STATUTORY INSTRUMENTS

2002 No. 3153

The Environment (Northern Ireland) Order 2002

PART IV

AREAS OF SPECIAL SCIENTIFIC INTEREST

Duties of public bodies in relation to land included in ASSI

Public bodies: duties in relation to operations

39.—(1) A public body shall give notice to the Department before carrying out, in the exercise of its functions, operations likely to damage any of the flora, fauna or geological, physiographical or other features by reason of which an ASSI is of special scientific interest.

(2) Paragraph (1) applies even if the operations would not take place on land included in an ASSI.

(3) In response to the notice referred to in paragraph (1), the Department may send a notice

(a) saying that it does not assent to the proposed operations, or

(b) assenting to them (with or without conditions),

but if the Department does not send a notice under sub-paragraph (b) within the period of 28 days beginning with the date of the notice under paragraph (1) it shall be treated as having declined to assent.

(4) If the Department does not assent, or if the public body proposes to carry out the operations otherwise than in accordance with the terms of the Department's assent, the body—

(a) shall not carry out the operations unless the condition set out in paragraph (5) is satisfied, and

(b) shall comply with the requirements set out in paragraph (6) when carrying them out.

(5) The condition is that the body has, after the expiry of the period of 28 days beginning with the date of the notice under paragraph (1), notified the Department of—

(a) the date on which it proposes to start the operations (which must be after the expiry of the period of 28 days beginning with the date of the notification under this paragraph), and

(b) how (if at all) it has taken account of any written advice it received from the Department, before the date of the notification under this paragraph, in response to the notice under paragraph (1).

(6) The requirements are—

(a) that the body carry out the operations 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 (taking account, in particular, of any such advice as is referred to in paragraph (5)(b)); and

(b) that the body restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur.

(7) This Article does not apply in relation to operations carried out by the Department.