

# COUNTRYSIDE AND RIGHTS OF WAY ACT 2000

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## EXPLANATORY NOTES

### INTRODUCTION

#### Part IV: Areas of Outstanding Natural Beauty

##### Summary

251. Part IV of the Act introduces provisions to allow the better management and protection of Areas of Outstanding Natural Beauty (AONBs). It provides for the creation of conservation boards for individual AONBs by means of an establishment order made by the Secretary of State in England, or by the National Assembly in Wales. It requires the preparation and publication of a management plan for every AONB by the appropriate local authorities, or by an AONB conservation board where one is established. It places a duty on 'relevant authorities' when exercising or performing any functions in relation to, or so as to affect, land in an AONB, to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. It also consolidates the provisions on AONBs previously contained in the National Parks and Access to the Countryside Act 1949 ("the 1949 Act").

##### Background

252. The 1949 Act gave the then National Parks Commission (now the Countryside Agency in England, the Countryside Council for Wales in Wales) the power to designate AONBs, subject to confirmation of a designation order by the Secretary of State (now the National Assembly, in Wales). The only criteria were that the areas designated should be outside National Parks, and should appear to the designating agency to be of such outstanding natural beauty that the provisions of the 1949 Act should apply to them. Thirty seven AONBs were designated in England between 1957 and 1995, and five in Wales between 1956 and 1985 (the Wye Valley AONB straddles the border and is included in both totals).
253. The 1949 Act gave local planning authorities whose area includes all or part of an AONB the power (subject to certain restrictions) to take all such action as appears to them expedient to accomplish the purpose of conserving and enhancing the natural beauty of the AONB. AONBs have been accorded a high degree of protection in the planning system. But no statutory duties were placed on local authorities to manage AONBs in a particular way.
254. Although many local authorities, supported by the countryside agencies, have made considerable progress in the sympathetic management of AONBs, standards of management have varied. Following a number of earlier reports and extensive consultation, the then Countryside Commission (now the Countryside Agency) in 1998 produced a report entitled 'Protecting our Finest Countryside: Advice to Government' (CCP 532). It contained a number of proposals for ensuring that AONBs were better and more consistently managed. Some of the proposals were taken up by Lord Renton of Mount Harry in a private member's bill introduced in the House of Lords in 1999, but which failed to become law.

255. There was considerable support for the addition to the Bill of provisions relating to Areas of Outstanding Natural Beauty and the Government included provisions during the passage of the Bill.

### **Commentary on sections**

#### ***Sections 82 - 91, Schedules 13 and 14***

256. *Sections 82-84* generally re-enact sections 87 and 88 of the 1949 Act.
257. *Section 82(1)* states explicitly that the purpose of designating AONBs is conserving and enhancing the natural beauty of the area. The 1949 Act had referred to the original version of this purpose ('preserving and enhancing', which was changed to 'conserving and enhancing' by the Environment Act 1995) only by reference (1949 section 11 as applied in respect of AONBs by 1949 section 88) to the powers of local planning authorities.
258. *Section 85* places a duty on any relevant authority, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. 'Relevant authority' is defined as any Minister of the Crown, any public body, any statutory undertaker or any person holding public office. The section is modelled on provisions in section 11A of the 1949 Act, inserted by section 62(1) of the Environment Act 1995, relating to the duties of similar bodies towards National Park purposes. The requirement to have regard to conserving and enhancing natural beauty will not override particular considerations which have to be taken into account by relevant authorities in carrying out any function.
259. *Section 86* enables the Secretary of State or National Assembly to establish conservation boards for individual AONBs by means of establishment orders. The Secretary of State or NAW must consult the Agency or Council and any affected local authorities before proceeding. A majority of the consulted local authorities must consent before an order may be made establishing a conservation board. Powers may be transferred from local authorities to the conservation board or, where appropriate, may be shared between the two. The powers of individual conservation boards will be specified in their particular Establishment Orders. The transfer or sharing of the principal development plan and development control functions contained in Parts II, III, VII and XIII of the Town and Country Planning Act 1990 is excluded.
260. *Schedule 13* is introduced by *section 86(2)* and relates to the constitution of conservation boards, including membership, election of chairman and deputy chairman and audit arrangements. Further provision can be made in individual establishment orders, as detailed in *section 86(5)*.
261. *Section 87* describes the general purposes and powers of conservation boards. In the exercise of its functions a conservation board is to have regard to two purposes, ie (a) to conserve and enhance the natural beauty of the AONB and (b) to increase public understanding and enjoyment of the special qualities of the AONB. If there is conflict between the two then greater weight is attached to (a) (under the Sandford principle which already operates in the National Parks). In having regard to its two purposes a conservation board will also have to seek to foster the economic and social well-being of local communities within the AONB, but without incurring significant expenditure in doing so. The boards would be expected to co-operate with others to fulfil this requirement, which is based on the similar provision applying to National Park Authorities.
262. *Schedule 14*, which is introduced by section 87(6), deals with the powers of conservation boards with regard to land and charges.
263. *Section 88* lays down the procedure for making orders under section 86, and makes provision for their content. It specifies that orders establishing AONB conservation

boards in England should be subject to the affirmative resolution procedure; this takes into account the relatively wide scope left open to such orders by the Act.

264. *Section 89* requires a management plan to be prepared and published for each AONB. Where a conservation board has been established, responsibility for the management plan will rest with the board. Elsewhere, management plans will be the responsibility of the local authority containing the AONB; where there is more than one such local authority, they should act jointly. The clause also sets out the requirements for reviewing management plans.
265. Where a conservation board is set up, it must publish an AONB management plan within two years. For AONBs without a conservation board, the local authority must publish a plan within three years of this legislation coming into force (or date of designation in the case of any new AONB) although this ceases to apply if an AONB conservation board is set up within that period.
266. Management plans are to set out the managing body's (local authority or conservation board) policy for the management of the AONB and the carrying out of their functions in relation to it. This formula follows the provision in the Environment Act 1995 which requires National Park Authorities to prepare management plans on a similar basis. The Countryside Agency is preparing guidelines for the content of plans, in consultation with AONB managers and DETR.
267. Many AONBs already have in place a non-statutory management plan. Such plans, if prepared by a local authority or joint committee, can be reviewed and adopted as the statutory plan by either a conservation board or a local authority, and published within the same timescale as above. Where a local authority has published a statutory plan, a conservation board set up subsequently may adopt the plan within six months of the board's establishment.
268. Once adopted and published, management plans are to be reviewed at intervals not exceeding five years. The exception is where a conservation board has adopted a local authority statutory plan, in which case the first review must be within 3 years.
269. *Section 91* allows the Secretary of State and National Assembly to make grants to conservation boards. Before determining the amount to be paid, the Secretary of State must consult the Agency and the National Assembly must consult the Council.
270. The existence of this provision does not prevent grants going directly to conservation boards from the Agency or Council.