

**EXPLANATORY MEMORANDUM TO
THE SITES OF SPECIAL SCIENTIFIC INTEREST (APPEALS) (AMENDMENT)
REGULATIONS 2010**

2010 No. 2019

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments ('JCSI').

2. **Purpose of the instrument**

- 2.1 These Regulations amend the Schedule to the Sites of Special Scientific Interest (Appeals) Regulations 2009 ('2009 Regulations') in order to correct minor drafting inconsistencies that were identified by the JCSI. The Schedule to the 2009 Regulations sets out the procedure to be followed when there is an appeal to the Secretary of State in connection with a consent or management or stop notice relating to a Site of Special Scientific Interest. This Statutory Instrument is being issued free of charge to all known recipients of the Sites of Special Scientific Interest (Appeals) Regulations 2009.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 These Regulations address drafting defects detailed in the Tenth Report of Session 2008-2009 of the Joint Committee on Statutory Instruments, which was published on 31 March 2009. These Regulations amend the Sites of Special Scientific Interest (Appeals) Regulations 2009 (S.I. 2009/197).

4. **Legislative Context**

- 4.1 The Countryside and Rights of Way Act 2000 amended the Wildlife and Countryside Act 1981 by introducing rights of appeal for owners and occupiers of land falling within a site of special scientific interest ('SSSI') against decisions made by Natural England in relation to applications for consent and the issue of management notices. The 2009 Regulations set out the procedures and clarify the process for the making of such appeals.

- 4.2 These Regulations correct certain minor drafting defects in the 2009 Regulations. The amendments remove any ambiguity concerning documentation that both accompanies, and is part of, notices of appeal; and the supply of certain documents in duplicate and triplicate.

5. **Territorial Extent and Application**

- 5.1 This instrument applies to England.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

- 7.1 Under the Wildlife and Countryside Act 1981 (as amended) ('the 1981 Act'), Natural England (NE) is responsible for identifying and protecting SSSIs in England. There are 4115 sites notified in England by NE which protect our most important biological, geological and geomorphological features.
- 7.2 When notifying a site as a SSSI, NE provides owners or occupiers of the site with a list of operations likely to damage the features for which the site is regarded as special. If an owner or occupier wishes to carry out any of these operations they are required to seek **consent** from NE, unless certain conditions are fulfilled.
- 7.3 NE also seeks to ensure that SSSIs are appropriately managed. As a first step Natural England may attempt to enter into a voluntary management agreement with the owner or occupier. If this is unsuccessful Natural England may draw up a management scheme in which they will clearly set out the measures required for positive management of the land. If Natural England has been unable to conclude arrangements for implementing a management scheme, and if the features for which the site were notified are being inadequately conserved or restored, it has the power, under section 28K of the 1981 Act, to issue a **management notice**. The notice requires the owner or occupier to carry out specific works, or do specified things with respect to the land, within a specified time. If the notice is not complied with, NE can enter the site and carry out the work itself, and to recover its expenses from the owner or occupier.
- 7.4 An owner or occupier of land within a SSSI who has been refused consent to any operation, or who is aggrieved by conditions attached to a consent or by the modification or withdrawal of a consent, may appeal against the refusal, modification, withdrawal or conditions. An owner or occupier who is served with a management notice or stop notice may similarly appeal to the Secretary of State. The 2009 Regulations establish the procedure to be used when there is an appeal to the Secretary of State relating to a consent or management notice or stop notice. These Regulations correct certain minor drafting defects that were identified by the JCSI in the 2009 Regulations

8. Consultation outcome

- 8.1 Consultation was carried out in connection with the 2009 Regulations. As these Regulations correct minor drafting defects and do not change the substance of the 2009 Regulations, consultation was not considered necessary.

9. Guidance

- 9.1 Detailed guidance on the appeals process for consents and management notices concerning the Sites of Special Scientific Interest (Appeals) Regulations 2009 is available separately on the Defra website at <http://www.defra.gov.uk/rural/protected/sssi/appeal.htm>. Copies of this guidance have already been placed in the House libraries and will not be updated, as the Sites of Special Scientific Interest (Appeals) (Amendment) Regulations 2010 do not change the substance of the 2009 Regulations.

10. Impact

- 10.1 No impact on business, charities or voluntary bodies is foreseen.
- 10.2 The impact on the public sector is to remove any ambiguity surrounding the administrative process of dealing with SSSI related appeals.
- 10.3 An Impact Assessment has not been prepared for this Instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

- 11.1 The legislation does not apply to small business, in the sense that the Regulations do not impose any additional requirements on small business, as they correct minor drafting defects and do not change the substance of the 2009 Regulations.

12. Monitoring & review

- 12.1 These Regulations are intended to remove any ambiguity surrounding the appeals process under the 2009 Regulations.

13. Contact

Juliet Austin at the Department for Food, Environment and Rural Affairs. Tel: 0117 372 8442 or email: Juliet.austin@defra.gsi.gov.uk can answer any queries regarding the instrument.