



# Nature Conservation (Scotland) Act 2004

## 2004 asp 6

### PART 2

#### CONSERVATION AND ENHANCEMENT OF NATURAL FEATURES

#### CHAPTER 1

##### SITES OF SPECIAL SCIENTIFIC INTEREST

###### *Notification of sites of special scientific interest*

### **3 Duty to give notification of sites of special scientific interest**

- (1) Scottish Natural Heritage (“SNH”) must, where it considers that any land is of special interest by reason of any of its natural features, notify that fact to the persons mentioned in section 48(2) (“the interested parties”).
- (2) References in this Act to a “natural feature” of land are references to any of its flora or fauna or geological or geomorphological features.
- (3) In determining for the purposes of subsection (1) whether any land is of special interest SNH must have regard to—
  - (a) the extent to which giving notification under that subsection in relation to the land would contribute towards the development of a series of sites of special scientific interest in Scotland representative of the diversity and geographic range of—
    - (i) Scotland’s natural features,
    - (ii) the natural features of Great Britain,
    - (iii) the natural features of the member States, and
  - (b) any guidance issued or approved under subsection (1) of section 54 so far as containing information of the description referred to in subsection (2)(a) of that section.
- (4) A notification under subsection (1) must be accompanied by—
  - (a) a document which—

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- (i) describes the land to which the notification relates,
  - (ii) specifies the natural feature by reason of which SNH considers the land to be of special interest,
  - (iii) specifies acts or omissions which appear to SNH to be likely to damage that natural feature, and
  - (iv) contains such other information as SNH thinks fit, and
- (b) a map on which the land is delineated.
- (5) The notification, document and map referred to in subsection (4) are in this Act together referred to, in relation to the land in question, as the “SSSI notification”.
- (6) An SSSI notification has effect from the date on which it is given; and the land in question is, until the notification ceases to have effect, to be known as a “site of special scientific interest”.
- (7) Each act or omission specified in an SSSI notification by virtue of subsection (4)(a)(iii) is, in relation to the site of special scientific interest, in this Act referred to as an “operation requiring consent”.

**Commencement Information**

**II** S. 3 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

**4 Site management statements**

- (1) An SSSI notification must be accompanied by a site management statement.
- (2) A site management statement is a statement prepared by SNH which—
- (a) provides guidance to owners and occupiers of land within a site of special scientific interest as to how the natural feature specified in the SSSI notification should be conserved or enhanced, and
  - (b) contains such other information in relation to the site of special scientific interest as SNH thinks fit.
- (3) That information may include information which promotes understanding and enjoyment by the public of the natural feature specified in the SSSI notification.
- (4) SNH may, at any time during which an SSSI notification has effect—
- (a) on the request of any owner or occupier of land within the site of special scientific interest, or
  - (b) of its own accord,
- review and, if it thinks fit, revise the site management statement.
- (5) SNH must provide a copy of any statement so revised to every owner and occupier of land within the site of special scientific interest.

**Commencement Information**

**I2** S. 4 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

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## 5 Enlargement of sites of special scientific interest

- (1) Where SNH considers that if land (“extra land”) which is contiguous to or which it considers to be otherwise associated with a site of special scientific interest were combined with the site, the combined land would be of special interest by reason of any of its natural features, it may notify that fact to the persons who are the interested parties in relation to the extra land.
- (2) Subsection (3) of section 3 applies for the purposes of subsection (1) of this section as it applies for the purposes of subsection (1) of that section.
- (3) Sections 3(4) and 4(1) and (2) apply in relation to a notification of extra land under subsection (1) of this section as they apply to a notification under section 3(1), but as if—
  - (a) in section 3(4)(a)(ii), the reference to the land were a reference to the combined land,
  - (b) in section 4(2), the references to a site of special scientific interest were references to the combined land.
- (4) Representations under schedule 1 with respect to a notification under subsection (1) are not competent so far as they relate to the original SSSI notification.

### Commencement Information

**I3** S. 5 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

## [<sup>F1</sup>5A Combining sites of special scientific interest

- (1) Where SNH considers that two or more sites of special scientific interest should be combined, it may notify that fact to the persons who are the interested parties in relation to the sites in question.
- (2) Subsections (4) to (7) of section 3 apply in relation to a notification under subsection (1) as they apply to a notification under section 3(1), but as if—
  - (a) references in section 3(4)(a)(ii) and (iii) to a natural feature were references to the natural features by reason of which SNH considers the original sites to be of special interest, and
  - (b) section 3(4) required the notification to also be accompanied by a revised site management statement prepared in relation to the combined site of special scientific interest.
- (3) Accordingly, from the date when notification is given under subsection (1)—
  - (a) that notification is an “SSSI notification ” for the purposes of this Act,
  - (b) the combined site of special scientific interest is a single “ site of special scientific interest ” for the purposes of this Act, and
  - (c) the original SSSI notifications cease to have effect.
- (4) SNH must give public notice describing the general effect of an SSSI notification given by virtue of subsection (1) in such manner (including on the internet or by other electronic means) as SNH thinks fit.
- (5) Nothing in this section allows SNH to—

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- (a) include any land in a combined site of special scientific interest which was not included in at least one of the original sites of special scientific interest,
- (b) add to the operations requiring consent specified in the original SSSI notifications (otherwise than by extending the original area to which any such operation requiring consent related so as to include any land in the combined site of special scientific interest). ]

#### **Textual Amendments**

**F1** S. 5A inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 37(2), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(n)

## **6 Review of operations requiring consent**

- (1) SNH—
  - (a) must, on the request of any owner or occupier of land within a site of special scientific interest,
  - (b) may when it thinks fit,
 review the operations requiring consent specified in an SSSI notification.
- (2) SNH must not carry out—
  - (a) the first such review within 6 years of the date on which the SSSI notification was given,
  - (b) any subsequent such review within 6 years of the previous review,
 except where the review is carried out under subsection (1)(b) and SNH has obtained the agreement of every owner and occupier of land within the site of special scientific interest.
- (3) Such agreement is obtained if SNH gives notice of a proposed review to every owner and occupier of land within the site of special scientific interest and—
  - (a) every such person consents to SNH carrying out the review, or
  - (b) no reasonable objection by any such person to the carrying out of the review is received by SNH within 28 days of the date on which the notice was given.
- (4) SNH may, in carrying out a review of operations requiring consent, also review any consents to carry out the operations given on applications under section 16(2).
- (5) If, on completion of a review, SNH is of the opinion that the SSSI notification should be amended by—
  - (a) adding to the operations requiring consent specified in it,
  - (b) modifying the description of any operation requiring consent so specified, or
  - (c) removing any operation requiring consent so specified from it,
 SNH must amend the SSSI notification by giving notification of the amendment to every owner and occupier of land within the site of special scientific interest.

#### **Modifications etc. (not altering text)**

**C1** S. 6(2) excluded (29.11.2004) by [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **20(6)** (with regs. 20-21)

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#### **Commencement Information**

**I4** S. 6 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

### **7 Addition or modification of operations requiring consent: urgent situations**

- (1) Where SNH considers that a person is carrying out, or intends to carry out, an operation (other than an operation requiring consent) which it considers is damaging or is likely to damage any natural feature specified in an SSSI notification and that the situation is one of urgency, SNH may, with the consent of the Scottish Ministers, amend the SSSI notification by—
  - (a) adding to the operations requiring consent specified in it,
  - (b) modifying the description of any operation requiring consent so specified.
- (2) An application to the Scottish Ministers for their consent under subsection (1) must—
  - (a) set out SNH's reasons for considering that the proposed amendment should be made and that the situation is one of urgency, and
  - (b) contain such other information relating to the proposed amendment as the Scottish Ministers may specify.
- (3) If the Scottish Ministers give their consent under subsection (1), SNH must amend the SSSI notification by giving notification of the amendment and of the consent—
  - (a) to every owner and occupier of land within the site of special scientific interest, and
  - (b) where the person whom SNH considers is carrying out or is likely to carry out the operation is not given notice under paragraph (a), to that person.

#### **Commencement Information**

**I5** S. 7 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

### **8 Variation of SSSI notifications**

- (1) SNH may, at any time after it has given notice under paragraph 10 of schedule 1 of a decision to confirm an SSSI notification, vary the matters included in the notification by virtue of section 3(4)(a)(i), (ii) and (iv) (whether by adding to them, changing them or removing matter from them) by giving notification to the interested parties.
- (2) The area of the land to which the SSSI notification relates cannot be varied under this section.

#### **Commencement Information**

**I6** S. 8 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

### **9 Denotification of sites of special scientific interest**

- (1) SNH may, where it considers that all or any part of a site of special scientific interest is no longer of special interest by reason of the natural feature specified in the SSSI notification, give notification to the persons set out in subsection (2) of its intention

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- to revoke the SSSI notification or, as the case may be, modify it so as to disapply its effect to the part of the site in question.
- (2) Those persons are the interested parties in relation to the site or, as the case may be, the part of the site in question.
- (3) In determining for the purposes of subsection (1) whether all or any part of a site of special scientific interest is no longer of special interest, SNH must have regard to—
- (a) the extent to which the SSSI notification continues to contribute towards the development of a series of sites of special scientific interest in Scotland representative of the diversity and geographic range of—
    - (i) Scotland’s natural features,
    - (ii) the natural features of Great Britain,
    - (iii) the natural features of the member States, and
  - (b) any guidance issued or approved under subsection (1) of section 54 so far as containing information of the description referred to in subsection (2)(a) of that section.
- (4) A notification under subsection (1) must be accompanied by—
- (a) a document which—
    - (i) describes the site of special scientific interest or, as the case may be, the part in question, and
    - (ii) explains why SNH considers the site of special scientific interest or part no longer to be of special interest by reason of the natural feature specified in the SSSI notification, and
  - (b) a map on which the site of special scientific interest or part is delineated.
- [<sup>F2</sup>(5) This subsection applies where—
- (a) a public body or office-holder (after consulting SNH in accordance with any enactment) permits the carrying out of an operation,
  - (b) the carrying out of the operation in pursuance of that permission damages a natural feature specified in an SSSI notification,
  - (c) SNH, because of that damage, gives notification under subsection (1) of its intention to revoke or modify the SSSI notification, and
  - (d) the explanation given by virtue of subsection (4)(a)(ii) in the document accompanying the notification under subsection (1)—
    - (i) states that SNH considers that all or part of the site of special scientific interest is no longer of special interest by reason of the damage caused by the carrying out of the permitted operation, and
    - (ii) explains the effect of subsection (6)(b).
- (6) Where subsection (5) applies—
- (a) section 11, and paragraphs 3 to 15 of schedule 1, do not apply in relation to the notification under subsection (1), and
  - (b) the relevant SSSI notification is revoked or, as the case may be, modified when the notification is given under subsection (1).]

#### Textual Amendments

- F2** S. 9(5)(6) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 38, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(o)

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**Commencement Information**

**I7** S. 9 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

**10 Notifications relating to sites of special scientific interest: procedure**

Schedule 1 sets out procedure relating to notifications given under sections 3(1), 5(1) and 9(1).

**Commencement Information**

**I8** S. 10 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

**11 Effect of SSSI notification**

- (1) From the date when SNH gives—
  - (a) notice under paragraph 10 of schedule 1 of a decision to confirm an SSSI notification with modifications,
  - (b) notification under section 5(1), 6(5), 7(3) or 8(1) in relation to an SSSI notification,
  - (c) notice under paragraph 10 of schedule 1 of a decision to confirm a notification given under section 5(1) with modifications,
  - (d) notice under that paragraph of a decision to confirm a notification given under section 9(1) in relation to part only of the site of special scientific interest,the SSSI notification has effect as amended by the modifications or, as the case may be, the notification given under section 5(1), 6(5), 7(3), 8(1) or 9(1).
- (2) Where SNH gives notice under paragraph 10 of schedule 1 of a decision to withdraw a notification given under section 5(1), the SSSI notification to which the withdrawn notification relates has effect, from the date on which the notice under that paragraph is given, as if the withdrawn notification had never been given.
- (3) An SSSI notification ceases to have effect on SNH giving notice under paragraph 10 of schedule 1 of a decision—
  - (a) to withdraw the SSSI notification, or
  - (b) to confirm a notification given under section 9(1) of its intention to revoke the SSSI notification.

**Commencement Information**

**I9** S. 11 in force at 29.11.2004 by [S.S.I. 2004/495, art. 2](#)

*Exercise of functions in relation to sites of special scientific interest*

**12 Exercise of functions by public bodies etc.**

- (1) This section applies to the exercise by a public body or office-holder of any function on, or so far as affecting, any land which is or forms part of a site of special scientific interest.

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- (2) The body or office-holder must—
- (a) consult SNH in relation to the exercise of the function,
  - (b) have regard to any advice given by SNH, and
  - (c) in exercising the function, take reasonable steps, so far as is consistent with the proper exercise of the functions of the body or office-holder, to—
    - (i) further the conservation and enhancement of the natural feature specified in the SSSI notification, and
    - (ii) maintain or enhance the representative nature of any series of sites of special scientific interest to which the SSSI notification contributes.
- (3) This section is without prejudice to sections 13 to 15.

**Commencement Information**

**I10** S. 12 in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)

*Operations affecting sites of special scientific interest*

**13 Operations by public bodies etc.**

- (1) A public body or office-holder must not carry out <sup>F3</sup>, or cause or permit to be carried out on land owned or occupied by the public body or office-holder, ] any operation which is likely to damage any natural feature specified in an SSSI notification except—
- (a) with the written consent of SNH given on an application under subsection (3),
  - (b) where subsection (1) of section 14 applies, or
  - (c) in accordance with subsection (2) of that section.
- (2) Subsection (1) of this section applies whether or not the operation would take place on land within a site of special scientific interest.
- (3) An application for SNH’s consent must specify—
- (a) the nature of the operation,
  - (b) the proposed dates of commencement and completion, and
  - (c) the land on which it is proposed to carry out the operation.
- (4) On an application under subsection (3) SNH may—
- (a) give consent to the operation being carried out, whether or not subject to conditions, or
  - (b) refuse such consent.
- (5) The conditions referred to in subsection (4)(a) may, in particular, provide—
- (a) that, despite the terms of the application under subsection (3), the operation may be carried out—
    - (i) only in such manner as SNH may specify,
    - (ii) on part only of the land on which the public body or office-holder wishes to carry out the operation,
  - (b) that the operation may be carried out only for, or within, such period as SNH may specify.



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- (6) SNH must, in giving or refusing consent, provide the public body or office-holder with written advice in relation to the operation, including advice on minimising such damage as is referred to in subsection (1).
- (7) SNH must give a public body or office-holder reasons for a decision under this section—
  - (a) to give consent subject to conditions,
  - (b) to refuse consent.
- (8) SNH is, if it neither gives nor refuses consent within 28 days of the date of the application under subsection (3), to be treated as having refused consent.

#### Textual Amendments

**F3** Words in s. 13(1) inserted (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 39(2), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)

#### Commencement Information

**I11** S. 13 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

## 14 Operations by public bodies etc.: authorised operations

- (1) SNH's consent under section 13 is not required in relation to the carrying out of an operation of the type described in subsection (1) of that section—
  - (a) in respect of which permission has been given by a relevant regulatory authority in accordance with section 15,
  - [<sup>F4</sup>(aa) in accordance with a restoration notice given under section 20A(4) or a restoration order made under section 40(1),]
  - (b) which is authorised by a planning permission granted on an application under Part III of the Town and Country Planning (Scotland) Act 1997 (c. 8),
  - (c) which is an emergency operation particulars of which (including details of the emergency) are notified to SNH as soon as practicable after the necessity for the operation becomes apparent,
  - [<sup>F5</sup>(ca) in accordance with a control scheme made under section 8 of the Deer (Scotland) Act 1996 (c.58),]
  - (d) in accordance with the terms of a management agreement between SNH and the public body or office-holder carrying out the operation, <sup>F6</sup>...
  - (e) in accordance with any plan relating to the management of land which has been prepared by the public body or office-holder and approved in writing by SNH for the purposes of this section [<sup>F7</sup>, or .
  - (f) if that operation is of a type described by order made by the Scottish Ministers.]
- (2) A public body or office-holder may, if all the conditions set out in subsection (3) are satisfied, carry out [<sup>F8</sup>or cause or permit to be carried out ] an operation of the type described in section 13(1)—
  - (a) in respect of which SNH has refused consent, or
  - (b) in a case where SNH has given consent, otherwise than in accordance with any condition to which the consent is subject.

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- (3) Those conditions are—
- (a) that the public body or office-holder has, more than 28 days after the date of the application under section 13(3), given notice to SNH of—
    - (i) the date (which must be at least 28 days after the date of the notice) on which it [F9] is proposed that the operation be commenced ], and
    - (ii) what (if anything) the body or office-holder has done, or proposes to do, in consequence of any written advice in relation to the operation which it has received, before the date of the notice, from SNH in pursuance of section 13(6),
  - (b) that the body or office-holder carries out the operation in such a way [F10], or causes or permits the operation to be carried out only in such a way, ] as to give rise to as little damage or disturbance as is reasonably practicable in all the circumstances to any natural feature specified in an SSSI notification (having had regard, in particular, to any such advice as is referred to in paragraph (a) (ii)),
  - (c) that in carrying out the operation [F11] or, as the case may be, in causing or permitting the carrying out of the operation, ] the body or office-holder complies with section 12(2)(c).
- (4) Subsection (5) applies where—
- (a) a public body or office-holder carries out [F12] or causes or permits the carrying out of an operation in circumstances in ] which it would, but for subsection (1) (a) or (c) or (2), require SNH's consent, and
  - (b) the operation damages any natural feature specified in an SSSI notification.
- (5) Where this subsection applies the body or office-holder must—
- (a) consult SNH as to the manner in which the natural feature should be restored to its former condition, and
  - (b) restore it, so far as is reasonably practicable, to that condition in accordance with any advice given by SNH in pursuance of paragraph (a).

#### Textual Amendments

- F4** S. 14(1)(aa) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 40(1)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(q)
- F5** S. 14(1)(ca) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F6** Word in s. 14(1) repealed (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F7** S. 14(1)(f) and word inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(a)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F8** Words in s. 14(2) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F9** Words in s. 14(3)(a)(i) substituted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F10** Words in s. 14(3)(b) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F11** Words in s. 14(3)(c) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(c)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F12** Words in s. 14(4)(a) substituted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(3)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)

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### Commencement Information

**I12** S. 14 in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)

## 15 Consent by certain regulatory authorities

- (1) This section applies where the permission of a relevant regulatory authority is needed before operations may be carried out.
- (2) A reference in this Act to a relevant regulatory authority is reference to any person designated as such for the purposes of this Act by order made by the Scottish Ministers.
- (3) Before deciding whether to permit the carrying out of an operation which is likely to damage any natural feature specified in an SSSI notification, the authority must notify SNH of the proposal to carry out the operation specifying—
  - (a) the nature of the operation,
  - (b) the proposed dates of commencement and completion, and
  - (c) the land on which it is proposed to carry out the operation.
- (4) Subsection (3) applies whether or not the operation would take place on land within a site of special scientific interest.
- (5) The authority must not decide whether to give its permission until the expiry of the period of 28 days beginning with the date of the notification to SNH unless SNH has notified the authority that it need not wait until then.
- (6) The authority must have regard to any advice received from SNH—
  - (a) in deciding whether to give its permission, and
  - (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to its permission.
- (7) Subsection (8) applies where the authority does not follow any such advice which—
  - (a) advises it against permitting an operation, or
  - (b) advises it to attach certain conditions to a permission.
- (8) Where this subsection applies—
  - (a) the permission given by the authority is subject to the conditions set out in subsection (10), and
  - (b) the authority must give notice in accordance with subsection (9) to SNH and the applicant for permission.
- (9) A notice given under subsection (8)(b) must set out the permission given and its terms and must include a statement specifying—
  - (a) what the authority has done, or proposes to do, in consequence of the advice given by SNH,
  - (b) that in giving permission or, as the case may be, attaching conditions to the permission the authority has not followed advice received from SNH under subsection (6), and
  - (c) the conditions set out in subsection (10).
- (10) The conditions referred to in subsections (8)(a) and (9)(c) are that—

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- (a) the permitted operation must not be commenced before the end of the period of 28 days beginning with the date on which notice under subsection (8)(b) is given, and
- (b) the operation is carried out in such a way as to give rise to as little damage or disturbance as is reasonably practicable in all the circumstances to the natural feature referred to in subsection (3).

#### Commencement Information

**I13** S. 15(1) s. 15(3)-(10) in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)

**I14** S. 15(2) in force at 1.10.2004 by [S.S.I. 2004/407](#), [art. 2\(a\)](#)

## 16 Operations by owners or occupiers of sites of special scientific interest

- (1) An owner or occupier of land within a site of special scientific interest must not carry out, or cause or permit to be carried out, an operation requiring consent on the land except—
  - (a) with the written consent of SNH given on an application under subsection (2), or
  - (b) where section 17(1) applies.
- (2) An application for such consent must specify—
  - (a) the nature of the operation,
  - (b) the proposed dates of commencement and completion, and
  - (c) the land on which it is proposed to carry out the operation.
- (3) On an application under subsection (2) SNH may—
  - (a) give consent to the operation being carried out, whether or not subject to conditions, or
  - (b) refuse such consent.
- (4) The conditions referred to in subsection (3)(a) may, in particular, provide—
  - (a) that, despite the terms of the application under subsection (2), the operation may be carried out—
    - (i) only in such manner as SNH may specify,
    - (ii) on part only of the land on which the owner or occupier wishes the operation to be carried out,
  - (b) that the operation may be carried out only for, or within, such period as SNH may specify.
- (5) SNH may, by giving notice to the owner or occupier to whom consent to carry out an operation has been given, modify or withdraw its consent—
  - (a) on completion of a review of it under section 6(4), or
  - (b) where SNH considers that the carrying out of the operation requiring consent in accordance with the consent will damage any natural feature specified in an SSSI notification in a manner not foreseen by SNH at the time it gave consent.
- (6) Consent may not be modified or withdrawn under subsection (5)(b) without the agreement of the Scottish Ministers.
- (7) A modification or withdrawal under subsection (5)(a) has effect from—

*Status: Point in time view as at 29/06/2011.*

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- (a) the expiry of the time limit for appealing against it, or
  - (b) where an appeal is made, its withdrawal or final determination.
- (8) A modification or withdrawal under subsection (5)(b) has effect on notice of it being given.
- (9) Where, under this section—
- (a) SNH—
    - (i) refuses to consent to an operation being carried out,
    - (ii) makes its consent subject to conditions, or
    - (iii) modifies or withdraws its consent, and
  - (b) it considers, having had regard to any guidance issued or approved under section 54(1) so far as relating to circumstances in which it should offer to enter into a management agreement, that, despite the decision referred to in paragraph (a), it should offer to enter into such an agreement with the applicant or, as the case may be, the person to whom the consent was given,
- it must offer to enter into such an agreement on such terms and conditions (including provision for payment to the applicant by SNH) as, having regard to the guidance, it thinks fit.
- (10) SNH must give an applicant reasons for a decision by virtue of this section—
- (a) to make its consent subject to conditions,
  - (b) to refuse consent,
  - (c) to modify or withdraw its consent,
  - (d) where paragraph (a) of subsection (9) applies, not to offer to enter into a management agreement in pursuance of that subsection.

#### **Commencement Information**

**I15** S. 16 in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)

## **17 Operations by owners or occupiers of sites of special scientific interest: authorised operations**

- (1) SNH's consent under section 16 is not required in relation to the carrying out of an operation requiring consent—
- (a) in respect of which permission has been given by a relevant regulatory authority in accordance with section 15,
  - [<sup>F13</sup>(aa) in accordance with a restoration notice given under section 20A(4) or a restoration order made under section 40(1),]
  - (b) which is authorised by a planning permission granted on an application under Part III of the Town and Country Planning (Scotland) Act 1997 (c. 8),
  - (c) which is an emergency operation particulars of which (including details of the emergency) are notified to SNH as soon as practicable after the necessity for the operation becomes apparent,
  - [<sup>F14</sup>(ca) in accordance with a control scheme made under section 8 of the Deer (Scotland) Act 1996 (c.58),]
  - (d) in accordance with the terms of a management agreement between SNH and the person carrying out the operation or causing or permitting it to be carried out,<sup>F15</sup> ...

*Status: Point in time view as at 29/06/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1. (See end of Document for details)*

- (e) which is carried out as required by a land management order<sup>F16</sup>, or.
  - (f) if that operation is of a type described by order made by the Scottish Ministers.]
- (2) Subsection (3) applies where—
- (a) an owner or occupier of land within a site of special scientific interest carries out, or causes or permits to be carried out, an operation which would, but for subsection (1)(a) or (c), require SNH's consent, and
  - (b) the operation damages any natural feature specified in an SSSI notification.
- (3) Where this subsection applies the owner or occupier must—
- (a) consult SNH as to the manner in which the natural feature should be restored to its former condition, and
  - (b) restore it, so far as is reasonably practicable, to that condition in accordance with any advice given by SNH in pursuance of paragraph (a).
- (4) Section 16 and this section do not apply to an <sup>F17</sup>operation in respect of which section 13 applies. ]

#### Textual Amendments

- F13** S. 17(1)(aa) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 40(1)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(q)
- F14** S. 17(1)(ca) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(4)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F15** Word in s. 17(1) repealed (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(4)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F16** S. 17(1)(f) and word inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(4)(a)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)
- F17** Words in s. 17(4) substituted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 39(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(p)

#### Commencement Information

- I16** S. 17 in force at 29.11.2004 by [S.S.I. 2004/495](#), **art. 2**

## 18 Appeals in connection with operations requiring consent

- (1) An owner or occupier of land within a site of special scientific interest who is aggrieved—
- (a) by a condition imposed under subsection (3)(a) of section 16,
  - (b) by a decision under subsection (3)(b) of that section to refuse consent,
  - (c) by a decision under subsection (5) of that section to modify or withdraw consent,
  - (d) by a decision, where paragraph (a) of subsection (9) of that section applies, not to enter into a management agreement in pursuance of that subsection,
  - (e) by the terms and conditions (including any provision for payment by SNH) on which SNH has offered to enter into a management agreement in pursuance of that subsection,
- may appeal to the Scottish Land Court.

*Status: Point in time view as at 29/06/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1. (See end of Document for details)*

(2) An appeal under subsection (1) must be lodged not later than 28 days after the date on which SNH notified the appellant of the decision being appealed.

(3) If, within—

- (a) the period of 4 months beginning on the date on which the owner or occupier seeking the consent made an application under section 16(2), or
- (b) such longer period, beginning on that date, as may be agreed in writing between SNH and the owner or occupier,

SNH neither gives nor refuses the consent sought in the application, SNH is to be treated, for the purposes of this section, as having refused consent on the day on which the period expired and an appeal may be made and determined under this section accordingly.

(4) If, within—

- (a) the period of 4 months beginning on the date on which SNH—
  - (i) refuses consent to an operation being carried out,
  - (ii) makes its consent subject to conditions, or
  - (iii) modifies or withdraws its consent, or
- (b) such longer period, beginning on that date, as may be agreed in writing between SNH and the owner or occupier,

SNH has not offered to enter into a management agreement in pursuance of section 16(9), SNH is to be treated, for the purposes of this section, as having decided not to so offer on the day on which the period expired and an appeal may be made and determined under this section accordingly.

(5) The Scottish Land Court must determine an appeal made under subsection (1) on the merits rather than by way of review and may do so by—

- (a) affirming the decision appealed against,
- (b) where the appeal is against a refusal of consent, directing SNH to give consent,
- (c) where the appeal is as to the conditions to which a consent is subject, quashing all or any of those terms or conditions,
- (d) where the appeal is against a decision not to offer to enter into a management agreement, directing SNH to so offer,
- (e) where the appeal is as to the terms and conditions of a management agreement, quashing all or any of those terms or conditions,
- (f) making such other order as it thinks fit.

(6) The Scottish Land Court may direct SNH—

- (a) where it determines an appeal under paragraph (b) or (c) of subsection (5), as to any conditions to which its consent to the carrying out of the operation requiring consent are to be subject,
- (b) where it determines an appeal under paragraph (d) or (e) of that subsection, as to terms and conditions of the management agreement (including provision for payment by SNH) which it must offer to enter into.

#### **Commencement Information**

**I17** S. 18 in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)

*Status: Point in time view as at 29/06/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1. (See end of Document for details)*

### *Offences and byelaws*

#### **19 Offences in relation to sites of special scientific interest**

- (1) Any person who intentionally or recklessly damages any natural feature specified in an SSSI notification is, subject to subsection (2), guilty of an offence.
- (2) Any person who does anything which would, but for this subsection, amount to an offence under subsection (1) is not guilty of the offence if it is shown that—
  - (a) the act was the incidental result of a lawful operation,
  - (b) the person who carried out the lawful operation—
    - (i) took reasonable precautions for the purpose of avoiding carrying out the act, or
    - (ii) did not foresee, and could not reasonably have foreseen, that the act would be an incidental result of the carrying out of the lawful operation, and
  - (c) that person took such steps as were reasonably practicable in all the circumstances to minimise the damage caused.
- (3) Any person who, without reasonable excuse—
  - (a) contravenes section 13(1) or 16(1), or
  - (b) fails to comply with section 14(5)(b) or 17(3)(b),
 is guilty of an offence.
- (4) Any person guilty of an offence under subsection (1) or (3) is liable—
  - (a) on summary conviction, to a fine not exceeding £40,000,
  - (b) on conviction on indictment, to a fine.
- (5) It is not a defence in proceedings for an offence under subsection (3) of contravening section 13(1) or 16(1) that the carrying out of the operation did not damage any natural feature specified in an SSSI notification.

#### **Commencement Information**

**I18** S. 19 in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)

#### **20 Byelaws**

- (1) SNH may make byelaws for the protection of a site of special scientific interest.
- (2) The following provisions of the National Parks and Access to the Countryside Act 1949 (c. 97) apply in relation to byelaws under subsection (1) as they apply in relation to byelaws under section 20 of that Act—
  - (a) subsections (2) and (3) of section 20 (reading references in those subsections to nature reserves as references to sites of special scientific interest), and
  - (b) sections 106 and 107.

#### **Commencement Information**

**I19** S. 20 in force at 29.11.2004 by [S.S.I. 2004/495](#), [art. 2](#)



*Status: Point in time view as at 29/06/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1. (See end of Document for details)*

## <sup>F18</sup>Restoration notices

### Textual Amendments

**F18** S. 20A and cross-heading inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 40\(1\)\(a\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), [art. 2\(1\)\(q\)](#)

## 20A Restoration notices

- (1) SNH may propose to give a restoration notice where it is satisfied that a person (the “responsible person”)—
  - (a) has committed an offence under section 19(1), or
  - (b) has committed an offence under section 19(3) in respect of an operation which has damaged a natural feature specified in an SSSI notification.
- (2) A restoration notice is a notice which requires the responsible person to carry out such operations as may be specified in the notice, within such periods from the notice taking effect as may be so specified, for the purpose of restoring, so far as is reasonably practicable, the damaged natural feature to its former condition.
- (3) A proposal under subsection (1) must be made to the responsible person and must—
  - (a) explain why SNH proposes to give the restoration notice,
  - (b) be accompanied by a draft of the proposed restoration notice,
  - (c) explain that giving notice of intention to comply with the restoration notice within 28 days of it being given would discharge the responsible person from liability to conviction for the offence in question,
  - (d) explain that the responsible person has the right to make representations to SNH about the proposal within the period of 28 days from the date on which the proposal is made,
  - (e) specify the manner in which such representations must be made.
- (4) SNH may, after the period for making representations about a proposal has expired, give the restoration notice (with or without modifications) to the responsible person.
- (5) A restoration notice has effect only if the responsible person gives SNH notice of intention to comply with it within 28 days of it being given.
- (6) SNH may by giving notice to a responsible person in respect of whom a restoration notice has effect—
  - (a) extend the period specified in the restoration notice within which operations are to be carried out, or
  - (b) otherwise modify the restoration notice in such manner as SNH considers appropriate.
- (7) A notice may be given under paragraph (b) of subsection (6) only where the responsible person has consented to the modification.
- (8) SNH may withdraw a restoration notice (by giving notice to the responsible person) where it is satisfied on the basis of information subsequently obtained that the restoration notice should not have been given to the responsible person.
- (9) Where a restoration notice is withdrawn, SNH must compensate the responsible person for any expenses reasonably incurred in complying with the restoration notice.

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*Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1. (See end of Document for details)*

- (10) Proceedings against the responsible person may not be commenced or continued for an offence in relation to which the restoration notice has effect (even if the restoration notice is subsequently withdrawn).
- (11) If, within the period specified in a restoration notice, the responsible person to whom it is given fails, without reasonable excuse, to comply with it, the responsible person 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.
- (12) If, within the period specified in a restoration notice, any operations so specified have not been carried out in accordance with the restoration notice, SNH may—
- (a) carry out those operations, and
  - (b) recover from the responsible person any expenses reasonably incurred by it in doing so.]

### *Supplementary*

## 21 [F19 Representations to SNH] on sites of special scientific interest

- F20(1) .....
- F20(2) .....
- F20(3) .....
- F20(4) .....
- F20(5) .....

- (6) Subsection (8) applies where—
- (a) any person with an interest in land which is a site of special scientific interest makes a representation to SNH in relation to—
    - (i) any reason specified in an SSSI notification, or notification under section 5(1), in pursuance of section 3(4)(a)(ii), or
    - (ii) any reason specified in a notification under subsection (1) of section 9 in pursuance of subsection (4)(a)(ii) of that section,
  - (b) that person does not agree to withdraw the representation, and
  - (c) the condition set out in subsection (7) is met.
- (7) That condition is that the representation is made—
- (a) before the expiry of the time limit for making representations in pursuance of paragraph 3(c) of schedule 1 with respect to the notification in question, or
  - (b) if that time limit has expired, not less than 10 years have elapsed from the date—
    - (i) on which the last such representation was made, or
    - (ii) where no such representation has been made previously, on which the notification in question was given.
- (8) Where this subsection applies SNH must—
- [F21(a) consider the matter, and
  - (b) take such action as it thinks fit.]

*Status: Point in time view as at 29/06/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1. (See end of Document for details)*

#### Textual Amendments

- F19** Words in s. 21 substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 2(3)(c)**, 134(7); [S.S.I. 2010/221](#), art. 3(2), Sch.
- F20** S. 21(1)-(5) repealed (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 2(3)(a)**, 134(7); [S.S.I. 2010/221](#), art. 3(2), Sch.
- F21** S. 21(8)(a)(b) substituted for (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 2(3)(b)**, 134(7); [S.S.I. 2010/221](#), art. 3(2), Sch.

#### Modifications etc. (not altering text)

- C2** S. 21(1) transfer of functions (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **s. 2(1)(2)**134(7); [S.S.I. 2010/221](#), art. 3(2), Sch.

#### Commencement Information

- I20** S. 21 in force at 29.11.2004 by [S.S.I. 2004/495](#), **art. 2**

## 22 SSSI register

- (1) The Keeper of the Registers of Scotland (“the Keeper”) must keep a register containing—
- such information relating to SSSI notifications as may be required by regulations under subsection (3), and
  - such information relating to—
    - notifications given under section 5(1), 6(5), 7(3), 8(1) or 9(1),
    - notices given under paragraph 10 or 15 of schedule 1,as may be so required.
- (2) The Keeper must ensure that the register is, at all reasonable times, available for public inspection.
- (3) The Scottish Ministers may by regulations make provision—
- as to the form and manner in which the register is to be kept,
  - as to the information which the register is to contain,
  - as to amendment of the register,
  - requiring SNH to send to the Keeper for registration in the register, in such form and manner as the regulations may specify, copies of the notifications and notices specified in subsection (1)(a) and (b) and such other documents and information as the regulations may specify,
  - as to the provision, on payment of such fee (if any) as may be so specified, of reports in relation to the register and copies and extracts of information in the register and as to the evidential value of such copies and extracts.

#### Commencement Information

- I21** S. 22(1)(2) in force at 30.6.2008 by [S.S.I. 2008/193](#), **art. 2(b)**
- I22** S. 22(3) in force at 2.6.2008 by [S.S.I. 2008/193](#), **art. 2(a)**

**Status:**

Point in time view as at 29/06/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Chapter 1.