



# Nature Conservation (Scotland) Act 2004

## 2004 asp 6

### PART 2

#### CONSERVATION AND ENHANCEMENT OF NATURAL FEATURES

### CHAPTER 1

#### SITES OF SPECIAL SCIENTIFIC INTEREST

##### *Operations affecting sites of special scientific interest*

#### **16 Operations by owners or occupiers of sites of special scientific interest**

- (1) An owner or occupier of land within a site of special scientific interest must not carry out, or cause or permit to be carried out, an operation requiring consent on the land except—
  - (a) with the written consent of SNH given on an application under subsection (2), or
  - (b) where section 17(1) applies.
- (2) An application for such consent must specify—
  - (a) the nature of the operation,
  - (b) the proposed dates of commencement and completion, and
  - (c) the land on which it is proposed to carry out the operation.
- (3) On an application under subsection (2) SNH may—
  - (a) give consent to the operation being carried out, whether or not subject to conditions, or
  - (b) refuse such consent.
- (4) The conditions referred to in subsection (3)(a) may, in particular, provide—
  - (a) that, despite the terms of the application under subsection (2), the operation may be carried out—
    - (i) only in such manner as SNH may specify,

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*Status: This is the original version (as it was originally enacted).*

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- (ii) on part only of the land on which the owner or occupier wishes the operation to be carried out,
  - (b) that the operation may be carried out only for, or within, such period as SNH may specify.
- (5) SNH may, by giving notice to the owner or occupier to whom consent to carry out an operation has been given, modify or withdraw its consent—
- (a) on completion of a review of it under section 6(4), or
  - (b) where SNH considers that the carrying out of the operation requiring consent in accordance with the consent will damage any natural feature specified in an SSSI notification in a manner not foreseen by SNH at the time it gave consent.
- (6) Consent may not be modified or withdrawn under subsection (5)(b) without the agreement of the Scottish Ministers.
- (7) A modification or withdrawal under subsection (5)(a) has effect from—
- (a) the expiry of the time limit for appealing against it, or
  - (b) where an appeal is made, its withdrawal or final determination.
- (8) A modification or withdrawal under subsection (5)(b) has effect on notice of it being given.
- (9) Where, under this section—
- (a) SNH—
    - (i) refuses to consent to an operation being carried out,
    - (ii) makes its consent subject to conditions, or
    - (iii) modifies or withdraws its consent, and
  - (b) it considers, having had regard to any guidance issued or approved under section 54(1) so far as relating to circumstances in which it should offer to enter into a management agreement, that, despite the decision referred to in paragraph (a), it should offer to enter into such an agreement with the applicant or, as the case may be, the person to whom the consent was given,
- it must offer to enter into such an agreement on such terms and conditions (including provision for payment to the applicant by SNH) as, having regard to the guidance, it thinks fit.
- (10) SNH must give an applicant reasons for a decision by virtue of this section—
- (a) to make its consent subject to conditions,
  - (b) to refuse consent,
  - (c) to modify or withdraw its consent,
  - (d) where paragraph (a) of subsection (9) applies, not to offer to enter into a management agreement in pursuance of that subsection.