



Marine vertebrate conservation legislation in Wales

A summary of the legislation associated with the conservation of certain species in marine and estuarine waters around Wales.

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What is this document about?

This guidance note is a digest of conservation legislation, as it applies in Wales, for the following species:

- Cetaceans (whales, dolphins and porpoises)
- Seals
- European otter (coastal areas only)
- Marine turtles
- Common sturgeon
- Basking, porbeagle and angel sharks

It includes information on special sites in Wales which are designated for their protection where applicable. It provides lists which can be cross-referenced, and summarises the legislation. The guidance does not cover marine birds or bats, or other fish.

Who is this document for?

This document is directed primarily at anyone applying to carry out developments or activities in Welsh waters, and Natural Resources Wales (NRW) staff dealing with those applications.

Contact for queries and feedback

Subtidal Ecosystems and Marine Vertebrates Team

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To report issues or problems with this guidance contact the Guidance Development Group guidance.development@cyfoethnaturiolcymru.gov.uk

Crynodeb

Deddfwriaeth cadwraeth fertebrata morol yng Nghymru

Crynodeb o'r ddeddfwriaeth gysylltiedig â chadwraeth rhywogaethau penodol mewn dyfroedd morol ac aberol o amgylch Cymru.

Am beth mae'r ddogfen hon yn sôn?

Mae'r nodyn cyfarwyddyd hwn yn grynhoad o ddeddfwriaeth cadwraeth, fel y mae'n berthnasol yng Nghymru, ar gyfer y rhywogaethau canlynol:

- Teulu'r morfil (morfilod, dolffiniaid a llamidyddion)
- Morloi
- Dyfrgi (ardaloedd arfordirol yn unig)
- Crwbanod môr
- Styrsiwn
- Heulgwn, corgwn môr a maelgwn

Mae'n cynnwys gwybodaeth am safleoedd arbennig yng Nghymru sydd wedi'u dynodi ar gyfer eu gwarchod os yw'n berthnasol. Mae'n darparu rhestrau y gellir eu croesgyfeirio, ac yn crynhoi'r ddeddfwriaeth. Nid yw'r cyfarwyddyd yn cynnwys adar morol na physgod eraill.

Ar gyfer pwy mae'r ddogfen hon?

Mae'r ddogfen hon wedi ei hanelu'n bennaf at unrhyw un sy'n gwneud cais i wneud datblygiadau neu i gynnal gweithgareddau yn nyfroedd Cymru, a staff Cyfoeth Naturiol Cymru (CNC) sy'n delio â'r ceisiadau hynny.

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1. Introduction

This guidance contains information on certain marine vertebrate species which have legal protection in order for them to thrive. The species are listed in at least one international, European or UK agreement or law.

The guidance only covers species which have already been recorded in Welsh waters or which might conceivably be encountered here. It is intended to save time and effort by gathering into one place all the information that is relevant to Wales. See [Table 1](#) *Species covered by this guidance*.

1.1 Definition of ‘Welsh waters’ in this guidance

Unless otherwise specified, any reference to the sea or ‘Welsh waters’ in this guidance encompasses:

- Welsh inshore waters and estuaries (landward boundary at Mean High Water Spring tide out to 12 nautical miles)
- Welsh offshore waters (12-200 nm, or to the median line between countries).

1.2 Using this guidance

The tables on the following pages can be used to find the information you need whether searching by species, location, or legislation.

- Tables 1-4 contain details of species and protected areas.
- Tables 5-9 contain details of the legislation at UK, European and international levels, and how this applies in Wales.
- Table 10 is a large table cross-referencing all of the species with the details of which legislation applies. (This table has been designed for printing on A3 paper).

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2. Species protected in Welsh waters

[Table 1](#) lists the species which are specifically covered by this guidance. However, the legislation could also apply to other species appearing in Welsh waters for the first time; for example, the first record for an olive ridley turtle in Wales was as recent as 2016, and it is conceivable that other species subject to legal protection may be encountered here.

Marine birds, bats in marine areas, and the majority of sharks/fish are **not** included here as they are covered by different legislation which can be found elsewhere. However, you should be aware that you may need to consider them when submitting or assessing an application for a development or activity.

Table 1 Species covered by this guidance

Common name	Latin name
Whales, dolphins and porpoises (cetaceans)	Cetacea
Bottlenose dolphin	<i>Tursiops truncatus</i>
Common dolphin	<i>Delphinus delphis</i>
Risso's dolphin	<i>Grampus griseus</i>
Harbour porpoise	<i>Phocoena phocoena</i>
Minke whale	<i>Balaenoptera acutostrata</i>
Grey seal	<i>Haliochoerus grypus</i>
Common seal	<i>Phoca vitulina</i>
European otter	<i>Lutra lutra</i>
Green turtle	<i>Chelonia mydas</i>
Hawksbill turtle	<i>Eretmochelys imbricata</i>
Kemp's ridley turtle	<i>Lepidochelys kempii</i>
Leatherback turtle	<i>Dermochelys coriacea</i>
Loggerhead turtle	<i>Caretta caretta</i>
Olive ridley turtle	<i>Lepidochelys olivacea</i>
Common sturgeon	<i>Acipenser sturio</i>
Basking shark	<i>Cetorhinus maximus</i>
Porbeagle shark	<i>Lamna nasus</i>
Angel shark	<i>Squatina squatina</i>

For some of these species the waters around Wales form a significant part of their normal feeding and breeding behaviours (eg grey seal, bottlenose dolphin, harbour porpoise). Other species may be regular visitors passing from one marine area to another (eg minke whale, leatherback turtle), occasional vagrants out of their normal range (eg other marine turtle species), or they may be species which could once have been considered Welsh but whose reappearance is now noteworthy (sturgeon). Section 4 looks at the species in more detail.

3. What the legislation means for developers

3.1 General considerations

The purpose of much of the legislation is to take the interconnectivity of the oceans/seas into account and to protect species throughout their natural range, through international, European and UK laws and directives. Marine species may be threatened directly in Welsh waters but they may also be affected indirectly by changes or events occurring elsewhere; for example, the loss of nesting sites for marine turtles in other parts of the world, wide-reaching pollution events, or climate change. It is important to consider any possible far-reaching effects on species when carrying out any developments or activities in marine areas.

This document is primarily intended for anyone applying to carry out such developments or activities in Welsh waters, and for Natural Resources Wales (NRW) staff dealing with those applications. Under the Environment (Wales) Act 2016 and the Well-being of Future Generations (Wales) Act 2015, NRW has a statutory duty to incorporate the principles of sustainable development, maintain and enhance biodiversity, and promote the resilience of ecosystems.

3.2 Key legislation

Some key points are:

- i) All of the species in [Table 1](#) are covered by more than one piece of legislation. You can find a full summary of which species is protected by which law in [Table 10](#).
- ii) In practical terms there are **two key pieces of legislation** which will affect decisions on activities and developments. Together they cover all of the species in Table 1 except porbeagle shark. These are:
 - The UK Wildlife and Countryside Act 1981, as amended. ([Table 5](#)).
 - The EC Habitats Directive as enacted through the England and Wales Conservation of Habitats and Species Regulations. See [Table 6](#) for details of the relationships between these pieces of legislation and [Table 7](#) for what the legislation means in Wales.
- iii) There are some differences in wording, focus, intent and application in the various laws; for example, in the use of such words as 'deliberately', 'recklessly', 'wilfully' and 'intentionally'. These finer points will need to be considered in any situations where it is likely the animals will be affected. Anyone carrying out activities in the marine environment should consider the potential impacts to these species and the legislation which protects them.

3.3 Basics of protection

As a general rule, the species are covered by three categories of protection.

(i) European Protected Species

European Protected Species (EPS) are afforded strict protection wherever they occur. EPS are listed in Annex IV of the EC Habitats Directive ([Table 7](#)).

Without a European Protected Species licence it is an offence to deliberately injure, capture or kill an EPS, damage or destroy a breeding site or resting place, or deliberately disturb them in a way that would significantly affect:

- the ability of any significant group of that species to survive, breed, bear or nurture their young, or migrate;
- the local distribution or abundance of that species.

This includes incidental results of otherwise lawful activities. However, the legislation does allow for certain defences against prosecution, for example tending a disabled animal. It is also an offence to possess, trade, or intend to trade, in any EPS, live or dead, or in any part or product derived from an EPS.

Relevant species in Wales:

- all whales, dolphins and porpoises
- marine turtles, except olive ridley turtle
- European otter
- common sturgeon

(ii) Species which are not European Protected Species

Certain species which are not listed in Annex IV of the EC Habitats Directive are nevertheless protected in broadly similar ways by other legislation, for example the Wildlife and Countryside Act 1981, the Conservation of Seals Act 1970 and the Environment (Wales) Act 2016 (see [Table 5](#), [Table 7](#), [Table 8](#), [Table 9](#) for more details).

The protection may include one or more of:

- prohibited methods of killing, capture or pursuit capable of causing significant disturbance or local disappearance of the population
- requirement for a licence to kill or capture certain species
- closed seasons when no killing is permitted
- temporary or local prohibitions in order to restore satisfactory population levels
- regulations covering possession and/or trade in live or dead wild animals

Relevant species in Wales:

- typically grey seal and common seal (all waters), but also any other seal found in Welsh offshore waters (12-200 nm)
- olive ridley turtle
- basking shark
- porbeagle shark
- angel shark

(iii) Protected sites for species

Special Areas of Conservation (SACs) and *Sites of Special Scientific Interest* (SSSI) are designated for certain species in order to add further protection to breeding and feeding grounds, or any other areas of particular importance ([Table 3](#)). Developments and activities in these designated areas will normally be subject to additional regulation and scrutiny. Section 4 covers these sites in more detail.

Relevant species in Wales:

- bottlenose dolphin
- harbour porpoise
- grey seal
- European otter

4. Species and Protected Areas

Some marine and coastal species are the subject of protected area designation where they breed and forage.

Protected area boundaries can be found on the Welsh Government's data hub for Wales 'Lle':

[Special Areas of Conservation \(SACs\)](#)

[Candidate Special Areas of Conservation \(cSACs\)](#)

[Sites of Special Scientific Interest \(SSSIs\)](#)

[Marine Conservation Zones \(MCZs\)](#)

There is additional information on protected sites on the NRW website: [Protected sites](#)

4.1 Special Areas of Conservation

The EC Habitats Directive (see Section 5) requires member states to designate certain areas as SACs, for the species listed in Annex II of the Directive.

A **Candidate Special Area of Conservation** (cSAC) is a possible SAC which has received ministerial approval and has been submitted to the European Commission for adoption. A cSAC has the same protection in law as a designated SAC, so whether a site is a SAC or cSAC is therefore not recorded here. SACs are designated for particular species or habitat types (usually referred to as the site's features), which are identified on official designation documents.

Relevant species in Wales ([Table 3](#)):

- bottlenose dolphin
- harbour porpoise
- grey seal
- European otter

4.2 Sites of Special Scientific Interest

SSSIs are notified under the [Wildlife and Countryside Act](#) and are legally protected from damage through development, unsuitable management or other activities. NRW is responsible for selecting and notifying SSSIs in Wales, and for regulating and advising other authorities (including local planning authorities) on activities and developments affecting SSSIs. SSSIs are assessed in accordance with national (UK) guidance, in particular [JNCC Guidelines for the Selection of Biological SSSIs](#). Each SSSI's official notification documents list the particular features (habitats, species or geological interests) for which the site is notified.

Relevant species in Wales ([Table 4](#)):

- bottlenose dolphin
- grey seal
- European otter

4.3 Marine Conservation Zones (MCZs)

MCZs are designated by Welsh Ministers under the Marine and Coastal Access Act 2009 to protect any marine species, habitats, or geological feature of interest. Wales currently has one MCZ, located around Skomer Island and the Marloes Peninsula. Features have yet to be agreed for Skomer MCZ.

Table 2 Description of species, and the areas designated for their protection

P = Primary; Q = Qualifying (Note: only coastal and estuarine SACs are included for otter)

Species	Description	SAC	SSSI
Bottlenose dolphin <i>Tursiops truncatus</i>	A large (up to 3.7 m), long-lived species with a diverse diet. The Cardigan Bay coastal population has no clear links with other populations and is estimated at around 150-246 individuals. In the summer juveniles are often observed with adults.	<ul style="list-style-type: none"> • Cardigan Bay / Bae Ceredigion (P) • Pen Llŷn a'r Sarnau / Lley Peninsula and the Sarnau (Q) 	A notified feature of 2 intertidal SSSIs. See Table 4
Common dolphin <i>Delphinus delphinis</i>	Smaller (up to 2.5 m) and more acrobatic than the bottlenose dolphin, with distinctive yellowish hourglass marking along their sides and grey elsewhere. Abundant in UK waters, with the Celtic Deep (SW Britain including SW Wales) being a key area. Forms large pods, mainly offshore, in the SW approaches around Pembrokeshire and St George's Channel.	N/A	N/A
Risso's dolphin <i>Grampus griseus</i>	A large dolphin (up to 4 m) which is widespread and dives deep. Very distinctive due to its head shape and scarring. Seasonally resident in the summer around Bardsey island, one of the best places in the UK to see this species.	N/A	N/A
Harbour porpoise <i>Phocoena phocoena</i>	Small (up to 1.9 m), highly mobile species, common to all UK waters and the only member of the porpoise family found in European waters. Shows a preference for areas of strong tidal currents near headlands and estuaries. Abundant.	<ul style="list-style-type: none"> • Bristol Channel Approaches / Dynesfeydd Môr Hafren (P) • North Anglesey Marine / Gogledd Môn Forol (P) • West Wales Marine / Gorllewin Cymru Forol (P) 	N/A
Minke whale <i>Balaenoptera acutostrata</i>	A long-lived, moderately sized whale, the only whale commonly seen in Welsh waters. Seasonal abundance, peaking in summer with a southerly migration into UK waters.	N/A	N/A
Grey seal <i>Halichoerus grypus</i>	The only seal which currently breeds in Wales. Pembrokeshire has the largest breeding colony in SW Britain, representing about 2-3% of annual UK pup production. Important breeding sites also occur in Cardigan Bay, Anglesey and Llŷn peninsula. There is large non-breeding haul-out site on the mouth of the Dee.	<ul style="list-style-type: none"> • Pembrokeshire Marine / Sir Benfro Morol (P) • Cardigan Bay / Bae Ceredigion (Q) • Pen Llŷn a'r Sarnau / Lley Peninsula and the Sarnau (Q) 	A notified feature of 10 SSSIs. See Table 4
Common (harbour) seal <i>Phoca vitulina</i>	Seen in small numbers in Wales but does not currently breed here. It is therefore not a qualifying feature for any Welsh SAC designations although it is listed in Annex II of the EC Habitats Directive.	N/A	N/A

Species	Description	SAC	SSSI
European otter <i>Lutra lutra</i>	<p>Otters can survive in a wide range of inland and coastal conditions. Inshore marine areas are used mainly for feeding. The population is widespread but at low density, and individuals can be wide-ranging; this distribution is reflected in the large number of SACs where otter is a feature.</p> <p>NB only coastal and estuarine SACs and SSSIs for otters are included here</p>	<ul style="list-style-type: none"> • Afon Teifi/ River Teifi (P) • Afon Tywi/ River Tywi (P) • River Usk/ Afon Wysg (P) • River Wye/ Afon Gwy (P) • Pen Llŷn a'r Sarnau / Lleyn Peninsula and the Sarnau (Q) • Pembrokeshire Marine / Sir Benfro Morol (Q) • Carmarthen Bay & Estuaries / Bae Caerfyrddin ac Aberoedd (Q) • River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid (Q) 	A notified feature of 11 SSSIs in coastal and estuarine locations, see Table 4
Leatherback turtle <i>Dermochelys coriacea</i>	The largest marine turtle, up to 2.91 m long. The only turtle species which visits Wales as part of its normal range, it is unique amongst reptiles as it can metabolically raise its body temperature, allowing it to survive in the colder waters of the UK where it comes to feed on jellyfish in the summer months.	N/A	N/A
Other marine turtles	Occasionally seen around Wales, usually stray juveniles which normally occur in warmer waters.	N/A	N/A
Common sturgeon <i>Acipenser sturio</i>	A bony fish which can grow up to 6m long though 1.25m is more common. Has always been rare in UK waters, to the extent that they were considered Royal Fish and any captures had to be delivered to the Crown. Sturgeon eggs are the original caviar. The last sturgeon to be caught around Wales was off the coast of Pembrokeshire in 2013.	N/A	N/A
Basking shark <i>Cetorhinus maximus</i>	The world's second largest fish (up to 12.3 m), feeding on plankton. Protected in all waters of the UK since 2002 by the EU TAC (total allowable catch) setting at zero.	N/A	N/A
Porbeagle shark <i>Lamna nasus</i>	A powerfully built shark also known as mackerel shark. Found in deep waters, usually several miles offshore, and feeds mainly on pelagic fish eg mackerel and herring. In UK waters typically reaches 2.3m and 136kg.	N/A	N/A
Angel shark <i>Squatina squatina</i>	Also known as monkfish by anglers, but not to be confused with monkfish <i>Lophius Piscatorius</i> . Grows up to 1.8m and 31.7kg. Formerly widespread, it is rare now in UK waters but there is possibly a population in Cardigan Bay.	N/A	N/A

Table 3 Special Areas of Conservation

P = Primary; Q = Qualifying (Note: only coastal and estuarine SACs are included for otter)

SAC name	Site description	Species
Afon Teifi / River Teifi	Mainly a terrestrial site with approximately 20% tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures and salt steppes	European otter (P)
Afon Tywi / River Tywi	Mainly a terrestrial site with approximately 20% tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures, salt steppes, shingle, sea cliffs and islets	European otter (P)
Bristol Channel Approaches / Dynesfeydd Môr Hafren (cSAC)	A wholly marine area with sea inlets	Harbour porpoise (P)
Cardigan Bay / Bae Ceredigion	A largely marine area with sea inlets, shingle, sea cliffs and islets	Bottlenose dolphin (P) Grey seal (Q)
Carmarthen Bay & Estuaries / Bae Caerfyrddin ac Aberoedd	A largely marine area with sea inlets, shingle, sea cliffs, islets, tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures and salt steppes.	European otter (Q)
North Anglesey Marine / Gogledd Môn Forol (cSAC)	A wholly marine area with sea inlets	Harbour porpoise (P)
Pembrokeshire Marine / Sir Benfro Morol	A largely marine area with sea inlets, shingle, sea cliffs and islets, tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures and salt steppes	Grey seal (P) European otter (Q)
Pen Llŷn a'r Sarnau / Llyn Peninsula and the Sarnau	A largely marine area with sea inlets, shingle, sea cliffs, islets, tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures, salt steppes, coastal sand dunes, sand beaches and machair	Bottlenose dolphin (Q) Grey seal (Q) European otter (Q)
River Dee and Bala Lake/ Afon Dyfrdwy a Llyn Tegid	Mainly a terrestrial site but includes tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures and salt steppes	European otter (Q)
River Usk/ Afon Wysg	Mainly a terrestrial site but with approximately 30% tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures and salt steppes	European otter (P)
River Wye/ Afon Gwy	Mainly a terrestrial site but with approximately 10% tidal rivers, estuaries, mud flats, sand flats, lagoons, salt marshes, salt pastures and salt steppes	European otter (P)
West Wales Marine / Gorllewin Cymru Forol (cSAC)	A wholly marine area with sea inlets	Harbour porpoise (P)

Table 4 Sites of Special Scientific Interest

N = notified; Q = Qualifying (Note: only coastal and estuarine SSSIs are included for otter)

SSSI name	Area of Search (AOS)	Designated for
Aberarth – Carreg Wylan	Ceredigion	Bottlenose dolphin (N, Q)
Aberarth – Carreg Wylan	Ceredigion / Preseli & S. Pembs	Grey seal (N, Q)
Afon Dyfrdwy / River Dee	Clwyd	European otter (N, Q)
Afon Teifi	Ceredigion	Bottlenose dolphin (N)
Afon Teifi	Wales	European otter (N, Q)
Afon Tywi	Carmarthen & Dinefwr	European otter (N, Q)
Afordir Abereiddi	Preseli & South Pembrokeshire	Grey seal (N, Q)
Castlemartin Range	Preseli & South Pembrokeshire	European otter (N, Q)
Castlemartin Range	Preseli & South Pembrokeshire	Grey seal (N, Q)
Dale and South Marloes Coast	Preseli & South Pembrokeshire	Grey seal (N, Q)
De Porth Sain Ffraid / St Bride's Bay South	Preseli & South Pembrokeshire	Grey seal (N, Q)
Dyfi	Ceredigion	European otter (N, Q)
Grassholm / Ynys Gwales	Preseli & South Pembrokeshire	Grey seal (N, Q)
Milford Haven Waterway	Preseli & South Pembrokeshire	European otter (N, Q)
Morfa Harlech	East Gwynedd	European otter (N, Q)
Offshore Islets of Pembrokeshire / Ynysoedd Glannau Penfro	Preseli & South Pembrokeshire	Grey seal (N, Q)
Ramsey / Ynys Dewi	Preseli & South Pembrokeshire	Grey seal (N, Q)
River Usk (Lower Usk) / Afon Wysg (Wysg Isaf)	Gwent	European otter (N, Q)
River Wye (Lower Wye) / Afon Gwy (Gwy Isaf)	Wales	European otter (N, Q)
Skokholm	Preseli & South Pembrokeshire	Grey seal (N, Q)
Skomer Island and Middleholm	Preseli & South Pembrokeshire	Grey seal (N, Q)
St David's Peninsula Coast	Preseli & South Pembrokeshire	Grey seal (Q)
Stackpole	Preseli & South Pembrokeshire	European otter (N, Q)
Twyni - Pentwyn / Laugharne – Pendine Burrows	Carmarthen & Dinefwr	European otter (N, Q)

5. Summary of Legislation and Conventions

This section provides an overview of the legislation and treaties covering the species in Table 1.

Important

Because of the complexity of the legislation this guidance is intended as a brief summary only. If there is any doubt about its interpretation, or further clarification is needed as to which legislation applies in a particular case, you must consult the source. All references to legislation are to the most up-to-date, amended and revised versions.

5.1 The UK and Wales

Table 5 UK legislation

Law	Details	Application in Wales
Wildlife and Countryside Act 1981 (as amended) This formative UK legislation concerns the conservation of species as listed under its schedules.	Schedule 5 (England & Wales) Animals which are protected. Relates to Sections 9, 10, 20 and 22 of the Act.	See Table 10 for details of which sections apply to which species. <ul style="list-style-type: none"> • all cetaceans • European otter • all marine turtles • basking shark • common sturgeon • angel shark
	Schedule 6 (England & Wales) Animals which must not be killed or taken by certain methods.	<ul style="list-style-type: none"> • bottlenose dolphin • common dolphin • harbour porpoise • European otter
	Part II Section 28 requires the notification of SSSIs for species and habitats of interest.	Applies above the mean low water mark and in estuaries. <ul style="list-style-type: none"> • bottlenose dolphin • grey seal • European otter
Conservation of Seals Act 1970 Provides for the protection, conservation and management of seals in England, Wales and Scotland and in the adjacent territorial waters.	Under this Act seals can only be killed or captured under licence, which will stipulate the times, methods and conditions under which this can take place. Close seasons forbid any killing for: <ul style="list-style-type: none"> • grey seals (1 Sept-31 Dec) • common seals (1 Jun-31 Aug). 	NRW is the Licensing Authority in Wales. The Act prohibits the killing, injuring or taking of seals in Welsh waters without a licence. Applies to all seals, but typically: <ul style="list-style-type: none"> • grey seals • common (harbour) seals

Law	Details	Application in Wales
<p>Marine and Coastal Access Act 2009</p> <p>The first piece of UK legislation to consider the marine environment as a whole. Implements improved systems for delivering sustainable development in order to ensure clean, healthy, safe, productive and biologically diverse oceans and seas.</p>	<p>The Act can enable the designation of Marine Conservation Zones (MCZs) in the territorial waters adjacent to England and Wales and UK offshore waters.</p> <p>It provides the legal mechanism to deliver commitments under the Marine Strategy Framework Directive, OSPAR Convention and Convention on Biological Diversity.</p> <p>Gives powers to Welsh Ministers to develop marine plans in Welsh waters. (Welsh Government is currently (2018) consulting on the first Welsh National Marine Plan but this is not yet adopted).</p>	<p>Wales's only Marine Nature Reserve became an MCZ in 2014.</p>
<p>Sections 6 and 7 of the Environment Wales Act 2016</p>	<p>Public bodies such as NRW have a duty to seek to maintain and enhance biodiversity and promote the resilience of ecosystems.</p> <p>Section 7 lists the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.</p> <p>January 2018: This interim list, which is exactly the same as the previous list under Section 42 of the NERC Act, is under review in consultation with NRW.</p>	<p>Applies only in Wales, to:</p> <ul style="list-style-type: none"> • bottlenose dolphin • common dolphin • Rissos dolphin • harbour porpoise, • minke whale • European otter • leatherback turtle • loggerhead turtle • basking shark • porbeagle shark • angel shark • other cetaceans as listed

5.2 European

[Table 6](#) and [Table 7](#) lay out the relationship between the Bern Convention, EC Habitats Directive and the Habitats Regulations. These major pieces of legislation are the ones most likely to affect any applications for developments or activities in Welsh waters.

[Table 8](#) contains other European legislation which is enacted into UK law.

Table 6 Relationship between the Bern Convention, the EC Habitats Directive and the UK Conservation of Habitats and Species Regulations

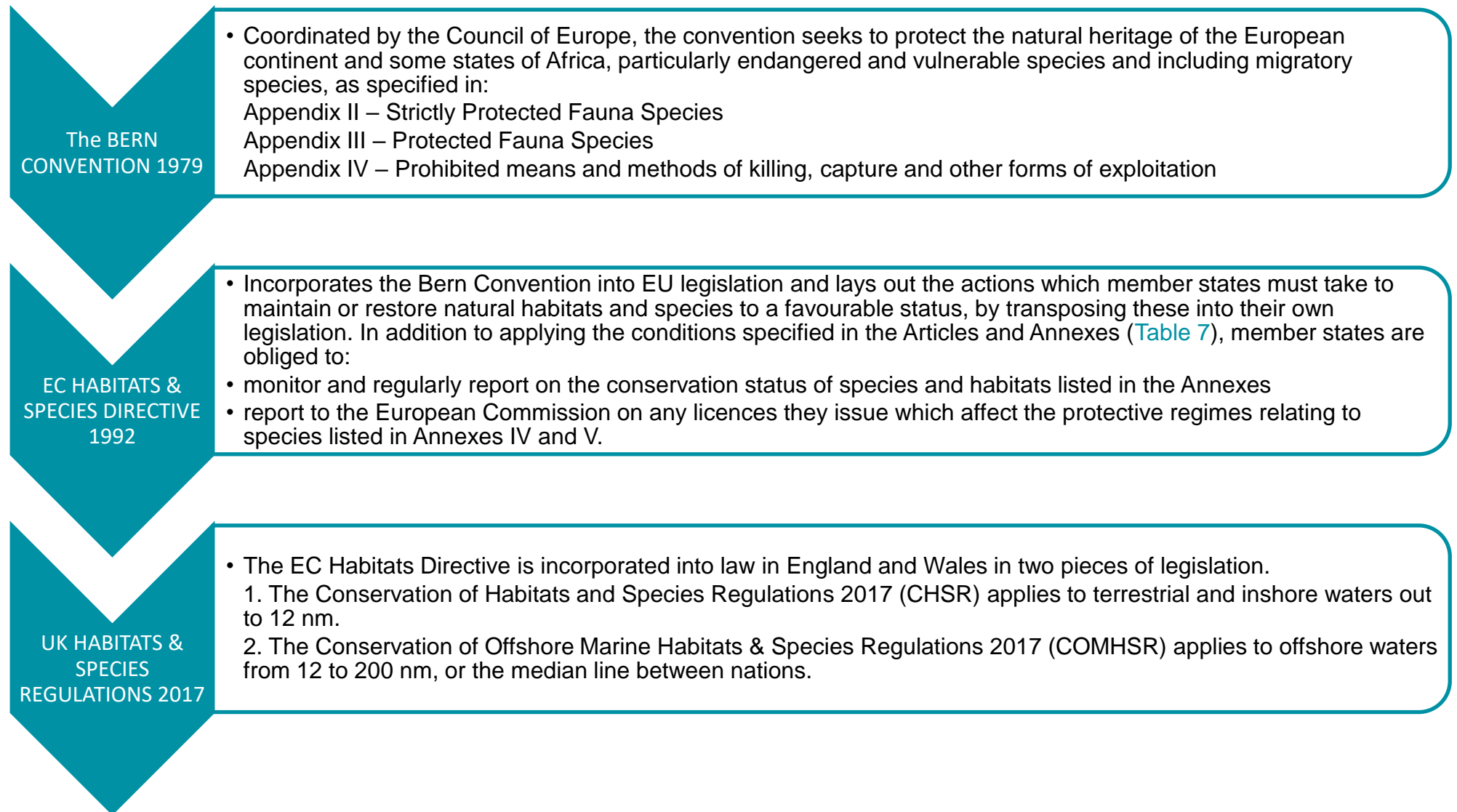





Table 7 The EU Habitats and the UK Habitats and Offshore Regulation: application to species in Wales

European	UK (England and Wales)	
EC Habitats Directive	Conservation of Habitats & Species Regulations 2017	Conservation of Offshore Marine Habitats & Species Regulations 2017
<p><i>Annex II</i> Member states are required to identify and designate Special Areas of Conservation (SACs) for the species listed in this Annex, in order to protect their well-being and conserve their habitats. They are also required to manage and assess impacts on these sites. Most species listed here also appear in Annex IV.</p> 	<p><i>Regulations 12 & 13</i> Incorporates the obligation to designate SACs for relevant species listed in Annex II and the requirement to assess the impact of any development or activity in the SAC. Applies in Wales to:</p> <ul style="list-style-type: none"> • bottlenose dolphin • grey seal • harbour porpoise • European otter 	<p><i>Regulations 7, 11, 19, 22, 25 & 26</i> Incorporates the obligation to designate SACs for relevant species listed in Annex II and the requirement to assess the impact of any development or activity in the SAC. Applies in Wales to:</p> <ul style="list-style-type: none"> • bottlenose dolphin • grey seal • harbour porpoise
<p><i>Annex IV</i> A list of all European Protected Species (EPS). EPS are afforded strict protection wherever they occur.</p> 	<p><i>Regulations 42-44, and Schedule 2</i> Incorporates into UK law the objectives of Annex IV (EPS) Applies in Wales to:</p> <ul style="list-style-type: none"> • all cetaceans • marine turtles, except olive ridley turtle* • European otter • common sturgeon 	<p><i>Regulations 45-47, and Schedule 1</i> Incorporates into UK law the objectives of Annex IV (EPS) Applies in Wales to:</p> <ul style="list-style-type: none"> • all cetaceans • marine turtles, except olive ridley turtle* • common sturgeon
<p><i>Annex V</i> A list of species which are not strictly protected (and therefore not EPS), but which are protected from indiscriminate methods of killing or capture.</p> 	<p><i>Regulation 45 and Schedule 4</i> Applies the special management measures defined for species listed in Annex V. Applies in Wales to: Typically grey seal and common seal, but also bearded, harp, hooded and ringed seals if found in Welsh inshore waters.</p>	<p><i>Regulation 47 and Schedule 3</i> Applies the special management measures defined for species listed in Annex V. Applies in Wales to: Typically grey seal and common seal, but also any other seal found in Welsh offshore waters.</p>

* Olive ridley turtle is not an EPS as listed in Annex IV, CHSR Schedule 2, or COMHSR Schedule 1. However, it is protected under Schedule 5 of the Wildlife and Countryside Act, and Appendix III of the Bern Convention.

Table 8 Other European legislation affecting marine areas in Wales

Europe	UK	Wales
<p><u>COUNCIL REGULATION (EC) No. 812/2004 of 26.4.2004 – Measures concerning incidental catches of cetaceans in fisheries</u></p> <p>All cetaceans are protected under the EC Habitats Directive. To ensure that the impact of fishing activities is minimised the EU has introduced:</p> <ul style="list-style-type: none"> • technical measures such as controlling net sizes and using acoustic deterrents ('pingers') to reduce by-catch of cetaceans by fishing vessels • monitoring obligations for EU countries to record by-catch 	<p>These regulations apply to any listed species in UK waters</p>	<p>Applies in Wales to:</p> <ul style="list-style-type: none"> • mainly harbour porpoise and common dolphin, but potentially all cetaceans
<p><u>COUNCIL REGULATION (EC) No. 2016/72 of 22.1.2016 – fixing fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks</u></p> <p>This regulation fixes the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks in EC waters. Listed species shall not be fished for and bycatch must be returned to the water unharmed where possible.</p>		<p>Applies in Wales to:</p> <ul style="list-style-type: none"> • basking shark • porbeagle shark • angel shark
<p><u>Marine Strategy Framework Directive (MSFD) 2008</u></p> <p>The MSFD aims to achieve Good Environmental Status (GES) of the EU's marine waters by 2020. It concerns itself with the physical condition of the sea and ecosystem resilience rather than individual species.</p> <p>Each Member State must develop a strategy for its marine waters using the ecosystem approach, and must include:</p> <ul style="list-style-type: none"> • initial assessment • determining what GES means • environmental targets and associated indicators • a monitoring programme • measures to achieve or maintain GES by 2020 <p>Strategies must be kept up-to-date and reviewed every 6 years.</p>	<p>The UK has published its Marine Strategy <u>Part One: UK Initial Assessment and Good Environmental Status</u> in 2012 and <u>Part Two: UK Marine Monitoring Programmes</u> in 2014.</p> <p>The MSFD was incorporated as part of the UK <u>Marine Strategy Regulations 2010</u></p>	<p>The MFSD has established four European marine regions on the basis of geographical and environmental criteria. Wales lies in the North-east Atlantic Ocean region. Member States which share marine waters cooperate on management.</p>

5.3 International

Table 9 International agreements




International	
<p>The OSPAR Convention (1992) concerns itself primarily with strategies to control pollution in order to protect marine ecosystems and biodiversity. Decisions adopted by OSPAR are legally binding for the contracted parties. OSPAR has produced a List of Threatened and/or Declining Species and Habitats. Wales lies in OSPAR region III.</p>	
<p>Convention on Biological Diversity 1992: Contracted parties are obliged to develop national programmes for the conservation and sustainable use of biological diversity, including identifying and monitoring adverse impacts. With respect to the marine environment, this shall be performed consistently with the rights and obligations of States under the law of the sea.</p>	
International	In UK and Wales
<p>The Convention on the Conservation of Migratory Species of Wild Animals (The Bonn Convention or CMS). Countries may be full parties to the Convention, or parties to one of more of its agreements. </p> <p>Has three main roles:</p> <ul style="list-style-type: none"> • To provide strict protection for endangered migratory species and their habitats as listed in Appendix I • To conclude multilateral Agreements for the conservation and management of migratory species which would benefit from international cooperation, as listed in Appendix II <p>To undertake cooperative research activities.</p>	<p>JNCC advises Welsh Government and NRW on the interpretation, application and implementation of the CMS and its agreements.</p> <p>Applies in Wales to:</p> <ul style="list-style-type: none"> • cetaceans as listed (but not Welsh populations of bottlenose dolphin, common dolphin, Risso’s dolphin, harbour porpoise or minke whale – see Table 10) • all marine turtles • common sturgeon • basking shark • porbeagle shark
<p>ASCOBANS The Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish & North Seas (ASCOBANS) (1994) is an agreement resulting from the Bonn Convention. It aims to achieve and maintain a favourable conservation status for dolphins and porpoises by international cooperation </p>	<p>Applies in Wales to:</p> <ul style="list-style-type: none"> • bottlenose dolphin • common dolphin • Risso’s dolphin • harbour porpoise • any other dolphin or porpoise
<p>CITES (Convention on International Trade in Endangered Species) An international agreement between governments to ensure that trade in wild animals and plants, as listed in the appendices, does not threaten their survival. It covers all trade, from live species to any product or foodstuff derived from any part of them. </p>	<p>Applies in Wales to:</p> <ul style="list-style-type: none"> • all cetaceans • seals as listed, but not grey or common seal • European otter • all marine turtles • common sturgeon • basking shark

Table 10 Legislation applying explicitly to the listed marine vertebrate species in Welsh waters.

(This table has been designed for printing on A3 paper).

	Bern Convention	EC Habitats Directive	EPS	Habitat Regs CHSR 2017	Offshore Regs OMCR 2007	EU Council Regs	Wildlife & Countryside Act 1981 (as amended)	Conservation of Seals Act	Env. Act 2016 Section 7	CMS (Bonn Convention)	CITES 2017	OSPAR *	Notes
Bottlenose dolphin	Appendix II	Annex II (SAC); Annex IV (EPS)	Yes	R 9, 63-69 (SAC) R 42-44, Sch 2	R 7, 11, 19, 22, 25 & 26 R 45-47, Sch 1	R 812/2004	S. 9(4A) & (5), Sch 5; S.11, Sch 6	-	Yes	(note 8)	Appendix II	-	* OSPAR List of Threatened or Declining Species 2008-6
Common dolphin	Appendix II	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	R 812/2004	S. 9(4A) & (5), Sch 5; S.11, Sch 6	-	Yes	(note 8)	Appendix II	-	1. Listed in Appendix II for Mediterranean populations only.
Risso's dolphin	Appendix II	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	R 812/2004	S. 9(4A) & (5), Sch 5;	-	Yes	(note 8)	Appendix II	-	2. Listed by default in Appendix III as any cetacean not included in Appendix II.
Harbour porpoise	Appendix II	Annex II (SAC); Annex IV (EPS)	Yes	R 9, 63-69 (SAC) R 42-44, Sch 2	R 7, 11, 19, 22, 25 & 26 R 45-47, Sch 1	R 812/2004	S. 9(5), Sch 5; S.11, Sch 6	-	Yes	(note 8)	Appendix II	Yes	3. Listed by default in Appendix III as any turtle not included in Appendix II.
Minke whale	Appendix III (note 1, 2)	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	R 812/2004	S. 9(4A) & (5), Sch 5	-	Yes	-	Appendix I	-	4. Listed in Appendix III for Mediterranean populations only.
Other cetaceans	Appendix II (as listed) Appendix III (all) (note 2)	Annex IV (EPS) (all)	Yes	R 42-44, Sch 2 (all)	R 45-47, Sch 1 (all)	R 812/2004	S. 9(4A) & (5), Sch 5	-	As listed	Appendix II (as listed)	Appendix II (note 10)	As listed	5. Listed in Annex II but not relevant for Wales as it does not breed here.
Grey seal	Appendix III	Annex II (SAC); Annex V (note 5)	No	R 9, 63-69 (SAC) R 45, Sch 4	R 7, 11, 19, 22, 25 & 26 R 47, Sch 3	-	-	All sections and S. 2(1)	-	(note 9)	-	-	6. Listed in Annex IV but not relevant for Wales.
Common seal	Appendix III	(note 5) Annex V	No	R 45, Sch 4	R 47, Sch 3	-	-	All sections and S. 2(1)	-	(note 9)	-	-	7. Includes species which have been seen in other parts of the UK but not in Welsh waters.
Other seals	Appendix III (as listed)	(note 5, 6) Annex V (all)	None relevant	R 45, Sch 4 (note 7)	R 47, Sch 3 (all)	-	-	All seals	-	None relevant	None relevant	-	8. Listed in Appendix I and/or Appendix II but only populations in one or more of: North Sea, Baltic Sea, Mediterranean Sea, Black Sea, eastern tropical Pacific.
European otter	Appendix II	Annex II (SAC) Annex IV (EPS)	Yes	R 9, 63-69 (SAC) R 42-44, Sch 2	-	-	S. 9(4)(b) & (c) and (5), Sch 5; S.11, Sch 6	-	Yes	-	Appendix I	-	9. Listed in Appendix II only for populations in Baltic Sea (grey seal, common seal) or Wadden Sea (common seal).
Leatherback turtle	Appendix II	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	-	S. 9(4)(b) & (c) and (5), Sch 5	-	Yes	Appendix I Appendix II	Appendix I	Yes	10. For all species except those listed in Appendix I.
Green turtle	Appendix II	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	-	S. 9(4)(b) & (c) and (5), Sch 5	-	-	Appendix I Appendix II	Appendix I	-	11. Listed but only for OSPAR regions II and IV (Wales is region III).
Hawksbill turtle	Appendix II	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	-	S. 9(4)(b) & (c) and (5), Sch 5	-	-	Appendix I Appendix II	Appendix I	-	
Kemp's ridley turtle	Appendix II	Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	-	S. 9(4)(b) & (c) and (5), Sch 5	-	-	Appendix I Appendix II	Appendix I	-	
Olive ridley turtle	Appendix III (note 3)	-	No	-	-	-	S. 9, Sch 5	-	-	Appendix I Appendix II	Appendix I	-	
Loggerhead turtle	Appendix II	(note 5) Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	-	S. 9(4)(b) & (c) and (5), Sch 5	-	Yes	Appendix I Appendix II	Appendix I	(note 11)	
Common sturgeon	Appendix II	(note 5) Annex IV (EPS)	Yes	R 42-44, Sch 2	R 45-47, Sch 1	-	S. 9(4)(b) & (c) and (5), Sch 5	-	-	Appendix I Appendix II	Appendix I	(note 11)	
Basking shark	(note 1)	-	No	-	-	R 2016/72	S. 9, Sch 5	-	Yes	Appendix I Appendix II	Appendix II	Yes	
Porbeagle shark	(note 4)	-	No	-	-	R 2016/72	-	-	Yes	Appendix II	Appendix II	Yes	
Angel shark	(note 4)	-	No	-	-	R 2016/72	S. 9(1), (2) & (5), Sch 5	-	Yes	-	-	Yes	

EPS = European Protected Species
R = Regulation(s)
SAC = Special Area of Conservation
S = Section
Sch = Schedule

6. Useful links

Source Legislation

Most UK legislation introduced since 1988 is available online at:

<http://www.legislation.gov.uk/browse>

- [Bern Convention](#)
- [CITES Appendices I, II and III](#)
- [Conservation of Habitats and Species Regulations 2017](#)
- [Conservation of Seals Act 1970](#)
- [Convention on the Conservation of Migratory Species of Wild Animals \(Bonn Convention\)](#)
- [Environment \(Wales\) Act 2016](#)
- [EC Habitats and Species Directive - Council Directive 92/43/EEC](#)
- [Marine and Coastal Access Act 2009](#)
- [Marine Strategy Framework Directive – Council Directive 2008/56/EC](#)
- [OSPAR Convention](#)
- [Regulation \(EC\) No 812/2004 — measures concerning incidental catches of cetaceans in fisheries](#)
- [Regulation \(EU\) No 2016/72 measures fixing the fishing opportunities for certain fish stocks and groups of fish stocks](#)
- [The Conservation of Offshore Marine Habitats and Species Regulations 2017](#)
- [Wildlife & Countryside Act 1981 \(as amended\)](#)

Background information

- [EC Habitats Directive - in a nutshell and in practice](#)
- [JNCC – Conventions and Legislation](#)
- [JNCC – Marine Strategy Framework Directive](#)
- [JNCC – Summary of Current Legislation Relevant to Nature Conservation in the Marine Environment in the United Kingdom](#)
- [Natura 2000 - in a nutshell and in practice](#)
- [NRW - Do I need a European Protected Species Licence?](#)
- [The Marine Act Quick Guide \(National Assembly for Wales Research Service\)](#)
- [The Marine Strategy Framework Directive in Wales September 2012](#)
- [Wales Biodiversity Partnership - Environment Wales Act 2016, Section 7 Priority Species list](#)

Protected sites

- [JNCC – Afon Teifi / River Teifi SAC](#)
- [JNCC – Afon Tywi / River Tywi SAC](#)
- [JNCC – Bristol Channel Approaches / Dynesfeydd Môr Hafren \(cSAC\)](#)
- [JNCC – Cardigan Bay / Bae Ceredigion SAC](#)
- [JNCC – Carmarthen Bay & Estuaries /Bae Caerfyrddin ac Aberoedd SAC](#)
- [JNCC – Guidelines for selection of biological SSSIs](#)
- [JNCC – North Anglesey Marine /Gogledd Môn Forol \(cSAC\)](#)
- [JNCC – Pembrokeshire Marine/ Sir Benfro Forol SAC](#)
- [JNCC – Pen Llŷn a'r Sarnau /Llwyn Peninsula and the Sarnau SAC](#)
- [JNCC – River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC](#)
- [JNCC – River Usk/ Afon Wysg SAC](#)

- [JNCC – River Wye/ Afon Gwy SAC](#)
- [JNCC – SACs background](#)
- [JNCC – SACs in Wales](#)
- [JNCC – SACs with marine components](#)
- [JNCC – West Wales Marine /Gorllewin Cymru Forol \(cSAC\)](#)
- [NRW – cSAC consultation Bristol Channel Approaches / Dynesfeydd Môr Hafren](#)
- [NRW – cSAC consultation North Anglesey Marine / Gogledd Môn Forol](#)
- [NRW – cSAC consultation West Wales Marine / Gorllewin Cymru Forol](#)
- [NRW – Find Protected Areas of Land and Seas](#)
- [NRW – Map of special sites and protected areas of land and seas](#)
- [NRW – Marine Protected Areas](#)
- [NRW – Sites of Special Scientific Interest](#)
- [NRW – Skomer Marine Nature Reserve](#)
- [SAC – Cardigan Bay / Bae Ceredigion](#)
- [SAC – Pen Llŷn a Sarnau / Llyn Peninsula and the Sarnau SAC](#)
- [SAC – Pembrokeshire Marine/Sir Benfro Morol](#)

Species

- [Cardigan Bay SAC - bottlenose dolphin](#)
- [Cardigan Bay SAC - grey seal](#)
- [Fishbase – angel shark](#)
- [Fishbase – basking shark](#)
- [Fishbase – common sturgeon](#)
- [Fishbase – porbeagle shark](#)
- [JNCC - Annex II species - bottlenose dolphin](#)
- [JNCC - Annex II species - European otter](#)
- [JNCC - Annex II species - grey seal](#)
- [JNCC - Annex II species - harbour porpoise](#)
- [Natur Cymru – sturgeon records in Wales](#)
- [NRW – sea turtles on Welsh shores](#)
- [Olive ridley turtle – first record in Wales](#)
- [OSPAR List of Threatened and Declining Habitats and Species](#)
- [Scottish Natural Heritage publication – Seals](#)
- [Scottish Natural Heritage publication – Whales, dolphins and porpoises](#)
- [UK Turtle Code](#)

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