
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 380

**The Conservation (Natural Habitats, etc.)
Regulations (Northern Ireland) 1995**

PART II

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Control of potentially damaging operations

Declaration of potentially damaging operations

15.—(1) Any declaration in force in relation to a European site under Article 24 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (declaration of areas of special scientific interest) specifying—

- (a) the flora, fauna or geological, physiographical or other features by reason of which the land is of special scientific interest, and
- (b) any operations and activities appearing to the Department to be likely to damage the flora or fauna or those features,

shall have effect for the purposes of these Regulations.

(2) The Department may, for the purpose of securing compliance with the requirements of the Habitats Directive, at any time amend the declaration with respect to any of the matters mentioned in paragraph 1(a) or (b).

(3) Notice of any amendment shall be given—

- (a) to every owner and occupier of any land within the site who in the opinion of the Department may be affected by the amendment; and
- (b) to each district council in whose district the site is wholly or partially situated;

and the amendment shall come into force in relation to an owner or occupier upon such notice being given to him.

(4) The provisions of Article 33 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (matters to be registered in the Statutory Charges Register) apply with the necessary modifications to an amendment of a declaration under this regulation as in relation to the original declaration.

Restriction on carrying out operations specified in declaration

16.—(1) The owner or occupier of any land within a European site shall not carry out, or cause or permit to be carried out on that land, any operation or activity specified in a declaration in force in relation to the site under regulation 15 unless—

- (a) in the case of any operation or activity which, in the opinion of the Department, would not cause any damage to the scientific interest of the area,—

- (i) a person has given notice to the Department of a proposal to carry out the operation or activity; and
 - (ii) the operation or activity is carried out with the Department's written consent; and
 - (iii) the Department has not served on him notice of its intention to acquire the land compulsorily; or
- (b) in the case of any other operation or activity,—
- (i) the owner or occupier has given written notice to the Department of a proposal to carry out the operation or activity, specifying its nature and the land on which it is proposed to carry it out; and
 - (ii) one of the conditions in paragraph (2) is fulfilled; and
 - (iii) the Department has not served on him notice of its intention to acquire the land compulsorily.
- (2) The conditions referred to in paragraph 1(b)(ii) are—
- (a) that the operation or activity is carried out with the Department's written consent; and
 - (b) that the operation or activity is carried out in accordance with the terms of a management agreement.
- (3) A person who, without reasonable excuse, contravenes paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) For the purposes of paragraph (3) it shall be a reasonable excuse in any event for a person to carry out an operation if—
- (a) the operation was authorised by a planning permission granted under Part IV of the 1991 Order; or
 - (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Department as soon as practicable after the commencement of the operation.
- (5) The Department shall have power to enforce the provisions of this regulation.
- (6) Proceedings for an offence under this regulation shall not, without the consent of the Director of Public Prosecutions for Northern Ireland, be taken by a person other than the Department.

Supplementary provisions as to consents

17.—(1) Where it appears to the Department that an application for consent under regulation 16(2)(a) relates to an operation which is or forms part of a plan or project which—

- (a) is not directly connected with or necessary to the management of the site, and
- (b) is likely to have a significant effect on the site (either alone or in combination with other plans or projects),

it shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) In the light of the conclusions of the assessment, and subject to paragraph (3), the Department may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) If, in spite of an assessment that a plan or project will adversely affect the integrity of a site, the Department is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (4), may be of a social or economic nature), it may give consent to the operation.

(4) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (3) must be either—

- (a) reasons relating to human health, public safety, or beneficial consequences of primary importance to the environment, or
- (b) other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

(5) Where the Department gives consent under this regulation it shall secure that such compensatory measures are taken as are necessary to ensure that the overall coherence of Natura 2000 is protected.

(6) This regulation does not apply in relation to a site which is a European site by reason only of regulation 9(1)(c) (site protected in accordance with Article 5(4)).

Provision as to existing notices and consents

18.—(1) Any notice previously given under Article 25(1)(a)(i) or (b)(i) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 or consent previously given under Article 25(1)(a)(ii) or (2)(a) of that Order in relation to land which on or after the commencement of these Regulations becomes land within a European site shall have effect, subject as follows as if given under regulation 16(1)(a)(i) or (b)(i) (notices), (a)(ii) or (2)(a) (consents).

(2) The Department shall review any such consent as regards its compatibility with the conservation objectives of the site, and may modify or withdraw it.

(3) Notice of any such modification or withdrawal of consent shall be given to every owner and occupier of land within the site who in the opinion of the Department may be affected by it; and the modification or withdrawal shall come into force in relation to an owner or occupier upon such notice being given to him.

(4) The modification or withdrawal of a consent shall not affect anything done in reliance on the consent before the modification or withdrawal takes effect.

(5) Where or to the extent that an operation ceases to be covered by a consent by reason of the consent being modified or withdrawn, regulation 16(1) shall apply from the giving of the notice of the modification or withdrawal under paragraph (3) above.