

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 3 - Land Management Orders

Section 31 - Content of land management orders

216. Subsection (1) specifies what a land management order made under section 30 must contain. This includes a conveyancing description of the land, a map, details of the relevant natural features and the operations to be carried out, details of the persons who are required to carry out the operations, the methods and timing relevant to those operations, details of operations which are not to be carried out, the date on which the order comes into effect and its period of validity, and information on how to appeal against the order.
217. Subsection (2) defines any operation specified in the LMO as one which must *not* be carried out as an “excluded operation”. Excluded operations will in most cases equate to ORCs which SNH would not wish the land manager to carry out, notwithstanding the requirements of the LMO. Listing such operations as “excluded” allows the Scottish Ministers to retain the ability to regulate and control such activities which might have a detrimental effect on the SSSI.
218. Subsection (3) allows the Scottish Ministers to provide in the LMO for SNH to make payments to any person who incurs expense in carrying out an operation required under the LMO. Such payments must be reasonable given the requirements of the order and the nature of the work to be undertaken. “Reasonable” in this context means that it should neither be unreasonably high (which may represent an inappropriate use of public money) nor unreasonably low (which may be unfair to the person being obliged to carry out the work).