



Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART I

WILDLIFE

Protection of birds

1 Protection of wild birds, their nests and eggs

- (1) Subject to the provisions of this Part, if any person intentionally—
 - (a) kills, injures or takes any wild bird ;
 - (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
 - (c) takes or destroys an egg of any wild bird,he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control—
 - (a) any live or dead wild bird or any part of, or anything derived from, such a bird ; or
 - (b) an egg of a wild bird or any part of such an egg,he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
 - (a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions ; or
 - (b) the bird, egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions ;

and in this subsection " the relevant provisions " means the provisions of this Part and of orders made under it and, in the case of a bird or other thing falling within subsection (2)(a), the provisions of the Protection of Birds Acts 1954 to 1967 and of orders made under those Acts.

- (4) Any person convicted of an offence under subsection (1) or (2) in respect of—
- (a) a bird included in Schedule 1 on any part of, or any thing derived from, such a bird ;
 - (b) the nest of such a bird ; or
 - (c) an egg of such a bird or any part of such an egg,
- shall be liable to a special penalty.
- (5) Subject to the provisions of this Part, if any person intentionally—
- (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young ; or
 - (b) disturbs dependent young of such a bird,
- he shall be guilty of an offence and liable to a special penalty.
- (6) In this section " wild bird" does not include any bird which is shown to have been bred in captivity.
- (7) Any reference in this Part to any bird included in Schedule I. is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II. of that Schedule.

2 Exceptions to s. 1

- (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (2) Subject to the provisions of this section, an authorised person shall not be guilty of an offence under section 1 by reason of—
- (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
 - (b) the taking, damaging or destruction of a nest of such a bird; or
 - (c) the taking or destruction of an egg of such a bird.
- (3) Subsections (1) and (2) shall not apply in Scotland on Sundays or on Christmas Day; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.
- (4) In this section and section 1 " close season " means—
- (a) in the case of capercaillie and (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
 - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
 - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
 - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.

- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds ; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult a person appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order.

3 Areas of special protection

- (1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—
- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally—
 - (i) kills, injures or takes any wild bird or any wild bird so specified;
 - (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
 - (iii) takes or destroys an egg of such a bird ;
 - (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
 - (v) disturbs dependent young of such a bird, shall be guilty of an offence under this section ;
 - (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section ;
 - (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, the offender shall be liable to a special penalty.
- (2) An authorised person shall not by virtue of any such order be guilty of an offence by reason of—
- (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
 - (b) the taking, damaging or destruction of the nest of such a bird;
 - (c) the taking or destruction of an egg of such a bird ; or
 - (d) the disturbance of such a bird or dependent young of such a bird.
- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.
- (4) Before making any order under this section the Secretary of State shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in his opinion impracticable, by advertisement in a newspaper circulating in the district in which that area is situated.
- (5) The Secretary of State shall not make an order under this section unless—

- (a) all the owners and occupiers aforesaid have consented thereto;
- (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or
- (c) any such objections so made have been withdrawn.

4 Exceptions to ss. 1 and 3

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful—
 - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the Agriculture Act 1947, or by the Secretary of State under section 39 of the Agriculture (Scotland) Act 1948 ;
 - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the Animal Health Act 1981 ; or
 - (c) except in the case of a wild bird included in Schedule 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
 - (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled ;
 - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
 - (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
 - (a) preserving public health or public or air safety ;
 - (b) preventing the spread of disease; or
 - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, or fisheries.

5 Prohibition of certain methods of killing or taking wild birds

- (1) Subject to the provisions of this Part, if any person—
 - (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance ;
 - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to birdlime ;

- (c) uses for the purpose of killing or taking any wild bird—
 - (i) any bow or crossbow ;
 - (ii) any explosive other than ammunition for a firearm;
 - (iii) any automatic or semi-automatic weapon ;
 - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
 - (v) any device for illuminating a target or any sighting device for night shooting;
 - (vi) any form of artificial lighting or any mirror or other dazzling device;
 - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
 - (viii) any chemical wetting agent;
- (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured ; or
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird,

he shall be guilty of an offence and be liable to a special penalty.

- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exerciseable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.
- (5) Nothing in subsection (1) shall make unlawful—
 - (a) the use of a cage-trap or net by an authorised person for the purpose of taking a bird included in Part II of Schedule 2;
 - (b) the use of nets for the purpose of taking wild duck in a duck decoy which is shown to have been in use immediately before the passing of the Protection of Birds Act 1954; or
 - (c) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding ;but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

6 Sale etc. of live or dead wild birds, eggs etc.

- (1) Subject to the provisions of this Part, if any person—

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

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3, or an egg of a wild bird or any part of such an egg; or
 - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Secretary of State—
 - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3, or any part of, or anything derived from, such a wild bird ; or
 - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
 - (a) any live wild bird other than a bird included in Part I of Schedule 3 ; or
 - (b) any live bird one of whose parents was such a wild bird,he shall be guilty of an offence.
- (4) Any person convicted of an offence under this section in respect of—
 - (a) a bird included in Schedule 1 or any part of, or any thing derived from, such a bird ; or
 - (b) an egg of such bird or any part of such an egg,shall be liable to a special penalty.
- (5) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which was bred in captivity and has been ringed or marked in accordance with regulations made by the Secretary of State; and regulations so made may make different provision for different birds or different provisions of this section.
- (6) Any reference in this section to any bird included in Part II or III of Schedule 3 is a reference to any bird included in Part II and, during the period commencing with 1st September in any year and ending with 28th February of the following year, any bird included in Part III of that Schedule.
- (7) The power of the Secretary of State to make regulations under subsection (2) shall include power—
 - (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and
 - (b) to provide that any contravention of the regulations shall constitute such an offence.
- (8) Regulations under subsection (2) shall secure that no person shall become or remain registered—
 - (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; or

- (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,
no account being taken for this purpose of a conviction which has become spent by virtue of the Rehabilitation of Offenders Act 1974.
- (9) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where a registered person keeps any wild birds for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.
- (10) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (9) shall be guilty of an offence.

7 Registration etc. of certain captive wild birds

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence and be liable to a special penalty.
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
 - (a) to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
 - (b) to make different provision for different birds or different descriptions of birds.
- (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4—
 - (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; or
 - (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,he shall be guilty of an offence.
- (4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person—
 - (a) within five years of that person's having been convicted of such an offence as is mentioned in paragraph (a) of subsection (3); or
 - (b) within three years of that person's having been convicted of such an offence as is mentioned in paragraph (b) of that subsection,he shall be guilty of an offence.
- (5) No account shall be taken for the purposes of subsections (3) and (4) of any conviction which has become spent for the purpose of the Rehabilitation of Offenders Act 1974.
- (6) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where any birds included in Schedule 4 are kept for the purpose

of ascertaining whether an offence under this section is being, or has been, committed on those premises.

- (7) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (6) shall be guilty of an offence.

8 Protection of captive birds

- (1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence and be liable to a special penalty.
- (2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird—
- (a) while that bird is in the course of conveyance, by what ever means;
 - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours; or
 - (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.
- (3) Every person who—
- (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or
 - (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,
- shall be guilty of an offence and be liable to a special penalty.

Protection of other animals

9 Protection of certain wild animals

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
- (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
 - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions;
- and in this subsection " the relevant provisions " means the provisions of this Part and of the Conservation of Wild Creatures and Wild Plants Act 1975.
- (4) Subject to the provisions of this Part, if any person intentionally—
- (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection ; or

- (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,
he shall be guilty of an offence.
- (5) Subject to the provisions of this Part, if any person—
 - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
 - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,
he shall be guilty of an offence.
- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

10 Exceptions to s. 9

- (1) Nothing in section 9 shall make unlawful—
 - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the Agriculture Act 1947, or by the Secretary of State under section 39 of the Agriculture (Scotland) Act 1948 ; or
 - (b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
 - (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled ;
 - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering ; or
 - (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling house unless he had notified the Nature Conservancy Council of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
 - (b) an application for such a licence had been determined.

11 Prohibition of certain methods of killing or taking wild animals

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
 - (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or crossbow or any explosive other than ammunition for a firearm; or
 - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance ;
 - (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
 - (c) uses for the purpose of killing or taking any such wild animal—
 - (i) any automatic or semi-automatic weapon ;
 - (ii) any device for illuminating a target or sighting device for night shooting ;
 - (iii) any form of artificial light or any mirror or other dazzling device ; or
 - (iv) any gas or smoke not falling within paragraphs (a) and (b);
 - (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; or
 - (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal,
- he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person—
- (a) sets in position any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and
 - (b) while the snare remains in position fails, without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day,
- he shall be guilty of an offence.

- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- (5) In any proceedings for an offence under subsection (1)(b) or (c) or (2)(b), (c), (d) or (e), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
- (6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.

12 Protection of certain mammals

Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.

Protection of plants

13 Protection of wild plants

- (1) Subject to the provisions of this Part, if any person—
 - (a) intentionally picks, uproots or destroys any wild plant included in Schedule 8 ;
or
 - (b) not being an authorised person, intentionally uproots any wild plant not included in that Schedule,he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
 - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or
 - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,he shall be guilty of an offence.
- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.
- (4) In any proceedings for an offence under subsection (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

*Miscellaneous***14 Introduction of new species etc.**

- (1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—
 - (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
 - (b) is included in Part I of Schedule 9,he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9, he shall be guilty of an offence.
- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.
- (5) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land ; but nothing in this subsection shall authorise any person to enter a dwelling.
- (6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.

15 Endangered species (import and export)

- (1) The Endangered Species (Import and Export) Act 1976 shall have effect subject to the amendments provided for in Schedule 10; and in that Schedule " the 1976 Act" means that Act.
- (2) The functions of the Nature Conservancy Council shall include power to advise or assist—
 - (a) any constable;
 - (b) any officer commissioned or other person appointed or authorised by the Commissioners of Customs and Excise to exercise any function conferred on the Commissioners by the said Act of 1976 ; or
 - (c) any person duly authorised by the Secretary of State under section 7(3) of that Act,in, or in connection with, the enforcement of that Act or any order made under it.

Supplemental

16 Power to grant licences

- (1) Sections 1, 5, 6(3), 7 and 8 and orders under section 3 do not apply to anything done—
- (a) for scientific or educational purposes;
 - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds ;
 - (c) for the purpose of conserving wild birds;
 - (d) for the purpose of protecting any collection of wild birds ;
 - (e) for the purposes of falconry or aviculture;
 - (f) for the purposes of any public exhibition or competition ;
 - (g) for the purposes of taxidermy ;
 - (h) for the purpose of photography ;
 - (i) for the purposes of preserving public health or public or air safety;
 - (j) for the purpose of preventing the spread of disease ; or
 - (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or fisheries,
- if it is done under and in accordance with the terms of a licence granted by the appropriate authority.
- (2) Section 1 and orders under section 3 do not apply to anything done for the purpose of providing food for human consumption in relation to—
- (a) a gannet on the island of Sula Sgeir ; or
 - (b) a gull's egg or, at any time before 15th April in any year, a lapwing's egg,
- if it is done under and in accordance with the terms of a licence granted by the appropriate authority.
- (3) Sections 9(1), (2) and (4), 11(1) and (2) and 13(1) do not apply to anything done—
- (a) for scientific or educational purposes;
 - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
 - (c) for the purpose of conserving wild animals or wild plants or introducing them to particular areas ;
 - (d) for the purpose of protecting any zoological or botanical collection;
 - (e) for the purpose of photography ;
 - (f) for the purpose of preserving public health or public safety;
 - (g) for the purpose of preventing the spread of disease; or
 - (h) for the purpose of preventing serious damage to live stock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries,
- if it is done under and in accordance with the terms of a licence granted by the appropriate authority.
- (4) The following provisions, namely—
- (a) section 6(1) and (2);
 - (b) sections 9(5) and 13(2); and
 - (c) section 14,

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do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority.

- (5) Subject to subsection (6), a licence under the foregoing provisions of this section—
- (a) may be, to any degree, general or specific;
 - (b) may be granted either to persons of a class or to a particular person;
 - (c) may be subject to compliance with any specified conditions ;
 - (d) may be modified or revoked at any time by the appropriate authority; and
 - (e) subject to paragraph (d), shall be valid for the period stated in the licence ;
- and the appropriate authority may charge therefor such reasonable sum (if any) as they may determine.
- (6) A licence under subsection (1), (2) or (3) which authorises any person to kill wild birds or wild animals—
- (a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and
 - (b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.
- (7) It shall be a defence in proceedings for an offence under section 8(b) of the Protection of Animals Act 1911 or section 1(b) of the Protection of Animals (Scotland) Act 1912 (which restrict the placing on land of poison and poisonous substances) to show that—
- (a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence issued under subsection (1) or (3); and
 - (b) any conditions specified in the licence were complied with.
- (8) For the purposes of a licence granted under the foregoing provisions of this section, the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.
- (9) In this section " the appropriate authority " means—
- (a) in the case of a licence under paragraph (a), (b) or (c) of subsection (1), either the Secretary of State after consultation with whichever one of the advisory bodies he considers is best able to advise him as to whether the licence should be granted, or the Nature Conservancy Council;
 - (b) in the case of a licence under any of paragraphs (d) to
 - (g) of subsection (1), subsection (2) or paragraph (a) or (b) of subsection (4), the Secretary of State after such consultation as aforesaid;
 - (c) in the case of a licence under paragraph (h) of subsection (1) or any of paragraphs (a) to (e) of subsection (3), the Nature Conservancy Council;
 - (d) in the case of a licence under paragraph (i), (j) or (k) of subsection (1) or paragraph (f), (g) or (h) of subsection (3) or a licence under paragraph (c) of subsection (4) which authorises anything to be done in relation to fish or shellfish, the agriculture Minister ; and
 - (e) in the case of any other licence under paragraph (c) of subsection (4), the Secretary of State.
- (10) The agriculture Minister—
- (a) shall from time to time consult with the Nature Conservancy Council as to the exercise of his functions under this section ; and

- (b) shall not grant a licence of any description unless he has been advised by the Council as to the circumstances in which, in their opinion, licences of that description should be granted.

17 False statements made for obtaining registration or licence etc.

A person who, for the purposes of obtaining, whether for himself or another, a registration in accordance with regulations made under section 6(2) or 7(1) or the grant of a licence under section 16—

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular ; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular,

shall be guilty of an offence.

18 Attempts to commit offences etc.

- (1) Any person who attempts to commit an offence under the foregoing provisions of this Part shall be guilty of an offence and shall be punishable in like manner as for the said offence.
- (2) Any person who for the purposes of committing an offence under the foregoing provisions of this Part, has in his possession anything capable of being used for committing the offence shall be guilty of an offence and shall be punishable in like manner as for the said offence.

19 Enforcement

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—
 - (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
 - (b) search or examine any thing which that person may then be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that thing;
 - (c) arrest that person if he fails to give his name and address to the constable's satisfaction;
 - (d) seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 21.
- (2) If a constable suspects with reasonable cause that any person is committing an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1), enter any land other than a dwelling-house.
- (3) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for suspecting that—
 - (a) an offence under section 1, 3, 5, 7 or 8 in respect of which this Part or any order made under it provides for a special penalty ; or
 - (b) an offence under section 6, 9, 11(1) or (2), 13 or 14,

has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable (with or without other persons) to enter upon and search those premises for the purpose of obtaining that evidence.

In the application of this subsection to Scotland, the reference to a justice of the peace includes a reference to the sheriff.

20 Summary prosecutions

- (1) This section applies to—
 - (a) any offence under section 1(1) or 3(1) involving the killing or taking of any wild bird or the taking of an egg of such a bird ;
 - (b) any offence under section 9(1) involving the killing or taking of any wild animal; and
 - (c) any offence under section 13(1) involving the picking uprooting or destruction of any wild plant.
- (2) Summary proceedings for an offence to which this section applies may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge ; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.
- (3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

21 Penalties, forfeitures etc.

- (1) Subject to subsection (5), a person guilty of an offence under section 1, 3, 5, 6, 7 or 8 shall be liable on summary conviction—
 - (a) in a case where this Part or any order made under it provides that he shall be liable to a special penalty, to a fine not exceeding £1,000 ;
 - (b) in any other case, to a fine not exceeding £200.
- (2) Subject to subsection (5), a person guilty of an offence under section 9 or 11(1) or (2) shall be liable on summary conviction to a fine not exceeding £1,000.
- (3) Subject to subsection (5), a person guilty of an offence under section 11(3), 13 or 17 shall be liable on summary conviction to a fine not exceeding £500.
- (4) A person guilty of an offence under section 14 shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (5) Where an offence to which subsection (1), (2) or (3) applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.
- (6) The court by which any person is convicted of an offence under this Part—

- (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed ; and
 - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14, any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.
- (7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

22 Power to vary Schedules

- (1) The Secretary of State may by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year, add any bird to, or remove any bird from, any of or any Part of Schedules 1 to 4.
- (2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2 ; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.
- (3) The Secretary of State may, on a representation made to him by the Nature Conservancy Council, by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year—
 - (a) add to Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is in danger of extinction in Great Britain or is likely to become so endangered unless conservation measures are taken; and
 - (b) remove from Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is no longer so endangered or likely to become so endangered.
- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or with respect to particular provisions of this Part or particular times of the year—
 - (a) add any animals to, or remove any animals from, Schedule 5 or Schedule 6 ; and
 - (b) add any plants to, or remove any plants from, Schedule 8.
- (5) The Secretary of State may by order, either generally or with respect to particular areas of Great Britain—
 - (a) add any animals to, or remove any animals from, Part I of Schedule 9 ; and
 - (b) add any plants to, or remove any plants from, Part II of that Schedule.

23 Advisory bodies and their functions

- (1) The Secretary of State may—
 - (a) establish any body or bodies, consisting in each case of such members as he may from time to time appoint;
 - (b) assign to any body or bodies the duty referred to in subsection (4).
- (2) Without prejudice to his power under subsection (1), the Secretary of State shall, as soon as practicable after the commencement date.—
 - (a) establish at least one body under paragraph (a) of subsection (1); or

- (b) assign to at least one body, under paragraph (b) of that subsection, the duty referred to in subsection (4).
- (3) A reference in this Part to an advisory body is a reference to a body which is established under subsection (1) or to which the duty there referred to is assigned under that subsection.
- (4) It shall be the duty of an advisory body to advise the Secretary of State on any question which he may refer to it or on which it considers it should offer its advice—
 - (a) in connection with the administration of this Part; or
 - (b) otherwise in connection with the protection of birds or other animals or plants.
- (5) In so far as it does not have power to do so apart from this subsection, an advisory body may publish reports relating to the performance by it of its duty under subsection (4).
- (6) Before appointing a person to be a member of an advisory body established under subsection (1)(a), the Secretary of State shall consult such persons or bodies as he thinks fit.
- (7) The Secretary of State may, out of moneys provided by Parliament and to such an extent as may be approved by the Treasury, defray or contribute towards the expenses of an advisory body established under subsection (1)(a).

24 Functions of Nature Conservancy Council

- (1) The Nature Conservancy Council may at any time and shall five years after the passing of this Act and every five years thereafter, review Schedules 5 and 8 and advise the Secretary of State whether, in their opinion.—
 - (a) any animal should be added to, or removed from, Schedule 5 ;
 - (b) any plant should be added to, or removed from, Schedule 8.
- (2) Advice may be given under subsection (1) either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year ; and any advice so given shall be accompanied by a statement of the reasons which led the Council to give that advice.
- (3) The Council shall include any advice so given and the statement accompanying it in the annual report submitted by them to the Secretary of State under paragraph 17 of Schedule 5 to the Nature Conservancy Council Act 1973.
- (4) The functions of the Council shall include power to advise or assist—
 - (a) any constable;
 - (b) any proper officer of a local authority ; or
 - (c) any person duly authorised by the Secretary of State under section 6(9), 7(6) or 14(5),
 in, or in connection with, the enforcement of the provisions of this Part or any order or regulations made under it.

25 Functions of local authorities

- (1) Every local authority shall take such steps as they consider expedient for bringing to the attention of the public and of schoolchildren in particular the effect of—
 - (a) the provisions of this Part; and

- (b) any order made under this Part affecting the whole or any part of their area.
- (2) A local authority in England and Wales may institute proceedings for any offence under this Part or any order made under it which is committed within their area.

26 Regulations, orders, notices etc.

- (1) Any power to make regulations or orders under this Part shall be exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than sections 2(6), 3, 5 and 11, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order under section 5 or 11 shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making any order under this Part, the Secretary of State—
 - (a) except in the case of an order under section 2(6), shall give to any local authority affected and, except in the case of an order under section 3, any other person affected, by such means as he may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order ;
 - (b) except in the case of an order under section 22(3), shall consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made ; and
 - (c) may, if he thinks fit, cause a public inquiry to be held.
- (5) Notice of the making of an order under this Part shall be published by the Secretary of State—
 - (a) if the order relates in whole or in part to England and Wales, in the London Gazette; and
 - (b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.
- (6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.

27 Interpretation of Part I

- (1) In this Part, unless the context otherwise requires—
 - " advertisement " includes a catalogue, a circular and a price list;
 - " advisory body " has the meaning given by section 23 ;
 - " agriculture Minister " means the Minister of Agriculture, Fisheries and Food or the Secretary of State ;
 - " authorised person " means—
 - (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken ;
 - (b) any person authorised in writing by the local authority for the area within which the action authorised is taken;
 - (c) as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, the Nature

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Conservancy Council, a water authority or any other statutory water undertakers, a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862 or a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966;

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land ;

" automatic weapon " and " semi-automatic weapon " do not include any weapon the magazine of which is incapable of holding more than two rounds;

" aviculture " means the breeding and rearing of birds in captivity;

" destroy ", in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and " destruction " shall be construed accordingly;

" domestic duck " means any domestic form of duck;

" domestic goose " means any domestic form of goose;

" firearm " has the same meaning as in the Firearms Act 1968;

" game bird " means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan;

" livestock " includes any animal which is kept—

(a) for the provision of food, wool, skins or fur ;

(b) for the purpose of its use in the carrying on of any agricultural activity ;
or

(c) for the provision or improvement of shooting or fishing;

" local authority " means—

(a) in relation to England and Wales, a county, district or London borough council and the Greater London Council;

(b) in relation to Scotland, a regional, islands or district council;

" occupier ", in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;

" pick ", in relation to a plant, means gather or pluck any part of the plant without uprooting it;

" poultry " means domestic fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys ;

" sale " includes hire, barter and exchange and cognate expressions shall be construed accordingly ;

" uproot ", in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing ;

" vehicle " includes aircraft, hovercraft and boat;

" water authority ", in relation to Scotland, has the same meaning as in the Water (Scotland) Act 1980 ;

" wild animal " means any animal (other than a bird) which is or (before it was killed or taken) was living wild;

" wild bird " means any bird of a kind which is ordinarily resident in or is a visitor to Great Britain in a wild state but does not include poultry or, except in sections 5 and 16, any game bird ;

" wild plant " means any plant which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Great Britain in a wild state.

- (2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.
- (3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.
- (4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.
- (5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

PART II

NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

Nature conservation

28 Areas of special scientific interest

- (1) Where the Nature Conservancy Council are of the opinion that any area of land is of special interest by reason of any of its flora, fauna, or geological or physiographical features, it shall be the duty of the Council to notify that fact—
 - (a) to the local planning authority in whose area the land is situated;
 - (b) to every owner and occupier of any of that land ; and
 - (c) to the Secretary of State.
- (2) Before giving a notification under subsection (1), the Council shall give notice to the persons mentioned in that subsection—
 - (a) setting out the proposed notification ; and
 - (b) specifying the time (not being less than three months from the date of the giving of the notice) within which and the manner in which, representations or objections with respect thereto may be made,and shall consider any representation or objections duly made.
- (3) If, after reasonable inquiry has been made, the Council are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land a notification or notice required to be served on him may be served by addressing it to him by the description " owner " or " occupier " of the land (describing it) and by affixing it to some conspicuous object or objects on the land.
- (4) A notification under subsection (1)(b) shall specify—
 - (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
 - (b) any operations appearing to the Council to be likely to damage that flora or fauna or those features.

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- (5) The owner or occupier of any land which has been notified under subsection (1)(b) shall not carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless;—
- (a) one of them has, after the commencement date, given the Council written notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and
 - (b) one of the conditions specified in subsection (6) is fulfilled.
- (6) The said conditions are—
- (a) that the operation is carried out with the Council's written consent;
 - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act; and
 - (c) that three months have expired from; the giving of the notice under subsection (5).
- (7) A person who, without reasonable excuse, contravenes subsection (5) shall be liable on summary conviction to a fine not exceeding £500.
- (8) It is a reasonable excuse in any event for a person to carry out an operation if—
- (a) the operation was authorised by a planning permission granted on an application under Part III of the Town and Country Planning Act 1971 or Part III of the Town and Country Planning (Scotland) Act 1972 ; or
 - (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Council as soon as practicable after the commencement of the operation.
- (9) The Council shall have power to enforce the provisions of this section ; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (10) Proceedings in England and Wales for an offence under subsection (7) shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (11)) A notification under subsection (1)(b) of land in England and Wales shall be a local land charge.
- (12) A notification under subsection (1)(b) of land in Scotland shall be registered either—
- (a) in a case where the land is registered in that Register, in the Land Register of Scotland ; or
 - (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (13) Section 23 of the 1949 Act (which is superseded by this section) shall cease to have effect; but any notification given under that section shall have effect as if given under subsection U)(a).
- (14) Subsection (2) shall not apply in relation to a notification of any land under subsection (1)(b) where a notification of that land under the said section 23 has effect as if given under subsection (1)(a).

29 Special protection for certain areas of special scientific interest

- (1) Where it appears to the Secretary of State expedient to do so—
- (a) in the case of any land to which this paragraph applies, for the purpose of securing the survival in Great Britain of any kind of animal or plant or of complying with an international obligation; or
 - (b) in the case of any land to which this paragraph applies, for the purpose of conserving any of its flora, fauna, or geological or physiographical features,
- he may, after consultation with the Nature Conservancy Council, by order apply subsection (3) to that land ; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of orders under this section.

An order made under this section may be amended or revoked by a subsequent order so made.

- (2) Paragraphs (a) and (b) of subsection (1) apply to any land which in the opinion of the Secretary of State is—
- (a) of special interest; and
 - (b) in the case of paragraph (b) of that subsection, of national importance,
- by reason of any of its flora, fauna, or geological or physiographical features.
- (3) Subject to subsection (4), no person shall carry out on any land to which this subsection applies any operation which—
- (a) appears to the Secretary of State to be likely to destroy or damage the flora, fauna, or geological or physiographical features by reason of which the land is land to which paragraph (a) or, as the case may be, paragraph (b) of subsection (1) applies ; and
 - (b) is specified in the order applying this subsection to the land.
- (4) Subsection (3) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
- (a) one of them has, after the commencement date, given the Council notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
 - (b) one of the conditions specified in subsection (5) is fulfilled.
- (5) The said conditions are—
- (a) that the operation is carried out with the Council's written consent;
 - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act; and
 - (c) subject to subsections (6) and (7), that three months have expired from the giving of the notice under subsection (4).
- (6) If before the expiration of the period mentioned in paragraph (c) of subsection (5) the Council offer to enter into an agreement for the acquisition of the interest of the person who gave the notice under subsection (4) or an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments to that person, that paragraph shall have effect as if for the said period there were substituted—
- (a) where the agreement is entered into before the expiration of twelve months from the giving of the notice, the period expiring on the day on which it is entered into ;

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- (b) in any other case, twelve months from the giving of the notice or three months from rejection or withdrawal of the offer to enter into the agreement, whichever period last expires.
- (7) If before the expiration of the period mentioned in paragraph (c) of subsection (5), or that paragraph as it has effect by virtue of subsection (6), an order is made for the compulsory acquisition by the Council of the interest of the person who gave the notice under subsection (4), that paragraph shall have effect as if for the said period there were substituted the period expiring—
 - (a) in the case of an order which is confirmed, on the day on which the Council enter on the land;
 - (b) in any other case, on the day on which the order is withdrawn or the Secretary of State decides not to confirm it.
- (8) A person who, without reasonable excuse, contravenes subsection (3) shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (9) It is a reasonable excuse in any event for a person to carry out an operation if—
 - (a) the operation was authorised by a planning permission granted on an application under Part III of the Town and Country Planning Act 1971 or Part III of the Town and Country Planning (Scotland) Act 1972; or
 - (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Council as soon as practicable after the commencement of the operation.
- (10) An order made under this section in relation to land in Scotland shall be registered either—
 - (a) in a case where the land affected by the order is registered in that Register, in the Land Register of Scotland; or
 - (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (11) A report submitted by the Council to the Secretary of State under paragraph 17 of Schedule 3 to the Nature Conservancy Council Act 1973 for any year shall set out particulars of any areas of land as respects which orders under this section have come into operation during that year.

30 Compensation where order is made under s. 29

- (1) Subsection (2) applies where an order is made under section 29 and subsection (3) applies where—
 - (a) notice of a proposal to carry out an operation is duly given to the Nature Conservancy Council under subsection (4) of that section ; and
 - (b) paragraph (c) of subsection (5) of that section has effect as modified by subsection (6) or (7) of that section.
- (2) The Council shall pay compensation to any person having at the time of the making of the order an interest in land comprised in an agricultural unit comprising land to which the order relates who, on a claim made to the Council within the time and in the manner prescribed by regulations under this section, shows that the value of his interest is less than what it would have been if the order had not been made; and the amount of the compensation shall be equal to the difference between the two values.

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- (3) The Council shall pay compensation to any person having at the time of the giving of the notice an interest in land to which the notice relates who, on a claim made to the Council within the time and in the manner prescribed by regulations under this section, shows that—
- (a) he has reasonably incurred expenditure which has been rendered abortive, or expenditure in carrying out work which has been rendered abortive, by reason of paragraph (c) of subsection (5) of section 29 having effect as modified by subsection (6) or (7) of that section ; or
 - (b) he has incurred loss or damage which is directly attributable to that paragraph having effect as so modified ;
- but nothing in this subsection shall entitle any such person to compensation in respect of any reduction in the value of his interest in the land.
- (4) For the purposes of subsection (2)—
- (a) an interest in land shall be valued as at the time when the order is made ;
 - (b) where a person, by reason of his having more than one interest in land, makes more than one claim under that subsection in respect of the same order, his various interests shall be valued together ;
 - (c) section 10 of the Land Compensation Act 1973 (mortgages, trusts for sale and settlements) or section 10 of the Land Compensation (Scotland) Act 1973 (restricted interests in land) shall apply in relation to compensation under that subsection as it applies in relation to compensation under Part I of that Act.
- (5) For the purposes of assessing any compensation payable under subsection (2), the rules set out in section 5 of the Land Compensation Act 1961 or section 12 of the Land Compensation (Scotland) Act 1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (6) No claim shall be made under subsection (2) in respect of any order under section 29 unless the Secretary of State has given notice under paragraph 6(1) or (2) of Schedule 11 of his decision in respect of the order; and, without prejudice to subsection (4)(a), that decision will be taken into account in assessing the compensation payable in respect of the order.
- (7) Compensation under this section shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 or section 40 of the Land Compensation (Scotland) Act 1963, from the date of the claim until payment
- (8) Except in so far as may be provided by regulations under this section, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal or the Lands Tribunal for Scotland.
- (9) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 or sections 9 and 11 of the Land Compensation (Scotland) Act 1963 (procedure and costs) shall apply, subject to any necessary modifications and to the provisions of any regulations under this section.
- (10) Regulations under this section shall be made by the Secretary of State and shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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- (11) In this section "agricultural unit" means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land.

31 Restoration where order under s. 29 is contravened

- (1) Where the operation in respect of which a person is convicted of an offence under section 29 has destroyed or damaged any of the flora, fauna, or geological or physiographical features by reason of which the land on which it was carried out is of special interest, the court by which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations for the purpose of restoring the land to its former condition as may be so specified.
- (2) An order under this section made on conviction on indictment shall be treated for the purposes of sections 30 and 42(1) and (2) of the Criminal Appeal Act 1968 (effect of appeals on orders for the restitution of property) as an order for the restitution of property; and where by reason of the quashing by the Court of Appeal of a person's conviction any such order does not take effect, and on appeal to the House of Lords the conviction is restored by that House, the House may make any order under this section which could be made on his conviction by the court which convicted him.
- (3) In the case of an order under this section made by a magistrates' court the period specified in the order shall not begin to run—
- (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;
 - (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.
- (4) At any time before an order under this section has been complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.
- (5) If, within the period specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction—
- (a) to a fine not exceeding £1,000 ; and
 - (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.
- (6) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, the Nature Conservancy Council may enter the land and carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.
- (7) In the application of this section to Scotland—
- (a) subsections (2) and (3) shall not apply ; and
 - (b) for the purposes of any appeal or review, an order under this section is a sentence.

32 Duties of agriculture Ministers with respect to areas of special scientific interest

- (1) Where an application for a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants) is made as respects expenditure incurred or to be incurred for the purpose of activities on land notified under section 28(1) or land to which section 29(3) applies, the appropriate Minister—
 - (a) shall, so far as may be consistent with the purposes of the scheme and section 29 of the said Act of 1970, so exercise his functions thereunder as to further the conservation of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
 - (b) where the Nature Conservancy Council have objected to the making of the grant on the ground that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State.
- (2) Where, in consequence of an objection by the Council, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (1)(b), the Council shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act—
 - (a) imposing restrictions as respects those activities ; and
 - (b) providing for the making by them of payments to the applicant.
- (3) In this section " the appropriate Minister " has the same meaning as in section 29 of the said Act of 1970.

33 Ministerial guidance as respects areas of special scientific interest

- (1) The Ministers shall from time to time, after consultation with the Nature Conservancy Council and such persons appearing to them to represent other interests concerned as they consider appropriate—
 - (a) prepare codes containing such recommendations, advice and information as they consider proper for the guidance of—
 - (i) persons exercising functions under sections 28 to 32; and
 - (ii) persons affected or likely to be affected by the exercise of any of those functions ; and
 - (b) revise any such code by revoking, varying, amending or adding to the provisions of the code in such manner as the Ministers think fit.
- (2) A code prepared in pursuance of subsection (1) and any alterations proposed to be made on a revision of such a code shall be laid before both Houses of Parliament forthwith after being prepared; and the code or revised code, as the case may be, shall not be issued until the code or the proposed alterations have been approved by both Houses.
- (3) Subject to subsection (2), the Ministers shall cause every code prepared or revised in pursuance of subsection (1) to be printed, and may cause copies of it to be put on sale to the public at such price as the Ministers may determine.

34 Limestone pavement orders

- (1) Where the Nature Conservancy Council or the Commission are of the opinion that any land in the countryside which comprises a limestone pavement is of special interest by reason of its flora, fauna or geological or physiographical features, it shall be the duty of the Council or the Commission to notify that fact to the local planning authority in whose area the land is situated.
- (2) Where it appears to the Secretary of State or the relevant authority that the character or appearance of any land notified under subsection (1) would be likely to be adversely affected by the removal of the limestone or by its disturbance in any way whatever, the Secretary of State or that authority may make an order (in this section referred to as a " limestone pavement order ") designating the land and prohibiting the removal or disturbance of limestone on or in it; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of limestone pavement orders.
- (3) The relevant authority may, after consultation with the Council and the Commission, amend or revoke a limestone pavement order made by the authority; and the Secretary of State may, after such consultation as aforesaid, amend or revoke any such order made by him or that authority but, in the case of an order made by that authority, only after consultation with that authority.
- (4) If any person without reasonable excuse removes or disturbs limestone on or in any land designated by a limestone pavement order he shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (5) It is a reasonable excuse in any event for a person to remove or disturb limestone or cause or permit its removal or disturbance, if the removal or disturbance was authorised by a planning permission granted on an application under Part III of the Town and Country Planning Act 1971 or Part III of the Town and Country Planning (Scotland) Act 1972.
- (6) In this section—
 - " the Commission " means the Countryside Commission in relation to England and Wales and the Countryside Commission for Scotland in relation to Scotland ;
 - " limestone pavement" means an area of limestone which lies wholly or partly exposed on the surface of the ground and has been fissured by natural erosion ;
 - " the relevant authority " means the county planning authority in relation to England and Wales and the authority exercising district planning functions in relation to Scotland.

35 National nature reserves

- (1) Where the Nature Conservancy Council are satisfied that any land which—
 - (a) is being managed as a nature reserve under an agreement entered into with the Council;
 - (b) is held by the Council and is being managed by them as a nature reserve ; or
 - (c) is held by an approved body and is being managed by that body as a nature reserve,

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is of national importance, they may declare that land to be a national nature reserve.

- (2) A declaration by the Council that any land is a national nature reserve shall be conclusive of the matters declared; and subsections (4) and (5) of section 19 of the 1949 Act shall apply in relation to any such declaration as they apply in relation to a declaration under that section.
- (3) On the application of the approved body concerned, the Council may, as respects any land which is declared to be a national nature reserve under subsection (1)(c), make byelaws for the protection of the reserve.
- (4) Subsections (2) and (3) of section 20 and section 106 of the 1949 Act shall apply in relation to byelaws under this section as they apply in relation to byelaws under the said section 20.
- (5) In this section—
 - " approved body " means a body approved by the Council for the purposes of this section ;
 - " nature reserve " has the same meaning as in Part III of the 1949 Act.

36 Marine nature reserves

- (1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea in or adjacent to Great Britain up to the seaward limits of territorial waters, it appears to the Secretary of State expedient, on an application made by the Nature Conservancy Council, that the land and waters covering it should be managed by the Council for the purpose of—
 - (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area ; or
 - (b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,he may by order designate the area comprising that land and those waters as a marine nature reserve; and the Council shall manage any area so designated for either or both of those purposes.
- (2) An application for an order under this section shall be accompanied by—
 - (a) a copy of the byelaws which, if an order is made, the Council propose making under section 37 for the protection of the area specified in the application ; and
 - (b) a copy of any byelaws made or proposed to be made for the protection of that area by a relevant authority ;and an order made on the application shall authorise the making under that section of such of the byelaws proposed to be made by the Council as may be set out in the order with or without modifications.
- (3) Byelaws the making of which is so authorised-
 - (a) shall not require the Secretary of State's consent under subsection (1) of section 37 ; and
 - (b) notwithstanding anything in the provisions applied by subsection (4) of that section, shall take effect on their being made.

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- (4) The provisions of Schedule 12 shall have effect as to the making, validity and date of coming into operation of orders under this section ; and an order made under this section may be amended or revoked by a subsequent order so made.
- (5) The powers exercisable by the Council for the purpose of managing an area designated as a marine nature reserve under this section shall include power to install markers indicating the existence and extent of the reserve.
- (6) Nothing in this section or in byelaws made under section 37 shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).
- (7) In this section—
 - " enactment" includes an enactment contained in a local Act;
 - " local authority " means—
 - (a) in relation to England and Wales, a county council, a district council, the Greater London Council or a London borough council;
 - (b) in relation to Scotland, a regional council, an islands council or a district council;
 - " relevant authority " means a local authority, a water authority or any other statutory water undertakers, an internal drainage board, a navigation authority, a harbour authority, a pilotage authority, a lighthouse authority, a conservancy authority, a river purification board, a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862, or a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966.

37 Byelaws for protection of marine nature reserves

- (1) The Nature Conservancy Council may, with the consent of the Secretary of State make byelaws for the protection of any area designated as a marine nature reserve under section 36.
- (2) Without prejudice to the generality of subsection (1), byelaws made under this section as respects a marine nature reserve—
 - (a) may provide for prohibiting or restricting, either absolutely or subject to any exceptions—
 - (i) the entry into, or movement within, the reserve of persons and vessels ;
 - (ii) the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the reserve, or the doing of anything therein which will interfere with the sea bed or damage or disturb any object in the reserve ; or
 - (iii) the depositing of rubbish in the reserve ;
 - (b) 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 the reserve or the doing of anything which would otherwise be unlawful under the byelaws; and
 - (c) may be so made as to apply either generally or with respect to particular parts of the reserve or particular times of the year.
- (3) Nothing in byelaws made under this section shall—
 - (a) prohibit or restrict the exercise of any right of passage by a vessel other than a pleasure boat; or

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- (b) prohibit, except with respect to particular parts of the reserve at particular times of the year, the exercise of any such right by a pleasure boat.
- (4) Nothing in byelaws so made shall make unlawful—
 - (a) anything done for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life ;
 - (b) the discharge of any substance from a vessel; or
 - (c) anything done more than 30 metres below the sea bed.
- (5) Sections 236 to 238 of the Local Government Act 1972 or sections 202 to 204 of the Local Government (Scotland) Act 1973 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding the amount there specified and provide for the proof of byelaws in legal proceedings) shall apply to byelaws under this section as if the Council were a local authority within the meaning of the said Act of 1972 or the said Act of 1973, so however that in relation to such byelaws the said sections shall apply subject to such modifications (including modifications increasing the maximum fines which the byelaws may impose) as may be prescribed by regulations made by the Secretary of State.

Regulations under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In relation to byelaws under this section the confirming authority for the purposes of the said section 236 or the said section 202 shall be the Secretary of State.
- (7) The Secretary of State may, after consultation with the Council, direct them—
 - (a) to revoke any byelaws previously made under this section; or
 - (b) to make any such amendments of any byelaws so made as may be specified in the direction.
- (8) The Council shall have power to enforce byelaws made under this section; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (9) Proceedings in England and Wales for an offence under byelaws made under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (10) In this section " vessel" includes a hovercraft and any aircraft capable of landing on water and " pleasure boat" shall be construed accordingly.
- (11) References in this section to animals or plants of any description include references to eggs, seeds, spores, larvae or other immature stages of animals or plants of that description.

38 Grants and loans by Nature Conservancy Council

- (1) The Nature Conservancy Council may, with the consent of, or in accordance with a general authorisation given by, the Secretary of State, give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person in respect of expenditure incurred or to be incurred by him in doing anything which, in their opinion, is conducive to nature conservation or fostering the understanding of nature conservation.

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- (2) No consent or general authorisation shall be given by the Secretary of State under subsection (1) without the approval of the Treasury.
- (3) On making a grant or loan under this section the Council may impose such conditions as they think fit including (in the case of a grant) conditions for repayment in specified circumstances.
- (4) The Council shall so exercise their powers under subsection (3) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, so far as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.
- (5) The exercise of the Council's powers under this section shall be subject to any direction given to the Council by the Secretary of State.
- (6) Section 3 of the Nature Conservancy Council Act 1973 (which is superseded by this section) shall cease to have effect.

Countryside

39 Management agreements with owners and occupiers of land

- (1) A relevant authority may, for the purpose of conserving or enhancing the natural beauty or amenity of any land which is both in the countryside and within their area or promoting its enjoyment by the public, make an agreement (in this section referred to as a "management agreement") with any person having an interest in the land with respect to the management of the land during a specified term or without limitation of the duration of the agreement.
- (2) Without prejudice to the generality of subsection (1), a management agreement—
 - (a) may impose on the person having an interest in the land restrictions as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person to carry out works or agricultural or forestry operations or do other things on the land ;
 - (b) may confer on the relevant authority power to carry out works for the purpose of performing their functions under the 1949 Act and the 1968 Act; and
 - (c) may contain such incidental and consequential provisions (including provisions for the making of payments by either party to the other) as appear to the relevant authority to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of a management agreement with any person interested in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the relevant authority against those persons accordingly.
- (4) Schedule 2 to the Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) shall apply to management agreements as it applies to forestry dedication covenants.

- (5) In this section " the relevant authority " means—
- (a) as respects land in a National Park, the county planning authority;
 - (b) as respects land in Greater London, the Greater London Council or the London borough council; and
 - (c) as respects any other land, the local planning authority.
- (6) The powers conferred by this section on a relevant authority shall be in addition to and not in derogation of any powers conferred on such an authority by or under any enactment.

40 Experimental schemes

For subsections (1) and (2) of section 4 of the 1968 Act (under which the Countryside Commission may submit for the Secretary of State's approval proposals for experimental schemes in relation to particular areas and are required to carry out proposals approved by him) there shall be substituted the following subsection—

- “(1) The Commission, after consultation with such local authorities and other bodies as appear to the Commission to have an interest, may from time to time make and carry out or promote the carrying out of any experimental scheme designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity, which—
- (a) in relation to the countryside generally or to any particular area involves the development or application of new methods, concepts or techniques, or the application or further development of existing methods, concepts or techniques; and
 - (b) is designed to illustrate the appropriateness of the scheme in question for the countryside generally or for any particular area.”

41 Duties of agriculture Ministers with respect to the countryside

- (1) The advice for the giving of which free of charge the Minister of Agriculture, Fisheries and Food and the Secretary of State are required by section 1(1) of the Agriculture (Miscellaneous Provisions) Act 1944 to make provision through such organisation as they consider appropriate shall include—
- (a) advice to persons carrying on agricultural businesses on the conservation and enhancement of the natural beauty and amenity of the countryside ;
 - (b) advice to such persons on diversification into other enterprises of benefit to the rural economy; and
 - (c) advice to government departments and other bodies exercising statutory functions on the promotion and furtherance of such diversification as is mentioned in paragraph (b).
- (2) In the exercise of his general duty under section 4(2) of the Small Landholders (Scotland) Act 1911 of promoting the interests of agriculture and other rural industries, and without prejudice to the generality of that duty, the Secretary of State shall make provision, through such organisation as he considers appropriate, for the giving of such advice as is mentioned in paragraphs (a), (b) and (c) of subsection (1).
- (3) Where an application for a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants) is made as respects expenditure incurred or to be incurred for the purposes of activities on land which is in a National Park or

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an area specified for the purposes of this subsection by the Ministers, the appropriate Minister—

- (a) shall, so far as may be consistent with the purposes of the scheme and the said section 29, so exercise his functions thereunder as to further the conservation and enhancement of the natural beauty and amenity of the countryside and to promote its enjoyment by the public ; and
- (b) where the relevant authority have objected to the making of the grant on the ground that the activities in question have had or will have an adverse effect on the natural beauty or amenity of the countryside or its enjoyment by the public, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State;

and this subsection shall have effect, in its application to Scotland, as if references to the amenity of the countryside were omitted.

- (4) Where, in consequence of an objection by the relevant authority, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (3)(b), the relevant authority shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—

- (a) imposing restrictions as respects those activities ; and
- (b) providing for the making by them of payments to the applicant.

- (5) In this section—

"agricultural business" and "the appropriate Minister" have the same meanings as in the said section 29 ;

" management agreement —

- (a) in relation to England and Wales, means an agreement under section 39 ;
- (b) in relation to Scotland, means an agreement under section 49A of the Countryside (Scotland) Act 1967;

" the relevant authority "—

- (a) in relation to England and Wales, has the same meaning as in section 39 ;
- (b) in relation to Scotland, means the authority exercising district planning functions.

- (6) Subsection (1) extends only to England and Wales and subsection (2) extends only to Scotland.

National Parks

42 Notification of agricultural operations on moor and heath in National Parks

- (1) The Ministers may, if satisfied that it is expedient to do so, by order apply subsection (2) to any land which is comprised in a National Park and which appears to them to consist of or include moor or heath.

- (2) Subject to subsection (3), no person shall—

- (a) by ploughing or otherwise convert into agricultural land any land to which this subsection applies and which is moor or heath which has not been agricultural land at any time within the preceding 20 years ; or

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- (b) carry out on any such land any other agricultural operation or any forestry operation which (in either case) appears to the Ministers to be likely to affect its character or appearance and is specified in the order applying this subsection to that land.
- (3) Subsection (2) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
 - (a) one of them has, after the coming into force of the order, given the county planning authority written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
 - (b) one of the conditions specified in subsection (4) is satisfied.
- (4) The said conditions are*—
 - (a) that the county planning authority have given their consent to the carrying out of the operation;
 - (b) where that authority have neither given nor refused their consent, that three months have expired from the giving of the notice; and
 - (c) where that authority have refused their consent, that twelve months have expired from the giving of the notice.
- (5) A person who, without reasonable excuse, contravenes subsection (2) shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (6) Where the county planning authority are given notice under this section in respect of any land, the authority shall forthwith send copies of the notice to the Ministers, the Nature Conservancy Council and the Countryside Commission.
- (7) In considering for the purposes of this section whether land has been agricultural land within the preceding 20 years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section or section 14 of the 1968 Act.
- (8) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The said section 14 (which is superseded by this section) shall cease to have effect; but this section shall have effect as if any order under that section in force immediately before the coming into force of this section had been made under this section.

43 Maps of National Parks showing certain areas of moor or heath

- (1) Every county planning authority whose area comprises the whole or any part of a National Park shall—
 - (a) before the expiration of the period of two years beginning with the commencement date, prepare a map of the Park or the part thereof showing any areas of moor or heath the natural beauty of which it is, in the opinion of the authority, particularly important to conserve ; and
 - (b) at such intervals thereafter as they think fit (but not less than once in any year), review the particulars contained in the map and make such revisions thereof (if any) as may be requisite.

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- (2) The authority shall cause a map prepared or revised in pursuance of subsection (1) to be printed, and shall cause copies thereof to be put on sale to the public at such price as the authority may determine.

44 Grants and loans for purposes of National Parks

- (1) Without prejudice to section 11 of the 1949 Act (general powers of local planning authorities in relation to National Parks), a county planning authority may give financial assistance by way of grant or loan, or partly in one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which in the opinion of the authority is conducive to the attainment, in any National Park the whole or part of which is comprised in that authority's area, of any of the following purposes, that is to say, the conservation and enhancement of the natural beauty of that Park and the promotion of its enjoyment by the public.
- (2) On making a grant or loan under this section a county planning authority may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.
- (3) A county planning authority shall so exercise their powers under subsection (2) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, insofar as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.

45 Power to vary order designating National Park

The Countryside Commission (as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park, and—

- (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they apply to an order under section 7(4) of that Act with the substitution for the reference in section 7(5) to the Secretary of State of a reference to the Countryside Commission; and
- (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to an order designating a National Park.

46 Membership of National Park authorities

- (1) In Part I of Schedule 17 to the Local Government Act 1972 (discharge of planning and countryside functions in National Parks) in paragraph 11 after the words "one third" there shall be inserted the words " (to the nearest whole number) ".
- (2) After paragraph 12 of that Schedule there shall be inserted the following paragraph—
- “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 district

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councils whose districts 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."

- (3) In paragraph 14 of that Schedule for the words " subject to paragraph 11 above " there shall be substituted the words " subject to paragraphs 11 and 12A above ".
- (4) In the case 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, members who are members of relevant district councils (within the meaning of the said paragraph 12A) and are neither members of a county council nor persons appointed in pursuance of the said paragraph 11 shall cease to be members of the board or Committee as from the coming into force of this section.

Miscellaneous and supplemental

47 Provisions with respect to the Countryside Commission

- (1) Schedule 13 shall have effect as respects the Countryside Commission.
- (2) The Secretary of State may, with the approval of the Treasury, make to the Countryside Commission out of moneys provided by Parliament grants of such amount and subject to such conditions (if any) as he may, with the approval of the Treasury, think fit.
- (3) Sections 2, 4 and 95 of the 1949 Act and section 3 of the 1968 Act (which are superseded by this section) shall cease to have effect.

48 Duties of water authorities etc. with respect to nature conservation and the countryside

- (1) For subsection (1) of section 22 of the Water Act 1973 (duties with respect to nature conservation and amenity) there shall be substituted the following subsection—
 - “(1) In formulating or considering any proposals relating to the discharge of any of the functions of water authorities, those authorities and the appropriate Minister or Ministers—

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- (a) shall, so far as may be consistent with the purposes of this Act and of the Land Drainage Act 1976, so exercise their functions with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
 - (b) shall have regard to the desirability of protecting buildings or other objects or archaeological, architectural or historic interest; and
 - (c) shall take into account any effect which the proposals would have on the beauty of, or amenity in, any rural or urban area or on any such flora, fauna, features, buildings or objects.”
- (2) In subsection (3) of that section the words " not being land for the time being managed as a nature reserve " shall be omitted.
- (3) After that subsection there shall be inserted the following subsections—
- “(4) Where any land has been notified to a water authority under subsection (3) above, the authority shall consult with the Council before executing or carrying out any works or operations appearing to them to be likely to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest.
 - (5) Subsection (4) above shall not apply in relation to any emergency operation particulars of which (including details of the emergency) are notified to the Council as soon as practicable after the commencement of the operation.
 - (6) References in this section to water authorities shall include references to internal drainage boards and the reference in subsection (3) above to the water authority in whose area the land is situated shall include a reference to the internal drainage board in whose district the land is situated.”

49 Extension of power to appoint wardens

- (1) This section applies to any land in a National Park or in the countryside if—
- (a) the public are allowed access to the land ; and
 - (b) there is no power under any of the provisions of the 1949 Act and the 1968 Act for a local authority, a local planning authority or the Countryside Commission to appoint wardens as respects that land.
- (2) Subject to subsections (3) and (4) the power conferred on a local authority by section 92(1) of the 1949 Act (appointment of wardens) shall include a power, exercisable only with the agreement of the owner and of the occupier of any land to which this section applies, to appoint persons to act as wardens as respects that land.
- (3) The only purpose for which wardens may be appointed by virtue of subsection (2) is to advise and assist the public.
- (4) Notwithstanding the provisions of section 41(8) of the 1968 Act (Countryside Commission to be local authority for purposes of section 92 of the 1949 Act), nothing in this section shall be construed as conferring on the Countryside Commission any additional power to appoint wardens.

50 Payments under certain agreements offered by authorities

- (1) This section applies where—
- (a) the Nature Conservancy Council offer to enter into an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments to—
 - (i) a person who has given notice under section 28(5) or 29(4); or
 - (ii) a person whose application for farm capital grant has been refused in consequence of an objection by the Council; or
 - (b) the relevant authority offer to enter into a management agreement providing for the making by them of payments to a person whose application for a farm capital grant has been refused in consequence of an objection by the authority.
- (2) Subject to subsection (3), the said payments shall be of such amounts as may be determined by the offeror in accordance with guidance given by the Ministers.
- (3) If the offeree so requires within one month of receiving the offer, the determination of those amounts shall be referred to an arbitrator (or, in Scotland, an arbiter) to be appointed, in default of agreement, by the Secretary of State; and where the amounts determined by the arbitrator exceed those determined by the offeror, the offeror shall—
- (a) amend the offer so as to give effect to the arbitrator's (or, in Scotland, the arbiter's) determination; or
 - (b) except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the offeror, withdraw the offer.
- (4) In this section—
- " farm capital grant " means a grant under a scheme made under section 29 of the Agriculture Act 1970 ;
 - " management agreement " and " the relevant authority " have the same meanings as in section 41.

51 Powers of entry

- (1) Any person authorised in writing by the relevant authority may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for any of the following purposes—
- (a) to ascertain whether an order should be made in relation to that land under section 29 or if an offence under that section is being, or has been, committed on that land;
 - (b) to ascertain the amount of any compensation payable under section 30 in respect of an interest in that land;
 - (c) to ascertain whether an order should be made in relation to that land under section 34 or if an offence under that section is being, or has been, committed on that land;
 - (d) to ascertain whether an order should be made in relation to that land under section 42 or if an offence under that section is being, or has been, committed on that land;
- but nothing in this subsection shall authorise any person to enter a dwelling.
- (2) In subsection (1) " the relevant authority " means—

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- (a) for the purposes of paragraphs (d) and (b) of that subsection, the Nature Conservancy Council;
 - (b) for the purposes of paragraph (c) of that subsection, the Secretary of State or the relevant authority within the meaning of section 34 ;
 - (c) for the purposes of paragraph (d) of that subsection, the Ministers or the county planning authority.
- (3) A person shall not demand admission as of right to any land which is occupied unless either—
- (a) 24 hours notice of the intended entry has been given to the occupier; or
 - (b) the purpose of the entry is to ascertain if an offence under section 29, 34 or 42 is being, or has been, committed on that land.
- (4) Any person who intentionally obstructs a person acting in the exercise of any power conferred by subsection (1) shall be liable on summary conviction to a fine not exceeding £200.

52 Interpretation of Part II

- (1) In this Part, unless the context otherwise requires.—
- " agricultural land " does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land;
 - " the Ministers ", in the application of this Part to England, means the Secretary of State and the Minister of Agriculture, Fisheries and Food, and, in the application of this Part to Scotland or Wales, means the Secretary of State.
- (2) In the application of this Part to England and Wales—
- (a) references to a local planning authority shall be construed, except as respects Greater London, as references to a county planning authority and a district planning authority and, as respects Greater London, as references to a London borough council; and
 - (b) references to a county planning authority shall be construed, as respects Greater London, as references to a London borough council;
- and in the application of this Part to Scotland references to a local planning authority shall be construed as references to a regional planning authority, a general planning authority and a district planning authority.
- (3) References in this Part to the conservation of the natural beauty of any land shall be construed as including references to the conservation of its flora, fauna and geological and physiographical features.
- (4) Section 114 of the 1949 Act shall apply for the construction of this Part.
- (5) Any power or duty which under this Part (except sections 41 and 42(D)) falls to be exercised or performed by or in relation to the Ministers may, in England, be exercised or performed by or in relation to either of them.

PART III

PUBLIC RIGHTS OF WAY

Ascertainment of public rights of way

53 Duty to keep definitive map and statement under continuous review

- (1) In this Part " definitive map and statement ", in relation to any area, means, subject to section 57(3).—
- (a) the latest revised map and statement prepared in definitive form for that area under section 33 of the 1949 Act; or
 - (b) where no such map and statement have been so prepared, the original definitive map and statement prepared for that area under section 32 of that Act; or
 - (c) where no such map and statement have been so prepared, the map and statement prepared for that area under section 55(3).
- (2) As regards every definitive map and statement, the surveying authority shall—
- (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
 - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in subsection (2) are as follows—
- (a) the coming into operation of any enactment or instrument, or any other event, whereby—
 - (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
 - (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description ; or
 - (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path ;
 - (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path ;
 - (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—
 - (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies;
 - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description ; or

- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- (4) The modifications which may be made by an order under subsection (2) shall include the addition to the statement of particulars as to—
 - (a) the position and width of any public path or byway open to all traffic which is or is to be shown on the map; and
 - (b) any limitations or conditions affecting the public right of way thereover.
- (5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.
- (6) Orders under subsection (2) which make only such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (a) of subsection (3) shall take effect on their being made; and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of other orders under subsection (2).

54 Duty to reclassify roads used as public paths

- (1) As regards every definitive map and statement, the surveying authority shall, as soon as reasonably practicable after the commencement date.—
 - (a) carry out a review of such of the particulars contained in the map and statement as relate to roads used as public paths; and
 - (b) by order make such modifications to the map and statement as appear to the authority to be requisite to give effect to subsections (2) and (3);
 and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of orders under this subsection.
- (2) A definitive map and statement shall show every road used as a public path by one of the three following descriptions, namely—
 - (a) a byway open to all traffic ;
 - (b) a bridleway;
 - (c) a footpath,
 and shall not employ the expression " road used as a public path " to describe any way.
- (3) A road used as a public path shall be shown in the definitive map and statement as follows—
 - (a) if a public right of way for vehicular traffic has been shown to exist, as a byway open to all traffic ;
 - (b) if paragraph (a) does not apply and public bridleway rights have not been shown not to exist, as a bridleway ; and
 - (c) if neither paragraph (a) nor paragraph (b) applies, as a footpath.
- (4) Each way which, in pursuance of an order under subsection (1), is shown in the map and statement by any of the three descriptions shall, as from the coming into operation of the order, be a highway maintainable at the public expense ; and each way which,

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in pursuance of paragraph 9 of Part III of Schedule 3 to the 1968 Act, is so shown shall continue to be so maintainable.

- (5) In this section " road used as a public path " means a way which is shown in the definitive map and statement as a road used as a public path.
- (6) In subsections (2)(a) and (5) of section 51 of the 1949 Act (long distance routes) references to roads used as public paths shall include references to any way shown in a definitive map and statement as a byway open to all traffic.
- (7) Nothing in this section or section 53 shall limit the operation of traffic orders under the Road Traffic Regulation Act 1967 or oblige a highway authority to provide, on a way shown in a definitive map and statement as a byway open to all traffic, a metalled carriage-way or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.

55 No further surveys or reviews under the 1949 Act

- (1) No survey under sections 27 to 32 of the 1949 Act, or review under section 33 of that Act, shall be begun after the commencement date; and where on that date a surveying authority have not completed such a survey or review begun earlier, the Secretary of State may, after consultation with the authority, direct the authority—
 - (a) to complete the survey or review; or
 - (b) to abandon the survey or review to such extent as may be specified in the direction.
- (2) Where such a survey or review so begun is abandoned, the Secretary of State shall give such notice of the abandonment as appears to him requisite.
- (3) Where, in relation to any area, no such survey has been so begun or such a survey so begun is abandoned, the surveying authority shall prepare for that area a map and statement such that, when they have been modified in accordance with the provisions of this Part, they will serve as the definitive map and statement for that area.
- (4) Where such a survey so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement prepared under subsection (3) so as—
 - (a) to give effect to any determination or decision of the authority under section 29(3) or (4) of the 1949 Act in respect of which either there is no right of appeal or no notice of appeal has been duly served ;
 - (b) to give effect to any decision of the Secretary of State under section 29(6) of that Act; and
 - (c) to show any particulars shown in the draft map and statement with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections had been withdrawn.
- (5) Where such a review so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement under review so as—
 - (a) to give effect to any decision of the Secretary of State under paragraph 4(4) of Part II of Schedule 3 to the 1968 Act; and
 - (b) to show any particulars shown in the draft map and statement but not in the map and statement under review, and to omit any particulars shown in

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the map and statement under review but not in the draft map and statement, being (in either case) particulars with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections have been withdrawn.

- (6) Orders under subsection (4) or (5) shall take effect on their being made.

56 Effect of definitive map and statement

- (1) A definitive map and statement shall be conclusive evidence as to the particulars contained therein to the following extent, namely—
- (a) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover a right of way on foot, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than that right;
 - (b) where the map shows a bridleway, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights ;
 - (c) where the map shows a byway open to all traffic, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way for vehicular and all other kinds of traffic ;
 - (d) where the map shows a road used as a public path, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however -that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights; and
 - (e) where by virtue of the foregoing paragraphs the map is conclusive evidence, as at any date, as to a highway shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at that date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.
- (2) For the purposes of this section " the relevant date "—
- (a) in relation to any way which is shown on the map other wise than in pursuance of an order under the foregoing provisions of this Part, means the date specified in the statement as the relevant date for the purposes of the map;
 - (b) in relation to any way which is shown on the map in pursuance of such an order, means the date which, in accordance with subsection (3), is specified in the order as the relevant date for the purposes of the order.
- (3) Every order under the foregoing provisions of this Part shall specify, as the relevant date for the purposes of the order, such date, not being earlier than six months before the making of the order, as the authority may determine.

- (4) A document purporting to be certified on behalf of the surveying authority to be a copy of or of any part of a definitive map or statement as modified in accordance with the provisions of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.
- (5) Where it appears to the Secretary of State that paragraph (d) of subsection (1) can have no further application, he may by order made by statutory instrument repeal that paragraph.

57 Supplementary provisions as to definitive maps and statements

- (1) An order under the foregoing provisions of this Part shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, on such scale as may be so prescribed, showing the modifications to which the order relates.
- (2) Regulations made by the Secretary of State may prescribe the scale on which maps are to be prepared under section 55(3), and the method of showing in definitive maps and statements anything which is required to be so shown.
- (3) Where, in the case of a definitive map and statement for any area which have been modified in accordance with the foregoing provisions of this Part, it appears to the surveying authority expedient to do so, they may prepare a copy of that map and statement as so modified; and where they do so, the map and statement so prepared, and not the map and statement so modified, shall be regarded for the purposes of the foregoing provisions of this Part as the definitive map and statement for that area.
- (4) The statement prepared under subsection (3) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) As regards every definitive map and statement, the surveying authority shall keep—
 - (a) a copy of the map and statement; and
 - (b) copies of all orders under this Part modifying the map and statement,available for inspection free of charge at all reasonable hours at one or more places in each district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority, a place in each parish so comprised; and the authority shall be deemed to comply with the requirement to keep such copies available for inspection in a district or parish if they keep available for inspection there a copy of so much of the map and statement and copies of so many of the orders as relate to the district or parish.
- (6) Notwithstanding anything in subsection (5), an authority shall not be required to keep available for inspection more than one copy of—
 - (a) any definitive map and statement; or
 - (b) each order under this Part modifying the map and statement,if, as respects the area to which that map and statement relate, a subsequent map and statement have been prepared under subsection (3); and the said single copies may be kept in such place in the area of the authority as they may determine.
- (7) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the provisions of this Part including, in particular, section 53(5) and subsection (5).

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- (8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

58 Application of ss. 53 to 57 to inner London

- (1) Subject to subsection (2), the foregoing provisions of this Part shall not apply to any area to which this subsection applies; and this subsection applies to any area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (2) A London borough council may by resolution adopt the said foregoing provisions as respects any part of their area specified in the resolution, being a part to which subsection (1) applies, and those provisions shall thereupon apply accordingly.
- (3) Where by virtue of a resolution under subsection (2), the said foregoing provisions apply to any area, those provisions shall have effect in relation thereto as if for references to the commencement date there were substituted references to the date on which the resolution comes into operation.

Miscellaneous and supplemental

59 Prohibition on keeping bulls on land crossed by public rights of way

- (1) If, in a case not falling within subsection (2), the occupier of a field or enclosure crossed by a right of way to which this Part applies permits a bull to be at large in the field or enclosure, he shall be liable on summary conviction to a fine not exceeding £200.
- (2) Subsection (1) shall not apply to any bull which—
- (a) does not exceed the age of ten months ; or
 - (b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.
- (3) Nothing in any byelaws, whenever made, shall make unlawful any act which is, or but for subsection (2) would be, made unlawful by subsection (1).
- (4) In this section " recognised dairy breed " means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.
- (5) The Secretary of State may by order add any breed to, or remove any breed from, subsection (4); and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

60 Regulation of traffic on public rights of way

The Road Traffic Regulation Act 1967 shall have effect in relation to any footpath, bridleway or byway open to all traffic as if—

- (a) any reference to traffic included a reference to foot passengers and persons driving, riding or leading horses or other animals of draught or burden ; and

- (b) any reference in section 1(3A) or 12 to foot passengers included a reference to such persons as aforesaid.

61 Ploughing of public rights of way

- (1) Section 134 of the Highways Act 1980 (ploughing of footpath or bridleway) shall have effect subject to the amendments provided for by subsections (2) to (9).
- (2) Subsection (3) (7 days' notice of intention to plough) shall be omitted.
- (3) In subsection (4) (duty to restore surface of footpath or bridleway), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
 - “(a) not later than 2 weeks from the time when the occupier began to plough the footpath or bridleway, or
 - (b) if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter.”.
- (4) In subsection (5) (failure to comply with subsection (3) or (4)) the words “ (3) or ” shall be omitted, for paragraphs (a) and (b) there shall be substituted the words “ to a fine not exceeding £200 ” and for the words “ subsection (4) ”, in the second place where they occur, there shall be substituted the words “ that subsection ”.
- (5) After that subsection there shall be inserted the following subsection—
 - “(5A) A person who ploughs any footpath, bridleway or other highway otherwise than in the exercise of a right to plough it shall be guilty of an offence and liable to a fine not exceeding £200.”
- (6) In subsection (6) (enforcement of subsections (3) to (5)) for the words “ subsections (3) to (5) above as respects any footpath or bridleway ” there shall be substituted the words “ subsections (4) to (5A) above as respects any footpath, bridleway or other highway ”.
- (7) In subsection (7) (proceedings by parish or community councils) after the words “ subsection (4) ” there shall be inserted the words “ or (5A) ”.
- (8) In subsection (8) (power of competent authority to restore surface of footpath or bridleway) for the words “ footpath or bridleway ” there shall be substituted the words “ footpath, bridleway or other highway ”.
- (9) In subsection (10) (competent authorities for the purposes of subsections (8) and (9)) for the words “ footpath or bridleway ”, in both places where they occur, there shall be substituted the words “ footpath, bridleway or other highway ”.
- (10) In section 135(1) of the said Act of 1980 (temporary diversion of footpath or bridleway ploughed up under section 134) the words “ 6 or ” and “ 6 weeks or ” shall be omitted.

62 Appointment of wardens for public rights of way

A local authority may appoint such number of persons as appears to the authority to be necessary or expedient to act as wardens as respects a footpath, bridleway or byway open to all traffic which is both in the countryside and in the area of the authority, and the purpose for which the wardens may be so appointed is to advise and assist the public in connection with the use of the path or way.

63 Orders creating, extinguishing or diverting footpaths and bridleways

The enactments mentioned in Schedule 16 (which relate to the making and confirmation of certain orders creating, extinguishing or diverting footpaths and bridleways) shall have effect subject to the amendments provided for in that Schedule.

64 Publication of dedication of footpaths and bridleways

At the end of section 25 of the Highways Act 1980 (creation of footpath or bridleway by agreement) there shall be inserted the following subsection—

“(6) As soon as may be after the dedication of a footpath or bridleway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated.”.

65 Signposting of byways open to all traffic

(1) In section 27 of the 1968 Act (signposting of footpaths and bridleways) for the words " or bridleway ", wherever they occur, there shall be substituted the words " bridleway or byway " ; and for the words " and bridleways " in subsection (6) of that section there shall be substituted the words " bridleways and byways " .

(2) After subsection (7) of that section there shall be inserted the following subsection—

“(8) In this section " byway " means a byway open to all traffic, that is to say, a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are so used.”

66 Interpretation of Part III

(1) In this Part—

" bridleway " means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

" byway open to all traffic " means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used ;

" definitive map and statement " has the meaning given by section 53(1);

" footpath " means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road ; " horse " includes a pony, ass and mule, and " horseback " shall be construed accordingly ; " public path " means a highway being either a footpath or a bridleway;

" right of way to which this Part applies " means a right of way such that the land over which the right subsists is a public path or a byway open to all traffic ;

" surveying authority ", in relation to any area, means the county or London borough council whose area includes that area.

- (2) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in subsection (1) by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.
- (3) The provisions of section 30(1) of the 1968 Act (riding of pedal cycles on bridleways) shall not affect the definition of bridleway in subsection (1) and any rights exercisable by virtue of those provisions shall be disregarded for the purposes of this Part.

PART IV

MISCELLANEOUS AND GENERAL

67 Application to Crown

- (1) Subject to the following provisions of this section, Part II, except section 51, and Part III shall apply to Crown land, that is to say, land an interest in which belongs to Her Majesty in the 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 Her Majesty for the purposes of a Government department.
- (2) No order shall be made under section 29, 34, 36 or 42 in relation to Crown land unless the appropriate authority has consented to the making of that order.
- (3) An agreement under section 39 as respects any interest in Crown land, other than an interest held by or on behalf of the Crown, shall not have effect unless approved by the appropriate authority.
- (4) Section 101(11) of the 1949 Act (Crown land) shall apply for the construction of references in this section to the appropriate authority.

68 Application to the Isles of Scilly

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order made by statutory instrument provide for the application of the provisions of Part II or III to the Isles of Scilly as if those Isles were a separate county ; and any such order may provide for the application of those provisions to those Isles subject to such modifications as may be specified in the order.

69 Offences by bodies corporate etc.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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

70 Financial provisions

- (1) There shall be defrayed out of money provided by Parliament—
 - (a) any administrative expenses incurred by any Minister of the Crown under this Act; and
 - (b) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received by a Minister of the Crown under this Act shall be paid into the Consolidated Fund.

71 General interpretation

In this Act—

" the 1949 Act " means the National Parks and Access to the Countryside Act 1949 ;

" the 1968 Act " means the Countryside Act 1968 ;

" the commencement date ", in relation to any provision of this Act and any area, means the date of the coming into force of that provision in that area ;

" London borough council " includes the Common Council of the City of London ;

" modifications " includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

" statutory maximum ", in relation to a fine on summary conviction, means—

- (a) in England and Wales, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (at the passing of this Act £1,000); and
- (b) in Scotland, the prescribed sum within the meaning of section 28 9B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000).

72 Minor amendments

- (1) Section 4 of the Restriction of Ribbon Development Act 1935 (power to fence roads subject to restrictions) shall have effect, in relation to any area in the countryside of which walls of a particular construction are a feature, as if references to fences included references to walls of that construction; and in exercising their powers under that section in relation to any such area, a highway authority shall have regard to the desirability of exercising the powers conferred by the foregoing provisions of this subsection.
- (2) In section 20(2) of the Hill Farming Act 1946 (penalty for contravening regulations with respect to the burning of heather and grass) as originally enacted for the words from " five pounds " onwards there shall be substituted the words " £200 ".
- (3) In section 27 of that Act (penalty for contravening the provisions of that Act relating to muirburn) for the words from " five pounds " onwards there shall be substituted the words " £200 ".
- (4) In section 39 of the Agriculture (Scotland) Act 1948 for the words " the First Schedule to the Protection of Birds Act 1954 " there shall be substituted the words " Schedule 1 to the Wildlife and Countryside Act 1981 ".

- (5) In section 11(1) of the 1949 Act (general powers of local planning authorities in relation to National Parks) after the word " accomplishment " there shall be inserted the words " of any ".
- (6) In section 74(4) of the Public Health Act 1961 (power to reduce numbers of pigeons and other birds in built-up areas), for the words " the Protection of Birds Act 1954 " there shall be substituted the words " Part I of the Wildlife and Countryside Act 1981 ".
- (7) In section 2(8) of the 1968 Act (publicity and information services) for the words from " encouraging " onwards there shall be substituted the words " informing persons resorting to the countryside of their rights and obligations ".
- (8) In section 15(1) of that Act (areas of special scientific interest) the words " which is not for the time being managed as a nature reserve but " shall be omitted.
- (9) In section 37 of that Act (protection for interests in the countryside) for the words " and the Act of 1949 " there shall be substituted the words " the Act of 1949 and the Wildlife and Countryside Act 1981 ".
- (10) The functions of a county council under this Act as a local planning authority shall be included among the functions of such a council to which Part II of Schedule 17 to the Local Government Act 1972 (planning and countryside functions in National Parks) applies.
- (11) In section 31(10) of the Highways Act 1980 (dedication of way as highway presumed after public use for 20 years), for the words from " subsection (4) " to " that section " there shall be substituted the words " section. 56(1) of the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement " and the words " or of that subsection " onwards shall be omitted.
- (12) Section 80 of that Act (power of highway authority to fence highways) shall have effect in relation to any area in the countryside of which walls of a particular construction are a feature, as if references to fences included references to walls of that construction; and in exercising their powers under that section in relation to any such area, a highway authority shall have regard to the desirability of exercising the powers conferred by the foregoing provisions of this subsection.
- (13) In section 136(4) of that Act (time when hedges may not be required to be cut or pruned) immediately before the words " between the last day of September and the first day of April " there shall be inserted the word " except ".
- (14) In section 4(5) of the Zoo Licensing Act 1981 (grant or refusal of licence) the entries relating to the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975 shall be omitted and there shall be added at the end the following entry—
“Part I of the Wildlife and Countryside Act 1981”.

73 Repeals and savings

- (1) The enactments mentioned in Schedule 17 are hereby repealed to the extent specified in the third column of that Schedule.
- (2) Nothing in the repeals made by this section shall affect the operation of sections 27 to 32 of the 1949 Act in relation to any survey begun before the commencement date.

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

- (3) Nothing in the repeals made by this section shall affect the operation of sections 33 and 34 of the 1949 Act and Parts II, III and IV of Schedule 3 to the 1968 Act in relation to any review begun before the commencement date.
- (4) Notwithstanding the repeal by this section of the Conservation of Wild Creatures and Wild Plants Act 1975, section 9 of the Badgers Act 1973 shall continue to have effect with the amendment made by section 16 of the said Act of 1975.

74 Short title, commencement and extent

- (1) This Act may be cited as the Wildlife and Countryside Act 1981.
- (2) The following provisions of this Act, namely—
 - Part II, except sections 29 to 32, 41 and 46 to 48 and Schedule 13 ;
 - sections 59 to 62 and 65 and 66 ; and
 - Part IV, except section 72(4), (6) and (14) and section 73(1) so far as relating to Part II of Schedule 17,shall come into force on the expiration of the period of one month beginning with the passing of this Act.
- (3) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed under this subsection for different provisions, different purposes or different areas.
- (4) An order under subsection (3) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (5) The following provisions of this Act, namely—
 - sections 39, 40 and 42 to 49 and Schedule 13 ; and Part III,do not extend to Scotland.
- (6) This Act, except section 15(1) and Schedule 10 and, so far as regards any enactment mentioned in Schedule 17 that so extends, section 73 and that Schedule, does not extend to Northern Ireland.