

## Bats In Scotland: Summary of Legal Considerations

### Legal Considerations – A General Overview

All bats and their roosts are protected under UK and European Legislation, including, amongst others, the following:

The Nature Conservation (Scotland) Act 2004

The Conservation (Natural Habitats, & C.) Regulations 1994

Wildlife & Countryside Act 1981

It is an offence to intentionally or recklessly kill, injure or capture a bat, or to disturb a bat whilst it is occupying a structure or place that it uses for shelter or protection (i.e. a roost). It is also an offence to damage, obstruct access to, alter or destroy a bat roost.

A bat roost is protected at all times irrespective as to whether any bats happen to be using the roost at a given time. Scottish Natural Heritage should always be consulted if any proposed work affects bats or their roosts. Developers, planners and contractors (as well as everyone else for that matter) must make every effort to safeguard bats, their roosts and their commuting/foraging habitat.

Local Planning Authorities are required to take account of the presence of bats as a material consideration when determining planning applications. It is advisable for developers and the like to investigate the presence of bats at as early a stage in the process as possible. If bats are present, plans may need to be redrawn to show how bats can be accommodated within the proposal and any proposed work may be required to be programmed around the bats lifecycle to minimise disturbance. If the work proposed affects bats or their roosts, a license, issued by Scottish Executive Environment and Rural Affairs Department (SEERAD), will be required and suitable mitigation/compensation put in place. A summary outlining the situation is as follows (Note: when the building involved is an occupied private dwelling a different procedure applies):

### THE CONSERVATION (NATURAL HABITATS, & C.) REGULATIONS 1994

**Under the 1994 Regulations it is an offence to kill, capture or disturb European Protected Species, and/or damage or destroy a breeding site or resting place of such an animal.**

**Licences can be granted under Regulation 44 for certain purposes including preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.**

**Licences will only be granted under the Conservation (Natural Habitats & C.) Regulations 1994 if SEERAD are satisfied that:**

- **There is no satisfactory alternative and;**
- **The action authorised will not be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range**

Due to the specialist knowledge required by consultants in relation to bats, developers should always engage the services of an experienced bat consultant with matters of this nature. In addition, we would suggest, the consultant should be a licensed bat worker, because if a roost is found to be present only persons licensed to do so may disturb bats in their roosts etc. In the event that a licence is required from SEERAD there are a number of key tests that must be satisfied before it will be granted, in addition to which mitigation/compensation will be required. Scottish Natural Heritage will also be consulted and give advice with regards to the situation as it presents itself. If an application for a licence is required to be made it should be noted that this will usually take a minimum of 6 weeks to come to a conclusion and there are no guarantees that such an application will be successful.