

Status: Point in time view as at 29/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, SCHEDULE 2. (See end of Document for details)

SCHEDULE 2 **S**

(introduced by section 25)

NATURE CONSERVATION ORDERS AND RELATED ORDERS: PROCEDURE

Modifications etc. (not altering text)

- C1** Sch. 2 applied (with modifications) by SI 1994/2716 reg. 19 (as substituted (29.11.2004) by [Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), 9 (with regs. 20-21))

- 1 This schedule applies to nature conservation orders, amending orders and revoking orders.

Commencement Information

- I1** Sch. 2 para. 1 in force at 29.11.2004 by [S.S.I. 2004/495](#), art. 2

- 2 Before making an order to which this schedule applies the Scottish Ministers must—
- (a) consult SNH on the proposed order, and
 - (b) have regard to any representations made by SNH.

Commencement Information

- I2** Sch. 2 para. 2 in force at 29.11.2004 by [S.S.I. 2004/495](#), art. 2

Notification

- 3 The Scottish Ministers must, as soon as practicable after making an order to which this schedule applies, give notice of it—
- (a) to the interested parties,
 - (b) in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and
 - (c) in such other manner (including on the internet or by other electronic means) as they think fit.

Commencement Information

- I3** Sch. 2 para. 3 in force at 29.11.2004 by [S.S.I. 2004/495](#), art. 2

- 4 The notice must—
- (a) set out the order or describe its general effect and, in either case, state whether it has taken effect,
 - (b) where the notice does not set out the order—
 - (i) name a place where a copy of it may be inspected free of charge at all reasonable hours, and
 - (ii) provide details of how to obtain, on payment of such reasonable charge (if any) as may be imposed by the Scottish Ministers, a copy of it, and

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- (c) where the notice is given in respect of a nature conservation order or an amending order, specify the period (not being less than 3 months from the date on which the notice is given) during which, and the manner in which, representations with respect to the order may be made.

Commencement Information

I4 Sch. 2 para. 4 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

Confirmation of nature conservation orders and amending orders

- 5 The Scottish Ministers must, within—
- (a) the period of one year beginning with the date on which a nature conservation order or amending order is made, or
 - (b) if that period is extended under paragraph 12, the period as so extended, after considering any representations made within the period specified in the notice and the report of any person appointed under paragraph 10 to hold an inquiry or to hear representations, decide either to confirm or not to confirm the order.

Commencement Information

I5 Sch. 2 para. 5 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 6 The Scottish Ministers may confirm the order with or without modifications; and the notice given under paragraph 8 of the decision to confirm must specify the modifications (if any) which they have made.

Commencement Information

I6 Sch. 2 para. 6 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 7 Such modifications must not extend the area of land to which a nature conservation order relates.

Commencement Information

I7 Sch. 2 para. 7 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 8 The Scottish Ministers must, as soon as practicable after making a decision under paragraph 5, give notice of it in accordance with paragraph 3(a) to (c).

Commencement Information

I8 Sch. 2 para. 8 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 9 An order which is confirmed with modifications has effect, from the giving of notice under paragraph 8 of the decision to confirm, in its modified form.

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Commencement Information

I9 Sch. 2 para. 9 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

Inquiry or other opportunity to be heard

- 10 If any representation made during the period specified in the notice is not withdrawn during the period mentioned in paragraph 5(a), or that period as extended, the Scottish Ministers must—
- (a) cause a local inquiry to be held, or
 - (b) give the person who made the representation an opportunity of being heard by a person appointed by the Scottish Ministers for the purpose.

Commencement Information

I10 Sch. 2 para. 10 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 11 Subsections (4) to (8) (which relate to the giving of evidence at, and defraying the cost of, local inquiries) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) apply in relation to any inquiry held under paragraph 10(a) as they apply in relation to a local inquiry which is caused to be held under subsection (1) of that section.

Commencement Information

I11 Sch. 2 para. 11 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

Extension of period

- 12 The Scottish Ministers may, with the agreement (obtained in accordance with paragraph 13) of every owner and occupier of land to which the order relates, extend or further extend the period mentioned in paragraph 5(a) by such period as may be agreed with those persons.

Commencement Information

I12 Sch. 2 para. 12 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 13 Agreement is obtained for the purposes of paragraph 12 if the Scottish Ministers, not less than 28 days before the expiry of the period to be extended or further extended, give notice of the proposed extension or further extension to every owner and occupier of land to which the order relates and—
- (a) every such person consents to the extension, or
 - (b) no reasonable objection by any such person to the extension is received by the Scottish Ministers within 28 days of the date on which the notice was given.

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Commencement Information

I13 Sch. 2 para. 13 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 14 Where the Scottish Ministers extend or further extend the period mentioned in paragraph 5(a) they must give notice of the extension, or further extension, to the interested parties.

Commencement Information

I14 Sch. 2 para. 14 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

- 15 An order to which this schedule applies and a notice under paragraph 8 must be recorded in the General Register of Sasines or registered in the Land Register of Scotland as appropriate.

Commencement Information

I15 Sch. 2 para. 15 in force at 29.11.2004 by S.S.I. 2004/495, art. 2

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