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STATUTORY INSTRUMENTS

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**2002 No. 3153**

**The Environment (Northern Ireland) Order 2002**

**PART IV**

**AREAS OF SPECIAL SCIENTIFIC INTEREST**

*Powers of Department*

**Powers to acquire land**

**41.**—(1) The Department may in the circumstances set out in paragraph (2) make an order vesting all or any part of land included in an ASSI in the Department.

(2) The circumstances are that the Department is satisfied—

(a) that—

(i) it is unable to conclude, on reasonable terms, a management agreement with the owner or occupier of the land; or

(ii) that a management agreement entered into by the owner or occupier of the land has been breached in such a way that the land is not being managed satisfactorily; and

(b) that it is necessary to acquire the land in order to protect the flora, fauna or geological, physiographical or other features by reason of which the land is of special scientific interest.

(3) Sections 97(2) and (3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972 (c. 9) shall apply subject to the modifications set out in Schedule 2 to the [Nature Conservation and Amenity Lands \(Northern Ireland\) Order 1985 \(NI 1\)](#) for the purpose of vesting orders under this Article.

(4) The Department may by agreement acquire the estate of any owner of land included in an ASSI.

(5) Where the Department acquires an estate in land included in an ASSI under paragraph (1) or (4), it may also acquire under that paragraph land for the purpose of providing a means of access to that ASSI

(6) Where the Department is of the opinion that any land acquired under this Article would be more expediently or efficiently managed or conserved in the public interest by any other person, the Department may convey (either for value or otherwise) that land to that person.

(7) Without prejudice to paragraph (6), the Department may dispose of any land acquired under this Article which the Department no longer requires for the purpose for which it was acquired.

(8) A conveyance under paragraph (6) or disposal under paragraph (7)—

(a) shall be in accordance with arrangements approved by the Department of Finance and Personnel; and

(b) shall be on such terms and conditions as the Department may think fit,

and the Department may—

- (i) impose such restrictions as the Department may think necessary on the use of the land conveyed or disposed of; and
- (ii) grant or reserve such rights over the land as the Department may think fit.

(9) Nothing in section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (c. 6) shall affect the disposal by the Department of land acquired under this Article.

#### **Powers to carry out works, etc.**

**42.** The Department may carry out such works and do such other things on land acquired under Article 41 as the Department thinks necessary or expedient for the proper management and use of that land for the purpose for which that land was acquired.

#### **Power to enter into agreements concerning land adjacent to an ASSI**

**43.—**(1) The Department may enter into an agreement with the owner or occupier of any land adjacent to an ASSI for securing that his land is managed in such a way as—

- (a) to conserve or enhance any of the flora, fauna, or geological, physiographical or other features by reason of which the ASSI is of special scientific interest, or
- (b) not to destroy or damage any of those features or not to disturb any of those fauna.

(2) Paragraphs (2) to (6) of Article 34 and paragraphs (2) and (3) of Article 37 apply in relation to an agreement under paragraph (1) of this Article as they apply in relation to a management agreement.

#### **Powers of entry**

**44.—**(1) Any person authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for any of the following purposes—

- (a) to determine whether a declaration should be made in relation to the land under Article 28(1)
- (b) to assess the condition of the flora, fauna, or geological, physiographical or other features by reason of which land in relation to which a declaration has been made under Article 28(1) is of special scientific interest;
- (c) to ascertain whether a condition to which a consent referred to in Article 32(3)(a) was subject has been complied with in relation to the land;
- (d) to determine whether or not to offer to enter into a management agreement in relation to the land;
- (e) to formulate a management agreement for the land or determine whether a management agreement for the land should be modified;
- (f) to ascertain whether the terms of a management agreement in relation to the land have been complied with;
- (g) to prepare a management notice for the land;
- (h) to ascertain whether the requirements of a management notice in relation to the land have been complied with;
- (i) to carry out works or do other things on the land under Article 35(8);
- (j) to determine whether or not to offer to make a payment under Article 37 in relation to the land;

- (k) to determine any question in relation to the acquisition of the land by agreement or compulsorily;
  - (l) to ascertain whether an offence under Article 46 is being, or has been, committed on or in relation to the land;
  - (m) to carry out operations on the land under Article 47(5).
- (2) The power conferred by paragraph (1) to enter land for any purpose includes power to enter for the same purpose any land other than that referred to in paragraph (1).
- (3) More than one person may be authorised for the time being under paragraph (1) to enter any land.
- (4) A person shall not demand admission as of right to any land which is occupied unless either—
- (a) 24 hours notice of the intended entry has been given to the occupier; or
  - (b) the purpose of the entry is to ascertain if an offence under Article 46 is being, or has been, committed on or in relation to that land.
- (5) A person acting in the exercise of a power conferred by paragraph (1) may—
- (a) use a vehicle or a boat to enter the land;
  - (b) take a constable with him if he reasonably believes he is likely to be obstructed;
  - (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - (d) take samples of the land and of anything on it.
- (6) If in the exercise of a power conferred by paragraph (1) a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it
- (7) It is the duty of the Department to compensate any person who has sustained damage as a result of—
- (a) the exercise of a power conferred by paragraph (1) by a person authorised under that paragraph, or
  - (b) the failure of a person so authorised to perform the duty imposed on him by paragraph (6),
- except where the damage is attributable to the fault of the person who sustained it.
- (8) Any dispute as to a person's entitlement to compensation under paragraph (7) or as to its amount shall be referred to and determined by the Lands Tribunal.

#### **Power to make byelaws for ASSI**

- 45.—**(1) The Department may make byelaws for the protection of an ASSI.
- (2) Byelaws under this Article may in relation to land included in an ASSI—
- (a) prohibit or restrict the use of the land, either generally or in a manner specified in the byelaws, by traffic of any description so specified;
  - (b) prohibit or restrict, either generally or in a manner specified in the byelaws, the use of mechanically-propelled vessels on watercourses in, or whose shores lie within, any such land;
  - (c) regulate or prohibit the lighting of fires on the land;
  - (d) regulate or prohibit the taking away of soil, turf, sand or minerals of any description from the land;
  - (e) make provision for securing that persons resorting to the land will so conduct themselves as to avoid undue interference with the enjoyment of the land by other persons.

- (3) Before making any byelaws under this Article the Department shall consult the Council.
- (4) Byelaws under this Article shall not interfere with—
  - (a) the exercise by any person of a right vested in him as owner or occupier of any land;
  - (b) the exercise of any public right of way in relation to any land; or
  - (c) the exercise of any statutory functions of any public body in relation to any land.
- (5) The Department may authorise persons appointed or employed to enforce byelaws made under this Article to take any action necessary for that purpose.
- (6) In particular, any person authorised under paragraph (5) may, after due warning, remove or exclude a person from any land included in an ASSI who contravenes, or whom he reasonably suspects of contravening, the byelaws relating to that ASSI.