



**AMENDMENTS TO OFFSHORE AND OTHER 'CONSERVATION (NATURAL  
HABITATS & C.) REGULATIONS'**

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## JOINT NATURE CONSERVATION COMMITTEE

### Amendments to offshore and other 'Conservation (Natural Habitats &c.) Regulations'

Note by Steve Gibson

#### 1. Background

- 1.1 Committee will recall the in-confidence discussion that took place at its December 2008 in respect of work in support of Defra to address the European Commission legal challenge on aspects of the implementation of the Habitats Directive.
- 1.2 The necessary stages of work to prepare revised statutory instruments are now complete and the purpose of this note is to advise members of what will happen over the coming weeks up to the next meeting of JNCC.

#### 2. Offshore waters (beyond 12nm)

- 2.1 A new statutory instrument, *The Offshore Marine Conservation (Natural Habitats, &c.) (Amendment) Regulations 2009*, was laid before parliament on the 8<sup>th</sup> January 2009 and will enter into force on the 30<sup>th</sup> January 2009 (attached at Annex A). The extant regulations that it amends can be found at [www.opsi.gov.uk/si/si2007/uksi\\_20071842\\_en\\_1](http://www.opsi.gov.uk/si/si2007/uksi_20071842_en_1).
- 2.2 These 2009 amendments to the 2007 offshore marine conservation regulations provide JNCC with two new statutory duties and amend one existing duty.
- 2.3 The new duties relate to surveillance and monitoring. One requires JNCC to determine what surveillance of Directive species and habitats that occur beyond 12nm is necessary, and to advise the Secretary of State of this. The other requires JNCC to determine what risks to incidental capture and killing of Directive species exist, to collate certain information on incidental capture and killing, to determine what further monitoring is required, and to advise the Secretary of State to this effect.
- 2.4 The amended duty changes the possibility of JNCC providing advice on what constitutes a 'significant group' of species, to a duty on either JNCC or Secretary of State or both to provide guidance on the application of the offences of disturbance or damage/destruction/deterioration of breeding sites or resting places.
- 2.5 The revised regulations also amend the terms of a number of these offences.

- 2.6 At the March Committee meeting the support company will advise Committee of the implications of these changes, and Committee will also need to formally accept these new duties.

**3. UK, including waters out to 12nm**

- 3.1 Comparable amending instruments for England and Wales, Scotland and Northern Ireland have or will very soon be laid as all need to be in force by 30 January.
- 3.2 These amending regulations change the duties upon each of the four country agencies in the same way as described above for JNCC, and as a consequence could have implications for JNCC. For example it is possible that a co-operative approach amongst responsible bodies to provide guidance and advice on, and execution of, surveillance and monitoring, both in the marine environment and terrestrially, will be both desirable for efficiency reasons and beneficial to reduce future European Commission challenge. Work has already begun in this respect by the support company.
- 3.3 Similarly, approaches to the revised offences will warrant comparison to determine if collaboration is appropriate.
- 3.4 As for offshore waters, the support company will advise the Committee of the implications for its work in March.

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