

Appendix 1

Nature Conservancy Act 1998

As applicable on 26 November 2015

[...]

Section 19d

1. Without a permit issued by the Provincial Executive or, in relation to projects or other activities as referred to in subsection 5, by Our Minister, or contrary to conditions or restrictions attached to such a permit, it is prohibited to carry out projects or perform other activities which, having regard to the conservation objective, with the exception of the objectives referred to in section 10a, subsection 3, can worsen the quality of the natural habitats and the habitat of species in a Natura 2000 nature protection area or have a significantly disruptive impact on the species for which the area has been designated. Such projects or other activities are in any event deemed to include projects or activities that can adversely affect the integrity of the area concerned.

2. The prohibition referred to in subsection 1 does not apply to projects or activities, including existing use, as well as changes thereto, carried out or performed in accordance with a management plan as referred to in section 19a or 19b.

3. The prohibition referred to in subsection 1 does not apply to existing use, except in so far as that use is a project which is not directly connected with or necessary to the management of a Natura 2000 nature protection area but which – either individually or in combination with other projects or plans – can have significant effects on the Natura 2000 nature protection area concerned.

4. The prohibition referred to in subsection 1 does not apply to the carrying out of projects or performance of other activities which are permitted under an integrated environmental permit granted in accordance with chapter IX.

5. Projects or other activities or categories of area for which a permit as referred to in subsection 1 is granted by Our Minister may be designated by order in council.

6. A recommendation for an order in council pursuant to subsection 5 must not be made sooner than four weeks after the draft has been presented to both Houses of the States General.

[...]

Section 19f

1. Before the Provincial Executive makes a decision on an application for a permit as referred to in section 19d, subsection 1 in respect of projects which are not directly connected with or necessary to the management of a Natura 2000 nature protection area but which – either individually or in combination with other projects or plans – can have significant effects on the area concerned, the initiator must make an appropriate assessment of the effects on the area, taking account of the conservation objective of that area, with the exception of the objectives referred to in section 10a, subsection 3.

2. The appropriate assessment for a decision on an application for a permit as referred to in section 19d, subsection 1 may form part of the environmental impact assessment prescribed for that project.

3. The obligation to make an appropriate assessment when preparing a decision as referred to in subsection 1 does not apply in cases where the person carrying out the project to which the decision relates is repeating or continuing a project for which an appropriate assessment has previously been made, in so far as the appropriate assessment cannot reasonably be expected to yield any new data on or understanding of the significant effects of that project.

Section 19g

1. If an appropriate assessment has been prescribed by virtue of section 19f, subsection 1, a permit as referred to in section 19d, subsection 1 may be granted only if the Provincial Executive has ascertained on the basis of the appropriate assessment that the integrity of the area will not be adversely affected.

2. Notwithstanding subsection 1, in the absence of alternative solutions for a project, a permit as referred to in section 19d, subsection 1 for the carrying out of the project concerned in Natura 2000 nature protection areas that do not host a priority natural habitat type or priority species

may be granted by the Provincial Executive only for imperative reasons of overriding public interest, including those of a social or economic nature.

3. Notwithstanding subsection 1, in the absence of alternative solutions for a project or other action, a permit as referred to in section 19d, subsection 1 for the realisation of the relevant project in Natura 2000 nature protection areas that host a priority natural habitat type or priority species may be granted by the Provincial Executive only:

- a) on the basis of considerations relating to human health or public safety or to beneficial consequences of primary importance for the environment, or
- b) further to an opinion from the Commission of the European Communities, on the basis of other imperative reasons of overriding public interest.

4. An opinion as referred to in subsection 3 (b) is requested by Our Minister.

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