

SCHEDULE 1

Regulation 25(3)

SPECIAL NATURE CONSERVATION ORDERS: PROCEDURE

Coming into operation

- 1.—(1) An original order or a restrictive amending order takes effect on its being made.
- (2) The appropriate authority must consider every such order, and the order ceases to have effect nine months after it is made unless—
 - (a) that authority have previously given notice under paragraph 6 that the order has been considered and that it is not proposed to amend or revoke it; or
 - (b) the order has been revoked.
- (3) Subject to paragraphs 3(2) and 4(4), a revoking order, or an amending order which is not restrictive, does not take effect until confirmed by the appropriate authority.
- (4) An amending or revoking order requiring confirmation is to be treated as being revoked if the appropriate authority give notice under paragraph 6 that it is not to be confirmed.

Publicity for orders

- 2.—(1) The appropriate authority must, where an order has been made, give notice setting out the order (or describing its general effect) and stating that it has taken effect or, as the case may be, that it has been made and requires confirmation.
- (2) The notice must—
 - (a) name a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
 - (b) specify the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (3) The notice must be given—
 - (a) by publication in the London Gazette and also at least one local newspaper circulating in the area in which the land to which the order relates is situated;
 - (b) by serving an equivalent notice—
 - (i) on every owner and occupier of that land (subject to sub-paragraph (4)); and
 - (ii) on the local planning authority within whose area the land is situated.
- (4) The appropriate authority may, in any particular case, direct that it is not necessary to comply with sub-paragraph (3)(b)(i).
- (5) Where the appropriate authority give a direction under paragraph (4) in the case of an order specifying any operation carried out, or proposed to be carried out, on any land—
 - (a) in addition to publication the notice must be addressed to “The owners and any occupiers” of the land (describing it), describing details of the operation and the details of the European site to which the order relates; and
 - (b) a copy or copies of the notice must be affixed to some conspicuous object or objects on the land.

Unopposed orders

- 3.—(1) Where an order has taken effect immediately and no representations or objections are duly made in respect of it, or any so made are withdrawn, the appropriate authority must, as soon

Status: Point in time view as at 01/03/2010.

Changes to legislation: There are currently no known outstanding effects for the The Conservation of Habitats and Species Regulations 2010, SCHEDULE 1. (See end of Document for details)

as practicable after considering the order, decide either to take no action on it or to make an order amending or revoking it.

(2) Where an amending or revoking order is made under sub-paragraph (1)—

- (a) it takes effect immediately;
- (b) it does not require confirmation; and
- (c) it is not necessary to consider any representation or objection made in respect of it.

(3) Where an order requiring confirmation (in accordance with paragraph 1(3)) is made and no representations or objections are duly made in respect of it, or any so made are withdrawn, the appropriate authority may confirm the order (with or without modifications).

Opposed orders

4.—(1) If any representation or objection duly made with respect to an order is not withdrawn, the appropriate authority must, as soon as practicable (in the case of an order having immediate effect) or (in the case of an order requiring confirmation) before confirming the order—

- (a) cause a local inquiry to be held; or
- (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the appropriate authority for the purpose.

(2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the appropriate authority—

- (a) if the order has already taken effect, must decide either to take no action on the order or to make an order amending or revoking it as appropriate in the light of the report, representations or objections; and
- (b) if the order requires confirmation, may confirm it (with or without modifications).

(3) The provisions of section 250(2) to (5) of the Local Government Act 1972 ^{M1} (which relate to evidence and costs in inquiries) apply in relation to an inquiry held under this paragraph.

(4) Where an amending or revoking order is made under sub-paragraph (2)(a)—

- (a) it takes effect immediately;
- (b) it does not require confirmation; and
- (c) it is not necessary to consider any representation or objection made in respect of it.

Marginal Citations

M1 1972 c. 70; section 250 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; the Housing and Planning Act 1986 (c. 63), Part 3 of Schedule 12; and the Statute Law (Repeals) Act 1989 (c. 43).

Restriction on power to amend orders or confirm them with modifications

5. The appropriate authority may not, by virtue of paragraph 3(1) or 4(2), amend an order which has taken effect, or confirm any other order with modifications, so as to extend the area to which the order applies.

Notice of final decision on order

6.—(1) The appropriate authority must, as soon as practicable after making an order under paragraph 3(1) or 4(2)(a), give notice—

- (a) setting out the order (or describing its effect) and stating that it has taken effect; and
 - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.
- (2) The appropriate authority must give notice of any of the following decisions as soon as practicable after making the decision—
- (a) a decision under paragraph 3(1) or 4(2)(a) to take no action on an order which has already taken effect;
 - (b) a decision to confirm or not to confirm an order requiring confirmation under this Schedule.
- (3) A notice under this paragraph of a decision to confirm an order must—
- (a) set out the order as confirmed (or describe its general effect) and state the day on which the order took effect; and
 - (b) name a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours.
- (4) Any notice under this paragraph must be given by publishing it in accordance with paragraph 2(3)(a) and serving a copy of it on any person on whom a notice was required to be served under paragraph 2(3)(b).

Proceedings for questioning validity of orders

7.—(1) This paragraph applies to any order which has taken effect and as to which the appropriate authority have given notice under paragraph 6 of a decision to take no action or to amend the order in accordance with paragraph 4 (“the relevant notice”).

(2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the ground that it is not within the powers of regulation 25 (power to make special nature conservation order), or that any of the requirements of this Schedule have not been complied with in relation to it, that person may within six weeks from the date of the relevant notice make an application to the High Court.

(3) On any such application the High Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.

(4) Except as provided by this paragraph, the validity of an order may not be questioned in any legal proceedings whatsoever.

Interpretation

8. In this Schedule—

“amending order” and “revoking order” mean an order which amends or, as the case may be, revokes a previous order;

“order” means an order under regulation 25 (special nature conservation order);

“original order” means an order other than an amending or revoking order; and

“restrictive”, in relation to an amending order, means extending the area to which a previous order applies.

Status:

Point in time view as at 01/03/2010.

Changes to legislation:

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