
STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

PART V

SUPPLEMENTARY PROVISIONS

Supplementary provisions as to potentially damaging operations

Carrying out of operation after expiry of period

87.—(1) If before the expiry of the period of four months referred to in regulation 19(2)(c) the relevant person agrees in writing with the appropriate nature conservation body that, subject as follows, the condition specified in that provision shall not apply in relation to the operation in question, then, subject as follows, regulation 19(2) shall as from the date of the agreement have effect in relation to the operation (as regards both the owner or the occupier of the land in question) as if sub-paragraph (c) were omitted.

(2) If after such an agreement has been made the relevant person (whether a party to the agreement or not) gives written notice to the appropriate nature conservation body that he wishes to terminate the agreement, then as from the giving of the notice regulation 19(2) shall have effect in relation to the operation in question (as regards both the owner and the occupier of the land in question) as if paragraph (c) specified the condition that one month, or any longer period specified in the notice, has expired from the giving of the notice under this paragraph.

(3) In paragraphs (1) and (2) above “the relevant person”—

- (a) in a case where the notice under regulation 19(1)(a) was given by the owner of the land in question, means the owner of that land;
- (b) in a case where that notice was given by the occupier of that land, means the occupier of that land.

Duties of agriculture Ministers with respect to European sites

88.—(1) Where an application for a farm capital grant is made as respects expenditure incurred or to be incurred for the purpose of activities on land within a European site, the Minister responsible for determining the application—

- (a) shall, so far as may be consistent with the purposes of the grant provisions, so exercise his functions thereunder as to further the conservation of the flora, fauna, or geological or physiological features by reason of which the land is a European site; and
- (b) where the appropriate nature conservation body have objected to the making of the grant on the ground that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State.

(2) Where in consequence of an objection by the appropriate nature conservation body, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in paragraph (1)(b), the appropriate nature conservation body shall, within three months of their receiving notice of the Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—

- (a) imposing restrictions as respects those activities, and
- (b) providing for the making by them of payments to the applicant.

(3) In this regulation—

“farm capital grant” means—

- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970⁽¹⁾, or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972⁽²⁾ to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature; and

“grant provisions” means—

- (i) in the case of such a grant as is mentioned in paragraph (a) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970, and
- (ii) in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the Community instrument in pursuance of which the regulations were made.

Payments under certain agreements offered by authorities

89.—(1) This regulation applies where the appropriate nature conservation body offers to enter into a management agreement providing for the making of payments by them to—

- (a) a person who has given notice under regulation 19(1)(a) or 23(1)(a), or
- (b) a person whose application for a farm capital grant within the meaning of regulation 88 has been refused in consequence of an objection by that body.

(2) Subject to paragraph (3), the said payments shall be of such amounts as may be determined by the offeror in accordance with guidance given—

- (a) in England, by the Minister of Agriculture, Fisheries and Food and the Secretary of State, or
- (b) in Wales or Scotland, by the Secretary of State.

(3) If the offeree so requires within one month of receiving the offer, the determination of those amounts shall be referred to an arbitrator to be appointed, in default of agreement, by the Secretary of State.

(4) Where the amounts determined by the arbitrator exceed those determined by the offeror, the offeror shall—

- (a) amend the offer so as to give effect to the arbitrator's determination, or
- (b) except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the offeror, withdraw the offer.

(1) 1970 c. 40; section 29 was amended by section 15(1) of the Agriculture (Miscellaneous Provisions) Act 1976 (c. 55).

(2) 1972 c. 68.

(5) In the application of this regulation in Scotland references to an arbitrator shall be construed as references to an arbiter.

Powers of entry

90.—(1) A person authorised in writing by the appropriate nature conservation body may, at any reasonable time and (if required to do so) upon producing evidence that he is so authorised, enter any land—

- (a) to ascertain whether a special nature conservation order should be made in relation to that land, or if an offence under regulation 23 is being, or has been, committed on that land; or
- (b) to ascertain the amount of any compensation payable under regulation 25 in respect of an interest in that land.

But nothing in this paragraph shall authorise any person to enter a dwelling.

(2) A person shall not demand admission as of right to any land which is occupied unless either—

- (a) 24 hours' notice of the intended entry has been given to the occupier, or
- (b) the purpose of the entry is to ascertain if an offence under regulation 23 is being, or has been, committed on that land.

(3) A person who intentionally obstructs a person in the exercise of his powers under this regulation commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Compensation: amount and assessment

91.—(1) The following provisions have effect as to compensation under regulation 25(1) (effect of special nature conservation order: decrease in value of agricultural unit).

(2) The amount of the compensation shall be the difference between the value of the interest in question and what it would have been had the order not been made.

(3) For this purpose—

- (a) an interest in land shall be valued as at the time when the order is made; and
- (b) where a person, by reason of his having more than one interest in land, makes more than one claim in respect of the same order, his various interests shall be valued together.

(4) Section 10 of the Land Compensation Act 1973(3) (mortgages, trusts for sale and settlements) or section 10 of the Land Compensation (Scotland) Act 1973(4) apply in relation to compensation under regulation 25(1) as in relation to compensation under Part I of that Act.

(5) For the purposes of assessing compensation under regulation 25(1), the rules set out in section 5 of the Land Compensation Act 1961(5) or section 12 of the Land Compensation (Scotland) Act 1963(6) have effect, so far as applicable and subject to any necessary modifications, as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

Compensation: other supplementary provisions

92.—(1) The following provisions have effect in relation to compensation under regulation 25 (compensation for effect of special nature conservation order).

(3) 1973 c. 26.

(4) 1973 c. 56.

(5) 1961 c. 33.

(6) 1963 c. 51.

(2) The compensation shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 or section 40 of the Land Compensation (Scotland) Act 1963⁽⁷⁾, from the date of the claim until payment.

(3) Except in so far as may be provided by regulations, any question of disputed compensation shall be referred to and determined by the Lands Tribunal or the Lands Tribunal for Scotland.

(4) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 or sections 9 and 11 of the Land Compensation (Scotland) Act 1963 (procedure and costs) shall apply, subject to any necessary modifications and to the provisions of any regulations.

Compensation: procedural provisions

93.—(1) The power to make regulations under section 30 of the Wildlife and Countryside Act 1981⁽⁸⁾ (provisions as to compensation where order made under section 29 of that Act) shall be exercisable so as to make provision for the purposes of these Regulations corresponding to those for which provision may be made under that section.

(2) The references in regulation 25 to matters being prescribed by regulations, and in regulation 92(3) and (4) to matters being provided by regulations, are to their being so prescribed or provided.

(3) Any regulations in force under section 30 on the commencement of these Regulations shall have effect for the purposes of these Regulations as if made under that section as applied by this regulation.

(7) 1963 c. 51.

(8) 1981 c. 69.