

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Final Provisions

Section 102: Crown land

233. This section provides that “the appropriate authority” (as defined by *subsection (4)*) may enter into section 7 management agreements in relation to the Crown’s interests in Crown land. “Crown land” is defined widely to include land in which Her Majesty in right of the Crown, either of the Duchies of Lancaster and Cornwall, or a government department holds an interest. “The appropriate authorities” are variously (depending on the type of land involved) the Crown Estate Commissioners, the Chancellor of the Duchy of Lancaster, the appointee of the Duke of Cornwall (or of any other possessor of the Duchy), or the government department that owns, manages or has the benefit of the land.

Section 103: Wales

234. This section ensures that the amendments made by the Act to the Wildlife and Countryside Act 1981 are governed by National Assembly for Wales (Transfer of Functions) Order 1999, thus ensuring that certain functions under the amendments are devolved to Wales.

Section 104: Power to make further provision

235. This section gives the Secretary of State power to give effect to the Act by making supplementary, incidental, consequential, transitory, transitional or saving provisions by order. Secondary legislation will need to be amended under this power to reflect the fact that Natural England is taking over the roles (for example as statutory consultee) of English Nature and the Countryside Agency. Orders under this section containing provisions that amend primary legislation require the approval of both Houses of Parliament. The negative procedure (annulment) applies to a statutory instrument containing any other order under this section.

Section 105: Minor and consequential amendments etc.

236. This introduces Schedules 11 (minor and consequential amendments) and 12 (repeals and revocations).
237. **Paragraph 97** of Schedule 11 introduces a new section 71(2) into the Wildlife and Countryside Act 1981 to clarify the meaning of “plants” in that Act. The drafting of the 1981 Act, which includes certain fungi species in Schedule 8 to that Act (which is about protected plants), assumes that fungi are plants. Similarly, the drafting of the 1981 Act, which includes algae in Part 2 of Schedule 9 to that Act (plants to which section 14

*These notes refer to the Natural Environment and Rural Communities
Act 2006 (c.16) which received Royal Assent on 30 March 2006*

applies), also assumes that algae are plants. But from the standard scientific point of view fungi and algae are not regarded as plants. Paragraph 97 is intended to make clear that for the purposes of the 1981 Act fungi and algae species are regarded as “plants”.

Section 108: Extent

238. Most of the Act extends to England and Wales only. However, under Part 2 the Joint Nature Conservation Committee is a body that has a UK remit. The Inland Waterways Advisory Council’s functions extend to Scotland and therefore Part 7 extends to Scotland. Chapter 2 of Part 8, which deals with the agricultural levy boards, has UK-wide extent. Chapter 3 of that same Part (dealing with financial assistance) extends to Northern Ireland as well as England and Wales. Various sections in Parts 9 (miscellaneous) and 10 (final provisions) and Schedules 11 (minor and consequential amendments) and 12 (repeals and revocations) extend to Scotland and/or Northern Ireland.