

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 3 - Land Management Orders

Section 29 Proposals for land management orders

205. This section provides for the circumstances and manner in which SNH may apply to the Scottish Ministers for the making of a land management order (“LMO”). It also specifies the land to which such an order may apply.
206. The land in respect of which SNH may make such an application is defined by subsection (1) as being land which:
- is, or forms part of, an SSSI;
 - is contiguous to, or which SNH considers to be otherwise associated with, an SSSI; or
 - is a combination of those types of land.
207. Subsection (2) specifies that SNH may propose to the Scottish Ministers that an LMO should be made where any of subsections (3) to (5) apply and SNH considers that an order is necessary or expedient for the purpose of conserving, restoring or otherwise enhancing the natural feature(s) specified in an SSSI notification.
208. Subsection (3) sets out the first circumstances in which SNH may propose to the Scottish Ministers that they should make an LMO. That is, where SNH has offered to enter into a management agreement but has been unable to do so because the person to whom the agreement has been offered has refused or failed to enter into such an agreement.
209. Subsection (4) sets out the second circumstance, where that the terms of a management agreement are not being complied with by the person with whom it has been concluded.
210. Subsection (5) sets out the third circumstance, where SNH is unable to enter into a management agreement in relation to the land because it is not aware of (and cannot reasonably discover) the name and address of the owner or occupier of the land in question.
211. Subsection (6) qualifies the circumstance set out in subsection (5). It prevents SNH from applying for an LMO unless it has taken action in accordance with section 48(10). The action required is to affix a notice to some conspicuous object on that land giving notice to “the owners and any occupiers” and stating that SNH wishes to enter into a management agreement in relation to that area of land. At least 28 days must elapse

*These notes relate to the Nature Conservation (Scotland) Act
2004 (asp 6) which received Royal Assent on 11 June 2004*

between the notice being affixed on the land and any application to the Scottish Ministers.

212. Subsection (7) specifies the contents of any proposal from SNH to the Scottish Ministers for the making of an LMO. A proposal for an LMO must include a conveyancing description of the land to which it relates, a map on which the area is delineated, a description of the natural features in question and an explanation of what has been done by SNH and other parties in relation to any management agreement or offer of a management agreement. The proposal must specify the operations which SNH believes should be carried out on the land and define the persons who should carry out the operation, together with the methods to be used and the timescale within which the operation should be carried out. In addition, SNH must include a statement of the costs likely to be incurred by the person carrying out the operation and must indicate how much SNH will pay in respect of those costs. The application should also detail any operations which are *not* to be carried out on the land.