

**News Release**  
**Immediate Release**  
**18 March 2024**

**ESS launches investigation into measures to safeguard Scotland's at risk birds**

Environmental Standards Scotland (ESS) will carry out an investigation to assess if enough is being done to protect the habitats of Scotland's rare, threatened and vulnerable birds.

The investigation will determine whether there has been a failure to comply with legal duties regarding the classification of the Special Protection Area (SPA) network in Scotland.

SPAs are areas that are chosen to protect rare or vulnerable bird species. There are currently 162 SPAs in Scotland which protect the homes of a wide range of species including the Golden Eagle and Red Kite.

The investigation by ESS will examine the governance of recommendations made by the Joint Nature Conservation Committee (JNCC) in respect of the classification of SPAs in Scotland. The JNCC is responsible for advising Scottish Ministers (and the UK Government and other devolved administrations) on aspects of the classification and management of SPAs, publishing SPA Selection Guidelines and providing advice to nature conservation bodies, including NatureScot, in connection with their functions.

This investigation follows a representation submitted to ESS that expressed concern that environmental law regarding SPAs is not fully implemented across the UK. The representation states that this may have a detrimental impact on protected bird species in Scotland. Today the Office for Environmental Protection has launched a

separate investigation into the SPA network in England and Northern Ireland. The Interim Environmental Protection Assessor for Wales (IEPAW) are also undertaking work that includes SPAs, with shared concerns over them.

Mark Roberts, CEO of ESS, said:

“Scotland has over 160 special protection areas (SPAs) spanning the length of the country, from the North of Shetland to the Solway Firth. These areas are fundamental to the safeguarding of our protected bird species, their nests, eggs and habitats.

“We’re announcing an investigation into the classification and governance of the SPA network following receipt of a representation that has raised concerns regarding the classification and adaptation of these SPAs in Scotland.

“Last year the Scottish Government declared a biodiversity crisis. Ensuring that the law that protects nature is fully and effectively implemented is an essential part of addressing that crisis.

“We will publish the results of our investigation in due course.”

ENDS

Notes to editors

### **i) Scotland’s wild bird population**

Between 250 - 500 species of wild birds are resident, migratory to or have been observed in Scotland<sup>1</sup>. According to NatureScot, Scotland is specifically important as an essential feeding location for migrating birds, as wintering for ducks, geese and shorebirds, and for seabirds’ summer nesting.

Scotland is the main home for the eight UK bird species listed: Scottish crossbill, crested tit, sea eagle (white-tailed eagle), capercaillie, corncrake,

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<sup>1</sup> [The Scottish List – The SOC \(the-soc.org.uk\)](https://www.the-soc.org.uk/)

osprey, Great skua and wintering geese.

**ii) Environmental Law and SPAs**

The Birds Directive is the short name for Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds. It provides for the classification of Special Protection Areas (SPA) across a European network.

The requirements of the Birds Directive were transposed into law in Scotland principally through the Conservation (Natural Habitats, &c.) Regulations 1994, as amended (the 'Habitats Regulations'). SPAs in Scotland are classified by Scottish Ministers, who must decide which sites to classify based on relevant scientific information and the criteria mentioned in Article 4 of the Birds Directive.

While the Birds Directive no longer has direct effect in domestic law following EU Exit, it is relevant to the obligations in the Habitats Regulations as they make reference to the requirements and obligations contained in the Directive. The Habitats Regulations were amended following EU exit to ensure they remained operable once the UK left the EU. The Habitats Regulations remain in force, including the provisions for the protection of SPAs. Any additional SPAs will now be designated under the Habitats Regulations

**iii) Mark Roberts, CEO of ESS, will be available on 18 March between 11.00am – 13.30pm to speak on the launch of the investigation to interested media.** For more information, please contact [ess@smarts.agency](mailto:ess@smarts.agency) | 07866 694 021

**iv) [Click here](#) for the news release announcing the Office for Environmental Protection's launch of their investigation into the SPA network in England and Northern Ireland.**

**v) About [Environmental Standards Scotland](#)**

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