

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 1 – Sites of Special Scientific Interest

Supplementary

Section 21 Advisory Committee on Sites of Special Scientific Interest

153. Subsection (1) provides for the continuation of the Advisory Committee on Sites of Scientific Interest (referred to as “the Advisory Committee” in the Act and as “ACSSSI” in common usage). ACSSSI was established under section 12 of the [Natural Heritage \(Scotland\) Act 1991 \(c.28\)](#) and the provisions of section 21 carry forward its role in a largely unaltered form under the new Act.
154. ACSSSI has the advisory functions relating to SSSIs conferred on it by section 21. It is important to note that ACSSSI’s role is purely advisory in character. It does not operate as a tribunal and has no powers to determine appeals. It is however required to operate independently and to provide objective, scientific advice to SNH.
155. Subsection (2) provides that the Scottish Ministers shall be responsible for the appointment of the convener and other members of the Advisory Committee, and that they may do so on such terms as may be set by them. Appointees to the Advisory Committee shall, to the best of the Scottish Ministers’ knowledge, have suitable scientific knowledge and experience in relation to flora, fauna or the geological or geomorphological features of the land.
156. Subsection (3) requires the terms and conditions set on appointment of members to the Advisory Committee to include arrangements for the payment of remuneration and allowances to them by SNH.
157. Subsection (4) excludes any member of SNH, or any committee appointed by SNH, from being appointed to the Advisory Committee.
158. Subsection (5) allows the Scottish Ministers, from time to time, to give directions relating to the procedure of the Advisory Committee.
159. Subsections (6) and (7) set out circumstances in which representations made to SNH are to be referred to ACSSSI. Only SNH may refer a matter to the Advisory Committee, but it must do so where:
 - any person with a direct legal interest in the land (“interest in land”, as defined in section 58(1)), makes a representation in relation to either the “scientific case” for notification of the SSSI (i.e. the reasons why the site should be notified on the basis

of the particular natural features listed in the SSSI notification) or the “scientific case” for denotification;

- the person making the representation does not agree to withdraw it; and
- the representation is made *either* within the time limit for representations specified in the original notification (not less than 3 months from the date of notification – see paragraph 3(c) of schedule 1) *or* at least 10 years have elapsed since the original notification or since the last representation.

160. In effect this means that an objection to an SSSI must be referred to ACSSSI if it relates to the scientific case for or against the site and is submitted within the initial 3 month period for representations. The issue can then be revisited and referred back to ACSSSI every 10 years, if necessary.
161. Subsection (8) obliges SNH to refer any unresolved scientific objections to ACSSSI in accordance with subsections (6) and (7), and requires it both to consider any advice received from ACSSSI and then to take such action as it thinks fit in consequence of any such advice.
162. The effects of any referral to ACSSSI, as far as the SSSI notification and confirmation processes are concerned, are dealt with separately in paragraph 9 of Schedule 1.

Section 22 - SSSI Register

163. This section makes provision for the creation of an authoritative new public register of SSSIs to be overseen and maintained by the Keeper of the Registers of Scotland (“the Keeper”).
164. [Paragraphs 12 and 13](#) of Schedule 5 make arrangements for the continuation of the existing register, established by the 1981 Act, until such time as the new register provided for in section 22 has been established.
165. Subsection (1) places a duty on the Keeper to keep a register of all SSSI notifications, copies of certain other notices and notifications under the Act which amend or alter the original notification, and any other information in relation to SSSI notifications required by regulations under subsection (3).
166. The notices which must be registered are those given under section 5 to 9 and under paragraphs 10 and 15 of Schedule 1. These cover the enlargement of sites, changes to the ORC list, other variations to the SSSI notification, denotifications, notices confirming or withdrawing a notification and notices extending the period within which the notification must be confirmed.
167. Subsection (2) requires the Keeper to ensure that the SSSI register is available for public inspection at all reasonable times.
168. The intention of the new register is that it should provide an authoritative, central source of information about the extent and legal status of SSSI land. It will be accessible in electronic form and will be searchable. To that end, the Scottish Ministers are empowered in subsection (3) to make regulations specifying the form and manner in which the register is to be kept, the information which it is to contain, procedures and arrangements for amending the register and requiring SNH to supply documents and information to the Keeper in an appropriate format. The Scottish Ministers may also specify the fees (if any) which may be charged by the Keeper for the provision of reports and other information. The regulations may also make provision as to the evidential status of copies and extracts from the register when used in a legal context.