencies will regularly monitor the site to establish whether its conservation objectives are being met. Wherever possible existing authoritative monitoring schemes, such as British Trust for Ornithology count data, should be used. Other relevant authorities with conservation expertise, such as the Environment Agency and Sea Fisheries Committees, should be able to contribute to the provision of monitoring data. Periodically and, in particular if the conservation objectives are not being achieved, the management scheme should be reviewed with a view to adjusting, as necessary, the strategy for meeting the conservation objectives or the measures taken to implement the strategy. The conservation objectives themselves may need to be reviewed in the light of improved scientific knowledge and practical experience. Ministers may use reserve powers if meeting the conservation objectives creates difficulties which cannot be resolved locally.
- 4.16 A management scheme should be based on a long-term view of management and effects. Experience elsewhere suggests that rolling 25 year plans are an appropriate timescale on which to base the management scheme, with reviews taking place every five years. Such a timescale should avoid distortions that could arise through emphasis on short-term issues with high profile in the area.

Timing

- 4.17 Paragraph 3.6 of this guidance makes it clear that the Government wishes the procedures for the establishment of management schemes for future European marine sites to be set up where they are necessary as soon as possible after the sites have been identified. Much of the initial action in the development of management schemes will involve assessment and evaluation. It is particularly desirable for preparatory work to start on management schemes for candidate marine SACs as soon as possible after sites are submitted to the Commission. Priorities for starting up management schemes for existing or potential SPAs will depend on whether they overlap SACs and how far existing land based measures are able to provide appropriate protection.

Publicity and public information

- 4.18 The management group should consider how to make the best use of local media and information centres in promoting understanding of the measures for managing the site and the reasons for those measures. The provision of public information from the earliest stages will contribute to the successful conservation of European marine sites. Careful explanation of the need for any change is usually the key to general acceptance. Few people wish to damage the environment deliberately. In most cases the sites will already be highly valued places which local people and visitors will wish to help to conserve. It is also helpful to publicise reports of achievements and progress which highlight the positive aspects of the management scheme.
- 4.19 The statutory nature conservation agencies will produce maps with the boundaries and features of marine sites superimposed onto nautical charts for the register of European sites. The management group should consider making variations of these maps widely available to user groups and at local information points, to represent the site pictorially for the information of the general public. Current practice suggests that colour coded overlays on representations of the site derived from maritime charts can be useful. It has been successfully employed to depict the cross-sectoral management of the Lundy and Skomer Marine Nature Reserves and the waters between Portland and Selsey Bill off the south coast. A copy of the charts for Lundy and Skomer Marine Nature Reserves is included in Appendix D.

Costs

- 4.20 Full account should be taken of the cost implications in developing management schemes. Costs should be proportionate to likely benefits in terms of the conservation objectives. Relevant authorities will be responsible for their own costs arising from their participation in the process of developing the management scheme. They will also be responsible for bearing the costs of implementation and enforcement of those parts of the scheme which fall within their jurisdictions.

- 4.21 There will be costs associated with the administrative process of developing, running and documenting the management scheme and the dissemination of information. Relevant authorities may agree locally to share these costs. In setting up the consultative process relevant authorities should be sensitive to the costs incurred by voluntary groups and other interests who will wish to contribute to the advisory group.
- 4.22 The costs of monitoring the site to assess whether the conservation objectives are being met falls normally to the statutory nature conservation agencies, although other relevant authorities should, within their statutory functions, make a contribution to this and be prepared to share data.
- 4.23 The European Commission has made available 50% funding from the LIFE Regulation for a £4m project on marine SACs. This will assist with the development, implementation and monitoring of management schemes and will be available for use by management groups in certain areas. The project is co-ordinated and managed by English Nature in partnership with the other country nature conservation agencies. It runs until the end of 2000. Experience gained from these demonstration projects will be used to benefit European marine sites in general.

PART 5 – Article 6 Plans and Projects

- 5.1 In addition to relevant authorities' functions in managing activities through the management scheme, they and other competent authorities have certain specific statutory functions to decide on applications for consents, authorisations, licences and permissions. These are *plans or projects* within the meaning of Article 6(3) of the Habitats Directive. In some cases these functions lie with competent authorities which are not also relevant authorities and which are therefore not directly subject to the management scheme. Competent authorities' considerations of plans and projects will be independent from the management of continuing activities through the management scheme. However applicants often need a number of separate consents from different competent authorities for plans and projects in the marine and coastal environment. Management groups are advised to consider establishing advisory mechanisms or procedures through their management schemes for the efficient handling of such applications.
- 5.2 Regulation 3(4) of the Habitats Regulations states that every competent authority in the exercise of any of its functions, shall have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions. This duty will be amplified by further Regulations which will specifically apply the provisions of Article 6 (3) and (4) to other consents, authorisations, licences and permissions governed by statute which are not already specifically covered by the Habitats Regulations.⁷ This part of the Guide explains the general principles which apply to the consideration of plans and projects either through the provisions of regulations 47 to 85 or by virtue of the application of the general duty on competent authorities under regulation 3(3) and 3(4) as appropriate.
- 5.3 The DOE's Planning Policy Guidance on Nature Conservation (PPG9) sets out the principles and policies that apply to the integration of conservation priorities and land use planning in England. In Wales similar guidance is contained in Welsh Office Planning Guidance (Wales): Planning Policy. These documents describe planning controls that help protect SSSIs and explain how the Directive is implemented through the development control system.

Box 10 – Plans and Projects

In general, any operation which requires an application to be made for specific statutory consent, authorisation, licence or other permission.

This is in contrast to activities which are controlled or managed by competent authorities on a continuing basis.

⁷ Regulations 47 to 85 under Part IV of the Habitats Regulations apply the provisions of Article 6 to the consent provisions of the Town and Country Planning Acts, the Highways Act 1980 the Electricity Act 1989, the Pipelines Act 1962, orders under the Transport and Works Act 1992, authorisations under Part I and licences under Part II of the Environment Protection Act 1990 and discharge consents under Chapter II of Part III of the Water Resources Act 1991.

- 5.4 The Regulations establish the procedures which must be followed for the consideration of plans or projects. For any proposed plan or project, which is not directly connected with or necessary to the management of the site for nature conservation, competent authorities should make an initial consideration, in consultation with EN or CCW, to establish whether the plan or project is likely to have a significant effect on the European marine site. They may proceed where it is not likely to have a significant effect. If such an effect is likely, either alone or in combination with other plans and projects, an appropriate assessment must be undertaken in order to establish whether the plan or project will have an adverse effect on the integrity of the site. If the assessment reveals that it will not have such an adverse effect, again, the plan or project may proceed. Decisions lie with the appropriate competent authority and will have to be taken on a case by case basis. The assessment required under the Habitats Regulations does not correspond in every case to an environmental assessment under the *Environmental Impact Assessment Directive* (the Council Directive on the assessment of the effect of certain public and private projects on the environment (85/337/EEC)). However for some projects such an assessment will be an appropriate assessment for the purposes of the Habitats Directive (see paragraphs 38-39 of PPG9). In other cases the scale of the assessment required will depend on the location, size, scale and significance of the proposal on the advice of the statutory nature conservation agencies.

Box 11 – Site integrity

In PPG9 and TAN (Wales) 5 (Nature Conservation and Planning), *integrity* of a site is defined as:

“the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat; complex of habitats and/or the levels of populations of the species for which it was classified (designated)”.

- 5.5 During this process competent authorities must take account of advice from the appropriate statutory nature conservation agency and consider to what extent public consultation is appropriate. If the competent authority ascertains that the plan or project would have an adverse effect on site integrity they should refuse consent except in the circumstances outlined in paragraph 5.8. Judgements about significant effects and effects on site integrity must relate to the reasons for which sites have been designated. Authorities should have regard to the conservation objectives of the site. Judgements will vary according to the type, size and scale of the plan or project and how widespread its effects could be. There may be circumstances where modifications to the plan or project, or adoption of an alternative solution, can ensure that the effect is either not significant or not adverse to the site integrity. There may also be circumstances where measures adopted by the relevant authorities within the management scheme framework may mitigate the effects of a plan or project. In looking at alternative solutions competent authorities should consider whether there are alternative locations or methods by which the plan or project could be undertaken which would remove or reduce the possibility of damage.

- 5.6 Because of the different ecological circumstances of sites, the fact that a plan or project would have an adverse effect on the integrity of one European site does not necessarily mean that the same type of plan or project would have the same effect on other European sites. Each case must be judged individually.
- 5.7 It is not necessary for the plan or project to be located in or adjacent to a site for it to be capable of having a significant effect on it. Having regard to the precautionary principle (see paragraphs 2.6 and 2.7), there should however be a tenable link between the effect of the consent and the site in question. Competent authorities should take into account the cumulative impact of small effects.
- 5.8 The Habitats Directive makes provision for certain plans or projects, which are likely to have a significant effect, to be carried out, under certain restricted circumstances, despite an assessment showing an adverse effect on the integrity of a European site. The Directive states that, despite a negative assessment of the implications for the site, and in the absence of alternative solutions, a plan or project may nonetheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. More stringent criteria apply where the site concerned hosts a priority natural habitat type and/or a priority species. In these cases the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, following an opinion from the Commission, to other imperative reasons of overriding public interest. Box 12 gives more information on priority status.

Box 12 – Priority status

Annex I of the Habitats Directive lists 168 natural habitat types in Europe whose conservation requires the designation of SACs. They are all rare but a number are given *priority* status, because they are at the greatest risk of disappearing.

Similarly, Annex II of the Directive lists 632 animal and plant species whose conservation requires the designation of Special Areas of Conservation throughout Europe. Certain of those species which are in danger of extinction are given *priority* status.

Priority status is denoted in Annexes I and II of the Habitats Directive by an asterisk.

- 5.9 Questions about what comprises an imperative reason of overriding public interest under Article 6 will have to be decided on a case by case basis. If, following an assessment, it is decided that the plan or project would have an adverse effect on the integrity of a site and that there is no alternative approach, any decision on whether the plan or project should proceed should be taken in the light of both the acknowledged importance of the European site and the importance of the project. The regulations governing plans and projects provide that competent authorities, where they are not the Secretary of State, must inform the Secretary of State if they propose that a particular scheme should proceed on the grounds allowed by the Directive. The Secretary of State may then, within 21 days, decide to intervene.

- 5.10 Where such projects are allowed, the Directive requires Member States to take all compensatory measures necessary to ensure that the overall coherence of the Natura 2000 network is maintained. The provision of compensatory measures may not be straightforward. The degree to which it is possible to take satisfactory compensatory measures is likely to be a factor in the Secretary of State's decision about whether a plan or project should be allowed to proceed for reasons of overriding public interest.
- 5.11 The Habitats Regulations place a duty on certain competent authorities to review any extant consents, permissions or authorisations which are likely to have a significant effect on European sites. Such a review cannot affect anything done in pursuance of the consent prior to the date when the duty to review arises; there is no need to review a consent where the plans or projects authorised by it have been completed and where no continuation of the plan or project is authorised.

Appendix A – Addressing issues in the development of a management scheme

Information Gathering

A thorough examination of all the issues which should be addressed in developing a management scheme requires the following information:-

- Identification of the relevant authorities and other relevant interests

As indicated in paragraph 4.1 of this guidance, the relevant authorities should form a management group. It is suggested that an advisory group or groups be formed at an early stage to gather information from and represent the views of other relevant interests.

- Features for which the site has been designated

Detailed information, supplied mainly by English Nature and the Countryside Council for Wales, on the abundance and distribution of species and natural habitat types for which the site has been designated.

This should include the statutory nature conservation agencies' assessment of the current conservation status of the natural features for which the site has been designated, ie:

- where they occur
- their level of sensitivity⁸
- their seasonal/temporal features

- Conservation objectives

The statutory nature conservation agencies will propose conservation objectives for the site, in advance of their formal advice, for discussion within the management group and for consultation with the advisory group. The established conservation objectives for the site should be clearly related to the nature conservation interest(s) for which the site qualifies as a European site.

⁸ To give an illustration: sheltered reef systems are often characterised by long-lived communities due to stable conditions. Certain species on these systems such as sea fans, are sensitive – for example to low levels of physical disturbance. Sandbanks are generally characterised by more robust communities adapted to the more unstable environment. However such communities may still be sensitive, albeit on a different scale, to other factors such as pollution.

- Activities taking place on or near the site.

The following are *examples* of activities which might occur on European sites. Many of these will not be significantly detrimental, but may need to be considered and, in some cases, current practices amended.

Recreation: power boating, jetskiing, water skiing, sailing, windsurfing, mooring/anchoring, sub-aqua, rowing, canoeing, angling, bait digging, dog walking, walking, nature watching, wildfowling, swimming, access, camping, horse riding, motorcycling, cycling.

Fisheries etc: sea fishing, salmon fishing, fish farming, eel netting, shell fishing, shell fish farming.

Shipping etc: maintenance of navigation/shipping channels, shipping movements, maintenance dredging and disposal, provision of infrastructure and services

This information should be categorised according to

- where the activity/operation takes place
- its level of intensity
- its seasonal/temporal nature
- other characteristics which may be relevant to its effects on the conservation of the site

- Operations which may cause deterioration or disturbance

Advised by the statutory nature conservation agencies and considered through consultation with all the relevant authorities. These do not need to cover all activities on a site or the complete range of activities that could occur. The Directive requires only consideration of activities that could lead to the deterioration of the natural habitats and habitats of species or significant disturbance of the species in terms of meeting the site's conservation objectives. Therefore effort should be focused on those that may damage or disturb in the light of the present circumstances. The assessment will be site and feature specific.

- Tools available to relevant authorities to manage activities

An awareness of the statutory and non-statutory measures which could be employed if required and their cost effectiveness, eg: publicity, voluntary agreements with clubs, directions, byelaws, orders.

- What controls exist
 - geographical jurisdiction of the relevant authorities
 - existing pattern of controls, eg management structures; statutory/non-statutory measures
 - their effectiveness/monitoring/enforcement

Evaluation of the current status of the site

An evaluation of the current status of the site could then be carried out from three viewpoints:-

- The natural features of interest
 - where they occur
 - their level of sensitivity
 - their seasonal/temporal features
- Current activities and operations
 - where they take place
 - their level of intensity
 - their seasonal/temporal nature
 - whether they have a significant effect on the nature conservation interest
- What management exists
 - territorial jurisdiction of the relevant authorities
 - existing pattern of measures, eg management structures; statutory/non-statutory measures
 - their effectiveness/monitoring/enforcement

The information collected from these three viewpoints needs to be integrated. The matrix on the following page illustrates how this process might be approached. For the greatest clarity it is suggested that this is also undertaken as a map based exercise in order to plot the geographical coincidence of features, activities and jurisdictions of relevant authorities. This will also form a useful basis for presenting some or all of the above information and for portraying action agreed under the management scheme⁹.

When the three viewpoints are combined, or overlaid, it should aid identification of current or potential areas of interaction of activities with conservation sensitivities. This will reveal specific areas where action within the management scheme may be required.

The evaluation is intended to inform the process of developing management policies that are consistent with the conservation objectives and should also reveal if research is needed to fill any gaps in scientific knowledge. The information used in the evaluation must be subject to periodic review to pick up changes in the status of the site and to establish the causes of the changes. The information should also be analysed to identify trends.

The management policies derived from the evaluation must relate to the conservation features for which the site is designated.

⁹ By way of example, the zoning schemes for Lundy Marine Nature Reserve and the Skomer MNR show existing management, arrangements of byelaws, voluntary agreements and advice in an integrated way. The Poole Harbour Aquatic Management Plan includes a zoning arrangement relating to the distribution of recreational activities and conservation features.

| Threat/Effect ¹⁰ | Feature | | | Activity | | | | | Management | | |
|-----------------------------|-----------------|-------------------------------|--------------------|----------------------|--------------------|---------------------------|-------------------------------------|--------------------------|-------------------|----------------|--|
| | where it occurs | level of sensitivity features | seasonal/ temporal | where it takes place | level of intensity | seasonal/ temporal nature | significant detrimental effect? Y/N | territorial jurisdiction | existing measures | effective-ness | |
| physical disturbance | | | | | | | | | | | |
| noise disturbance | | | | | | | | | | | |
| pollution | | | | | | | | | | | |
| air quality | | | | | | | | | | | |
| wash | | | | | | | | | | | |
| soil/silt disturbance | | | | | | | | | | | |
| spoil/waste disposal | | | | | | | | | | | |
| litter | | | | | | | | | | | |
| harvesting | | | | | | | | | | | |
| temperature | | | | | | | | | | | |

¹⁰ This is an illustrative list. The list for each site will depend on specific circumstances.

Appendix B – Candidate and possible marine SACs in England & Wales

| Site | Interest |
|--|--|
| Berwickshire & North Northumberland Coast | Mudflats and sandflats not covered by seawater at low tide Reefs Submerged or partly submerged caves <i>Halichoerus grypus</i> (Grey Seal) |
| Burry Inlet: Saltmarsh and Estuary/Cilfach Burry: Cors heli ac Aber | Atlantic salt meadows (Glauco-Puccinellietalia) Estuaries Mediterranean salt meadows (<i>Juncetalia maritimi</i>) <i>Salicornia</i> and other annuals colonising mud and sand |
| Cardigan Bay/Bae Ceredigion | <i>Tursiops truncatus</i> (Bottlenose Dolphin) |
| Chesil & the Fleet | Lagoons Annual vegetation of drift lines Perennial vegetation of stony banks |
| Drigg Coast | Estuaries Dunes with <i>Salix arenaria</i> Eu-Atlantic de-calcified fixed dunes (<i>Calluno-Ulicetea</i>) |
| Essex Estuaries | Estuaries Mudflats and sandflats not covered by seawater at low tide Atlantic salt meadows (Glauco-Puccinellietalia) Mediterranean and thermo-Atlantic halophilous scrubs (<i>Arthrocnemetalia fruticosae</i>) <i>Salicornia</i> and other annuals colonising mud and sand <i>Spartina</i> Swards (<i>Spartinion</i>) |

| | |
|-------------------------|---|
| Fal & Helford | Mudflats and sandflats not covered by seawater at low tide Sandbanks which are slightly covered by seawater all the times Large shallow inlets and bays <i>Rumex rupestris</i> (Shore dock) Atlantic salt meadows (Glauco-Puccinellietalia) |
| Flamborough Head | Reefs Submerged or partly submerged caves Vegetated sea cliffs of the Atlantic and Baltic coasts |
| Isles of Scilly complex | Mudflats and sandflats not covered by seawater at low tide Sandbanks which are slightly covered by seawater all the time <i>Rumex rupestris</i> (Shore dock) |
| Lundy | Reefs |
| Morecambe Bay | Mudflats and sandflats not covered by seawater at low tide Large shallow inlets and bays Atlantic salt meadows (Glauco-Puccinellietalia) Perennial vegetation of stony banks <i>Salicornia</i> and other annuals colonising mud and sand |

| | |
|--|--|
| Pembrokeshire Islands/Ynnysoedd Sir Benfro | Estuaries Large shallow inlets and bays Reefs <i>Halichoerus grypus</i> (Grey Seal) |
| Pen Llŷn a'r Sarnau/Lleyn Peninsula and the Sarnau | Estuaries Reefs |
| Plymouth Sound and Estuaries | Estuaries Sandbanks which are slightly covered by seawater all the time Large shallow inlets and bays <i>Rumex rupestris</i> (Shore dock) |
| Severn Estuary/Môr Hafren (pSAC) | Estuaries Mudflats and sandflats not covered by seawater at low tide Sandbanks which are slightly covered by seawater all the time Atlantic salt meadows (Glauco-Puccinellietalia) |
| Solent Maritime | Estuaries Atlantic salt meadows (Glauco-Puccinellietalia) <i>Spartina</i> Swards (Spartinion) |
| South Wight Maritime | Reefs Vegetated sea cliffs of the Atlantic and Baltic coasts |
| Solway Firth | Estuaries Mudflats and sandflats not covered by seawater at low tide Sandbanks which are slightly covered by seawater all the time Atlantic salt meadows (Glauco-Puccinellietalia) <i>Salicornia</i> and other annuals colonising mud and sand |
| Thanet Coast | Reefs Submerged or partly submerged seacaves |

The Wash & North Norfolk Coast

Mudflats and sandflats not covered by
 seawater at low tide
 Sandbanks which are slightly covered by
 seawater all the time
 Large shallow inlets and bays
Phoca vitulina (Common Seal)
 Atlantic salt meadows (*Glauco-*
Puccinellietalia)
 Mediterranean and thermo-Atlantic
 halophilous scrubs (*Arthrocnemetalia*
fruticosae)
 Mediterranean salt meadows (*Juncetalia*
maritimi)
Salicornia and other annuals colonising mud
 and sand

† Lagoons are European marine sites where they are subject to tidal influence.

Appendix C – Classified and potential SPAs

List of designated SPAs with an intertidal element in England and Wales

| | | | |
|---|-----|---|------|
| Alde-Ore Estuary | Eng | Lindisfarne | Eng |
| Alt Estuary | Eng | Medway Estuary and Marshes | Eng |
| Benacre to Easton Bavents | Eng | Mersey Estuary | Eng |
| Benfleet and Southend Marshes | Eng | Minsmere-Walberswick | Eng |
| Blackwater Estuary (Mid-Essex Coast) | Eng | Morecambe Bay | Eng |
| Breydon Water | Eng | North Norfolk Coast | Eng |
| Burry Inlet | Wal | Old Hall Marshes (part of Blackwater Estuary, Mid-Essex Coast) | Eng |
| Castlemartin Coast | Wal | Pagham Harbour | Eng |
| Chesil Beach and The Fleet | Eng | Portsmouth Harbour | Eng |
| Chichester and Langstone Harbours | Eng | Ramsey and St Davids Peninsula Coast | Wal |
| Colne Estuary (Mid-Essex Coast) | Eng | Ribble and Alt Estuaries (Phase 2) | Eng |
| Coquet Island | Eng | Ribble Estuary | Eng |
| Deben Estuary | Eng | Rockcliffe Marches (part of the Upper Solway Flats and Marshes) | Eng |
| River Crouch Marshes (Mid-Essex Coast) | Eng | Severn Estuary | Both |
| Dengie (Mid-Essex Coast) | Eng | Skokholm and Skomer | Wal |
| Exe Estuary | Eng | Stour and Orwell Estuaries | Eng |
| Farne Islands | Eng | Tamar Estuaries Complex | Eng |
| Flamborough Head and Bempton Cliffs | Eng | Teesmouth and Cleveland Coast | Eng |
| Foulness (Mid-Essex Coast) | Eng | Thanet Coast and Sandwich Bay | Eng |
| Gibraltar Point (the Wash) | Eng | The Dee Estuary | Both |
| Glannau Aberdaron and Ynys Enlli (Aberdaron Coast and Bardsey Island) | Wal | The Swale | Eng |
| Glannau Ynys Gybi (Holy Island Coast) | Wal | The Wash | Eng |
| Grassholm | Wal | Traeth Lafan (Lavan Sands) (Conway Bay) | Wal |
| Great Yarmouth North Denes | Eng | The Upper Severn Estuary (part of the Severn Estuary) | Both |
| Hamford Water | Eng | Upper Solway Flats and Marshes | Eng |
| Humber Flats, Marshes and Coast (Phase I) | Eng | Ynys Feurig, Cemlyn Bay and The Skerries | Wal |

List of potential SPAs with an intertidal element in England and Wales

| | | | |
|--------------------------|-----|---|-----|
| Duddon Estuary | Eng | Poole Harbour | Eng |
| Dungeness to Pett Levels | Eng | Southampton Water and Solent Marshes | Eng |
| Northumberland Coast | Eng | Thames Estuary and Marshes | |

Appendix D – Examples of Existing Arrangements for Administration of Marine Areas

Current administration of marine areas in England and Wales is primarily through the sectoral approach. Some areas have evolved more integrated management through statutory or voluntary means. These range from single committees or management bodies through to more complex arrangements covering intensively used or larger areas.

An example of voluntary management operating through a single committee is the Pagham Harbour Local Nature Reserve Management Plan where a committee of 11 members covers the management of nature conservation, research, recreation and education within the reserve.

The Lundy statutory marine nature reserve is managed by a forum of management authorities informed by a larger single forum of user groups. The user forum meets first and is attended by one or more representatives on the management forum who report back to the users of decisions taken at management forum meetings. This approach ensures that users' views are included in management decisions and that they are kept fully informed.

A similar approach occurs on the Dee and Severn estuaries, where a steering group or executive committee is informed by a wider membership represented as either single or multiple groups. These consist of advisory committees, technical working groups, cross agency working groups or other user groups and/or consultation networks. Other examples can be found on the Blackwater, Stour/Orwell, Humber, Exe and Tees estuaries.

The Skomer statutory marine nature reserve is managed by the Countryside Council for Wales, advised by a committee of management bodies. This committee is informed by several sub-groups which cover issues ranging from recreation, education and interpretation to research and conservation. About 30 representatives of statutory bodies, user and interest groups have a chance to contribute to the running of the reserve.

Published non-statutory management plans include:-

The Dee Estuary Strategy Management Plan prepared by the Dee Estuary Strategy Steering Group, c/o Dr A Jemmett, Leisure Services and Tourism, Wirral Borough Council, Westminster House, Hamilton Street, Birkenhead, Wirral LH 5FN

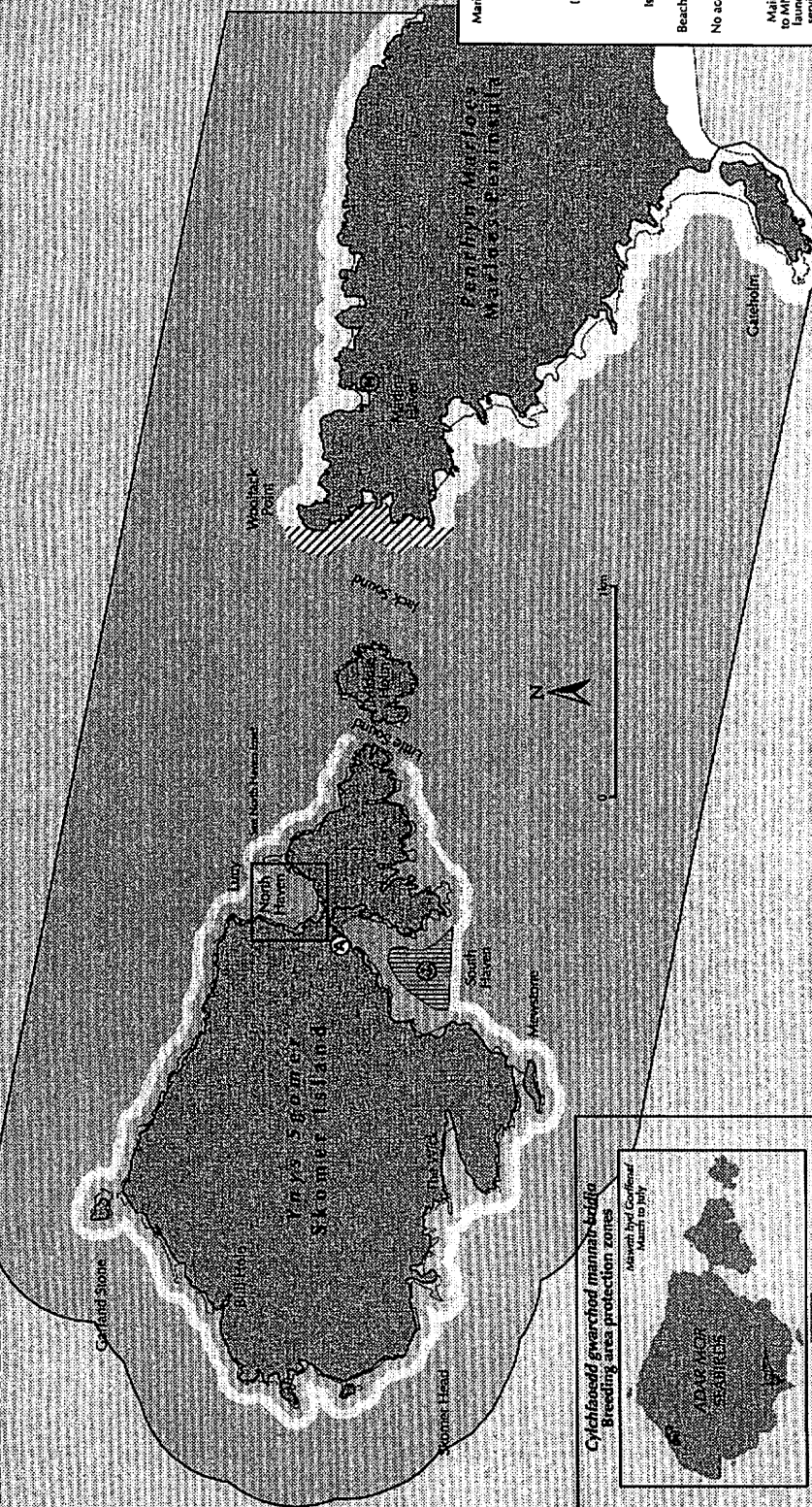
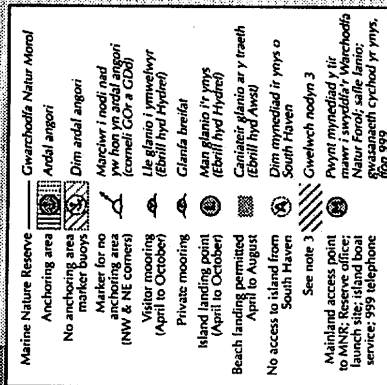
The Poole Harbour Aquatic Management Plan prepared by the Poole Harbour Steering Group, c/o Poole Harbour Commissioners, 20 New Quay Road, Hamworthy, Poole, BH15 4AF.

The Salcombe Kingsbridge Estuary Environmental Management Plan prepared by BMT Environmental, Grove House, 5 Ocean Way, Ocean Village, Southampton, SO1 1TJ and Adams Hendry, Wolvesley Place, College Street, Winchester, SO23 9NB.

The Skomer Marine Nature Reserve Agreed Management Policy prepared by the Countryside Council for Wales, Fisherman's Cottage, Martin's Haven, Haverfordwest, Dyfed SA62 3BJ

Managing Lundy's Wildlife: A management plan for the Marine Nature Reserve and SSSI prepared by English Nature and available from English Nature, The Old Mill House, 37 North Street, Okehampton, Devon EX20 1ER.

The Taw Torridge Estuary Management Plan prepared by WS Atkins Planning Consultants, Woodcote Grove, Ashley Road, Epsom, KT18 5BW

[illegible]

Rhythms: Aase's maps are just that: rhythmic; in style as descriptive as form.

Warning: These maps are illustrative; they must not be used for navigation.

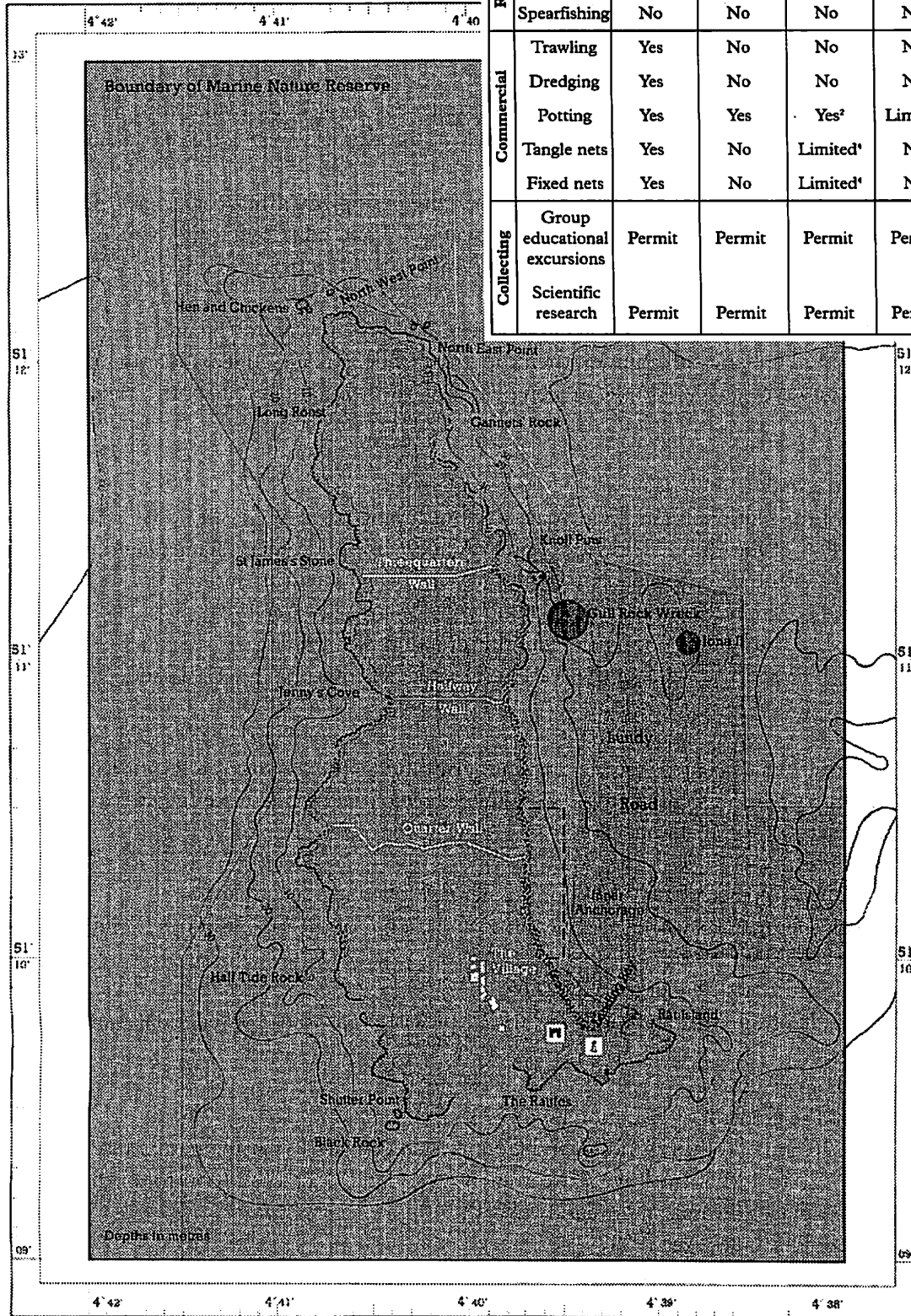
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3004335
 Division of Cartographic Services
 Countryside Council for Wales 1997

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LUNDY MARINE NATURE RESERVE

NOT TO BE USED FOR
NAVIGATION



| Activity | | Zone | | | | |
|--------------|------------------------------|------------------|-------------------|----------------------|----------------------|--------|
| | | General Use Zone | Recreational Zone | Refuge Zone | Sanctuary Zone | Other |
| Recreational | Diving | Yes | Yes | Yes | Yes | No |
| | Snorkelling ¹ | No | Yes | No | No | No |
| | Swimming ¹ | No | Yes | No | No | No |
| | Spearfishing | No | No | No | No | No |
| Commercial | Trawling | Yes | No | No | No | No |
| | Dredging | Yes | No | No | No | No |
| | Potting | Yes | Yes | Yes ² | Limited ³ | No |
| | Tangle nets | Yes | No | Limited ⁴ | No | No |
| | Fixed nets | Yes | No | Limited ⁴ | No | No |
| Collecting | Group educational excursions | Permit | Permit | Permit | Permit | No |
| | Scientific research | Permit | Permit | Permit | Permit | Permit |

Scale in kilometres
0 1 2
Scale in nautical miles
0 1

This map is illustrative not definitive.

South Lighthouse Castle

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Appendix E – Extracts from the Habitats Regulations (the Conservation (Natural Habitats, &c.) Regulations 1994)

Implementation of Directive This section of the regulations includes the duties on various bodies and sets out the main enactments under which these bodies will exercise their functions.

3. (1) These Regulations make provision for the purpose of implementing, for Great Britain, Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (referred to in these Regulations as “the Habitats Directive”).
- (2) The Secretary of State, the Minister of Agriculture, Fisheries and Food and the nature conservation bodies shall exercise their functions under the enactments relating to nature conservation so as to secure compliance with the requirements of the Habitats Directive.

Those enactments include:–

Part III of the National Parks and Access to the Countryside Act 1949,
section 49A of the Countryside (Scotland) Act 1967 (management agreements),
section 15 of the Countryside Act 1968 (areas of special scientific interest),
Part I and sections 28 to 38 of the Wildlife and Countryside Act 1981,
sections 131 to 134 of the Environmental Protection Act 1990,
sections 2, 3, 5, 6, 7 and 11 of the Natural Heritage (Scotland) Act 1991, and
these Regulations.

- (3) In relation to marine areas any competent authority having functions relevant to marine conservation shall exercise those functions so as to secure compliance with the requirements of the Habitats Directive.

This applies, in particular, to functions under the following enactments:–

the Sea Fisheries Acts within the meaning of section 1 of the Sea Fisheries (Wildlife Conservation) Act 1992,
the Dockyard Ports Regulation Act 1865,
section 2(2) of the Military Lands Act 1900 (provisions as to use of sea, tidal water or shore),
the Harbours Act 1964,
Part II of the Control of Pollution Act 1974,
sections 36 and 37 of the Wildlife and Countryside Act 1981 (marine nature reserves),
sections 120 to 122 of the Civic Government (Scotland) Act 1982 (control of the seashore, adjacent waters and inland waters),
the Water Resources Act 1991,
the Land Drainage Act 1991, and
these Regulations.

- (4) Without prejudice to the preceding provisions, every competent authority in the exercise of any of their functions, shall have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

Nature conservation bodies *Regulations 4,5 and 6 define the key bodies and persons*

4. In these Regulations “nature conservation body” means the Nature Conservancy Council for England, the Countryside Council for Wales or Scottish Natural Heritage; and references to “the appropriate nature conservation body”, in relation to England, Wales or Scotland, shall be construed accordingly.

Relevant authorities in relation to marine areas and European marine sites

5. 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, district council, London borough council or, in Scotland, a regional, islands or district council;
 - (c) the National Rivers Authority, a water undertaker or sewerage undertaker, or an internal drainage board;
 - (d) a navigation authority within the meaning of the Water Resources Act 1991;
 - (e) a harbour authority within the meaning of the Harbours Act 1964;
 - (f) a lighthouse authority;
 - (g) a river purification board or a district salmon fishery board;
 - (h) a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966 or any authority exercising the powers of such a committee.

Competent authorities generally

6. (1) For the purposes of these Regulations the expression “competent authority” includes any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office.

The expression also includes any person exercising any function of a competent authority in the United Kingdom.

- (2) In paragraph (1):—

- (a) “public body” includes any local authority, joint board or joint committee; and
- (b) “public office” means –
 - (a) an office under Her Majesty,
 - (b) an office created or continued in existence by a public general Act of Parliament, or
 - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.

(3) In paragraph (2)(a) -

“local authority” –

- (a) in relation to England, means a county council, district council or London borough council, the Common Council of the City of London, the sub-treasurer of the Inner Temple, the under treasurer of the Middle Temple or a parish council,
- (b) in relation to Wales, means a county council, district council or community council, and
- (c) in relation to Scotland, means a regional, islands or district council;

“joint board” and “joint committee” in relation to England and Wales mean –

- (a) a joint or special planning board constituted for a National Park by order under paragraph 1 or 3 of Schedule 17 to the Local Government Act 1972, or a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990, and
- (b) a joint committee appointed under section 102(1)(b) of the Local Government Act 1972, and in relation to Scotland have the same meaning as in the Local Government (Scotland) Act 1973.

Meaning of “European site” in these Regulations *A definition*

10. (1) 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 in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), or
- (d) an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive.

Register of European sites

Duty to compile and maintain register of European sites

11. (1) The Secretary of State shall compile and maintain, in such form as he thinks fit, a register of European sites in Great Britain.

(2) He shall include in the register –

- (a) special areas of conservation, as soon as they are designated by him;
- (b) sites of Community importance as soon as they are placed on the list referred to in the third sub- paragraph of Article 4(2) of the Habitats Directive, until they are designated as special areas of conservation;
- (c) any site hosting a priority natural habitat type or priority species in respect of which consultation is initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a Council decision under Article 5(3); and

- (d) areas classified by him pursuant to Article 4(1) or (2) of the Wild Birds Directive, as soon as they are so classified or, if they have been classified before the commencement of these Regulations, as soon as practicable after commencement.
- (3) He may, if appropriate, amend the entry in the register relating to a European site.
- (4) He shall remove the relevant entry –
 - (a) if a special area of conservation is declassified by the Commission under Article 9 of the Habitats Directive; or
 - (b) if a site otherwise ceases to fall within any of the categories listed in paragraph (2) above.
- (5) He shall keep a copy of the register available for public inspection at all reasonable hours and free of charge.

Notification to appropriate nature conservation body

- 12. (1) The Secretary of State shall notify the appropriate nature conservation body as soon as may be after including a site in the register, amending an entry in the register or removing an entry from the register.
- (2) Notification of the inclusion of a site in the register shall be accompanied by a copy of the register entry.
- (3) Notification of the amendment of an entry in the register shall be accompanied by a copy of the amended entry.
- (4) Each nature conservation body shall keep copies of the register entries relating to European sites in their area available for public inspection at all reasonable hours and free of charge.

Notice to landowners, relevant authorities, &c.

- 13. (1) As soon as practicable after a nature conservation body receive notification under regulation 12 they shall give notice to –
 - (a) every owner or occupier of land within the site,
 - (b) every local planning authority in whose area the site, or any part of it, is situated, and
 - (c) such other persons or bodies as the Secretary of State may direct.
- (2) Notice of the inclusion of a site in the register, or of the amendment of an entry in the register, shall be accompanied by a copy of so much of the relevant register entry as relates to land owned or occupied by or, as the case may be, to land within the area of, the person or authority to whom the notice is given.
- (3) The Secretary of State may give directions as to the form and content of notices to be given under this regulation.

Special provisions as to European marine sites

Marking of site and advice by nature conservation bodies

33. (1) The appropriate nature conservation body may install markers indicating the existence and extent of a European marine site.

This power is exercisable subject to the obtaining of any necessary consent under section 34 of the Coast Protection Act 1949 (restriction of works detrimental to navigation).

- (2) As soon as possible after a site becomes a European marine site, the appropriate nature conservation body shall advise other relevant authorities as to –
- (a) the conservation objectives for that site, and
 - (b) any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, for which the site has been designated.

Management scheme for European marine site

34. (1) The relevant authorities, or any of them, may establish for a European marine site a management scheme under which their functions (including any power to make byelaws) shall be exercised so as to secure in relation to that site compliance with the requirements of the Habitats Directive.
- (2) Only one management scheme may be made for each European marine site.
- (3) A management scheme may be amended from time to time.
- (4) As soon as a management scheme has been established, or is amended, a copy of it shall be sent by the relevant authority or authorities concerned to the appropriate nature conservation body.

Direction to establish or amend management scheme

35. (1) The relevant Minister may give directions to the relevant authorities, or any of them, as to the establishment of a management scheme for a European marine site.
- (2) Directions may, in particular –
- (a) require conservation measures specified in the direction to be included in the scheme;
 - (b) appoint one of the relevant authorities to coordinate the establishment of the scheme;
 - (c) set time limits within which any steps are to be taken;
 - (d) provide that the approval of the Minister is required before the scheme is established; and
 - (e) require any relevant authority to supply to the Minister such information concerning the establishment of the scheme as may be specified in the direction.
- (3) The relevant Minister may give directions to the relevant authorities, or any of them, as to the amendment of a management scheme for a European marine site, either generally or in any particular respect.

- (4) Any direction under this regulation shall be in writing and may be varied or revoked by a further direction.
- (5) In this regulation "the relevant Minister" means, in relation to a site in England, the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly and in any other case the Secretary of State.

Byelaws for protection of European marine site

- 36. (1) The appropriate nature conservation body may make byelaws for the protection of a European marine site under section 37 of the Wildlife and Countryside Act 1981 (byelaws for protection of marine nature reserves).
- (2) The provisions of subsections (2) to (11) of that section apply in relation to byelaws made by virtue of this regulation with the substitution for the references to marine nature reserves of references to European marine sites.
- (3) Nothing in byelaws made by virtue of this regulation shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).

Appendix F – Extracts from the Habitats Directive – Council Directive on the conservation of natural habitats and of wild fauna and flora (92/43/EEC)

COUNCIL DIRECTIVE 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the preservation, protection and improvement of the quality of the environment, including the conservation of natural habitats and of wild fauna and flora, are an essential objective of general interest pursued by the Community, as stated in Article 130r of the Treaty;

Whereas the European Community policy and action programme on the environment (1987 to 1992) makes provision for measures regarding the conservation of nature and natural resources;

Whereas, the main aim of this Directive being to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements, this Directive makes a contribution to the general objective of sustainable development; whereas the maintenance of such biodiversity may in certain cases require the maintenance, or indeed the encouragement, of human activities;

Whereas, in the European territory of the Member States, natural habitats are continuing to deteriorate and an increasing number of wild species are seriously threatened; whereas

given that the threatened habitats and species form part of the Community's natural heritage and the threats to them are often of a transboundary nature, it is necessary to take measures at Community level in order to conserve them;

Whereas, in view of the threats to certain types of natural habitat and certain species, it is necessary to define them as having priority in order to favour the early implementation of measures to conserve them;

Whereas, in order to ensure the restoration or maintenance of natural habitats and species of Community interest at a favourable conservation status, it is necessary to designate special areas of conservation in order to create a coherent European ecological network according to a specified timetable;

Whereas all the areas designated, including those classified now or in the future as special protection areas pursuant to Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, will have to be incorporated into the coherent European ecological network;

Whereas it is appropriate, in each area designated, to implement the necessary measures having regard to the conservation objectives pursued;

Whereas sites eligible for designation as special areas of conservation are proposed by the Member States but whereas a procedure must nevertheless be laid down to allow the designation in exceptional cases of a site which has not been proposed by a Member State but which the Community considers essential for either the maintenance or the survival of a priority natural habitat type or a priority species;

Whereas an appropriate assessment must be made of any plan or programme likely to have a significant effect on the conservation objectives of a site which has been designated or is designated in future;

Whereas it is recognized that the adoption of measures intended to promote the conservation of priority natural habitats and priority species of Community interest is a common responsibility of all Member States; whereas this may, however, impose an excessive financial burden on certain Member States given, on the one hand, the uneven distribution of such habitats and species throughout the Community and, on the other hand, the fact that the 'polluter pays' principle can have only limited application in the special case of nature conservation;

Whereas it is therefore agreed that, in this exceptional case, a contribution by means of Community co-financing should be provided for within the limits of the resources made available under the Community's decisions;

Whereas land-use planning and development policies should encourage the management of features of the landscape which are of major importance for wild fauna and flora;

Whereas a system should be set up for surveillance of the conservation status of the natural habitats and species covered by this Directive;

Whereas a general system of protection is required for certain species of flora and fauna to complement Directive 79/409/EEC; whereas provision should be made for management

measures for certain species, if their conservation status so warrants, including the prohibition of certain means of capture or killing, whilst providing for the possibility of derogations on certain conditions;

Whereas, with the aim of ensuring that the implementation of this Directive is monitored, the Commission will periodically prepare a composite report based, *inter alia*, on the information sent to it by the Member States regarding the application of national provisions adopted under this Directive;

Whereas the improvement of scientific and technical knowledge is essential for the implementation of this Directive; whereas it is consequently appropriate to encourage the necessary research and scientific work;

Whereas technical and scientific progress mean that it must be possible to adapt the Annexes; whereas a procedure should be established whereby the Council can amend the Annexes;

Whereas a regulatory committee should be set up to assist the Commission in the implementation of this Directive and in particular when decisions on Community co-financing are taken;

Whereas provision should be made for supplementary measures governing the reintroduction of certain native species of fauna and flora and the possible introduction of non-native species;

Whereas education and general information relating to the objectives of the Directive are essential for ensuring its effective implementation,

HAS ADOPTED THIS DIRECTIVE:

Definitions

Article 1

For the purpose of this Directive:

- (a) conservation means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (c) and (i);
- (b) natural habitats means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, entirely natural or semi-natural;
- (c) natural habitat types of Community interest means those which, within the territory referred to in Article 2:
 - (i) are in danger of disappearance in their natural range;

or

- (ii) have a small natural range following their regression or by reason of their intrinsically restricted area;

or

- (iii) present outstanding examples of typical characteristics of one or more of the five following biogeographical regions: Alpine, Atlantic, Continental, Macaronesian and Mediterranean.

Such habitat types are listed or may be listed in Annex I;

- (d) priority habitat types means natural habitat types in danger of disappearance, which are present on the territory referred to in Article 2 and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority natural habitat types are indicated by an asterisk (*) in Annex I;
- (e) conservation status of a natural habitat means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.

The conservative status of a natural habitat will be taken as 'favourable' when:

- its natural range and areas it covers within that range are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable as defined in (i);
- (f) habitat of a species means an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle;
- (g) species of Community interest means species which, within the territory referred to in Article 2, are:
 - (i) endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region; or
 - (ii) vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or
 - (iii) rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk. The species are located within restricted geographical areas or are thinly scattered over a more extensive range; or
 - (iv) endemic and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or

the potential impact of their exploitation on their conservation status.
Such species are listed or may be listed in Annex II and/or Annex IV or V;

- (h) priority species means species referred to in (g) (i) for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority species are indicated by an asterisk (*) in Annex II;
- (i) conservation status of a species means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2;

The conservation status will be taken as 'favourable' when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
 - the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
 - there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;
- (j) site means a geographically defined area whose extent is clearly delineated;
 - (k) site of Community importance means a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type in Annex I or of a species in Annex II and may also contribute significantly to the coherence of Natura 2000 referred to in Article 3, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned.

For animal species ranging over wide areas, sites of Community importance shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction;

- (l) special area of conservation means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated;
- (m) specimen means any animal or plant, whether alive or dead, of the species listed in Annex IV and Annex V, any part or derivative thereof, as well as any other goods which appear, from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives of animals or plants of those species;
- (n) the committee means the committee set up pursuant to Article 20.

Article 2

1. The aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies.
2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.
3. Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.

Conservation of natural habitats and habitats of species

Article 3

1. A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000. This network, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.

The Natura 2000 network shall include the special protection areas classified by the Member States pursuant to Directive 79/409/EEC.

2. Each Member State shall contribute to the creation of Natura 2000 in proportion to the representation within its territory of the natural habitat types and the habitats of species referred to in paragraph 1. To that effect each Member State shall designate, in accordance with Article 4, sites as special areas of conservation taking account of the objectives set out in paragraph 1.
3. Where they consider it necessary, Member States shall endeavour to improve the ecological coherence of Natura 2000 by maintaining, and where appropriate features of the landscape which are of major importance for wild fauna and flora, as referred to in Article 10.

Article 4

1. On the basis of the criteria set out in Annex III (Stage 1) and relevant scientific information, each Member State shall propose a list of sites indicating which natural habitat types in Annex I and which species in Annex II that are native to its territory the sites host. For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction. For aquatic species which range over wide areas, such sites will be proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction. Where appropriate, Member States shall propose adaptation of the list in the light of the results of the surveillance referred to in Article 11.

The list shall be transmitted to the Commission, within three years of the notification of this Directive, together with information on each site. That information shall include a map of the site, its name, location, extent and the data resulting from application of the criteria specified in Annex III (Stage 1) provided in a format established by the Commission in accordance with the procedure laid down in Article 21.

2. On the basis of the criteria set out in Annex III (Stage 2) and in the framework both of each of the five biogeographical regions referred to in Article 1 (c) (iii) and of the whole of the territory referred to in Article 2 (1), the Commission shall establish, in agreement with each Member State, a draft list of sites of Community importance drawn from the Member States' lists identifying those which lost one or more priority natural habitat types or priority species.

Member States whose sites hosting one or more priority natural habitat types and priority species represent more than 5 % of their national territory may, in agreement with the Commission, request that the criteria listed in Annex III (Stage 2) be applied more flexibly in selecting all the sites of Community importance in their territory.

The list of sites selected as sites of Community importance, identifying those which host one or more priority natural habitat types or priority species, shall be adopted by the Commission in accordance with the procedure laid down in Article 21.

3. The list referred to in paragraph 2 shall be established within six years of the notification of this Directive.
4. Once a site of Community importance has been adopted in accordance with the procedure laid down in paragraph 2, the Member States concerned shall designate that site as a special area of conservation as soon as possible and within six years at most, establishing priorities in the light of the importance of the sites for the maintenance or restoration, at a favourable conservation status, of a natural habitat type in Annex I or a species in Annex II and for the coherence of Natura 2000, and in the light of the threats of degradation or destruction to which those sites are exposed.
5. As soon as a site is placed on the list referred to in the third subparagraph of paragraph 2 it shall be subject to Article 6 (2), (3) and (4).

Article 5

1. In exceptional cases where the Commission finds that a national list as referred to in Article 4 (1) fails to mention a site hosting a priority natural habitat type or priority species which, on the basis of relevant and reliable scientific information, it considers to be essential for the maintenance of that priority natural habitat type or for the survival of that priority species, a bilateral consultation procedure shall be initiated between that Member State and the Commission for the purpose of comparing the scientific data used by each.
2. If, on expiry of a consultation period not exceeding six months, the dispute remains unresolved, the Commission shall forward to the Council a proposal relating to the selection of the site as a site of Community importance.

3. The Council, acting unanimously, shall take a decision within three months of the date of referral.
4. During the consultation period and pending a Council decision, the site concerned shall be subject to Article 6 (2).

Article 6

1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.
2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.
3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.
4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

Article 7

Obligations arising under Article 6 (2), (3) and (4) of this Directive shall replace any obligations arising under the first sentence of Article 4 (4) of Directive 79/409/EEC in respect of areas classified pursuant to Article 4 (1) or similarly recognized under Article 4 (2) thereof, as from the date of implementation of this Directive or the date of classification or recognition by a Member State under Directive 74/409/EEC, where the latter date is later.

Article 8

1. In parallel with their proposals for sites eligible for designation as special areas of conservation, hosting priority natural habitat types and/or priority species, the Member States shall send, as appropriate, to the Commission their estimates relating to the Community co-financing which they consider necessary to allow them to meet their obligations pursuant to Article 6 (1).
2. In agreement with each of the Member States concerned, the Commission shall identify, for sites of Community importance for which co-financing is sought, those measures essential for the maintenance or re-establishment at a favourable conservation status of the priority natural habitat types and priority species on the sites concerned, as well as the total costs arising from those measures.
3. The Commission, in agreement with the Member States concerned, shall assess the financing, including co-financing, required for the operation of the measures referred to in paragraph 2, taking into account, amongst other things, the concentration on the Member State's territory of priority natural habitat types and/or priority species and the relative burdens which the required measures entail.
4. According to the assessment referred to in paragraphs 2 and 3, the Commission shall adopt, having regard to the available sources of funding under the relevant Community instruments and according to the procedure set out in Article 21, a prioritized action framework of measures involving co-financing to be taken when the site has been designated under Article 4 (4).
5. The measures which have not been retained in the action framework for lack of sufficient resources, as well as those included in the abovementioned action framework which have not received the necessary co-financing or have only been partially co-financed, shall be reconsidered in accordance with the procedure set out in Article 21, in the context of the two-yearly review of the action framework and may, in the meantime, be postponed by the Member States pending such review. This review shall take into account, as appropriate, the new situation of the site concerned.
6. In areas where the measures dependent on co-financing are postponed, Member States shall refrain from any new measures likely to result in deterioration of those areas.

Article 9

The Commission, acting in accordance with the procedure laid down in Article 21, shall periodically review the contribution of Natura 2000 towards achievement of the objectives set out in Article 2 and 3. In this context, a special area of conservation may be considered for declassification where this is warranted by natural developments noted as a result of the surveillance provided for in Article 11.

Article 10

Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

Article 11

Member States shall undertake surveillance of the conservation status of the natural habitats and species referred to in Article 2 with particular regard to priority natural habitat types and priority species.

Protection of species

Article 12

1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
 - (a) all forms of deliberate capture or killing of specimens of these species in the wild;
 - (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
 - (c) deliberate destruction or taking of eggs from the wild;
 - (d) deterioration or destruction of breeding sites or resting places.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.
4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting:
 - (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
 - (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.
2. The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

Article 14

1. If, in the light of the surveillance provided for in Article 11, Member States deem it necessary, they shall take measures to ensure that the taking in the wild of specimens of species of wild fauna and flora listed in Annex V as well as their exploitation is compatible with their being maintained at a favourable conservation status.
2. Where such measures are deemed necessary, they shall include continuation of the surveillance provided for in Article 11. Such measures may also include in particular:
 - regulations regarding access to certain property,
 - temporary or local prohibition of the taking of specimens in the wild and exploitation of certain populations,
 - regulation of the periods and/or methods of taking specimens,
 - application, when specimens are taken, of hunting and fishing rules which take account of the conservation of such populations,
 - establishment of a system of licences for taking specimens or of quotas,
 - regulation of the purchase, sale, offering for sale, keeping for sale or transport for sale of specimens,
 - breeding in captivity of animal species as well as artificial propagation of plant species, under strictly controlled conditions, with a view to reducing the taking of specimens of the wild,
 - assessment of the effect of the measures adopted.

Article 15

In respect of the capture or killing of species of wild fauna listed in Annex V (a) and in cases where, in accordance with Article 16, derogations are applied to the taking, capture or killing of species listed in Annex IV (a), Member States shall prohibit the use of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species, and in particular:

- (a) use of the means of capture and killing listed in Annex VI (a);
- (b) any form of capture and killing from the modes of transport referred to in Annex VI (b).

Article 16

1. Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15 (a) and (b):
 - (a) in the interest of protecting wild fauna and flora and conserving natural habitats;
 - (b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;
 - (c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
 - (d) for the purpose of research and education, of repopulating and re-introducing these species and for the breedings operations necessary for these purposes, including the artificial propagation of plants;
 - (e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.
2. Member States shall forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under paragraph 1. The Commission shall give its opinion on these derogations within a maximum time limit of 12 months following receipt of the report and shall give an account to the Committee.
3. The reports shall specify:
 - (a) the species which are subject to the derogations and the reason for the derogation, including the nature of the risk, with, if appropriate, a reference to alternatives rejected and scientific data used;

- (b) the means, devices or methods authorized for the capture or killing of animal species and the reasons for their use;
- (c) the circumstances of when and where such derogations are granted;
- (d) the authority empowered to declare and check that the required conditions obtain and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry out the task;
- (e) the supervisory measures used and the results obtained.

Information

Article 17

1. Every six years from the date of expiry of the period laid down in Article 23, Member States shall draw up a report on the implementation of the measures taken under this Directive. This report shall include in particular information concerning the conservation measures referred to in Article 6 (1) as well as evaluation of the impact of those measures on the conservation status of the natural habitat types of Annex I and the species in Annex II and the main results of the surveillance referred to in Article 11. The report, in accordance with the format established by the committee, shall be forwarded to the Commission and made accessible to the public.
2. The Commission shall prepare a composite report based on the reports referred to in paragraph 1. This report shall include an appropriate evaluation of the progress achieved and, in particular, of the contribution of Natura 2000 to the achievement of the objectives set out in Article 3. A draft of the part of the report covering the information supplied by a Member State shall be forwarded to the Member State in question for verification. After submission to the committee, the final version of the report shall be published by the Commission, not later than two years after receipt of the reports referred to in paragraph 1, and shall be forwarded to the Member States, the European Parliament, the Council and the Economic and Social Committee.
3. Member States may mark areas designated under this Directive by means of Community notices designed for that purpose by the committee.

Research

Article 18

1. Member States and the Commission shall encourage the necessary research and scientific work having regard to the objectives set out in Article 2 and the obligation referred to in Article 11. They shall exchange information for the purposes of proper coordination of research carried out at Member State and at Community level.

2. Particular attention shall be paid to scientific work necessary for the implementation of Articles 4 and 10, and transboundary cooperative research between Member States shall be encouraged.

Procedure for amending the Annexes

Article 19

Such amendments as are necessary for adapting Annexes I, II, III, V and VI to technical and scientific progress shall be adopted by the Council acting by qualified majority on a proposal from the Commission.

Such amendments as are necessary for adapting Annex IV to technical and scientific progress shall be adopted by the Council acting unanimously on a proposal from the Commission.

Committee

Article 20

The Commission shall be assisted by a committee consisting of representatives of the Member States and chaired by a representative of the Commission.

Article 21

1. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.
2. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Supplementary provisions

Article 22

In implementing the provisions of this Directive, Member States shall:

- (a) study the desirability, of re-introducing species in Annex IV that are native to their territory where this might contribute to their conservation, provided that an investigation, also taking into account experience in other Member States or elsewhere, has established that such re-introduction contributes effectively to re-establishing these species at a favourable conservation status and that it takes place only after proper consultation of the public concerned;
- (b) ensure that the deliberate introduction into the wild of any species which is not native to their territory, is regulated so as not to prejudice natural habitats within their natural range or the wild native fauna and flora and, if they consider it necessary, prohibit such introduction. The results of the assessment undertaken shall be forwarded to the committee for information;
- (c) promote education and general information on the need to protect species of wild fauna and flora and to conserve their habitats and natural habitats.

Final provisions

Article 23

- 1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two Years of its notification. They shall forthwith inform the Commission thereof.
- 2. When Member States adopt such measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.
- 3. Member States shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive.

Article 24

This Directive is addressed to the Member States.

Done at Brussels, 21 May 1992.

For the Council
The President
Arlindo MARQUES CUNHA

ANNEX III [to the Directive]

CRITERIA FOR SELECTING SITES ELIGIBLE FOR IDENTIFICATION AS SITES OF COMMUNITY IMPORTANCE AND DESIGNATION AS SPECIAL AREAS OF CONSERVATION

STAGE 1: Assessment at national level of the relative importance of sites for each natural habitat type in Annex I and each species in Annex II (including priority natural habitat types and priority species)

- A. *Site assessment criteria for a given natural habitat type in Annex I*
 - (a) Degree of representativity of the natural habitat type on the site.
 - (b) Area of the site covered by the natural habitat type in relation to the total area covered by that natural habitat type within national territory.
 - (c) Degree of conservation of the structure and functions of the natural habitat type concerned and restoration possibilities.
 - (d) Global assessment of the value of the site for conservation of the natural habitat type concerned.
- B. *Site assessment criteria for a given species in Annex II*
 - (a) Size and density of the population of the species present on the site in relation to the populations present within national territory.
 - (b) Degree of conservation of the features of the habitat which are important for the species concerned and restoration possibilities.
 - (c) Degree of isolation of the population present on the site in relation to the natural range of the species.
 - (d) Global assessment of the value of the site for conservation of the species concerned.
- C. On the basis of these criteria, Member States will classify the sites which they propose on the national list as sites eligible for identification as sites of Community importance according to their relative value for the conservation of each natural habitat type in Annex I or each species in Annex II.
- D. That list will show the sites containing the priority natural habitat types and priority species selected by the Member States on the basis of the criteria in A and B above.

STAGE 2: Assessment of the Community importance of the sites included on the national lists

1. All the sites identified by the Member States in Stage 1 which contain priority natural habitat types and/or species will be considered as sites of Community importance.
2. The assessment of the Community importance of other sites on Member States' lists, i.e. their contribution to maintaining or re-establishing, at a favourable conservation status, a natural habitat in Annex I or a species in Annex II and/or to the coherence of Natura 2000 will take account of the following criteria:
 - (a) relative value of the site at national level;
 - (b) geographical situation of the site in relation to migration routes of species in Annex II and whether it belongs to a continuous ecosystem situated on both sides of one or more internal Community frontiers;
 - (c) total area of the site;
 - (d) number of natural habitat types in Annex I and species in Annex II present on the site;
 - (e) global ecological value of the site for the biogeographical regions concerned and/or for the whole of the territory referred to in Article 2, as regards both the characteristic of unique aspect of its features and the way they are combined.

Appendix G – Extracts from the Birds Directive – Council Directive on the conservation of wild birds (79/409/EEC)

COUNCIL DIRECTIVE of 2 April 1979 on the conservation of wild birds (79/409/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article. 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Council declaration of 22 November 1973 on the programme of action of the European Communities on the environment calls for specific action to protect birds, supplemented by the resolution of the Council of the European Communities and of the representatives of the Governments of the Member States meeting within the Council of 17 May 1977 on the continuation and implementation of a European Community policy and action programme on the environment;

Whereas a large number of species of wild birds naturally occurring in the European territory of the Member States are declining in number, very rapidly in some cases; whereas this decline represents a serious threat to the conservation of the natural environment, particularly because of the biological balances threatened thereby;

Whereas the species of wild birds naturally occurring in the European territory of the Member States are mainly migratory species; whereas such species constitute a common heritage and whereas effective bird protection is typically a trans-frontier environment problem entailing common responsibilities;

Whereas the conditions of life for birds in Greenland are fundamentally different from those in the other regions of the European territory of the Member States on account of the general circumstances and in particular the climate, the low density of population and the exceptional size and geographical situation of the island;

Whereas therefore this Directive should not apply to Greenland;

Whereas the conservation of birds and, in particular, migratory birds still presents problems which call for scientific research; whereas such research will also make it possible to assess the effectiveness of the measures taken;

Whereas care should be taken in consultation with the Commission to see that the introduction of any species of wild bird not naturally occurring in the European territory of the Member States does not cause harm to local flora and fauna;

Whereas the Commission will every three years prepare and transmit to the Member States a composite report based on information submitted by the Member States on the application of national provisions introduced pursuant to this Directive;

Whereas it is necessary to adapt certain Annexes rapidly in the light of technical and scientific progress; whereas, to facilitate the implementation of the measures needed for this purpose, provision should be made for a procedure establishing close cooperation between the Member States and the Commission in a Committee for Adaptation to Technical and Scientific Progress,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty applies. It covers the protection, management and control of these species and lays down rules for their exploitation.
2. It shall apply to birds, their eggs, nests and habitats.
3. This Directive shall not apply to Greenland.

Article 2

Member States shall take the requisite measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.

Article 3

1. In the light of the requirements referred to in Article 2, Member States shall take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1.
2. The preservation, maintenance and re-establishment of biotopes and habitats shall include primarily the following measures:

- a. creation of protected areas;
- b. upkeep and management in accordance with the ecological needs of habitats inside and outside the protected zones;
- c. re-establishment of destroyed biotopes;
- d. creation of biotopes.

Article 4

1. The species mentioned in Annex I shall be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution.

In this connection, account shall be taken of:

- a. species in danger of extinction;
- b. species vulnerable to specific changes in their habitat;
- c. species considered rare because of small populations or restricted local distribution;
- d. other species requiring particular attention for reasons of the specific nature of their habitat.

Trends and variations in population levels shall be taken into account as a background for evaluations.

Member States shall classify in particular the most suitable territories in number and size as special protection areas for the conservation of these species, taking into account their protection requirements in the geographical sea and land area where this Directive applies.

2. Member States shall take similar measures for regularly occurring migratory species not listed in Annex I, bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. To this end, Member States shall pay particular attention to the protection of wetlands and particularly to wetlands of international importance.
3. Member States shall send the Commission all relevant information so that it may take appropriate initiatives with a view to the coordination necessary to ensure that the areas provided for in paragraphs 1 and 2 above form a coherent whole which meets the protection requirements of these species in the geographical sea and land area where this Directive applies.
4. In respect of the protection areas referred to in paragraphs 1 and 2 above, Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats.

Article 5

Without prejudice to Articles 7 and 9, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1, prohibiting in particular:

- a. deliberate killing or capture by any method;
- b. deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
- c. taking their eggs in the wild and keeping these eggs even if empty;
- d. deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
- e. keeping birds of species the hunting and capture of which is prohibited.

Article 6

1. Without prejudice to the provisions of paragraphs 2 and 3, Member States shall prohibit, for all the bird species referred to in Article 1, the sale, transport for sale, keeping for sale and the offering for sale of live or dead birds and of any readily recognizable parts or derivatives of such birds.
2. The activities referred to in paragraph 1 shall not be prohibited in respect of the species referred to in Annex III/1, provided that the birds have been legally killed or captured or otherwise legally acquired.
3. Member States may, for the species listed in Annex III/2, allow within their territory the activities referred to in paragraph 1, making provision for certain restrictions, provided the birds have been legally killed or captured or otherwise legally acquired.

Member States wishing to grant such authorization shall first of all consult the Commission with a view to examining jointly with the latter whether the marketing of specimens of such species would result or could reasonably be expected to result in the population levels, geographical distribution or reproductive rate of the species being endangered throughout the Community. Should this examination prove that the intended authorization will, in the view of the Commission, result in any one of the aforementioned species being thus endangered or in the possibility of their being thus endangered, the Commission shall forward a reasoned recommendation to the Member State concerned stating its opposition to the marketing of the species in question. Should the Commission consider that no such risk exists, it will inform the Member State concerned accordingly.

The Commission's recommendation shall be published in the Official Journal of the European Communities.

Member States granting authorization pursuant to this paragraph shall verify at regular intervals that the conditions governing the granting of such authorization continue to be fulfilled.

4. The Commission shall carry out studies on the biological status of the species listed in Annex III/3 and on the effects of marketing on such status.

It shall submit, at the latest four months before the time limit referred to in Article 18 (1) of this Directive, a report and its proposals to the Committee referred to in Article 16, with a view to a decision on the entry of such species in Annex III/2.

Pending this decision, the Member States may apply existing national rules to such species without prejudice to paragraph 3 hereof.

Article 7

1. Owing to their population level, geographical distribution and reproductive rate throughout the Community, the species listed in Annex II may be hunted under national legislation. Member States shall ensure that the hunting of these species does not jeopardize conservation efforts in their distribution area.
2. The species referred to in Annex II/1 may be hunted in the geographical sea and land area where this Directive applies.
3. The species referred to in Annex II/2 may be hunted only in the Member States in respect of which they are indicated.
4. Member States shall ensure that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2. They shall see in particular that the species to which hunting laws apply are not hunted during the rearing season nor during the various stages of reproduction. in the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds. Member States shall send the Commission all relevant information on the practical application of their hunting regulations.

Article 8

1. In respect of the hunting, capture or killing of birds under this Directive, Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species, in particular the use of those listed in Annex IV (a).
2. Moreover, Member States shall prohibit any hunting from the modes of transport and under the conditions mentioned in Annex IV (b).

Article 9

1. Member States may derogate from the provisions of Articles 5, 6, 7 and 8, where there is no other satisfactory solution, for the following reasons:
 - a – in the interests of public health and safety,
 - in the interests of air safety,
 - to prevent serious damage to crops, livestock, forests, fisheries and water,
 - for the protection of flora and fauna;
 - b. for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes;
 - c. to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.
2. The derogations must specify:
 - the species which are subject to the derogations,
 - the means, arrangements or methods authorized for capture or killing,
 - the conditions of risk and the circumstances of time and place under which such derogations may be granted,
 - the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom,
 - the controls which will be carried out.
3. Each year the Member States shall send a report to the Commission on the implementation of this Article.
4. On the basis of the information available to it, and in particular the information communicated to it pursuant to paragraph 3, the Commission shall at all times ensure that the consequences of these derogations are not incompatible with this Directive. It shall take appropriate steps to this end.

Article 10

1. Member States shall encourage research and any work required as a basis for the protection, management and use of the population of all species of bird referred to in Article 1.
2. Particular attention shall be paid to research and work on the subjects listed in Annex V. Member States shall send the Commission any information required to enable it to take appropriate measures for the coordination of the research and work referred to in this Article.

Article 11

Member States shall see that any introduction of species of bird which do not occur naturally in the wild state in the European territory of the Member States does not prejudice the local flora and fauna. In this connection they shall consult the Commission.

Article 12

1. Member States shall forward to the Commission every three years, starting from the date of expiry of the time limit referred to in Article 18 (1), a report on the implementation of national provisions taken thereunder.
2. The Commission shall prepare every three years a composite report based on the information referred to in paragraph 1. That part of the draft report covering the information supplied by a Member State shall be forwarded to the authorities of the Member State in question for verification. The final version of the report shall be forwarded to the Member States.

Article 13

Application of the measures taken pursuant to this Directive may not lead to deterioration in the present situation as regards the conservation of species of birds referred to in Article

Article 14

Member States may introduce stricter protective measures than those provided for under this Directive.

Article 15

Such amendments as are necessary for adapting Annexes I and V to this Directive to technical and scientific progress and the amendments referred to in the second paragraph of Article 6 (4) shall be adopted in accordance with the procedure laid down in Article 17.

Article 16

1. For the purposes of the amendments referred to in Article 15 of this Directive, a Committee for the Adaptation to Technical and Scientific Progress (hereinafter called 'the Committee'), consisting of representatives of the Member States and chaired by a representative of the Commission, is hereby set up.
2. The Committee shall draw up its rules of procedure.

Article 17

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Committee by its chairman, either on his own initiative or at the request of the representative of a Member State.
2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit set by the chairman having regard to the urgency of the matter. It shall act by a majority of 41 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.
3.
 - a. The Commission shall adopt the measures envisaged where they are in accordance with the opinion of the Committee.
 - b. Where the measures envisaged are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall without delay submit a proposal to the Council concerning the measures to be adopted. The Council shall act by a qualified majority.
 - c. If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 18

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.
2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Article 19

This Directive is addressed to the Member States.

Done at Luxembourg, 2 April 1979.

For the Council

The President

J. FRANÇOIS-PONCET

Appendix H – Useful Addresses

The European Commission
Rue de la Loi 200
B-1049
Brussels
Belgium

The Department of the Environment,
Transport and the Regions
European Wildlife Division
Tollgate House
(Room 922)
Houlton Street
Bristol BS2 9DJ

Ministry of Agriculture Fisheries and Food
Rural and Marine Environment Division
Nobel House
17 Smith Square
London SW1P 3JR

The Scottish Office
Rural Affairs & Natural Heritage
Pentland House,
47 Robb's Loan,
Edinburgh,
EH14 1TY

The Welsh Office
Environment Division
Cathays Park
Cardiff CF1 3NQ

The Joint Nature Conservation Committee
Monkstone House
City Road
Peterborough PE1 1JY

English Nature
Northminster House
Northminster Road
Peterborough PE1 1UA

Scottish Natural Heritage
12 Hope Terrace
Edinburgh EH9 2AS

The Countryside Council for Wales
Plas Penrhos
Ffordd Penrhos
Bangor
Gwynedd LL57 2LQ

Appendix I – Other Relevant Publications

The Conservation (Natural Habitats, &c.) Regulations 1994, (SI No. 2716)^①
Planning Policy Guidance – Nature Conservation (PPG 9, October 1994)^①
Planning Policy Guidance – Coastal Policy (PPG 20, September 1992)^①
Planning Guidance (Wales): Planning Policy^①
Technical Advice Note (Wales) 5: Nature Conservation and Planning^①
Technical Advice Note (Wales) 13: Coastal^①
Circular 52/87 “Nature Conservation”^①
Wildlife & Countryside Act 1981 (as amended) – chapter 69^①
Financial Guidelines for Management Agreements – Circular 4/83 (DOE), 6/83 (Welsh Office)^① (currently under revision)
A Guide to Risk Assessment and Risk Management for Environmental Protection^①
The Habitats Directive: How it will apply in Great Britain^{②③}
SSSIs – “What you should know about Sites of Special Scientific Interest”^④
Estuary Management Plans – A coordinator’s guide^⑤
SSSI – “A guide for landowners and occupiers”^⑥
European Habitats Directive – Information Booklet^⑦
The EC Habitats Directive: Marine Special Areas of Conservation^⑧
Marine Sites – an introduction to management ^{⑨⑩}
Report on Coastal Zone Management in Wales ^⑪
Countryside – one of a series on “Environment in Trust”^⑫
Biodiversity – The UK Action Plan, 1994^⑬
Biodiversity – Summary Report^⑭
Biodiversity: The UK Steering Group report Volumes 1: Meeting the Rio Challenge and 2: Action Plans^⑮
Sustainable Development – The UK Strategy, 1994^⑯
Sustainable Development – Summary Report^⑰
JNCC Report No. 270 – The Habitats Directive: Selection of Special Areas of Conservation in the UK.^⑱

- ① obtainable from The Stationery Office Bookshop, or other good booksellers
- ② obtainable from Environment 4(A) Division, the Welsh Office, Cathays Park, Cardiff, CF1 3NQ
- ③ obtainable from European Wildlife Division, Department of the Environment, Transport and the Regions, Room 901, Tollgate House, Houlton Street, Bristol BS2 9DJ
- ④ obtainable from Dept ENH, English Nature, Northminster House, Peterborough PE1 1UA
- ⑤ obtainable from the Countryside Council for Wales, Plas Penrhos, Ffordd Penrhos, Bangor, Gwynedd LL57 2LQ
- ⑥ obtainable from the Department of the Environment, Transport and the Regions at PO Box 151, London E15 2HF
- ⑦ obtainable from the Joint Nature Conservation Committee, Monkstone House, City Road, Peterborough PE1 1JY

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