
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 2

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Control of potentially damaging operations

Restriction on carrying out operations specified in notification

20.—(1) While a notification under section 28(1) of the WCA 1981 is in force in relation to any land which is or forms part of a European site, the owner or occupier of that land must not carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—

- (a) one of them has given the appropriate nature conservation body written notice of a proposal to carry out the operation, specifying its nature and where it is proposed to carry it out; and
- (b) one of the conditions specified in paragraph (2) is fulfilled.

(2) The conditions are—

- (a) that the operation is carried out with the written consent of the appropriate nature conservation body;
- (b) that the operation is carried out in accordance with the terms of a management agreement;
- (c) that four months have passed since the notice under paragraph (1)(a) was given.

(3) If before the end of the period of four months referred to in sub-paragraph (c) of paragraph (2) the relevant person agrees in writing with the appropriate nature conservation body that the condition specified in that sub-paragraph does not apply in relation to the operation in question, as from the date of the agreement paragraph (2) has effect in relation to the operation (as regards both the owner and the occupier of the land in question) as if that sub-paragraph were omitted.

(4) If, after such an agreement has been made, the relevant person (whether a party to the agreement or not) gives written notice to the appropriate nature conservation body that that person wishes to terminate the agreement, paragraph (2) has effect in relation to the operation in question (as regards both the owner and the occupier of the land in question) as if sub-paragraph (c) specified a period of one month from the giving of that notice, or any longer period specified in that notice.

(5) A person who, without reasonable excuse, contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) For the purposes of paragraph (5) it is a reasonable excuse for a person to carry out an operation if—

- (a) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the appropriate nature conservation body as soon as practicable after the commencement of the operation; or
- (b) the operation was authorised by a planning permission granted on an application under Part 3 (control over development) of the TCPA 1990.

(7) The appropriate nature conservation body may take such steps as may be necessary for the purpose of enforcing this regulation.

(8) Proceedings for an offence under this regulation must not, without the consent of the Director of Public Prosecutions, be taken by a person other than the appropriate nature conservation body.

(9) In paragraphs (3) and (4) “the relevant person”—

- (a) in a case where the notice under paragraph (1)(a) was given by the owner of the land in question, means the owner of that land;
- (b) in a case where that notice was given by the occupier of that land, means the occupier of that land.