



# Nature Conservation (Scotland) Act 2004

## 2004 asp 6

### NATURE CONSERVATION (SCOTLAND) ACT 2004

#### PART 1

##### BIODIVERSITY

- 1 Duty to further the conservation of biodiversity
- 2 Scottish Biodiversity Strategy

#### PART 2

##### CONSERVATION AND ENHANCEMENT OF NATURAL FEATURES

#### CHAPTER 1

##### SITES OF SPECIAL SCIENTIFIC INTEREST

###### *Notification of sites of special scientific interest*

- 3 Duty to give notification of sites of special scientific interest
- 4 Site management statements
- 5 Enlargement of sites of special scientific interest
- 6 Review of operations requiring consent
- 7 Addition or modification of operations requiring consent: urgent situations
- 8 Variation of SSSI notifications
- 9 Denotification of sites of special scientific interest
- 10 Notifications relating to sites of special scientific interest: procedure
- 11 Effect of SSSI notification

###### *Exercise of functions in relation to sites of special scientific interest*

- 12 Exercise of functions by public bodies etc.

###### *Operations affecting sites of special scientific interest*

- 13 Operations by public bodies etc.

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- 14 Operations by public bodies etc.: authorised operations
- 15 Consent by certain regulatory authorities
- 16 Operations by owners or occupiers of sites of special scientific interest
- 17 Operations by owners or occupiers of sites of special scientific interest: authorised operations
- 18 Appeals in connection with operations requiring consent

#### *Offences and byelaws*

- 19 Offences in relation to sites of special scientific interest
- 20 Byelaws

#### *Supplementary*

- 21 Advisory Committee on sites of special scientific interest
- 22 SSSI register

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- 24 Amendment or revocation of nature conservation orders
- 25 Nature conservation orders and related orders: procedure
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- 46 Offences: penalties and time limits
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### **PART 3**

#### PROTECTION OF WILDLIFE

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### **PART 4**

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- 52 Scottish Fossil Code

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- 57 Minor and consequential amendments and repeals
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#### SCHEDULE 1 — Notifications relating to sites of special scientific interest: procedure

- 1 This schedule applies to notifications given under sections 3(1), 5(1)...
- 2 SNH must give notice describing the general effect of a...
- 3 A notification to which this schedule applies and the related...
- 4 Confirmation or withdrawal of notification
- 5 If SNH does not give notice under paragraph 10 within...
- 6 Modification of notification
- 7 Such modifications must not have the effect of—
- 8 Paragraph 7(a) does not prevent SNH from amending an SSSI...
- 9 Where— (a) SNH has received a representation made within the...
- 10 Notice of decision to confirm or withdraw
- 11 Where a notice is given under paragraph 10(a) to a...
- 12 Extension of period during which notification is to be confirmed or withdrawn
- 13 The period mentioned in paragraph 4(a) may not be extended...
- 14 Agreement is obtained for the purposes of paragraph 12(b) if...
- 15 Where SNH extends or further extends the period mentioned in...

#### SCHEDULE 2 — Nature conservation orders and related orders: procedure

- 1 This schedule applies to nature conservation orders, amending orders and...
- 2 Before making an order to which this schedule applies the...
- 3 Notification

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- 4 The notice must— (a) set out the order or describe...
- 5 Confirmation of nature conservation orders and amending orders
- 6 The Scottish Ministers may confirm the order with or without...
- 7 Such modifications must not extend the area of land to...
- 8 The Scottish Ministers must, as soon as practicable after making...
- 9 An order which is confirmed with modifications has effect, from...
- 10 Inquiry or other opportunity to be heard
- 11 Subsections (4) to (8) (which relate to the giving of...
- 12 Extension of period
- 13 Agreement is obtained for the purposes of paragraph 12 if...
- 14 Where the Scottish Ministers extend or further extend the period...
- 15 An order to which this schedule applies and a notice...

#### SCHEDULE 3 — Land management orders and related orders: procedure

- 1 Notification of proposals for land management order
- 2 SNH must also arrange for notification of the proposal to...
- 3 A notification under paragraph 1 or 2 must—
- 4 Such representations may be made at any time—
- 5 The Scottish Ministers may, on the application of any person...
- 6 Power to require disclosure of information
- 7 Paragraph 6 does not authorise the Scottish Ministers to require...
- 8 Any person who— (a) refuses or fails, without reasonable excuse,...
- 9 Any person guilty of an offence under paragraph 8 is...
- 10 SNH may, at any time before the Scottish Ministers decide...
- 11 Notification of decision on orders
- 12 The Scottish Ministers must also give notice of their decision...
- 13 Such a notice must specify— (a) the Scottish Ministers' reasons...
- 14 A land management order, and any order under section 32(3)...

#### SCHEDULE 4 — Powers of entry of authorised persons: further provision

- 1 (1) A person authorised under section 44 to enter any...
- 2 (1) If a sheriff or justice of the peace is...
- 3 A person authorised under section 44 or by a warrant...
- 4 (1) A person who enters any land in the exercise...
- 5 A person leaving any land which has been entered in...
- 6 (1) SNH or, as the case may be, the Scottish...

#### SCHEDULE 5 — Part 2: transitional arrangements

- 1 In this schedule “the relevant day” means the day on...
- 2 Notifications under the 1981 Act
- 3 Where this paragraph applies in relation to an existing notification—...
- 4 SNH must, as soon as practicable after paragraph 3 first...
- 5 SNH may, despite subsection (2) of section 6, carry out...
- 6 A permission to carry out an operation specified in an...
- 7 Where paragraph 3 does not, by virtue of paragraph 2(b),...
- 8 Notifications under the 1949 Act
- 9 Land in respect of which a 1949 Act notification has...
- 10 SNH may revoke a 1949 Act notification by giving notice...
- 11 (1) Each order made under section 29 of the 1981...
- 12 Registers of notifications: transitory provisions
- 13 Any notification, plan or notice which, immediately before the relevant...

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#### SCHEDULE 6 — Protection of wildlife

- 1 The 1981 Act is amended as follows.
- 2 Protection of birds: offences
- 3 In section 2 (exceptions to offences against wild birds etc.)—...
- 4 In section 3 (areas in which wild birds are given...
- 5 (1) Section 4 (exceptions to offences against wild birds etc.)...
- 6 In section 5 (prohibition of certain methods of killing or...
- 7 In section 7(3) (prohibition on possessing certain birds)—
- 8 Protection of animals: offences
- 9 In section 10 (exceptions to offences against wild animals)—
- 10 (1) Section 11 (prohibition of certain methods of killing or...
- 11 (1) Section 13 (protection of wild plants) is amended as...
- 12 Non-native species
- 13 After section 14 insert— Prohibition on sale etc. of certain...
- 14 Miscellaneous
- 15 In section 16 (power to grant licences)—
- 16 In section 19 (enforcement)— (a) in subsection (1)(b)—
- 17 After section 19ZB (inserted, as respects England and Wales, by...
- 18 In section 20(2) (summary prosecutions)— (a) for “two” substitute “...
- 19 In section 21 (penalties etc.)— (a) in subsection (1), for...
- 20 In section 22 (power to vary Schedules)—
- 21 In section 26 (procedure for orders)— (a) in each of...
- 22 After section 26 insert— Enforcement of wildlife legislation  
Regulations under section 2(2) of the European Communities Act  
1972...
- 23 (1) Section 27 (interpretation of Part I) is amended as...
- 24 Before Schedule 1 insert— Schedule A1 Protected nests and nest...
- 25 After Schedule 1 insert— Schedule 1A Birds which are protected...
- 26 (1) The Protection of Badgers Act 1992 is amended as...

#### SCHEDULE 7 — Minor and consequential amendments and repeals

- 1 In Schedule 3 to the Harbours Act 1964 (procedure for...
- 2 (1) The Forestry Act 1967 is amended as follows.
- 3 In section 10 of the Conservation of Seals Act 1970...
- 4 Sections 28 to 34, 41, 50, 51 and 74(5A) of...
- 5 In section 22(1)(b) (traffic regulation for special areas in the...
- 6 Section 9(7) of the Channel Tunnel Act 1987 is repealed...
- 7 In section 36(7) (requirement to consult SNH before issuing waste...
- 8 Sections 6 (Natural Heritage Areas) and 12 (Advisory Committee on...
- 9 In section 1(7) (determination by Court of Session of point...
- 10 (1) Section 35 (duties of SEPA in relation to Natural...
- 11 In schedule 3 (penalties for offences relating to deer) to...
- 12 (1) In section 54(1) (land which may not be included...
- 13 In section 54 (protection of natural heritage) of the Water...

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**Changes and effects yet to be applied to :**

- Pt. 2 Ch. 2 amendment to earlier affecting provision SI 1994/2716 reg. 20 by [S.S.I. 2011/155 reg. 5](#)
- Pt. 2 Ch. 2 applied (with modifications) by SI 1994/2716 reg. 19 20 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- Pt. 2 Ch. 3 applied (with modifications) by SI 1994/2716 reg. 19 21 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 1 modified by [2009 asp 12 s. 59\(4\)](#)
- s. 6(2) excluded by [S.S.I. 2004/475 reg. 20\(6\)](#)
- s. 9(5)(6) inserted by [2011 asp 6 s. 38](#)
- s. 13(1) text amended by [2011 asp 6 s. 39\(2\)](#)
- s. 14(1) text amended by [2011 asp 6 s. 39\(3\)\(a\)\(ii\)](#)
- s. 14(1)(f) and word inserted by [2011 asp 6 s. 39\(3\)\(a\)\(iii\)](#)
- s. 14(1)(aa) inserted by [2011 asp 6 s. 40\(1\)\(b\)](#)
- s. 14(1)(ca) inserted by [2011 asp 6 s. 39\(3\)\(a\)\(i\)](#)
- s. 14(2) text amended by [2011 asp 6 s. 39\(3\)\(b\)](#)
- s. 14(3)(a)(i) text amended by [2011 asp 6 s. 39\(3\)\(c\)\(i\)](#)
- s. 14(3)(b) text amended by [2011 asp 6 s. 39\(3\)\(c\)\(ii\)](#)
- s. 14(3)(c) text amended by [2011 asp 6 s. 39\(3\)\(c\)\(iii\)](#)
- s. 14(4)(a) text amended by [2011 asp 6 s. 39\(3\)\(d\)](#)
- s. 17(1) text amended by [2011 asp 6 s. 39\(4\)\(a\)\(ii\)](#)
- s. 17(1)(f) and word inserted by [2011 asp 6 s. 39\(4\)\(a\)\(iii\)](#)
- s. 17(1)(aa) inserted by [2011 asp 6 s. 40\(1\)\(c\)](#)
- s. 17(1)(ca) inserted by [2011 asp 6 s. 39\(4\)\(a\)\(i\)](#)
- s. 17(4) text amended by [2011 asp 6 s. 39\(4\)\(b\)](#)
- s. 21 title text amended by [2010 asp 8 s. 2\(3\)\(c\)](#)
- s. 21(1)-(5) repealed by [2010 asp 8 s. 2\(3\)\(a\)](#)
- s. 21(1) transfer of functions by [2010 asp 8 s. 2\(1\)\(2\)](#)
- s. 21(8)(a)(b) substituted for s. 21(8)(a)-(c) by [2010 asp 8 s. 2\(3\)\(b\)](#)
- s. 39 applied (with modifications) by SI 1994/2716 reg. 19 22 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 40 applied (with modifications) by SI 1994/2716 reg. 19 22 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 41 applied (with modifications) by SI 1994/2716 reg. 19 22 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 43 applied (with modifications) by SI 1994/2716 reg. 19 22 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 44 applied (with modifications) by SI 1994/2716 reg. 19 22 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 44(1)s. 44(1)(b) text amended by [2011 asp 6 s. 40\(1\)\(e\)](#)
- s. 44(1)(ba)(bb) inserted by [2011 asp 6 s. 40\(1\)\(d\)](#)
- s. 46 applied (with modifications) by SI 1994/2716 reg. 19 22 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- s. 48(11)(a) text amended by [2011 asp 6 s. 37\(3\)](#)
- s. 58(1) repealed by [2010 asp 8 s. 2\(3\)\(d\)](#)
- s. 58(1) text amended by [2011 asp 6 s. 37\(4\)](#)
- s. 58(1)(h) substituted by [S.I. 2011/2085 Sch. 1 para. 58](#)
- Sch. 1 para. 11 repealed by [2010 asp 8 s. 2\(3\)\(e\)\(iv\)](#)
- Sch. 1 para. 9 text amended by [2010 asp 8 s. 2\(3\)\(e\)\(ii\)](#)
- Sch. 1 para. 9 title text amended by [2010 asp 8 s. 2\(3\)\(e\)\(iii\)](#)
- Sch. 1 para. 9(b) text amended by [2010 asp 8 s. 2\(3\)\(e\)\(i\)](#)
- Sch. 1 para. 12(a) text amended by [2010 asp 8 s. 2\(3\)\(e\)\(v\)](#)

- Sch. 2 applied (with modifications) by SI 1994/2716 reg. 19 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- Sch. 3 applied (with modifications) by SI 1994/2716 reg. 19 (as substituted) by [S.S.I. 2004/475 reg. 9](#)
- Sch. 5 para. 4 applied by [S.S.I. 2004/475 reg. 20\(5\)](#)
- Sch. 5 para. 11(3) applied by [S.S.I. 2004/475 reg. 21\(2\)](#)

**Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:**

- Blanket amendment text amended by [S.I. 2011/1043 art. 3 6](#)
- Blanket amendment text amended by [S.I. 2011/1043 art. 3 4](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2A inserted by [2011 asp 6 s. 36](#)
- s. 5A inserted by [2011 asp 6 s. 37\(2\)](#)
- s. 20A inserted by [2011 asp 6 s. 40\(1\)\(a\)](#)

**Commencement Orders yet to be applied to the Nature Conservation (Scotland) Act 2004:**

Commencement Orders bringing provisions within this Act into force:

- [S.S.I. 2004/407 art. 2](#) commences ([2004 asp 6](#))
- [S.S.I. 2004/495 art. 2](#) commences ([2004 asp 6](#))
- [S.S.I. 2008/193 art. 2](#) commences ([2004 asp 6](#))

Commencement Orders bringing legislation that affects this Act into force:

- [S.S.I. 2009/341 art. 2](#) commences ([2009 asp 12](#))
- [S.S.I. 2010/221 art. 3](#) commences ([2010 asp 8](#))
- [S.S.I. 2011/433 art. 2](#) commences ([2011 asp 6](#))