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STATUTORY INSTRUMENTS

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**2002 No. 3153**

**The Environment (Northern Ireland) Order 2002**

**PART IV**

**AREAS OF SPECIAL SCIENTIFIC INTEREST**

*Duties of public bodies in relation to land included in ASSI*

**Public bodies: duties in relation to authorising operations**

**40.**—(1) This Article applies where the permission of a public body is needed before operations may be carried out.

(2) Before permitting the carrying out of operations likely to damage any of the flora, fauna or geological, physiographical or other features by reason of which an ASSI is of special scientific interest, a public body shall give notice of the proposed operations to the Department.

(3) Paragraph (2) applies even if the operations would not take place on land included in an ASSI.

(4) The public body shall wait until the expiry of the period of 28 days beginning with the date of the notice under paragraph (2) before deciding whether to give its permission, unless the Department has notified the body that it need not wait until then

(5) The body shall take any advice received from the Department into account—

- (a) in deciding whether or not to permit the proposed operations, and
- (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to the permission.

(6) If the Department advises against permitting the operations, or advises that certain conditions should be attached, but the public body does not follow that advice, the body—

[<sup>F1</sup>(aa) shall, in granting permission, impose conditions sufficient to ensure that the requirements set out in paragraph (6A) are complied with;]

- (a) shall give notice of the permission, and of its terms, to the Department, the notice to include a statement of how (if at all) the body has taken account of the Department's advice, and
- (b) shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice.

[<sup>F2</sup>(6A) The requirements are—

- (a) that the operations are carried out in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological, physiographical or other features by reason of which the ASSI is of special scientific interest; and
- (b) that the site will be restored to its former condition, so far as is reasonably practicable, if any such damage does occur.]

(7) In this Article “permission”, in relation to any operations, includes authorisation, consent, and any other type of permission.

(8) This Article does not apply where the public body whose permission is needed is the Department.

**F1** Art. 40(6)(aa) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), **ss. 29(2)**, 40(1); S.R. 2011/285, **art. 2**, Sch.

**F2** Art. 40(6A) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), **ss. 29(3)**, 40(1); S.R. 2011/285, **art. 2**, Sch.

**Changes to legislation:**

There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, Section 40.