

1. Introduction

1.1. Joint Nature Conservation Committee and country conservation agencies

The Joint Nature Conservation Committee (JNCC) is the forum through which the three country nature conservation agencies – the Countryside Council for Wales (CCW), English Nature (EN) and Scottish Natural Heritage (SNH) – deliver their statutory responsibilities for Great Britain as a whole and internationally. These responsibilities, known as the special functions, contribute to sustaining and enriching biological diversity, enhancing geological features and sustaining natural systems.

These special functions are principally:

- To advise ministers on the development of policies for, or affecting, nature conservation in Great Britain and internationally.
- To provide advice and knowledge to anyone on nature conservation issues affecting Great Britain and internationally.
- To establish common standards throughout Great Britain for the monitoring of nature conservation and for research into nature conservation and the analysis of results.
- To commission or support research which the Committee deems relevant to the special functions.

1.2. EC Habitats and Birds Directives

In 1979 the European Community adopted *Council Directive 79/409/EC on the conservation of wild birds* (EEC 1979), known as the Birds Directive. The Birds Directive provides for protection, management and control of naturally occurring wild birds with the European Union through a range of mechanisms. One of the key provisions is the establishment of an internationally co-ordinated network of protected areas. Member States are required to identify and classify in particular the most suitable territories in size and number for rare or vulnerable species listed in Annex I to the Directive (Article 4.1) and for regularly occurring migratory species under Article 4.2. These sites are known as special protection areas, referred to as SPAs in the UK.

In 1992 the Community adopted *Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora* (EEC 1994), known as the Habitats Directive. The Habitats Directive includes a requirement to establish a European network of important high quality conservation sites that will make a significant contribution to conserving the habitat types and species identified in Annexes I and II of the Directive. The listed habitat types and species are those considered to be most in need of conservation at a European level. Each Member State is required to prepare and propose to the EC a national list of sites, which will be evaluated in order to form a European network of Sites of Community Importance (SCIs). These will eventually be designated by Member States as Special Areas for Conservation (SACs). SACs and SPAs will together be known as the Natura 2000 Network.

Obligations of the Birds Directive were initially transposed into UK law by the Wildlife and Countryside Act 1981. The Habitats Directive and certain aspects of the Birds Directive were further transposed into UK law by two Regulations; one for England, Scotland and Wales *The Conservation (Natural Habitats, &c.) Regulations 1994* (HMSO 1994), and another for Northern Ireland *The Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995* (HMSO 1995). These Regulations currently apply only within UK territorial waters, which extend from the baseline out to 12 nautical miles. The baseline consists of the low water mark and various defined lines across bays and inlets and around some of the Scottish Islands.

Selection of SACs for habitats and species in terrestrial and inshore areas of the UK is described in JNCC Report 270 (Brown *et al.* 1997), which is currently being updated (McLeod *et al.* in press). Selection of marine SACs under the Habitats Directive in the UK thus far has, however, been exclusively in inshore waters within UK territorial seas. Advice on the selection of sites within 12 nm of the coast is provided by each of the country conservation agencies CCW, SNH and EN, together with the Environment and Heritage Service for Northern Ireland, for each country in the UK, and is co-ordinated and reported to UK government through the JNCC.

In November 1999 the UK High Court judged that the Habitats Directive applied in UK waters beyond the 12 nautical mile (nm) limit of territorial waters (CO/1336/99). The judgement declared that “the Habitats Directive applies to the UK Continental Shelf and to the superadjacent [sic] waters up to a limit of 200 nautical miles from the baseline from which the territorial sea is measured”.

As a result of the UK court judgement in 1999, the UK Government has indicated it would amend the existing Regulations and introduce new Regulations to transpose both the Birds and Habitats Directives into UK law in offshore waters. The UK offshore area is described in Section 1.4. One new set of Regulations *The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001* (HMSO 2001) applying to UK offshore waters has already been laid before parliament, to apply the site selection provisions of the Directives and to provide coverage beyond oil and gas activities. Further Regulations are in preparation.

In contrast to the position from mean low water mark to 12 nm, control of activities from 12 to 200 nm is not a devolved matter and relates to Great Britain as a whole. Therefore the responsibility for advising UK Government on selection of sites under the Habitats and Birds Directives within this offshore area rests with the JNCC.

1.3. Offshore Natura 2000 project

The UK Government is currently taking steps to implement the Habitats Directive in offshore waters in response to the 1999 High Court judgement and has also agreed to take parallel steps to apply the requirements of the Birds Directive. As part of this implementation the JNCC have been asked by UK government to provide advice necessary to identify areas that may qualify as possible offshore SACs and SPAs – the ‘Offshore Natura 2000 Project’. This project is conducted by JNCC under a steering group consisting of representatives from sponsoring government departments (Department for Environment, Food and Rural Affairs (DEFRA) and Department of Trade and Industry (DTI)) other government departments and devolved administrations. To ensure that this work carried out for offshore areas integrates with that already done for inshore waters, representatives of each of the country conservation agencies are also on the Steering

Group, and are closely involved in the technical aspects of the project. The project is broken down into several steps:

1. Identify and agree relevant habitats and species under the Habitats and Birds Directives in the UK offshore area;
2. consider habitat definitions for Annex I habitats found in the UK offshore area;
3. consider site selection criteria for Annex I habitats and Annex II species under the Habitats Directive in relation to selection of sites in the offshore area;
4. consider site selection for Birds Directive Annex I and migratory species in relation to selection of sites in the offshore area¹;
5. collate existing data on relevant habitats and species in the UK offshore area;
6. indicate at a generic level the type of conservation objectives that would apply to any Annex I or II features or relevant bird species.

The JNCC 'Offshore Natura 2000 Project' also involved consultation on the scientific aspects of implementation of the Directives with scientists from other Member States. In September 2001 a document based on Sections 1, 2.1, 2.2 and 3.1 of this report was circulated for comment to scientists and scientific policy advisors from all Member States. These sections deal with identification of habitats to be considered for selection of offshore SACs, and selection criteria and principles for these habitats and for Annex II species under the Habitats Directive. Consultation with scientific colleagues on aspects of the report dealing with options for methods of site selection for wide ranging mobile species (Annex II species under the Habitats Directive and birds under the Birds Directive) will proceed via a European Seminar to be organised by DEFRA during 2002.

1.4. UK offshore area

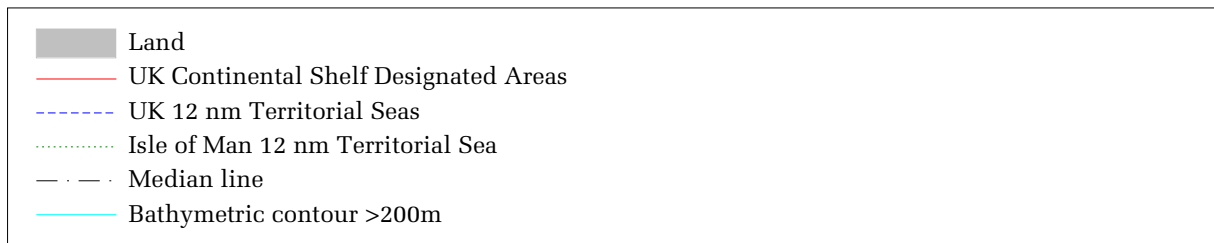
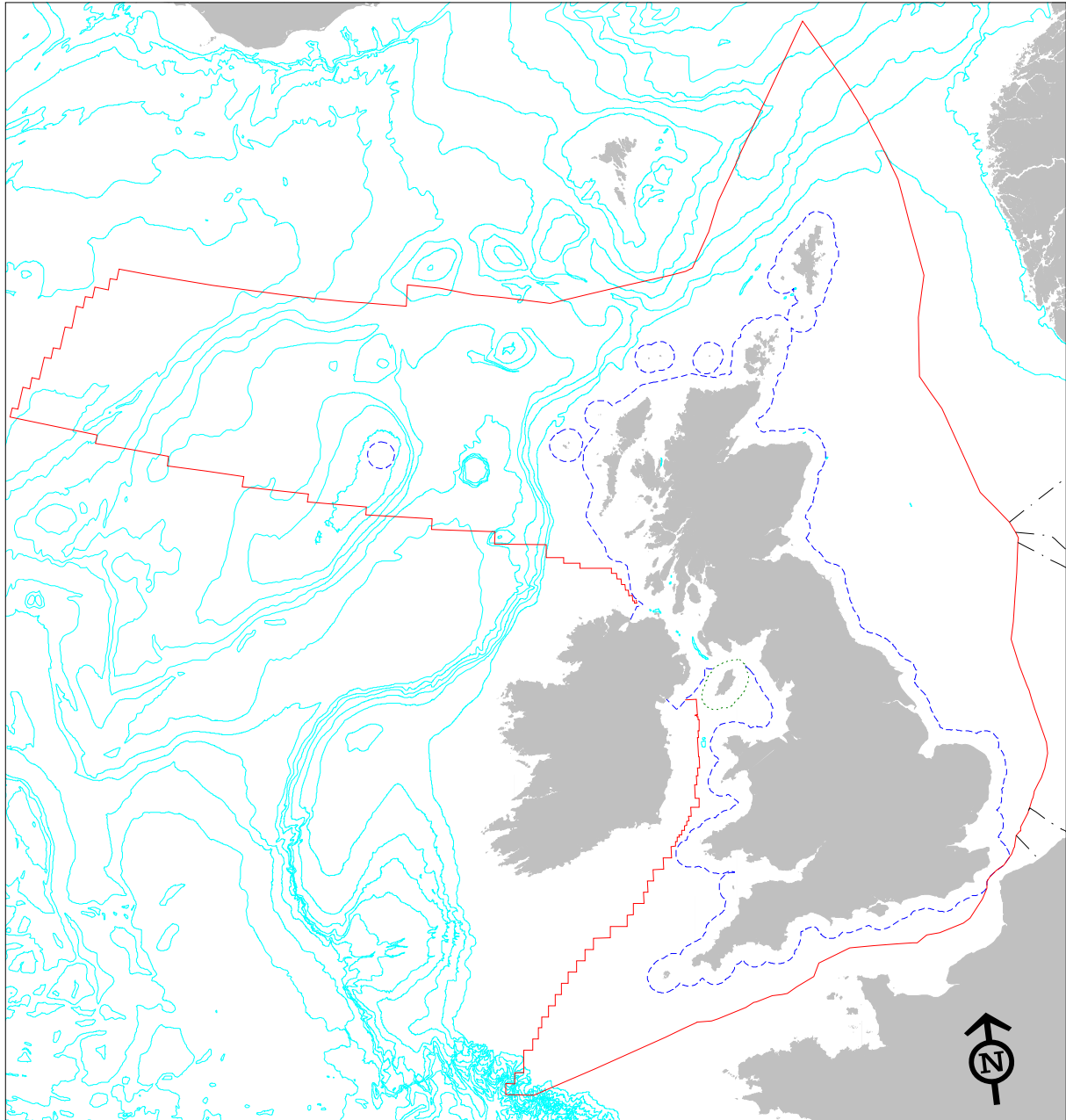
Figure 1.1 shows the maximum extent of the UK offshore area, based on the currently agreed UK Continental Shelf designations. The UK Continental Shelf (UKCS) comprises those areas of the seabed and subsoil beyond the territorial sea over which the UK exercises sovereign rights of exploration and exploitation of natural resources. The exact limits of the UKCS are set out in orders made under section 1(7) of the Continental Shelf Act 1964 (DTI 2000). Some of the boundaries between Iceland, Ireland, France and the UK are yet to be agreed. It is this area within which data have been collated with a view to identifying possible SACs and SPAs under JNCC's Offshore Natura 2000 Project, as the 1999 UK High Court judgement was brought in reference to oil and gas developments on the seabed. There are also British Fishery limits (not shown on Figure 1.1) established under the Fishery Limits Act 1976 (as amended by the Fishery Limits Orders 1997 and 1999) which include the seas around Rockall, but extend only approximately 37 miles west of Rockall (calculated as 200 nm from St Kilda). This area is sometimes referred to as the UK offshore area, but is not used as such within this report as it relates to fisheries activities above the sea bed. The UK territorial sea (12 nm) is measured from the baseline

¹ Where appropriate (for birds and Annex II species) the contract has considered all UK marine waters, not only within the UK offshore area.

and is shown on Figure 1.1. The area from 12 nm out to the Continental Shelf limit is referred to in this document as the UK offshore area, or UK offshore waters.

Figure 1.1 The UK offshore area

Scale 1:11000000



World Vector Shoreline © US Defense Mapping Agency.
Bathymetry © GEBCO Digital Atlas, British Oceanographic Data Centre on behalf of IOC and IHO 1994 & 1997.
The exact limits of the UK Continental Shelf are set out in orders made under section 1(7) of the Continental Shelf Act 1964 (© Crown Copyright).