



# National Parks and Access to the Countryside Act 1949

1949 CHAPTER 97 12 13 and 14 Geo 6

An Act to make provision for National Parks and the establishment of a National Parks Commission; to confer on the Nature Conservancy and local authorities powers for the establishment and maintenance of nature reserves; to make further provision for the recording, creation, maintenance and improvement of public paths and for securing access to open country, and to amend the law relating to rights of way; to confer further powers for preserving and enhancing natural beauty; and for matters connected with the purposes aforesaid. [16th December 1949]

## Modifications etc. (not altering text)

- C1** Act amended by [Countryside Act 1968](#) (c. 41), **s. 38**; extended by [Post Office Act 1969](#) (c. 48, SIF 96), **Sch. 4 para. 93(1)(x)**, and [Civil Aviation Act 1982](#) (c. 16, SIF 9), s. 19(2), **Sch. 2 para. 4**
- C2** References to local planning authority to be construed in accordance with [Local Government Act 1972](#) (c. 70, SIF 81:1), **s. 184(1)-(5)**
- C3** Act extended by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(vii), **Sch. 8 para. 33**
- C4** Act extended (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 1(2)(iv), Sch. 26 para. 3(1)(2), 17, 40(4), 57(6), **58**
- C5** Act extended (E.W.S.) by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(vii), Sch. 17 paras. 33, **35(1)**
- C6** The definition of "waterway" in this Act is applied (E.W.) (1.12.1991) by [Water Industry Act 1991](#) (c. 56, SIF 130), **ss. 157(6), 223(2)**  
The definition of "waterway" in this Act is applied (E.W.) (1.12.1991) by [Water Resources Act 1991](#) (c. 57, SIF 130), ss. 210(1), 225(2), **Sch. 25 para. 3(4)**
- C7** Act: functions transferred (E.W.) (19.9.1995) by 1995 c. 25, **ss. 68(2)(a)(8), 125(2)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)  
Act: transfer of certain functions (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C8** Act modified (E.W.) (19.9.1996) by 1995 c. 25, **ss. 68(2)(b)(c), 125(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C9** Act extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(v)**; S.I. 1996/218, **art. 2**
- C10** Act amended (1.4.1996) by S.I. 1996/593, **reg. 2, Sch. 1**  
Act modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1(1)(2)(c)** (with s. 106)

*Status: Point in time view as at 01/04/1997.*

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**Commencement Information**

**II** Act wholly in force at Royal Assent

**PART I**

THE NATIONAL PARKS COMMISSION

**[<sup>F1</sup>1 The Countryside Commission and the Countryside Council for Wales.**

- (1) There shall be a Countryside Commission which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and the Countryside Council for Wales (established by section 128 of the Environmental Protection Act 1990) shall exercise corresponding functions in relation to Wales for the corresponding purposes specified in section 130(2) of the Environmental Protection Act 1990.
- (2) The purposes for which the functions of the Commission are exercisable are—
  - (a) the preservation and enhancement of natural beauty in England, both in the areas designated under this Act as National Parks or as areas of outstanding natural beauty and elsewhere;
  - (b) encouraging the provision or improvement, for persons resorting to National Parks, of facilities for the enjoyment thereof and for the enjoyment of the opportunities for open-air recreation and the study of nature afforded thereby.]

**Textual Amendments**

**F1** S. 1 headed “The Countryside Commission and the Countryside Council for Wales.” substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), **Sch. 8 para. 1(2)**; [S.I. 1991/685](#), **art. 3**

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..... <sup>F2</sup>

**Textual Amendments**

**F2** Ss. 2, 4 repealed and superseded by [Wildlife and Countryside Act 1981 \(c. 169, SIF 4:5\)](#), s. 47, **Sch. 17 Pt. II**

**3 Power of Minister to give directions to Commission.**

- (1) The Minister may give to the Commission [<sup>F3</sup>or to the Council] such directions of a general character as appear to him expedient in relation to the exercise of their functions, and the Commission [<sup>F3</sup>or Council] shall comply with directions given under this section.
- (2) As soon as may be after giving a direction under this section the Minister shall, unless in his opinion it is against the interests of national security so to do, cause a notice setting out the direction to be published in such manner as appears to him to be requisite for informing persons and bodies of persons concerned.

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#### Textual Amendments

**F3** Words in s. 3(1) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), [Sch. 8 para. 1\(3\)](#); S.I. 1991/685, [art.3](#)

#### Modifications etc. (not altering text)

**C11** Functions of Minister under this section, except functions of giving directions (a) not relating to Wales (not transferred) and (b) functions relating to Wales only (exercisable by secretary of State), now exercisable jointly with Secretary of State: [S.I. 1967/486](#), [art. 2\(3\)\(4\)](#)

4 ..... <sup>F4</sup>

#### Textual Amendments

**F4** [Ss. 2, 4](#) repealed and superseded by [Wildlife and Countryside Act 1981 \(c. 169, SIF 4:5\)](#), s. 47, [Sch. 17 Pt. II](#)

## PART II

### NATIONAL PARKS

#### [<sup>F5</sup>4A Application of Part II of this Act in Wales.

- (1) The provisions of this Part of this Act shall, subject to the next following subsection, apply to land in Wales as they apply to land in England.
- (2) Where a provision of this Part of this Act confers a function on the Countryside Commission as respects England (or areas of any description in England), the Countryside Council for Wales shall have the corresponding function as respects Wales (or areas of a similar description in Wales).]

#### Textual Amendments

**F5** [S. 4A](#) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), [Sch. 8 para. 1\(4\)](#); S.I. 1991/685, [art.3](#)

#### 5 National Parks.

- [<sup>F6</sup>(1) The provisions of this Part of this Act shall have effect for the purpose—
- (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and
  - (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.]
- (2) The said areas are those extensive tracts of country in England <sup>F7</sup> . . . as to which it appears to the Commission that by reason of—
- (a) their natural beauty, and

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- (b) the opportunities they afford for open-air recreation, having regard both to their character and to their position in relation to centres of population, it is especially desirable that the necessary measures shall be taken for the purposes mentioned in the last foregoing subsection.
- (3) The said areas, as for the time being designated by order made by the Commission and submitted to and confirmed by the Minister, shall be as known as, and are hereinafter referred to as, National Parks.

#### Textual Amendments

- F6** S. 5(1) substituted (19.9.1995) by 1995 c. 25, ss. 61(1)(2), 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- F7** Words in s. 5(2) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 1(5); S.I. 1991/685, art. 3

## 6 General duties of Commission in relation to National Parks.

- (1) It shall be the duty of the Commission as soon as may be after the commencement of this Act, and thereafter from time to time, to consider what areas there are in England <sup>F8</sup> . . . falling within subsection (2) of the last foregoing section, to determine in what order they should be designated under subsection (3) of that section, and to proceed with their designation at such times as the Commission may determine.
- (2) The power of the Minister to give directions under section three of this Act shall extend to the giving of directions as to the order and time of designation of the said areas, notwithstanding that the directions may be of a specific character.
- (3) As respects areas designated as National Parks, it shall be the duty of the Commission—
- (a) to consider, generally and in relation to particular National Parks, in what way action needs to be taken under this Act and [<sup>F9</sup>the <sup>M1</sup>Town and Country Planning Act 1971] for the purposes specified in subsection (1) of the last foregoing section, and to make such recommendations with respect thereto to the Minister and to [<sup>F10</sup>National Park authorities and]local authorities as may appear to the Commission to be necessary or expedient, and
  - (b) to keep under review the progress made from time to time in accomplishing the said purposes and to make to the Minister or, where the Commission deem it appropriate, to any other Minister or any [<sup>F10</sup>National Park authority]local authority or other persons, such representations as appear to the Commission to be necessary or expedient as to any matter affecting the accomplishment of those purposes.
- (4) Without prejudice to the generality of the last foregoing subsection, it shall be the duty of the Commission, subject to and in accordance with the following provisions of this Act in that behalf—
- (a) as respects any area designated as a National Park, to give advice to the appropriate planning authorities as to the arrangements to be made for administering the area as a National Park;
  - (b) . . . . . <sup>F11</sup>
  - (c) to assist such authorities in formulating proposals as to the exercise by such authorities of their powers under this Act for securing the provision of

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accommodation, access for open-air recreation and other facilities for persons visiting National Parks and otherwise as to the exercise of their powers under this Act as respects National Parks, and to consult with such authorities with respect to the recommendations to be made by the Commission as to the payment of grants by the Minister under this Act;

- (d) .....<sup>F12</sup>
- (e) to give advice where any Minister consults the Commission as to proposals for development of land in a National Park, or the appropriate planning authority consult them (whether in compliance with a requirement imposed under this Act or [<sup>F9</sup>the <sup>M2</sup>Town and Country Planning Act 1971] or otherwise) in connection with the preparation or amendment of a development plan or in connection with an application for permission to develop any such land;
- (f) to make recommendations to the Minister and, where the Commission deem it appropriate, to other Ministers as to any proposals for the development of land in a National Park, being proposals for development in a way which appears to the Commission to be inconsistent with the maintenance of the area as a Park;
- (g) to notify to the Minister, or where the Commission deem it appropriate to other Ministers, the general nature of the action which will in the opinion of the Commission need to be taken as respects land in a National Park for any of the purposes specified in subsection (1) of the last foregoing section, in cases where it appears to the Commission that the Minister in question should be informed thereof before considering future proposals for the development of the land for other purposes; and
- (h) if in any case the Commission are not satisfied that effect will be given to their recommendations or advice as to any matter mentioned in the foregoing paragraphs of this subsection, to refer the matter to the Minister and to advise the Minister as to the exercise of any powers of direction or enforcement (including powers of making orders) conferred on him by this Act or [<sup>F9</sup>the <sup>M3</sup>Town and Country Planning Act 1971].
- (5) Nothing in this section shall be construed as modifying the effect of any provision of this Act whereby any specific power or duty is conferred or imposed on the Commission or whereby an obligation is imposed on any other person to consult with the Commission.
- (6) In this section the expression “appropriate planning authority” means [<sup>F13</sup>a National Park authority]. . . and includes a local authority, not being a local planning authority, by whom any powers of a local planning authority as respects a National Park are exercisable, whether under the following provisions of this Act in that behalf or otherwise; and references in this section to a Minister include references to any Board in charge of a Government department.

#### Textual Amendments

- F8** Words in s. 6(1) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(5)**; S.I. 1991/685, **art. 3**
- F9** Words substituted by virtue of Town and Country Planning Act 1971 (c. 78, SIF 123:1), **Sch. 24 para. 2**
- F10** Words in s. 6(3)(a)(b) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(1)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**
- F11** S. 6(4)(b) repealed by Countryside Act 1968 (c. 41, SIF 46:1), **Sch. 5**
- F12** S. 6(4)(d) repealed by Countryside Act 1968 (c. 41, SIF 46:1), **Sch. 5**

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**F13** Words in s. 6(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(1)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

**Marginal Citations**

- M1** 1971 c. 78.(123:1).
- M2** 1971 c. 78.(123:1).
- M3** 1971 c. 78.(123:1).

**7 Designation and variation of National Parks.**

- (1) Before making an order designating a National Park the Commission shall consult with every joint planning board, county council, county borough council and [<sup>F14</sup>district council] whose area includes any land in the area to be designated a Park.
- (2) Any such order shall describe the area to be designated a Park by reference to a map and such other descriptive matter as may appear to the Commission to be requisite.
- (3) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of any order designating a National Park.
- (4) The Minister may by order made after consultation with the Commission vary an order designating a National Park.
- (5) Before making an order under the last foregoing subsection the Minister shall consult with [<sup>F15</sup>any National Park authority for the Park in question and with] every such board and council as aforesaid whose area, or any part of whose area, is comprised in the National Park, whether as existing or as proposed to be varied; and the provisions in that behalf of the First Schedule to this Act shall apply to any order under the last foregoing subsection.
- (6) It shall be the duty of the Commission to secure that copies of any order such as is mentioned in this section shall be available, at the office of the Commission, at the offices of each joint planning board and local authority specified in subsection (1) or subsection (5) of this section, as the case may be [<sup>F16</sup>at the offices (where the order is for the variation of an order designating a Park) of any National Park authority for the Park in question], and at such other place or places in or near the Park in question as the Commission may determine, for inspection by the public at all reasonable times.

**Textual Amendments**

- F14** Words substituted by virtue of **Local Government Act 1972 (c. 70, SIF 81:1), s. 179(3)**
- F15** Words in s. 7(5) inserted (1.4.1996) by 1995 c. 25, s. 78, **Sch. 10 para. 2(2)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 3**
- F16** Words in s. 7(6) inserted (1.4.1996) by 1995 c. 25, s. 78, **Sch. 10 para. 2(2)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 3**

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**Textual Amendments**

**F17** S. 8 repealed and superseded by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 184(6), [Sch. 17 Pt. I, Sch. 30](#)

**9 Development plans relating to National Parks.**

- (1) In preparing a development plan, or proposals for any alterations of or additions to a development plan, for any area being or including the whole or any part of a National Park, [<sup>F18</sup>the authority or authorities who are required to prepare the plan or, as the case may be, who are entitled to alter or add to it] shall consult with the Commission and take into consideration any observations made by the Commission.
- (2) Provision may be made by regulations under [<sup>F19</sup>the <sup>M4</sup>Town and Country Planning Act 1971] for enabling proceedings preliminary to the confirmation of orders designating a National Park and to the making of orders varying such orders to be taken concurrently with proceedings required under that Act to be taken in connection with the submission, making or amendment of development plans.

**Textual Amendments**

**F18** Words in s. 9(1) substituted (23.11.1996) by [1995 c. 25, s. 78, Sch. 10 para. 2\(3\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); [S.I. 1995/2950, art. 2](#)

**F19** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78, SIF 123:1\)](#), [Sch. 24 para. 2](#)

**Marginal Citations**

**M4** [1971 c. 78.\(123:1\)](#)

**10** ..... <sup>F20</sup>

**Textual Amendments**

**F20** S. 10 repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 30](#)

<sup>F21</sup>**11** .....

**Textual Amendments**

**F21** S. 11 repealed (1.4.1997) by [1995 c. 25, s. 120\(3\)](#), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/2560, art. 2, Sch.](#)

[<sup>F22</sup>**11A Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated.**

- (1) A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic



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and social well-being of local communities within the National Park, but without incurring significant expenditure in doing so, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.

- (2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.
- (3) For the purposes of this section “relevant authority” means—
- (a) any Minister of the Crown,
  - (b) any public body,
  - (c) any statutory undertaker, or
  - (d) any person holding public office.
- (4) In subsection (3) of this section—
- “public body” includes—
- (a) any local authority, joint board or joint committee;
  - (b) any National Park authority;
- “public office” means—
- (a) an office under Her Majesty;
  - (b) an office created or continued in existence by a public general Act of Parliament; or
  - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.
- (5) In subsection (4) of this section, “joint board” and “joint committee” mean—
- (a) a joint or special planning board for a National Park reconstituted by order under paragraph 1 or 3 of Schedule 17 to the <sup>M5</sup>Local Government Act 1972, or a joint planning board within the meaning of section 2 of the <sup>M6</sup>Town and Country Planning Act 1990;
  - (b) a joint committee appointed under section 102(1)(b) of the <sup>M7</sup>Local Government Act 1972.
- (6) In this section, “local authority”—
- (a) in relation to England, means a county council, district council or parish council;
  - (b) in relation to Wales, means a county council, county borough council, <sup>F23</sup>. . . or community council.]

#### Textual Amendments

**F22** S. 11A added (19.9.1995) by 1995 c. 25, ss. 62, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**F23** Words in s. 11A(6)(b) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, Sch.

#### Marginal Citations

**M5** 1972 c. 70.

**M6** 1990 c. 8.



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M7 1972 c. 70.

## 12 Provision of accommodation, meals, refreshments, camping sites and parking places.

- (1) A local planning authority whose area consists of or includes the whole or any part of a National Park may make arrangements for securing the [<sup>F24</sup>provision for] their area (whether by the authority or by other persons)—
- (a) of accommodation, meals and refreshments (including intoxicating liquor);
  - (b) or camping sites; and
  - (c) of parking places and means of access thereto and egress therefrom,
- and may for the purposes of such arrangements erect such buildings and carry out such work as may appear to them to be necessary or expedient:

Provided that a local planning authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

<sup>F25</sup>(2) . . . . .

- (3) The foregoing provisions of this section shall not authorise an authority, on land in which any other person has an interest, without his consent to do anything which apart from this section would be actionable at his suit by virtue of that interest.
- (4) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

### Textual Amendments

- F24** Words in s. 12(1) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**
- F25** S. 12(2) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2, Sch.**

### Modifications etc. (not altering text)

- C12** S. 12(1) extended by **Countryside Act 1968** (c. 41, SIF 46:1), **s. 12(1)(2)**  
S. 12 extended (19.9.1995) by 1995 c. 25, **ss. 68(4), 125(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

## 13 Improvement of waterways for purposes of open-air recreation.

- (1) A local planning authority whose area consists of or includes the whole or any part of a National Park may, as respects any waterway in the Park <sup>F26</sup>. . . , carry out such work and do such other things as may appear to them necessary or expedient for facilitating the use of the waterway by the public for sailing, boating, bathing [<sup>F27</sup>or fishing or other forms of recreation]:

Provided that a local planning authority shall not under this section provide facilities of any description except in cases where it appears to them that the facilities of that description are inadequate or unsatisfactory.

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- (2) A local planning authority may, as respects any waterway in their area, enter into an agreement, on such terms as to payment or otherwise as may be specified in the agreement, with any other authority on whom powers of carrying out work are conferred in relation to the waterway by or under any enactment, for the exercise by the said other authority of any power of doing work conferred on the local planning authority by the last foregoing subsection.
- (3) Where an agreement is made under the last foregoing subsection for the exercise of any power by any such authority, other than a local planning authority, as is therein mentioned, no limitation imposed by law on the capacity of that authority by virtue of the constitution thereof shall operate so as to prevent the authority from exercising that power.
- (4) Where it appears to the Minister, as respects a waterway in the area of a local planning authority, that any power of doing work conferred on the authority by subsection (1) of this section should be exercised by any such other authority as is mentioned in subsection (2) of this section, and the local planning authority have not entered into an agreement with the said other authority under the said subsection (2), the Minister may direct that the said power shall be exercisable by the said other authority:

Provided that no direction shall be given under this subsection except after consultation with the local planning authority and the said other authority.

- (5) Before exercising any power conferred by or under this section an authority shall consult with such other authorities, being authorities which under any enactment have functions relating to the waterway in question, as the Minister may either generally or in any particular case direct.
- (6) Where any authority consulted under the last foregoing subsection objects to a proposed exercise of powers under this section, and the objection is not withdrawn, the proposal shall not be proceeded with unless on an application in that behalf specifying the proposal and the objection the Minister so directs, and subject to any conditions or modifications specified in the direction; and before giving a direction under this subsection the Minister shall afford to each of the authorities an opportunity of being heard by a person appointed by him for the purpose, and shall consider that person's report.
- (7) The foregoing provisions of this section shall not authorise an authority to do anything on land, or as respects water over land, in which any other person has an interest, if apart from this section the doing thereof would be actionable at his suit by virtue of that interest and he does not consent to the doing thereof:

Provided that this subsection shall not apply in the case of land to which, or to water over which, the public have access by virtue of an access order under Part V of this Act, but the exercise of any power under the foregoing provisions of this section as respects such land shall be subject to the provisions in that behalf of the said Part V.

- (8) A local planning authority may acquire land compulsorily for the purpose of enabling any power conferred by or under this section to be exercised.

#### Textual Amendments

**F26** Words in s. 13(1) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

**F27** Words substituted by Countryside Act 1968 (c. 41, SIF 46:1), s. 12(6)

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**Modifications etc. (not altering text)**

**C13** S. 13(1) extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 12(6)

**C14** S. 13(2)-(4) extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 12(7)

**14 Acquisition by Minister of land in National Parks.**

- (1) Where, as respects any land in a National Park, the Minister is satisfied that it is expedient so to do, he may with the consent of the Treasury acquire the land by agreement, whether by way of purchase, lease or exchange.
- (2) Unless in any particular case the Minister otherwise determines, any land acquired by the Minister under this section shall be transferred to such other persons on such trusts or subject to such conditions as may appear to him expedient for securing that the land will be managed in a suitable manner for accomplishing the purposes specified in subsection (1) of section five of this Act.
- (3) Subject to the provisions of the last foregoing subsection, the transfer of land under that subsection may be on such terms as to payment or otherwise as may, with the consent of the Treasury, be provided for by the arrangements for the transfer; and where the arrangements so provide the Minister may defray or contribute to the cost of managing the land while it is managed in accordance with the trusts or conditions referred to in the last foregoing subsection.
- (4) The Minister may defray the cost of managing any land acquired by him under this section and not transferred to other persons.

**PART III**

NATURE CONSERVATION

**Modifications etc. (not altering text)**

**C15** Pt. III extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 15(7)

**15 Meaning of “nature reserve.”**

In this Part of this Act the expression “nature reserve” means land managed for the purpose—

- (a) of providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or
  - (b) of preserving flora, fauna or geological or physiographical features of special interest in the area,
- or for both those purposes.

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#### Modifications etc. (not altering text)

- C16** In s. 15 definition of "nature reserves" applied (S.) (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991](#) (c. 28, SIF 46:1), [s. 4\(7\)](#); S.I. 1991/2633, [art.4](#)

### [<sup>F28</sup>15A Meaning of “Nature Conservancy Council”.

In this Part of this Act references to “the Nature Conservancy Council” are references—

- (a) in relation to land in England, to the Nature Conservancy Council for England;
- (b) in relation to land in Scotland, to [<sup>F29</sup>Scottish Natural Heritage] for Scotland; and
- (c) in relation to land in Wales, to the Countryside Council for Wales.]

#### Textual Amendments

- F28** S. 15A inserted (1.4.1991) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), [s. 132\(1\)\(a\)](#), [Sch. 9 para. 1\(2\)](#); S.I. 1991/685, [art. 3](#)
- F29** Words in s. 15A(b) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991](#) (c. 28, SIF 46:1), [s. 4\(6\)](#), [Sch. 2 para. 1\(2\)](#); S.I. 1991/2633, [art.4](#)

## 16 Agreements with Nature Conservancy for establishment of nature reserves.

- (1) [<sup>F30</sup>The Nature Conservancy Council] may enter into an agreement with every owner, lessee and occupier of any land, being land as to which it appears to [<sup>F30</sup>the Council] expedient in the national interest that it should be managed as a nature reserve, for securing that it shall be so managed.
- (2) Any such agreement may impose such restrictions as may be expedient for the purposes of the agreement on the exercise of rights over the land by the persons who can be bound by the agreement.
- (3) Any such agreement—
  - (a) may provide for the management of the land in such manner, the carrying out thereon of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement;
  - (b) may provide for any of the matters mentioned in the last foregoing paragraph being carried out, or for the cost thereof being defrayed, either by the said owner or other persons, or by [<sup>F30</sup>the Council] or partly in one way and partly in another;
  - (c) may contain such other provisions as to the making of payments by [<sup>F30</sup>the Council] and in particular for the payment by them of compensation for the effect of the restrictions mentioned in the last foregoing subsection, as may be specified in the agreement.
- (4) Section two of the <sup>M8</sup>Forestry Act 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to any such agreement; and where section seventy-nine of the <sup>M9</sup>Law of Property Act 1925 (which provides that unless a contrary intention is expressed the burden of a covenant runs with the land) applies, subsections (2) and (3) of section one of the said Act of 1947

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(which provide for enforcement against persons other than the covenantor) shall apply to any such restrictions as are mentioned in subsection (2) of this section, but with the substitution for references to the Forestry Commissioners of references to <sup>F30</sup>the Nature Conservancy Council].

(5) The following provisions shall have effect in the application of this section to Scotland:

- (a) a limited owner of land shall have power to enter into agreements under this section relating to the land;
- (b) the <sup>M10</sup>Trusts (Scotland) Act 1921, shall have effect as if among the powers conferred on trustees by section four thereof (which relates to the general powers of trustees) there were included a power to enter into agreements under this section relating to the trust estate or any part thereof;
- (c) subsection (2) of section three of the <sup>M11</sup>Forestry Act 1947, shall apply to an agreement under this section to which an owner or limited owner of land or a trustee acting under the last foregoing paragraph is a party as it applies to a forestry dedication agreement, with the substitution for the reference to the Forestry Commissioners of a reference to <sup>F31</sup>Scottish Natural Heritage].
- (d) the expression “owner” includes any person empowered under this subsection to enter into agreements relating to land;
- (e) subsection (4) shall not apply.

#### Textual Amendments

**F30** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), [Sch. 1 para. 1](#)

**F31** Words in s. 16(5)(c) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(6), [Sch. 2 para. 1\(3\)](#); S.I. 1991/2633, [art.4](#)

#### Modifications etc. (not altering text)

**C17** S. 16 amended (30.1.2001) by [1981 c. 69, s. 28J\(13\)](#) (as substituted (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#))

#### Marginal Citations

**M8** 1947 c. 21.

**M9** 1925 c. 20.

**M10** 1921 c. 58.

**M11** 1947 c. 21.

## 17 Compulsory acquisition of land by Conservancy for establishment of nature reserves.

- (1) Subject to the provisions of the next following subsection, where <sup>F32</sup>the Nature Conservancy Council] are satisfied as respects any land that it is expedient in the national interest that it should be managed as a nature reserve, they may acquire the land compulsorily.
- (2) <sup>F32</sup>The Nature Conservancy Council] shall not acquire any interest in land under the last foregoing subsection unless they are satisfied that they are unable, as respects that interest, to conclude on terms appearing to them reasonable an agreement under the last foregoing section containing such provisions as in their opinion are required for securing that the land will be satisfactorily managed as a nature reserve.

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#### Textual Amendments

**F32** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), [Sch. 1 para. 1](#)

### 18 Compulsory acquisition of land by Conservancy for maintenance of nature reserves.

- (1) Where, as respects any interest in land, [<sup>F33</sup>the Nature Conservancy Council] have entered into an agreement under the last but one foregoing section and any breach of the agreement occurs which prevents or impairs the satisfactory management as a nature reserve of the land to which the agreement relates, then without prejudice to any other remedy [<sup>F33</sup>the Nature Conservancy Council] may acquire that interest compulsorily.
- (2) Such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by [<sup>F33</sup>the Nature Conservancy Council] requiring the remedying thereof.
- (3) Any dispute arising under this section whether there has been such a breach of an agreement as aforesaid shall be determined by an arbitrator appointed by the Lord Chancellor or, in the case of a dispute relating to land in Scotland, by an arbiter appointed by the Lord President of the Court of Session.
- (4) <sup>F34</sup> . . . , at any stage of the proceedings in any arbitration under the last foregoing subsection relating to land in Scotland the arbiter may, and shall if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in the arbitration.

#### Textual Amendments

**F33** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), [Sch. 1 para. 1](#)

**F34** Words in s. 18(4) repealed (31.1.1997) by 1996 c. 23, s. 107(2), [Sch. 4](#); S.I. 1996/3146, [art. 3](#)

### 19 Declarations that areas are nature reserves.

- (1) A declaration by [<sup>F35</sup>the Nature Conservancy Council] that any land is the subject of an agreement entered into with them under the foregoing provisions of this Part of this Act, or has been acquired and is held by [<sup>F35</sup>the Council], shall be sufficient evidence, unless the contrary is proved, that the land is subject to such an agreement or has been so acquired and is so held, as the case may be.
- (2) A declaration by [<sup>F35</sup>the Nature Conservancy Council] that any land which is subject to such an agreement as aforesaid, or is held by [<sup>F35</sup>the Nature Conservancy Council] is being managed as a nature reserve shall be conclusive of the matters declared.
- (3) It shall be the duty of [<sup>F35</sup>the Nature Conservancy Council], where any such declaration has been made and the agreement to which it relates ceases to be in force, or the land to which it relates ceases to be held by the [<sup>F35</sup>the Council] or to be managed as a nature reserve, as the case may be, to make a declaration of that fact; and any such declaration shall be conclusive of the matters declared.



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- (4) [<sup>F35</sup>The Nature Conservancy Council] shall publish notice of any declaration under this section in such manner as appears to them best suited for informing persons concerned.
- (5) A document purporting to be certified on behalf of [<sup>F35</sup>the Council] to be a true copy of any declaration under this section shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

#### Textual Amendments

**F35** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), **Sch. 1 para. 1**

#### Modifications etc. (not altering text)

**C18** S. 19(4)(5) extended by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), **s. 35(2)**

## 20 Byelaws for protection of nature reserves.

- (1) [<sup>F36</sup>The Nature Conservancy Council] may, as respects land which is being managed as a nature reserve under an agreement entered into with them or land held by them which is being managed as a nature reserve, make byelaws for the protection of the reserve:

Provided that byelaws under this section shall not have effect as respects any land in a reserve unless a declaration under the last foregoing section is in force declaring that the land is being managed as a nature reserve and notice of the declaration has been published in pursuance of that section.

- (2) Without prejudice to the generality of the last foregoing subsection, byelaws under this section—
  - (a) may provide for prohibiting or restricting the entry into, or movement within, nature reserves of persons, vehicles, boats and animals;
  - (b) may prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description in a nature reserve, the taking, destruction or disturbance of eggs of any such creature, the taking of, or interference with, vegetation of any description in a nature reserve, or the doing of anything therein which will interfere with the soil or damage any object in the reserve;
  - (c) may prohibit or restrict the shooting of birds or of birds of any description within such area surrounding or adjoining a nature reserve (whether the area be of land or of sea) as appears to [<sup>F36</sup>the Nature Conservancy Council] requisite for the protection of the reserve;
  - (d) may contain provisions prohibiting the depositing of rubbish and the leaving of litter in a nature reserve;
  - (e) may prohibit or restrict, or provide for prohibiting or restricting, the lighting of fires in a nature reserve, or the doing of anything likely to cause a fire in a nature reserve;
  - (f) 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 a nature reserve or the doing of anything therein which would otherwise be unlawful, whether under the byelaws or otherwise;
  - (g) may be made so as to relate either to the whole or to any part of the reserve or, in the case of byelaws made under paragraph (c) of this subsection, of any such surrounding or adjoining area as is mentioned in that paragraph, and may make different provisions for different parts thereof.



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Provided that byelaws under this section shall not interfere with the exercise by any person of a right vested in him as owner, lessee or occupier of land in a nature reserve, or in the case of such land in Scotland as limited owner thereof, or with the exercise of any public right of way or of any functions of statutory [<sup>F37</sup>undertakers, of a river board or other drainage authority][<sup>F37</sup>undertakers, or an internal drainage board] or a district board for a fishery district within the meaning of the <sup>M12</sup>Salmon Fisheries (Scotland) Act 1862, or of the Commissioners appointed under the <sup>M13</sup>Tweed Fisheries Act 1857. [<sup>F38</sup>or with the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system.]

- (3) Where the exercise of any right vested in a person, whether by reason of his being entitled to any interest in land or by virtue of a licence or agreement, is prevented or hindered by the coming into operation of byelaws under this section, he shall be entitled to receive from [<sup>F36</sup>the Nature Conservancy Council] compensation in respect thereof.

#### Textual Amendments

- F36** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), **Sch. 1 para. 1**
- F37** Words from “undertakers” to “board” substituted (E.W.) for words from “undertakers” to “drainage authority” by [Water Act 1989, \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 13(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- F38** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), **Sch. 4 para. 28(1)**

#### Modifications etc. (not altering text)

- C19** S. 20 amended by [British Telecommunications Act 1981 \(c. 38, SIF 96\)](#), s. 1(2), **Sch. 3 para. 10(2)(a) (6)**, s. 20(2)(3) extended by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), **s. 35(4)**
- C20** S. 20(2)(3) applied (30.1.2001) by 1981 c. 69, **s. 28R(2)** (as substituted (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1**)

#### Marginal Citations

- M12** 1862 c. 97.(52:2)
- M13** 1857 c. cxlviii.(52:2)

## 21 Establishment of nature reserves by local authorities.

- (1) The council of a county or county borough [<sup>F39</sup>or in Scotland [<sup>F40</sup>a [<sup>F41</sup>general or district] planning authority]] shall have power to provide, or secure the provision of, nature reserves on any land in their area (not being land held by, or managed in accordance with an agreement entered into with [<sup>F42</sup>the Nature Conservancy Council]) as to which it appears to the council expedient that it should be managed as a nature reserve.

- (2) ..... <sup>F43</sup>

- (4) The foregoing provisions of this Part of this Act shall apply to the provision of nature reserves by local authorities under this section with the substitution for references to [<sup>F42</sup>the Nature Conservancy Council] of references to the local authority and as if the references in subsection (1) of sections sixteen and seventeen respectively of this Act to the national interest included references to the interests of the locality.

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- (5) A local authority may, as respects any land which is being managed as a nature reserve by the authority, enter into an agreement with any drainage authority for the exercise by the drainage authority, on such terms as to payment or otherwise as may be specified in the agreement, of any power of doing work exercisable by the local authority under the foregoing provisions of this section.
- (6) A local authority shall exercise their functions under this Part of this Act in consultation with [<sup>F42</sup>the Nature Conservancy Council].
- (7) ..... <sup>F44</sup>

**Textual Amendments**

- F39** Words inserted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [Sch. 27 Pt. II para. 100](#)
- F40** Words substituted (S.) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [s. 10](#)
- F41** Words in s. 21(1) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), [Sch. 14](#); S.I. 1996/323, art. 4(1)(d), [Sch. 2](#)
- F42** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), [Sch. 1 para. 1](#)
- F43** S. 21(2)(3) repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 30](#)
- F44** S. 21(7) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

**Modifications etc. (not altering text)**

- C21** S. 21 amended (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 34](#)
- C22** S. 21 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 70, 125, [Sch. 9 para. 3](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))  
s. 21 extended (S.)(8.9.2000) by 2000 asp 10, s. 9, [Sch. 3 para. 2](#) (with s. 32); S.I. 2000/312, [art. 2](#)

**22 Power of drainage authorities to do work in nature reserves.**

Where [<sup>F45</sup>the Nature Conservancy Council], a local authority or any other person enter into an agreement with a drainage authority for the doing by that authority of any work on land managed as a nature reserve by, or under an agreement with, [<sup>F45</sup>the Council] or a local authority, no limitation imposed by law on the capacity of the drainage authority by virtue of the constitution thereof shall operate so as to prevent the drainage authority carrying out the agreement.

**Textual Amendments**

- F45** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), [Sch. 1 para. 1](#)

**Modifications etc. (not altering text)**

- C23** S. 22 amended (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 34](#)
- C24** S. 22 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), [Sch. 9 para. 3](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))  
s. 22 extended (S.)(8.9.2000) by 2000 asp 10, s. 9, [Sch. 3 para. 2](#) (with s. 32); S.I. 2000/312, [art. 2](#)

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**Textual Amendments**

**F46** S. 23 repealed and superseded by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), s. 28(13), **Sch. 17 Pt. I**

**24** ..... **F47**

**Textual Amendments**

**F47** S. 24 repealed by [Science and Technology Act 1965 \(c. 4, SIF 57\)](#), **Sch. 4**

**25** ..... **F48**

**Textual Amendments**

**F48** S. 25 repealed by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), **Sch. 4**

**26 Application of Part III to Scotland.**

In the application of this Part of this Act to Scotland the expressions “owner” and “limited owner” have the same meanings as in section three of the <sup>M14</sup>Forestry Act 1947.

**Marginal Citations**

**M14** 1947 c. 21.

**PART IV**

**PUBLIC RIGHTS OF WAY**

*Ascertainment of footpaths, bridleways and certain other highways*

**27–35** ..... **F49**

**Textual Amendments**

**F49** Ss. 27–35 repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), ss. 55(1), 73, **Sch. 17 Pt. II**

**36** ..... **F50**

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**Textual Amendments**

**F50** S. 36 repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **Sch. 30**

**37** ..... **F51**

**Textual Amendments**

**F51** S. 37 repealed by [Local Government Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#) Sch. 34 pt. III

**38** ..... **F52**

**Textual Amendments**

**F52** S. 38 repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), ss. 55(1), 73, **Sch. 17 Pt. II**

**39–50** ..... **F53**

**Textual Amendments**

**F53** Ss. 39–50, 56, 58 repealed by [Highways Act 1959 \(c. 25\)](#), **Sch. 25** and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), **Sch. 6 para. 70**

*Long-Distance Routes*

[<sup>F54</sup>**50A Application of Part IV of this Act in Wales.**

- (1) The provisions of this Part of this Act shall, subject to the next following subsection, apply to land in Wales as they apply to land in England.
- (2) Where a provision of this Part of this Act confers a function on the Countryside Commission as respects England (or land of any description in England), the Countryside Council for Wales shall have the corresponding function as respects Wales (or land of a similar description in Wales).]

**Textual Amendments**

**F54** S. 50A inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), **Sch. 8 para 1(6)**; S.I. 1991/865, **art. 3**

**51 General provisions as to long-distance routes.**

- (1) Where it appears to the Commission, as respects any part of England <sup>F55</sup> . . . , that the public should be enabled to make extensive journeys on foot or on horseback [<sup>F56</sup>or

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on a bicycle not being a motor vehicle] along a particular route, being a route which for the whole or the greater part of its length does not pass along roads mainly used by vehicles, the Commission may prepare and submit to the Minister a report under this section.

- (2) A report under this section shall contain a map showing the route, defining those parts thereof over which there exists a public right of way, and indicating in each case the nature of that right; and the report shall set out such proposals as the Commission may think fit—
- (a) for the maintenance or improvement of any public path or road used as a public path along which the route passes;
  - (b) for the provision and maintenance of such new public paths as may be required for enabling the public to journey along the route;
  - (c) for the provision and operation of ferries where they are needed for completing the route; and
  - (d) for the provision of accommodation, meals and refreshments along the route.
- (3) A report under this section may also include such recommendations as the Commission may think fit for the restriction of traffic on existing highways along which the route passes.
- (4) Before preparing a report under this section the Commission shall consult every [<sup>F57</sup>National Park authority,] joint planning board, county council, . . . <sup>F58</sup> and county district council through whose [<sup>F57</sup>Park or] area the route passes; and it shall be the duty of every such [<sup>F57</sup>authority,] board or council to furnish to the Commission such information as the Commission may reasonably require for the purposes of the report.
- (5) A report under this section shall contain an estimate, in such form as the Minister may require, of the capital outlay likely to be incurred in carrying out any such proposals contained therein as are mentioned in subsection (2) of this section, of the annual cost of maintaining any existing public paths or roads used as public paths along which the route passes and any new public paths provided for by the proposals, and of the annual expenditure likely to be incurred by local authorities [<sup>F59</sup>and National Park authorities] in connection with the provision and operation of ferries, and the provision of accommodation, meals and refreshments, so far as those matters are provided for by the proposals.

#### Textual Amendments

- F55** Words in s. 51(1) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(7)**; S.I. 1991/685, **art. 3**
- F56** Words inserted by Countryside Act 1968 (c. 41, SIF 46:1), **s. 21(2)**
- F57** Words in s. 51(4) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(5)(a)(b)(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**
- F58** Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
- F59** Words in s. 51(5) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(5)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

#### Modifications etc. (not altering text)

- C25** S. 51(2)(a)(5) extended by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **ss. 54(6)(7)**

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## 52 Approval of proposals relating to a long-distance route.

- (1) On the submission to the Minister of a report under the last foregoing section, the Minister shall consider any proposals contained in the report under subsection (2) of that section and may either approve the proposals, with or without modifications, or reject the proposals:

Provided that where the Minister does not propose to approve the proposals as set out in the report he shall, before coming to a determination as to what action to take under this subsection, consult with the Commission and such other authorities and persons as he may think fit.

- (2) As soon as may be after the Minister determines under the last foregoing subsection either to approve any proposals, with or without modifications, or to reject them, he shall notify his determination to the Commission and to every [F60National Park authority] joint planning board, county council, . . . F61 and county district council whose [F60Park or] area is traversed by the route to which the report relates.
- (3) Proposals approved by the Minister under subsection (1) of this section, either as originally set out in the report or as modified by the Minister, are hereinafter referred to as “approved proposals relating to a long-distance route.”

### Textual Amendments

**F60** Words in s. 52(2) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(6)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

**F61** Words repealed by **Local Government Act 1972** (c. 70, SIF 81:1), **Sch. 30**

## 53 Ferries for purposes of long-distance routes.

- (1) Where approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, the authority who are the highway authority for either or both of the highways to be connected by the ferry—
- (a) shall have power to provide and operate the ferry and to carry out such work and do all such things as appear to them expedient for the purpose of operating the ferry;
- (b) may . . . F62 agree with any person or body of persons for the provision and operation of the ferry by him or them and for the making by the highway authority of such contributions as may be specified in the agreement:

Provided that nothing in this subsection shall—

- (i) be construed as conferring on such an authority any exclusive right to operate a ferry;
- (ii) authorise the doing of anything which apart from this subsection would be actionable by any person by virtue of his having an exclusive right to operate a ferry, unless he consents to the doing thereof;
- (iii) authorise the doing of anything on land, or as respects water over land, in which any other person has an interest, if apart from this subsection the doing thereof would be actionable at his suit by virtue of that interest and he does not consent to the doing thereof;

and before carrying out any work in the exercise of powers conferred by this subsection, being work on the bank or bed of any waterway, the highway authority

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shall consult with such authorities having functions relating to the waterway as the Minister may either generally or in any particular case direct.

- (2) A highway authority may acquire land compulsorily for the purpose of any of their functions under paragraph (a) of the last foregoing subsection.
- (3) . . . . . F63

**Textual Amendments**

**F62** Words repealed by [Local Government Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#) s. 1(7), Sch. 7 para. 1, Sch. 34 Pt. VII

**F63** [S. 53\(3\)\(4\)](#) repealed by [Local Government Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#) s. 1(7), Sch. 7 para. 1, Sch. 34 Pt. VII

**54 Accommodation, meals and refreshments along long-distance routes.**

- (1) Where approved proposals relating to a long-distance route include proposals for the provision, along any part of the route, of accommodation, meals and refreshments, any local planning authority through whose area, or in the neighbourhood of whose area, that part of the route passes shall have power to make such arrangements under this section as are requisite for giving effect to the last-mentioned proposals.
- (2) The arrangements which may be made by an authority under this section are arrangements for securing, at places in their area convenient for persons using the part of the route in question, the provision, whether by the authority or other persons, of accommodation, meals and refreshments (including intoxicating liquor):  
  

Provided that an authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.
- (3) For the purposes of arrangements under this section a local planning authority may erect such buildings and carry out such work as may appear to them to be necessary or expedient.
- (4) The foregoing provisions of this section shall not authorise an authority, on land in which any other person has an interest, without his consent to do anything which apart from this section would be actionable at his suit by virtue of that interest.
- (5) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

**55 Variation of approved proposals.**

- (1) Where proposals relating to a long-distance route have been approved by the Minister under section fifty-two of this Act, the Commission may from time to time prepare and submit to the Minister a report proposing any such variation of the approved proposals as the Commission may think fit.
- (2) Where, as respects any proposals approved as aforesaid, it appears to the Minister, after consultation with the Commission, expedient that the proposals should be varied in



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any respect and the Commission have not submitted to the Minister a report proposing that variation, the Minister may direct that the proposals shall be so varied.

- (3) Subsection (4) of section fifty-one of this Act, and subsections (1) and (2) of section fifty-two thereof, shall with the necessary modifications apply to a report or direction under this section; and subsection (5) of the said section fifty-one shall with the necessary modifications apply to any such report.
- (4) Where the Minister approves, with or without modifications, any proposals contained in a report under subsection (1) of this section, or gives a direction under subsection (2) of this section, the proposals for the variation of which the report was made or direction given shall thereafter have effect subject to the provisions of the report or direction; and references in this Act to approved proposals relating to a long-distance route shall be construed accordingly.

#### *Minor Amendments of Law relating to Rights of Way*

56 ..... F64

#### **Textual Amendments**

**F64** Ss. 39–50, 56, 58 repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)

#### **57 Penalty for displaying on footpaths notices deterring public use.**

- (1) If any person places or maintains, on or near any way shown on a definitive map, or on a revised map prepared in definitive form, as a public path or road used as a public path, a notice containing any false or misleading statement likely to deter the public from using the way, he shall be liable on summary conviction to a fine not exceeding [<sup>F65</sup>level 1 on the standard scale].
- (2) The court before whom a person is convicted of an offence under the last foregoing subsection may, in addition to or in substitution for the imposition of a fine, order him to remove the notice in respect of which he is convicted within such period, not being less than four days, as may be specified in the order; and if he fails to comply with the order he shall be liable on summary conviction to a fine not exceeding two pounds for each day on which the failure continues.
- (3) It shall be the duty of a highway authority to enforce the provisions of this section as respects any public path, or road used as a public path, for which they are the highway authority; and no proceedings in respect of an offence under those provisions shall be brought except by the authority required by this subsection to enforce those provisions as respects the path or road in question [<sup>F66</sup>or by the council of the district [<sup>F67</sup>or, where they are not the highway authority, the council of the Welsh county or county borough] in which the notice is placed or maintained].

#### **Textual Amendments**

**F65** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#)  
**F66** Words added by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 21 para. 97](#)

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**F67** Words in s. 57(3) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 para. 15(1)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

**58** ..... **F68**

#### Textual Amendments

**F68** Ss. 39–50, 56, 58 repealed by Highways Act 1959 (c. 25), **Sch. 25** and London Government Act 1963 (c. 33, SIF 81:1), **Sch. 6 para. 70**

## PART V

### ACCESS TO OPEN COUNTRY

#### Modifications etc. (not altering text)

**C26** Pt. V restricted and (in respect of ss. 64–82) amended by London Government Act 1963 (c. 33, SIF 81:1), **s. 60(5)**; restricted by Countryside Act 1968 (c. 41, SIF 46:1), **s. 16(7)**, amended *ibid.*, s. 16(4) Pt. V restricted (*prosp.*) by 2000 c. 37, **ss. 46(2)**, 103(3) (with s. 43)

#### **59 Provision for public access to open country.**

- (1) The provisions of this Part of this Act shall have effect for enabling the public to have access for open-air recreation to open country—
- (a) to which the provisions of the next following section are applied by an agreement under this Part of this Act (hereinafter referred to as an “access agreement”) or by an order under this Part of this Act (hereinafter referred to as an “access order”),
  - (b) acquired under this Part of this Act for the purpose of giving to the public access thereto.
- (2) In this Part of this Act the expression “open country” means any area appearing to the authority with whom an access agreement is made or to the authority by whom an access order is made or by whom the area is acquired, as the case may be, to consist wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore).

#### Modifications etc. (not altering text)

**C27** Definition of “open country” extended by Countryside Act 1968 (c. 41, SIF 46:1), **s. 16(1)(2)(6)**

#### **60 Rights of public where access agreement, order in force.**

- (1) Subject to the following provisions of this Part of this Act, where an access agreement or order is in force as respects any land a person who enters upon land comprised in the agreement or order for the purpose of open-air recreation without breaking or damaging any wall, fence, hedge or gate, or who is on such land for that purpose after

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having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land:

Provided that this subsection shall not apply to land which for the time being is excepted land as hereinafter defined.

- (2) Nothing in the provisions of the last foregoing subsection shall entitle a person to enter or be on any land, or to do anything thereon, in contravention of any prohibition contained in or having effect under any enactment.
- (3) An access agreement or order may specify or provide for imposing restrictions subject to which persons may enter or be upon land by virtue of subsection (1) of this section, including in particular, but without prejudice to the generality of this subsection, restrictions excluding the land or any part thereof at particular times from the operation of the said subsection (1); and that subsection shall not apply to any person entering or being on the land in contravention of any such restriction or failing to comply therewith while he is on the land.
- (4) Without prejudice to the provisions of the last foregoing subsection, subsection (1) of this section shall have effect subject to the provisions of the Second Schedule to this Act as to the general restrictions to be observed by persons having access to land by virtue of the said subsection (1).
- (5) For the purposes of this Part of this Act, the expression “excepted land” means land which for the time being is of any of the following descriptions, that is to say—
  - (a) agricultural land, other than such land which is agricultural land by reason only that it affords rough grazing for livestock;
  - (b) land comprised in a declaration for the time being in force under subsection (2) of section nineteen of this Act or that subsection as applied by section twenty-one of this Act;
  - (c) land covered by buildings or the curtilage of such land;
  - (d) land used for the purpose of a park, garden or pleasure ground, being land which was so used at the date when the relevant access agreement or order was made;
  - (e) land used for the getting of minerals by surface working (including quarrying), land used for the purposes of a railway (including a light railway) or tramway, or land used for the purposes of a golf course, racecourse or aerodrome;
  - (f) land (not falling within the foregoing paragraphs of this subsection) covered by works used for the purposes of a statutory undertaking [<sup>F69</sup>or a telecommunications code system] or the curtilage of such land;
  - (g) land as respects which development is in course of being carried out which will result in the land becoming such land as is specified in paragraph (c), (e) or (f) of this subsection;
  - (h) land to which section one hundred and ninety-three of the <sup>M15</sup>Law of Property Act 1925, for the time being applies:

Provided that land which is for the time being comprised in an access agreement or order shall not become excepted land by reason of any development carried out thereon, or any change of use made thereof, if the development or change of use is one for which under [<sup>F70</sup>the <sup>M16</sup>Town and Country Planning Act 1971] planning permission is required and either that permission has not been granted or any condition subject to which it was granted has been contravened or has not been complied with.

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#### Textual Amendments

**F69** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [Sch. 4 para. 28\(2\)](#)

**F70** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78, SIF 123:1\)](#), [Sch. 24 para. 2](#)

#### Modifications etc. (not altering text)

**C28** [S. 60\(5\)\(a\)](#) excluded by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [ss. 16\(5\), 17\(2\)](#)

#### Marginal Citations

**M15** [1925 c. 20.](#)

**M16** [1971 c. 78.\(123:1\)](#)

### 61 General survey of access requirements of local planning authority areas.

- (1) Every local planning authority, except as hereinafter provided, shall within two years from the commencement of this Act review their area for the purpose of ascertaining what land there is in their area of the descriptions specified in subsection (2) of section fifty-nine of this Act, and of considering what action should be taken as respects their area, whether by the making of access agreements or orders or by the acquisition of land, for securing access by the public for open-air recreation.
- (2) In considering what action should be taken as aforesaid, a local planning authority shall have regard to all relevant circumstances, including—
  - (a) in the case of particular land, the extent to which such access as aforesaid is likely to be available without such action being taken, and
  - (b) generally, the extent to which there is a need for greater facilities in their area for such access, whether for persons living in their area or for other persons.
- (3) The foregoing provisions of this section shall not apply in relation to the London County Council, the council of a county borough or, where the area of a joint planning board falls partly within one or more counties and partly within one or more county boroughs, to the joint planning board as respects so much of their area as falls within a county borough:

Provided that—

- (a) the council of a county borough, being a local planning authority, or any such joint planning board as aforesaid may by resolution adopt the foregoing provisions of this section as respects any part of a county borough within their area and specified in the resolution;
- (b) ..... <sup>F71</sup>

and where a resolution or order under this proviso takes effect the said provisions shall apply accordingly, but with the substitution for references to the commencement of this Act of references to the coming into operation of the resolution or order.

#### Textual Amendments

**F71** [S. 61\(3\)\(b\)](#) repealed by [Local Government Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#) Sch. 34 Pt.

III

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**Modifications etc. (not altering text)**

- C29** S. 61 modified (19.9.1995) by 1995 c. 25, ss. 68(5), 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
**C30** S. 61(1)–(3) amended by Local Government Act 1972 (c. 70), Sch. 17 para. 35

**62 Proceedings consequent on review under last foregoing section.**

- (1) As soon as may be after the completion by a local planning authority of their review under the last foregoing section, the authority shall proceed with the taking as respects their area of such action as they consider should be taken by them under the following provisions of this Part of this Act:

Provided that before determining what action they should take as aforesaid as respects land in a National Park the local planning authority shall consult with the Commission [<sup>F72</sup>(where the Park is in England) or the Council (where the park is in Wales)] and consider any recommendations made by them.

- (2) If in consequence of their review under the last foregoing section the local planning authority are of opinion—

- (a) that there is in their area no land of the descriptions specified in subsection (2) of section fifty-nine of this Act, or no appreciable area of such land, or  
(b) that as respects their area no such action needs to be taken as is mentioned in subsection (1) of the last foregoing section,

the local planning authority shall as soon as may be after the completion of the review [<sup>F73</sup>publish a notice containing a statement of their opinion].

- (3) A notice under the last foregoing subsection shall be published in the London Gazette and in at least one local newspaper circulating in the area of the local planning authority, and shall specify the time (not being less than three months) within which, and the manner in which, representations may be made to the [<sup>F74</sup>authority] as respects their area that action needs to be taken as mentioned in subsection (1) of the last foregoing section.

- (4) ..... <sup>F75</sup>

- (5) Nothing in this or the last foregoing section shall be taken as requiring that a local planning authority shall have completed their review under the last foregoing section before exercising their powers under this Part of this Act of making access agreements or orders or of acquiring land.

**Textual Amendments**

- F72** Words in s. 62(1) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 1(8); S.I. 1991/685, art.3  
**F73** Words substituted by Local Government Planning and Land Act 1980 (c. 65, SIF 81:1,2) s. 1(3) Sch. 3 para. 6(a)  
**F74** Word substituted by Local Government Planning and Land Act 1980 (c. 65, SIF 81:1,2) s. 1(3) Sch. 3 para. 6(b)  
**F75** S. 62(4) repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1,2) Sch. 34 Pt. III

**Modifications etc. (not altering text)**

- C31** S. 62 modified (19.9.1995) by 1995 c. 25, ss. 68(5), 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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### 63 Notification to Minister of action taken for securing public access.

- (1) Within one year from the completion of their review under the last but one foregoing section or within such longer period as the Minister may in any particular case allow, a local planning authority shall, unless they have forwarded to the Minister a statement under subsection (2) of the last foregoing section, prepare and forward to the Minister a map on such scale as may be prescribed by regulations made by the Minister showing as respects the area of the authority, in such manner as may be so prescribed—
  - (a) the approximate extent of land in the area of any of the descriptions specified in subsection (2) of section fifty-nine of this Act, and
  - (b) what action has been taken under this Part of this Act for enabling the public to have access to such land,
 and shall publish notice that the map has been prepared, specifying places where a copy of the map may be seen at all reasonable hours.
- (2) A notice under the last foregoing subsection shall be published in the London Gazette and in at least one local newspaper circulating in the area of the local planning authority, and shall specify the time (not being less than three months) within which, and the manner in which, representations may be made to the Minister as respects their area that further action, beyond that shown on the map prepared by the local planning authority, needs to be taken as mentioned in subsection (1) of the last but one foregoing section; and subsection (4) of the last foregoing section shall apply in relation to a map forwarded to the Minister under this section as it applies to a statement forwarded to him under that section.

#### Modifications etc. (not altering text)

C32 S. 63 modified (19.9.1995) by 1995 c. 25, ss. 68(5), 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

### 64 Access agreements.

- (1) A local planning authority may . . . <sup>F76</sup> make an access agreement with any person having an interest in land, being open country, in the area of the authority whereby the provisions in that behalf of this Part of this Act shall apply to the land.
- (2) An access agreement may provide for the making of payments by the local planning authority of either or both of the following descriptions, that is to say in consideration of the making of the agreement and by way of contribution towards expenditure incurred by the person making the agreement in consequence thereof.
- (3) An access agreement may be made either irrevocably or subject to such provisions for revocation or variation as may be specified in the agreement.
- (4) Section two of the <sup>M17</sup>Forestry Act 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to an access agreement as it applies to such a covenant.
- (5) Before entering into an access agreement as respects land in a National Park, the local planning authority shall consult with the Commission [<sup>F77</sup>(where the Park is in England) or the Council (where the park is in Wales)].
- (6) Where an access agreement is made with one or some, but not all, of the persons having interests in the land to which the agreement relates, the provisions of this Part of this Act shall apply as respects the interests of the persons with whom the agreement

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is made, and shall continue so to apply notwithstanding any change in the persons entitled thereto, but shall not, as against the person for the time being entitled to any other interest in the land, operate so as to prejudice his rights as owner of that interest, or impose any restriction on him or confer any right against him.

#### Textual Amendments

**F76** Words repealed by [Local Government Act 1974 \(c. 7, SIF 81:1\)](#), **Sch. 8**

**F77** Words in [s. 64\(5\)](#) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [s. 130\(1\)](#), **Sch. 8 para. 1(8)**; [S.I. 1991/685](#), **art.3**

#### Modifications etc. (not altering text)

**C33** [S. 64](#) amended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), **s. 18**.

#### Marginal Citations

**M17** [1947 c. 21](#).

## 65 Access orders.

- (1) Subject to the provisions of this section, the authority by whom an access order may be made shall be the local planning authority in whose area the land in question is situated; and an order made by such an authority shall be submitted to the Minister and shall not have effect unless confirmed by him.
- (2) An access order shall not be made as respects any land—
  - (a) if an access agreement or access agreements are in force with respect thereto which in the opinion of the authority having power to make such an order adequately secure to the public access to the land for open-air recreation;
  - (b) where such an agreement or agreements are not in force with respect to the land, unless it appears to the said authority impracticable to secure the making of such an agreement or agreements.
- (3) An access order shall contain a map, on such scale as may be prescribed by regulations made by the Minister, defining in such manner as may be so prescribed—
  - (a) the land comprised in the order, and
  - (b) so far as appears practicable to the authority making the order, any of the said land which, in the opinion of that authority, is at that time excepted land otherwise than by reason of being agricultural land;and the order shall also include such descriptive matter, if any, as may be so prescribed or as may appear to the said authority to be requisite for the purposes of the order.
- (4) The provisions in that behalf of the First Schedule to this Act shall apply to the making, confirmation, coming into operation and validity of access orders.
- (5) Before making an access order in respect of land in a National Park [<sup>F78</sup>in England], the local planning authority shall consult with the Commission; and where it appears to the Commission desirable that such an order should be made in respect of land in a National Park [<sup>F78</sup>in England], and the local planning authority have not made an order in respect thereof, the Commission may request the authority to make an order accordingly.



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[<sup>F79</sup>(5A) The preceding subsection shall apply in relation to National Parks in Wales, and the Council, as it applies in relation to National Parks in England, and the Commission.]

(6) ..... <sup>F80</sup>

#### Subordinate Legislation Made

**P1** S. 65: power exercised by S.I. 1950/1066

#### Textual Amendments

**F78** Words in s. 65(5) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(9)**; S.I. 1991/685, **art.3**

**F79** S. 65(5A) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(9)**; S.I. 1991/685, **art.3**

**F80** S. 65(6) repealed by Local Government Act 1974 (c. 7, SIF 81:1), **Sch. 8**

#### Modifications etc. (not altering text)

**C34** S. 65(3) extended by Countryside Act 1968 (c. 41, SIF 46:1), s. 17(6)

## 66 Effect of access agreement or order on rights and liabilities of owners.

(1) A person interested in any land comprised in an access agreement or order, not being excepted land, shall not carry out any work thereon whereby the area to which the public are able to have access by virtue of the agreement or order is substantially reduced:

Provided that nothing in this subsection shall affect the doing of anything whereby any land becomes excepted land.

(2) The operation of subsection (1) of section sixty of this Act in relation to any land shall not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in that land or adjoining land in respect of the state thereof or of things done or omitted thereon.

(3) Any restriction arising under a covenant or otherwise as to the use of any land comprised in an access agreement or order shall have effect subject to the provisions of this Part of this Act, and any liability of a person interested in such land in respect of such a restriction shall be limited accordingly.

(4) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across land at any time while it is comprised in an access agreement or order shall be disregarded.

## 67 Provision of means of access.

(1) An access agreement or order may make such provision as appears expedient for the purposes of the agreement or order for securing that sufficient means of access to the land comprised in the agreement or order will be available for the public while the land is so comprised.

(2) Provision made by an access agreement or order by virtue of this section may be provision for any one or more of the following matters, that is to say—

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- (a) the improvement or repair of any means of access to the land in existence at the time when the agreement or order is made;
  - (b) the construction of new means of access to the land;
  - (c) the imposition of restrictions on the destruction, removal, alteration or stopping-up of any means of access to the land, or the doing of any thing whereby the use of any such means of access by the public would be impeded; and
  - (d) the maintenance of any such means of access to the land as are mentioned in paragraphs (a) and (b) of this subsection.
- (3) No provision made by an access order by virtue of this section shall—
- (a) apply to land which is for the time being excepted land, or authorise or require any thing to be done in relation to such land or any means of access thereto;
  - (b) affect the doing of any thing whereby any land becomes excepted land; or
  - (c) require, or authorise any person to require, any work to be carried out at the expense of any person interested in the land except as hereafter in this section expressly provided.
- (4) Where it appears to the local planning authority in whose area the land is situated that any work is required for giving effect to any such provision of an access agreement or order as is specified in paragraphs (a), (b) and (d) of subsection (2) of this section, the authority may agree with the owner and occupier of the land as to the carrying out of the work, and where it is agreed that it shall be carried out otherwise than by the authority may defray the cost of the carrying out thereof, or may contribute such part of that cost as may be specified in the agreement.
- (5) If, in a case falling within the last foregoing subsection—
- (a) the local planning authority are unable to make an agreement, or
  - (b) the owner or occupier fails to carry out within a reasonable period any work which he has agreed to carry out,
- the local planning authority, after giving to the owner and the occupier not less than fourteen days' notice of their intention so to do, may take all necessary steps for carrying out the work; and where, in a case to which paragraph (b) of this subsection applies, the agreement provided that the authority should contribute part of the cost of carrying out the work, the authority may recover the amount of any expenses reasonably incurred by them in carrying out the work, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the work would fall to be borne.
- (6) In this section the expression “means of access,” in relation to land, means any opening in a wall, fence or hedge bounding the land or any part thereof, with or without a gate, stile or other works for regulating passage through the opening, any stairs or steps for enabling persons to enter on the land or any part thereof, or any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary thereof.

**Modifications etc. (not altering text)**

**C35** S. 67 amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

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## 68 Power of local planning authority to enforce access.

- (1) If any person contravenes the provisions of subsection (1) of the last but one foregoing section, or any such restriction as is specified in paragraph (c) of subsection (2) of the last foregoing section, the local planning authority whose area comprises the land in respect of which the contravention occurred may serve on that person a notice requiring him, within such period as may be specified in the notice, to carry out such work so specified as may appear to the authority to be requisite for remedying the contravention, being work for restoring or re-opening any means of access to the land or for providing new means of access thereto.
- (2) If within the period specified in a notice under the last foregoing subsection the person on whom the notice is served fails to comply therewith, the local planning authority may take all necessary steps for carrying out the work specified in the notice and may recover from that person any expenses reasonably incurred by them in carrying it out.
- (3) Any person on whom a notice is served under subsection (1) of this section may, at any time within the period specified in the notice for carrying out the work so specified, complain to a court of summary jurisdiction for the petty sessional division or place within which the land to which the notice relates is situated—
  - (a) that the period specified as aforesaid is too short;
  - (b) that the work specified in the notice, or some of that work, is not requisite for remedying the contravention;
  - (c) that he has not contravened the provisions or restriction in question; or
  - (d) that the work specified in the notice, or so much of the work as is requisite for remedying the contravention, has been carried out.
- (4) Any summons issued on a complaint under the last foregoing subsection shall be served on the local planning authority.
- (5) On any such complaint the court, if satisfied of the grounds of the complaint, may—
  - (a) extend the period within which the work was required to be carried out by the notice, or
  - (b) quash the notice as respects the whole or any part of the work specified therein, as the nature of the complaint may require; but if not so satisfied shall dismiss the complaint.
- (6) The Summary Jurisdiction Acts shall apply to the proceedings on any complaint under this section; and any person aggrieved by the decision of the court on any such complaint may appeal to <sup>F81</sup>the Crown Court].
- (7) Where a complaint is made to the court under this section, the time between the making of the complaint and the determination thereof, and of any appeal from that determination, shall be disregarded in determining the period within which, in accordance with the notice, the work specified therein is to be carried out.

### Textual Amendments

**F81** Words substituted by virtue of [Courts Act 1971 \(c. 23, SIF 37\)](#), [s. 56\(2\) Sch. 9 Pt. I](#)

### Modifications etc. (not altering text)

**C36** [S. 68](#) amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

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## [<sup>F82</sup>69] Suspension of public access to avoid exceptional risk of fire.

[ If, upon application made to the county planning authority by any person interested <sup>F83</sup>(1) in land comprised in an access agreement or order, or by any other person appearing to that authority to have a sufficient interest in the matter, the authority are satisfied that, by reason of any exceptional conditions of weather for the time being prevailing, access by the public to the land or any part of it is likely to result in fires occurring on it, the authority may direct that subsection (1) of section 60 of this Act shall not have effect in relation to the land during such period as may be specified in the direction.]

[<sup>F84</sup>(2) The reference in subsection (1) of this section to the county planning authority is to be read, in relation to Wales, as a reference to the local planning authority.]

### Textual Amendments

- F82** S. 69 substituted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#) s. 1(3) Sch. 3 para. 7
- F83** S. 69(1) renumbered (1.4.1996) by 1994 c. 19, s. 20(4), [Sch. 6 Pt. II para. 15\(2\)](#) (with ss. 54(5)(7), 55(5) Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, [Sch. 1](#)
- F84** S. 69(2) added (1.4.1996) by 1994 c. 19, s. 20(4), [Sch. 6 Pt. II para. 15\(2\)](#) (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 22(2)); S.I. 1996/396, art. 3, [Sch. 1](#)

### Modifications etc. (not altering text)

- C37** S. 69: functions transferred (19.9.1995) by 1995 c. 25, [ss. 68\(2\)\(a\)\(8\), 125\(2\)](#) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

## 70 Compensation for access orders.

Where the value of the interest of any person in land is depreciated in consequence of the coming into operation of an access order, then subject to the following provisions of this Part of this Act the local planning authority in whose area the land comprised in the order is situated shall pay to that person compensation equal to the amount of the depreciation:

Provided that nothing in this section shall confer on a person a right to compensation for depreciation of an interest in land, being land which is not comprised in the order or if so comprised is excepted land, except if and in so far as either—

- (a) it is held with land comprised in the order which is not excepted land, or
- (b) the omission of any other person to exclude the public from the land comprised in the order or any part thereof would have been actionable at the suit of the first-mentioned person if the access order had not come into operation.

### Modifications etc. (not altering text)

- C38** S. 70 amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#).

## 71 Compensation to be assessed with regard to effect of first five years of access.

- (1) For the purpose of enabling compensation under the last foregoing section to be assessed in the light of experience gained of the actual effect on land of the coming into operation of access orders, any such compensation shall not, save as hereinafter

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provided, be claimed or payable before the expiration of a period of five years from the coming into operation of the order giving rise to the compensation (in this and the next following section referred to as “the relevant order”).

- (2) Nothing in the last foregoing subsection shall be construed as requiring such compensation to be assessed as at a date later than the date of the coming into operation of the relevant order; but in calculating the compensation it shall be assumed that, on a sale at that date of the interest in respect of which the compensation is claimed, the purchaser would have had knowledge—
  - (a) of the actual effect during the said period, on the land in which the said interest subsists and the use of that land, of the coming into operation of the relevant order;
  - (b) of the fact and date of any revocation or variation during that period of the relevant order;
  - (c) of the fact and date of any changes during that period, as respects land comprised in the relevant order, from or to excepted land.
- (3) If during the said period of five years the relevant order is revoked, or varied so as to exclude from the operation thereof any land not being excepted land, the foregoing provisions of this section shall thereupon have effect, so far as concerns any claim for compensation in respect of the operation of the relevant order as respects the said land, as if for any reference to the said period of five years there were substituted a reference to the period beginning with the coming into operation of the relevant order and ending with the said revocation or variation.
- (4) Where at different times within a period of five years two or more parcels of land become comprised in access orders, and any person has an interest in each of those parcels, then, with the consent of every person having an interest in each of the parcels other than the one first so comprised, the foregoing provisions of this section shall apply in relation to each of the last mentioned parcels with the substitution for any reference to the period of five years from the coming into operation of the order by virtue of which that parcel became so comprised as aforesaid of a reference to a period of five years from the coming into operation of the order by virtue of which the first of the parcels became so comprised.

## **72 Claims for compensation and interest.**

- (1) Any person claiming to be entitled to an interest in land in respect of the depreciation of which compensation will become payable under the last but one foregoing section may apply to the local planning authority by whom the compensation will be payable to record his claim; and where an application is duly made under this subsection the authority shall record the claim accordingly in such manner as may be prescribed by regulations made by the Minister.
- (2) An application under the last foregoing subsection shall be made in such manner and within such period (not being less than three months) after the date when the relevant order came into operation as may be prescribed by regulations made by the Minister, and shall be accompanied by such particulars of the interest in land in respect of which it is made as may be so prescribed:

Provided that nothing in this subsection shall authorise the imposition of any requirement that an applicant under subsection (1) of this section shall state the amount of the compensation.

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- (3) Within such period as may be prescribed by regulations made by the Minister (not being less than three months) after the end of the period after which under the last foregoing section compensation may be claimed, any person who has applied under subsection (1) of this section for the recording of a claim to compensation, or any person claiming under him in respect of that compensation, may apply to the local planning authority, in such manner as may be so prescribed, for the payment of the compensation.
- (4) An application under the last foregoing subsection shall state the amount of compensation claimed by the applicant; and regulations of the Minister made for the purposes of this subsection may require the application to be accompanied by such evidence of the title of the applicant to the compensation as may be prescribed by the regulations.
- (5) Any compensation payable under the last but one foregoing section shall become due when, on an application for the payment thereof duly made under subsection (3) of this section, the amount of the compensation has been agreed or, in default of agreement, has been determined in manner hereinafter provided; and any such compensation shall be payable with interest, at such rate as may be so prescribed as aforesaid, from the date on which the relevant order came into operation to the date at which the compensation is paid.

### **73 Payments on account in cases of special hardship.**

- (1) At any time during the period after which, under the last but one foregoing section, compensation may be claimed in respect of the coming into operation of an order, a person claiming to be entitled to such compensation may apply to the local planning authority for a payment on account of the compensation on the ground of special circumstances . . . <sup>F85</sup>; and if the authority are satisfied that such circumstances exist they shall make to him a payment on account of the compensation of such amount as they may determine.
- (2) Any person aggrieved by the refusal of a local planning authority to make a payment on account under the last foregoing subsection, or by their determination thereunder of the amount of the payment to be made to him, may appeal to the Minister; and the Minister, after affording to the said person and to the authority an opportunity of being heard by a person appointed by the Minister for the purpose, may either confirm the decision of the authority or direct that they shall make a payment on account of such amount as appears to the Minister to be just.

#### **Textual Amendments**

**F85** Words repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

### **74 Application to waterways in National Parks.**

The foregoing provisions of this Part of this Act shall apply to waterways in a National Park as those provisions apply to open country.

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## 75 Exercise of powers under s. 13 as respects open country and waterways comprised in access orders.

- (1) An access order, whether made in respect of open country or in respect of a waterway, may specify work to be carried out (either at one time or from time to time) on land comprised in the order in the exercise of the powers conferred by section thirteen of this Act.
- (2) An authority proposing, in the exercise of the said powers, to carry out any work on land comprised in an access order, whether the work is specified in the order or not, shall give to the owner and occupier of the land not less than fourteen days' notice of their intention so to do, specifying the work to be carried out.
- (3) Where the work specified in a notice given under the last foregoing subsection is not work specified in the access order, then if before the expiration of the notice the owner or occupier of the land serves notice of objection on the authority, the authority shall not carry out the work except in accordance with the provisions of the two next following subsections.
- (4) An authority on whom notice of objection has been served under the last foregoing subsection shall afford to the objector an opportunity of being heard by a person appointed by them for the purpose and shall then determine either—
  - (a) not to carry out the work to which the objection relates, or
  - (b) to carry out the work, either as originally proposed or with such modifications as the authority may determine,
 and shall serve notice of their determination on the objector; and where the authority determine as mentioned in paragraph (b) of this subsection, they may proceed with the work in accordance with the determination at any time after the expiration of fourteen days from the date on which notice of the determination is served on the objector:
 

Provided that if the objector serves notice of appeal under the next following subsection the authority shall not proceed with the work except in accordance with the provisions of that subsection.
- (5) Any person aggrieved by a determination of an authority under the last foregoing subsection may within the period of fourteen days therein mentioned serve notice of appeal against the determination on the Minister and on the authority; and where notice of appeal is served under this subsection the Minister, after affording to the appellant and to the authority an opportunity of being heard by a person appointed by him for the purpose, shall either direct that the authority shall be at liberty to carry out the work (whether as specified in the notice given under subsection (2) of this section or subject to such modifications or conditions as the Minister may think fit) or shall direct the authority not to carry out the work.
- (6) Any power conferred by paragraph (b) of subsection (4) of this section or by the last foregoing subsection to modify the work specified in a notice given under subsection (2) of this section shall not be exercised so as to affect land not affected by the notice.

### Modifications etc. (not altering text)

**C39** S. 75 amended by Countryside Act 1968 (c. 41, SIF 46:1), s. 12(6)



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## **76 Acquisition by local authorities of land for public access.**

- (1) Where it appears to a local planning authority, as respects any open country in their area, other than excepted land,—
- (a) that it is requisite that the public should have access thereto for open-air recreation; and
  - (b) that in the circumstances it is expedient that such access thereto should be secured by the acquisition of the land by the local planning authority,
- the authority may acquire the land compulsorily.

In this subsection the expression “excepted land” includes, in relation to any compulsory purchase, land such that if an access agreement or order had been made at the time when the compulsory purchase order was confirmed the land would by virtue of paragraph (d) of subsection (5) of section sixty of this Act have been excepted land for the purposes of the access agreement or order.

- (2) Where, in connection with the acquisition of any land under the last foregoing subsection it appears to the local planning authority that the proper exercise of their functions under this section will be substantially prejudiced unless other land surrounded by the first-mentioned land, or contiguous or adjacent thereto, is acquired therewith, the powers conferred by the last foregoing subsection shall extend to the acquisition of that other land.
- (3) A local planning authority may carry out on land acquired by them for the purposes of this section, and for the time being held by them for those purposes, such work as they may consider requisite for providing convenient means of access to the land or otherwise for the said purposes.
- (4) While land acquired by a local planning authority under this section is held by them for the purposes thereof, it shall be the duty of the authority so to manage the land as to give to the public access for open-air recreation to so much thereof as appears to the authority to be practicable, having regard to the nature of the different parts of the land, to anything done thereon which may result in danger to the public or to persons employed thereon unless public access to the land or to adjoining land is restricted, and to all other relevant circumstances.

## **77 Acquisition by Ministers of land for public access.**

- (1) Where it appears to the Minister, as respects any open country in a National Park, not being excepted Land,—
- (a) that it is requisite that the public should have access thereto for open-air recreation; and
  - (b) that in the circumstances it is expedient that such access thereto should be secured by the acquisition of the land by him,

the Minister may, with the consent of the Treasury, acquire the land by agreement, whether by way of purchase, lease or exchange, or acquire the land compulsorily.

In this subsection the expression “excepted land” includes, in relation to any compulsory purchase, land such that if an access agreement or order had been made at the time when the compulsory purchase order was confirmed the land would by virtue of paragraph (d) of subsection (5) of section sixty of this Act have been excepted land for the purposes of the access agreement or order.

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- (2) Subsection (2) of the last foregoing section shall apply, in relation to the acquisition of land under the last foregoing subsection, but with the substitution for references to the local planning authority of references to the Minister.
- (3) The provisions of subsections (2) to (4) of section fourteen of this Act shall apply to land acquired by the Minister under this section, with the substitution, for the reference in the said subsection (2) to the accomplishment of the purposes therein mentioned, of a reference to the securing of public access for open-air recreation to so much of the land as appears to the Minister to be practicable, having regard to the matters mentioned in subsection (4) of the last foregoing section.
- (4) ..... <sup>F86</sup>
- (5) [<sup>F87</sup>The Secretary of State], may carry out on land acquired by him for the purposes of this section, and for the time being held by him for those purposes, such work as he may consider requisite for providing convenient means of access to the land or otherwise for the said purposes, or may arrange for any such work to be carried out by persons to whom the land is transferred.

#### Textual Amendments

**F86** S. 77(4) repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#), **Sch. 34 Pt. XIII**

**F87** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#), **Sch. 23 para. 2(2)**

## 78 Maps of land subject to public access.

- (1) A local planning authority whose area comprises any land—
- which is subject to an access agreement or order, or
  - has been acquired under either of the two last foregoing sections and is for the time being held for the purpose for which it was acquired,
- shall prepare and keep up to date a map, on such scale as may be prescribed by regulations made by the Minister, defining in such manner as may be so prescribed—
- the land subject to the agreement or order or the land acquired and held as aforesaid, as the case may be;
  - in the case of land subject to such an agreement or order, any land comprised therein which, in the opinion of the authority, is for the time being excepted land, otherwise than by reason of being agricultural land, and which in their opinion it is practicable to define on the map;
  - in the case of land acquired and held as aforesaid, any land comprised therein from which, for the purpose of avoiding danger to the public or to persons employed thereon, or because it is excepted land, or for any other reason, the public are excluded, and which in their opinion it is practicable so to define.
- (2) An authority who are required by the last foregoing subsection to prepare and keep up to date any map shall, so long as they are required so to do, have copies of the map available for inspection by the public at such places as the authority may determine; and the authority may, if they think fit, display, at places where the public obtain access to the land to which the map relates—
- reproductions of the map on an appropriate scale,

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- (b) notices specifying any restrictions on access to the land or any part thereof, whether the restrictions have effect by virtue of any of the provisions of this Part of this Act or otherwise.

**Modifications etc. (not altering text)**

**C40** S. 78 extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), **s. 17(6)**

**79** ..... **F88**

**Textual Amendments**

**F88** S. 79 repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#), **Sch. 34 Pt. III**

**80 Provisions as to danger areas.**

- (1) The authority making an access agreement or order shall so delimit the land to which the agreement or order applies as to exclude all land which, by reason of anything done on other land contiguous or adjacent thereto, it appears to the authority expedient to exclude for the purpose of avoiding danger to the public or to persons employed on any of the said land.
- (2) Where, while an access agreement or order is in force, the authority by whom the agreement or order was made are satisfied, as respects any land to which the agreement or order applies, that by reason of anything done or proposed to be done on that land or on other land contiguous or adjacent thereto it is expedient for the purpose aforesaid that the first-mentioned land should be excluded from the operation of the agreement or order, the authority shall vary the agreement or order so as to exclude that land.
- (3) The fact that an access agreement is expressed to be irrevocable shall not prevent its variation in pursuance of the last foregoing subsection; and where the concurrence of any party to an access agreement other than the said authority, or of the successor in title to his interest, cannot be obtained to the variation of the agreement in pursuance of that subsection, the said authority may by order . . . <sup>F89</sup> vary the agreement.
- (4) A local planning authority shall have power, as respects any land to which paragraph (a) of subsection (1) of section seventy-eight of this Act applies, or as respects land held by the authority to which paragraph (b) of that subsection applies, to take such steps and carry out such work (including the erection and maintenance of fences or notices) as appear to them requisite for protecting the public from any source of danger on the land or on adjoining land.
- (5) Without prejudice to the generality of the provisions of subsection (2) of section sixty-six of this Act, the application of section sixty thereof to any land shall not, in relation to any factory, magazine, store or premises already established, constitute the land an open place of resort for the public, or a public place, for the purposes of the <sup>M18</sup>Explosives Acts 1875 <sup>M19</sup> and 1923, or any order made or licence granted thereunder.
- (6) Notwithstanding anything in the said subsection (2) of section sixty-six of this Act, the application of the said section sixty to any land shall, in relation to any factory,

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magazine, store or premises subsequently established, constitute the land such a place as aforesaid for the purposes of the said Acts or any such order or licence.

#### Textual Amendments

**F89** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF, 81:1, 2\)](#), [Sch. 34 Pt. III](#)

#### Marginal Citations

**M18** 1875 c. 17.

**M19** 1923 c. 17.

### 81 Boundary notices.

A local planning authority shall have power to erect and maintain notices indicating the boundaries of land comprised in an access agreement or order and of excepted land.

#### Modifications etc. (not altering text)

**C41** [S. 81](#) amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

### 82 Power of local planning authority to contribute to work carried out by other persons.

A local planning authority shall have power, as respects any land in their area which is subject to an access agreement or order, to defray or contribute towards, or to undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person interested therein in taking such steps or carrying out such work as is mentioned in subsection (4) of the last but one foregoing section, or in erecting and maintaining such notices as are mentioned in the last foregoing section.

#### Modifications etc. (not altering text)

**C42** [S. 82](#) amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

### 83 Repeal of 2 & 3 Geo. 6. c. 30.

The Access to Mountains Act, 1939, is hereby repealed.

#### Modifications etc. (not altering text)

**C43** The text of s. 83 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## PART VI

### GENERAL, FINANCIAL AND SUPPLEMENTARY

84 ..... F90

#### Textual Amendments

F90 S. 84 repealed by Countryside Act 1968 (c. 41, SIF 46:1), Sch. 5

#### *General powers and duties of Commission*

### 85 General duty of Commission to advise on questions relating to natural beauty.

Without prejudice to [F91 their respective duties] relating to National Parks, it shall be the duty of the Commission [F92 and the Council]—

- (a) ..... F93
- (b) in circumstances where it appears to the Minister and to the Commission [F94, or, as the case may be, to the Minister and to the Council,] desirable that their assistance should be generally available, to inquire into and report on such questions referred to them by any other body of persons or person;
- (c) to bring to the attention of the Minister or of local planning authorities the effect on the natural beauty of such areas or places as aforesaid of developments, or developments of any class, which appear to the Commission [F95 (as respects England) or to the Council (as respects Wales)] to be likely to be prejudicial thereto.

#### Textual Amendments

- F91 Words in s. 85 substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 1(10)(a); S.I. 1991/685, art.3
- F92 Words in s. 85 inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 1(10)(b); S.I. 1991/685, art.3
- F93 S. 85(a) repealed by Countryside Act 1968 (c. 41, SIF 46:1), Sch. 5
- F94 Words in s. 85(b) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 1(10)(c); S.I. 1991/685, art.3
- F95 Words in s. 85(c) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 1(10)(d); S.I. 1991/685, art.3

### 86 Information services to be provided by Commission.

(1) It shall be the duty of the Commission to take such steps as appear to them expedient for securing that persons interested—

- (a) will be informed of the situation and extent of, and means of access to, National Parks, other areas, being areas of outstanding natural beauty, and long-distance routes for which proposals under section fifty-one of this Act have been approved, and the accommodation and facilities available for

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persons wishing to visit National Parks and such other areas or persons wishing to use such routes;

- (b) will be able to learn about the history, natural features, flora and fauna of National Parks and the objects of architectural, [<sup>F96</sup>archaeological] or historical interest therein and the opportunities for recreation available therein,

and that suitable methods of publicity are used for the prevention of damage in National Parks and such other areas as aforesaid and otherwise for encouraging a proper standard of behaviour on the part of persons visiting National Parks and such other areas; and the said methods shall include the preparation and publication of a code of conduct for the guidance of persons visiting the countryside.

- (2) Without prejudice to the provisions of the last foregoing subsection, the Commission may for the purposes thereof procure the production and sale to the public of books, guides and maps, the exhibition of posters and other advertisements, the giving of lectures and the provision and exhibition of cinematograph films.
- (3) For the avoidance of doubt it is hereby declared that the steps mentioned in subsection (1) of this section include the making of contributions towards expenses incurred by other bodies of persons.

#### Textual Amendments

**F96** Word inserted by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 21(4)

#### Modifications etc. (not altering text)

**C44** S. 86 extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 12(1)

### [<sup>F97</sup>86A Information services to be provided by Council.

The provisions of section eighty-six of this Act shall apply to the Council in relation to National Parks and other land in Wales as they apply to the Commission in relation to National Parks and other land in England.]

#### Textual Amendments

**F97** S. 86A inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), [Sch. 8 para. 1\(11\)](#); [S.I. 1991/685, art.3](#)

### *Areas of outstanding natural beauty*

### 87 Designation of areas of outstanding natural beauty.

- (1) The Commission [<sup>F98</sup>, or as the case may be, the Council,] may, by order made as respects any area in England or Wales, not being in a National Park, which appears to them to be of such outstanding natural beauty that it is desirable that the provisions of this Act relating to such areas should apply thereto, designate the area for the purposes of this Act as an area of outstanding natural beauty; and references in this Act to such an area shall be construed as references to an area designated under this section.

[<sup>F99</sup>(1A) The following provisions shall apply to the Council in relation to land in Wales as they apply to the Commission in relation to land in England.]

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- (2) Where the Commission propose to make an order under this section they shall consult with every local authority whose area includes any part of the area to which the proposed order is to relate, and shall then, before making the order, publish, in the London Gazette and in one or more local newspapers circulating in the area of every such authority as aforesaid, notice that they propose to make the order, indicating the effect of the order and stating the time within which and manner in which representations with respect thereto may be made to the Commission, and shall consider any representations duly made.
- (3) An order under the last foregoing subsection shall not come into operation unless and until submitted to and confirmed by the Minister, and in submitting any such order to the Minister the Commission shall forward to him any observations made by a local authority consulted in pursuance of the last foregoing subsection and any representations duly made thereunder, other than observations or representations to which effect is given by the order as submitted to the Minister.
- (4) The Minister may confirm an order submitted to him under this section either as submitted or with such modifications as he thinks expedient.
- (5) Before refusing to confirm an order under this section, or determining to confirm it with modifications, the Minister shall consult with the Commission and with every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (6) In this section the expression “local authority” means a joint planning board, county council, county borough council or county district council.
- (7) Without prejudice to the power of the Commission to vary an order under this section, the Minister may by order vary any such order of the Commission; and subsection (2) of this section shall apply to any order of the Minister under this subsection, with the substitution for references to the Commission of references to the Minister.
- (8) It shall be the duty of the Commission to secure that copies of any order such as is mentioned in this section shall be available, at the office of the Commission, at the offices of each local authority whose area includes any part of the area to which the order relates, and at such other place or places in or near that area as the Commission may determine, for inspection by the public at all reasonable times.

#### Textual Amendments

- F98** Words in s. 87(1) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), [Sch. 8 para. 1\(12\)\(a\)](#); S.I. 1991/685, [art.3](#)
- F99** S. 87(1A) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), [Sch. 8 para. 1\(12\)\(b\)](#); S.I. 1991/685, [art. 3](#)

#### [<sup>F100</sup>88] **Functions of certain bodies in relation to areas of outstanding natural beauty.**

- (1) The following provisions of this Act, that is to say—
  - (a) paragraph (e) of subsection (4) of section six,
  - (b) section nine,
  - (c) subsection (1) of section sixty-two,
  - (d) subsection (5) of section sixty-four, and



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- (e) subsections (5) and (5A) of section sixty-five, shall apply in relation to areas of outstanding natural beauty as they apply in relation to National Parks.
- (2) In paragraph (e) of subsection (4) of section six of this Act as it applies by virtue of the last foregoing subsection, the expression “appropriate planning authority” means a local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty and includes a local authority, not being a local planning authority, by whom any powers of a local planning authority as respects an area of outstanding natural beauty are exercisable, whether under this Act or otherwise.
- (3) The provisions of section 4A of this Act shall apply to the provisions mentioned in paragraphs (a) and (b) of subsection (1) of this section for the purposes of their application to areas of outstanding natural beauty as the provisions of the said section 4A apply for the purposes of Part II of this Act.
- (4) A local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty shall have power, subject to the following provisions of this section, to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty or so much thereof as is included in their area.
- (5) Nothing in this Act shall be construed as limiting the generality of the last foregoing subsection; but in so far as the provisions of this Act confer specific powers falling within that subsection those powers shall be exercised in accordance with those provisions and subject to any limitations expressed or implied therein.
- (6) Without prejudice to the powers conferred by this Act, subsection (4) of this section shall have effect only for the purpose of removing any limitation imposed by law on the capacity of a local planning authority by virtue of its constitution, and shall not authorise any act or omission on the part of such an authority which apart from that subsection would be actionable at the suit of any person on any ground other than such a limitation.]

#### Textual Amendments

**F100** S. 88 substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

### *General Powers of Local Planning Authorities*

#### **89 Planting of trees and treatment of derelict land.**

- (1) A local planning authority may plant trees on land in their area for the purpose of preserving or enhancing the natural beauty thereof.
- [<sup>F101</sup>(2) Where it appears to a local authority that any land in their area—
- (a) is derelict, neglected or unsightly; or
  - (b) is not derelict, neglected or unsightly but is likely to become so by reason of actual or apprehended collapse of the surface as the result of the carrying out of relevant operations which have ceased to be carried out,

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they may carry out, for the purpose of reclaiming or improving that land or of enabling it to be brought into use, such works on that land or any other land as appear to them expedient.

In this subsection “relevant operations” means underground mining operations other than operations for the purpose of the working and getting of coal, or of coal and other minerals worked with coal, or for the purpose of getting any product from coal in the course of working and getting coal.]

(2A) . . . . . <sup>F102</sup>

(3) The powers conferred by this section may be exercised by an authority either on land belonging to them or with the consent of all persons interested therein on other land; and in relation to such other land the said powers shall include power to make arrangements whereby the planting or work is carried out, on such terms as may be provided under the arrangements, by a person other than the authority.

(4) . . . . . <sup>F103</sup> nothing in [<sup>F104</sup>the foregoing provisions of this section] shall authorise the doing of anything in contravention of any prohibition or restriction having effect under any enactment or rule of law.

(5) [<sup>F105</sup>A local authority] may acquire land compulsorily for the purpose of any of their functions under this section.

(6) Where a [<sup>F105</sup>local authority] exercise their powers under the foregoing provisions of this section on land not belonging to the authority, the management of the land, so far as relates to anything done by the authority, may be undertaken either by the authority or by a person interested in the land, as may be agreed between the authority and the persons so interested, and on such terms as may be so agreed.

[<sup>F106</sup>(7) In this section “local authority” means a local planning authority, the council of a county . . . <sup>F107</sup> not being a local planning authority, or the council of a county district.]

#### Textual Amendments

- F101** S. 89(2) substituted by Derelict Land Act 1982 (c. 42, SIF 46:4), s. 3(1)
- F102** Ss. 89(2A), 90(2) repealed by Local Government Act 1972 (c. 70, SIF 81:1), Sch. 30
- F103** Words repealed by Countryside Act 1968 (c. 41, SIF 46:1), Sch. 5
- F104** Words substituted by Local Authorities (Land) Act 1963 (c. 29, SIF 81:1), s. 6(2)
- F105** Words substituted by Local Authorities (Land) Act 1963 (c. 29, SIF 81:1), s. 6(1)
- F106** S. 89(7) added by Local Authorities (Land) Act 1963 (c. 29, SIF 81:1), s. 6(4)
- F107** Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), Sch. 30

#### Modifications etc. (not altering text)

- C45** S. 89 amended by London Government Act 1963 (c. 33, SIF 81:1), s. 60(6)
- C46** S. 89(3) excluded by Minerals Workings Act 1985 (c. 12, SIF 86), s. 8(2)

## 90 Local authority byelaws.

(1) A local planning authority may, as respects land in their areas belonging to them and comprised either in a National Park or area of outstanding natural beauty, or as respects land or a waterway to which the public are given access by an agreement or order, or in consequence of acquisition, under Part V of this Act, make byelaws for the preservation of order, for the prevention of damage to the land or waterway

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or anything thereon or therein, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land or waterway by other persons.

- (2) ..... <sup>F108</sup>
- (3) Without prejudice to the generality of subsection (1) of this section, byelaws under that subsection—
- (a) may prohibit or restrict the use of the land or waterway, either generally or in any manner specified in the byelaws, by traffic of any description so specified;
  - (b) may contain provisions prohibiting the depositing of rubbish and the leaving of litter;
  - (c) may regulate or prohibit the lighting of fires;
  - (d) may be made so as to relate either to the whole or to any part of the land or waterway, and may make different provisions for different parts thereof:

..... <sup>F109</sup>

- (4) Before making byelaws under the foregoing provisions of this section as respects a National Park or area of outstanding natural beauty, [<sup>F110</sup>the local planning authority] shall consult with the Commission [<sup>F111</sup>(as regards land in England) or the Council (as regards land in Wales)].
- (5) A local planning authority may, as respects parking places provided in pursuance of arrangements made by them under Part II of this Act, make byelaws as to the conditions of use, and charges to be made for the use, of such parking places, and for prohibiting or restricting persons from plying for hire with vehicles at such parking places.

Nothing in this subsection shall be construed as limiting the general power of a local planning authority to make charges for any services or facilities provided by them under this Act.

- (6) A county council or county district council shall have power to enforce byelaws made under this section by another authority as respects land in the area of the council.

#### Textual Amendments

**F108** Ss. 89(2A), 90(2) repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

**F109** S. 90(3) proviso repealed by Countryside Act 1968 (c. 41, SIF 46:1), **Sch. 5**

**F110** Words substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 17 para. 39**

**F111** Words in s. 90(4) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(14)**; S.I. 1991/685, **art.3**

#### Modifications etc. (not altering text)

**C47** S. 90 amended by London Government Act 1963 (c. 33, SIF 81:1), **s. 60(5)** and Countryside Act 1968 (c. 41, SIF 46:1), **s. 41(10)**

**C48** S. 90(3) restricted by Countryside Act 1968 (c. 41, SIF 46:1), **s. 41(12)**

## 91 Default powers of Secretary of State as to certain byelaws.

- (1) If a local planning authority, when required by the Secretary of State to make, as respects land or a waterway to which the public are given access by an agreement or order, or in consequence of acquisition, under Part V of this Act, byelaws with respect

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to any of the matters with respect to which they are empowered by the last foregoing section to make byelaws, do not within three months after being so required comply with the requirement to the satisfaction of the Secretary of State, he may himself make byelaws in relation to the matters, and as respects the land or waterway, in question:

Provided that before making byelaws under this section as respects a National Park or area of outstanding natural beauty the Secretary of State shall consult with the Commission [<sup>F112</sup>(as regards land or waterways in England) or the Council (as regards land or waterways in Wales)].

- (2) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by the local planning authority and confirmed by the Secretary of State, and the provisions of this Act and of any enactment thereby applied shall have effect in relation to the byelaws accordingly.

#### Textual Amendments

**F112** Words in s. 91(1) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130(1), [Sch. 8 para. 1\(15\)](#); S.I. 1991/685, [art.3](#)

#### Modifications etc. (not altering text)

**C49** S. 91 amended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. [41\(10\)](#)

## 92 Wardens.

- (1) A local authority may appoint such number of persons as may appear to the authority to be necessary or expedient to act as wardens as respects any land or waterway in relation to which byelaws made by the authority are in force under the last but one foregoing section, or in relation to which the authority have power to make such byelaws.

- (2) ..... <sup>F113</sup>

- (3) For the purpose of exercising any function conferred on him by or under this section a warden appointed thereunder may enter upon any land, or go on any waterway, comprised in an access agreement or order in force under Part V of this Act:

Provided that this subsection shall not confer any power of entry on land which is excepted land for the purposes of the said Part V.

- (4) Subject to the provisions of the last foregoing subsection, the foregoing provisions of this section shall not authorise a warden appointed by an authority thereunder, on land or a waterway in which any person other than that authority has an interest, without the consent of that person to do anything which apart from this section would be actionable at his suit by virtue of that interest.

#### Textual Amendments

**F113** Ss. 92(2), 93, 94 repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

#### Modifications etc. (not altering text)

**C50** S. 92 amended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [ss. 13\(9\)\(10\)](#), [41\(9\)\(10\)](#)

**C51** S. 92(1) extended by [Mineral Workings Act 1985 \(c. 12, SIF 86\)](#), s. [49\(2\)](#)

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**C52** S. 92(3)(4) applied (coming into force in accordance with s. 1(2)-(4) of the amending Act) by 2002 c. i, **ss. 1(2)-(4), 15(6)** (with ss. 38, 39)

**93, 94.** ..... **F114**

**Textual Amendments**

**F114** Ss. 92(2), 93, 94 repealed by Countryside Act 1968 (c. 41, SIF 46:1), **Sch. 5**

*Financial Provisions*

**95** ..... **F115**

**Textual Amendments**

**F115** S. 95 repealed and superseded by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), ss. 47, 73(1), **Sch. 17 Pt. II**

**96** ..... **F116**

**Textual Amendments**

**F116** S. 96 repealed by Science and Technology Act 1965 (c. 4, SIF 57), **Sch. 4**

**97** ..... **F117**

**Textual Amendments**

**F117** S. 97 repealed and superseded by Derelict Land Act 1982 (c. 42, SIF 46:1). ss. 1(12), 2(3), 5, Sch.

**98** ..... **F118**

**Textual Amendments**

**F118** S. 98 repealed by Local Government Act 1974 (c. 7, SIF 81:1), **Sch. 8**

**99 Contributions by local authorities.**

- (1) A local authority may defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred for the purposes of this Act by any other local authority.

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- (2) In this section the expression “local authority”<sup>F119</sup> means a local planning authority, the council of a county<sup>F120</sup> . . . not being a local planning authority, or the council of a county district<sup>F119</sup> means a <sup>F121</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>F119</sup>].
- (3) Where, under subsection (4) of section thirteen of this Act, the Minister directs that any power of a local planning authority under that section shall be exercisable by another authority, subsection (1) of this section shall apply as if that other authority were a local authority; and if the direction so provides the local planning authority shall be under a duty to exercise their powers under subsection (1) of this section to such extent as may be specified in the direction.
- <sup>F122</sup>(4) . . . . .
- (5) Any expenditure incurred under this section by a local planning authority in respect of the erection of buildings or the carrying out of work by any such other authority as is mentioned in subsection (3) of this section shall be treated for the purposes of section ninety-seven of this Act as if it were expenditure incurred in the exercise of the powers of the local planning authority mentioned in paragraph (a) of subsection (1) of the said section ninety-seven.
- (6) The council of a county<sup>F120</sup> . . . may defray or contribute towards any expenditure <sup>F123</sup>incurred by a river board or other drainage authority, being<sup>F123</sup> <sup>F123</sup>incurred by the National Rivers Authority or an internal drainage board being] expenditure incurred for the benefit of a nature reserve managed by or under an agreement with the council or in consequence of anything done in the management of such a reserve.

**Textual Amendments**

- F119** Words “means” to “district council” substituted (S.) for words “means” to “county district” by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#) , [Sch. 27 Pt. II para. 102](#)
- F120** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#) , [Sch. 30](#)
- F121** Words in s. 99(2) substituted (S.) (1.4.1996) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#) , s. 180(1) , [Sch. 13 para. 33](#) ; S.I. 1996/323 , [art. 4\(1\)\(c\)](#)
- F122** S. 99(4) repealed by [Highways Act 1959 \(c. 25\)](#) , [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#) , [Sch. 6 para. 70](#)
- F123** Words beginning “incurred by the National Rivers Authority” substituted (E.W.) for words beginning “incurred by a river board” by [Water Act 1989 \(c. 15, SIF 130\)](#) , ss. 58(7) , 101(1) , 141(6) , 160(1)(2) (4) , 163 , 189(4)–(10) , 190 , 193(1) , [Sch. 25](#) , para. 13(2) , [Sch. 26 paras. 3\(1\)\(2\)](#) , 17 , 40(4) , 57(6) , [58](#)

**Modifications etc. (not altering text)**

- C53** S. 99 extended by [London Government Act 1963 \(c. 33, SIF 81:1\)](#) , [s. 60\(6\)](#)
- C54** S. 99(1) extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#) , [s. 46\(1\)](#)
- C55** S. 99(6) amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#) , [Sch. 17 para. 34](#)

**100 Payments out of moneys provided by Parliament.**

There shall be defrayed out of moneys provided by Parliament—

- (a) the expenses under this Act of the Minister of Town and Country Planning, . . .  
<sup>F124</sup> and <sup>F125</sup>the Minister of Agriculture, Fisheries and Food];



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- (b) any increase attributable to the provisions of this Act in the sums payable out of such moneys under Part I or Part II of the <sup>M20</sup>Local Government Act 1948.

#### **Textual Amendments**

**F124** Words repealed by [Science and Technology Act 1965 \(c. 4, SIF 57\)](#), [Sch. 4](#)

**F125** Words substituted by virtue of [S.I. 1955/554](#) (1955 I, p. 1200), art. 3(1)

#### **Modifications etc. (not altering text)**

**C56** Reference to Minister of Town and Country Planning to be construed as reference to Secretary of State: [S.I. 1970/1681](#), arts 2, 6(3), [Sch. 1](#)

#### **Marginal Citations**

**M20** 1948 c. 26.

### *Supplementary Provisions*

#### **101 Crown land.**

- (1) The following provisions of this section shall have effect for applying certain provisions of this Act to Crown land, that is to say land an interest in which belongs to His Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a Government department or is held in trust for His Majesty for the purposes of a Government department.
- (2) A National Park may include Crown land, and with the consent of the appropriate authority the powers conferred by Part II of this Act may be exercised as respects any interest in Crown land.
- (3) Where a National Park includes any Crown land, the appropriate authority and the local planning authority in whose area the land is situated may enter into an agreement for securing that, so far as any interest held by or on behalf of the Crown is concerned and so far as may be provided by the agreement, the land will be managed in a manner consistent with the accomplishment of either or both of the purposes specified in subsection (1) of section five of this Act.
- (4) The appropriate authority may enter into an agreement under Part III of this Act as respects an interest in Crown land held by or on behalf of the Crown, and an agreement thereunder as respects any other interest in Crown land shall not have effect unless approved by the appropriate authority.
- (5) An interest in Crown land, other than one held by or on behalf of the Crown, may be acquired under the said Part III, but only with the consent of the appropriate authority.
- (6) Parts IV and V of this Act shall apply to Crown land, but subject to the following modifications, that is to say,—
  - (a) no . . . <sup>F126</sup> access order shall be made as respects such land except with the consent of the appropriate authority;
  - (b) no such land shall be acquired under the said Part IV or V except with such consent; and
  - (c) if any land comprised in an access agreement or order, not being excepted land as defined for the purposes of the said Part V, becomes Crown land while it is



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so comprised, the access agreement or order shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the agreement or order.

(7) Section eighty-nine of this Act shall apply to Crown land if the appropriate authority consents to its application thereto, but subject to the following modifications, that is to say—

- (a) an interest in Crown land may be acquired for the purposes of the said section eighty-nine only with the consent of the appropriate authority;
- (b) if any land affected by arrangements under subsection (3) of that section or an agreement under subsection (6) thereof becomes Crown land, the arrangements or agreement shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the arrangements or agreement.

(8) Byelaws made under this Act shall apply to Crown land if the appropriate authority consents to their application thereto.

(9) . . . . . F127

(10) Notwithstanding anything in subsection (3) or subsection (6) of this section—

- (a) an agreement authorised by the said subsection (3) and made . . . F128 by any Government department, or an access agreement so made, shall be of no effect unless it is approved by the Treasury; and
- (b) in considering whether to make or approve an agreement authorised by the said subsection (3), or an access agreement, relating to land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

(11) In this section the expression “the appropriate authority”, in relation to any land, means—

- (a) in the case of land belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other Government department having the management of the land in question;
- (b) in the case of land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
- (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints;
- (d) in the case of land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, that department;

and if any question arises under this section as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

#### Textual Amendments

**F126** Words repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33\)](#), SIF 81:1), [Sch. 6 para. 70](#)

**F127** S. 101(9) repealed by [Countryside Act 1968 \(c. 41\)](#), SIF 46:1), [Sch. 5](#)

**F128** Words repealed by [Countryside Act 1968 \(c. 41\)](#), SIF 46:1), [Sch. 5](#)

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**Modifications etc. (not altering text)**

C57 S. 101(3) modified (19.9.1995) by 1995 c. 25, ss. 61(3)(a), 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**102** ..... F129

**Textual Amendments**

F129 S. 102 repealed by Local Government Act 1972 (c. 70, SIF 81:1), Sch. 30

**103 General provisions as to acquisition of land.**

[<sup>F130</sup>(1) Any power conferred by this Act on the Nature Conservancy Council [<sup>F131</sup>(as defined in section 15A of this Act)] or a local authority to acquire land compulsorily shall be exercisable in any particular case on their being authorised so to do by the Secretary of State.]

[<sup>F132</sup>(1A) The <sup>M21</sup>Acquisition of Land Act 1981 shall apply to the acquisition of land under this Act, and in relation to the acquisition under this Act of any interest in land the <sup>M22</sup>Compulsory Purchase Act 1965 shall apply with any necessary modifications.]

[<sup>F133</sup>(2) In relation to the compulsory acquisition of land under this Act by [<sup>F134</sup>Scottish Natural Heritage] or a local authority, the <sup>M23</sup>Acquisition of Land (Authorisation Procedure) Act 1946, shall apply as if this Act had been in force immediately before the commencement of that Act and as if in paragraph (a) of subsection (1) of section one thereof, in Part I of the First Schedule thereto and in the Second Schedule thereto references to a local authority included references to [<sup>F134</sup>Scottish Natural Heritage]:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to any such compulsory acquisition as is mentioned in this subsection.]

(3) ..... F135

(4) ..... F136

(5) The following provision shall have effect, in relation to the acquisition of land under this Act, in substitution for [<sup>F137</sup>section 120 of the <sup>M24</sup>Local Government Act 1972] (which provides for the acquisition of land by local authorities by agreement for the purposes of their functions), that is to say, a local authority may with the consent of the Minister by agreement acquire, whether by way of purchase, lease or exchange, any land, whether within or without the area of the local authority, which they require for the purpose of any of their functions under this Act or any other land which they may be authorised under this Act to acquire compulsorily.

(6) In this section, and in any enactment in this Act which confers a power to acquire land compulsorily, the expression “land” includes any interest in land; [<sup>F138</sup>and the provisions of the Lands Clauses Acts incorporated with this Act by virtue of paragraph 1 of the Second Schedule to the <sup>M25</sup>Acquisition of Land (Authorisation Procedure) Act 1946, as applied by subsections (2) and (4) of this section, shall apply with the necessary modifications in relation to the compulsory acquisition of any interest in

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land, being an interest not falling within the definition of “lands” contained in the Lands Clauses Acts.]

- (7) In the application of this section to Scotland there shall be substituted, for references to the <sup>M26</sup>Acquisition of Land (Authorisation Procedure) Act 1946, and to [<sup>F137</sup>section 120 of the <sup>M27</sup>Local Government Act 1972] respectively, references to the <sup>M28</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, and to section [<sup>F139</sup>70 of the <sup>M29</sup>Local Government (Scotland) Act 1973] and in subsection (5) there shall be substituted for the words “whether by way of purchase, lease or exchange” the words “whether by way of purchase, feu, lease or excambion”; and subsection (4) shall not apply.

#### Textual Amendments

- F130** S. 103(1) substituted by Nature Conservancy Council Act 1973 (c. 54, SIF 46:1), **Sch. 1 para. 2(1)**
- F131** Words in s. 103(1) inserted (1.4.1991) by Environmental Protection Act 1990 (c. sx 43, SIF 46:4), s. 132, Sch. 9 para. 1(4)(a); S.I. 1991/685, **art. 3**
- F132** S. 103(1A) inserted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 4 para. 8**
- F133** S. 103(2) repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 6 Pt. I**
- F134** Words in s. 103(2) substituted (1.4.1992) by virtue of Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 4(6), **Sch. 2 para. 1(4)**; S.I. 1991/2633, **art.4**
- F135** S. 103(3) repealed by Land Compensation Act 1961 (c. 33, SIF 28:1), **Sch. 5** and Land Compensation (Scotland) Act 1963 (c. 51, SIF 28:2), **Sch. 4**
- F136** S. 103(4) repealed by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 6 Pt. I**
- F137** Words substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), s. 272(2)
- F138** Words repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 6 Pt. I**
- F139** Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 27 Pt. II para. 103**

#### Modifications etc. (not altering text)

- C58** S. 103 extended by Countryside Act 1968 (c. 41, SIF 46:1), s. 46(1)
- C59** S. 103(1)(2) extended by Countryside Act 1968 (c. 41, SIF 46:1), s. 46(2)  
s. 103 applied (30.1.2001) by 1981 c. 69, s. 28N(5) (as substituted (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1**)

#### Marginal Citations

- M21** 1981 c. 67(28:1).
- M22** 1965 c. 56(28:1).
- M23** 1946 c. 49.
- M24** 1972 c. 70.
- M25** 1946 c. 49.
- M26** 1946 c. 49.
- M27** 1972 c. 70.
- M28** 1947 c. 42.
- M29** 1973 c. 65.

## 104 General provisions as to appropriation and disposal of land.

- (1) The following provisions of this section shall have effect with respect to the disposal or appropriation by any local authority of land which has been acquired by them under this Act or appropriated by them for purposes for which land can be acquired under

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this Act, and is for the time being held by the authority for the purposes for which it was acquired or appropriated.

- (2) Subject to the provisions of subsections (5) and (6) of this section—
- (a) where any such land was acquired or appropriated by the authority for a purpose involving the disposal thereof by the authority or for a purpose which in the opinion of the authority can best be achieved by the disposal thereof, or which can be achieved consistently with the disposal thereof, they may dispose of the land to such person, in such manner and subject to such conditions as may appear to the authority to be expedient in order to secure that the land will be best dealt with having regard to the purpose for which it was acquired;
  - (b) where any such land is no longer required for the purpose for which it is held, the authority may dispose thereof to such person, in such manner and subject to such conditions as may appear to the authority to be expedient, having regard to the nature and situation of the land, in order to secure the best use of the land.
- (3) Subject to the provisions of subsection (5) of this section, the authority may appropriate any such land, where the land is no longer required for the purpose for which it is held, for any other purpose for which the authority are or may be authorised in any capacity to acquire land under this Act or by or under any other enactment.
- (4) In relation to an appropriation under the last foregoing subsection, [<sup>F140</sup>subsection (4) of section 122 of the <sup>M30</sup>Local Government Act 1972], . . . <sup>F141</sup> (which relate to the operation of section sixty-eight of the <sup>M31</sup>Lands Clauses Consolidation Act 1845, and to adjustments in accounts) shall have effect as they have effect in relation to appropriations under those sections respectively.
- (5) The consent of the Minister shall be requisite to any disposal or appropriation of land by a local authority under this section, and may be given as respects either a particular disposal or appropriation or disposals or appropriations of any class, and either subject to or free from any conditions or limitations.
- (6) The consent of the Minister to a sale by a local authority under this section of the freehold in any land, or to a lease by them thereunder of any land for a term of more than ninety-nine years, shall not be given unless he is satisfied that there are exceptional circumstances which render the disposal of the land in that manner expedient as mentioned in subsection (2) of this section.
- (7) . . . . . <sup>F142</sup>
- (9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation) whether by way of sale, exchange or lease, by the creation of any easement, right or privilege, or in any other manner, except disposal by way of gift, mortgage or charge.
- (10) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of [<sup>F140</sup>subsections (1) to (3), (5) and (6) of section 122 and section 123 of the <sup>M32</sup>Local Government Act 1972], . . . <sup>F141</sup>, [<sup>F143</sup>or of sections 73 and 74 of the <sup>M33</sup>Local Government (Scotland) Act 1973].
- [<sup>F144</sup>(11) [<sup>F140</sup>Section 153 of the <sup>M34</sup>Local Government Act 1972], . . . <sup>F141</sup> (which relate to the application of capital money received from the disposal of land), and section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (so far as it

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relates to the application of such money), shall have effect as respects capital money received in respect of transactions under the provisions of this section relating to the disposal of land as they have effect as respects capital money received in respect of such transactions as are mentioned in those sections respectively.]

(12) In the application of this section to Scotland, the following provision shall be substituted for subsection (4) of this section, that is to say—

“(4) on any appropriation being made under the last foregoing subsection proper adjustments in respect thereof shall be made in the accounts of the authority”

and the following provision shall be substituted for subsection (9) of this section, that is to say—

“(9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation), whether by way of sale, feu, excambion or lease, by the creation of any servitude, right or privilege, or in any other manner except disposal by way of gift or in security”;

and subsections (6), (7) and (8) shall be omitted.

#### Textual Amendments

- F140** Words substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **s. 272(2)**
- F141** Words repealed by [London Government Act 1963 \(c. 33, SIF 81:1\)](#), **Sch. 18 Pt. II**
- F142** [Ss. 104\(7\)\(8\), 105](#) repealed by [Local Government Act 1974 \(c. 7, SIF 81:1\)](#), **Sch. 8**
- F143** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 27 Pt. II para. 104**
- F144** [S. 104\(11\)](#) repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

#### Modifications etc. (not altering text)

- C60** [S. 104](#) extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), **s. 46(1)**, excluded by *ibid.*, Sch. 2 para. 4(2)
- C61** [s. 104](#) amended (E.W.) (19.9.1995) by [1995 c. 25, ss. 68\(9\), 125\(2\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))

#### Marginal Citations

- M30** [1972 c. 70.](#)
- M31** [1845 c. 18.](#)
- M32** [1972 c. 70.](#)
- M33** [1973 c. 65.](#)
- M34** [1972 c. 70.](#)

**105** ..... **F145**

#### Textual Amendments

- F145** [Ss. 104\(7\)\(8\), 105](#) repealed by [Local Government Act 1974 \(c. 7, SIF 81:1\)](#), **Sch. 8**

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## 106 Supplementary provisions as to byelaws.

- (1) [<sup>F146</sup>Sections 236 to 238 of the <sup>M35</sup>Local Government Act 1972] shall apply to all byelaws under this Act as if any authority having power to make them were a local authority within the meaning of the said Act of [<sup>F146</sup>1972] so however, that in relation to byelaws made by [<sup>F147</sup>the Nature Conservancy Council][<sup>F148</sup>(as defined in section 15A of this Act)] the said sections shall apply subject to such adaptations as may be prescribed by regulations made by the Secretary of State.
- (2) In relation to byelaws made under this Act the confirming authority for the purposes of the said [<sup>F146</sup>section 236] shall be the Secretary of State.
- (3) Any authority having power under this Act to make byelaws shall have power to enforce byelaws made by them.
- (4) The following provisions shall have effect in the application of this section to Scotland:
  - (a) for references to [<sup>F146</sup>the <sup>M36</sup>Local Government Act 1972 and to sections 236 to 238] thereof there shall be substituted references to the Local Government (Scotland) Act [<sup>F149M37</sup>1973, and to sections 201 to 204] thereof; and
  - (b) nothing in the last foregoing subsection shall be construed as authorising any such authority as is mentioned therein to institute proceedings in Scotland for an offence.

### Subordinate Legislation Made

**P2** S. 106: for previous exercises of this power, see Index to Government Orders

### Textual Amendments

**F146** Words substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 272(2)

**F147** Words substituted by [Nature Conservancy Council Act 1973 \(c. 54, SIF 46:1\)](#), [Sch. 1 para. 2\(2\)](#)

**F148** Words in s. 106(1) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 1\(5\)](#); S.I. 1991/685, [art.3](#)

**F149** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [Sch. 27 Pt. II para. 105](#)

### Modifications etc. (not altering text)

**C62** S. 106 extended by [Wildlife and Countryside Act 1981 \(c. 69, SIF 81:1\)](#), s. 272(2)

s. 106 applied (30.1.2001) by [1981 c. 69, s. 28R\(2\)\(b\)](#) (as substituted (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#))

### Marginal Citations

**M35** 1972 c. 70.

**M36** 1972 c. 70.

**M37** 1973 c. 65.

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

- (1) The following provisions shall have effect as to compensation under section twenty of this Act, under that section as applied by section twenty-one thereof . . . <sup>F150</sup> and under section seventy thereof.

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- (2) Any dispute arising on a claim for any such compensation shall be determined by the Lands Tribunal.
- (3) For the purposes of any reference to the Lands Tribunal under the last foregoing subsection, [<sup>F151</sup>section 4 of the <sup>M38</sup>Land Compensation Act 1961][<sup>F152</sup>section 5 of the <sup>M39</sup>Land Compensation (Scotland) Act 1963] (which relates to costs) shall have effect with the substitution, for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.
- (4) Rules 2 to 4 of the Rules set out in [<sup>F151</sup>section 5 of the said Act of 1961][<sup>F152</sup>section 12 of the said Act of 1963] (which provides rules for valuation on a compulsory acquisition) shall apply to the calculation of any such compensation, in so far as it is calculated by reference to the depreciation of the value of an interest in land.
- (5) In the case of an interest in land subject to a mortgage—
  - (a) any such compensation in respect of the depreciation of that interest shall be calculated as if the interest were not subject to the mortgage;
  - (b) a claim or application for the payment of any such compensation, or an application for the recording of a claim in respect of the interest under subsection (1) of section seventy-two of this Act, may be made by any person who when the byelaws or order giving rise to the compensation were or was made was the mortgagee of the interest, or by any person claiming under such a person, but without prejudice to the making of a claim or application by any other person;
  - (c) a mortgagee shall not be entitled to any such compensation in respect of his interest as such; and
  - (d) any compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee, or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.
- (6) This section shall apply to Scotland—
  - (a) with the substitution for any reference to the Lands Tribunal of a reference to the Lands Tribunal for Scotland; and
  - (b) with the substitution respectively for any reference to a mortgage, to a mortgagee, and to the first mortgagee, of a reference to a heritable security, to the creditor in a heritable security, and to the creditor whose heritable security has priority over any other heritable securities secured on the land:

Provided that until sections one to three of the <sup>M40</sup>Lands Tribunal Act 1949, come into force as respects Scotland the expression “the Lands Tribunal for Scotland” in subsection (2) of this section shall be construed as meaning an official arbiter appointed under [<sup>F152</sup>the <sup>M41</sup>Land Compensation (Scotland) Act 1963], and the following provisions of the said [<sup>F152</sup>Act of 1963] that is to say, [<sup>F152</sup>section 3] thereof (which relates to procedure), [<sup>F152</sup>section 5] thereof (which relates to costs) . . . <sup>F153</sup> but with the substitution for references to the acquiring authority of references to the authority from whom the compensation in question is claimed, and [<sup>F152</sup>subsection (9) of section 3] thereof (which relates to the statement of special cases) as modified by section ten of the said Act of 1949, shall apply for the purposes of the arbitration.



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**Textual Amendments**

- F150** Words repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F151** Words substituted (E.W.) by virtue of [Land Compensation Act 1961 \(c. 33, SIF 28:1\)](#), [s. 40\(1\)](#)
- F152** Words substituted (S.) by virtue of [Land Compensation \(Scotland\) Act 1963 \(c. 51, SIF 28:2\)](#), [s. 47\(1\)](#)
- F153** Words spent

**Modifications etc. (not altering text)**

- C63** S. 107 applied (30.1.2001) by [1981 c. 69, s. 28R\(2\)\(b\)](#) (as substituted (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#))

**Marginal Citations**

- M38** [1961 c. 33.](#)
- M39** [1963 c. 51.](#)
- M40** [1949 c. 42.](#)
- M41** [1963 c. 51.](#)

**108 Powers of entry.**

- (1) For the purpose of surveying land in connection with—
  - (a) the acquisition thereof or of any interest therein, whether by agreement or compulsorily,
  - (b) ..... <sup>F154</sup>
  - (c) the making of an access order with respect thereto,
 in the exercise of any power conferred by this Act, any person duly authorised in writing by the Minister or other authority having power so to acquire the land or to make the order, as the case may be, may enter upon the land.
- (2) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable under this Act by a Minister or other authority in respect of that or any other land, any person being an officer of the Valuation Office or a person duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.
- (3) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least [<sup>F155</sup>fourteen days'] notice in writing of the intended entry has been given to the occupier.
- (4) Any person who wilfully obstructs a person in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding [<sup>F156</sup>level 1 on the standard scale].

**Textual Amendments**

- F154** [S. 108\(1\)\(b\)](#) repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F155** Words substituted by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [s. 46\(3\)](#)

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**F156** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 389F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

**Modifications etc. (not altering text)**

**C64** S. 108 extended by Countryside Act 1968 (c. 41, SIF 46:1), **s. 46(1)**

**C65** S. 108 restricted (S.) (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), **s. 7(11)**; S.I. 1991/2633, **art.4**

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

- (1) [<sup>F157</sup>Section 282 of the <sup>M42</sup>Town and Country Planning Act 1971] (which provides for the holding by the Minister of local inquiries for the purposes of that Act) shall apply for the purposes of this Act.
- (2) [<sup>F157</sup>Section 283 of the Town and Country Planning Act 1971] and [<sup>F158</sup>section 269 of the <sup>M43</sup>Town and Country Planning (Scotland) Act 1972] (which provide for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act:

Provided that this subsection shall not apply to the service of any notice required or authorised to be served under the First Schedule to the <sup>M44</sup>Acquisition of Land (Authorisation Procedure) Act 1946, or the <sup>M45</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, as applied by this Act.

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

**Textual Amendments**

**F157** Words substituted by virtue of Town and Country Planning Act 1971 (c. 78, SIF 123:1), **Sch. 24 para. 2**

**F158** Words substituted by virtue of Town and Country Planning (Scotland) Act 1972 (c. 52, SIF 123:2), **Sch. 22 para. 2**

**Modifications etc. (not altering text)**

**C66** Unreliable marginal note

**C67** S. 109 extended by Countryside Act 1968 (c. 41), **s. 46(1)**

**C68** S. 109(2): Interpretation Act 1978 (c. 30 SIF 115:1), s. 17(2)(a) applies to the construction of the reference to Acquisition of Land (Authorisation Procedure) Act 1946

**Marginal Citations**

**M42** 1971 c. 78.

**M43** 1972 c. 52.

**M44** 1946 c. 18.

**M45** 1947 c. 49.

**110 Regulations and orders.**

- (1) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

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- (2) Any order under Part IV, V or VI of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like provisions:

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

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

## 111 Application to Isles of Scilly.

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

### Modifications etc. (not altering text)

**C69** S. 111 extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), **s. 46(1)** and by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **Sch. 17**, para. 40

## [<sup>F159</sup> 111A Application to the Broads Authority.

- (1) Sections 21 and 22 of this Act shall have effect as if the Broads Authority were a county council.
- (2) Sections 54 and 89 of this Act shall have effect as if the Broads Authority were a local planning authority.
- (3) Part V of this Act (apart from section 69) shall have effect as if the Broads Authority were a local planning authority but as if—
- sections 61 to 63, 74 and 78 were omitted; and
  - <sup>F160</sup> . . . , the Broads were a National Park.
- (4) Section 69 of this Act shall have effect as if the Broads Authority were a county planning authority.
- (5) In this section “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.]

### Textual Amendments

**F159** S. 111A inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 2(5)(6), 23(2), 27(2), **Sch. 3 para. 2**

**F160** Words in s. 111A(3)(b) repealed (1.4.1997) by [1995 c. 25, s. 120\(3\)](#), **Sch. 24** (with ss. 7(6), 115, 117); [S.I. 1996/2560, art. 2](#), **Sch.**

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## 112 Epping Forest and Burnham Beeches.

- (1) The provisions of this Act mentioned in the next following subsection shall not apply to any of the lands under the regulation and management of the Corporation of London as Conservators of Epping Forest, or acquired by, and vested in, that Corporation under the <sup>M46</sup>Corporation of London (Open Spaces) Act 1878, in the area known as Burnham Beeches.
- (2) The said provisions are Part II of this Act, Part V thereof, and sections eighty-seven to ninety-four thereof.

### Modifications etc. (not altering text)

C70 S. 112(2) extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 46(4)

### Marginal Citations

M46 1878 c. cxxvii.

## 113 National Trust land.

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

### Modifications etc. (not altering text)

C71 S. 113 extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 46(5)

## 114 Interpretation.

- (1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

F161

“area of outstanding natural beauty” has the meaning assigned to it by subsection (1) of section eighty-seven of this Act;

[<sup>F162</sup>“the Commission” means the Commission established by section one of this Act;

“the Council” means the Countryside Council for Wales;]

[<sup>F163</sup> “drainage authority” means the National Rivers Authority or an internal drainage board;]

“interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights;

“land” includes land covered by water and as respects Scotland includes salmon fishings;

“the Minister” as respects England and Wales means [<sup>F164</sup>the Secretary of State] and as respects Scotland means the Secretary of State;

“National Park” has the meaning assigned to it by subsection (3) of section five of this Act;

“open-air recreation” does not include organized games;

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“owner”, in relation to any land, means, except in Part III of this Act, a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, and, in Part III of this Act, as respects England and Wales means any person being either entitled to the fee simple or being a mortgagee in possession of the land and as respects Scotland has the meaning assigned to it by section twenty-six of this Act;

F165

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

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

and, except where the context otherwise requires, other expressions have the same meanings respectively as in [F166the M47Town and Country Planning Act 1971] or, in their application to Scotland, as in [F167the M48Town and Country Planning (Scotland) Act 1972].

- (2) References in this Act to the preservation [F168, or the conservation,] of the natural beauty of an area shall be construed as including references to the preservation [F168or, as the case may be, the conservation] of [F169its flora, fauna and geological and physiographical features].
- (3) References in this Act to the planting of trees shall be construed as including references to the planting of bushes, the planting or sowing of flowers and the sowing of grass and the laying of turf.
- (4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

#### Textual Amendments

**F161** Definition spent

**F162** Definitions in s. 114(1) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130, [Sch. 8 para. 1\(16\)](#); S.I. 1991/685, [art. 3](#)

**F163** In s. 114(1) the definition of "drainage authority" substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 7](#)

**F164** Words substituted by virtue of S.I. 1951/142 (1951 I, p. 1348), art. 2, 1951/1900 (1951 I, p. 1347), 1965/143, arts. 2(2), 3(1), 1965/319, arts. 2(1), 10(1), Sch. 1 Pt. I and 1970/1681, arts. 2, 6(3)

**F165** Definition repealed by [Water Resources Act 1963 \(c. 38, SIF 130\)](#), [Sch. 14 Pt. I](#)

**F166** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78, SIF 123:1\)](#), [Sch. 24 para. 2](#)

**F167** Words substituted by virtue of [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), [Sch. 22 para. 2](#)

**F168** Words in s. 114(2) inserted (23.11.1995) by 1995 c. 25, s. 78, [Sch. 10 para. 2\(8\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1995/2950, [art. 2\(1\)](#)

**F169** Words substituted by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 21(7)

#### Modifications etc. (not altering text)

**C72** In s. 114(1) the definitions of "interest" and "land" applied (S.) (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 1(2), [Sch. 1 para. 19\(2\)](#); S.I. 1991/2633, [art. 4](#)

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- C73** In s. 114(1) the definitions of "interest" and "land" applied (1.4.1991) by Environmental Protection Act 1990 (C. 43, SIF 46:4), s. 128(5), Sch. 6 para. 18(2); S.I. 199/685, art. 3
- C74** In s. 114(1) the definition of "waterway" applied (1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 157\(6\), 223\(2\)](#)  
In s. 114(1) the definition of "waterway" applied (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), [ss. 210\(1\), 225\(2\)](#), [Sch. 25 para. 3\(4\)](#)
- C75** Definition of "open-air recreation" restricted by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [s. 21\(6\)](#)

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**Marginal Citations**

- M47** 1971 c. 78.  
**M48** 1972 c. 52.

**115 Short title and extent.**

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

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## SCHEDULES

### FIRST SCHEDULE

#### PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN INSTRUMENTS

#### <sup>X1</sup>PART I

##### **Editorial Information**

**X1** Pt. I so far as it relates to a public path order, a diversion order or an extinguishment order, repealed by Highways Act 1959 (c. 25), **Sch. 25** and London Government Act 1963 (c. 33, SIF 81:1), **Sch. 6 para. 70**

#### *Orders designating National Parks, Public Path Orders, Diversion Orders and Extinguishment Orders, and Access Orders*

- 1 (1) Before—
- (a) an order designating a National Park,
  - (b) ..... <sup>F170</sup>
  - (c) an access order,
- is submitted to the Minister for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Before the Minister makes an order varying an order designating a National Park, or . . . <sup>F171</sup> or an access order, he shall prepare a draft of the order and shall give notice stating that he proposes to make the order and the effect thereof, naming places in the locality to which the draft relates where a copy of the draft and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft may be made.
- (3) The notice to be given under either of the two foregoing sub-paragraphs shall be given—
- (a) in the case of an order designating a National Park or an order varying such an order, by publication in the London Gazette, in two newspapers circulating in the country generally and in at least one local newspaper circulating in the [<sup>F172</sup>every county or county borough which] includes any of the land to which the order relates;



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- (b) in the case of . . . <sup>F171</sup> or an access order, by publication in the London Gazette and in at least one local newspaper circulating in the locality in which the land to which the order relates is situated, and by serving a like notice on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any of that land, so however that—
- (i) except in the case of an owner, lessee or occupier being a local authority or statutory undertakers, the Minister may in any particular case direct that it shall not be necessary to serve notice as aforesaid; but
- (ii) if the Minister so directs in the case of any land, then in addition to publication the notice shall be addressed to “the owners and any occupiers” of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land;
- (c) . . . . . <sup>F173</sup>

[<sup>F174</sup>(3A) Where under this paragraph any notice is required to be given by any person in respect of any land which is already in a National Park for which a National Park authority is the local planning authority, that person shall serve a copy of that notice on that authority.]

- (4) Where under this paragraph any notice is required to be served on an owner of land and the land belongs to an ecclesiastical benefice, a like notice shall be served on the Church Commissioners.

#### Textual Amendments

- F170** Para. 1(1)(b) repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F171** Words repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F172** Words in Sch. 1 para. 1(3)(a) substituted (1.4.1996) by [1994 c. 19, s. 20\(4\)](#), [Sch. 6 Pt. II para. 15\(3\)](#) (with [ss. 54\(5\)\(7\)](#), [55\(5\)](#), [Sch. 17 para. 22\(1\)](#), [23\(2\)](#)); [S.I. 1996/396, art. 3](#), [Sch. 1](#)
- F173** Para. 1(3)(c) repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F174** Sch. 1 para. 1(3A) inserted (23.11.1995) by [1995 c. 25, s. 78](#), [Sch. 10 para. 2\(9\)\(a\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#)); [S.I. 1995/2950, art. 2\(1\)](#)

#### Modifications etc. (not altering text)

- C76** Para. 1(3)(b) amended by [Housing Repairs and Rents Act 1954 \(c. 53\)](#), [s. 50\(2\)\(c\)](#)

- 2 (1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.
- (2) If any representation or objection duly made is not withdrawn, the Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held and in any other case either—
- (a) cause a local inquiry to be held, or
- (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,

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and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:

F175

- (3) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—
  - (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days) within which and manner in which representations or objections with respect to the proposal may be made;
  - (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and
  - (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

F176

- (4) Where, in the case of an access order, it is represented by <sup>F177</sup>the National Rivers Authority or a water undertaker] that any land comprised in the order as submitted to the Minister or in the draft order prepared by him, as the case may be (or, where notice of a proposed modification has been given under head (a) of the last foregoing sub-paragraph, any land to which the proposed modification relates), should be excluded from the operation of the order on the ground that by reason of—
  - (a) the proximity of the land to any reservoir used for the purposes of <sup>F178</sup>the statutory undertaking carried on by that Authority or, as the case may be, undertaker], or
  - (b) any other physical factor affecting the flow of water from the land into any such reservoir,

the operation of section sixty of this Act as respects that land would be likely to involve danger to the purity of the water supply which could not be prevented by the taking of any reasonable measures, sub-paragraph (2) of this paragraph, or head (c) of the last foregoing sub-paragraph, as the case may be, shall have effect in relation to that representation as if it provided for the consideration of the report therein referred to by the Minister . . . <sup>F179</sup>

- (5) If, as the result of any representations or objections considered, or inquiry or other hearing held, in connection with the confirmation of an order designating a National Park or the making of an order varying such an order, the Minister is of opinion that the Commission <sup>F180</sup>, the Council]<sup>F181</sup>a National Park authority], a <sup>F182</sup>county planning authority]<sup>F183</sup>or, in Wales, the local planning authority] or any other person ought to be consulted before he decides whether to confirm or make the order either with or without modifications, he shall consult the Commission <sup>F184</sup>, Council], authority or other person but, subject to the provisions of sub-paragraph (3) of this paragraph, shall not be under any obligation to consult any other person, or to afford any opportunity for further representations or objections or to cause any further inquiry or other hearing to be held.

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### Textual Amendments

- F175** Para. 2(2) proviso repealed by Highways Act 1959 (c. 25), **Sch. 25** and London Government Act 1963 (c. 33, SIF 81:1), **Sch. 6 para. 70**
- F176** Words repealed by Highways Act 1959 (c. 25), **Sch. 25** and London Government Act 1963 (c. 33, SIF 81:1), **Sch. 6 para. 70**
- F177** Words beginning “the National Rivers Authority” substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 13(3)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F178** Words beginning “the statutory undertaking” substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 13(3)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F179** Words omitted by virtue of S.I. 1951/753 (1951I, p. 1354), art. 7(2)
- F180** Words in Sch. 1 para. 2(5) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(17)**; S.I. 1991/685, **art. 3**
- F181** Words in Sch. 1 para. 2(5) inserted (1.4.1996) by 1995 c. 25, s. 78, **Sch. 10 para. 2(9)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 3
- F182** Words substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 17 para. 41**
- F183** Words in Sch. 1 para. 2(5) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 15(3)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.**
- F184** Word in Sch. 1 para. 2(5) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 1(17)**; S.I. 1991/685, **art. 3**

3 As soon as may be after any such order as is mentioned in paragraph 1 of this Schedule has been confirmed or made by the Minister, the authority by whom the order was made, or, in the case of an order made by the Minister, the Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected at all reasonable hours, and—

- (a) where under the said sub-paragraph (3) notice was required to be served, shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph or under sub-paragraph [<sup>F185</sup>(3A) or] (4) of paragraph 1 of this Schedule; and
- (b) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph:

Provided that no such notice or copy need be served on a person unless he has sent to the authority or Minister (according as the notice or copy would require to be served by an authority or by the Minister) a request in writing in that behalf specifying an address for service.

### Textual Amendments

- F185** Words in Sch. 1 para. 3(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(9)(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

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[<sup>F186</sup>3A An order designating a National Park shall have effect as from such time as may be determined by the Minister and specified in the notice of the confirmation of that order.]

**Textual Amendments**

**F186** Sch. 1 para. 3A inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(9)(d)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

4 (1) The Minister may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.

(2) ..... <sup>F187</sup>

(3) In this Part of this Schedule the expression “prescribed” means prescribed by regulations made by the Minister.

**Textual Amendments**

**F187** Sch. 1 Pt. I para. 4(2) repealed by Highways Act 1959 (c. 25), **Sch. 25** and London Government Act 1963 (c. 33, SIF 81:1), **Sch. 6 para. 70**

**PART II** ..... <sup>F188</sup>

**Textual Amendments**

**F188** Sch. 1 Pt. II repealed by Countryside Act 1968 (c. 41), **Sch. 5**

**PART III**

*Provisions as to validity of orders, and of certain maps  
and statements prepared under Part IV of this Act*

8 If any person desires to question the validity of an order to which Part I . . . <sup>F189</sup> of this Schedule applies on the ground that it is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the making or confirmation of the order, he may, within six weeks after the date of publication of notice of the confirmation or making of the order in accordance with the foregoing provisions of this Schedule in that behalf, make an application to the High Court; and on any such application the court—

- (a) may by interim order suspend the operation of the order, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to

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comply with any such requirement as aforesaid, may quash the order either generally or in so far as it affects the applicant.

#### Textual Amendments

**F189** Words repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

- 9 (1) If any person desires to question the validity of a definitive map prepared under Part IV of this Act on the ground that the map is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the preparation of the map, or of any draft or provisional map on which that map is based, he may, within six weeks after the date of publication of notice of the preparation of the map in accordance with the provisions of the said Part IV in that behalf, make an application to the High Court; and on any such application the court, if satisfied that the map is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may make an order declaring that, notwithstanding anything contained in the said Part IV, the definitive map shall not be conclusive evidence of any such matter as may be specified in the order.
- (2) References in this paragraph to a definitive map, or to a draft or provisional map, shall be construed as including references to a revised map prepared in definitive form, or to a revised map prepared in draft or provisional form, as the case may be; references therein to a map shall be construed as including references to any statement required by the provisions of Part IV of this Act to be annexed to the map; and for the purposes of this paragraph a map shall be deemed to be based on another map if the particulars contained in the former map are required by the said provisions to be the particulars contained in the latter map as modified in accordance with those provisions.
- 10 Subject to the provisions of the two last foregoing paragraphs, an order, map, or statement to which either of those paragraphs applies shall not, either before or after it has been confirmed, made or prepared, be questioned in any legal proceedings whatsoever, and any such order map or statement shall become operative on the date on which notice of the confirmation, making or preparation thereof is published as mentioned in those paragraphs respectively.
- 11 Paragraphs 8 and 10 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the <sup>M49</sup>Statutory Orders (Special Procedure) Act 1945 and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of paragraph 2 . . . <sup>F190</sup> of this Schedule as if for the reference in the said paragraph 10 to the date therein mentioned there were substituted a reference to the date on which the order becomes operative under the said Act.

#### Textual Amendments

**F190** Words repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

#### Marginal Citations

**M49** 1945 c. 18.

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## SECOND SCHEDULE

### GENERAL RESTRICTIONS TO BE OBSERVED BY PERSONS HAVING ACCESS TO OPEN COUNTRY OR WATERWAYS BY VIRTUE OF PART V OF ACT

- 1 Subsection (1) of section sixty of this Act shall not apply to a person who, in or upon the land in question,—
- (a) drives or rides any vehicle;
  - (b) lights any fire or does any act which is likely to cause a fire;
  - (c) takes, or allows to enter or remain, any dog not under proper control;
  - (d) wilfully kills, takes, molests or disturbs any animal, bird or fish or takes or injures any eggs or nests;
  - (e) bathes in any non-tidal water in contravention of a notice displayed near the water prohibiting bathing, being a notice displayed, and purporting to be displayed, with the approval of the local planning authority;
  - (f) engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish;
  - (g) wilfully damages the land or anything thereon or therein;
  - (h) wilfully injures, removes or destroys any plant, shrub, tree or root or any part thereof;
  - (i) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, breaks through any hedge, fence or wall, or neglects to shut any gate or to fasten it if any means of so doing is provided;
  - (j) affixes or writes any advertisement, bill, placard or notice;
  - (k) deposits any rubbish or leaves any litter;
  - (l) engages in riotous, disorderly or indecent conduct;
  - (m) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation;
  - (n) holds any political meeting or delivers any political address; or
  - (o) hinders or obstructs any person interested in the land, or any person acting under his authority, in the exercise of any right or power vested in him.
- 2 In the application of the foregoing provisions of this Schedule to waterways,—
- (a) for references to land there shall be substituted references to a waterway;
  - (b) sub-paragraphs (a) and (b) of paragraph 1 of this Schedule shall not apply; and
  - (c) sub-paragraph (f) of the said paragraph 1 shall have effect as if the words from “or brings” to the end of the sub-paragraph were omitted.

**Status:**

Point in time view as at 01/04/1997.

**Changes to legislation:**

National Parks and Access to the Countryside Act 1949 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.