
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: general duty

38.—(1) A public body shall have the duty set out in paragraph (2) in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological, physiographical or other features by reason of which an ASSI is of special scientific interest.

(2) The duty is to take reasonable steps, consistent with the proper exercise of the body's functions, to further the conservation and enhancement of the flora, fauna or geological, physiographical or other features by reason of which the ASSI is of special scientific interest.

(3) In this Part “public body” means—

- (a) a Northern Ireland department;
- (b) a department of the Government of the United Kingdom;
- (c) a district council;
- (d) a statutory undertaker (within the meaning of [^{F1}the Planning Act (Northern Ireland) 2011]); or
- (e) any other body established or constituted under a statutory provision.

F1 Words in art. 38(3)(d) substituted (13.2.2015 for specified purposes) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 95](#) (with s. 211); S.R. 2015/49, art. 2, Sch. 1

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.

Status: Point in time view as at 13/02/2015.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, Cross Heading: Duties of public bodies in relation to land included in ASSI. (See end of Document for details)

- (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.

Public bodies: duties in relation to authorising operations

40.—(1) This Article applies where the permission of a public body is needed before operations may be carried out.

(2) Before permitting the carrying out of 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, a public body shall give notice of the proposed operations to the Department.

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

(4) The public body shall wait until the expiry of the period of 28 days beginning with the date of the notice under paragraph (2) before deciding whether to give its permission, unless the Department has notified the body that it need not wait until then

(5) The body shall take any advice received from the Department into account—

- (a) in deciding whether or not to permit the proposed operations, and
- (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to the permission.

(6) If the Department advises against permitting the operations, or advises that certain conditions should be attached, but the public body does not follow that advice, the body—

[^{F2}(aa) shall, in granting permission, impose conditions sufficient to ensure that the requirements set out in paragraph (6A) are complied with;]

- (a) shall give notice of the permission, and of its terms, to the Department, the notice to include a statement of how (if at all) the body has taken account of the Department's advice, and
- (b) shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice.

[^{F3}(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.]
- (7) In this Article “permission”, in relation to any operations, includes authorisation, consent, and any other type of permission.
- (8) This Article does not apply where the public body whose permission is needed is the Department.

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| <p>F2 Art. 40(6)(aa) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 29(2), 40(1); S.R. 2011/285, art. 2, Sch.</p> <p>F3 Art. 40(6A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 29(3), 40(1); S.R. 2011/285, art. 2, Sch.</p> |
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