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Date: 14 December 2020

Dear Sir / Madam,

Impact of the end of EU Transition on the protection of designated nature conservation sites in Northern Ireland.

As we move towards the end of the EU Transition period I thought it would be prudent to remind you that the obligations of Planning Authorities under the Conservation (Natural Habitats, etc.) Regulations 1995 (Northern Ireland) (as amended) for the protection of designated sites or species will not change once this period ends. In particular the requirement to undertake Habitat Regulations Assessments (HRAs) for assessing the impact of plans, projects or activities on European Sites (Special Areas of Conservation and Special Protection Areas) prior to granting approval remains the same. The level of protection afforded to European Protected Species also remains unchanged.

Indeed the Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 simply amends the existing regulations to make them operable at the end of the transition period. We have developed guidance that describes the changes resulting from the EU Exit Regulations and these can be found at:

<https://www.daera-ni.gov.uk/articles/biodiversity-and-eu-exit>

One element that may impact on your work going forward, such as for policy development, are changes to terminology that arise as a consequence of the EU Exit Regulations. Most terms used in association with the Conservation Regulations remain the same but there are a number of new terms that reflect that our SACs and SPAs will no longer form part of the Natura2000 network but instead will form part of a UK National Site Network of internationally important sites. To assist your teams we have developed the attached Terminology guidance (Annex 1) which outlines changes that may need to be reflected in any new documents that are developed.

I trust this information is useful to you and your teams and I hope you have a smooth transition to any new working arrangements. If you have any queries regarding the operation of the Conservation Regulations at the end of the transition period please get in touch and I will endeavor to answer.

Yours sincerely,

Mark Hammond

Natural Environment Division

Northern Ireland Environment Agency

Sustainability at the heart of a living, working, active landscape valued by everyone.

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Terminology interpretation for The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

**Last updated: December 2020
(Version 1)**

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To ensure the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) were operable after the end of the EU transition period, changes were made by the Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019. In this document we call these the 1995 and the 2019 Regulations. The following table provides advice on how certain terms should be interpreted after the end of the transition period (post 31 December 2020).

Term	Interpretation	Notes
The European Commission, e.g. with respect to functions undertaken before EU exit by the Commission e.g. opinions	References to any role of the European Commission should be read as the appropriate authority.	Amendments to the Habitats Regulations transfer functions previously carried out by the European Commission (for example giving opinions relating to considerations of overriding public interest) to appropriate authorities. The 'appropriate authority' varies depending on where and what the Habitats Regulations apply to, but as a general rule it is DAERA for anything related to Northern Ireland.
Natura sites, Natura 2000 Network or N2k	References to the Natura 2000 network should be read as references to the UK national site network.	The UK national site network means the network of SACs and SPAs in the UK's territory consisting of Natura 2000 sites designated before exit day and any European Sites designated after the end of the transition period.
European sites	None required	This term is being retained and will continue to refer to SAC and SPA sites already designated at the time of exit as well as any new SAC and SPA sites brought forward under the appropriate regulations after the end of the transition period.
Special Area of Conservation or 'SAC'	None required	This term is being retained and will continue to refer to sites already designated at the time of exit and new sites designated under the amended Regulations.

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Term	Interpretation	Notes
Special Protection Area or 'SPA'	None required	This term is being retained and will continue to refer to sites already classified at the time of exit and new sites classified under the amended Regulations.
European protected species or 'EPS'	None required	This term is being retained and will continue to refer to European Protected Species as listed in Annex IV of the Habitats Directive as recognised at the time of exit.
European Site Conservation Objectives	None required	This term is being retained and will retain its current meaning.
European marine site	None required	This term is being retained and will continue to refer to marine SACs and SPAs already designated at the time of exit as well as any new sites brought forward under the amended Regulations.
Site integrity	None required	This term was not defined in the Habitats Regulations or the Habitats Directive but is described in domestic and EU guidance and is central to the assessment provisions of the Habitats Regulations (and consequentially, all Conservation Objectives). The term will continue to be used.
Favourable Conservation Status or 'FCS'	None required	The use of the term favourable conservation status will not change and the term still has the meaning given by Article 1 of the Habitats Directive.
Habitats Regulations Assessment or 'HRA'	None required	This term is being retained and will retain its current meaning.

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Term	Interpretation	Notes
Imperative reasons of overriding public interest or 'IROPI'	None required	The phrase and processes associated with imperative reasons of overriding public interest in relation to plans or projects in SACs or SPAs still apply. Amendments to the Habitats Regulations have transferred functions previously held by the European Commission to DAERA for matters relating to Northern Ireland.
Member State	Depends on context	<p>Depending on the context, the term 'Member State' should generally now be read as though it does not include reference to the United Kingdom and references to 'another Member State' should be read as 'a Member State.'</p> <p>However if the term is used within Directives or guidance that are being referred to it should be read as though the use of the term in these documents includes reference to the United Kingdom.</p> <p>If in doubt about the context in which the term should be used please seek advice on which meaning applies.</p>
Site of Community importance or 'SCI'	References to site of community importance will need to be read as 'site of national importance'	Amendments have been made to the Habitats Regulations so that the appropriate authority (DAERA) will now designate as SACs sites that they consider to contribute significantly to the achievement of favourable conservation status in their natural range of habitats listed in Annex I or species listed in Annex II of the Habitats Directive, and to the maintenance of biological diversity within the Atlantic biogeographic region.

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Term	Interpretation	Notes
Register of European Sites	None required	This is the UK's own obligation laid out in the habitats regulations - no change required.
Natura 2000 logo and other EU logos	Not to be used on live or new documents and forms	Remove logos from documentation as opportunity arises. There is no need to remove logos from historic documents.
References to EU Directives, including general references, or references to specific provisions of Directives	References to provisions of Directives may need to be read differently	References to EU Directives are references to those Directives as at exit day. These references continue to work, however in a number of cases amending legislation set out how the Directives should be read so that the provisions make sense now that the UK is not part of the EU. Users of guidance will need to be mindful of this. For example, in some instances references to 'Member State' or 'Member States' within Directives should be read as though this includes reference to the United Kingdom.
References to legislation implementing the requirements of EU Directives	References will need to be read as the latest version of the legislation, including any amendments made to ensure operability after EU exit	Environmental legislation, including instruments implementing requirements of various EU Directives, has been amended to ensure it continues to operate. References to specific pieces of legislation will need to be read as the latest version of that legislation (i.e. as amended). This will apply to various instruments, including those transposing the Habitats and Wild Birds Directives, the Environmental Impact Assessment Directive and the Marine Strategy Framework Directive.

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Term	Interpretation	Notes
Habitats and Wild Birds Directives	<p>As we have left the EU, we should refer to The Conservation (Natural Habitats, etc.) Regulations 1995 (Northern Ireland) (as amended).</p> <p>Note that in relation to our Exit from the EU these regulations have been amended by the Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019.</p>	<p>The 1995 regulations are one of the pieces of domestic law that transposed the land and marine aspects of the Habitats Directive (Council Directive 92/43/EEC) and certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known as the Nature Directives). To ensure the 1995 Regulations were operable after the end of the EU transition period, changes were made by the 2019 Regulations.</p> <p>Refer to The Conservation (Natural Habitats, etc.) Regulations 1995 (Northern Ireland) (as amended), rather than the Habitats or Wild Birds Directives on the DAERA website, and in forms and documentation as opportunity arises.</p> <p>There is no need to remove references to the Habitats Directive or Wild Birds Directive from historic documents.</p>

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