

Status: Point in time view as at 31/10/1997.

Changes to legislation: Local Government Act 1972, SCHEDULE 17 is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 17

Section 184.

FUNCTIONS WITH RESPECT TO NATIONAL PARKS AND THE COUNTRYSIDE

^{F1}PART I

Textual Amendments

F1 Sch. 17 Pt. I repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, Sch.

Planning Boards and National Park Committees

1 If immediately before the 1st April 1974 there is an existing joint planning board constituted by an order under section 1 of the Town and Country Planning Act 1971 for a National Park comprised in two or more existing counties and as from that date the Park will be comprised in two or more new counties, the Secretary of State shall make an order reconstituting the existing board for discharging the functions to which this Part of this Schedule applies and section 2 of the Town and Country Planning Act 1990 shall apply to a joint board so reconstituted and the order reconstituting it as it applies to a joint board constituted under that section and the order constituting it and shall so apply as if the area of the Park were a united district.

2 An order under the said section 1 constituting a new joint board for a united district consisting of the whole or part of a National Park in England and comprised in two or more new counties may confer on the board, in addition to the functions of a county planning authority under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990, any other functions to which this Part of this Schedule applies.

3 If immediately before 1st April 1974 there is an existing joint planning board for a National Park comprised in two or more existing counties and on that date the Park will be wholly comprised in one new county, the Secretary of State shall by order reconstitute that board as a special planning board to discharge the functions

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to which this Part of this Schedule applies as respects the area of the Park, and any enactment relating to joint boards constituted by an order under section 2 of the Town and Country Planning Act 1990 shall apply to a special planning board reconstituted under this Part of this Schedule and to the order reconstituting it as it applies to a joint planning board constituted under that section and to the order constituting it and shall so apply as if the area of the Park were a united district, but with the substitution of references to the council of a new county for any references to the constituent authorities.

.....

- 3A (1) Where a National Park is wholly comprised in one planning area in Wales, the Secretary of State may by order constitute a special planning board to discharge, as respects the area of the Park, the functions to which this Part of this Schedule applies.
- (2) Any enactment relating to joint planning boards constituted by an order under section 2 of the ^{M2}Town and Country Planning Act 1990 shall apply in relation to a special planning board constituted under this paragraph as it applies in relation to a joint planning board constituted under subsection (1B) of that section, but as if—
 - (a) the area of the National Park were a united district; and
 - (b) any reference (however expressed) to the constituent councils of the joint board (or which is to be construed as such a reference) were a reference to the council of the principal area in question.

.....

3B A board reconstituted under paragraph 3 above or constituted under paragraph 3A above shall be known as “a special planning board”.

.....

4 The Secretary of State may by an order under paragraph 1, 3 or 3A above, or by an order under the said section 2 relating to a united district consisting of the whole or part of a National Park, or by an order under this paragraph, confer on a joint or special planning board for a National Park or any part of a National Park any of the additional countryside functions as respects the Park or, as the case may be, any part of it.

.....

- 5 For every National Park for which there is no joint planning board or special planning board the council or councils of the planning areas in which the Park is comprised shall make arrangements for the discharge of the following functions of theirs as respects the Park by a separate committee to be known as a National Park Committee, that is to say—
 - (a) their functions to which this Part of this Schedule applies except those mentioned in paragraph 6 below; and
 - (b) their functions as local authority under the 1949 Act and the 1968 Act.

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- 6 The functions of a council or councils excepted from the requirement imposed by paragraph 5 above are—
- (a) their functions under sections 30 to 35C, 46(2) and 50(1)(4)(5) and (7) of the Town and Country Planning Act 1990;
 - (b)
 - (c) their functions under Part III and, so far as relating to planning control under Part III, Part VII of that Act with respect to the carrying out of any operations in, on, over or under land, or any use of land, partly situated in the National Park and partly in some other area, where those functions so far as relating to any such operations or use are exercisable by the local planning authority for that other area.

.....

7 The validity of anything done or purporting to have been done by a National Park Committee in pursuance of arrangements made by virtue of paragraph 5 above shall not be called in question in any legal proceedings, or in any proceedings under the Town and Country Planning Act 1990 which are not legal proceedings, on the ground that it ought to have been done by the authority or one of the authorities by whom the arrangements were made.

.....

8 The National Park Committee for a Park comprised in two or more planning areas shall be appointed by the council of such of those areas as may be agreed between the councils of those counties or, in default of agreement, jointly by both or all those councils, and, where it is appointed by one of those councils, the expenses incurred by the Committee shall be defrayed by both or all those councils in such proportions as they may agree or as in default of agreement may be determined by the Secretary of State.

.....

9 A National Park Committee may arrange with a district planning authority whose area comprises any part of the Park for the authority to discharge as respects a part of the Park within their area such of the functions exercisable by the Committee by virtue of paragraph 5 above as may be agreed between the Committee and the Countryside Commission or as in default of agreement may be determined by the Secretary of State.

.....

10 Where a joint planning board, special planning board or National Park Committee is required to be established by being reconstituted or appointed under this Part of this Schedule for any area being or comprised in a National Park, the requirement shall be deemed to be complied with in any case approved by the Secretary of State after consultation with the Countryside Commission if the board or Committee is established for that area together with other land.

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- 11 Not less than one third (to the nearest whole number) of the members of a joint planning board, special planning board or National Park Committee established for an area being or comprising the whole or any part of a National Park shall be persons appointed by the Secretary of State after consultation with the Countryside Commission:

Provided that if in any particular case the Secretary of State, with the agreement of the Commission, so determines, this paragraph shall have effect as if for the words “one third” there were substituted the words “one quarter”.

- 12 The persons appointed in pursuance of paragraph 11 above shall hold office for such period not being less than one year nor more than three years as the Secretary of State may, after consultation with the Countryside Commission, determine and shall be eligible for reappointment.

- 12A (1) The members of a joint planning board, special planning board or National Park Committee established for an area being or comprising the whole or any part of a National Park shall include members (in this paragraph referred to as “district council members”) who are appointed by councils of non-metropolitan districts which comprise any part of that Park (in this paragraph referred to as “relevant district councils”).

- (2) The number of district council members of such a board or Committee shall be equal to—

- (a) the number of relevant district councils; or
 (b) one seventh (to the nearest whole number) of the members of the board or Committee,

whichever is the less; and for the purposes of this sub-paragraph any casual vacancy in the membership of the board or Committee shall be disregarded.

- (3) The district council members shall be appointed by such of the relevant district councils as may be agreed between those councils or as in default of agreement may be determined by the Secretary of State.

- (4) The district council members shall hold office for a period of one year and shall be eligible for reappointment; and section 102(5) above shall apply in relation to a district council member appointed under this paragraph as it applies in relation to a member of a committee appointed under that section.

- 13 Section 101 above shall, in its application to the discharge as respects a National Park of any functions to which this Part of this Schedule applies and any additional countryside functions, have effect subject to the following modifications:—

- (a) a local planning authority shall not make arrangements for the discharge of any such functions as respects a National Park or land in a National Park by some other local authority without consulting the Countryside Commission;

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- (b) section 101 shall not authorise a county or metropolitan district council to make arrangements for the discharge of any functions which by virtue of paragraph 5 above are required to be discharged by a National Park Committee except in accordance with that paragraph;
- (c) section 101(4) shall not apply in relation to arrangements made by the county or metropolitan district council by virtue of paragraph 5 for the discharge of any functions by a National Park Committee.

.....

14 In the case of a National Park Committee for a National Park wholly comprised in one planning area the members of the Committee shall (subject to paragraphs 11 and 12A above) be appointed by, and the majority of those members shall be members of, the council of the area, and in the case of a National Park Committee for a National Park comprised in two or more planning areas the members of the Committee shall (subject as aforesaid) be appointed by such of the councils of those areas as may be agreed between those councils or as in default of agreement may be determined by the Secretary of State and a majority of the members of the Committee shall be members of those councils, and—

- (a) so much of section 102(3) above as regulates the proportion of members of a committee shall not apply to a National Park Committee; and
- (b) section 102(5) shall apply to a member of a National Park Committee appointed under this paragraph as being a member of a county or metropolitan district council as it applies in relation to a member of a committee appointed under that section who was at the time of his appointment a member of the appointing authority or one of the appointing authorities.

National Park Officer

.....

15 Every joint planning board, special planning board or National Park Committee established for a National Park shall after consultation with the Countryside Commission appoint an officer, to be known as a National Park Officer, for the purposes of the functions exercisable by them as respects the Park by virtue of section 2 of the Town and Country Planning Act 1990 or this Part of this Schedule.

.....

16 A National Park Officer appointed by a National Park Committee shall be an officer of the council of the planning area by whom the Committee was established or, if it was established by two or more such councils, such one of them as they may agree or as, in default of agreement, may be determined by the Secretary of State.

.....

17 A National Park Officer appointed by a joint board or special planning board or a National Park Committee shall not be employed for any purpose other than one mentioned in paragraph 15 above, except after consultation between the authority by whom he is employed and the Countryside Commission and, in the case of a

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National Park Officer appointed by a National Park Committee, except with the Committee’s consent.

National Parks Plans

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- 18 Every joint planning board, special planning board or National Park Committee established for a National Park shall—
 - (a) within three years of 1st April 1974 or of being established, whichever is the later, prepare and publish a plan to be known as a National Park Plan formulating their policy for the management of the Park and for the exercise of the functions exercisable by them as respects the Park; and
 - (b) review at intervals of not more than five years a National Park Plan published under this paragraph, making any amendments to it which they consider expedient, and publish a report on their review and any such amendments.

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- 19 Every such board or committee established for a National Park shall in preparing or reviewing a National Park Plan send a copy of the proposed plan or review to the Countryside Commission and to any district planning authority whose area is wholly or partly comprised in the Park and take into consideration any observations of the Commission or any such authority thereon and shall send the Secretary of State a copy of a National Park Plan published under paragraph 18 above and of the report on any review or amendments so published.

Interpretation

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- 20 The functions to which this Part of this Schedule applies are all functions of a county council , county borough council or district council as local planning authority under the 1949 Act, the 1968 Act and the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Consequential Provisions) Act 1990 and any enactment amending any of those Acts.

-
- 21 In this Part of this Schedule “additional countryside functions” means functions other than those mentioned in paragraph 20 above, which, in the opinion of the council or councils concerned, or where the functions are ones which may be conferred by an order or determination of a Minister, of that Minister, relate to the countryside and are appropriate for reference to a board or committee concerned with matters relating to the countryside.
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- 21A In this Part of this Schedule “planning area” means a metropolitan district or a non-metropolitan county but, in relation to Wales, means a county or county borough.

Construction of References to the Countryside Commission

- 21B In this Part of this Schedule, references to the Countryside Commission shall, in relation to a National Park in Wales, be construed as references to the Countryside Council for Wales.

PART II

SURVEY OF PUBLIC PATHS, ETC.

- ^{F34}22, 23.

Textual Amendments

F34 Sch. 17 paras. 22–33 repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), [Sch. 17 Pt. II](#)

- 24 Where on any such survey of any area under section 27 of the 1949 Act a draft map and statement has, but a provisional map and statement has not, been published before 1st April 1974, the county council may if they think fit take no further steps in relation to the draft map and statement and instead prepare a new draft map and statement for that area under that section and that section and sections 28 and 29 of that Act (survey information, and representations and objections) shall apply to the new review subject to such exceptions and modifications as the Secretary of State may in any particular case direct.
- 25 Where on any such review of any area under any of the provisions mentioned in paragraph 22 above no revised draft map and statement has been published before 1st April 1974, the review shall be abandoned and the county council shall begin a new review of that area or so much of it as lies within the county after that date under those provisions, and those provisions shall apply to the review subject to such exceptions and modifications as the Secretary of State may in any particular case direct.
- 26 Where a revised map and statement has been published in draft before that date under any of those provisions, but a revised map or statement has not been published in provisional or, as the case may be, definitive form, before 1st April 1974, the county council may if they think fit take no further steps in relation to the draft revised map and statement and instead prepare and publish a new revised map and statement in that form for that area under those provisions, and those provisions shall apply to the new review, subject to such exceptions and modifications as the Secretary of State may in any particular case direct.
- 27 Any area to which sections 27 to 34 of the 1949 Act (the survey provisions) do not apply immediately before 1st April 1974 by virtue of the fact that it is or forms part of an existing county borough shall on and after that date continue to be excluded from the operation of those sections except so far as they are adopted under section 35(2) of that Act as respects the whole or part of that area.

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F35 28

Textual Amendments
F35 Sch. 17 para. 28 repealed by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, Sch. 17 Pt. II

29 Where in consequence of any survey, review, further review or special review begun under any of the provisions mentioned in paragraph 22 above two or more definitive maps and statements are prepared whether before or after 1st April 1974 for different parts of a new county, the county council shall not take any further steps under those provisions in relation to those maps and statements until all such maps and statements have been prepared for the whole of their area (less any part of it excluded by paragraph 27 above).

30 Where all such maps and statements have been prepared for the whole of that area, the county council shall at one and the same time review the particulars contained in each of those maps and statements; and accordingly section 33 of the 1949 Act and Parts II to IV of Schedule 3 to the 1968 Act (periodical revision of maps and statements) shall apply as if the relevant date for the purposes of each of those maps and statements were the earliest of the relevant dates specified therein or such later date as, on the application of the county council, the Secretary of State may in any particular case direct.

31 Where the Secretary of State gives a direction under this Part of this Schedule, he shall take such steps as he thinks appropriate for bringing it to the notice of persons who may be affected by it.

32 Section 28(3) of the 1949 Act shall not apply to Wales and in that subsection the word “rural” shall be omitted and for the words “representative body of the parish or a member of that body” there shall be substituted the words “chairman of the parish meeting or any person representing the parish on the district council”.

33 In this Part of this Schedule any reference to a definitive map and statement includes a reference to a revised map and statement prepared in definitive form.

PART III

MISCELLANEOUS MODIFICATIONS OF 1949 AND 1968 ACTS

Establishment of nature reserves by local authorities

34 The powers conferred on a county council by sections 21 and 99(6) of the 1949 Act (nature reserves) shall also be exercisable as respects any district by the district council and references in those sections and section 22 of that Act to a local authority shall be construed accordingly.

Access to open country

35 Any area in which section 61(1) and (2) of the 1949 Act (survey of access requirements) do not apply immediately before 1st April 1974 by virtue of section 61(3) of that Act shall on and after that date continue to be excluded from the operation of the said subsections (1) and (2) until they are adopted or applied

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to the area under the said subsection (3), and references in the said subsection (3) to a county borough and its council shall be respectively construed as references to any such area and the county council.

Modifications etc. (not altering text)

C3 Sch. 17 para. 35 modified by Local Government Act 1985 (c. 51, SIF 81:1), s. 7, Sch. 3 para. 5(9)

[^{F36}35A In relation to Wales, paragraph 35 above has effect as if—
(a) for “1974” there were substituted “1996”;
(b) for “and the county council” there were substituted “and the principal council”.]

Textual Amendments

F36 Sch. 17 para. 35A inserted (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 6 Pt. I para. 13 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1

36 Any county planning authority may require any other local planning authority having functions under Part V of the 1949 Act within the area of the county planning authority to give the county planning authority such information as may facilitate the discharge of the latter’s functions under section 62(2) or 63(1) of that Act (securing access) or section 78(1) of that Act (maps of land subject to public access).

37 The functions of a local planning authority under section 67, 68, 81 or 82 of the 1949 Act or section 20 of the 1968 Act (supplementary provisions as to access to land) in relation to land [^{F37}in England] which is the subject of an access agreement or order under Part V of the 1949 Act, and the functions of such an authority under section 70 of the 1949 Act in relation to such land and any land held therewith, shall be functions of the authority by whom the agreement or order was made or, where such an order was made by a Minister of the Crown, of the county planning authority, and in those sections, in their application to such land, references to a local planning authority shall be construed accordingly.

Textual Amendments

F37 Words in Sch. 17 para. 37 inserted (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 6 Pt. I para. 14 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1

Modifications etc. (not altering text)

C4 Sch. 17 para. 37 excluded (19.9.1995) by 1995 c. 25, ss. 68(1), 125(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Miscellaneous

^{x1}38 Section 89(2A) of the 1949 Act (treatment of derelict land) shall cease to have effect.

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Editorial Information

- X1** The text of Sch. 17 paras. 38, 39 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- ^{x2}39 Section 90(2) of the 1949 Act (byelaws) shall cease to have effect and in section 90(4) of that Act for the reference to a local authority there shall be substituted a reference to the local planning authority.

Editorial Information

- X2** The text of Sch. 17 paras. 38, 39 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 40 In section 111 of the 1949 Act (Isles of Scilly) references to that Act shall include references to section 184 above and this Schedule.

- 41 In paragraph 1(3)(a) and 2(5) of Schedule 1 to the 1949 Act (procedure on orders designating National Parks) for references to the local planning authority there shall be substituted references to the county planning authority.

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