

SCHEDULE 4

Regulations 29, 30 and 44

REVIEW OF DECISIONS AND CONSENTS

1. The Scottish Ministers must as soon as reasonably practicable make an appropriate assessment of the implications for the European site of the project permitted by the decision or consent in view of conservation objectives of the site for the purpose of determining whether the project will adversely affect the integrity of the site.
2. For the purposes of that assessment, the Scottish Ministers—
 - (a) may require any person interested in the relevant land to supply them with such information as they may reasonably think necessary;
 - (b) must consult Scottish Natural Heritage and have regard to any representations made by them within such reasonable time as they may specify; and
 - (c) may, if they consider it appropriate, consult members of the public.
3. Unless, following that assessment, the Scottish Ministers are satisfied that the project permitted by the decision or consent will not adversely affect the integrity of the European site and that regulation 23(5) does not apply, they must, in the case of a decision, revoke that decision and, in the case of a consent, either revoke that consent or make such modifications to the consent as appear to them to be necessary to ensure that the project will not adversely affect the integrity of the European site and they must notify that decision to all persons who appear to them to have an interest in the relevant land.
4. Subject to paragraph 5, a revocation or modification of a decision or a consent in pursuance of which works have been commenced or completed will not affect so much of those works as have already been carried out.
5. If, where a project which is subject to a decision made under paragraph 3 has commenced, it appears to the Scottish Ministers to be necessary to safeguard the integrity of the European site, they may by notice require the person responsible for carrying out such works or any person interested in the relevant land to carry out such works of reinstatement as may be reasonable in the circumstances and any person who carries out works in compliance with such a requirement will be entitled, on making a claim in accordance with paragraph 6, to recover from the Scottish Ministers compensation in respect of any expenses reasonably incurred by such claimant in that behalf.
6. If, following a decision under paragraph 3, a person has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that person will be entitled to be paid compensation on submitting a claim in accordance with paragraph 7.
7. A claim for compensation payable under paragraph 5 or 6 must be submitted to the Scottish Ministers within 42 days of notification of the decision in respect of which compensation is payable and must be accompanied by such evidence as the Scottish Ministers may reasonably require.
8. Any dispute as to the amount of compensation payable under paragraph 5 or 6 may be referred to the Lands Tribunal for Scotland within 5 years of the date of notification of the decision in respect of which compensation is payable.
9. Nothing in this schedule affects anything done in pursuance of a decision or consent before the date on which the site became a European site.