



# Nature Conservation (Scotland) Act 2004

## 2004 asp 6

### PART 2

#### CONSERVATION AND ENHANCEMENT OF NATURAL FEATURES

### CHAPTER 1

#### SITES OF SPECIAL SCIENTIFIC INTEREST

##### *Notification of sites of special scientific interest*

### **3 Duty to give notification of sites of special scientific interest**

- (1) Scottish Natural Heritage (“SNH”) must, where it considers that any land is of special interest by reason of any of its natural features, notify that fact to the persons mentioned in section 48(2) (“the interested parties”).
- (2) References in this Act to a “natural feature” of land are references to any of its flora or fauna or geological or geomorphological features.
- (3) In determining for the purposes of subsection (1) whether any land is of special interest SNH must have regard to—
  - (a) the extent to which giving notification under that subsection in relation to the land would contribute towards the development of a series of sites of special scientific interest in Scotland representative of the diversity and geographic range of—
    - (i) Scotland’s natural features,
    - (ii) the natural features of Great Britain,
    - (iii) the natural features of the member States, and
  - (b) any guidance issued or approved under subsection (1) of section 54 so far as containing information of the description referred to in subsection (2)(a) of that section.
- (4) A notification under subsection (1) must be accompanied by—
  - (a) a document which—

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- (i) describes the land to which the notification relates,
  - (ii) specifies the natural feature by reason of which SNH considers the land to be of special interest,
  - (iii) specifies acts or omissions which appear to SNH to be likely to damage that natural feature, and
  - (iv) contains such other information as SNH thinks fit, and
  - (b) a map on which the land is delineated.
- (5) The notification, document and map referred to in subsection (4) are in this Act together referred to, in relation to the land in question, as the “SSSI notification”.
- (6) An SSSI notification has effect from the date on which it is given; and the land in question is, until the notification ceases to have effect, to be known as a “site of special scientific interest”.
- (7) Each act or omission specified in an SSSI notification by virtue of subsection (4)(a)(iii) is, in relation to the site of special scientific interest, in this Act referred to as an “operation requiring consent”.

#### **4 Site management statements**

- (1) An SSSI notification must be accompanied by a site management statement.
- (2) A site management statement is a statement prepared by SNH which—
- (a) provides guidance to owners and occupiers of land within a site of special scientific interest as to how the natural feature specified in the SSSI notification should be conserved or enhanced, and
  - (b) contains such other information in relation to the site of special scientific interest as SNH thinks fit.
- (3) That information may include information which promotes understanding and enjoyment by the public of the natural feature specified in the SSSI notification.
- (4) SNH may, at any time during which an SSSI notification has effect—
- (a) on the request of any owner or occupier of land within the site of special scientific interest, or
  - (b) of its own accord,
- review and, if it thinks fit, revise the site management statement.
- (5) SNH must provide a copy of any statement so revised to every owner and occupier of land within the site of special scientific interest.

#### **5 Enlargement of sites of special scientific interest**

- (1) Where SNH considers that if land (“extra land”) which is contiguous to or which it considers to be otherwise associated with a site of special scientific interest were combined with the site, the combined land would be of special interest by reason of any of its natural features, it may notify that fact to the persons who are the interested parties in relation to the extra land.
- (2) Subsection (3) of section 3 applies for the purposes of subsection (1) of this section as it applies for the purposes of subsection (1) of that section.

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- (3) Sections 3(4) and 4(1) and (2) apply in relation to a notification of extra land under subsection (1) of this section as they apply to a notification under section 3(1), but as if—
- (a) in section 3(4)(a)(ii), the reference to the land were a reference to the combined land,
  - (b) in section 4(2), the references to a site of special scientific interest were references to the combined land.
- (4) Representations under schedule 1 with respect to a notification under subsection (1) are not competent so far as they relate to the original SSSI notification.

## **6 Review of operations requiring consent**

- (1) SNH—
- (a) must, on the request of any owner or occupier of land within a site of special scientific interest,
  - (b) may when it thinks fit,
- review the operations requiring consent specified in an SSSI notification.
- (2) SNH must not carry out—
- (a) the first such review within 6 years of the date on which the SSSI notification was given,
  - (b) any subsequent such review within 6 years of the previous review,
- except where the review is carried out under subsection (1)(b) and SNH has obtained the agreement of every owner and occupier of land within the site of special scientific interest.
- (3) Such agreement is obtained if SNH gives notice of a proposed review to every owner and occupier of land within the site of special scientific interest and—
- (a) every such person consents to SNH carrying out the review, or
  - (b) no reasonable objection by any such person to the carrying out of the review is received by SNH within 28 days of the date on which the notice was given.
- (4) SNH may, in carrying out a review of operations requiring consent, also review any consents to carry out the operations given on applications under section 16(2).
- (5) If, on completion of a review, SNH is of the opinion that the SSSI notification should be amended by—
- (a) adding to the operations requiring consent specified in it,
  - (b) modifying the description of any operation requiring consent so specified, or
  - (c) removing any operation requiring consent so specified from it,
- SNH must amend the SSSI notification by giving notification of the amendment to every owner and occupier of land within the site of special scientific interest.

## **7 Addition or modification of operations requiring consent: urgent situations**

- (1) Where SNH considers that a person is carrying out, or intends to carry out, an operation (other than an operation requiring consent) which it considers is damaging or is likely to damage any natural feature specified in an SSSI notification and that the situation is one of urgency, SNH may, with the consent of the Scottish Ministers, amend the SSSI notification by—

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- (a) adding to the operations requiring consent specified in it,
  - (b) modifying the description of any operation requiring consent so specified.
- (2) An application to the Scottish Ministers for their consent under subsection (1) must—
- (a) set out SNH's reasons for considering that the proposed amendment should be made and that the situation is one of urgency, and
  - (b) contain such other information relating to the proposed amendment as the Scottish Ministers may specify.
- (3) If the Scottish Ministers give their consent under subsection (1), SNH must amend the SSSI notification by giving notification of the amendment and of the consent—
- (a) to every owner and occupier of land within the site of special scientific interest, and
  - (b) where the person whom SNH considers is carrying out or is likely to carry out the operation is not given notice under paragraph (a), to that person.

## **8 Variation of SSSI notifications**

- (1) SNH may, at any time after it has given notice under paragraph 10 of schedule 1 of a decision to confirm an SSSI notification, vary the matters included in the notification by virtue of section 3(4)(a)(i), (ii) and (iv) (whether by adding to them, changing them or removing matter from them) by giving notification to the interested parties.
- (2) The area of the land to which the SSSI notification relates cannot be varied under this section.

## **9 Denotification of sites of special scientific interest**

- (1) SNH may, where it considers that all or any part of a site of special scientific interest is no longer of special interest by reason of the natural feature specified in the SSSI notification, give notification to the persons set out in subsection (2) of its intention to revoke the SSSI notification or, as the case may be, modify it so as to disapply its effect to the part of the site in question.
- (2) Those persons are the interested parties in relation to the site or, as the case may be, the part of the site in question.
- (3) In determining for the purposes of subsection (1) whether all or any part of a site of special scientific interest is no longer of special interest, SNH must have regard to—
- (a) the extent to which the SSSI notification continues to contribute towards the development of a series of sites of special scientific interest in Scotland representative of the diversity and geographic range of—
    - (i) Scotland's natural features,
    - (ii) the natural features of Great Britain,
    - (iii) the natural features of the member States, and
  - (b) any guidance issued or approved under subsection (1) of section 54 so far as containing information of the description referred to in subsection (2)(a) of that section.
- (4) A notification under subsection (1) must be accompanied by—
- (a) a document which—

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- (i) describes the site of special scientific interest or, as the case may be, the part in question, and
  - (ii) explains why SNH considers the site of special scientific interest or part no longer to be of special interest by reason of the natural feature specified in the SSSI notification, and
- (b) a map on which the site of special scientific interest or part is delineated.

## **10 Notifications relating to sites of special scientific interest: procedure**

Schedule 1 sets out procedure relating to notifications given under sections 3(1), 5(1) and 9(1).

## **11 Effect of SSSI notification**

- (1) From the date when SNH gives—
- (a) notice under paragraph 10 of schedule 1 of a decision to confirm an SSSI notification with modifications,
  - (b) notification under section 5(1), 6(5), 7(3) or 8(1) in relation to an SSSI notification,
  - (c) notice under paragraph 10 of schedule 1 of a decision to confirm a notification given under section 5(1) with modifications,
  - (d) notice under that paragraph of a decision to confirm a notification given under section 9(1) in relation to part only of the site of special scientific interest,
- the SSSI notification has effect as amended by the modifications or, as the case may be, the notification given under section 5(1), 6(5), 7(3), 8(1) or 9(1).
- (2) Where SNH gives notice under paragraph 10 of schedule 1 of a decision to withdraw a notification given under section 5(1), the SSSI notification to which the withdrawn notification relates has effect, from the date on which the notice under that paragraph is given, as if the withdrawn notification had never been given.
- (3) An SSSI notification ceases to have effect on SNH giving notice under paragraph 10 of schedule 1 of a decision—
- (a) to withdraw the SSSI notification, or
  - (b) to confirm a notification given under section 9(1) of its intention to revoke the SSSI notification.