

# NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4: Sites of special scientific interest (SSSIs)**

##### ***Section 55: Offences in connection with SSSIs***

155. This section introduces two new offences concerning SSSIs.
156. *Subsection (2)* provides that where a section 28G authority (as defined in section 28G of the 1981 Act – broadly speaking, any public body or its employees), fails to comply with its obligations under section 28I of the 1981 Act (notification to Natural England or, as the case may be, the Countryside Council for Wales, before permitting operations likely to damage an SSSI, etc.), it commits an offence unless it had a reasonable excuse. Emergency situations qualify as a reasonable excuse, provided notification is given as soon as practicable after the permission was given.
157. *Subsection (3)* provides a new offence of intentionally or recklessly destroying or damaging the listed features of a SSSI or disturbing its listed fauna, without reasonable excuse. This offence is in addition to that in section 28P(6) of the 1981 Act. The difference between them is that commission of this new offence does not require knowledge that what was destroyed, damaged or disturbed was within an SSSI. Accordingly, it carries a lesser penalty.
158. *Subsection (5)* provides that the court’s powers to make a restoration order under section 31 of the 1981 Act also apply to convictions under the new offence created by subsection (3).

##### ***Section 56: Denotification***

159. This section amends section 28D of the 1981 Act to allow the relevant conservation body to denotify a site of special scientific interest, or part of a site, where it is “not” of special interest. Before this amendment, denotification could only take place if a site, or part of it, was “no longer” of special interest.

##### ***Section 57: Effect of failure to serve certain notices***

160. This adds a new section 70B to the 1981 Act.
161. Subsections (1) and (3) of section 70B provide that where, in relation to a piece of land, a relevant conservation body has taken all reasonable steps to serve on every owner and occupier one of the notices listed in subsection (2), but has failed to do so, the notice will remain valid. Section 70B applies to notices served both before and after the Act comes into force.

*These notes refer to the Natural Environment and Rural Communities  
Act 2006 (c.16) which received Royal Assent on 30 March 2006*

162. Subsection (4) of section 70B makes provision for calculating the time when a notice is deemed to have been served under section 28 to 28Q of the 1981 Act. A notice is deemed to have been served when the relevant conservation body has taken the last of the reasonable steps in subsection (1).
163. Subsection (5) requires a relevant conservation body to serve a notice on an owner or occupier of land when it becomes aware that it has failed to do so.
164. Subsection (6) provides that owners and occupiers are not liable for anything they have done or have omitted to do before section 70B comes into effect (paragraph (a)). Even once section 70B has come into effect, the fact that a notice is deemed to be valid under subsection (3) does not in itself render them liable for offences under subsections 28P(1) and 28Q(4) until they have been served with a copy of the notice (paragraph (b)).

***Section 58: Notices and signs relating to SSSIs***

165. This section adds a new section 28S to the 1981 Act, conferring a general power on Natural England (or, in Wales, the Countryside Council for Wales) to erect, maintain and remove signs or notices about an SSSI, on land included in that SSSI. (The application of section 28S to Wales is achieved by section 27AA of the 1981 Act, inserted by paragraph 78 of Schedule 11.) Under section 28S, it will be an offence to, without reasonable excuse, intentionally or recklessly take down, damage, destroy or obscure such a sign or notice.
166. *Subsection (2)* ensures that the powers of entry to land provided by section 51 of the 1981 Act will be available for the purposes of putting up, etc. signs under section 28S.