

Register of Day 1 Terminology Changes v1.0 19/03/19

EU exit, Protection of Habitats and species: This paper has been developed by Defra and its arms lengths bodies (ALBs); Natural England, Marine Management Organisation, Environment Agency, Joint Nature Conservation Committee and Forestry Commission to help provide consistency when considering whether any amendments are required to guidance and operational documents in response to operability changes proposed to the Conservation of Habitats and Species Regulations 2017 and The Conservation of Offshore Marine Habitats and Species Regulations 2017 which transpose the Habitats and Wild Birds Directives. <http://www.legislation.gov.uk/ukdsi/2019/9780111176573/contents>

It is provided to competent authorities to help understanding when deciding whether changes to specific terms may be required to documentation. Any changes will depend on the context and your discretion should be used. The paper supports the continued implementation of the existing legislation. As the legislation continues to link to the Directives post EU exit, this 'terminology' paper does not propose any substantial changes to the documentation and most changes made to the document by ALBs will be to improve clarity.

	Key Term or Reference	Action type	Action detail	Operability significance	Guidance notes
1	European protected species' or 'EPS'	retain	none required	insignificant	This term is being retained and will continue to refer to European Protected Species as recognised at the time of EU exit.
2	All reference updates from Habitats and Species Regs Consolidation 2017 (including Offshore Regulations)	amend	replace existing references with the appropriate regulation number if changed (e.g. regulation 61 became regulation 63 as a result of the consolidation in 2017)	necessary	This change is not an EU Exit change. It is classed as necessary to pick up the changes arising from the consolidation of the Habitat Regulations and Offshore Marine Regulations in November 2017. This involved changing the numbering of a large number of clauses and therefore it is helpful for clarity that they are up to date.
3	References in live documents to specific regulations e.g. Regulation 53(2) (e) (This is a specific example of item 2 above)	amend	replace with the appropriate regulation number if changed	necessary	This is a specific example of item 2, above.
4	Special Protection Area' or 'SPA'	retain	none required	insignificant	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 appropriate regulations after EU exit.
5	Special Area of Conservation (SAC)	retain	none required	insignificant	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 appropriate regulations after EU exit.
6	European sites	retain	none required	insignificant	This term is being retained and will continue to refer to sites already designated at the time of exit as well as new sites brought forward under the appropriate regulations after EU exit.
7	European Marine Site/ European Offshore Marine Site	retain	none required	insignificant	This term is being retained and will continue to refer to marine sites already designated at the time of exit as well as new sites brought forward under the appropriate regulations after EU exit.
8	Article 6 (1), (2) of the Habitats Directive	amend	optional change - references to Articles 6 (1) and 6 (2) may be accompanied by reference to Regulation 9 of the Conservation of Habitats & Species Regulations see guidance notes	desirable	Reference to the Articles of the Directives are still extant on EU exit. There is no legal requirement to change these references. However, depending on the context of the term's use in documentation for purposes of operational clarity, references to Articles 6 (1) and 6 (2) may be accompanied by reference to Regulation 9 of the Conservation of Habitats & Species Regulations.
9	Article 6 (3) of the Habitats Directive	amend	optional change - replace Article 6 (3) with relevant transposing regulation i.e. 24, 63,105 of the 2017 Regulations	desirable	Article 6 (3) provides for the Habitat Regulations Assessment procedure which is already transposed into various provisions of the 2017 Regulations. Reference to the Articles of the Directives are still extant on EU exit. There is no legal requirement to change these references. However, depending on the context of the term's use in documentation for purposes of operational clarity it may be desirable to include or replace the relevant regulation from the 2017 Regs e.g. regulation 24, 63, 105.
10	Article 6 (4) of the Habitats Directive	amend	optional change - replace Article 6 (4) with relevant transposing regulation i.e. 68 or 109 of the 2017 Regulations as appropriate.	desirable	Article 6(4) provides the obligation to secure compensatory measures for plans/projects authorised under IROPI and is already transposed by section 68 of the 2017 Regulations. Reference to the Articles of the Directives are still extant on EU exit. There is no legal requirement to change these references. However, depending on the context of the term's use in documentation for purposes of operational clarity it may be desirable to include or replace the relevant transposing regulation from the 2017 Regs e.g. regulation 68 or 109.
11	The Habitats Directive or Wild Birds Directive	amend	optional change - include or replace with reference to the Conservation of Habitats & Species Regulations 2017 (as amended).	desirable	General reference to the Directives are still extant on EU exit, (these will be the version of the Directives at the point of EU Exit). There is no legal requirement to change these references. However, depending on the context of the term's use in documentation for purposes of operational clarity it may be desirable to include or replace with reference to the Conservation of Habitats & Species Regulations 2017 (as amended).
12	Articles 4(1) and 4(2) of the Wild Birds Directive	amend	optional change - references to Articles 4 (1) and 4 (2) may be accompanied by Regulation 9 of the Conservation of Habitats & Species Regulations,.	desirable	Reference to the Articles of the Directives are still extant on EU exit. There is no legal requirement to change these references. However, depending on the context of the term's use in documentation for purposes of operational clarity, references to Articles 4 (1) and 4 (2) may be accompanied by Regulation 9 of the Conservation of Habitats & Species Regulations.
13	Habitats Regulations Assessments' or 'HRA'	retain	none required	insignificant	This term is being retained. There is no impact by EU Exit.
14	European Site Conservation Objectives	retain	none required	insignificant	This term is being retained and will retain its current meaning as UK leaves the EU.
15	References to 'favourable conservation status' and 'aims of the Birds Directive' in individual SAC and SPA Conservation Objectives	retain	none required	insignificant	The current advice on SAC and SPA Conservation Objectives published by the SNCBs may contain references to the overarching aims of the Directives. A change to these is unnecessary for operability purposes and because the proposed regulation 16A in the new SI refers to both terms as part of the national site network management objectives. In the future it may be beneficial to review each site's conservation objectives to add further context regarding the new management objectives of the national site network.
16	Natura 2000 logo and other EU logos	amend	remove logo from documentation as opportunity arises	desirable	Agreed a pragmatic approach where we remove logos when making other changes to live documents and guidance. There is no need to remove logos from historic documents.

17	Natura 2000 Network	amend	optional change When editing existing documents / guidance the term Natura 2000 could be retained. It could also be added or replaced with the national site network. In new guidance the term national site network should be used.	desirable	In the SI any reference to the Natura 2000 network is understood to mean as a reference to the national site network. The national sites network means the network of sites in the UK's territory consisting of such sites which formed part of Natura 2000 before exit day or any European Sites, European Marine Sites and European Offshore Marine Sites designated on or after EU Exit. Depending on the document context the term Natura 2000, (describing the network of sites), could be retained as it still a legally valid term. Equally it could be added or replaced with the national site network. In new guidance the term national site network should be used.
18	Use of "Natura 2000 sites" in document text e.g. Conservation Objectives supplementary advice and on web pages when referring to SPAs and SACs.	amend	optional change, change to European site or European Marine Site, see guidance notes.	desirable	The term Natura 2000 is referenced in the SI and therefore remains a correct term to use. However, as the national site network is defined as that consisting of European sites and European marine sites, depending on the context of the change to documentation the terms European site and or European marine site may also be used.
19	EU Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC (final version February 2007)".	retain	no action required	insignificant	EU guidance was always just the view of the Commission on the directive. In so far as the UK provisions continue to mirror the directive this guidance will continue to have relevance.
20	EU guidance document Managing Natura 2000 sites - article 6 of the habitats directive	retain	no action required	insignificant	EU guidance was always just the view of the Commission on the directive. In so far as the UK provisions continue to mirror the directive this guidance will continue to have relevance.
21	References to EU site codes for Natura 2000 sites and for Natura 2000 features e.g. UK0012586, H9190 Old acidophilous oak woods, A021 Botaurus stellaris	retain	none required	insignificant	There are no immediate plans to overhaul this reference system adopted to aid reporting on N2K to the EC. Any future changes will need to be discussed at UK level.
22	Favourable Conservation Status' as defined by article 1 of the habitats directive	amend	optional change, references to Article 1 may be accompanied by Regulation 3 of the Conservation of Habitats & Species Regulations 2017 (as amended).	desirable	The use of the term FCS will not change. Reference to Article 1 is extant. There is no legal requirement to change these references. However, depending on the context of the term's use in documentation for purposes of operational clarity, references to Article 1 may be accompanied by Regulation 3 of the Conservation of Habitats & Species Regulations 2017 (as amended).
23	Register of European Sites	retain	none required	insignificant	This is the UK's own obligation laid out in the habitats regulations - no change required
24	Site integrity	retain	none required	insignificant	This term is not currently defined in the Regulations or the Directive but is described in domestic and EU guidance and is central to the assessment provisions of the Regulations (and consequentially, all Conservation Objectives). The term will continue to be used, and no operability change is forecast. Currently, the term is only defined in ODPM Circular 06/2005 which is now dated but still extant as a complement to the NPPF.
25	Natura 2000 Standard Data Form	retain	none required	insignificant	Post EU Exit, the UK's Natura 2000 sites will no longer form part of the EU's Natura 2000 network. It's therefore likely that there will be no future obligation to update these forms, or to pass information about new sites to the European Commission. The information contained in the forms may be retained for future reference, and potentially be of use to meet other international commitments on protected areas. Depending on the context of the term's use in documentation, retain this term.
26	The European Commission e.g. with respect to functions undertaken before EU exit by the Commission e.g. opinions	amend	Change European Commission to Secretary of State	necessary	The Habitats Regulations Operability SI transfers functions previously carried out by the European Commission e.g. opinions, to the relevant Secretary of State. References in documentation may need to be updated accordingly to reflect the SI.
27	Secretary of State	amend	Change Secretary of State in Offshore Regulations to "the relevant administration."	necessary	Depending on the context of the term's use in documentation, some references to the Secretary of State in the Offshore Regulations 2017 should now be "the relevant administration."
28	Member State'	amend	update references, see guidance notes	necessary	Depending on the context of the term's use in documentation, some references to Member State should now be references to the "appropriate authority" . With regard to Habitats Regulations Operability SI replaces reference to Member State with 'appropriate authority, competent authority or statutory nature conservation body' - depending on the obligation.
29	'another Member State'	amend	change to "a member state."	necessary	Depending on the context of the term's use in documentation, some references to 'another Member State' should be replaced with 'a member state.'
30	Conservation of Habitats & Species Regulations 2017 or the Habitats Regulations 2017	amend	Optional change. Update references to the Conservation of Habitats and Species Regulations 2017 (as amended)	desirable	The SI - Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 - will make amendments to the existing Conservation of Habitats and Species Regulations 2017. Reference to Habitat Regulations 2017 continues to be valid. Adding " as amended" provides clarity that the EU Exit operability changes have been made. Depending on the context of the term's use in documentation, references may be updated.
31	The Conservation of Offshore Marine Habitats and Species Regulations 2017 or Offshore Habitats Regulations 2017	amend	Optional change. Update references to the Conservation of Offshore Habitats and Species Regulations 2017 (as amended) or the Offshore Marine Habitats Regulations 2017 (as amended)	desirable	The SI - Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 - will just make amendments to the existing Conservation of Offshore Habitats and Species Regulations 2017. Adding " as amended" provides clarity that the EU Exit operability changes have been made. Depending on the context of the term's use in documentation, references may be updated. Depending on the context of the term's use in documentation, references should be updated.

Definitions

Operability significance

critical
necessary
desirable
insignificant

for compliance purposes/ to avoid legal challenge/major reputational risk
for technical and procedural correctness /minor reputational risk
for administrative and branding purposes
unnecessary