



The Conservation of Habitats and Species (Offshore Wind) (Amendment etc.) Regulations 2026

Questions from Wildlife and Countryside Link

- Wildlife and Countryside Link has significant concerns with these proposed amendments to the compensation process for adverse effects of offshore wind development on marine nature.
- As currently worded, the proposed regulations remain vague, with much detail left to guidance. There is a risk that the amendments would reduce levels of environmental protections, allowing protected marine habitats and features to be damaged without proper compensation. As currently written, the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation.
- The proposed regulations apply in cases where offshore wind developments would negatively impact species and habitats that are protected as part of marine protected areas (MPAs) designated under The Conservation of Habitats and Species Regulations 2017 or The Conservation of Offshore Marine Habitats and Species Regulations 2017 (collectively, the habitats regulations). The proposed regulations would remove the requirement, in such cases, for developers to deliver environmental compensation measures that maintains the overall coherence of the MPA network. This "overall coherence test" is a well-defined legal test for compensation measures embedded within the UK's international obligations, including under the Bern Convention, the OSPAR convention, and the Global Biodiversity Framework.
- The proposed regulations would replace this overall coherence test with the requirement under Clauses 7 (4) and 16 (4). These clauses specify that compensatory measures "must benefit the UK MPA network in a manner which is reasonably proportionate to the adverse effects". No meaning is given to the term "reasonably proportionate" in the proposed regulations, the explanatory memorandum, the [policy note](#) published with the proposed regulations, or the relevant [consultation response](#).
- Wildlife and Countryside Link is concerned that by replacing the widely understood and legally tested concept of "overall coherence", with the currently vague concept of "reasonably proportionate" compensatory measures for offshore wind development could fail to maintain or improve the status of the MPA network. This would constitute a weakening of environmental protections. This would threaten the achievement of the legal target in the Environment Act 2021 to ensure that at least 70% of protected features in MPAs are in favourable condition by the end of 2042, with the remainder in recovering condition. It would also threaten to contravene requirements under Article 391 of the Trade and Cooperation Agreement that "A Party shall not weaken or reduce, in a manner affecting trade or investment between the Parties, its environmental levels of protection". We would therefore be grateful if the committee could ask the department:

- **With respect to Clauses 7 (4) and 16 (4) what the specific meaning of “reasonably proportionate” is and how this definition will maintain existing levels of environmental protection.**
- Another area where the explanatory material is unclear is with respect to the proposed “compensation hierarchy”. This would create categories of compensatory measures and a priority order in which those categories would be used for providing environmental compensation. The hierarchy would prioritise measures which benefit the features (i.e. particular habitats or species) of the MPA network which are adversely affected by the relevant offshore wind development. For example, in cases where seabirds are impacted the hierarchy prioritises compensation measures that benefit seabirds. But the hierarchy would also allow compensation to benefit other features. For example, adverse effects on seabirds could be compensated for by compensation measures improving water quality.
- How this hierarchy would operate is left unclear in the proposed regulations, the explanatory memorandum, the policy note published with the proposed regulations, and the relevant consultation response. In particular, Clauses 7 (13) (c) and 16 (11) (c) allow deviation from the priority given to compensation that benefits the affected feature under unspecified “circumstances”. This is concerning for the protection of individual habitats and species protected under the MPA regs as it would allow developers freedom to ignore effects on seabirds, for example, if compensation is applied to water quality. Efforts to improve water quality as a compensatory measure would have little or no impact on seabirds, meaning declines in seabird populations could result from offshore wind development, even after compensation is in place. It also undermines the mitigation hierarchy, a key principle of planning policy. We would therefore be grateful if the committee could ask the department:
 - **With respect to Clauses 7 (13) (c) and 16 (11) (c), under what precise circumstances would deviation from the compensation hierarchy be allowed?**
- In addition, the compensation hierarchy allows compensation to be delivered through “wider compensatory measures”. This encompasses measures that “benefit the UK MPA network otherwise than by benefitting the features of the European site, European offshore marine site or Ramsar site which are, or which may be, adversely affected by the relevant offshore wind plan or project” (Clauses 7 (13) and 16 (11)). The scope of these wider compensatory measures is left extremely broad in the explanatory material, with the only condition being they must benefit the wider MPA network. As noted above, this could lead to deterioration in specific species populations and habitat types, undermining environmental protections. The government has not yet provided a clear definition of how this process would work. They have only given an example, as noted above, that a wider compensatory measure could involve compensating for impacts on seabirds through efforts to improve water quality. More clarity is needed on the scope of wider compensatory measures to ensure environmental protections under the habitats regulations are not reduced. We would therefore be grateful if the committee could ask the department:
 - **With respect to Clauses 7 (13) and 16 (11), how will the scope of wider compensatory measures be defined?**