

These notes refer to the Natural Environment and Rural Communities Act 2006 (c.16) which received Royal Assent on 30 March 2006

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Wildlife etc.

Biodiversity

Section 40: Duty to conserve biodiversity

112. This section and sections 41 and 42 replace section 74 of the Countryside and Rights of Way Act 2000 (conservation of biological diversity). In these notes, that Act is referred to as “CRoW”.
113. **Section 40** extends to all public authorities the existing section 74 duty to have regard to biodiversity as far as is consistent with the proper exercise of their functions. However, only Ministers, government departments and the National Assembly for Wales (that is, roughly, those bound by the original section 74 CRoW duty) are obliged to have particular regard to the 1992 Convention; other public authorities are not. “Public authority” is defined in section 40. It includes, for example, local authorities, local planning authorities and statutory undertakers.

Section 41: Biodiversity lists and action (England)

114. This section replaces and reflects what is in existing subsections (2) to (5) of section 74 of CRoW. It places a duty on the Secretary of State to publish, review and revise lists of living organisms and types of habitat in England that are of principal importance for the purpose of conserving English biodiversity, and to consult Natural England before doing so. It also requires the Secretary of State to take, and promote the taking of, steps to further the conservation of the listed organisms and habitats. A list was published in 2002 under the existing duty placed on the Secretary of State by section 74(5) of CRoW.

Section 42: Biodiversity lists and action (Wales)

115. This section is equivalent to section 41, but relates to Wales rather than England. It requires the National Assembly for Wales to publish, review, revise and act on lists of organisms of principal importance in Wales. The Countryside Council for Wales is the body to be consulted.