



Nature Conservation (Scotland) Act 2004

2004 asp 6

PART 5

GENERAL

58 Interpretation

(1) In this Act—

“the 1981 Act” means the Wildlife and Countryside Act 1981 (c. 69),

^{F1} ...

“amending order” has the meaning given in section 24(1),

“biodiversity” has the same meaning as has “biological diversity” in the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or in any United Nations Convention replacing that Convention),

“excluded operation” has the meaning given in section 31(2),

“interest”, in relation to land, means any right in or over land exercisable by virtue of the ownership of an interest in land, by virtue of a licence or agreement or by virtue of any other entitlement to occupy the land, and in particular includes sporting rights,

“interested parties” is to be construed in accordance with section 48(2),

“land management order” has the meaning given in section 29(2),

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),

“management agreement” means an agreement under—

- (a) section 16 (agreements for establishment of nature reserves) of the National Parks and Access to the Countryside Act 1949 (c. 97),
- (b) section 49A (agreements to secure the conservation and enhancement, or to foster the understanding and enjoyment, of natural heritage) of the Countryside (Scotland) Act 1967 (c. 86), or
- (c) section 15 (agreements for the purpose of conserving the natural features of areas of special scientific interest) of the Countryside Act 1968 (c. 41),

“natural feature” has the meaning given in section 3(2),

“nature conservation order” means an order under section 23(1),

Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Section 58. (See end of Document for details)

- “operations” includes works and other activities,
- “operation requiring consent” has the meaning given in section 3(7),
- “permission” includes authorisation, consent and any other type of permission (and “permit”, “permitted” and “permitting” are to be construed accordingly),
- “prohibited operation” has the meaning given in section 23(5),
- “protected natural feature” means a natural feature—
- (a) which is specified in an SSSI notification, or
 - (b) by reason of which a nature conservation order has effect,
- “public body or office-holder” includes a statutory undertaker and any person exercising functions of a public nature, but does not include any court or any tribunal or body exercising the judicial power of the State,
- “relevant regulatory authority” has the meaning given in section 15(2),
- “revoking order” has the meaning given in section 24(1),
- “site management statement” has the meaning given in section 4(2),
- “site of special scientific interest” has the meaning given in section 3(6)^[F2](read, where necessary, together with section 5A(3)(b))],
- “SNH” means Scottish Natural Heritage,
- “SSSI notification” has the meaning given in section 3(5)^[F3](read, where necessary, together with section 5A(3)(a))],
- “statutory undertaker” means—
- (a) a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of water or hydraulic power,
 - (b) ^[F4]an operator of an electronic communications code network (within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003);]
 - (c) an airport operator (within the meaning of the Airports Act 1986 (c. 31)) operating an airport to which Part V of that Act applies,
 - (d) a gas transporter, within the meaning of Part I of the Gas Act 1986 (c. 44),
 - (e) a holder of a licence under section 6(1) of the Electricity Act 1989 (c. 29),
 - (f) Scottish Water,
 - (g) the Civil Aviation Authority or a holder of a licence under Chapter I of Part I of the Transport Act 2000 (c. 38) (to the extent that the person holding the licence is carrying out activities authorised by it), or
 - (h) ^[F5]a universal service provider within the meaning of Part 3 of the Postal Services Act 2011 (c.5).]
- (2) A reference in this Act to damaging a protected natural feature includes a reference to causing that natural feature to deteriorate.
- (3) A protected natural feature consisting of fauna is, for the purposes of this Act, to be treated as being damaged if it is disturbed or harassed to the extent that SNH or, if the land is not a site of special scientific interest, the Scottish Ministers—
- (a) no longer consider the land to which it relates to be of special interest by reason of that feature, or
 - (b) consider the degree to which the land is of special interest by reason of that feature to have decreased significantly.

Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Section 58. (See end of Document for details)

Textual Amendments

- F1** Words in s. 58(1) repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 2(3)(d)**, 134(7); S.S.I. 2010/221, art. 3(2), Sch.
- F2** Words in s. 58(1) inserted (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 37(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(n)
- F3** Words in s. 58(1) inserted (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 37(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(n)
- F4** Words in s. 58(1) substituted (28.12.2017) by The Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Primary Legislation) Regulations 2017 (S.I. 2017/1285), reg. 1(1), **Sch. 1 para. 10(2)**
- F5** Words in s. 58(1) substituted (1.10.2011) by The Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085), **Sch. 1 para. 58**

Commencement Information

- I1** S. 58 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Section 58.