

# NATURE CONSERVATION (SCOTLAND) ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Conservation and Enhancement of Natural Features**

#### *Chapter 1 – Sites of Special Scientific Interest*

#### **Supplementary**

#### *Section 21 Advisory Committee on Sites of Special Scientific Interest*

153. Subsection (1) provides for the continuation of the Advisory Committee on Sites of Scientific Interest (referred to as “the Advisory Committee” in the Act and as “ACSSSI” in common usage). ACSSSI was established under section 12 of the [Natural Heritage \(Scotland\) Act 1991 \(c.28\)](#) and the provisions of section 21 carry forward its role in a largely unaltered form under the new Act.
154. ACSSSI has the advisory functions relating to SSSIs conferred on it by section 21. It is important to note that ACSSSI’s role is purely advisory in character. It does not operate as a tribunal and has no powers to determine appeals. It is however required to operate independently and to provide objective, scientific advice to SNH.
155. Subsection (2) provides that the Scottish Ministers shall be responsible for the appointment of the convener and other members of the Advisory Committee, and that they may do so on such terms as may be set by them. Appointees to the Advisory Committee shall, to the best of the Scottish Ministers’ knowledge, have suitable scientific knowledge and experience in relation to flora, fauna or the geological or geomorphological features of the land.
156. Subsection (3) requires the terms and conditions set on appointment of members to the Advisory Committee to include arrangements for the payment of remuneration and allowances to them by SNH.
157. Subsection (4) excludes any member of SNH, or any committee appointed by SNH, from being appointed to the Advisory Committee.
158. Subsection (5) allows the Scottish Ministers, from time to time, to give directions relating to the procedure of the Advisory Committee.
159. Subsections (6) and (7) set out circumstances in which representations made to SNH are to be referred to ACSSSI. Only SNH may refer a matter to the Advisory Committee, but it must do so where:
  - any person with a direct legal interest in the land (“interest in land”, as defined in section 58(1)), makes a representation in relation to either the “scientific case” for notification of the SSSI (i.e. the reasons why the site should be notified on the basis

*These notes relate to the Nature Conservation (Scotland) Act  
2004 (asp 6) which received Royal Assent on 11 June 2004*

of the particular natural features listed in the SSSI notification) or the “scientific case” for denotification;

- the person making the representation does not agree to withdraw it; and
- the representation is made *either* within the time limit for representations specified in the original notification (not less than 3 months from the date of notification – see paragraph 3(c) of schedule 1) *or* at least 10 years have elapsed since the original notification or since the last representation.

160. In effect this means that an objection to an SSSI must be referred to ACSSSI if it relates to the scientific case for or against the site and is submitted within the initial 3 month period for representations. The issue can then be revisited and referred back to ACSSSI every 10 years, if necessary.

161. Subsection (8) obliges SNH to refer any unresolved scientific objections to ACSSSI in accordance with subsections (6) and (7), and requires it both to consider any advice received from ACSSSI and then to take such action as it thinks fit in consequence of any such advice.

162. The effects of any referral to ACSSSI, as far as the SSSI notification and confirmation processes are concerned, are dealt with separately in paragraph 9 of Schedule 1.