

# ENVIRONMENT (WALES) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – Sustainable management of natural resources**

##### ***Section 16 – Power to enter into land management agreements***

94. **Section 16** enables NRW to enter into agreements with any person who has an interest in land (as defined in subsection (3)) about how they manage their land. It replaces NRW's various powers to enter into land management agreements which are in section 39 of Wildlife and Countryside Act 1981 (the 1981 Act), sections 15 and 45 of the Countryside Act 1968 (the 1968 Act) and section 16 of the National Parks and Access to the Countryside Act 1949 (the 1949 Act).
95. The previous powers could only be exercised for the purposes of nature conservation, providing access to the countryside or enhancing the natural beauty of the countryside (section 39 of the 1981 Act), for the conservation and protection of designated sites such as Sites of Special Scientific Interest (SSSIs) (section 15 of the 1968 Act) or for ensuring the management of land as a nature reserve (section 16 of the 1949 Act).
96. NRW's powers to enter into agreements under the 1949 Act, 1968 Act and 1981 Act are removed by paragraphs 1 to 3 of Schedule 2 to this Act. However, its power to enter into land management agreements under regulation 16 of the Conservation of Habitats and Species Regulations 2010 has not been repealed and is unaffected by the provisions in this Act.
97. **Section 16** of this Act confers a broader power to enter into land management agreements for any purpose within the remit of NRW. This includes any of the purposes for which land management agreements made under the previous powers could be used, but is not limited to those purposes.
98. It also includes agreements that further NRW's general duty to pursue the sustainable management of natural resources as provided under section 5 of this Act. The effect of section 5 on section 16 means that NRW will also need to apply the principles of the sustainable management of natural resources as specified in section 4 of this Act.
99. Under section 16 NRW may enter into land management agreements with any person who has an interest in the land.
100. A person with an interest in the land is defined in subsection (3) and means those with a freehold or leasehold estate in land, a rent charge and those with rights such as the right to hunt or shoot game.
101. **Section 16** does not impose a requirement on a person to enter into an agreement with NRW and they are voluntary arrangements.
102. For example the terms of a land management agreement may require a land owner to manage their land in a particular way, for which they may receive payments or other benefits in return.

103. [Section 16\(2\)](#) provides a non-exhaustive list of the type of terms and conditions that may be included in an agreement. Some examples of how the land may be used and restrictions on activities that may be undertaken are below:
- On farmland, under the terms of an agreement, the land owner/occupier may be required not to cultivate a certain area of the land, or they may be asked not to cut down certain trees.
  - It may be a term of an agreement that a land owner/occupier must manage the flow of water through his or her land for the purposes of managing flood risk. For example the land owner/occupier may be required under the agreement to retain certain peat bogs or forestry coverage, therefore, restricting the use of the land but for the purpose of flood retention. This is an example of alternative measures that may be taken to manage flood risk by managing land in a way that retains water and attenuates flow to prevent flooding downstream.
  - NRW may undertake management activities (i.e. harvesting woodland) on the land, or appoint someone else.
  - NRW may also use management agreements for managing land that falls within a SSSI. The terms of an agreement may reflect the interests of any management scheme relating to a SSSI that may be made under section 28J of the 1981 Act. A management scheme sets out measures to be taken for conserving and restoring a SSSI.
104. [Section 16](#) needs to be read in conjunction with the consequential amendments made to the 1949 Act, the 1968 Act and the 1981 Act by Schedule 2, Part 1 of this Act, which repeals those sections in relation to NRW. Transitional provisions in section 20 ensure that any existing agreements made by NRW are to be treated as agreements under this Act.