

Changes in Wildlife Legislation

Changes to the Habitats Regulations are pending because the UK was found lacking in its interpretation of Habitats Directive by a European Court Judgment in 2005. The amended regulations came into force in Scotland this February and in England, Wales and Northern Ireland the changes were due to take effect in early May 2007. However, this date has been postponed again and it is now thought that the changes will take effect some time in August.



Guidance relating to the changes is currently being written but has not yet been completed, pending final legislative wording. In the meantime, below are the proposed key changes.

Photograph of a brown long-eared bat (*Plecotus auritus*) taken by John Altringham,

These changes will affect how we consider the impact of tree work operations on European Protected Species, such as bats, dormice and great crested newts. With bats well known to habitually use trees for roosting, dormice associated with significant areas of ancient woodland and great crested newts are often found in tree stumps. There are significant issues to be considered as the legislation protecting these species is strengthened further.

Key points – Habitats Regulations changes are:

1. The 'incidental result of a lawful operation' defense will be removed. The intention is to raise the threshold of allowed disturbance to in some way compensate for this, but this can only be determined by case studies and guidance as to how this will work in practice.
2. Failure to comply with any conditions of a licence, issued under the regulations, will become an offence liable to a fine not exceeding level 5 on the standard scale (currently £5000).
3. In sentencing a person convicted of an offence, there will be an obligation on the courts to have particular regard to the extent to which a person could reasonably have avoided the damage or destruction of the breeding site or resting place concerned. Here the courts could take into account the extent to which operators have followed codes of practice or guidance in relation to the legislation covering European Protected Species.
4. Householders will no longer be able to rely on the 'dwelling house defense' and will need to obtain a licence for works that may disturb bats or destroy roosts.
5. A licence will be required to possess long-term captive bats (for educational purposes).
6. Possession of specimens, dead bats or droppings, will require a licence.

Of the points listed above it is number 3 which is of the most significant to consider because it places increased emphasis on the need to follow recognised codes of practice and guidance when considering tree works that could affect European Protected Species such as bats, dormice and great crested newts.

Arboricultural contracts should consider the impact of tree pruning or felling operations on the wildlife habitats associated with the trees and surrounding landscape. This can be done by undertaking a habitat disturbance risk assessment as part of the standard procedural paperwork in preparation for the tree work.

More information will be available from the Bat Conservation Trust (BCT) who can be contacted on 0845 1300 228 or at www.bats.org.uk where you will also find information about this years training courses covering bat awareness for arborists.

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