
STATUTORY INSTRUMENTS

2002 No. 3153

The Environment (Northern Ireland) Order 2002

PART IV

AREAS OF SPECIAL SCIENTIFIC INTEREST

Duties of owners and occupiers of land included in ASSI

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32.—(1) The owner or occupier of any land included in an ASSI shall not carry out or cause or permit to be carried out, on that land any operation specified in the declaration made under Article 28 in relation to the land unless—

- (a) one of them has given the Department notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and
- (b) one of the conditions specified in paragraph (3) is fulfilled.

(2) Paragraph (1) does not apply to an owner or occupier being a public body acting in the exercise of its functions.

(3) The conditions are—

- (a) that the operation is carried out with the Department's written consent;
- (b) that the operation is carried out in accordance with the terms of a management agreement under Article 34;
- (c) that the operation is carried out in accordance with a management notice under Article 35.

(4) A consent under paragraph (3)(a) may be given—

- (a) subject to conditions, and
- (b) for a limited period,

as specified in the consent.

(5) If the Department does not consent, it shall give notice to that effect to the person who gave the notice under paragraph (1).

(6) The Department may, by notice given to every owner and occupier of any of the land included in the ASSI, or the part of the ASSI to which the consent relates

- (a) withdraw the consent; or
- (b) modify it (or further modify it) in any way.

(7) The following—

- (a) a consent under paragraph (3)(a) granting consent subject to conditions or for a limited period, and
- (b) a notice under paragraph (5) or (6),

must include a notice of the Department's reasons for imposing the conditions, for the limitation of the period, for refusing consent, or for withdrawing or modifying the consent, and also a notice of the matters set out in paragraph (8).

- (8) The matters referred to in paragraph (7) are—
 - (a) the rights of appeal under Article 33;
 - (b) the effect of paragraph (9); and
 - (c) in the case of a notice under paragraph (6), the effect of Article 37(1).
- (9) A withdrawal or modification of a consent does not take effect until—
 - (a) the expiry of the period for appealing against it; or
 - (b) if an appeal is brought, its withdrawal or final determination.

Appeals in connection with consents

33.—(1) The following persons—

- (a) an owner or occupier who has been refused a consent under Article 32(3)(a),
- (b) an owner or occupier who has been granted such a consent but who is aggrieved by conditions attached to it, or by the fact that it is for a limited period, or by the length of that period,
- (c) an owner or occupier who is aggrieved by the modification of a consent;
- (d) an owner or occupier who is aggrieved by the withdrawal of a consent,

may, at any time before the end of the period for appealing, appeal to the planning appeals commission against the relevant decision.

(2) If the Department neither gives consent nor refuses it within the period of three months beginning with the date on which the notice referred to in Article 32(1)(a) was received, the person who gave that notice may for the purposes of paragraph (1) treat the Department as having refused consent (and his appeal is to be determined on that basis).

(3) The period for appealing is—

- (a) except in a case falling within paragraph (2), the period of two months beginning with the date of the notice giving consent or the notice under Article 32(5) or (6), or
- (b) in a case falling within paragraph (2), the period of two months beginning immediately after the expiry of the three month period referred to there.

(4) On determining an appeal against a decision, the planning appeals commission may

- (a) affirm the decision,
- (b) where the decision was a refusal of consent, direct the Department to give consent,
- (c) where the decision was as to the terms of a consent (whether the original or a modified one), quash all or any of those terms,
- (d) where the decision was a withdrawal or modification of consent, quash the decision,

and where it exercises any of the powers in sub-paragraph (b), (c) or (d) the commission may give directions to the Department as to the terms on which the Department is to give consent.

Management agreements

34.—(1) The Department may enter into an agreement (“a management agreement”) with the owner or occupier of any land included in an ASSI for securing that his land is managed as (or as part of) an ASSI.

(2) A management agreement may impose such restrictions as may be expedient on the exercise of rights over the land by persons who can be bound by the agreement.

(3) A management agreement—

- (a) may provide for the management of the land in such manner, the carrying out thereon of such operations, and the doing thereon of such other things as may be expedient for the purposes of the agreement;
- (b) may provide for any of the matters mentioned in sub-paragraph (a) being carried out, or for the cost thereof being defrayed, either by the owner or occupier or by other persons, or by the Department, or partly in one way and partly in another.

(4) Where a person having an estate in any land, by a management agreement grants or agrees to grant any right as respects the land, the grant or agreement shall be binding upon any person deriving title or otherwise claiming under the grantor to the same extent as it is binding upon the grantor notwithstanding that it would not have been binding upon that person apart from this paragraph.

(5) A management agreement may be made irrevocably or subject to such provisions for revocation or variation as may be specified in the agreement.

(6) The Department may waive (either permanently or temporarily) any condition imposed by a management agreement which is inconsistent with any provision of a development plan or development order under the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#).

Management notices

35.—(1) Where it appears to the Department that—

- (a) an owner or occupier of land included in an ASSI is not giving effect to any provision of a management agreement, and
- (b) as a result any flora, fauna or geological, physiographical or other features by reason of which the land is of special scientific interest are being inadequately conserved or restored

it may if it thinks fit serve a notice on him.

(2) Where the Department is satisfied that—

- (a) any land included in an ASSI in respect of which no management agreement is in force is being managed in such a way that any flora, fauna or geological, physiographical or other features by reason of which the land is of special scientific interest are being inadequately conserved or restored, and
- (b) that it is unable to conclude, on reasonable terms, a management agreement with the owner or occupier,

it may if it thinks fit serve a notice on him.

(3) A notice served under paragraph (1) or (2) is referred to in this Order as a “management notice”.

(4) A management notice is a notice requiring the owner or occupier to—

- (a) carry out such work on the land, and
- (b) do such other things with respect to it,

as are specified in the notice, and to do so before the dates or within the periods so specified.

(5) The work and other things specified in a management notice must appear to the Department to be measures which it is reasonable to require in order to ensure that the land is managed in accordance with the statement mentioned in Article 28(2).

(6) A management notice must explain the effect of paragraphs (8) and (9) and of Article 36.

(7) A copy of the management notice must be served on every other owner and occupier of the land.

(8) If any of the work or other things required by a management notice have not been done within the period or by the date specified in it, the Department may—

- (a) carry out the work or do the other things; and
- (b) recover from the owner or occupier upon whom the notice was served any expenses reasonably incurred by it in carrying out the work or doing the other things.

(9) If an appeal is brought against the management notice, and upon the final determination of the appeal the notice is affirmed (with or without modifications), paragraph (8) applies as if the references there to the management notice were to the notice as affirmed.

Appeals against management notices

36.—(1) A person who is served with a management notice may, within the period for appealing, appeal against its requirements to the planning appeals commission; and a management notice does not take effect until—

- (a) the expiry of the period for appealing; or
- (b) if an appeal is brought, its withdrawal or final determination

(2) The period for appealing is the period of two months beginning with the date on which the management notice is served.

(3) On determining the appeal, the commission may quash or affirm the management notice; and if the commission affirms it, it may do so either in its original form or with such modifications as it thinks fit.

Payments by Department

37.—(1) Where the Department, under Article 32(6), modifies or withdraws a consent, it shall make a payment to any owner or occupier of the land who suffers loss because of the modification or withdrawal.

(2) The Department may, if it thinks fit, make one or more payments to any owner or occupier of land in relation to which a management agreement has effect.

(3) The amount of a payment under paragraph (1) or (2) is to be determined in accordance with guidance given and published by the Department.

(4) Any dispute as to a person's entitlement to a payment under paragraph (1) or as to its amount shall be referred to and determined by the Lands Tribunal.