

EXPLANATORY MEMORANDUM TO
THE OFFSHORE PETROLEUM ACTIVITIES (CONSERVATION OF HABITATS)
(AMENDMENT) REGULATIONS

2007 No. 77

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations extend certain provisions of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001, SI 2001/1754 (the “2001 Regulations”) to the territorial waters of the United Kingdom.

3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments

3.1 None

4. Legislative Background

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

4.2 This instrument requires that consent be obtained for certain geological surveys or for the testing of equipment used in such surveys and that appropriate assessment be conducted in cases where the effects of certain oil and gas activities may be likely to have a significant effect on designated conservation sites. Apart from the requirement to obtain prior consent for the testing of equipment to be used in geological surveys, the 2001 Regulations applied these provisions to the UKCS; however, they did not explicitly apply these requirements to the territorial waters of the United Kingdom. These amendments rectify that omission and introduce a requirement for prior consent for the testing of equipment to be used in geological surveys both in territorial waters and on the UKCS.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The main purpose of the Habitats Directive is to promote the maintenance of biodiversity. In this context, the Habitats Directive requires competent authorities to carry out an appropriate assessment of any plan or project which is likely to have a significant effect on a designated conservation site. In the light of that appropriate assessment, a competent authority can only consent to the plan or project where there is no adverse effect on the integrity of the conservation site.

7.2 As indicated above, the 2001 Regulations required that consent be obtained for geological surveys related to oil and gas activities and that an appropriate assessment be conducted in cases where the effects of certain oil and gas activities (including such geological surveys) was likely to have a significant effect on designated conservation sites. However, the 2001 Regulations only applied to activities carried out on the UKCS and this instrument extends these provisions to territorial waters, as well as requiring prior consent for the testing of equipment to be used in geological surveys in territorial waters or on the UKCS.

7.3 Since current practice and guidance have taken the 2001 Regulations as applying to tidal and territorial waters the impact of these amendments on business, charities, voluntary bodies or the public sector will be negligible and no consultation has been carried out.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Kevin O'Carroll at the Department of Trade and Industry Tel: 01224 254025 or e-mail: emt@dti.gsi.gov.uk can answer any queries regarding the instrument.