



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

18 Appeals in connection with operations requiring consent

- (1) An owner or occupier of land within a site of special scientific interest who is aggrieved—
- (a) by a condition imposed under subsection (3)(a) of section 16,
 - (b) by a decision under subsection (3)(b) of that section to refuse consent,
 - (c) by a decision under subsection (5) of that section to modify or withdraw consent,
 - (d) by a decision, where paragraph (a) of subsection (9) of that section applies, not to enter into a management agreement in pursuance of that subsection,
 - (e) by the terms and conditions (including any provision for payment by SNH) on which SNH has offered to enter into a management agreement in pursuance of that subsection,
- may appeal to the Scottish Land Court.
- (2) An appeal under subsection (1) must be lodged not later than 28 days after the date on which SNH notified the appellant of the decision being appealed.
- (3) If, within—
- (a) the period of 4 months beginning on the date on which the owner or occupier seeking the consent made an application under section 16(2), or
 - (b) such longer period, beginning on that date, as may be agreed in writing between SNH and the owner or occupier,

Status: This is the original version (as it was originally enacted).

SNH neither gives nor refuses the consent sought in the application, SNH is to be treated, for the purposes of this section, as having refused consent on the day on which the period expired and an appeal may be made and determined under this section accordingly.

- (4) If, within—
- (a) the period of 4 months beginning on the date on which SNH—
 - (i) refuses consent to an operation being carried out,
 - (ii) makes its consent subject to conditions, or
 - (iii) modifies or withdraws its consent, or
 - (b) such longer period, beginning on that date, as may be agreed in writing between SNH and the owner or occupier,

SNH has not offered to enter into a management agreement in pursuance of section 16(9), SNH is to be treated, for the purposes of this section, as having decided not to so offer on the day on which the period expired and an appeal may be made and determined under this section accordingly.

- (5) The Scottish Land Court must determine an appeal made under subsection (1) on the merits rather than by way of review and may do so by—
- (a) affirming the decision appealed against,
 - (b) where the appeal is against a refusal of consent, directing SNH to give consent,
 - (c) where the appeal is as to the conditions to which a consent is subject, quashing all or any of those terms or conditions,
 - (d) where the appeal is against a decision not to offer to enter into a management agreement, directing SNH to so offer,
 - (e) where the appeal is as to the terms and conditions of a management agreement, quashing all or any of those terms or conditions,
 - (f) making such other order as it thinks fit.
- (6) The Scottish Land Court may direct SNH—
- (a) where it determines an appeal under paragraph (b) or (c) of subsection (5), as to any conditions to which its consent to the carrying out of the operation requiring consent are to be subject,
 - (b) where it determines an appeal under paragraph (d) or (e) of that subsection, as to terms and conditions of the management agreement (including provision for payment by SNH) which it must offer to enter into.