

## 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 Wildlife and Countryside Act 1981
- The Conservation (Natural Habitats, &c.) Regulations 1994
- The Nature Conservation (Scotland) Act 2004
- The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007

It is an offence to deliberately or recklessly disturb a bat (including injuring, capturing and/or killing), or damage, obstruct, alter or destroy a bat roost.

A bat roost is protected at all times irrespective as to whether any bats are using the roost at a given time. Scottish Natural Heritage should always be consulted by planning authorities if any proposed work could affect bats or their roosts. Developers, planners and contractors (as well as everyone else involved) must make every effort to safeguard bats, their roosts and their commuting and foraging habitat.

Local Planning Authorities are required to take account of the presence of bats as a material consideration when processing 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 bat's lifecycle to minimise disturbance. If the work proposed affects bats or their roosts, a Habitats Regulations licence, issued by Scottish Government Rural Directorate (SGRD), will be required and suitable mitigation/compensation put in place. A summary outlining the situation is as follows:

#### **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.**

**Habitats Regulations 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 SGRD 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**

In the event that a Habitats Regulations licence is required from SGRD 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.

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.