

Sites of Special Scientific Interest and European Protected Species NRW:0051492

The Environmental Liability Directive is transposed into UK legislation under the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009.

The legislation specifies that damage has to be carried out by an operator of an economic activity e.g. companies, utilities etc. The act does not cover damage by third parties such as travellers, trespassers etc.

In relation to European species/habitats damage is defined as

There will be environmental damage if the damage has a 'significant adverse effect on reaching or maintaining the favourable conservation status' of a protected species or habitat.

In relation to SSSI

There will be 'environmental damage' if:

there has been damage to the flora or fauna notified under the Wildlife and Countryside Act 1981 or the EU protected species or natural habitats in the site;

and that damage has an adverse effect on the integrity of the site.

With regards to third parties the Wildlife and Countryside Act 1981 does contain offences relating to third parties who damage or destroy SSSI, these are

(6) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse—

(a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which land is of special interest, or intentionally or recklessly disturbs any of those fauna, and

(b) knew that what he destroyed, damaged or disturbed was within a site of special scientific interest, is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(6A) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse—

(a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or

(b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

In respect of third parties committing offences affecting protected species these are not investigated by Natural Resources Wales but are investigated by the police.

Kind Regards

Mathew Parry