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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (the “2001 Regulations”) which implement Council Directive [92/43/EEC](#) of May 21, 1992 on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”) and Council Directive [79/409/EEC](#) of April 2, 1979 on the conservation of wild birds (the “Wild Birds Directive”), in relation to oil and gas activities carried out wholly or partly on the UK continental shelf (the “UKCS”).

Separate Regulations implement the Habitats and Wild Birds Directives in relation to certain activities carried out onshore and in tidal and territorial waters: see the Conservation (Natural Habitats, &c.) Regulations 1994 ([S.I. 1994/2716](#)), as amended (the “1994 Regulations”).

Under regulation 4 of the 2001 Regulations, holders of a licence under the [Petroleum Act 1998 \(c. 17\)](#) relating wholly or partly to the UKCS are required to obtain the written consent of the Secretary of State before carrying out geological surveys wholly or partly on the UKCS. However, the 1994 Regulations do not require such consent from the Secretary of State for the carrying out of geological surveys in parts of the sea in or adjacent to the UK (“UK waters”).

Regulation 2 of these Regulations amends the 2001 Regulations so as to extend the requirement for obtaining the prior written consent of the Secretary of State to include UK waters; prior consent is therefore required by any person who intends to carry out geological surveys in relation to oil and gas activities: (a) on the UKCS, or (b) in UK waters.

Regulation 2 of these Regulations also amends the 2001 Regulations so that the prior written consent of the Secretary of State is required by any person who intends to test equipment to be used in geological surveys relating to oil and gas activities where the testing of that equipment takes place on the UKCS or in UK waters. Prior written consent is required irrespective of any provision in a licence awarded under the Petroleum Act 1998. Before such consent is granted, the Secretary of State must consider whether an appropriate assessment is required pursuant to regulation 5 of the 2001 Regulations (as amended by these Regulations).

Regulation 2 of these Regulations also requires the Secretary of State to consider whether an appropriate assessment is necessary under regulation 5 of the 2001 Regulations (as amended by these Regulations) before granting a licence under the Petroleum Act 1998. Previously, licences under the Petroleum Act 1998 were only covered by the 2001 Regulations where the licence related to an area located wholly or partly on the UKCS.

A separate regulatory impact assessment has not been prepared for these Regulations as they put on a statutory footing a situation that in practical terms already exists and there is therefore no significant impact on costs for business. A regulatory impact assessment identifying the impact on business was published at the time the 2001 Regulations were laid before Parliament and an amended version of this regulatory impact assessment is available on request from the Energy Development Unit, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.

A separate transposition note has not been prepared. These Regulations implement Articles 6(3) and 6(4) of the Habitats Directive in relation to licences to be granted under the Petroleum Act 1998, and to geological surveys related to oil and gas activities in UK waters.

Article 6(3) requires a competent authority to carry out an appropriate assessment of a plan or project that is likely to have a significant effect on any Special Areas of Conservation and, by way of Articles 3 and 7 of the Habitats Directive, Special Protection Areas classified under the Wild Birds Directive.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Member States may only grant consent where it has been ascertained that the plan or project will not adversely affect the integrity of the relevant site. Article 6(4) allows Member States, in certain circumstances, to grant consent to a plan or project even where there has been a negative assessment of the implications for the relevant site for imperative reasons of overriding public interest.