



National Parks and Access to the Countryside Act 1949

1949 CHAPTER 97

PART VI

GENERAL, FINANCIAL AND SUPPLEMENTARY

Supplementary Provisions

101 Crown land

- (1) The following provisions of this section shall have effect for applying certain provisions of this Act to Crown land, that is to say land an interest in which belongs to His Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a Government department or is held in trust for His Majesty for the purposes of a Government department.
- (2) A National Park may include Crown land, and with the consent of the appropriate authority the powers conferred by Part II of this Act may be exercised as respects any interest in Crown land.
- (3) Where a National Park includes any Crown land, the appropriate authority and the local planning authority in whose area the land is situated may enter into an agreement for securing that, so far as any interest held by or on behalf of the Crown is concerned and so far as may be provided by the agreement, the land will be managed in a manner consistent with the accomplishment of either or both of the purposes specified in subsection (1) of section five of this Act.
- (4) The appropriate authority may enter into an agreement under Part III of this Act as respects an interest in Crown land held by or on behalf of the Crown, and an agreement thereunder as respects any other interest in Crown land shall not have effect unless approved by the appropriate authority.

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- (5) An interest in Crown land, other than one held by or on behalf of the Crown, may be acquired under the said Part III, but only with the consent of the appropriate authority.
- (6) Parts IV and V of this Act shall apply to Crown land, but subject to the following modifications, that is to say.—
- (a) no public path order, diversion order, extinguishment order or access order shall be made as respects such land except with the consent of the appropriate authority;
 - (b) no such land shall be acquired under the said Part IV or V except with such consent; and
 - (c) if any land comprised in an access agreement or order, not being excepted land as defined for the purposes of the said Part V, becomes Crown land while it is so comprised, the access agreement or order shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the agreement or order.
- (7) Section eighty nine of this Act shall apply to Crown land if the appropriate authority consents to its application thereto, but subject to the following modifications, that is to say—
- (a) an interest in Crown land may be acquired for the purposes of the said section eighty-nine only with the consent of the appropriate authority;
 - (b) if any land affected by arrangements under subsection (3) of that section or an agreement under subsection (6) thereof becomes Crown land, the arrangements or agreement shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the arrangements or agreement
- (8) Byelaws made under this Act shall apply to Crown land if the appropriate authority consents to their application thereto.
- (9) An order under this Part of this Act restricting traffic on highways shall, save as expressly provided by the order, apply to vehicles and persons in the public service of the Crown.
- (10) Notwithstanding anything in subsection (3) or subsection (6) of this section—
- (a) an agreement authorised by the said subsection (3) and made by the Commissioners of Crown Lands or by any Government department, or an access agreement so made, shall be of no effect unless it is approved by the Treasury; and
 - (b) in considering whether to make or approve an agreement authorised by the said subsection (3), or an access agreement, relating to land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.
- (11) In this section the expression " the appropriate authority ", in relation to any land, means—
- (a) in the case of land belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other Government department having the management of the land in question ;
 - (b) in the case of land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

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- (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints;
 - (d) in the case of land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, that department;
- and if any question arises under this section as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

102 Power to authorise other local authorities to act in place of local planning authority

- (1) Where it is represented to a local planning authority by any other local authority that it is expedient in any particular case that any of the powers of the local planning authority under the provisions of this Act relating to National Parks or areas of outstanding natural beauty or under the provisions of Part V or of section eighty-nine of this Act should be exercised by the said other local authority, and the local planning authority agree, the power shall be exercisable in that case by the said other local authority:

Provided that before agreeing as aforesaid to the exercise by the said other local authority of any of the said powers in relation to a National Park, or to land in a National Park, the local planning authority shall consult with the Commission.

- (2) Where under the last foregoing subsection a local planning authority and any such other local authority as aforesaid are unable to agree as to the exercise of any power, the other local authority may refer the difference to the Minister; and the Minister, after consultation with the local planning authority, may if he thinks fit direct that in the case in question the said power shall be exercisable by the other local authority.
- (3) So far as is necessary for giving effect to any agreement or direction under this section, references in this Act to a local planning authority shall be construed as references to the said other local authority.
- (4) Without prejudice to the generality of the last foregoing subsection, where in pursuance of an agreement or direction under this section a local authority have acquired any land in a National Park or area of outstanding natural beauty, or have made an access agreement or order as respects any land or acquired any land under Part V of this Act, subsections (1) and (2) of section ninety of this Act shall apply as if the said other local authority were the local planning authority.
- (5) Section thirty-four of the Act of 1947 (which provides for the delegation of functions under Part III of that Act) shall apply to functions under this Act relating to the matters specified in subsection (1) of this section; and, without prejudice to any power of variation or revocation, the coming into operation of this Act shall not affect any delegation under the said section thirty-four in force at the commencement of this Act:

Provided that this subsection shall not authorise a local planning authority to delegate any of their functions under this Act, being functions relating to a National Park or to land in a National Park, except after consultation with the Commission.

- (6) In this section the expression " local authority " means a local planning authority, the council of a county or county borough, not being a local planning authority, or the council of a county district.

103 General provisions as to acquisition of land

- (1) Any power conferred by this Act on the Nature Conservancy or a local authority to acquire land compulsorily shall be exercisable in any particular case on their being authorised so to do by the Minister.
- (2) In relation to the compulsory acquisition of land under this Act by the Nature Conservancy or a local authority, the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply as if this Act had been in force immediately before the commencement of that Act and as if in paragraph (a) of subsection (1) of section one thereof, in Part I of the First Schedule thereto and in the Second Schedule thereto references to a local authority included references to the Nature Conservancy:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to any such compulsory acquisition as is mentioned in this subsection.
- (3) The Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply to the Nature Conservancy as it applies to a Government department.
- (4) In relation to the compulsory acquisition of land under this Act by the Minister or the Minister of Agriculture and Fisheries, the said Act of 1946 shall apply as if this Act had been in force immediately before the commencement of that Act and as if paragraph (b) of subsection (1) of section one thereof included a reference to any compulsory purchase by either of the said Ministers under this Act.
- (5) The following provision shall have effect, in relation to the acquisition of land under this Act, in substitution for section one hundred and fifty-seven of the Local Government Act, 1933 (which provides for the acquisition of land by local authorities by agreement for the purposes of their functions), that is to say, a local authority may with the consent of the Minister by agreement acquire, whether by way of purchase, lease or exchange, any land, whether within or without the area of the local authority, which they require for the purpose of any of their functions under this Act or any other land which they may be authorised under this Act to acquire compulsorily.
- (6) In this section, and in any enactment in this Act which confers a power to acquire land compulsorily, the expression " land " includes any interest in land; and the provisions of the Lands Clauses Acts incorporated with this Act by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, as applied by subsections (2) and (4) of this section, shall apply with the necessary modifications in relation to the compulsory acquisition of any interest in land, being an interest not falling within the definition of " lands " contained in the Lands Clauses Acts.
- (7) In the application of this section to Scotland there shall be substituted, for references to the Acquisition of Land (Authorisation Procedure) Act, 1946, and to section one hundred and fifty-seven of the Local Government Act, 1933, respectively, references to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, and to section one hundred and fifty-six of the Local Government (Scotland) Act, 1947, and in subsection (5) there shall be substituted for the words " whether by way of purchase, lease or exchange " the words " whether by way of purchase, feu, lease or exchange "; and subsection (4) shall not apply.

104 General provisions as to appropriation and disposal of land

- (1) The following provisions of this section shall have effect with respect to the disposal or appropriation by any local authority of land which has been acquired by them under this Act or appropriated by them for purposes for which land can be acquired under this Act, and is for the time being held by the authority for the purposes for which it was acquired or appropriated.
- (2) Subject to the provisions of subsections (5) and (6) of this section,—
 - (a) where any such land was acquired or appropriated by the authority for a purpose involving the disposal thereof by the authority or for a purpose which in the opinion of the authority can best be achieved by the disposal thereof, or which can be achieved consistently with the disposal thereof, they may dispose of the land to such person, in such manner and subject to such conditions as may appear to the authority to be expedient in order to secure that the land will be best dealt with having regard to the purpose for which it was acquired ;
 - (b) where any such land is no longer required for the purpose for which it is held, the authority may dispose thereof to such person, in such manner and subject to such conditions as may appear to the authority to be expedient, having regard to the nature and situation of the land, in order to secure the best use of the land.
- (3) Subject to the provisions of subsection (5) of this section, the authority may appropriate any such land, where the land is no longer required for the purpose for which it is held, for any other purpose for which the authority are or may be authorised in any capacity to acquire land under this Act or by or under any other enactment.
- (4) In relation to an appropriation under the last foregoing subsection, subsections (2) and (3) of section one hundred and sixty-three of the Local Government Act, 1933, and subsections (2) and (3) of section one hundred and six of the London Government Act, 1939 (which relate to the operation of section sixty-eight of the Lands Clauses Consolidation Act, 1845, and to adjustments in accounts) shall have effect as they have effect in relation to appropriations under those sections respectively.
- (5) The consent of the Minister shall be requisite to any disposal or appropriation of land by a local authority under this section, and may be given as respects either a particular disposal or appropriation or disposals or appropriations of any class, and either subject to or free from any conditions or limitations.
- (6) The consent of the Minister to a sale by a local authority under this section of the freehold in any land, or to a lease by them thereunder of any land for a term of more than ninety-nine years, shall not be given unless he is satisfied that there are exceptional circumstances which render the disposal of the land in that manner expedient as mentioned in subsection (2) of this section.
- (7) If it appears to the Minister that it is expedient as mentioned in subsection (2) of this section that a local authority should dispose of land under this section to any person and the authority have refused to dispose of it to him or are unable to reach agreement with him as to the manner in which or the terms or conditions on or subject to which it is to be disposed of to him, the Minister may, after consultation with the authority and that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him:

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Provided that the authority shall not be required by any such directions to offer to dispose of land for a money consideration less than the best that can reasonably be obtained, having regard to the other terms and conditions on and subject to which the offer is to be made, so, however, that in estimating the best consideration any amount which only a particular purchaser might be prepared to offer by reason of special needs of his shall be disregarded.

- (8) Any difference arising under the proviso to the last foregoing subsection as to what is the best consideration shall be determined in such manner as the Minister may by order provide.
- (9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation) whether by way of sale, exchange or lease, by the creation of any easement, right or privilege, or in any other manner, except disposal by way of gift, mortgage or charge.
- (10) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of subsection (1) of section one hundred and sixty-three and sections one hundred and sixty-four and one hundred and sixty-five of the Local Government Act, 1933, or of subsection (1) of section one hundred and six and sections one hundred and seven and one hundred and eight of the London Government Act, 1939, or of sections one hundred and sixty-three, one hundred and sixty-five, one hundred and sixty-six and one hundred and sixty-seven of the Local Government (Scotland) Act, 1947.
- (11) Section one hundred and sixty-six of the Local Government Act, 1933, and section one hundred and nine of the London Government Act, 1939 (which relate to the application of capital money received from the disposal of land), and section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (so far as it relates to the application of such money), shall have effect as respects capital money received in respect of transactions under the provisions of this section relating to the disposal of land as they have effect as respects capital money received in respect of such transactions as are mentioned in those sections respectively.
- (12) In the application of this section to Scotland, the following provision shall be substituted for subsection (4) of this section, that is to say—
- “(4) On any appropriation being made under the last foregoing subsection proper adjustments in respect thereof shall be made in the accounts of the authority”,
- and the following provision shall be substituted for subsection (9) of this section, that is to say—
- “(9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation), whether by way of sale, feu, excambion or lease, by the creation of any servitude, right or privilege, or in any other manner except disposal by way of gift or in security”;
- and subsections (6). (7) and (8) shall be omitted.

105 Default powers of Minister as respects National Parks, areas of outstanding natural beauty and long-distance routes

- (1) If the Minister is satisfied, after holding a local inquiry,—

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- (a) that a local planning authority have failed to exercise any of their powers under the provisions of this Act relating to National Parks or to areas of outstanding natural beauty, or
 - (b) that any authority have failed to exercise any of their powers under the enactments relating to highways or under Part IV of this Act, being powers for giving effect to approved proposals relating to a long-distance route,
- and the Minister is of opinion, after consultation with the Commission, that the authority ought to have exercised the powers in question, the Minister may by order require the authority—
- (i) to exercise the said powers;
 - (ii) if it is necessary for the exercise thereof that the authority should acquire any land, to acquire the land necessary for the purpose or the land specified in the order, as may be provided by the order, and on the acquisition thereof to exercise the power in question.
- (2) Any order under the last foregoing subsection shall be enforceable, on the application of the Minister, by mandamus.

106 Supplementary provisions as to byelaws

- (1) Sections two hundred and fifty to two hundred and fifty-two of the Local Government Act, 1933 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding five pounds, and provide for the proof of byelaws in legal proceedings) shall apply to all byelaws under this Act as if any authority having power to make them were a local authority within the meaning of the said Act of 1933, so, however, that in relation to byelaws made by the Nature Conservancy the said sections shall apply subject to such adaptations as may be prescribed by regulations made by the Secretary of State.
- (2) In relation to byelaws made under this Act the confirming authority for the purposes of the said section two hundred and fifty shall be the Secretary of State.
- (3) Any authority having power under this Act to make byelaws shall have power to enforce byelaws made by them.
- (4) The following provisions shall have effect in the application of this section to Scotland:
- (a) for references to the Local Government Act, 1933, and to sections two hundred and fifty to two hundred and fifty-two thereof there shall be substituted references to the Local Government (Scotland) Act, 1947, and to sections three hundred and one to three hundred and three thereof; and
 - (b) nothing in the last foregoing subsection shall be construed as authorising any such authority as is mentioned therein to institute proceedings in Scotland for an offence.

107 Supplementary provisions as to compensation under ss. 20, 46 and 70

- (1) The following provisions shall have effect as to compensation under section twenty of this Act, under that section as applied by section twenty-one thereof, under section forty-six thereof, and under section seventy thereof.
- (2) Any dispute arising on a claim for any such compensation shall be determined by the Lands Tribunal.

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- (3) For the purposes of any reference to the Lands Tribunal under the last foregoing subsection, section five of the Acquisition of Land (Assessment of Compensation) Act, 1919 (which relates to costs) shall have effect with the substitution, for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.
- (4) Rules 2 to 4 of the Rules set out in section two of the said Act of 1919 (which provides rules for valuation on a compulsory acquisition) shall apply to the calculation of any such compensation, in so far as it is calculated by reference to the depreciation of the value of an interest in land.
- (5) In the case of an interest in land subject to a mortgage—
- (a) any such compensation in respect of the depreciation of that interest shall be calculated as if the interest were not subject to the mortgage ;
 - (b) a claim or application for the payment of any such compensation, or an application for the recording of a claim in respect of the interest under subsection (1) of section seventy-two of this Act, may be made by any person who when the byelaws or order giving rise to the compensation were or was made was the mortgagee of the interest, or by any person claiming under such a person, but without prejudice to the making of a claim or application by any other person ;
 - (c) a mortgagee shall not be entitled to any such compensation in respect of his interest as such; and
 - (d) any compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.
- (6) This section shall apply to Scotland—
- (a) with the substitution for any reference to the Lands Tribunal of a reference to the Lands Tribunal for Scotland; and
 - (b) with the substitution respectively for any reference to a mortgage, to a mortgagee, and to the first mortgagee, of a reference to a heritable security, to the creditor in a heritable security, and to the creditor whose heritable security has priority over any other heritable securities secured on the land:

Provided that until sections one to three of the Lands Tribunal Act, 1949, come into force as respects Scotland the expression " the Lands Tribunal for Scotland " in subsection (2) of this section shall be construed as meaning an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the following provisions of the said Act of 1919, that is to say, section three thereof (which relates to procedure), section five thereof (which relates to costs) as modified by sections five and ten of the said Act of 1949, but with the substitution for references to the acquiring authority of references to the authority from whom the compensation in question is claimed, and section six thereof (which relates to the statement of special cases) as modified by section ten of the said Act of 1949, shall apply for the purposes of the arbitration.

108 Powers of entry

- (1) For the purpose of surveying land in connection with—

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- (a) the acquisition thereof or of any interest therein, whether by agreement or compulsorily,
- (b) the making of a public path order, diversion order or extinguishment order with respect thereto, or
- (c) the making of an access order with respect thereto,

in the exercise of any power conferred by this Act, any person duly authorised in writing by the Minister or other authority having power so to acquire the land or to make the order, as the case may be, may enter upon the land.

- (2) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable under this Act by a Minister or other authority in respect of that or any other land, any person being an officer of the Valuation Office or a person duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.
- (3) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least seven days' notice in writing of the intended entry has been given to the occupier.
- (4) Any person who wilfully obstructs a person in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

109 Application of provisions of Act of 1947 as to inquiries and service of notices

- (1) Section one hundred and four of the Act of 1947 (which provides for the holding by the Minister of local inquiries for the purposes of that Act) shall apply for the purposes of this Act.
- (2) Section one hundred and five of the Act of 1947 and section one hundred and one of the Town and Country Planning (Scotland) Act, 1947 (which provide for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act :

Provided that this subsection shall not apply to the service of any notice required or authorised to be served under the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, or the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, as applied by this Act.

- (3) Subsection (1) of this section shall not apply to Scotland.

110 Regulations and orders

- (1) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.
- (2) Any order under Part IV, V or VI of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like provisions:

Provided that, without prejudice to the making of a new access order under Part V of this Act, an access order under the said Part V shall not be varied so as to comprise land not comprised in the original order.

- (3) Any regulations made under this Act shall be subject to annulment by a resolution of either House of Parliament.

111 Application to Isles of Scilly

- (1) The Minister may, after consultation with the Council of the Isles of Scilly, by order provide for the application of this Act to the Isles of Scilly as if those Isles were a separate county ; and any such order may provide for the application of this Act to those Isles subject to such modifications, or to the exception of such Parts or provisions thereof, as may be specified in the order.
- (2) The power to make orders conferred by this section shall be exercisable by statutory instrument.

112 Epping Forest and Burnham Beeches

- (1) The provisions of this Act mentioned in the next following subsection shall not apply to any of the lands under the regulation and management of the Corporation of London as Conservators of Epping Forest, or acquired by, and vested in, that Corporation under the Corporation of London (Open Spaces) Act 1878, in the area known as Burnham Beeches.
- (2) The said provisions are Part II of this Act, Part V thereof, and sections eighty-seven to ninety-four thereof.

113 National Trust land

No power conferred by Part V or Part VI of this Act to acquire land compulsorily shall be exercisable in respect of land belonging to the National Trust which is held by the Trust inalienably.

114 Interpretation

- (1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—
 - " Act of 1947 " means the Town and Country Planning Act, 1947;
 - " area of outstanding natural beauty " has the meaning assigned to it by subsection (1) of section eighty-seven of this Act;
 - " drainage authority " has the same meaning as in the Land Drainage Act, 1930;
 - " interest ", in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights;
 - " land " includes land covered by water and as respects Scotland includes salmon fishings ;
 - " the Minister " as respects England and Wales means the Minister of Town and Country Planning, and as respects Scotland means the Secretary of State ;
 - " National Park " has the meaning assigned to it by subsection (3) of section five of this Act;
 - " open-air recreation " does not include organized games;
 - " owner ", in relation to any land, means, except in Part III of this Act, a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled

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if it were so let, and, in Part III of this Act, as respects England and Wales means any person being either entitled to the fee simple or being a mortgagee in possession of the land and as respects Scotland has the meaning assigned to it by section twenty-six of this Act;

" river board " has the same meaning as in the River Boards Act, 1948 ;

" vehicle " does not include a vessel, except any vessel adapted for use on land while it is being so used;

" waterway " means any lake, river, canal or other waters, being (in any case) waters suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing or fishing;

and, except where the context otherwise requires, other expressions have the same meanings respectively as in the Act of 1947 or, in their application to Scotland, as in the Town and Country Planning (Scotland) Act, 1947.

- (2) References in this Act to the preservation of the natural beauty of an area shall be construed as including references to the preservation of the characteristic natural features, flora and fauna thereof.
- (3) References in this Act to the planting of trees shall be construed as including references to the planting of bushes, the planting or sowing of flowers and the sowing of grass and the laying of turf.
- (4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

115 Short title and extent

- (1) This Act may be cited as the National Parks and Access to the Countryside Act, 1949.
- (2) This Act, except Part III thereof and so much of this Part thereof as relates to the said Part III, shall not extend to Scotland; and this Act shall not extend to Northern Ireland.