

**Annexe C – Text of Sections 28G 28H of Wildlife and Countryside Act 1981 as amended.**

**Please note, this excerpt is provided for information only. The full text of the Act should be consulted.**

**28G.— Statutory undertakers, etc.: general duty.**

(1) An authority to which this section applies (referred to in this section and in sections 28H and 28I as “a section 28G authority”) shall have the duty set out in subsection (2) in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

(2) The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.

(3) The following are section 28G authorities—

- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or a Government department;
- (b) the National Assembly for Wales;
- (c) a local authority;
- (d) a person holding an office—
  - (i) under the Crown,
  - (ii) created or continued in existence by a public general Act of Parliament, or
  - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
- (e) a statutory undertaker; and
- (f) any other public body of any description.

(4) “Statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990

**28H.— Statutory undertakers, etc.: duty in relation to carrying out operations.**

(1) A section 28G authority shall give notice to [Natural England] before carrying out, in the exercise of its functions, operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

(2) Subsection (1) applies even if the operations would not take place on land included in a site of special scientific interest.

(3) In response to the notice referred to in subsection (1), [Natural England ] may send a notice—

- (a) saying that they do not assent to the proposed operations, or
- (b) assenting to them (with or without conditions), but if they do not send a notice under paragraph (b) within the period of 28 days beginning with the date of the notice under subsection (1) they shall be treated as having declined to assent.

(4) If [Natural England] do not assent, or if the authority proposes to carry out the operations

otherwise than in accordance with the terms of [Natural England's] assent, the authority—

- (a) shall not carry out the operations unless the condition set out in subsection (5) is satisfied, and
- (b) shall comply with the requirements set out in subsection (6) when carrying them out.

(5) The condition is that the authority has, after the expiry of the period of 28 days beginning with the date of the notice under subsection (1), notified [Natural England] of—

- (a) the date on which it proposes to start the operations (which must be after the expiry of the period of 28 days beginning with the date of the notification under this paragraph), and
- (b) how (if at all) it has taken account of any written advice it received from [Natural England ], before the date of the notification under this paragraph, in response to the notice under subsection (1).

(6) The requirements are—

- (a) that the authority carry out the operations in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological or physiographical features by reason of which the site is of special interest (taking account, in particular, of any such advice as is referred to in subsection (5)(b)); and
- (b) that the authority restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur.