

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 1 – Sites of Special Scientific Interest

Notification of sites of special scientific interest

Section 5 Enlargement of sites of special scientific interest

45. This section permits SNH to enlarge an existing SSSI, by adding an additional area of land (the “extra land”) to the original site. SNH is permitted to do so only where the combined site, comprising the original site and the extra land, can be regarded as being of special interest. The principal purpose of this provision is to enable land, which ought reasonably to have been included within the original site at the time when that original site was notified, to be incorporated within the site at a later date.
46. This might take place, for example, when new data come to light demonstrating the value or importance of the extra land – whether in its own right as land of intrinsic special interest or as land which is not perhaps inherently of special interest in itself, but which is demonstrably important to the effective conservation and management of the existing SSSI. The procedure in section 5 enables this to happen without having either to notify the additional land as an entirely separate SSSI or to denotify the original site and then re-notify the whole of the larger area from scratch. The procedure is sufficiently flexible to cover both a significant enlargement of an SSSI (for example, where a significant area of extra land of special interest is added) or a minor outward adjustment to the boundary of the site (for example, where the size of the site is increased only in a minor sense, perhaps for reasons associated with the effective management of the existing site). It should be noted that changes and adjustments which decrease the size of the SSSI are covered by section 9.
47. Any debate about the merits or otherwise of the enlargement must relate to the case for including the *extra* land. Section 5 does not allow the case for the original site to be debated as part of the process for including the land. Notification of the change is therefore confined solely to interested parties (see section 48(2)) in relation to the extra land. Representations from interested parties are similarly confined to those which are relevant to the case for or against inclusion of the extra land. Representations in relation to the original site (such as, for example, arguments putting the case for its denotification) are not competent in this context.
48. The procedures associated with enlargement are otherwise essentially the same as for initial notification and the arrangements set out in Schedule 1 again apply. In addition, SNH must have regard to the selection criteria prescribed in section 3(3)(a) and in

*These notes relate to the Nature Conservation (Scotland) Act
2004 (asp 6) which received Royal Assent on 11 June 2004*

guidance under section 54 in making the case for the combined area of land, just as it would for a new SSSI.

49. Notification under this section must update the original SSSI notification to properly reflect the natural features of the combined land and the guidance provided to land managers via the site management statement must likewise be updated in order to cover the enlarged site. Provision for updating the ORC list in the SSSI notification covering the combined site is made separately in section 6 and other variations to the notification can be made separately using the power conferred by section 8.