



The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2007

Guidance notes

October 2007

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Introduction

Following the introduction of the Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2007 ('the 2007 Amendments'), certain changes to the law concerning the protection of habitats and species have taken effect. The purpose of this document is to provide guidance on the implementation of these changes, advice on how to carry out activities in such a way as to avoid impacts on the environment in Northern Ireland and to assist operators in avoiding committing offences under the new laws.

The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ('the Habitats Regulations') is the principal piece of legislation in Northern Ireland that transposes the requirements of Council Directive 92/43/EEC ('the Habitats Directive'). The Habitats Regulations include provisions relating to the designation, protection and management of European sites and controls relating to the strict protection of species of European importance.

A European Court of Justice ruling given in 2005 decreed that certain provisions of the Habitats Regulations (within NI and in equivalent legislation across the whole of the UK) did not accurately transpose the requirements of the Habitats Directive. Hence, most of the changes made by the recent 2007 Amendments (S.R. 2007 No. 345) are to correct areas where the transposition of the Directive was deficient.

The primary effects of the changes include:

- clarifying the controls on capturing, killing, disturbing, possessing and trading in species of European importance;
- removal of defences that are not considered to be permitted derogations under the terms of the Habitats Directive;
- new licensing provisions and a new offence of breaching the conditions of a licence;
- new duties to survey the conservation status of relevant species and to monitor the incidental capture and killing of protected species;

- new controls to provide for appropriate assessments of land use plans such as development plans and the regional development strategy;
- amending Part IV of the Regulations to ensure potential impacts on European offshore marine sites are considered before carrying out plans or projects in NI.

Information on the implementation of the Habitats Regulations, including advice and licence applications, can be obtained by contacting the Environment and Heritage Service:

Biodiversity Unit
Klondyke Building
Cromac Avenue
Gasworks Business Park
Lower Ormeau Road
Belfast
BT7 2JA

Email: john.milburne@doeni.gov.uk for enquiries regarding species or paul.byrne@doeni.gov.uk for enquiries regarding the assessment of the potential impact of plans or projects

Information in relation to bats can also be obtained from the Ulster Museum:

The Ulster Museum
National Museums NI
153 Bangor Road
Cultra
Co. Down
BT18 0EU

Phone: (028) 9039 5264

Species protection - animals

1. Species of animals protected by the Habitats Directive that are native to Northern Ireland, i.e. European protected species (EPS), are as follows:
 - Bats
 - Cetaceans (whales, dolphins, porpoises, etc)
 - Otters
 - Marine turtles

To date, these species were protected from taking, killing, etc. under both the Habitats Regulations and the Wildlife (Northern Ireland) Order 1985 ('the Wildlife Order'). Certain provisions of the Habitats Regulations replicated those contained in the Wildlife Order. It has now been decided to concentrate the majority of the provisions relating to EPS within the Habitats Regulations. Consequently, as detailed in paragraph 27, the provisions of Article 10 and 13 of the Wildlife Order will no longer apply in relation to these animals. This will in no way weaken the protection afforded to EPS but will merely remove duplication and simplify the legislation. The specific changes to the Habitats Regulations in relation to EPS are detailed below.

General offences - new Regulation 34(1)

2. *Capture, kill, injure - Regulation 34(1)(a)*. See amending regulation 5 of the 2007 Amendments which replaces regulation 34 in its entirety. Regulation 34(1)(a) remains largely the same; however, it is now an offence under the Habitats Regulations to injure an EPS. This was formerly contained in the Wildlife Order but, given that the provisions of the Wildlife Order will no longer apply to EPS, and to avoid weakening protection, it has been decided to incorporate the offence of injuring an EPS into regulation 34. There are no other changes to the offence, except for the defences which a person can rely on as a consequence of amendments to regulation 35 (see paragraphs 16 and 17 below). It should be noted that the removal from the wild of dead specimens of EPS, such as an otter, is prohibited under regulation 34. In

certain circumstances, the Department (the Environment and Heritage Service, EHS) may grant a licence to certain institutions or individuals for the removal of a carcass from the wild. Should someone discover the carcass of such a species, they should contact EHS for advice as under most circumstances it will be an offence to remove the carcass, even if the animal was killed accidentally (for example as the result of a road collision, etc.).

3. *Disturbance - Regulation 34(1)(b)*. As mentioned above and in paragraphs 16 and 17, it was necessary to remove the defence that an action was the 'incidental result of a lawful operation' in order to give effect to the changes identified as part of the ECJ judgement. As a result, it was considered that the wording of the former offence of disturbing an EPS could hinder the carrying out of certain legitimate operations which would no longer be covered by the defence. Hence, to avoid placing inappropriate restrictions on certain operations, the wording of the disturbance offence has been amended to clarify under what exact circumstances an offence of disturbance will be committed. As can be seen from the wording of new regulation 34(1)(b), the offence relates to the disturbance of an individual animal, or animals, in the following three circumstances:

- where the animal (or animals) is occupying a roost, holt, etc. or other place where the animal is sheltering;
- where the disturbance of the animal (or animals) would be likely to result in effects on the distribution or abundance of the local population of the species;
- where the disturbance would be likely to hinder the ability of an animal (or animals) to breed, reproduce, or rear/care for its young.

4. It is considered that clarifying the circumstances under which an offence of disturbance will be committed, will help operators identify whether or not their activities are likely to result in disturbance and will allow insignificant acts of disturbance to continue without an offence being committed (or without a licence being required). Under certain circumstances, the disturbance may be allowed to take place if it is carried out under the terms of a licence granted by

the Department. In general terms, operators will need to give careful consideration as to whether or not the actions they wish to undertake are likely to result in the disturbance of protected species. It is worth noting that a 'deliberate' action has been interpreted by case law to include "accepting the possibility" that an action may result in the disturbance, etc. of a species (paragraph 71 of ECJ case C-221/04). Anyone who is concerned that a proposed action might result in disturbance, is recommended to contact EHS to discuss alternative ways in which the action can be carried out without disturbing the species or to determine the need for a licence.

5. *Obstruction - Regulation 34(1)(d)*. Similar to the offence of injuring an EPS, this offence was formerly contained in the Wildlife Order and has now been introduced into the Habitats Regulations. This ensures that an equal level of protection for EPS applies following the changes i.e. protection from obstruction will still be an offence but will now be provided for under the terms of the Habitats Regulations, not the Wildlife Order. Again, the only change to the provision will be that some of the previous defences no longer apply.

6. *Damage/destroy - Regulation 34(1)(e)*. The offence of damaging or destroying a breeding site or resting place remains unchanged. However, unlike the other offences in Regulation 34, this is a 'strict liability' offence. As such, there is no need for a prosecutor to demonstrate that such damage/destruction was intentional. In certain extenuating circumstances, legitimate operators could previously have relied on the defence that the damage/destruction was the 'incidental result of a lawful operation'. However, following the removal of this defence (see paragraphs 16 and 17), operators may now need to contact EHS for advice on alternative ways to carry out operations or to discuss the need for a licence to ensure that they are not unreasonably penalised for carrying out legitimate activities.

Offences relating to possession and trade - new Regulation 34(2)

7. European protected species - Annex IV(a) of the Habitats Directive lists animals of conservation importance for Europe. As stated above, the animals on this list that are native to Northern Ireland (EPS animal species) are bats, cetaceans (whales, dolphins, porpoises, etc), otters and marine turtles.
8. The provisions relating to EPS have been amended to ensure strict controls are in place for possession and trade of such animals:
 - *Possession of EPS* - it will continue to be permissible to be in possession of such animals, dead or alive, (or parts of such animals) if it can be shown that the specimen was taken lawfully before the implementation date of the Directive (i.e. 10th June 1994 in NI). It will not be permissible to be in possession of a specimen taken after the implementation date, unless the Department determines that it is appropriate to grant a licence authorising such possession. This is a change to the previous requirements; formerly it was simply necessary to demonstrate that the specimen was taken lawfully from the wild and it was not necessary to be specifically licensed to continue to possess the specimen. The Department has sought to identify individuals likely to be in possession of such specimens in order to consider issuing licences. Anyone in possession of such specimens who has not already been in contact with the Department, must now contact EHS as soon as possible to establish whether or not they may be granted a licence or whether they need to surrender the specimen. Similar provisions relate to transporting EPS i.e. a specific licence may be required to transport specimens which formerly needed no such licence. See new regulation 34(4)-(6). Also, as discussed in paragraph 2, the removal from the wild of dead specimens of EPS, such as an otter, is prohibited.
 - *Trade in EPS* - it is now an offence to sell, exchange, offer for sale, etc. any EPS or part of an EPS, **regardless of when, where or how that animal/part was acquired** - Regulation 34(5)(b). Essentially, no trade in

these animals/parts should now occur at all (unless exceptional circumstances demand that this is provided for by licence, but there will be a presumption against issuing such licences). Further advice can be obtained by contacting EHS. Possession or transport of EPS specimens specifically for the purpose of trade will also be an offence - see new Regulation 34(5)(a). The Department will provide advice to taxidermists and other operators to ensure services such as taxidermy can continue on legally possessed specimens (i.e. those held by a licence). In this regard, please note the changes to licensing procedures at paragraph 24.

9. Other Annex IV(a) animal species - Following changes made to the Habitats Regulations in 2004, Annex IV(a) animals that are not native to Northern Ireland are also protected from possession and trade in NI. Such species are subject to the following provisions:

- *Possession of other Annex IV(a) animals/parts* - similar to the above for EPS, it will continue to be permissible to be in possession of any other Annex IV(a) animal, provided the animal/part was taken lawfully. 'Lawfully' can mean two things:
 - i. for species taken in other member States, it was lawfully taken if it was taken before the Directive was implemented in that member State and without contravening that member State's national laws - new Regulation 34(6)(a). In many member States the Directive was implemented in June 1994, similar to the UK. However, if the Directive was implemented after this date in a member State, the applicable date is that on which the Directive came into force in that particular country i.e. the date that member State joined the EC;
 - ii. species taken outside the European Union are not subject to the provisions of the Regulations and can therefore be possessed, provided this does not contravene any other relevant piece of legislation, for example, legislation concerning trade in internationally endangered species - Regulation 34(6)(b).

- *Trade in Annex IV(a) animals/parts* - the provisions in relation to Annex IV(a) animals differ in this area to those in place for EPS. It **will** be permissible to trade in Annex IV(a) animals (again, those other than EPS), provided it can be shown those animals were taken lawfully prior to the implementation of the Directive in a particular member State and without contravention of the national laws of that member State - Regulation 34(4) and (6). No trade is permitted of Annex IV(a) animals/parts if they were taken *after* the date of implementation of the Directive (again, unless exceptional circumstances demand that this is provided for by licence, but there will be a presumption against issuing such licences). The different provisions in relation to possession and trade of EPS and other Annex IV(a) species are summarised in the table below.

Summary table for possession and trade:

Species type	Possession	Trade
EPS* (Bats, Otters, Cetaceans, Marine Turtles) [* EPS are Annex IV(a) species that are native to NI]	Permitted if can be shown taken lawfully before implementation of the Directive; under certain circumstances, a licence may be granted to allow possession of specimens taken between the implementation date and the 21 st August 2007. No new taking or possession of specimens is permitted.	Not permitted regardless of when/where/how the specimen was taken (unless licensed under very exceptional circumstances).

Annex IV(a) animals (other than EPS)	Permitted if can be shown taken lawfully before implementation date of Directive and without contravention of member State national laws, or if taken outside the EU; otherwise a licence will probably be required.	Permitted if can be shown taken lawfully before implementation date of Directive and without contravention of member State national laws, or taken outside the EU; otherwise may be permitted by licence under exceptional circumstances.
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10. To assist in the identification of species, the Department has produced an English version of Annex IV which will be available shortly on the EHS website: <http://www.ehsni.gov.uk/>
11. It should also be noted that certain populations of species are exempt from the provisions relating to possession and trade. These exempted populations are detailed in the wording of Annex IV itself. For example, Annex IV(a) lists *Vipera seoanni*, Seaone’s viper, as a species of European importance. However, in brackets after the species name it states, “(except the Spanish populations)”. Therefore if someone was in possession of a specimen of that species from Spain, the controls relating to possession, etc. would not apply.

Defences relating to animal protection

12. *Fishing activities* - Regulation 34(7)-(11). The regulation of commercial fishing is a matter for the European Community under the Common Fisheries Policy. Therefore, where measures need to be taken to prevent impacts on EPS from certain fisheries activities, the European Commission will liaise with member States regarding what conservation measures are appropriate to take. By virtue of new paragraphs 34(7) - (11), the offences in the Habitats Regulations will not apply to bycatch of an EPS as a result of fishing if the fishermen responsible did not intend a bycatch of the protected species and took any reasonable steps that could be taken to comply with Community legislation which regulates fishing activity and bycatch of EPS. Any purposeful or deliberate act of killing, disturbance, etc., will still be an offence and the person responsible will be liable to prosecution.

13. *Removal of defences relating to Agriculture Acts, Drainage Order*. The defences that formerly applied in relation to these acts no longer apply. Further information is available from the Department or the Department of Agriculture and Rural Development.

14. *Removal of the 'dwelling house' defence*. This defence has also been removed. It is envisaged that in most cases, this defence would have been relied on by home owners who encountered problems with bats. A licence will now be required for certain activities. Anyone experiencing problems with bats, or who is concerned that their actions may have an effect on bats in their home, should contact EHS (or the Ulster Museum) for advice on how to deal with the problem. Some actions such as releasing a trapped bat from a room will not need to be licensed (although advice from an authorised person should be obtained to ensure that any action is carried out in an appropriate way). However, actions such as obstructing access to a bat roost or wishing to exclude bats from a house (i.e. a loft) may constitute an offence. Exclusion of bats from lofts is considered to be a last resort and advice from EHS will help the homeowner consider other options. However, in certain

circumstances, such as a risk to public health and safety, it may be appropriate to exclude the bats and a licence will be required to do this.

15. *Defences for tending and mercy killing.* These defences will be retained but the wording has been revised for clarity - see new Regulations 35(1) and (2).
16. *Removal of the 'incidental results' defence.* Under the former Habitats Regulations and the terms of the Wildlife Order, certain activities that resulted in the death, injury, disturbance, etc. of EPS, could occasionally have been defended on the basis that such effects were the 'incidental result of a lawful operation'. However, this defence will no longer be retained for EPS in the Habitats Regulations as it is not an acceptable derogation under the terms of the Habitats Directive. Some of the implications of the removal of this defence have already been outlined above e.g. this defence can no longer be relied upon for incidents of disturbance or where damage or destruction was the incidental result of other activities. Whilst this will require greater care and attention from operators before carrying out activities, it is not envisaged that the removal of this defence will have any wide-ranging impacts on legitimate actions. In any case, prosecuting authorities are unlikely to pursue prosecution for activities which incidentally result in effects on protected species unless there is a public interest in doing so.
17. In general terms, the changes will require operators to give greater consideration to the presence of EPS and their nests, etc., and the potential risk to EPS of injury, death, disturbance, damage, etc. Operators will then need to seek ways to avoid such impacts, or apply to EHS for a licence before carrying out certain activities. It is considered that in the majority of instances, simple measures can be taken to avoid killing, injury, disturbance, etc, and the Department will advise on these. Codes of practice or guidelines may also be issued for certain activities or for particular species. If these alternative solutions do not suffice, a licence may be required. **The recommendation in all cases where there is any concern that a legitimate activity may result in incidental death, capture, injury, disturbance, damage, etc. is to contact EHS for advice.**

18. *Forestry activities.* One of the sectors most likely to be affected by the changes to Regulation 34 and the removal of the 'incidental results' defence are forestry operations. Forestry managers will now need to assess the presence of EPS (most likely to be the various species of bats) and the likelihood of their actions having any impacts on populations of such species. It is envisaged that most impacts can be avoided by sensitive management and adhering to best practice guidelines, but there may be occasions where specific licences are required. There will be certain tests that must be satisfied before such licences can be granted, i.e. whether or not there are any alternative solutions, whether or not the carrying out of the operation would affect the overall conservation status of the population, etc. In all cases, any forestry operator who wishes to assess the presence of EPS, or who is concerned that their actions may result in capture, killing, disturbance, destruction etc., (even if these impacts are accidental) are advised to contact EHS for advice.

Other provisions relating to animal protection

19. *Indiscriminate capture and killing.* Regulation 36 has been replaced in its entirety to make several technical changes. The only change of any significance is the inclusion of new Regulation 36(2)(c). It is already an offence under the terms of Regulation 36 to use various means and methods of capturing and killing certain species listed in Schedule 3 of the Habitats Regulations. The intention behind those provisions is to prohibit means of capture and killing that are indiscriminate, that could result in the disappearance of local populations. Whilst the methods and means listed in that provision should cover the vast majority of known methods, the addition of the new clause will provide a more comprehensive offence and close any potential future loopholes by providing a 'catch-all' provision in line with Article 15 of the Habitats Directive. Existing lawful means of capturing and killing such as the legitimate use of traps and certain snares, will not be affected by this change.

20. *Monitoring incidental capture and killing - new Regulation 36A.* Certain activities have the potential to result in the incidental capture of EPS or the incidental killing of these species. To ensure that the level of incidental capture or killing is not unacceptably high, i.e. does not pose a threat to the conservation status of the species, a new duty to monitor the levels of incidental capture/killing has been inserted. This will underpin and formalise the existing work in monitoring the levels of incidental capture/killing of EPS, for example, the monitoring of incidental bycatch of cetaceans. In the terrestrial environment, it will be for the Department to make arrangements for monitoring activities (either by undertaking the monitoring directly or arranging for monitoring to be carried out by other authorities) and in the marine environment, the Secretary of State will be responsible for making arrangements for equivalent monitoring. If necessary, the Department (or Secretary of State, as the case may be) will be responsible for ensuring measures are taken for controlling the incidental capture or killing of such species.

Species protection - plants

21. Many of the same provisions in relation to animal protection also apply to plant protection. Plants protected at European level are listed on Annex IV(b) of the Habitats Directive. The species of plants that are native to Northern Ireland (EPS plant species) are as follows:

- Killarney Fern
- Yellow Marsh Saxifrage

Similar to the above for animals, these species have now been removed from Schedule 8 of the Wildlife Order, so the provisions of Article 14 of the Order no longer apply to these plants.

22. *Pick, cut, uproot, etc.* It will continue to be an offence to pick, cut, uproot, destroy, etc. EPS plants. As discussed above in relation to EPS animal species (see paragraphs 16 and 17), it will no longer be a defence to state that these effects were the incidental result of a lawful operation. If an operator is concerned their activity may result in such an effect, they should contact EHS for advice or for a licence.

23. *Possession and trade.* Again the new provisions are similar to those for animal species and are summarised below:

<i>Species type</i>	<i>Possession</i>	<i>Trade</i>
EPS (Killarney Fern, Yellow Marsh Saxifrage)	Permitted if can be shown taken lawfully before implementation of the Directive; under certain circumstances, a licence may be granted to allow possession of specimens taken between the	Not permitted regardless of when/where/how the specimen was taken (unless licensed under very exceptional circumstances).

	implementation date and 21 st August 2007. No new taking or possession of specimens is permitted.	
Annex IV(b)* (other than EPS)	Permitted if can be shown taken lawfully before implementation date of Directive and without contravention of member State national laws, or taken outside the EU; otherwise a licence will probably be required.	Permitted if can be shown taken lawfully before implementation date of Directive and without contravention of member State national laws, or taken outside the EU; otherwise may be permitted by licence under exceptional circumstances.

* NB Annex IV(b) is taken to include plant species already listed in Annex II(b) of the Habitats Directive. Hence, the legislation actually prohibits possession, trade, etc. of plant species contained on Annex II(b) (other than bryophytes) and Annex IV(b).

New licence provisions

24. *New licence provisions.* Regulation 39 of the Habitats Regulations lists various purposes for which a licence can be granted by the Department, e.g. scientific/educational reasons, health and safety, etc. The Department will continue to grant licences for those purposes but it has also been recognised that in certain circumstances, the Department may want to license small scale taking or possession for a purpose that is not already covered by the existing provisions. Hence, a new provision has been inserted into Regulation 39 that enables the Department to grant licences for taking or possession for other reasons, not already provided for. However, such taking or possession will be subject to strictly supervised conditions, will be on a selective basis, and only to a limited extent and in limited numbers, as prescribed by Article 16(1)(e) of the Habitats Directive. Further amendments are made to Regulation 40 to ensure that certain other conditions are fulfilled as part of such licences. As discussed above at paragraphs 8 and 9, it is likely that some members of the public are in possession of specimens of EPS that may need to be licensed under these new provisions. Anyone who thinks they may require such a licence should contact EHS for advice.
25. *Breach of licence offence.* It will now be an offence to breach the conditions of any licence granted after 21st August 2007 (including licences that will be renewed after that date). This offence will attract a fine on summary conviction not exceeding level 5 (currently £5,000).

Miscellaneous

26. *Surveillance of conservation status* - new Regulation 9A. A specific surveillance duty has been included to underpin and formalise the existing work the Department undertakes to quantify the conservation status of species and habitats of European importance. Similar to the duty to monitor incidental bycatch, the Department can make arrangements to undertake this work itself or arrange for the surveillance to be carried out by other authorities. Again, in the marine environment, this duty will be the responsibility of the Secretary of State. The results of this work will inform the need for further protection measures for species or habitats, which the Department (or Secretary of State) will be responsible for arranging.
27. *Wildlife (Northern Ireland) Order 1985* - see amending Regulations 37 - 40. As discussed above, it has been decided to remove EPS from the provisions of the Wildlife Order and to concentrate protection in the Habitats Regulations. The method of achieving this has been to remove the EPS from the relevant schedules of the Wildlife Order. In addition, the Department took this opportunity to afford full protection to the Freshwater Mussel; hence, this species has now been added to Schedule 5 of the Order and it will be an offence to take, injure or kill any individuals of this species.

Habitats protection and planning issues

28. *European offshore marine sites.* The introduction of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, provides a basis for designating new European protected areas in the offshore marine environment (i.e. 12 - 200nm). Whilst it is quite unlikely that activities carried out in NI (either on land or in territorial waters) will have an impact on such sites, nevertheless it is necessary to ensure that any possible impacts on offshore protected sites are considered. As such, Part IV of the Habitats Regulations has been amended so that consideration is given to possible impacts on European offshore marine sites alongside the usual consideration of possible impacts on existing European sites in NI. Amendments to Regulation 44(6) - (9) specify new procedures for obtaining Secretary of State agreement to undertake certain activities if they are likely to have an adverse effect on a European offshore marine site. It is not envisaged that any of the new procedures or requirements in relation to European offshore marine sites will place any significant burden on operators in NI.
29. *Joint Nature Conservation Council (JNCC).* The JNCC will be the conservation body primarily responsible for European offshore marine sites. As such, competent authorities should seek their advice when assessing possible impacts on such conservation areas, and will be required to consult them for certain procedures i.e. appropriate assessments where it is deemed likely that a plan or project carried out in NI could have a significant effect on a European offshore marine site. Similar consultation with JNCC will be required for certain planning procedures, general development orders, enterprise zones, etc. Again, it is not envisaged that these extra requirements will result in significant burdens for operators in NI.
30. *Regulation 43.* Several changes have been made to Regulation 43 which has been replaced in its entirety:

- paragraph (2) - this requires persons requesting consents, etc. to provide information that will enable the competent authority to determine whether an appropriate assessment is required, or for the purposes of the assessment itself;
- paragraph (3) - competent authorities shall consult the Department concerning the initial determination of whether or not an appropriate assessment is required (the 'test of significance'), as well as for the purposes of the assessment itself;
- paragraph (4) - the JNCC is to be consulted in relation to possible impacts on European offshore marine sites.

31. *Deemed consents under Electricity (NI) Order 1992.* Regulation 49 has been amended so that there is a requirement for the conditions of Regulations 43 and 44 (appropriate assessments, etc) to be applied to any planning permission 'deemed to be granted' under the terms of the Electricity (NI) Order 1992 as amended. At present the amendments relating to deemed consents, which were made under the Electricity Consents (Planning) (NI) Order 2006, have not yet come into force; however the amendment to Regulation 49 of the Habitats Regulations ensures any such future deemed consents are subject to the terms of the Habitats Directive.

32. *General Development Orders - new Regulation 56.* The procedures in relation to general development orders have changed slightly to more accurately reflect the requirements of the Habitats Directive and to take account of requirements in relation to European offshore marine sites. Formerly, under the terms of Regulation 55, the Department wrote to an applicant confirming that the development would not adversely affect a site and the applicant could continue with the development. Now an applicant must await specific approval from the Department prior to carrying out development, and if the Department determines that development is likely to have a significant effect on a European site or European offshore marine site, an appropriate assessment must be carried out before approval can be granted.

33. *Land use plans* - Development plans and the Regional Development Strategy are currently the responsibility of government departments. As a result specific guidance is not provided in this document on new Part IVA; further information, if required, can be obtained from the relevant department or planning authority.

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