



National Parks and Access to the Countryside Act 1949

1949 CHAPTER 97

PART III

NATURE CONSERVATION

15 Meaning of " nature reserve "

In this Part of this Act the expression " nature reserve " means land managed for the purpose—

- (a) of providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or
- (b) of preserving flora, fauna or geological or physio-graphical features of special interest in the area,

or for both those purposes.

16 Agreements with Nature Conservancy for establishment of nature reserves

- (1) The Nature Conservancy may enter into an agreement with every owner, lessee and occupier of any land, being land as to which it appears to the Conservancy expedient in the national interest that it should be managed as a nature reserve, for securing that it shall be so managed.
- (2) Any such agreement may impose such restrictions as may be expedient for the purposes of the agreement on the exercise of rights over the land by the persons who can be bound by the agreement.
- (3) Any such agreement—

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- (a) may provide for the management of the land in such manner, the carrying out thereon of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement;
 - (b) may provide for any of the matters mentioned in the last foregoing paragraph being carried out, or for the cost thereof being defrayed, either by the said owner or other persons, or by the Conservancy, or partly in one way and partly in another ;
 - (c) may contain such other provisions as to the making of payments by the Conservancy, and in particular for the payment by them of compensation for the effect of the restrictions mentioned in the last foregoing subsection, as may be specified in the agreement.
- (4) Section two of the Forestry Act, 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to any such agreement; and where section seventy-nine of the Law of Property Act, 1925 (which provides that unless a contrary intention is expressed the burden of a covenant runs with the land) applies, subsections (2) and (3) of section one of the said Act of 1947 (which provide for enforcement against persons other than the covenantor) shall apply to any such restrictions as are mentioned in subsection (2) of this section, but with the substitution for references to the Forestry Commissioners of references to the Nature Conservancy.
- (5) The following provisions shall have effect in the application of this section to Scotland:
- (a) a limited owner of land shall have power to enter into agreements under this section relating to the land ;
 - (b) the Trusts (Scotland) Act, 1921, shall have effect as if among the powers conferred on trustees by section four thereof (which relates to the general powers of trustees) there were included a power to enter into agreements under this section relating to the trust estate or any part thereof;
 - (c) subsection (2) of section three of the Forestry Act, 1947, shall apply to an agreement under this section to which an owner or limited owner of land or a trustee acting under the last foregoing paragraph is a party as it applies to a forestry dedication agreement, with the substitution for the reference to the Forestry Commissioners of a reference to the Nature Conservancy;
 - (d) the expression " owner" includes any person empowered under this subsection to enter into agreements relating to land ;
 - (e) subsection (4) shall not apply.

17 Compulsory acquisition of land by Conservancy for establishment of nature reserves

- (1) Subject to the provisions of the next following subsection, where the Nature Conservancy are satisfied as respects any land that it is expedient in the national interest that it should be managed as a nature reserve, they may acquire the land compulsorily.
- (2) The Nature Conservancy shall not acquire any interest in land under the last foregoing subsection unless they are satisfied that they are unable, as respects that interest, to conclude on terms appearing to them reasonable an agreement under the last foregoing section containing such provisions as in their opinion are required for securing that the land will be satisfactorily managed as a nature reserve.

18 Compulsory acquisition of land by Conservancy for maintenance of nature reserves

- (1) Where, as respects any interest in land, the Nature Conservancy have entered into an agreement under the last but one foregoing section and any breach of the agreement occurs which prevents or impairs the satisfactory management as a nature reserve of the land to which the agreement relates, then without prejudice to any other remedy the Nature Conservancy may acquire that interest compulsorily.
- (2) Such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the Nature Conservancy requiring the remedying thereof.
- (3) Any dispute arising under this section whether there has been such a breach of an agreement as aforesaid shall be determined by an arbitrator appointed by the Lord Chancellor or, in the case of a dispute relating to land in Scotland, by an arbiter appointed by the Lord President of the Court of Session.
- (4) Without prejudice to the operation of the Arbitration Acts, 1889 to 1934, as respects land in England or Wales, at any stage of the proceedings in any arbitration under the last foregoing subsection relating to land in Scotland the arbiter may, and shall if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in the arbitration.

19 Declarations what areas are nature reserves

- (1) A declaration by the Nature Conservancy that any land is the subject of an agreement entered into with them under the foregoing provisions of this Part of this Act, or has been acquired and is held by the Conservancy, shall be sufficient evidence, unless the contrary is proved, that the land is subject to such an agreement or has been so acquired and is so held, as the case may be.
- (2) A declaration by the Nature Conservancy that any land which is subject to such an agreement as aforesaid, or is held by the Nature Conservancy, is being managed as a nature reserve shall be conclusive of the matters declared.
- (3) It shall be the duty of the Nature Conservancy, where any such declaration has been made and the agreement to which it relates ceases to be in force, or the land to which it relates ceases to be held by the Conservancy or to be managed as a nature reserve, as the case may be, to make a declaration of that fact; and any such declaration shall be conclusive of the matters declared.
- (4) The Nature Conservancy shall publish notice of any declaration under this section in such manner as appears to them best suited for informing persons concerned.
- (5) A document purporting to be certified on behalf of the Conservancy to be a true copy of any declaration under this section shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

20 Byelaws for protection of nature reserves

- (1) The Nature Conservancy may, as respects land which is being managed as a nature reserve under an agreement entered into with them or land held by them which is being managed as a nature reserve, make byelaws for the protection of the reserve :

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Provided that byelaws under this section shall not have effect as respects any land in a reserve unless a declaration under the last foregoing section is in force declaring that the land is being managed as a nature reserve and notice of the declaration has been published in pursuance of that section.

- (2) Without prejudice to the generality of the last foregoing subsection, byelaws under this section—
- (a) may provide for prohibiting or restricting the entry into, or movement within, nature reserves of persons, vehicles, boats and animals ;
 - (b) may prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description in a nature reserve, the taking, destruction or disturbance of eggs of any such creature, the taking of, or interference with, vegetation of any description in a nature reserve, or the doing of anything therein which will interfere with the soil or damage any object in the reserve ;
 - (c) may prohibit or restrict the shooting of birds or of birds of any description within such area surrounding or adjoining a nature reserve (whether the area be of land or of sea) as appears to the Nature Conservancy requisite for the protection of the reserve;
 - (d) may contain provisions prohibiting the depositing of rubbish and the leaving of litter in a nature reserve ;
 - (e) may prohibit or restrict, or provide for prohibiting or restricting, the lighting of fires in a nature reserve, or the doing of anything likely to cause a fire in a nature reserve ;
 - (f) may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising entry into a nature reserve or the doing of anything therein which would otherwise be unlawful, whether under the byelaws or otherwise;
 - (g) may be made so as to relate either to the whole or to any part of the reserve or, in the case of byelaws made under paragraph (c) of this subsection, of any such surrounding or adjoining area as is mentioned in that paragraph, and may make different provisions for different parts thereof:

Provided that byelaws under this section shall not interfere with the exercise by any person of a right vested in him as owner, lessee or occupier of land in a nature reserve, or in the case of such land in Scotland as limited owner thereof, or with the exercise of any public right of way or of any functions of statutory undertakers, of a river board or other drainage authority or a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act, 1862, or of the Commissioners appointed under the Tweed Fisheries Act, 1857.

- (3) Where the exercise of any right vested in a person, whether by reason of his being entitled to any interest in land or by virtue of a licence or agreement, is prevented or hindered by the coming into operation of byelaws under this section, he shall be entitled to receive from the Nature Conservancy compensation in respect thereof.

21 Establishment of nature reserves by local authorities

- (1) The council of a county or county borough shall have power to provide, or secure the provision of, nature reserves on any land in their area (not being land held by, or managed in accordance with an agreement entered into with, the Nature Conservancy) as to which it appears to the council expedient that it should be managed as a nature reserve.

- (2) Any power of a county council under the last foregoing subsection as respects land in a county district may, with the consent of the county council and of the Nature Conservancy, be exercised by the council of the county district.
- (3) Where the Nature Conservancy have consented under the last foregoing subsection to the exercise of a power by the council of a county district, but the county council have refused their consent thereto, the Minister, on the application of the council of the county district and after consultation with the county council and the Nature Conservancy, may direct that the said power shall be exercisable by the council of the county district.
- (4) The foregoing provisions of this Part of this Act shall apply to the provision of nature reserves by local authorities under this section with the substitution for references to the Nature Conservancy of references to the local authority and as if the references in subsection (1) of sections sixteen and seventeen respectively of this Act to the national interest included references to the interests of the locality.
- (5) A local authority may, as respects any land which is being managed as a nature reserve by the authority, enter into an agreement with any drainage authority for the exercise by the drainage authority, on such terms as to payment or otherwise as may be specified in the agreement, of any power of doing work exercisable by the local authority under the foregoing provisions of this section.
- (6) A local authority shall exercise their functions under this Part of this Act in consultation with the Nature Conservancy.
- (7) The following provisions shall have effect for the application of this section to Scotland:—
 - (a) the reference to the council of a county shall, in the case of counties combined under subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, mean the joint county council;
 - (b) for the reference to a county borough there shall be substituted a reference to a large burgh;
 - (c) the expression " county " means a county inclusive of any small burgh situated therein;
 - (d) the expressions " large burgh " and " small burgh " have the same meanings as in the Local Government (Scotland) Act, 1947;
 - (e) subsections (2) and (3) shall be omitted.

22 Power of drainage authorities to do work in nature reserves

Where the Nature Conservancy, a local authority or any other person enter into an agreement with a drainage authority for the doing by that authority of any work on land managed as a nature reserve by, or under an agreement with, the Conservancy or a local authority, no limitation imposed by law on the capacity of the drainage authority by virtue of the constitution thereof shall operate so as to prevent the drainage authority carrying out the agreement.

23 Duty of Conservancy to inform local planning authorities of areas of special scientific interest

Where the Nature Conservancy are of opinion that any area of land, not being land for the time being managed as a nature reserve, is of special interest by reason of its flora,

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fauna, or geological or physiographical features, it shall be the duty of the Conservancy to notify that fact to the local planning authority in whose area the land is situated.

24 Annual report of Nature Conservancy

- (1) The Nature Conservancy shall, as soon as possible after the thirtieth day of September in each year, make to the Lord President of the Council a report on the discharge by them of their functions during the period of twelve months ending with that day.
- (2) The Lord President of the Council shall lay a copy of every report of the Nature Conservancy under this section before each House of Parliament.

25 Supplementary provisions as to powers of Conservancy

- (1) Nothing in this Part of this Act shall be construed as limiting the powers conferred on the Nature Conservancy by their charter, as for the time being in force.
- (2) The provisions of this Part of this Act as to the acquisition and holding of land by the Nature Conservancy shall have effect subject to any limitation contained in the said charter, as for the time being in force, on the aggregate value of the land which may be acquired or held by the Conservancy.
- (3) For the purposes of the application of any enactment or rule of law to land an interest in which belongs to the Nature Conservancy, the Conservancy shall be deemed to be a Government department.

26 Application of Part III to Scotland

In the application of this Part of this Act to Scotland the expressions "owner" and "limited owner" have the same meanings as in section three of the Forestry Act, 1947.