
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 380

**The Conservation (Natural Habitats, etc.)
Regulations (Northern Ireland) 1995**

PART IV

ADAPTATION OF PLANNING AND OTHER CONTROLS

General provisions for protection of European sites

Considerations of overriding public interest

44.—(1) If it is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest which, subject to paragraph (2), may be of a social or economic nature, the competent authority may agree to the plan or project notwithstanding a negative assessment of the implications for the site.

(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) other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

(3) Where a competent authority other than the Department desires to obtain the opinion of the European Commission as to whether reasons are to be considered imperative reasons of overriding public interest, it shall submit a written request to the Department—

- (a) identifying the matter on which an opinion is sought, and
- (b) accompanied by any documents or information which may be required.

(4) The Department may thereupon, if it thinks fit, seek the opinion of the European Commission and if it does so, it shall upon receiving the Commission's opinion transmit it to the authority.

(5) Where an authority, other than the Department, proposes to agree to a plan or project under this regulation notwithstanding a negative assessment of the implication for a European site—

- (a) it shall notify the Department; and
- (b) it shall not agree to the plan or project before the end of the period of 21 days beginning with the day notified to it by the Department as that on which the notification was received by the Department, unless the Department notifies it that it may do so.

(6) In any case to which paragraph (5) applies the Department may give directions to the authority prohibiting it from agreeing to the plan or project either indefinitely, or during such period as may be specified in the direction.

This power is without prejudice to any other power of the Department in relation to the decision in question.