
STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

PART II

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Control of potentially damaging operations

Notification of potentially damaging operations

18.—(1) Any notification in force in relation to a European site under section 28 of the Wildlife and Countryside Act 1981 (areas of special scientific interest) specifying—

- (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest, and
- (b) any operations appearing to the appropriate nature conservation body to be likely to damage that flora or fauna or those features,

shall have effect for the purposes of these Regulations.

(2) The appropriate nature conservation body may, for the purpose of securing compliance with the requirements of the Habitats Directive, at any time amend the notification with respect to any of the matters mentioned in paragraph (1)(a) or (b).

(3) Notice of any amendment shall be given—

- (a) to every owner and occupier of land within the site who in the opinion of the appropriate nature conservation body may be affected by the amendment, and
- (b) to the local planning authority;

and the amendment shall come into force in relation to an owner or occupier upon such notice being given to him.

(4) The provisions of—

- (a) section 28(11) of the Wildlife and Countryside Act 1981 (notification to be local land charge in England and Wales), and
- (b) section 28(12) to (12B)(1) of that Act (local registration of notification in Scotland),

apply, with the necessary modifications, in relation to an amendment of a notification under this regulation as in relation to the original notification.

Restriction on carrying out operations specified in notification

19.—(1) The owner or occupier of any land within a European site shall not carry out, or cause or permit to be carried out, on that land any operation specified in a notification in force in relation to the site under regulation 18, unless—

(1) Subsections (12) to (12B) were substituted by section 2(8) of the Wildlife and Countryside (Amendment) Act 1985 (c. 31).

- (a) one of them has given the appropriate nature conservation body written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out, and
 - (b) one of the conditions specified in paragraph (2) is fulfilled.
- (2) Those conditions are—
- (a) that the operation is carried out with the written consent of the appropriate nature conservation body;
 - (b) that the operation is carried out in accordance with the terms of a management agreement;
 - (c) that four months have expired from the giving of the notice under paragraph (1)(a).
- (3) A person who, without reasonable excuse, contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) For the purposes of paragraph (3) it is a reasonable excuse for a person to carry out an operation—
- (a) that the operation was an emergency operation particulars of which (including details of the emergency) were notified to the appropriate nature conservation body as soon as practicable after the commencement of the operation; or
 - (b) that the operation was authorised by a planning permission granted on an application under Part III of the Town and Country Planning Act 1990⁽²⁾ or Part III of the Town and Country Planning (Scotland) Act 1972⁽³⁾.
- (5) The appropriate nature conservation body has power to enforce this regulation; but nothing in this paragraph shall be construed as authorising the institution of proceedings in Scotland for an offence.
- (6) Proceedings in England and Wales for an offence under this regulation shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the appropriate nature conservation body.

Supplementary provisions as to consents

20.—(1) Where it appears to the appropriate nature conservation body that an application for consent under regulation 19(2)(a) relates to an operation which is or forms part of a plan or project which—

- (a) is not directly connected with or necessary to the management of the site, and
- (b) is likely to have a significant effect on the site (either alone or in combination with other plans or projects),

they shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) In the light of the conclusions of the assessment, they may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) The above provisions do not apply in relation to a site which is a European site by reason only of regulation 10(1)(c) (site protected in accordance with Article 5(4)).

(4) Where in any case, whether in pursuance of this regulation or otherwise, the appropriate nature conservation body have not given consent for an operation, but they consider that there is a risk that the operation may nevertheless be carried out, they shall notify the Secretary of State.

(2) 1990 c. 8.
(3) 1972 c. 52.

(5) They shall take such steps as are requisite to secure that any such notification is given at least one month before the expiry of the period mentioned in regulation 19(2)(c) (period after which operation may be carried out in absence of consent).

Provision as to existing notices and consents

21.—(1) Any notice or consent previously given under section 28(5)(a) or (6)(a) of the Wildlife and Countryside Act 1981 in relation to land which on or after the commencement of these Regulations becomes land within a European site shall have effect, subject as follows, as if given under regulation 19(1)(a) or (2)(a) above.

(2) The appropriate nature conservation body shall review any such consent as regards its compatibility with the conservation objectives of the site, and may modify or withdraw it.

(3) Notice of any such modification or withdrawal of consent shall be given to every owner and occupier of land within the site who in the opinion of the appropriate nature conservation body may be affected by it; and the modification or withdrawal shall come into force in relation to an owner or occupier upon such notice being given to him.

(4) The modification or withdrawal of a consent shall not affect anything done in reliance on the consent before the modification or withdrawal takes effect.

(5) Where or to the extent that an operation ceases to be covered by a consent by reason of the consent being modified or withdrawn, the period after which in accordance with regulation 19(2)(c) the operation may be carried out in the absence of consent shall be four months from the giving of notice of the modification or withdrawal under paragraph (3) above.

(6) Regulation 20(4) and (5) (provisions as to notification of Secretary of State) apply in such a case, with the following modifications—

- (a) for the reference to consent not having been given substitute a reference to consent being modified or withdrawn;
- (b) for the reference to the period specified in regulation 19(2)(c) substitute a reference to the period specified in paragraph (5) above.