STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 2

Conservation of Natural Habitats and Habitats of Species

Special nature conservation orders

Restriction on carrying out operations specified in order

28.—(1) In respect of any land within a European site in respect of which a special nature conservation order is made, the appropriate authority may serve a notice (a "stop notice") on any person carrying out, or proposing to carry out, any operation of a kind specified in that order which appears to the appropriate authority to be likely to destroy or damage protected features.

(2) The stop notice must specify—

(a) details of the operation;

(b) details of the European site to which the notice relates; and

(c) the date on which the notice takes effect.

(3) Where the identity of a person carrying out, or proposing to carry out, the operation is not reasonably ascertainable, the appropriate authority may, instead of serving a stop notice, publish a notice in at least one local newspaper circulating in the area in which the land to which the notice relates is situated, and affix a copy or copies of the notice to some conspicuous object or objects on the land to which the notice relates.

(4) A person on whom a stop notice is served must not carry out on any land within a European site in respect of which a special nature conservation order is in force, or in the place by reference to which the operation is specified, any operation specified in the order, unless the notice condition specified in paragraph (5) and the consent condition specified in paragraph (6) are fulfilled.

(5) The notice condition is—

(a) where the operation is carried out on land, that—

(i) the operation is carried out, or caused or permitted to be carried out, by the owner or occupier of the land, and

(ii) after service of the stop notice, one of them has given the appropriate nature conservation body written notice of a proposal to carry out the operation, specifying its nature and where it is proposed to carry it out; and

(b) in any other case, that after service of the stop notice, the person proposing to carry out the operation has given the appropriate nature conservation body written notice of a proposal to carry out the operation, specifying its nature and where it is proposed to carry it out.

(6) The consent condition is—

(a) that the operation is carried out with the written consent of the appropriate nature conservation body; or

(b) that the operation is carried out in accordance with the terms of a management agreement.

(7) A consent under paragraph (6)(a) may be given—

(a) subject to conditions specified in the consent; and

(b) for a limited period so specified.

(8) A person who, without reasonable excuse, contravenes paragraph (4) commits an offence and is liable (whether on summary conviction or on conviction on indictment) to a fine.

(9) For the purposes of paragraph (8) it is a reasonable excuse for a person to carry out an operation if—

(a) 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) the operation was authorised by a planning permission granted on an application under Part 3 of the TCPA 1990 (control over development).

(10) For the purposes of this regulation and regulations 29 and 30—

(a) a "stop notice" means a notice served under paragraph (1);

(b) references to the service of a stop notice are taken to mean (in an appropriate case) the publication and affixing of a notice under paragraph (3); and

(c) where a notice is published and affixed under paragraph (3), any person carrying out an operation specified in the notice is taken to be a person on whom a stop notice is served.