

SCHEDULE 1

Regulation 35

“PART IVA

APPROPRIATE ASSESSMENTS FOR LAND USE PLANS

Interpretation

64A.—(1) In this Part—

“land use plan” includes an alteration to a land use plan and means—

- (a) the regional development strategy formulated under article 3(1) of the Strategic Planning (Northern Ireland) Order 1999;
- (b) a development plan as provided for in part III of the 1991 Order.

“plan-making authority” means—

- (a) in relation to the regional development strategy, the Department for Regional Development;
- (b) in relation to a development plan, the Department.

“the 1999 Order” means the Strategic Planning (Northern Ireland) Order 1999;

(2) References in this Part to giving effect to a land use plan are to—

- (a) the publication by the Department for Regional Development of a regional development strategy or any alteration to such a strategy under the 1999 Order;
- (b) the adoption by the Department of a development plan or any alteration to such a plan under Article 8 of the 1991 Order.

Assessment of implications for European site

64B.—(1) Where a land use plan—

- (a) is likely to have a significant effect on a European site in Northern Ireland or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

the plan-making authority for that plan shall, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives.

(2) In relation to a European site in Northern Ireland, the plan-making authority, where it is other than the Department, shall for the purposes of—

- (a) determining whether an assessment is required for a land use plan under paragraph (1); or
- (b) the assessment under paragraph (1),

consult the Department and have regard to any representations made by it within such reasonable time as the plan-making authority may specify.

(3) In relation to a European offshore marine site, the plan-making authority shall for the purposes of any appropriate assessment consult the Joint Nature Conservation Committee and have regard to any representations made by that committee within such reasonable time as the plan-making authority may specify.

Status: This is the original version (as it was originally made).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

(4) The plan-making authority shall also, if it considers it appropriate, take the opinion of the general public, and in doing so, shall take such steps for that purpose as it considers appropriate.

(5) In the light of the conclusions of the assessment, and subject to regulation 64C (considerations of overriding public interest), the plan-making authority shall give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site in Northern Ireland or the European offshore marine site (as the case may be).

(6) This regulation does not apply in relation to a site which is—

- (a) a European site in Northern Ireland by reason only of regulation 9(1)(c) (site protected in accordance with Article 5(4)); or
- (b) a European offshore marine site by reason only of its being a site of the kind mentioned in regulation 15(c) (site protected in accordance with Article 5(4)) of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

Considerations of overriding public interest

64C.—(1) If the plan-making authority is satisfied that, there being no alternative solutions, the land use plan must be given effect for imperative reasons of overriding public interest (which subject to paragraph (2), may be of a social or economic nature), it may give effect to the land use plan notwithstanding a negative assessment of the implications for the European site in Northern Ireland or the European offshore marine site (as the case may be).

(2) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (1) must be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- (b) any other imperative reasons of overriding public interest provided that the plan-making authority has had due regard to the opinion of the European Commission in satisfying themselves that there are such reasons.

(3) Where a plan-making authority proposes to give effect to a land use plan under this regulation notwithstanding a negative assessment of the implications for a European offshore marine site—

- (a) it must notify the Secretary of State; and
- (b) it may give effect to the land use plan only after having obtained the Secretary of State's agreement, which may be given subject to such conditions or restrictions as the Secretary of State may specify.

Compensatory measures

64D. Where in accordance with regulation 64C (considerations of overriding public interest) a land use plan is given effect, notwithstanding a negative assessment of the implications for a European site in Northern Ireland or a European offshore marine site, the plan-making authority shall secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected.”