

Changes to legislation: Countryside and Rights of Way Act 2000, SCHEDULE 11 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 11

Section 76(2).

TRANSITIONAL PROVISIONS AND SAVINGS RELATING TO SITES OF SPECIAL SCIENTIFIC INTEREST

Interpretation

- 1 (1) In this Schedule—
- “the Nature Conservancy Council” has the meaning given by section 27A of the 1981 Act and “stop notice” has the meaning given by paragraph 9(3) of this Schedule;
- “old section 28” means section 28 of the 1981 Act as it had effect before its substitution by section 75(1) of and Schedule 9 to this Act;
- “new section 28” means section 28 of the 1981 Act as substituted by section 75(1) of and Schedule 9 to this Act; and
- “the substitution date” means the date on which new section 28 is substituted for old section 28,
- and references to other sections are to those sections in the 1981 Act unless otherwise specified.
- (2) Nothing in this Schedule prejudices the application of section 16 (general savings) or 17 (repeal and re-enactment) of the ^{M1}Interpretation Act 1978 to any case not provided for in this Schedule.

Marginal Citations

M1 1978 c. 30.

Notifications given under old section 28

- 2 Except as mentioned in paragraphs 4 and 5, a notification under old section 28(1) (a), (b) or (c) (including one having effect in modified form by virtue of old section 28(4C)) has effect from the substitution date as if it were a notification under new section 28(1)(a), (b) or (c) respectively.
- 3 A notice under old section 28(4A)(a) or (b) has effect from the substitution date as if it were a notice under new section 28(5)(a) or (b) respectively.

Modification of operation of new section 28

- 4 New section 28(2) does not apply to a notification taking effect as mentioned in paragraph 2.

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- 5 The words following paragraph (b) in new section 28(4) do not apply to a notification taking effect as mentioned in paragraph 2, but instead paragraph 6 applies.
- 6 (1) The Nature Conservancy Council shall, within the period of five years beginning with the substitution date, give a notice to every owner and occupier of any land which is the subject of—
- (a) a notification under old section 28(4A)(b), or
 - (b) a notice under new section 28(5)(b) following a notification under old section 28(1),
- containing a statement of the Council’s views about the matters referred to in the words following paragraph (b) in new section 28(4).
- (2) The notice shall specify the date (not being less than three months from the date of the giving of the notice) on or before which, and the manner in which, representations or objections with respect to it may be made; and the Council shall consider any representation or objection duly made.
- (3) Within the period of two months beginning immediately after the date referred to in sub-paragraph (2), the Council shall give a notice to every owner and occupier of the land confirming the statement referred to in sub-paragraph (1) or containing a revised statement.

Modification of operation of ^{F1}sections 28A to 28C]

Textual Amendments

- F1** Words in Sch. 11 para. 7 heading substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 170\(2\)](#); S.I. 2006/2541, art. 2 (with Sch.)

- 7 (1) This paragraph applies to a notification under old section 28(1) given—
- (a) before the commencement of the ^{M2}Wildlife and Countryside (Amendment) Act 1985; or
 - (b) after the commencement of that Act but preceded by a notice under section 28(2) as originally enacted, given during the six months immediately preceding that commencement.
- (2) In relation to a notification to which this paragraph applies, the reference in section 28A(1) to—
- (a) notice given under section 28(5)(b) confirming a notification with or without modifications, and
 - (b) the confirmed notification,
- shall be construed as a reference to the notification under old section 28(1).
- ^{F2}(3) In relation to a site of special scientific interest which is the subject of a notification to which this paragraph applies—
- (a) section 28B (notification of additional land) shall have effect as if subsection (3) were omitted; and
 - (b) section 28C (enlargement of SSSI) shall have effect as if subsection (4) were omitted.]

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Textual Amendments

- F2** Sch. 11 para. 7(3) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 170\(1\)](#); S.I. 2006/2541, art. 2 (with Sch.)

Marginal Citations

- M2** 1985 c. 31.

Modification of operation of section 28E

- 8 (1) Except as provided in paragraph 9—
- (a) a notice given under old section 28(5)(a) has effect from the substitution date as if it were a notice given under section 28E(1)(a); and
 - (b) a consent given under old section 28(6)(a) has effect from that date as if it were a consent under section 28E(3)(a).
- (2) In relation to such a consent, section 28E has effect as if for subsections (7) and (8) there were substituted—
- “(7) A notice under subsection (6) must include a notice of—
- (a) the Council’s reasons for withdrawing or modifying the consent;
 - (b) the rights of appeal under section 28F;
 - (c) the effect of subsection (9); and
 - (d) the effect of section 28M.”
- 9 (1) Subject to paragraph 10, this paragraph applies where—
- (a) a notice has been given under old section 28(5)(a) before the substitution date;
 - (b) on the substitution date neither of the conditions set out in old section 28(6)(a) and (b) is fulfilled; and
 - (c) on the substitution date four months have expired since the notice under old section 28(5)(a) was given,
- but even if those conditions are fulfilled, this paragraph does not apply in relation to operations specified in a notice under section 29(4)(a) on any land if immediately before the substitution date an order under section 29 was in effect in relation to that land.
- (2) Where this paragraph applies, but subject to sub-paragraph (7), the prohibition in section 28E(1) on carrying out, or causing or permitting to be carried out, an operation does not apply in relation to an operation specified in the notice under old section 28(5)(a).
- (3) Where this paragraph applies, the Nature Conservancy Council may, on or after the substitution date, give a notice (a “stop notice”) to every owner and occupier of the land to which the stop notice is to apply.
- (4) A stop notice is to specify—
- (a) the date on which it is to take effect;
 - (b) the operations to which it applies; and
 - (c) the land to which it applies,

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and must contain a notice of the right of the person to whom the stop notice is given to appeal against it in accordance with paragraph 11, and a notice of the effect of sub-paragraph (8).

- (5) The date on which a stop notice is to take effect may not be sooner than the end of the period of three days beginning with the date the stop notice is given, unless the Council consider that there are special reasons which justify a shorter period, and a statement of those reasons is included with the stop notice.
 - (6) The operations to which a stop notice may apply are all or any of the operations specified in the notice under old section 28(5)(a).
 - (7) From the date on which the stop notice takes effect, sub-paragraph (2) of this paragraph ceases to apply in relation to the operations specified in the stop notice on the land to which the stop notice applies.
 - (8) Where the Council give a stop notice, they shall make a payment to any owner or occupier of the land who suffers loss because of it.
 - (9) The amount of a payment under sub-paragraph (8) is to be determined by the Council in accordance with guidance given and published by the Ministers (within the meaning of section 50).
 - (10) Section 50(3) applies to the determination of the amount of a payment under sub-paragraph (8) as it applies to the determination of the amount of payments under that section.
 - (11) This paragraph ceases to apply, in relation to any operation specified in the notice referred to in sub-paragraph (1)(a) except an operation to which a stop notice applies, if the operation has not begun before the end of the period of—
 - (a) three years beginning with the substitution date; or
 - (b) in a case falling within paragraph 10(2) or (3), three years beginning immediately after the expiry of the period of one month or longer referred to there.
- 10 (1) An agreement under old section 28(6A) in effect immediately before the substitution date has effect from the substitution date as an agreement that paragraph 9 is not to apply in relation to the operation which is the subject of the agreement; and, accordingly, paragraph 9 does not apply in relation to that operation (as regards both the owner and the occupier of the land).
- (2) Where a notice has been given under old section 28(6B) before the substitution date, paragraph 9 has effect, in relation to the operation in question, as if for the period mentioned in paragraph 9(1)(c) there were substituted the period of one month from the giving of the notice or (if a longer period is specified in the notice) that longer period.
 - (3) If after an agreement has taken effect as mentioned in sub-paragraph (1) the relevant person (whether a party to the agreement or not) gives the Nature Conservancy Council written notice that he wishes to terminate the agreement, then as from the giving of the notice paragraph 9 has effect, in relation to the operation in question (as regards both the owner and the occupier of the land), as if for the period mentioned in paragraph 9(1)(c) there were substituted the period of one month from the giving of the notice or (if a longer period is specified in the notice) that longer period.

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- (4) In sub-paragraph (3), “relevant person” has the same meaning as in old section 28(6C).
- 11 (1) A person to whom a stop notice is given may by notice appeal against it to the Secretary of State, but meanwhile it remains in effect.
- (2) Section 28F(3) to (11) shall apply in relation to such an appeal as they apply in relation to an appeal against a decision to withdraw a consent (see section 28F(1)(d)), but with the following modifications—
- (a) as if, in section 28F(3), for paragraphs (a) and (b) and the following words “or, in either case,” there were substituted “ within the period of two months beginning with the date of the stop notice, or ”; and
- (b) as if, for section 28F(5), there were substituted—
- “(5) On determining the appeal, the Secretary of State may quash or affirm the stop notice; and if he affirms it, he may do so either in its original form or with the removal from it of such operations as he thinks fit, or in relation to such reduced area of land as he thinks fit.”
- 12 (1) The Nature Conservancy Council may, by notice given to every owner and occupier of land to which a stop notice applies, vary a stop notice by removing any operation to which it applies or reducing the area of land to which it applies.
- (2) Where after giving a stop notice—
- (a) the Council consent to an operation to which the stop notice applies;
- (b) an operation to which it applies becomes one which may be carried out under the terms of an agreement under section 16 of the National Parks and Access to the ^{M3}Countryside Act 1949 or section 15 of the ^{M4}Countryside Act 1968; or
- (c) an operation to which it applies becomes one which may be carried out in accordance with a management scheme under section 28J or a management notice under section 28K,
- the stop notice shall be deemed to be varied accordingly by the removal from the stop notice of the operation in question in relation to the land to which the consent, agreement or management scheme or notice relates.

Marginal Citations

M3 1949 c. 97.

M4 1968 c. 41.

Modification of operation of section 28F

- 13 (1) Section 28F(1)(a) does not apply to a refusal of a consent under old section 28(6)(a).
- (2) Section 28F(1)(b) does not apply to consents taking effect as mentioned in paragraph 8(1)(b).

Modification of operation of section 28H

- 14 Section 28H does not apply in relation to operations which have already begun on the date section 28H comes into force.

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Section 29

- 15 Paragraphs 16 and 17 apply where, immediately before the coming into force of paragraph 2 of Schedule 9 to this Act, there is in effect an order applying section 29(3) to any land (“the relevant land”).
- 16 (1) If the relevant land is not included in a site of special scientific interest, section 28E applies to it as if it were (and accordingly section 28P(1) applies also); and references in section 28E to a notification under section 28(1)(b) shall be construed as references to an order under section 29.
- (2) Whether or not the relevant land is included in a site of special scientific interest, a notice given under section 29(4)(a) has effect as if it were a notice given under section 28E(1)(a), except as provided in paragraph 17.
- (3) Whether or not the relevant land is included in a site of special scientific interest, a consent given under section 29(5)(a) has effect as if it were a consent given under section 28E(3)(a), and in relation to such a consent section 28E has effect as if for subsections (7) and (8) there were substituted—
- “(7) A notice under subsection (6) must include a notice of—
- (a) the Council’s reasons for withdrawing or modifying the consent;
- (b) the rights of appeal under section 28F;
- (c) the effect of subsection (9); and
- (d) the effect of section 28M.”
- 17 (1) This paragraph applies where—
- (a) a notice has been given under section 29(4)(a) before the repeal of section 29 by paragraph 2 of Schedule 9 to this Act;
- (b) on the date on which paragraph 2 of Schedule 9 to this Act comes into force, neither of the conditions set out in section 29(5)(a) and (b) is fulfilled; and
- (c) on that date the period mentioned in paragraph (c) of section 29(5) (or in that paragraph as it has effect by virtue of section 29(6) or (7)) has expired.
- (2) Where this paragraph applies, but subject to paragraph 9(7) as it has effect by virtue of sub-paragraph (3) of this paragraph, the prohibition in section 28E(1) on carrying out, or causing or permitting to be carried out, an operation does not apply in relation to an operation specified in the notice under section 29(4)(a).
- (3) Paragraphs 9(3) to (11) and 11 of this Schedule apply also in relation to this paragraph, but as if—
- (a) in those provisions references to a notice under old section 28(5)(a) were to a notice under section 29(4)(a); and
- (b) the reference to “sub-paragraph (2)” in paragraph 9(7) were to sub-paragraph (2) of this paragraph.
- 18 (1) This paragraph applies where—
- (a) as a result of the coming into force of paragraph 2 of Schedule 9 to this Act, a local inquiry or a hearing (as mentioned in paragraph 4(1)(a) and (b) respectively of Schedule 11 to the 1981 Act) comes to an end, and
- (b) an owner or occupier of land in relation to which an order under section 29 has been made has incurred expense in connection with opposing the order at the local inquiry or hearing.

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- (2) If this paragraph applies, the Nature Conservancy Council shall (subject to subparagraph (3)) pay a person's expenses referred to in paragraph (1)(b) to the extent that they are reasonable.
- (3) The Council need not pay any such expenses unless the person—
- (a) applies to the Council for such a payment; and
 - (b) satisfies the Council that he has incurred the expenses.

Compensation and grants

- 19 (1) Despite its repeal by paragraph 2 of Schedule 9 to this Act, section 30 (compensation where order made under section 29) continues to apply in connection with an order made under section 29 before the coming into force of that paragraph.
- (2) After the repeal of section 29 by that paragraph, section 32 (duties of agriculture Ministers with respect to areas of special scientific interest) continues to apply, in relation to an application under that section relating to land to which section 29(3) applied immediately before its repeal, as if that land were included in a site of special scientific interest.

Offences and restoration orders

- 20 (1) Section 28P does not have effect in relation to an offence committed before the substitution date, but old section 28 or, as the case may be, section 29, has effect instead.
- (2) In relation to an offence under section 29, section 31 as it had effect before the coming into force of paragraph 3 of Schedule 9 to this Act shall continue to apply.

Powers of entry

- 21 Section 51 (powers of entry) has effect on and after the substitution date as if, in subsection (1), after paragraph (m) there were inserted—
- “(n) to determine whether or not to give or vary a stop notice;”,
- and as if, in subsection (2)(a), after “paragraphs (a) to (k)” there were inserted “and paragraph (n)”.

Service of notices

- 22 Section 70A (service of notices) applies in relation to notices given under this Schedule as it applies in relation to notices and other documents required or authorised to be served or given under the 1981 Act.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 15(1)(e) and word inserted by [2023 asc 3 Sch. 13 para. 179](#)
- s. 55A inserted by [2015 c. 20 s. 20](#)
- s. 56A inserted by [2015 c. 20 s. 21](#)
- s. 56B inserted by [2015 c. 20 s. 22\(1\)](#)