
Changes to legislation: *Countryside and Rights of Way Act 2000, Cross Heading: Modification of operation of section 28E is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 11

TRANSITIONAL PROVISIONS AND SAVINGS RELATING TO SITES OF SPECIAL SCIENTIFIC INTEREST

Modification of operation of section 28E

- 8 (1) Except as provided in paragraph 9—
- (a) a notice given under old section 28(5)(a) has effect from the substitution date as if it were a notice given under section 28E(1)(a); and
 - (b) a consent given under old section 28(6)(a) has effect from that date as if it were a consent under section 28E(3)(a).
- (2) In relation to such a consent, section 28E has effect as if for subsections (7) and (8) there were substituted—
- “(7) A notice under subsection (6) must include a notice of—
- (a) the Council’s reasons for withdrawing or modifying the consent;
 - (b) the rights of appeal under section 28F;
 - (c) the effect of subsection (9); and
 - (d) the effect of section 28M.”
- 9 (1) Subject to paragraph 10, this paragraph applies where—
- (a) a notice has been given under old section 28(5)(a) before the substitution date;
 - (b) on the substitution date neither of the conditions set out in old section 28(6) (a) and (b) is fulfilled; and
 - (c) on the substitution date four months have expired since the notice under old section 28(5)(a) was given,
- but even if those conditions are fulfilled, this paragraph does not apply in relation to operations specified in a notice under section 29(4)(a) on any land if immediately before the substitution date an order under section 29 was in effect in relation to that land.
- (2) Where this paragraph applies, but subject to sub-paragraph (7), the prohibition in section 28E(1) on carrying out, or causing or permitting to be carried out, an operation does not apply in relation to an operation specified in the notice under old section 28(5)(a).
- (3) Where this paragraph applies, the Nature Conservancy Council may, on or after the substitution date, give a notice (a “stop notice”) to every owner and occupier of the land to which the stop notice is to apply.
- (4) A stop notice is to specify—
- (a) the date on which it is to take effect;
 - (b) the operations to which it applies; and

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- (c) the land to which it applies,
and must contain a notice of the right of the person to whom the stop notice is given to appeal against it in accordance with paragraph 11, and a notice of the effect of sub-paragraph (8).
- (5) The date on which a stop notice is to take effect may not be sooner than the end of the period of three days beginning with the date the stop notice is given, unless the Council consider that there are special reasons which justify a shorter period, and a statement of those reasons is included with the stop notice.
- (6) The operations to which a stop notice may apply are all or any of the operations specified in the notice under old section 28(5)(a).
- (7) From the date on which the stop notice takes effect, sub-paragraph (2) of this paragraph ceases to apply in relation to the operations specified in the stop notice on the land to which the stop notice applies.
- (8) Where the Council give a stop notice, they shall make a payment to any owner or occupier of the land who suffers loss because of it.
- (9) The amount of a payment under sub-paragraph (8) is to be determined by the Council in accordance with guidance given and published by the Ministers (within the meaning of section 50).
- (10) Section 50(3) applies to the determination of the amount of a payment under sub-paragraph (8) as it applies to the determination of the amount of payments under that section.
- (11) This paragraph ceases to apply, in relation to any operation specified in the notice referred to in sub-paragraph (1)(a) except an operation to which a stop notice applies, if the operation has not begun before the end of the period of—
- (a) three years beginning with the substitution date; or
 - (b) in a case falling within paragraph 10(2) or (3), three years beginning immediately after the expiry of the period of one month or longer referred to there.
- 10 (1) An agreement under old section 28(6A) in effect immediately before the substitution date has effect from the substitution date as an agreement that paragraph 9 is not to apply in relation to the operation which is the subject of the agreement; and, accordingly, paragraph 9 does not apply in relation to that operation (as regards both the owner and the occupier of the land).
- (2) Where a notice has been given under old section 28(6B) before the substitution date, paragraph 9 has effect, in relation to the operation in question, as if for the period mentioned in paragraph 9(1)(c) there were substituted the period of one month from the giving of the notice or (if a longer period is specified in the notice) that longer period.
- (3) If after an agreement has taken effect as mentioned in sub-paragraph (1) the relevant person (whether a party to the agreement or not) gives the Nature Conservancy Council written notice that he wishes to terminate the agreement, then as from the giving of the notice paragraph 9 has effect, in relation to the operation in question (as regards both the owner and the occupier of the land), as if for the period mentioned in paragraph 9(1)(c) there were substituted the period of one month from the giving of the notice or (if a longer period is specified in the notice) that longer period.

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- (4) In sub-paragraph (3), “relevant person” has the same meaning as in old section 28(6C).
- 11 (1) A person to whom a stop notice is given may by notice appeal against it to the Secretary of State, but meanwhile it remains in effect.
- (2) Section 28F(3) to (11) shall apply in relation to such an appeal as they apply in relation to an appeal against a decision to withdraw a consent (see section 28F(1)(d)), but with the following modifications—
- (a) as if, in section 28F(3), for paragraphs (a) and (b) and the following words “or, in either case,” there were substituted “ within the period of two months beginning with the date of the stop notice, or ”; and
- (b) as if, for section 28F(5), there were substituted—
- “(5) On determining the appeal, the Secretary of State may quash or affirm the stop notice; and if he affirms it, he may do so either in its original form or with the removal from it of such operations as he thinks fit, or in relation to such reduced area of land as he thinks fit.”
- 12 (1) The Nature Conservancy Council may, by notice given to every owner and occupier of land to which a stop notice applies, vary a stop notice by removing any operation to which it applies or reducing the area of land to which it applies.
- (2) Where after giving a stop notice—
- (a) the Council consent to an operation to which the stop notice applies;
- (b) an operation to which it applies becomes one which may be carried out under the terms of an agreement under section 16 of the National Parks and Access to the ^{M1}Countryside Act 1949 or section 15 of the ^{M2}Countryside Act 1968; or
- (c) an operation to which it applies becomes one which may be carried out in accordance with a management scheme under section 28J or a management notice under section 28K,
- the stop notice shall be deemed to be varied accordingly by the removal from the stop notice of the operation in question in relation to the land to which the consent, agreement or management scheme or notice relates.

Marginal Citations

M1 1949 c. 97.

M2 1968 c. 41.

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- s. 15(1)(e) and word inserted by [2023 asc 3 Sch. 13 para. 179](#)
- s. 55A inserted by [2015 c. 20 s. 20](#)
- s. 56A inserted by [2015 c. 20 s. 21](#)
- s. 56B inserted by [2015 c. 20 s. 22\(1\)](#)