



## 2011 CHAPTER 15

### *Areas of special scientific interest*

#### **Public body: duties in relation to authorising operations**

**29.**—(1) Article 40 of the Environment Order (public bodies: duties in relation to authorising operations) is amended as follows.

(2) In paragraph (6) before sub-paragraph (a) insert—

“(aa) shall, in granting permission, impose conditions sufficient to ensure that the requirements set out in paragraph (6A) are complied with.”.

(3) After paragraph (6) insert—

“(6A) The requirements are—

- (a) that the operations are carried out in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological, physiographical or other features by reason of which the ASSI is of special scientific interest; and
- (b) that the site will be restored to its former condition, so far as is reasonably practicable, if any such damage does occur.”.

#### **Agreements concerning land adjacent to an ASSI**

**30** In Article 43(1) of the Environment Order (agreements concerning land adjacent to an ASSI) for “adjacent to” substitute “ which is not within ”.

#### **Offences in connection with ASSI**

**31.**—(1) Article 46 of the Environment Order (offences) is amended as set out in subsections (2) to (4).

*Status: Point in time view as at 17/08/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Wildlife and Natural Environment Act (Northern Ireland) 2011, Cross Heading: Areas of special scientific interest. (See end of Document for details)*

(2) After paragraph (5) insert—

“(5A) A public body which, in the exercise of its functions, permits the carrying out of an operation which damages any of the flora, fauna or geological or physiographical features by reason of which an ASSI is of special interest—

(a) without first complying with Article 40(2), or

(b) where relevant, without first complying with Article 40(4) or (6),  
is, unless there was a reasonable excuse for permitting the carrying out of the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(5B) For the purposes of paragraph (5A), it is a reasonable excuse in any event for a public body to permit the carrying out of an operation without first complying with Article 40(2), (4) or (6) if the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to the Department as soon as practicable after the permission was given.”.

(3) After paragraph (6) insert—

“(6A) A person (other than a public body acting in the exercise of its functions) who without reasonable excuse—

(a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which land is of special scientific interest, or

(b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

(4) In paragraph (7) after “(6)” insert “ or (6A) ”;

(5) In Article 47 of the Environment Order (restoration following offence under Article 46), in paragraph (1)(b), after “46(6)” insert “ or (6A) ”.

### **Notification of change of owner or occupier**

**32** After Article 46 of the Environment Order insert—

**“Notification of change of owner or occupier**

**46A.—**(1) This Article applies where the owner of land included in an ASSI—

(a) disposes of an interest in the land; or

(b) becomes aware that it is occupied by an additional or a different occupier.

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(2) If this Article applies, the owner shall send a notice to the Department before the end of the period of 28 days beginning with the date on which he disposed of the interest or became aware of the change in occupation.

(3) The notice is to specify the land concerned and—

(a) in a case falling within paragraph (1)(a), the date on which the owner disposed of the interest in the land, and the name and address of the person to whom he disposed of the interest; or

(b) in a case falling within paragraph (1)(b), the date on which the change of occupation took place (or, if the owner does not know the exact date, an indication of when to the best of the owner's knowledge it took place), and, as far as the owner knows them, the name and address of the additional or different occupier.

(4) A person who fails without reasonable excuse to comply with the requirements of this Article is guilty of an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) For the purposes of paragraph (1), an owner “disposes of” an interest in land if he disposes of it by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.”.

### **Notices and signs relating to ASSIs**

**33.**—(1) After Article 46A of the Environment Order (inserted by section 32) insert—

#### **“Notices and signs relating to ASSIs**

**46B.**—(1) The Department may, on any land included in an ASSI, put up and maintain notices or signs relating to the site.

(2) The Department may remove any notice or sign put up under paragraph (1).

(3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under paragraph (1) is guilty of an offence.

(4) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

(2) In Article 44(1) of the Environment Order (powers of entry) after subparagraph (1) insert—

“(1a) to put up, maintain or remove notices or signs under Article 46B;”.

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## **Effect of failure to serve certain notices in connection with ASSI**

### **34 After Article 48 of the Environment Order insert—**

#### **“Effect of failure to serve certain notices**

**48A.**—(1) This Article applies where the Department—

- (a) has (whether before or after the commencement of this Article) taken all reasonable steps to ensure that, under any provision listed in paragraph (2), notice is served on every owner and occupier of any land to which the notice relates, but
- (b) has failed to do so.

(2) The provisions are—

- (a) Article 28(3)(b) (declaration of ASSI);
- (b) Article 28(6)(c) (confirmation or rescission of declaration of ASSI);
- (c) Article 29(3)(b) (variation of ASSI);
- (d) Article 29(5)(c) (confirmation or rescission of variation of ASSI);
- (e) Article 30(4)(b) (declaration of additional land to be included in ASSI);
- (f) Article 30(7)(c) (confirmation or rescission of declaration of additional land);
- (g) Article 31(1)(b) (denotification);
- (h) Article 31(4)(c) (confirmation or rescission of denotification).

(3) The validity of the notice is not affected by the failure to serve it on every owner and occupier of the land.

(4) For the purposes of this Part, the time when the notice is to be treated as having been served is the time when the Department took the last of the steps referred to in paragraph (1)(a).

(5) If the Department becomes aware of its failure to serve a notice on an owner or occupier, it must serve a copy of the notice on that owner or occupier.

(6) Nothing in paragraph (3) or (4) renders the owner or occupier liable—

- (a) in relation to anything done or omitted to be done before the coming into operation of this Article, or
- (b) under Article 46(1) or 46A(4) in relation to anything done or omitted to be done before the copy of any relevant notice is served under paragraph (5).”.

**Status:**

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**Changes to legislation:**

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