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Convenor of the Net Zero, Energy and Transport
Committee
Scottish Parliament
Edinburgh
EH99 1SP
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Dear Edward,

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

I am writing to advise you of an SI which the UK Government propose to make which will cover the Scottish offshore region.

The protocol on obtaining approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit (“Protocol 2”) does not apply in this instance. However, I wanted to make the Parliament aware of this SI as it seeks to implement reforms to the Scottish offshore region which correspond to reforms set out in an SSI which applies to the Scottish inshore region and is currently laid in draft in the Scottish Parliament (The Conservation of Habitats and Species (Offshore Wind) (Miscellaneous Amendments) (Scotland) Regulations 2026).

The UK Government has consulted Scottish Ministers on the draft UK SI, under Section 294(1) of the Energy Act 2023 and my response to the consultation is attached.

Please further note that the Scottish Parliament has already considered the powers the SI is made under during its consideration of the LCM associated with the UK Energy Bill (now Act 2023). Parliament granted consent for the relevant provisions in the Bill on 4 October 2023. This SI uses these powers to make changes to the habitats regulations in relation to offshore wind activity.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

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Yours sincerely,

GILLIAN MARTIN

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Emma Hardy MP
Parliamentary Under Secretary of State
Department for Environment
Food and Rural Affairs

Dear Emma,

Thank you for your letter of 29 January which gave notice of the intention to make regulations under Section 293 of the Energy Act 2023. I note that these regulations are likely to be titled “The Conservation of Habitats and Species (Offshore Wind) (Amendment etc) Regulations 2026” (hereafter “the SI”) and will apply to offshore wind activities in the Scottish offshore region. My officials have reviewed the SI and I have no substantive concerns to raise. I am aware of some ongoing conversations between our officials on differences between the SI and our associated Scottish Statutory Instrument (hereafter “the SSI”).

As you will be aware, Scottish Government has recently laid its corresponding SSI for Scottish Parliamentary scrutiny that would apply to the Scottish inshore region, which you were consulted on late in 2025.

If approved by Parliament, the SSI will come into force on 25 May 2026. To ensure close alignment of the legislation between the Scottish inshore and offshore regions and provide certainty for industry, I would welcome it if UK Government sought to match our coming into force date of 25 May 2026.

I would like to echo the sentiment in your letter on the constructive engagement between UK and Scottish officials in progressing this legislation. This continued collaboration between our administrations will be important in the implementation of this legislation, particularly on the development of the associated statutory guidance.

I look forward to continuing to work closely with you on these reforms to enable delivery of offshore wind and meet our net zero and clean power targets.

Yours sincerely,

GILLIAN MARTIN

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