

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

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 3 - Land Management Orders

Section 37 - Enforcement of land management orders

- 247. This section allows SNH itself, where necessary, to carry out the operations specified in the LMO, where the terms of the LMO have not been complied with.
- 248. SNH is entitled to do so where it considers either that the operation has not been carried out within the timescales specified in the LMO or that it has been carried out otherwise than in the specified manner. In this situation SNH is not required to make any payments under the LMO and it may recover any payments already made. SNH is also empowered to recover from the person subject to the LMO any additional expenses which it has reasonably incurred in carrying out the operation itself. The intention is to protect the public purse from unnecessary additional costs which have arisen as a result of the failure by the person subject to the LMO to comply with the terms of the order.
- 249. Subsection (3) clarifies that “additional expenses” in this case means the difference between the actual cost to SNH of carrying out the operation and the amount it would have paid to the person who was required to carry out the operation under the terms of the LMO.