SCHEDULE 5

(introduced by section 49)

PART 2: TRANSITIONAL ARRANGEMENTS

1 In this schedule "the relevant day" means the day on which paragraph 4 of schedule 7 comes into force.

Commencement Information

I1 Sch. 5 para. 1 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

Notifications under the 1981 Act

2 Paragraph 3 applies in relation to each notification given under section 28(1) of the 1981 Act (an "existing notification") which—

(a) has effect immediately before the relevant day, and

(b) where the notification was—

(i) given after the coming into force of the Wildlife and Countryside (Amendment) Act 1985 (c. 31), and

(ii) not preceded by a notice given under section 28(2) of the 1981 Act (as originally enacted) during the 6 months immediately preceding the coming into force of that Act of 1985,

has been confirmed by notice under section 28(4A)(b) of the 1981 Act.

Commencement Information

I2 Sch. 5 para. 2 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

3 Where this paragraph applies in relation to an existing notification—

(a) the notification is to be treated as an SSSI notification given, and confirmed by SNH under paragraph 4 of schedule 1 to this Act, on the day on which this paragraph first applies in relation to the notification,

(b) any operation specified in the notification in pursuance of section 28(4)(b) of the 1981 Act is to be treated, in relation to it, as an operation requiring consent,

(c) any written notice given in relation to the notification for the purposes of section 28(5)(a) of the 1981 Act during the period of 4 months immediately prior to the day on which this paragraph first applies in relation to the notification is, unless SNH has given written intimation to the person who gave the notice of its refusal to consent to the operation specified in it, to be treated as an application under section 16(2) of this Act, and

(d) SNH is to be treated as having given its written consent on an application under section 16(2) of this Act to the carrying out of an operation which is, by virtue of sub-paragraph (b), to be treated as an operation requiring consent if SNH has, on or before the day on which this paragraph first applies in relation to the notification, given its written consent to the carrying out of the operation.

Commencement Information

I3 Sch. 5 para. 3 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

4 SNH must, as soon as practicable after paragraph 3 first applies in relation to an existing notification—

(a) prepare a site management statement in respect of the land to which the notification relates, or

(b) adopt an existing statement which provides guidance of the type described in section 4(2)(a) in relation to the notification as the site management statement in respect of that land.

Modifications etc. (not altering text)

C1 Sch. 5 para. 4 applied (29.11.2004) by Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **20(5)** (with regs. 20-21)

Commencement Information

I4 Sch. 5 para. 4 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

5 SNH may, despite subsection (2) of section 6, carry out at such time as it thinks fit the first review under subsection (1)(b) of that section of an operation which is, by virtue of paragraph 3(b), to be treated as an operation requiring consent.

Commencement Information

I5 Sch. 5 para. 5 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

6 A permission to carry out an operation specified in an existing notification given before paragraph 3 first applies to the notification is not to be treated as having been given in accordance with section 15.

Commencement Information

I6 Sch. 5 para. 6 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

7 Where paragraph 3 does not, by virtue of paragraph 2(b), apply in relation to an existing notification—

(a) sections 28 and 51 of the 1981 Act, and

(b) section 12 of the Natural Heritage (Scotland) Act 1991 (c. 28),

continue, despite the repeal of those provisions by paragraphs 4 and 8 of schedule 7, to have effect in relation to the existing notification until it is confirmed by notice under section 28(4A)(b) of the 1981 Act or ceases to have effect.

Commencement Information

I7 Sch. 5 para. 7 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

Notifications under the 1949 Act

8 Paragraph 3 does not apply in relation to any notification given under section 23 of the National Parks and Access to the Countryside Act 1949 (c. 97) (a "1949 Act notification").

Commencement Information
I8 Sch. 5 para. 8 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

9 Land in respect of which a 1949 Act notification has been given is, where that notification—

(a) has, by virtue of section 28(13) of the 1981 Act, effect as if given under section 28(1)(a) of the 1981 Act, and

(b) has effect immediately before the relevant day,

to be treated as a site of special scientific interest for the purposes of section 12 of this Act.

Commencement Information
I9 Sch. 5 para. 9 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

10 SNH may revoke a 1949 Act notification by giving notice of that fact to the interested parties.

Commencement Information
I10 Sch. 5 para. 10 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

11 (1) Each order made under section 29 of the 1981 Act—

(a) which was made before the relevant day, and

(b) in respect of which notice has been given under paragraph 6 of Schedule 11 to the 1981 Act of a decision to confirm it,

is to be treated as a nature conservation order made, and confirmed under paragraph 5 of schedule 2, on that day.

(2) Section 29 of, and Schedule 11 to, the 1981 Act continue, despite the repeal of those provisions by paragraph 4 of schedule 7, to have effect in relation to an order under section 29 of the 1981 Act which is not, by virtue of sub-paragraph (1)(b), to be treated as a nature conservation order until notice is given under paragraph 6 of Schedule 11 to the 1981 Act in respect of it.

(3) An order made under section 29 of the 1981 which is not, by virtue of sub-paragraph (1)(b), to be treated as a nature conservation order may, despite the provisions of Schedule 11 to the 1981 Act, be revoked with immediate effect by order made by the Scottish Ministers.

Modifications etc. (not altering text)
C2 Sch. 5 para. 11(3) applied (29.11.2004) by Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **21(2)** (with regs. 20-21)

Commencement Information
I11 Sch. 5 para. 11 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

Registers of notifications: transitory provisions

12 (1) This paragraph has effect until the day on which section 22(1) comes into force.

(2) SNH must compile and maintain, in respect of each planning authority, a register containing—

(a) copies of each SSSI notification which relates wholly or partly to land situated within the district of the authority,

(b) copies of all—

(i) notifications given under section 5(1), 6(5), 7(3), 8(1) or 9(1),

(ii) notices given under paragraph 10 or 15 of schedule 1,

in relation to the SSSI notification, and

(c) such other information as SNH considers appropriate in relation to the SSSI notification.

(3) Each planning authority must keep a copy of the register relating to its district available at its principal office for public inspection free of charge, and may similarly keep, at such of its other offices as it thinks fit, a copy of such part of the register as appears to it to relate to the area in which the office is situated.

(4) A register maintained under sub-paragraph (2) and a copy of all or part of a register kept under sub-paragraph (3) may be in electronic form.

Commencement Information
I12 Sch. 5 para. 12 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

13 Any notification, plan or notice which, immediately before the relevant day, was included in—

(a) a register of notifications in respect of a planning authority maintained under subsection (12) of section 28 of the 1981 Act, or

(b) a copy of that register, or of part of it, kept under subsection (12B) of that section,

is to be treated as included in the corresponding register maintained under sub-paragraph (2) of paragraph 12 or, as the case may be, the corresponding copy register or part kept under sub-paragraph (3) of that paragraph.

Commencement Information
I13 Sch. 5 para. 13 in force at 29.11.2004 by S.S.I. 2004/495, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, SCHEDULE 5.