

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – General

Section 54 Guidance

433. Subsection (1) empowers the Scottish Ministers to issue guidance (or to approve guidance issued by others) in connection with the new biodiversity duty in section 1 and the SSSI system established in Part 2 of the Act.
434. Such guidance may contain recommendations, advice and information for the assistance of public bodies in general (in relation to the biodiversity duty), SNH in particular (in relation to the SSSI system) and any other persons affected by the functions exercised by SNH in connection with the SSSI system. The guidance may be revised and re-issued by Ministers as appropriate and revisions made to guidance issued by others may also be approved.
435. Subsection (2) provides particular examples of the types of information guidance prepared or adopted under subsection (1)(b) (i.e. in relation to the exercise by SNH of functions in connection with the SSSI system) may contain. Such guidance may contain information about:
- the circumstances in which SNH should consider land to be of special interest (for the purposes of notifying, enlarging or denotifying SSSIs). Such guidance may set out statutory selection and deselection criteria which must be considered by SNH when considering whether or not to notify or denotify land as an SSSIs. The existing selection criteria are currently published by the Joint Nature Conservation Committee (“JNCC”) on behalf of SNH, English Nature and the Countryside Council for Wales on an administrative, rather than a statutory, basis. Further information can be found on the JNCC website. See both: http://www.jncc.gov.uk/Publications/sssi/sssi_content.htm (for biological SSSIs) and <http://www.jncc.gov.uk/earthheritage/gcr/content.htm> (for geological SSSIs);
 - the circumstances in which SNH should offer to enter to enter into a management agreement, as well as the terms and conditions on which it should do so. This guidance will be published in the form of the *Financial Guidelines* already referred to at paragraph 18 above; and
 - the amounts which SNH should pay to anyone carrying out operations specified in an LMO.
436. Subsection (3) requires the Scottish Ministers, before issuing guidance, to consult SNH and any other persons who appear to the Scottish Ministers to have an interest in the subject matter of the guidance.

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

437. Subsection (4) requires the Scottish Ministers to publish guidance issued under this section. Publication may be in such a manner as the Scottish Ministers see fit and this may include publication by means of the internet or other electronic means.