

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: National Parks and the Broads

Section 59: Criteria for designating National Parks

167. This section clarifies the requirements that are contained in section 5 of the National Parks and Access to the Countryside Act 1949 for designating land in a Park by adding a new subsection (2A) which aligns the criteria with the purposes as set out in section 5(1) of that Act. When considering the natural beauty of land, Natural England may take into account its wildlife and cultural heritage. Additionally, when considering the opportunities that extensive tracts of land afford for open-air recreation, Natural England may take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of their special qualities by the public. This clarification seeks to reinstate the working assumptions that had been made by those involved in the designation process prior to the decision in *Meyrick Estate Management Ltd v Secretary of State for Environment, Food and Rural Affairs* [2005] EWHC 2618 (Admin).

Section 60: Procedure for orders designating National Parks

168. This section makes various amendments to the 1949 Act.
169. *Subsections (2) and (3)* bring up to date the terminology describing the types of principal local authority that must be consulted on the designation or alteration of National Park boundaries. As well as updating old terminology, the subsections include a new requirement to consult parish councils in England and community councils in Wales.
170. *Subsection (4)* repeals section 9(2) of the 1949 Act. Section 9(2) enabled regulations to be made allowing proceedings preliminary to orders designating and varying National Parks to be taken concurrently with proceedings required in connection with development plans.
171. *Subsection (5)* amends Schedule 1 to the 1949 Act to make it clear that only objections by principal councils (and not parish or community councils) trigger an automatic public inquiry into National Park designation or boundary amendment. This will, for example, prevent an objection by a single parish council automatically triggering a public inquiry into the designation of a National Park or amendment to a National Park boundary.

Section 61: Members of National Park authorities

172. This section amends various provisions of Schedule 7 to the Environment Act 1995 relating to the membership of National Park authorities. The precise make-up of each National Park authority is set individually by secondary legislation. However,

the general mix of members of each authority must be in keeping with a basic formula which is set out in Schedule 7 to the 1995 Act. *Subsections (1) and (2)* simplify the basic formula so that any composition in which (in Wales) local authority members outnumber “national” members or (in England) local authority members and parish members together outnumber “national” members will be possible. “National” members are the members who are not local authority or parish members. They are appointed by the Secretary of State.

173. *Subsections (3) to (5)* allow councillors (or chairs of parish meetings) who are waiting to be re-appointed or replaced on a National Park authority following an election, to nevertheless continue to act as National Park authority members, subject to an upper limit of three months. The subsections are intended to minimise interregnums between members.
174. *Subsection (6)* allows “national” members of National Park authorities to be appointed for up to four years at a time rather than the current three years. This brings them into line with local authority and parish members who normally serve four-year terms.

Section 62: Expenditure by National Park authorities

175. The Environment Act 1995 added a provision to the 1949 Act which stated that National Park authorities should not incur “significant” expenditure in support of their socio-economic duty. This has caused uncertainty and therefore section 62 removes this qualification.

Section 63: Notification of agricultural operations on moor and heath in National Parks

176. This section transfers the power from the Secretary of State to a National Park authority to make an order under section 42 of the Wildlife and Countryside Act 1981. An order so issued places a temporary prohibition on ploughing, and on other specified agricultural or forestry operations on moor or heath in National Parks, and may be issued if those operations are likely to affect the land’s character or appearance.

Section 64: Functions of Broads Authority and others in relation to the Broads

177. This section amends the Norfolk and Suffolk Broads Act 1988. It aligns the wording of the first two purposes of the Broads Authority and other relevant authorities with that of the first two purposes of the National Parks. The purposes of the different areas had previously shared common wording until the National Park purposes (in section 5(1) of the 1949 Act) were amended in 1995.

Section 65: Emergency financial assistance

178. This section adds any National Park authority and the Broads Authority to the list of bodies in section 155(4) of the Local Government and Housing Act 1989. This gives these authorities the ability to apply to a fund for emergency assistance following a natural disaster.