



Berwickshire & Northumberland Marine Nature Partnership

Summary of Environmental Legislation Relevant to MPAs

European Directives

1979 EU Wild Birds Directive

The Directive was part of the European Commission's response to the **Bern Convention** (see the 1992 EC Habitats Directive below for the other key response) and aims to protect *all* European wild birds and the *habitats of certain* listed species. This is achieved through the designation of **Special Protection Areas (SPAs)** which are designated on land, at the coast and the inshore areas of European Commission member states. The Directive was revised and updated in 2009.

1992 EU Habitats Directive

The Habitats Directive (together with the Birds Directive) was another European response to the **Bern Convention**. It aims to protect some 220 habitats and approximately 1,000 species listed in the Directive's Annexes. Annex I covers habitats that require protection through the designation of **Special Areas of Conservation (SACs)**, while Annex II cover species that require protection through SACs. SACs can be designated on land, at the coast and out to 200 nautical miles. These are species and habitats which are considered to be of European interest, following criteria given in the Directive. This Directive led to the setting up of a network of SACs across Europe which, together with the existing SPAs, forms a network of protected sites across the European Union called the **Natura 2000** network.

2008 Marine Strategy Framework Directive

The Marine Strategy Framework Directive (MSFD) is a European response to **the OSPAR Convention** and is the first all-encompassing piece of European legislation specifically aimed at the protection of the marine environment. Its ultimate objective is to achieve a Good Environmental Status (GES) in all European waters by 2020 at the latest. The Directive foresees the implementation of an ecosystem-based approach to the management of activities having an impact on the marine environment. Acknowledging that marine ecosystems do not recognise political borders, the MSFD also imposes the obligation of regional cooperation, thus enhancing the role of Regional Seas Conventions, such as OSPAR. Unlike the previous Directives, which require certain areas (SPAs and SACs) to be designated with the purpose of achieving good condition, the MSFD requires that *all waters* achieve Good Environmental Status (GES). The MSFD sets out 11 high-level Descriptors of GES.

UK Domestic Legislation

1981 Wildlife & Countryside Act

The Wildlife and Countryside Act was the UK response to the Birds Directive and the Bern Convention, and remains one of the most important pieces of wildlife legislation in Great Britain. The act gives protection to native species (especially those at threat) through the creation and protection of **Sites of Special Scientific Interest (SSSI)**, controls the release of non-native species, and builds upon the rights of way rules in the National Parks and Access to the Countryside Act 1949. In response to the Birds Directive the Act also provided a mechanism in the UK for the designation of **Special Protection Areas (SPAs)**, but it had limitations as the Act only applies to land above Mean Low Water (MLW). The Act allowed all SPAs above MLW (including marine intertidal sites) to receive underlying SSSI designations and it is the main piece of legislation used to regulate the activities of landowners of SPAs. Where an SPA extends seaward of MLW, the Act does not apply and this lack of protection resulted in extra provisions being included in the 1994 Habitat Regulations (see below). **National Nature Reserves** are also designated under the Wildlife & Countryside Act (as well as the National Parks and Access to the Countryside Act 1949) and contain examples of some of the most important natural and semi-natural terrestrial and coastal ecosystems in Great Britain. They are managed to conserve their habitats or to provide special opportunities for scientific study of the habitats communities and species represented within them.

1994 Habitat Regulations

The 1994 Habitat Regulations were a UK response to the EC Habitats Directive and transpose both the Birds Directive (parts of it) and the Habitats Directive into UK law. The Regulations provide for the designation and protection of both types of **European site - SACs and SPAs** (SPAs, until now, were designated under the Wildlife & Countryside Act 1981). So, *all* SPAs and SACs are now designated under these Regulations and any development planning decision is subject to compliance with the Regulations. The landowner management of sites that lie above Mean Low Water (MLW) (including marine intertidal sites) is still dealt with through the Wildlife & Countryside Act (WCA) and its associated SSSI sections, as all of these sites have underlying SSSI designations. To address SPAs and SACs that extend into the marine environment below MLW (remember the WCA doesn't cover these areas!), extra provisions were included in the 1994 Habitat Regulations to deal with these **European Marine Sites**. Under the Regulations, competent and relevant authorities, i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to all European Sites. The Regulations also state that the authorities may, in the case of **European Marine Sites**, produce a Management Scheme to coordinate the management of a site(s) and to address the need for extra management provisions for marine areas. This is why the Berwickshire & North Northumberland Coast European Marine Site has a dedicated Management Group (made up from all of the competent and relevant authorities that interact with the site), Management Plan and Implementation Officer. The Regulations have received many updates and amendments over the years which, in England, have since been consolidated into the **Conservation of Habitats and Species (Amendment) Regulations 2012**. The new version also includes provisions for the emerging network of Marine Conservation Zones in England. In Scotland, the 1994 Regulations (as amended) are still in force. A further amendment was made in **The Conservation of Habitats and Species Regulations 2017**, relating to provisions for Welsh Ministers to carry out certain functions in offshore waters adjacent to Wales.

2000 The Countryside and Rights of Way Act

The Countryside and Rights of Way Act 2000 (CRoW Act 2000) applies to England and Wales only.

The Act modified the Wildlife and Countryside Act 1981 to increase measures for the management and protection for **Sites of Special Scientific Interest (SSSI)** and strengthens wildlife enforcement legislation.

2004 Nature Conservation (Scotland) Act

The Nature Conservation (Scotland) Act 2004 replaced the **Sites of Special Scientific Interest (SSSI)** provisions of the Wildlife and Countryside Act 1981 (as amended) in Scotland and provides enhanced protection and management of SSSIs, including amendment to notification procedures.

2009 Marine & Coastal Access Act

The Marine & Coastal Access Act applies to English inshore waters and UK offshore waters, although many provisions for offshore regions have been devolved to the remaining UK administrations. It seeks to improve management and increase protection for the marine environment and is part of the UK response to the **Marine Strategy Framework Directive**. The Act includes provisions for the establishment of the Marine Management Organisation, a marine spatial planning system, streamlined marine licensing, improved fisheries management, increased coastal access, and the creation of a network of **Marine Conservation Zones (MCZs)**. MCZs are designated and protected under provisions in this Act.

2010 Marine (Scotland) Act

The Marine (Scotland) Act was the Scottish response to the **Marine Strategy Framework Directive** and wider commitments to improve the health of Scottish seas. It provides a framework to help balance competing demands on Scotland's seas. It introduces a duty to protect and enhance the marine environment and includes measures to help boost economic investment and growth in areas such as marine renewables. The main measures include marine planning, marine licensing, marine conservation through the creation of **Scottish Marine Protected Areas (SMPAs)**, and enforcement.

2010 Marine Strategy Regulations

The Marine Strategy Regulations transpose the **Marine Strategy Framework Directive** into UK law. The Regulations include provisions to deliver an assessment of the state of UK seas and establish detailed characteristics for Good Environmental Status in UK seas. These initial two requirements have already been complete and form the *UK Marine Strategy: Part One*. A monitoring programme to measure progress toward Good Environmental Status is required by July 2014, and a programme of measures for achieving Good Environmental Status is required by 2016. The English network of MCZs and the devolved administrations' marine protected areas, together with European Marine Sites (any SPA or SAC with a marine component) will contribute towards the UK commitment to achieve healthy seas.

2011 Wildlife and Natural Environment (Scotland) Act

The Wildlife and Natural Environment (Scotland) Act (the WANE Act) amended several existing wildlife laws in Scotland, including the Wildlife and Countryside Act 1981. The Act makes some operational changes to how **Sites of Scientific Interest (SSSIs)** are notified/denotified.

International Conventions

1971 Ramsar Convention

The Convention on Wetlands of International Importance, called the Ramsar Convention, is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The UK ratified the Convention in 1976 and began to designate **Ramsar Sites**. All UK sites are also designated as Sites of Special Scientific Interest (SSSI). They are also afforded the same protection in Government policy as Special Protection Areas (SPAs) and Special Areas of Conservation (SAC).

1979 Bern Convention

The Bern Convention was adopted in 1979 and came into force in 1982. It is a binding international legal instrument in the field of nature conservation, which covers most of the natural heritage of the European continent and extends to some States of Africa. Its aims are to conserve wild flora and fauna and their natural habitats and to promote European co-operation in that field. The Convention places a particular importance on the need to protect endangered natural habitats and endangered vulnerable species, including migratory species.

1990 Rio Earth Summit and the Convention on Biodiversity

In the early 1990s, worldwide awareness of the value of biological diversity began to highlight multiple threats to species and ecosystems. It was apparent that these had never been so great and international communities acknowledged the need to do something about them. Following the pioneering Rio Earth Summit in 1990, more than 130 nations signed a Convention on Biodiversity and signatories of this convention had no choice but to work towards the protection of natural biodiversity. This was achieved through the creation of a number of different policies and regulations which were translated into law in the partner countries.

1992 OSPAR Convention

OSPAR is the mechanism by which fifteen Governments of the western coasts and catchments of Europe, together with the European Community, cooperate to protect the marine environment of the North-East Atlantic. It started in 1972 with the Oslo Convention against dumping. It was broadened to cover land-based sources and the offshore industry by the Paris Convention of 1974. These two conventions were unified, updated and extended by the 1992 OSPAR Convention. The new annex on biodiversity and ecosystems was adopted in 1998 to cover non-polluting human activities that can adversely affect the sea.