



Nature Conservation (Scotland) Act 2004

2004 asp 6

PART 2

CONSERVATION AND ENHANCEMENT OF NATURAL FEATURES

CHAPTER 2

NATURE CONSERVATION ORDERS

23 Nature conservation orders

- (1) Where the Scottish Ministers consider that, for either or both of the purposes specified in subsection (2), the carrying out of an operation on land of a description specified in subsection (3) should be wholly or partly prohibited, they may make an order (a “nature conservation order”)—
 - (a) specifying the operation,
 - (b) specifying the circumstances (if any) in which the carrying out of the operation is not prohibited, and
 - (c) prohibiting any person from carrying it out on such land other than in those circumstances.
- (2) The purposes referred to in subsection (1) are—
 - (a) the conservation of any natural feature by reason of which land (whether or not the land in question) is a site of special scientific interest or, as the case may be, is otherwise considered by the Scottish Ministers to be of special interest,
 - (b) compliance with an international obligation.
- (3) The land referred to in subsection (1) is—
 - (a) land which is, or forms part of, a site of special scientific interest,
 - (b) land which is not, or does not form part of, a site of special scientific interest but is, in the opinion of the Scottish Ministers, of special interest by reason of any of its natural features,
 - (c) land which is contiguous to, or which the Scottish Ministers consider to be otherwise associated with, land of the type described in paragraph (a) or (b), or
 - (d) any combination of land of the types described in paragraphs (a) to (c).

Status: This is the original version (as it was originally enacted).

- (4) The circumstances which may be specified in a nature conservation order by virtue of subsection (1)(b) include, for example, the carrying out of an operation—
 - (a) at a particular time,
 - (b) in a particular manner, or
 - (c) in accordance with particular conditions.
- (5) Each operation specified in a nature conservation order is, so far as prohibited by the order in relation to the land to which the order relates, referred to in this Act as a “prohibited operation”.
- (6) A nature conservation order has effect on being made.
- (7) A nature conservation order ceases to have effect—
 - (a) on the date on which a decision not to confirm it is made under paragraph 5 of schedule 2,
 - (b) if no decision is made under that paragraph within the period mentioned in sub-paragraph (a) of that paragraph or that period as extended under paragraph 12 of that schedule, at the end of that period, or
 - (c) on the date on which an order under section 24(1) revoking it is made.

24 Amendment or revocation of nature conservation orders

- (1) The Scottish Ministers may by order amend or revoke a nature conservation order (and an order under this subsection is, in this Act, referred to as an amending order or, as the case may be, a revoking order).
- (2) An amending order may—
 - (a) add to the prohibited operations specified in a nature conservation order, modify the description of any prohibited operation so specified or remove any prohibited operation so specified from the order,
 - (b) amend any circumstances specified in a nature conservation order in relation to an operation by virtue of section 23(1)(b),
 - (c) extend or restrict the area of land to which a nature conservation order relates.
- (3) An amending order has effect on being made.
- (4) A nature conservation order which is amended by an amending order has effect, for so long as the amending order has effect, as amended.
- (5) A revoking order may revoke a nature conservation order in relation to part only of the land to which the nature conservation order relates.
- (6) A revoking order has effect on being made.

25 Nature conservation orders and related orders: procedure

Schedule 2 sets out procedure relating to nature conservation orders, amending orders and revoking orders.

26 Review of nature conservation orders

- (1) The Scottish Ministers may, when they think fit, review a nature conservation order for the purposes of determining whether they should make an amending order or a revoking order in relation to it.
- (2) The Scottish Ministers must carry out—
 - (a) the first such review within 6 years of the date on which the nature conservation order was made,
 - (b) any subsequent such review within 6 years of the previous review.

27 Offences in relation to nature conservation orders

- (1) Any person who carries out, or causes or permits to be carried out, a prohibited operation on any land to which a nature conservation order relates is guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding £40,000,
 - (b) on conviction on indictment, to a fine.
- (2) It is not a defence in proceedings for an offence under subsection (1) that the carrying out of the prohibited operation did not damage any natural feature of the land to which the nature conservation order relates.

28 Reports

A report submitted by SNH under section 10(2) (annual report) of the Natural Heritage (Scotland) Act 1991 (c. 28) for any year must set out particulars of any land in relation to which a nature conservation order, amending order or revoking order has come into effect during that year.