

SCHEDULE 2

Regulation 3(3)

THRESHOLDS FOR IDENTIFICATION OF PROJECTS LIKELY TO HAVE SIGNIFICANT EFFECTS ON THE ENVIRONMENT

Interpretation

1. For the purposes of this Schedule—

“sensitive area” means—

- (a) land notified under subsection (1) of section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981(1);
- (b) land to which subsection (3) of section 29 (nature conservancy orders) of the Wildlife and Countryside Act 1981 applies;
- (c) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage(2);
- (d) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979(3);
- (e) an area designated as a Natural Heritage Area by a direction made by the Secretary of State or the Scottish Ministers under section 6(2) of the Natural Heritage (Scotland) Act 1991(4) or as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972(5);
- (f) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc.) Regulations 1994(6);

“specified threshold” means any threshold specified in hectares in Column 2 or 3 of the Table in paragraph 2 below.

Thresholds

2.—(1) For the purposes of regulation 3(3), the threshold for any project of a type specified in an entry in column 1 in the Table below is the area (if any) specified in the corresponding entry in Column 2 or 3 of the Table, whichever is appropriate to the land covered, or proposed to be covered, by that project.

(2) This paragraph applies subject to paragraph 3 of this Schedule.

TABLE

| <i>Column 1</i> <i>Type of Project</i> | <i>Column 2</i> <i>Threshold where any part of the land is in a sensitive area</i> | <i>Column 3</i> <i>Threshold where no part of the land is in a sensitive area</i> |
|---|---|--|
| Afforestation | 2 hectares, where the sensitive area is one referred to in paragraph 1(e) above. | 5 hectares. |

(1) 1981 c. 69, amended by the Wildlife and Countryside (Amendment) Act 1985 (c. 31) and the Wildlife and Countryside (Service of Notices) Act 1985 (c. 59).
 (2) See Command Paper 9424.
 (3) 1979 c. 46. See the definition in section 1(11).
 (4) 1991 c. 28.
 (5) 1972 c. 52; section 6(9) of the Natural Heritage (Scotland) Act 1991 contained a saving provision for any areas which were designated as National Scenic Areas under section 262C as at the date of repeal of that section by section 27 of, and Schedule 11 to, the 1991 Act.
 (6) S.I.1994/2716.

Status: This is the original version (as it was originally made).

| <i>Column 1</i> <i>Type of Project</i> | <i>Column 2</i> <i>Threshold where any part of the land is in a sensitive area</i> | <i>Column 3</i> <i>Threshold where no part of the land is in a sensitive area</i> |
|---|---|--|
| | No threshold in the case of other sensitive areas. | |
| Deforestation | 0.5 hectare, where the sensitive area is one referred to in paragraph 1(e) above | 1 hectare. |
| | No threshold in the case of other sensitive areas. | |
| Forest road works | No threshold. | 1 hectare. |
| Forest quarry works | No threshold. | 1 hectare. |

Thresholds for extending projects

- 3.—(1) Where the project under consideration is an extending project—
- (a) the thresholds specified in the Table in paragraph 2 above shall not apply; and
 - (b) the threshold applicable for that project for the purposes of regulation 3(3) shall be instead such balance (if any), in hectares, of the area specified in Column 2 or, as the case may be, Column 3 in that Table opposite the entry in Column 1 for that type of project as remains after deduction of the accumulated material past project area).
- (2) For the purposes of sub-paragraph (1)(b) above, it is immaterial whether any part of the accumulated material past project area is, or is not, in a sensitive area (or any kind of sensitive area).
- (3) In this paragraph—
- “extending project” means any project covering, or proposed to cover, land adjoining the area of one or more material past projects;
- “material past project”, in relation to a particular extending project, means a project which—
- (a) is of the same type (as specified in regulation 3(2)) as that extending project; and
 - (b) was completed after the coming into force of these Regulations; and
 - (c) was completed not more than five years before the proposed date for starting the work relating to that extending project;
- “Accumulated material past project area”, in relation to a particular extending project, means the total area covered by—
- (a) the material past project or, if more than one, all of them; and
 - (b) every other project—
 - (i) whose area adjoins the material past project, or one of them; and
 - (ii) which satisfies conditions (a) to (c) in the definition of “material past project”.

Consideration of thresholds in other cases where project adjoins or is near another project

- 4.—(1) The facts—
- (a) that a project is or would be adjoining or, in the opinion of the Commissioners or (as the case may be) the Scottish Ministers, near another project of any type specified in regulation 3(2), and
 - (b) that, for any reason, the case in question does not fall within paragraph 3 above,

may be regarded by the Commissioners or the Scottish Ministers as rendering the circumstances of that project exceptional for the purposes of regulation 6(3) or (as the case may be) 7(6).

(2) This paragraph—

- (a) shall not affect the application of those regulations in a case which does fall within paragraph 3; and
- (b) shall not be interpreted as limiting the generality of the references in those regulations to circumstances which are, in the opinion of the Commissioners or (as the case may be) the Scottish Ministers, exceptional.