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Amend the law relating to nature conservation and the protection of wildlife in respect of the marine environment; to provide enforcement powers for marine wildlife conservation to competent marine authorities; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Marine sites of special interest

- (1) Where the appropriate nature conservation body is of the opinion that any marine area is a marine site of special interest by reason of any of its flora, fauna, or geological or physiographic features and—
- (a) the area (or part thereof) lies within a European marine site (or a site capable of being such), and that reason is not a reason for which the marine area is (or may be) a European marine site, the appropriate conservation body may notify that fact; or 5
 - (b) the area lies outside a European marine site, the appropriate conservation body shall notify that fact 10
- to every competent marine authority that has functions in relation to that marine area or adjacent marine areas, and as far as is reasonably practicable, every holder of a property right or statutory right of any kind in relation to any of that marine area.
- (2) The appropriate conservation body shall also arrange for a notification of that fact to be published in the London Gazette and by local advertisement. 15
- (3) A notification under subsection (1) shall specify the time (not being less than one month from the date of the giving of the notification) within which, and the manner in which, representations or objections with respect to it may be made; and the appropriate conservation body shall consider any representation or objection duly made. 20
- (4) A notification under subsection (1) shall also specify—
- (a) the flora, fauna, or geological or physiographic features by reason of which the marine area is an area of marine biodiversity interest; and

- (b) the conservation objectives for that flora, fauna, or geological or physiographic features
and shall contain a statement (a “conservation statement”) of the appropriate nature conservation body's views about the management of the marine area (including any views the appropriate nature conservation body may have about the conservation of that flora, fauna, or geological or physiographic features). 5
- (5) Where a notification under subsection (1) has been given, the Secretary of State (as regards England) and the National Assembly for Wales (as regards Wales) may within the period of six months beginning with the date on which the notification was published direct the appropriate conservation body to— 10
- (a) give notice to the persons mentioned in subsection (1) withdrawing the 15 notification; or
- (b) give notice to those persons confirming the notification (with or without modifications). 15
- (6) A notification under subsection (1) shall cease to have effect—
- (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (1); or
- (b) if not withdrawn or confirmed by notice under subsection (5), within the period of six months referred to there, at the end of that period 20
and the Secretary of State (as regards England) and the National Assembly for Wales (as regards Wales) shall give written notice to the appropriate nature conservation body as to the reasons why the notification under subsection (1) has ceased to have effect. 25
- (7) Where the Secretary of State (as regards England) and the National Assembly for Wales (as regards Wales) give written notice under subsection (6), the appropriate nature conservation body shall give notice to the persons mentioned in subsection (1) of that fact. 25
- (8) As from the time when there is served on any person which has been notified under subsection (1) a notice under subsection (5)(b) confirming the notification with modifications, the notification shall have effect in its modified form in relation to so much (if any) of that marine area as remains subject to it. 30
- (9) The appropriate conservation body may install markers indicating the existence and extent of the marine site of special interest notified under subsection (5)(b), but nothing shall be done under this power without obtaining the necessary consents under section 34 of the Coast Protection Act 1949 (c. 74) (restriction of works detrimental to navigation). 35
- (10) The appropriate conservation body may at any time after notice has been given under subsection (5)(b) confirming a notification (with or without modifications), vary the matters specified or stated in the confirmed notification (whether by adding to them, changing them, or removing matter from them), and as from the time when a notice of variation is confirmed under section 1(5)(b), the notification under subsection 1(1) shall have effect as so varied. 40
- (11) Where the appropriate conservation body is of the opinion that all or part of a marine site of special interest is no longer of interest by reason of any of the matters mentioned in subsection 1(1), they may decide to notify that fact and as from the time a notice of denotification is confirmed under subsection (5)(b), 45

the notification under subsection 1(1) in relation to that part of the marine area referred to in the notice of denotification, shall cease to have effect.

- (12) Subsections (1) to (9) shall apply to a notification given under subsection (10) or (11) in relation to that part of the marine site of special interest referred to in the notice.

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2 Duty to compile and maintain a register of marine sites of special interest

The appropriate nature conservation body shall compile and maintain, in such form as it thinks fit, a register of marine sites of special interest notified under section 1 (5)(b) and shall keep a copy of the register available for public inspection at all reasonable hours and free of charge.

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3 Competent marine authorities: duties

- (1) It shall be the duty of a competent marine authority in exercising its functions to take reasonable steps, consistent with the proper exercise of those functions, to further the conservation of the flora, fauna, or geological or physiographic features by reason of which a marine area is a marine site of special interest.

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- (2) A competent marine authority shall—

- (a) before deciding to undertake, or give any consent, permission or other authorisation, in the exercise of its functions, an operation likely to damage the conservation of the flora, fauna, or geological or physiographic features by reason of which a marine area is a marine site of special interest—

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- (i) consult the appropriate nature conservation body; and
(ii) take account of any written advice it received from the appropriate conservation body in response to a consultation under subsection (2)(a)(i)

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- (b) take reasonable steps to exercise its functions in accordance with a management scheme (where one exists) relating to a marine site of special interest.

- (3) Subsection (2)(a) does not apply to any undertaking, any consent, permission or other authorisation which is in accordance with a management scheme established under section 4.

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- (4) Any report made by the appropriate nature conservation body under paragraph 20(1)(b) of Schedule 6 of the Environmental Protection Act 1990 (c. 43) (duty to make to the Secretary of State a report on the exercise and performance of their functions) shall include their functions and duties in relation to marine sites of special interest.

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4 Management schemes

- (1) The relevant marine authorities, or any of them may, in consultation with the appropriate nature conservation body, establish for a marine site of special interest, a management scheme under which their functions (including any power to make byelaws) shall be exercised so as to secure the conservation objectives in relation to that site.

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- (2) Only one management scheme may be made for each marine site of special interest.

- (3) A management scheme for a marine site of special interest may not include any part of an area where a management scheme for a European marine site has been (or is being) established.
- (4) A management scheme relating to a marine site of special interest shall be reviewed from time to time and if necessary amended. 5
- (5) As soon as a management scheme has been established, or is amended, a copy of it shall be sent by the relevant marine authority or authorities concerned to the appropriate nature conservation body.

5 Directions in relation to management schemes

- (1) The Secretary of State (as regards England) and the National Assembly for Wales (as regards Wales) may give directions to the relevant marine authorities, or any of them, as to the establishment of a management scheme for a marine site of special interest. 10
- (2) Directions may, in particular – 15
- (a) require conservation measures specified in the direction to be included in the scheme;
 - (b) appoint one of the relevant marine authorities to co-ordinate the establishment of the scheme;
 - (c) set time limits within which any steps are to be taken.
- (3) The Secretary of State (with respect to England) and the National Assembly for Wales (with respect to Wales) may give directions to the relevant marine authorities, or any of them, as to the amendment of a management scheme for a marine site of special interest, either generally or in any particular respect. 20
- (4) Any directions under this section shall be in writing and may be varied or revoked by a further direction. 25

6 Byelaws for protection of marine sites of special interest

- (1) The appropriate nature conservation body may make byelaws for the protection of a marine site of special interest under section 37 of the Wildlife and Countryside Act 1981 (c. 69) (byelaws for protection of marine nature reserves). 30
- (2) The provisions of subsections (2) to (11) of that section apply in relation to byelaws made by virtue of this section with the substitution for the references to marine nature reserves of references to marine sites of special interest.
- (3) Nothing in byelaws made by virtue of this section shall interfere with the exercise of any functions of a competent marine authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested). 35

7 Interpretation

- (1) In this Act – 40
- “European marine site” means those sites described in Regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994 which consists of, or so far as it consists of, marine areas;
 - “marine areas” means –

- (a) any land covered (continuously or intermittently) by tidal waters, or
 - (b) any part of the sea
- in or adjacent to England and Wales and which extends from the mean low water mark of ordinary tides up to the seaward limit of territorial waters; 5
- “competent marine authorities” means such of the following as have functions in relation to marine areas –
- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975 (c. 26)) or a Government department, 10
 - (b) the National Assembly for Wales,
 - (c) a local authority,
 - (d) a person holding an office –
 - (i) under the Crown,
 - (ii) created or continued in existence by a public general Act of Parliament, or 15
 - (iii) the remuneration in respect of which is paid out of money provided by Parliament,
 - (e) a statutory undertaker (meaning the person referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990 (c. 8)), and 20
 - (f) any other public body of any description;
- “relevant marine authorities” means those competent marine authorities that are not –
- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or a Government department, 25
 - (b) the National Assembly for Wales;
- “appropriate nature conservation body” means English Nature (as regards England) and the Countryside Council for Wales (as regards Wales). 30

8 Expenses

There shall be paid out of money provided by Parliament –

- (a) any expenses of the Secretary of State under this Act; and
- (b) any increase attributable to this Act of the sums payable under any other Act.

9 Short title, extent and commencement 35

- (1) This Act may be cited as the Marine and Wildlife Conservation Act 2004.
- (2) This Act extends to England and Wales only.
- (3) This Act comes into force on such day as the Secretary of State (as regards England) or the National Assembly for Wales (as regards Wales) may by order made by statutory instrument appoint. 40

Marine Wildlife Conservation Bill

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To amend the law relating to nature conservation and the protection of wildlife in respect of the marine environment; to provide enforcement powers for marine wildlife conservation to competent marine authorities; and for connected purposes.

*Ordered to be brought in by Mr John Randall,
Mr Michael Meacher, Mrs Helen Clark,
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Mr Peter Atkinson, Mr Peter Luff, Tim Loughton,
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