



Countryside and Rights of Way Act 2000

2000 CHAPTER 37

PART III

NATURE CONSERVATION AND WILDLIFE PROTECTION

The Nature Conservancy Council for England

73 The Nature Conservancy Council for England: change of name

- (1) The Nature Conservancy Council for England shall be known instead as English Nature.
- (2) For any reference to the Nature Conservancy Council for England—
 - (a) in any provision of a local Act or subordinate legislation, or
 - (b) in any other instrument or document,there is substituted, as respects any time after the commencement of subsection (1), a reference to English Nature.
- (3) Any reference to English Nature in this Act (apart from this section), or in any instrument under this Act, shall be construed, in relation to any time before the commencement of subsection (1), as a reference to the Nature Conservancy Council for England.
- (4) Schedule 8 (which makes amendments consequential on subsection (1)) has effect.

Biological diversity

74 Conservation of biological diversity

- (1) It is the duty of—
 - (a) any Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975),
 - (b) any Government department, and

- (c) the National Assembly for Wales,
in carrying out his or its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biological diversity in accordance with the Convention.
- (2) The Secretary of State, as respects England, and the National Assembly for Wales, as respects Wales, shall each publish a list of, or lists which together comprise, the living organisms and types of habitat which in the opinion of the Secretary of State or the Assembly (as the case may be) are of principal importance for the purpose mentioned in subsection (1).
- (3) Without prejudice to subsection (1), it is the duty of a listing authority to take, or to promote the taking by others of, such steps as appear to the authority to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published by the authority under this section.
- (4) Before publishing the list or lists required by subsection (2) the listing authority shall consult the appropriate conservation body as to the living organisms or types of habitat to be included in the list or lists.
- (5) Each listing authority shall, in consultation with the appropriate conservation body—
- (a) keep under review any list published by the authority under this section,
 - (b) make such revisions of any such list as appear to the authority to be appropriate, and
 - (c) publish any list so revised.
- (6) A duty under this section to publish a list is a duty to publish it in such manner as the listing authority thinks fit.
- (7) In this section—
- “appropriate conservation body” means—
- (a) as respects England, English Nature,
 - (b) as respects Wales, the Countryside Council for Wales;
- “biological diversity” has the same meaning as in the Convention;
- “conservation” in relation to a living organism or type of habitat, includes the restoration or enhancement of a population or habitat;
- “the Convention” means the United Nations Environmental Programme Convention on Biological Diversity of 1992;
- “habitat” has the same meaning as in the Convention;
- “listing authority”—
- (a) in relation to a list which the Secretary of State is required to publish under this section, means the Secretary of State;
 - (b) in relation to a list which the National Assembly for Wales is required to publish under this section, means the National Assembly for Wales.

Sites of special scientific interest

75 Sites of special scientific interest

- (1) Schedule 9 (which makes amendments of the 1981 Act to change the law relating to sites of special scientific interest, including provision as to offences) has effect.

- (2) A notification under section 23 of the National Parks and Access to the Countryside Act 1949 (notification to local planning authorities of areas of special scientific interest) which by virtue of section 28(13) of the 1981 Act as originally enacted had effect as if given under section 28(1)(a) of that Act, shall cease to have effect.
- (3) In section 15(2) of the Countryside Act 1968 (which provides for agreements between the Nature Conservancy Council and those with interests in land which is included in an area of special scientific interest, or is adjacent to such land), for “adjacent” there is substituted “other”.
- (4) After section 15 of the Countryside Act 1968 there is inserted—

“15A Compulsory purchase

- (1) The Nature Conservancy Council may in circumstances set out in subsection (2) acquire compulsorily all or any part of the land referred to in section 15(2).
- (2) The circumstances are—
 - (a) that the Nature Conservancy Council are satisfied that they are unable to conclude, on reasonable terms, such an agreement as is referred to in section 15(2), or
 - (b) that they have entered into such an agreement, but they are satisfied it has been breached in such a way that the flora, fauna or geological or physiographical features referred to there are not being conserved satisfactorily.
- (3) A dispute about whether or not there has been a breach of the agreement for the purposes of subsection (2)(b) shall be determined by an arbitrator appointed by the Lord Chancellor.
- (4) Where the Nature Conservancy Council have acquired land compulsorily under this section, they may—
 - (a) themselves take steps to conserve the flora, fauna or geological or physiographical features in question, or
 - (b) dispose of the land on terms designed to secure that those flora, fauna or features are satisfactorily conserved.
- (5) In this section, “Nature Conservancy Council” means English Nature as respects land in England, and the Council as respects land in Wales.”

76 Consequential amendments, transitional provisions and savings relating to s. 75

- (1) Schedule 10 (which makes amendments of the 1981 Act consequential upon the substitution or repeal as respects England and Wales of certain sections in that Act, and also makes other consequential amendments) has effect.
- (2) Schedule 11 (which makes transitional provisions and savings relating to the coming into force of section 75) has effect.

Ramsar sites

77 **Ramsar sites**

After section 37 of the 1981 Act there is inserted—

“37A Ramsar sites

- (1) Where a wetland in Great Britain has been designated under paragraph 1 of article 2 of the Ramsar Convention for inclusion in the list of wetlands of international importance referred to in that article, the Secretary of State shall—
 - (a) notify English Nature if all or part of the wetland is in England;
 - (b) notify the Countryside Council for Wales if it is in Wales; or
 - (c) notify both of them if it is partly in England and partly in Wales.
- (2) Subject to subsection (3), upon receipt of a notification under subsection (1), each body notified shall, in turn, notify—
 - (a) the local planning authority in whose area the wetland is situated;
 - (b) every owner and occupier of any of that wetland;
 - (c) the Environment Agency; and
 - (d) every relevant undertaker (within the meaning of section 4(1) of the Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the Land Drainage Act 1991) whose works, operations or activities may affect the wetland.
- (3) English Nature and the Countryside Council for Wales may agree that in a case where the Secretary of State notifies both of them under subsection (1)(c), any notice under subsection (2) is to be sent by one or the other of them (and not both), so as to avoid duplicate notices under that subsection.
- (4) Subject to subsection (5), the “Ramsar Convention” is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by—
 - (a) the Protocol known as the Paris Protocol done at Paris on 3rd December 1982; and
 - (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting Parties held at Regina, Saskatchewan, Canada, between 28th May and 3rd June 1987.
- (5) If the Ramsar Convention is further amended after the passing of the Countryside and Rights of Way Act 2000, the reference to the Ramsar Convention in subsection (1) is to be taken after the entry into force of the further amendments as referring to that Convention as further amended (and the reference to paragraph 1 of article 2 is, if necessary, to be taken as referring to the appropriate successor provision).”

Limestone pavement orders

78 Limestone pavement orders: offence

- (1) In section 34(4) of the 1981 Act (which provides for an offence in connection with land designated by a limestone pavement order), for “the statutory maximum” there is substituted “£20,000”.
- (2) Subsection (1) does not have effect in relation to any offence committed before the commencement of this section.

Payments under certain agreements

79 Payments under agreements under s.16 of 1949 Act or s.15 of 1968 Act

In section 50 of the 1981 Act (which makes provision relating to payments under section 16 of the National Parks and Access to the Countryside Act 1949 or section 15 of the Countryside Act 1968), in subsection (1)(a), for sub-paragraphs (i) and (ii) and the preceding word “to” there is substituted “to any person; or”.

Powers of entry

80 Powers of entry

- (1) Section 51 of the 1981 Act (powers of entry) is amended as follows.
- (2) In subsection (1), for paragraphs (a) to (d) there is substituted—
 - “(a) to determine whether the land should be notified under section 28(1);
 - (b) to assess the condition of the flora, fauna, or geological or physiographical features by reason of which land which has been notified under section 28(1) is of special interest;
 - (c) to determine whether or not to offer to enter into an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land;
 - (d) to ascertain whether a condition to which a consent referred to in section 28E(3)(a) was subject has been complied with in relation to the land;
 - (e) to ascertain whether an offence under section 28P or under byelaws made by virtue of section 28R is being, or has been, committed on or in relation to the land;
 - (f) to formulate a management scheme for the land or determine whether a management scheme (or a proposed management scheme) for the land should be modified;
 - (g) to prepare a management notice for the land;
 - (h) to ascertain whether the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land, or the terms of a management scheme or the requirements of a management notice in relation to the land, have been complied with;
 - (i) to determine whether or not to offer to make a payment under section 28M in relation to the land;

Status: This is the original version (as it was originally enacted).

- (j) to determine any question in relation to the acquisition of the land by agreement or compulsorily;
- (k) to determine any question in relation to compensation under section 20(3) of the 1949 Act as applied by section 28R of this Act;
- (l) to ascertain whether an order should be made in relation to the land under section 34 or if an offence under that section is being, or has been, committed on the land;
- (m) to ascertain whether an order should be made in relation to the land under section 42 or if an offence under that section is being, or has been, committed on the land;”.

(3) After subsection (1) there is inserted—

“(1A) The power conferred by subsection (1) to enter land for any purpose includes power to enter for the same purpose any land other than that referred to in subsection (1).

(1B) More than one person may be authorised for the time being under subsection (1) to enter any land.”

(4) In subsection (2)—

- (a) in paragraph (a), for “paragraphs (a) and (b)” there is substituted “paragraphs (a) to (k)”;
- (b) in paragraph (b), for “paragraph (c)” there is substituted “paragraph (l)”; and
- (c) in paragraph (c), for “paragraph (d)” there is substituted “paragraph (m)”.

(5) For subsection (3)(b) there is substituted—

“(b) the purpose of the entry is to ascertain if an offence under section 28P, 34 or 42 is being, or has been, committed on or (as the case may be) in relation to that land.”

(6) After subsection (3) there is inserted—

“(3A) A person acting in the exercise of a power conferred by subsection (1) may—

- (a) use a vehicle or a boat to enter the land;
- (b) take a constable with him if he reasonably believes he is likely to be obstructed;
- (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
- (d) take samples of the land and of anything on it.

(3B) If in the exercise of a power conferred by subsection (1) a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.”

(7) After subsection (4) there is inserted—

“(5) It is the duty of a relevant authority to compensate any person who has sustained damage as a result of—

- (a) the exercise of a power conferred by subsection (1) by a person authorised to do so by that relevant authority, or
- (b) the failure of a person so authorised to perform the duty imposed on him by subsection (3B),

except where the damage is attributable to the fault of the person who sustained it; and any dispute as to a person's entitlement to compensation under this subsection or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement, by the Secretary of State".

Enforcement of wildlife legislation

81 Enforcement of wildlife legislation

- (1) Schedule 12 to this Act (which contains amendments relating to offences and enforcement powers under Part I of the 1981 Act) has effect.
- (2) In relation to England and Wales, regulations under section 2(2) of the European Communities Act 1972 ("the 1972 Act") for the purpose of implementing any of the instruments mentioned in subsection (3) may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.
- (3) Those instruments are—
 - (a) Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive [97/62/EC](#);
 - (b) Council Regulation [338/97/EC](#) on the protection of species of wild fauna and flora by regulating the trade therein; and
 - (c) Commission Regulation [939/97/EC](#) on the implementation of the Council Regulation mentioned in paragraph (b).