

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 1 – Sites of Special Scientific Interest

Notification of sites of special scientific interest

Section 7 Addition or modification of operations requiring consent: urgent situations

57. This section sets out the detail of a special procedure whereby SNH may, having obtained the consent of the Scottish Ministers, alter an ORC list for a site with immediate effect. This is an emergency measure which allows an unlisted operation to be added to the ORC list at very short notice where it becomes apparent that damage to the site may result if the unlisted operation is carried out. SNH may also modify any existing entry on the ORC list in the same way (so that, for example, the existing entry is extended sufficiently to cover the operation which is posing a threat to the site).
58. SNH is limited in its power to change the ORC list on an emergency basis by subsection (2). This requires SNH to make a case to the Scottish Ministers explaining why it considers the alteration to the ORC list is necessary and why it considers the situation to be one of urgency. SNH cannot make the change to the ORC list unless the Scottish Ministers consent.
59. The effect of a change to the ORC list by means of section 7 is that the owner or occupier will be required to seek consent from SNH for an operation which may have previously been lawful. On receipt of an application for consent SNH may then be willing to allow the operation to proceed subject to conditions, or it may refuse consent. Applications for consent to carry out ORCs are dealt with in section 16 and appeals procedures are set out in section 18.