

Up to date as of 31st March 2015.

National Parks and Access to the Countryside Act 1949

1949 CHAPTER 97

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]

Part I

...

NOTES

Amendment

Repealed by SI 2013/755, art 8(1), (2)(c).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

[1 ...]

...

NOTES

Amendment

Repealed by SI 2013/755, art 8(1), (2)(c).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

2 ...

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NOTES

Amendment

Repealed by the Wildlife and Countryside Act 1981, ss 47(3), 73, Sch 17, Pt II.

3 ...

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NOTES

Amendment

Repealed by SI 2013/755, art 8(1), (2)(c).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

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NOTES

Amendment

Repealed by the Wildlife and Countryside Act 1981, ss 47(3), 73, Sch 17, Pt II.

Part II National Parks

[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 [Natural England] as respects England (or areas of any description in England), the [Natural Resources Body for Wales] shall have the corresponding function as respects Wales (or areas of a similar description in Wales).]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(4).

Sub-s (2): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 9.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words "Natural Resources Body for Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 16.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

5 National Parks

[(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 . . . as to which it appears to [Natural England] that by reason of—

- (a) their natural beauty and
- (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.

[(2A) Natural England may—

- (a) when applying subsection (2)(a) in relation to an area, take into account its wildlife and cultural heritage, and
- (b) when applying subsection (2)(b) in relation to that area, take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of its special qualities by the public.]

(3) The said areas, as for the time being designated by order made by [Natural England] and submitted to and confirmed by the Minister, shall be known as, and are hereinafter referred to as, National Parks.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): substituted by the Environment Act 1995, s 61.

Sub-s (2): words omitted repealed by the Environmental Protection Act 1990, s 130, Sch 8, para 1(5).

Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2A): inserted by the Natural Environment and Rural Communities Act 2006, s 59(1).

Date in force: 30 May 2006: see the Natural Environment and Rural Communities Act 2006, s 107(3)(a); for effect see s 59(2) thereof.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

6 General duties of [Natural England] in relation to National Parks

(1) It shall be the duty of [Natural England] . . . from time to time, to consider what areas there are in England < . . . > falling within sub-section (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 [Natural England] 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 [Natural England]—

- (a) to consider, generally and in relation to particular National Parks, in what way action needs to be taken under this Act and the Act of 1947 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 [National Park authorities and] local authorities as may appear to [Natural England] 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 [Natural England] deem it appropriate, to any other Minister or any [National Park authority] local authority or other persons, such representations as appear to [Natural England] 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 [Natural England], subject to and in accordance with the following provisions of this Act in that behalf,—

- (a) . . .
- (b) < . . . >
- (c) . . .
- (d) . . .
- (e) to give advice where any Minister consults [Natural England] 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 the Act of 1947 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 [Natural England] 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 [Natural England] to be inconsistent with the maintenance of the area as a Park;
- (g) to notify to the Minister, or where [Natural England] deem it appropriate, to other Ministers, the general nature of the action which will in the opinion of [Natural England] 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 [Natural England] 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 [Natural England] 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 the Act of 1947.

(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 [Natural England] or whereby any obligation is imposed on any other person to consult with [Natural England].

(6) In this section the expression “appropriate planning authority” means [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Section heading: words "Natural England" in square brackets substituted by virtue of the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 11(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words "Natural England" in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): first words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 11(1), (2), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): final words omitted repealed by the Environmental Protection Act 1990, s 130, Sch 8, para 1(5).

Sub-s (3): words "Natural England" in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): in para (a) words "National Park authorities and" in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(1)(a).

Sub-s (3): in para (b) words "National Park authority" in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(1)(a).

Sub-s (4): words "Natural England" in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): paras (a), (c) repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 11(1), (3), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): paras (b), (d) repealed by the Countryside Act 1968, s 50(2), Sch 5.

Sub-s (5): words "Natural England" in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): words in square brackets beginning with the words "a National Park authority" inserted, and words omitted repealed, by the Environment Act 1995, ss 78, 120, Sch 10, para 2(1)(b), Sch 24.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

7 Designation and variation of National Parks

(1) Before making an order designating a National Park [Natural England] shall consult with every joint planning board, [and local authority] 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 [Natural England] 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 [Natural England] vary an order designating a National Park.

(5) Before making an order under the last foregoing subsection the Minister shall consult with [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 [Natural England] to secure that copies of any order such as is mentioned in this section shall be available, at the office of [Natural England], 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 [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 [Natural England] may determine, for inspection by the public at all reasonable times.

[(7) In this section and Schedule 1 "local authority" means—

- (a) in relation to England, a county council, district council or parish council;
- (b) in relation to Wales, a county council, county borough council or community council.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (1): words "and local authority" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 60(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (2): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (4): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (5): words "any National Park authority for the Park in question and with" in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(2).

Sub-s (6): words "Natural England" in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3,

Schedule, para 1 thereto.

Sub-s (6): words from “at the offices” to “the Park in question” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(2).

Sub-s (7): inserted by the Natural Environment and Rural Communities Act 2006, s 60(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

See Further

See further: the Town and Country Planning Act 1990, s 4.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

8 . . .

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NOTES

Amendment

Repealed by the Local Government Act 1972, s 272(1), 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, [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 [Natural England] and take into consideration any observations made by [Natural England].

(2) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words from “the authority or authorities” to “add to it” in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 2(3).

Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(d).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (2): repealed by the Natural Environment and Rural Communities Act 2006, ss 60(1), (4), 105(2), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

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NOTES

Amendment

Repealed by the Local Government Act 1972, s 272(1), Sch 30.

11 . . .

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NOTES

Amendment

Repealed by the Environment Act 1995, s 120(3), Sch 24.

[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 and social well-being of local communities within the National Park. . . 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 any National Park, a 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 Local Government Act 1972, or a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990;
 - (b) a joint committee appointed under section 102(1)(b) of the 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, < . . . > or community council.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Environment Act 1995, s 62(1); for effect see s 62(2) thereof.

Sub-s (1): words omitted repealed by the Natural Environment and Rural Communities Act 2006, ss 62, 105(2), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): words omitted repealed by the Environment Act 1995, s 120, Sch 24.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 [provision for] their area (whether by the authority or by other persons)—

- (a) of accommodation, meals and refreshments (including [alcohol (within the meaning of the Licensing Act 2003)]);
- (b) of 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.

(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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “provision for” in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 2(4).

Sub-s (1): in para (a) words “alcohol (within the meaning of the Licensing Act 2003)” in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, para 20(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-s (2): repealed by the Environment Act 1995, s 120, Sch 24.

Modification

Modification: references to local planning authorities modified by the Environment Act 1995, s 68.

See Further

See further: the Countryside Act 1968, s 12(1), (2).

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, . . . 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 [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.

(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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words omitted repealed by the Environment Act 1995, s 120, Sch 24; words in square brackets substituted by the Countryside Act 1968, s 12(6).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

See Further

See further: the Countryside Act 1968, s 12(6)–(8).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Part III Nature Conservation

[15 Meaning of “nature reserve”]

[(1) In this Part, “nature reserve” means—

- (a) land managed solely for a conservation purpose, or
- (b) land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose.

(2) Land is managed for a conservation purpose if it is managed for the purpose of—

- (a) 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) preserving flora, fauna or geological or physiographical features of special interest in the area,

or for both those purposes.

[(2A) In subsection (2)(b) the reference to preserving flora or fauna includes enabling or facilitating its recovery or increase.]

(3) Land is managed for a recreational purpose if it is managed for the purpose of providing opportunities for the enjoyment of nature or for open-air recreation.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2A): inserted in relation to England and Wales by SI 2012/1927, reg 26 and in relation to Scotland by SSI 2012/228, reg 7.

Date in force (in relation to England and Wales): 16 August 2012: see SI 2012/1927, reg 1(1).

Date in force (in relation to Scotland): 16 August 2012: see SSI 2012/228, reg 1(1).

[15A Meaning of [appropriate conservation body]]

[[1]] In this Part of this Act [references to the appropriate conservation body are references]—

- (a) in relation to land in England, to [Natural England];
- (b) in relation to land in Scotland, to [Scottish Natural Heritage]; and
- (c) in relation to land in Wales, to the [Natural Resources Body for Wales].

[(2) In this Part of this Act—

- (a) “nature reserve agreement” means an agreement under section 7 of the 2006 Act for securing that land which it appears expedient in the national interest should be managed as a nature reserve shall be so managed, and
- (b) “the 2006 Act” means the Natural Environment and Rural Communities Act 2006.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 1(2).

Section heading: words “appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 13(1), (5).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): numbered as such by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 13(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words “references to the appropriate conservation body are references” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 13(1), (3)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in para (a) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 13(1), (3)(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in para (b) words “Scottish Natural Heritage” in square brackets substituted by the Natural Heritage (Scotland) Act 1991, s 4, Sch 2, para 1(1), (2).

Sub-s (1): in para (c) words “Natural Resources Body for Wales” in square brackets substituted by

SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 16.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 13(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[16 Agreements for management of nature reserves in Scotland and Wales]

(1) [The [Natural Resources Body for Wales] or Scottish Natural Heritage] may enter into an agreement with every owner, lessee and occupier of any land, being land as to which it appears to [the [Natural Resources Body for Wales] or (as the case may be) Scottish Natural Heritage] 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 [the [Natural Resources Body for Wales] or (as the case may be) Scottish Natural Heritage], or partly, in one way and partly in another;
- (c) may contain such other provisions as to the making of payments by [the [Natural Resources Body for Wales] or (as the case may be) Scottish Natural Heritage], 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 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 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 (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 [the [Natural Resources Body for Wales]].

(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 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 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 [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Section heading: substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 14(1), (5).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 3 thereto.

Sub-s (1): words in square brackets ending with the words "or Scottish Natural Heritage" substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 14(1), (2)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 3 thereto.

Sub-s (1): words "Natural Resources Body for Wales" in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 17.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words "the Council or (as the case may be) Scottish Natural Heritage" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 14(1), (2)(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 3 thereto.

Sub-s (3): in paras (b), (c) words in square brackets ending with the words "Scottish Natural Heritage" substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 14(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 3 thereto.

Sub-s (3): in paras (b), (c) words "Natural Resources Body for Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 17.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words in square brackets beginning with the word "the" substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 14(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 3 thereto.

Sub-s (4): words "Natural Resources Body for Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 17.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): in para (c) words in square brackets substituted by the Natural Heritage (Scotland) Act 1991, s 4(6), Sch 2, para 1(3).

17 Compulsory acquisition of land by [conservation body] for establishment of nature reserves

(1) Subject to the provisions of the next following subsection, where [the appropriate conservation body] 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) [The appropriate conservation body] 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 [a nature reserve agreement or an agreement under section 16] containing such provisions as in their opinion are required for securing that the land will be satisfactorily managed as a nature reserve.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Section heading: words “conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 16(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “The appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “a nature reserve agreement or an agreement under section 16” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 16(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

18 Compulsory acquisition of land by [conservation body] for maintenance of nature reserves

(1) Where, as respects any interest in land, [the appropriate conservation body] have entered into [a nature reserve agreement or an agreement under section 16] 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 [the appropriate conservation body] 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 [the appropriate conservation body] 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) < . . . > 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Section heading: words "conservation body" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 17(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words "the appropriate conservation body" in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words "a nature reserve agreement or an agreement under section 16" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 17(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words "the appropriate conservation body" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words omitted repealed by the Arbitration Act 1996, s 107(2), Sch 4.

19 Declarations what areas are nature reserves

(1) A declaration by [the appropriate conservation body] that any land is the subject of [a nature reserve agreement or an agreement under section 16], or has been acquired and is held by [the appropriate conservation body], 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 [the appropriate conservation body] that any land which is subject to such an agreement as aforesaid, or is held by [the appropriate conservation body], is being managed as a nature reserve shall be conclusive of the matters declared.

(3) It shall be the duty of [the appropriate conservation body], 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 appropriate conservation body] 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.

(4) [The appropriate conservation body] 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 [the appropriate conservation body] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s

115(2).

Amendment

Sub-s (1): words “the appropriate conservation body” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words “a nature reserve agreement or an agreement under section 16” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 18.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “the appropriate conservation body” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “the appropriate conservation body” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “The appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

20 Byelaws for protection of nature reserves

(1) [The appropriate conservation body] 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 [the appropriate conservation body] 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:

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 [undertakers, or an internal drainage board] or a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862, or of the Commissioners appointed under the Tweed Fisheries Act 1857 [or with [the provision of an electronic communications code network] or the exercise of any right conferred by or in accordance with [the electronic communications code] on the operator of any [such network]].

(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 [the appropriate conservation body] compensation in respect thereof.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “The appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(d).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (2): in para (c) words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(d).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (2): words “undertakers, or an internal drainage board” in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 13.

Sub-s (2): words in square brackets beginning with the words “or with” inserted by the Telecommunications Act 1984, s 109, Sch 4, para 28.

Sub-s (2): words “the provision of an electronic communications code network” in square brackets substituted by the Communications Act 2003, s 406(1), Sch 17, para 20(1), (2)(a).

Date in force (for the purpose only of enabling the networks and services functions and the spectrum functions to be carried out by the Director General of Telecommunications and the Secretary of State respectively, during the transitional period (as provided for by the Communications Act 2003, s 408(6)): 25 July 2003–29 December 2003: see SI 2003/1900, arts 2(1), 3(1), Sch 1 and the Communications Act 2003, ss 406(6), 408, Sch 18, para 2.

Date in force (for the purpose of conferring the networks and services functions and the spectrum functions on OFCOM): 29 December 2003: by virtue of SI 2003/3142, art 3(2).

Sub-s (2): words “the electronic communications code” in square brackets substituted by the Communications Act 2003, s 406(1), Sch 17, para 20(1), (2)(b).

Date in force (for the purpose only of enabling the networks and services functions and the spectrum functions to be carried out by the Director General of Telecommunications and the Secretary of State respectively, during the transitional period (as provided for by the Communications Act 2003, s 408(6)): 25 July 2003–29 December 2003: see SI 2003/1900, arts 2(1), 3(1), Sch 1 and the Communications Act 2003, ss 406(6), 408, Sch 18, para 2.

Date in force (for the purpose of conferring the networks and services functions and the spectrum functions on OFCOM): 29 December 2003: by virtue of SI 2003/3142, art 3(2).

Sub-s (2): words “such network” in square brackets substituted by the Communications Act 2003, s 406(1), Sch 17, para 20(1), (2)(c).

Date in force (for the purpose only of enabling the networks and services functions and the spectrum functions to be carried out by the Director General of Telecommunications and the Secretary of State respectively, during the transitional period (as provided for by the Communications Act 2003, s 408(6)): 25 July 2003–29 December 2003: see SI 2003/1900, arts 2(1), 3(1), Sch 1 and the Communications Act 2003, ss 406(6), 408, Sch 18, para 2.

Date in force (for the purpose of conferring the networks and services functions and the spectrum functions on OFCOM): 29 December 2003: by virtue of SI 2003/3142, art 3(2).

Sub-s (3): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(d).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

See Further

See further, in relation to statutory undertakers: the Post Office Act 1969, ss 76, 88, 139, Sch 4, para 93, the British Telecommunications Act 1981, s 87, Sch 3, Pt II, para 10(2)(a), the Civil Aviation Act 1982, s 19, Sch 2, para 4, the Water Act 1989, s 190, Sch 25, para 1, the Electricity Act 1989, s 112(1), Sch 16, para 1, the Gas Act 1995, s 16(1), Sch 4, para 2(1)(v) and the Transport Act 2000, s 37, Sch 5, para 1(1), (2)(c).

See further, the application of sub-ss (2), (3) above in relation to byelaws under the Nature Conservation (Scotland) Act 2004, s 20(1): the Nature Conservation (Scotland) Act 2004, s 20.

21 Establishment of nature reserves by local authorities

(1) The council of a county or county borough 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, [the appropriate conservation body]) as to which it appears to the council expedient that it should be managed as a nature reserve.

(2), (3) < . . . >

(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 [the appropriate conservation body, the [Natural Resources Body for Wales] or Scottish Natural Heritage] 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.

(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 [the appropriate conservation body].

(7) < . . . >

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(e).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-ss (2), (3): repealed by the Local Government Act 1972, s 272(1), Sch 30.

Sub-s (4): words from “the appropriate conservation body,” to “Scottish Natural Heritage” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 19.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 18.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (6): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(e).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (7): repealed by the Local Government (Scotland) Act 1973, s 237, Sch 29.

Modification

Modification: this section has effect as if the bodies on whom powers are conferred included every National Park authority and as if the relevant Park were the authority’s area (and references to a local authority and to their area shall be construed accordingly), by virtue of the Environment Act 1995, s 70, Sch 9, para 3.

This section has effect, in relation to Scotland, as if references to a local authority and the authority’s area included references to a National Park authority and the National Park, by virtue of the National Parks (Scotland) Act 2000, s 9(2)(b), Sch 3, para 2.

22 Power of drainage authorities to do work in nature reserves

Where [the appropriate conservation body], 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, [the appropriate conservation body] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Words “the appropriate conservation body” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(f).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Modification

Modification: this section has effect as if the bodies on whom powers are conferred by s 21 included every National Park authority and as if the relevant Park were the authority's area (and references to a local authority and to their area should be construed accordingly), by virtue of the Environment Act 1995, s 70, Sch 9, para 3.

This section has effect, in relation to Scotland, as if references to a local authority and the authority's area included references to a National Park authority and the National Park, by virtue of the National Parks (Scotland) Act 2000, s 9(2)(b), Sch 3, para 2.

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Amendment

Repealed by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed by the Science and Technology Act 1965, s 6(3), Sch 4.

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Amendment

Repealed by the Nature Conservancy Council Act 1973, s 5(2), Sch 4.

[26 Application of Part III to Scotland]

[In the application of this Part of this Act to Scotland the expression "limited owner", in relation to land, means a liferenter in possession of that land.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Substituted by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), Sch 12, Pt I, para 19(1), (2).

Date in force: this amendment came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Part IV
Public Rights of Way

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27 ...

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed with savings by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed by the Local Government Act 1972, s 272(1), Sch 30.

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Amendment

Repealed by the Local Government, Planning and Land Act 1980, ss 1(3), 194, Sch 3, para 4, Sch 34, Pt III.

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Amendment

Repealed by the Wildlife and Countryside Act 1981, s 73, Sch 17, Pt II.

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Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

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Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

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Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

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Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

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Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

44 . . .

. . .

NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

45 . . .

. . .

NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

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...

NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

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47 ...

...

NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

48 ...

...

NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

49 ...

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NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

50 ...

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NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

Long-Distance Routes

[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 [Natural England] as respects England (or land of any description in England), the [Natural Resources Body for Wales] shall have the corresponding function as respects Wales (or land of a similar description in Wales).]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(6).

Sub-s (2): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 20.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words "Natural Resources Body for Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 19.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

51 General provisions as to long-distance routes

(1) Where it appears to [Natural England], as respects any part of England < . . . >, that the public should be enabled to make extensive journeys on foot or on horseback [or on a bicycle [not being a mechanically propelled 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, [Natural England] 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 [Natural England] may think fit—

- (a) for the maintenance or improvement of [any highway along which the route passes and which is a public path, a restricted byway or a way shown in a definitive map and statement as a restricted byway or byway open to all traffic];
- (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 [Natural England] may think fit for the restriction of traffic on existing highways along which the route passes.

(4) Before preparing a report under this section [Natural England] shall consult every [National Park authority,] joint planning board, county council, < . . . > and county district council through whose [Park or] area the route passes; and it shall be the duty of every such [authority,] board or council to furnish to [Natural England] such information as [Natural England] 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 highways falling within paragraph (a) of that subsection] and any new public paths provided for by the proposals, and of the annual expenditure likely to be incurred by local authorities [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.

[(6) In this section—

“definitive map and statement” has the same meaning as in Part III of the Wildlife and Countryside Act 1981; and

“restricted byway” has the same meaning as in Part II of the Countryside and Rights of Way Act 2000.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(e).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words omitted repealed by the Environmental Protection Act 1990, s 130, Sch 8, para 1(7).

Sub-s (1): words in square brackets beginning with the words “or on a bicycle” inserted by the Countryside Act 1968, s 21(2).

Sub-s (1): words “not being a mechanically propelled vehicle” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 67, Sch 7, para 1.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(e).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): in para (a) words from “any highway along” to “open to all traffic” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt II, para 12(1), (2).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iv).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(g).

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(e).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(e).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “National Park authority,” “Park or” and “authority,” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(5).

Sub-s (4): words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

Sub-s (5): words “existing highways falling within paragraph (a) of that subsection” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt II, para 12(1),

(3).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iv).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(g).

Sub-s (5): words “and National Park authorities” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(5).

Sub-s (6): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt II, para 12(1), (4).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iv).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(g).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 [Natural England] 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 [Natural England] and to every [National Park authority] joint planning board, county council, < . . . > and county district council whose [Park 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”.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(f).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(f).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “National Park authority” and “Park or” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(6).

Sub-s (2): words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI

1999/672, art 2, Sch 1.

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 . . . 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 shall consult with such authorities having functions relating to the waterway . . .

(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), (4) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-ss (1), (3), (4): words omitted repealed by the Local Government Planning and Land Act 1980, ss 1(7), (8), 194, Sch 7, Part I, para 1(1), Sch 34, Part 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 [alcohol (within the meaning of the Licensing Act 2003)]):

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (2): words "alcohol (within the meaning of the Licensing Act 2003)" in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, para 20(b).

Date in force: 24 November 2005: see SI 2005/3056, art 1(2), 2(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

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, [Natural England] may from time to time prepare and submit to the Minister a report proposing any such variation of the approved proposals as [Natural England] may think fit.

(2) Where, as respects any proposals approved as aforesaid, it appears to the Minister, after consultation with [Natural England], expedient that the proposals should be varied in any respect and [Natural England] 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, 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(g).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(g).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[55A Proposals relating to the English coastal route]

[(1) Pursuant to the coastal access duty, Natural England may prepare and submit a report under section 51 containing proposals for a route (whether or not the requirements of section 51(1) are satisfied).

(2) For the purposes of subsection (1) it is immaterial whether the route or any part of it is already a route in approved proposals relating to a long-distance route.

(3) In subsections (4) and (5) “preliminary activity” means activity which Natural England considers would facilitate the preparation by it of a report under section 51 pursuant to the coastal access duty.

(4) Where Natural England considers it necessary or expedient for preliminary activity to be carried out as respects any land, it must—

- (a) consider whether it would be appropriate for the access authority in relation to that land to carry out any of the preliminary activity, and
- (b) if it concludes that it would be so appropriate, take all reasonable steps to enter into an agreement with the access authority for that purpose.

(5) An access authority may, as respects any land in its area, enter into an agreement with Natural England under which the access authority undertakes to carry out preliminary activity.

(6) In this section “the coastal access duty” means the duty imposed on Natural England and the Secretary of State by section 296(1) of the Marine and Coastal Access Act 2009.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55B Route subject to erosion etc]

[(1) This section applies in relation to a report under section 51 prepared pursuant to the coastal access duty.

(2) Where Natural England considers that the area through which the route passes is an area to which subsection (3) applies, the report may set out proposals for the route, or any part of it, to be determined at any time in accordance with provision made in the proposals (rather than as shown on a map).

(3) This subsection applies to an area if it is or may be—

- (a) subject to significant coastal erosion or encroachment by the sea, or
- (b) subject to significant physical change due to other geomorphological processes.

(4) The provision made by virtue of subsection (2) may, in particular, provide for the route to be determined by reference to the edge of a cliff or boundary of a field (as it exists from time to time).

(5) Where the report contains proposals under subsection (2), the map included in the report in accordance with section 51(2) must show the route as determined, at the time the report is prepared, in accordance with those proposals.

(6) Natural England must consult the Environment Agency before exercising its powers under subsection (2) in respect of an area which is or may be—

- (a) subject to significant coastal erosion or encroachment by the sea, or
- (b) subject to significant physical change due to other geomorphological processes in relation to which the Agency has functions.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55C Alternative routes]

[(1) This section applies in relation to a report under section 51 prepared pursuant to the coastal access duty.

(2) The report may include, in relation to the route (“the ordinary route”) or any part of it, a proposal under subsection (3) or (4).

(3) A proposal under this subsection is a proposal for an alternative route which is to operate as a diversion from the ordinary route, or part, during one or both of the following—

- (a) any specified period (or periods), and

- (b) any period during which access to the ordinary route or part is excluded by reason of a direction under Chapter 2 of Part 1 of the CROW Act (exclusion or restriction of access).

(4) A proposal under this subsection is a proposal for an alternative route which is to operate as an optional alternative to the ordinary route, or part, during any period for which the ordinary route, or part, might reasonably be regarded as unsuitable for use by reason of—

- (a) flooding,
- (b) the action of the tide,
- (c) coastal erosion or encroachment by the sea, or
- (d) the effect of any other geomorphological process.

(5) In subsection (3)(a) “specified” means—

- (a) specified in, or determined in accordance with, the proposal, or
- (b) determined in accordance with the proposal by—
 - (i) a person specified in the proposal, or
 - (ii) a person determined in accordance with the proposal, details of whom are notified to Natural England in accordance with the proposal.

(6) Sections 51(2) and 55B apply in relation to an alternative route as they apply in relation to the ordinary route.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55D Coastal margin]

[(1) This section applies in relation to a report prepared under section 51 pursuant to the coastal access duty.

(2) The proposals set out in the report may include—

- (a) a proposal for any part of the landward boundary of the relevant coastal margin to coincide with a physical feature identified in the proposal,
- (b) where those proposals include an alternative route, a proposal for any part of the landward or seaward boundary of the alternative route strip to coincide with a physical feature so identified, or
- (c) a proposal for the landward or seaward boundary of any area excluded from any description of excepted land to coincide with a physical feature so identified.

(3) The report must contain—

- (a) a map showing the landward boundary of the relevant coastal margin, or
 - (b) a description of that boundary which is sufficient to identify the relevant coastal margin.
- (4) Where a map is contained in a report pursuant to subsection (3)(a), Natural England must provide a person with a relevant interest in affected land, on request, with a copy of that map.
- (5) The report must set out such proposals (if any) as Natural England considers appropriate as to the directions to be made by it under Chapter 2 of Part 1 of the CROW Act for the exclusion or restriction of the right of access that would arise under section 2(1) of that Act in relation to any land if the proposals in the report were to be approved.
- (6) Before preparing the report, Natural England must (in addition to complying with section 51(4))—
- (a) take reasonable steps to consult persons with a relevant interest in affected land,
 - (b) consult any body of a kind mentioned in section 51(4) in whose Park or area affected land is situated (but which is not required to be consulted under section 51(4)),
 - (c) consult each London borough council for an area in which affected land is situated,
 - (d) consult each local access forum for an area in which affected land is situated,
 - (e) consult the Secretary of State in relation to any interests of defence or national security which may be affected by the proposals which Natural England is minded to include in the report,
 - (f) consult the Historic Buildings and Monuments Commission for England in relation to any interests in the preservation of any monument, structure or other thing, mentioned in section 26(3)(b) of the CROW Act which may be affected by those proposals, and
 - (g) consult the Environment Agency in relation to any interests in flood defence, or in the management of the effects of coastal erosion or encroachment by the sea, which may be affected by those proposals.
- (7) A body within subsection (6)(b), (c) or (d) must provide Natural England with such information as it may reasonably require for the purposes of the report.
- (8) Where the Secretary of State is consulted under subsection (6)(e), the Secretary of State must—
- (a) provide Natural England with such information as it may reasonably require as to any exclusion or restriction of the right of access to affected land under section 2(1) of the CROW Act which the Secretary of State proposes to make provision for under section 28 of that Act (defence and national security), and
 - (b) notify Natural England if the Secretary of State is of the opinion that this information, or any part of it, ought not to be disclosed by it on the grounds of the public interest in defence and national security.
- (9) Subject to subsection (10), the report must contain such of the information provided under subsection (8)(a) as Natural England considers relevant for the purposes of the report.
- (10) The report may not contain information which Natural England has been notified under subsection (8)(b) ought not to be disclosed by it.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55E Consideration of reports made pursuant to the coastal access duty]

[Schedule 1A contains—

- (a) provision about the procedure to be followed when a report is submitted under section 51 pursuant to the coastal access duty;
- (b) provision which, in relation to such reports, supplements the provision made by section 52.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55F Directions under Part 1 of the CROW Act]

[(1) This section applies where approved proposals relating to a long-distance route contain proposals as regards a direction to be made by Natural England under Chapter 2 of Part 1 of the CROW Act for the exclusion or restriction of the right of access that would otherwise arise under section 2(1) of that Act.

(2) Natural England must make the direction in accordance with those proposals.

(3) Subsection (2) is without prejudice to any power Natural England may have to revoke or vary the direction after it is made.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55G Ferries for the purposes of the English coastal route]

[(1) This section applies where—

- (a) pursuant to the coastal access duty, approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, and
- (b) an approach route to the ferry is not a highway.

(2) The reference in section 53(1) to the highway authority for either or both of the highways to be connected by the ferry is to be read as including the highway authority in whose area the approach route

is situated.

(3) In this section “approach route”, in relation to a ferry, means a part of the English coastal route to be connected to another part of that route by the ferry.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55H Variation pursuant to the coastal access duty]

[(1) In the case of a report made by Natural England under section 55(1) pursuant to the coastal access duty—

(a) the procedural requirements apply with the necessary modifications, and

(b) section 55(3) does not apply.

(2) The Secretary of State may by regulations provide—

(a) that, in relation to a direction under section 55(2) pursuant to the coastal access duty, the procedural requirements apply with the modifications specified in the regulations, and

(b) that section 55(3) does not apply in relation to such a direction.

(3) The Secretary of State may not make a direction under section 55(2) pursuant to the coastal access duty at a time when there are no regulations under subsection (2) in force.

(4) For the purposes of this section—

“modify” includes amend, add to or repeal, and “modification” is to be construed accordingly;

“the procedural requirements” means sections 51(4) and (5), 52(1) and (2), 55D(6) to (10) and 55E, Schedule 1A and regulations under that Schedule.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force (in so far as it confers power to make regulations): 12 November 2009: see the Marine and Coastal Access Act 2009, s 324(1)(c).

Date in force (for remaining purposes): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55I Temporary diversions]

[(1) This section applies where Natural England or the Secretary of State gives a direction by virtue of Chapter 2 of Part 1 of the CROW Act which excludes the right of access under section 2(1) of that Act, for

any period (“the exclusion period”), in relation to any land over which (or any part of which) the English coastal route or any official alternative route passes.

(2) This section does not apply if the direction by virtue of that Chapter is expressed to have effect indefinitely.

(3) Natural England may give a direction under this section specifying a route (“the temporary route”) which is to apply for the duration of the exclusion period or such part of it as is specified in the direction.

(4) The temporary route specified by Natural England may pass only—

- (a) over land which is access land for the purposes of Part 1 of the CROW Act,
- (b) over land which, for the purposes of section 1(1) of that Act, is treated by section 15(1) of that Act as being accessible to the public apart from that Act,
- (c) along a highway, or
- (d) over any other land the owner of which has agreed to the temporary route (so far as it passes over that land).

(5) Natural England must consult the Environment Agency before giving a direction where the temporary route specified passes over land of a type described in subsection (4)(d).

(6) A direction under this section—

- (a) must be in writing, and
- (b) may be revoked or varied by a subsequent direction under this section.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[55J Interpretation of sections 55A to 55J]

[(1) In sections 55A to 55I, Schedule 1A and this section—

“access authority” has the same meaning as in Part 1 of the CROW Act;

“affected land” means—

- (a) land over which the route, or any alternative route, to which the proposals relate passes, and
- (b) any other land which—
 - (i) is relevant coastal margin, or an alternative route strip in relation to such an alternative route, and
 - (ii) is not excepted land;

“alternative route” is to be construed in accordance with section 55C;

“alternative route strip”, in relation to an alternative route, means—

(a) in a case where the proposal for the alternative route has not yet been approved under section 52, the land which would become coastal margin during the operation of that route if the proposals in the report were to be so approved (without modifications), and

(b) in the case of an official alternative route, the land which would become coastal margin during the operation of that route;

“the coastal access duty” has the meaning given by section 55A;

“coastal margin” has the same meaning as in Part 1 of the CROW Act;

“the CROW Act” means the Countryside and Rights of Way Act 2000 (c 37);

“the English coastal route” means the route secured pursuant to the coastal access duty;

“excepted land” has the same meaning as in Part 1 of the CROW Act;

“local access forum” means a local access forum established under section 94 of the CROW Act;

“official alternative route” means an alternative route which is contained in approved proposals relating to a long-distance route;

“owner”, in relation to land, means the person who holds an estate in fee simple absolute in possession in the land;

“relevant coastal margin”, in relation to proposals, means—

(a) in a case where the proposals have not yet been approved under section 52, land which would become coastal margin if the proposals were to be approved (without modifications) under that section (disregarding the alternative route strip in relation to any alternative route), and

(b) in a case where the proposals have been so approved (with or without modifications), land which becomes coastal margin as a result of the proposals having been so approved (disregarding the alternative route strip in relation to any official alternative route).

(2) For the purposes of sections 55A to 55I and Schedule 1A, a person has a relevant interest in land if the person—

- (a) is the owner of the land,
- (b) holds a term of years absolute in the land, or
- (c) is in lawful occupation of the land.

(3) Any power conferred by sections 55A to 55I or Schedule 1A to make regulations includes—

- (a) power to make different provision for different cases, and
- (b) power to make incidental, consequential, supplemental or transitional provision or savings.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(1).

Date in force (in so far as it confers power to make regulations): 12 November 2009: see the Marine and Coastal Access Act 2009, s 324(1)(c).

Date in force (for remaining purposes): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

Minor Amendments of Law relating to Rights of Way

56. . .

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NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), 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 [restricted byway], 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 [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, [restricted byway or byway open to all traffic], 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 [or by the council of the district [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].

[(4) In this section—

“byway open to all traffic” has the same meaning as in Part III of the Wildlife and Countryside Act 1981;

“restricted byway” has the same meaning as in Part II of the Countryside and Rights of Way Act 2000.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “restricted byway” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt II, para 13(1), (2).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iv).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(g).

Sub-s (1): maximum fine increased and converted to a level on the standard scale by virtue of the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-s (3): words “restricted byway or byway open to all traffic” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt II, para 13(1), (3).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iv).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(g).

Sub-s (3): words in square brackets beginning with the words “or by the council of the district” inserted by the Local Government Act 1972, s 188, Sch 21, Pt II, para 97.

Sub-s (3): words “or, where they are not the highway authority, the council of the Welsh county or county borough” in square brackets inserted by the Local Government (Wales) Act 1994, s 20(4), Sch 6, para 15(1).

Sub-s (4): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt II, para 13(1), (4).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iv).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(g).

58 . . .

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NOTES

Amendment

Repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, s 162(2), Sch 6, para 70.

Part V Access to Open Country

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).

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

See Further

See further, in relation to definition of "open country": the Countryside Act 1968, s 16.

60 Rights of public where access agreement or 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 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 [or an electronic communications code network] 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 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 the Act of 1947 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (5): in para (f) words “or an electronic communications code network” in square brackets substituted by the Communications Act 2003, s 406(1), Sch 17, para 20(1), (3).

Date in force (for the purpose only of enabling the networks and services functions and the spectrum functions to be carried out by the Director General of Telecommunications and the Secretary of State respectively, during the transitional period (as provided for by the Communications Act 2003, s 408(6)): 25 July 2003–29 December 2003: see SI 2003/1900, arts 2(1), 3(1), Sch 1 and the Communications Act 2003, ss 406(6), 408, Sch 18, para 2.

Date in force (for the purpose of conferring the networks and services functions and the spectrum functions on OFCOM): 29 December 2003: by virtue of SI 2003/3142, art 3(2).

See Further

See further, in relation to statutory undertakings: the Post Office Act 1969, Sch 4, para 93(1), the Civil Aviation Act 1982, s 19, Sch 2, para 4, the Gas Act 1986, s 67, Sch 7, para 2(1)(vii), the Water Act 1989, s 190, Sch 25, para 1, and the Electricity Act 1989, s 112(1), Sch 16, para 1. See further: the Countryside Act 1968, s 16(5).

61 . . .

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NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, ss 46(1)(b), 102, Sch 16, Pt I.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(a), (i), (k).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(a), (i), (m).

62 . . .

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NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, ss 46(1)(b), 102, Sch 16, Pt I.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(a), (i), (k).
Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(a), (i), (m).

63 . . .

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NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, ss 46(1)(b), 102, Sch 16, Pt I.
Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(a), (i), (k).
Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(a), (i), (m).

64 Access agreements

(1) A local planning authority may . . . 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 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) . . .

(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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words omitted repealed by the Local Government Act 1974, ss 35(1), (2), 42(2), Sch 6, para 6(1), Sch 8.

Sub-s (5): repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 21, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

See Further

See further: the Countryside Act 1968, ss 16(7), 18.

The Countryside and Rights of Way Act 2000, s 46(2) provides that no access agreement under Pt V of this Act may be made after the commencement of the said s 46, in relation to land which is open country or registered common land for the purposes of Pt I of the 2000 Act.

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 [in England], the local planning authority shall consult with [Natural England]; and where it appears to [Natural England] desirable that such an order should be made in respect of land in a National Park [in England], and the local planning authority have not made an order in respect thereof, [Natural England] may request the authority to make an order accordingly.

[(5A) The preceding subsection shall apply in relation to National Parks in Wales, and the [Natural Resources Body for Wales], as it applies in relation to National Parks in England, and [Natural England].]

(6) < . . . >

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (5): words “in England” in square brackets in both places they occur inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(9).

Sub-s (5): words “Natural England” in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(h).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (5A): inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(9).

Sub-s (5A): words “Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 20.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5A): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(h).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (6): repealed by the Local Government Act 1974, ss 35(1), (2), 42(2), Sch 6, para 6(2), Sch 8.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

See Further

The Countryside and Rights of Way Act 2000, s 46(2) provides that no access order under Pt V of this Act may be made after the commencement of the said s 46, in relation to land which is open country or registered common land for the purposes of Pt I of the 2000 Act.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

National Parks and Access to the Countryside Regulations 1950, SI 1950/1066.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

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—

- (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 anything 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

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. . . —

- (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 [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (3): words omitted repealed by the Courts Act 2003, s 109(1), (3), Sch 8, para 86, Sch 10.

Date in force: 1 April 2005: see SI 2005/910, art 3(y), (aa); for transitional provisions see SI 2005/911, arts 2–5.

Sub-s (6): words “the Crown Court” in square brackets substituted by virtue of the Courts Act 1971, s 56(2), Sch 9, Pt I.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

[69 Suspension of public access to avoid exceptional risk of fire]

[(1)] [If, upon application made to the county planning authority by any person interested 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.

[(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.]]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Substituted by the Local Government, Planning and Land Act 1980, s 1(3), Sch 3, para 7.

Sub-s (1): numbered as such by the Local Government (Wales) Act 1994, s 20(4), Sch 6, para 15(2).

Sub-s (2): inserted by the Local Government (Wales) Act 1994, s 20(4), Sch 6, para 15(2).

Modification

Modification: by virtue of the Environment Act 1995, s 68, the functions conferred on a county planning authority by this section shall, as respects the whole or any part of a National Park for which a National Park authority is the local planning authority, be functions of that authority, and references to a local planning authority have effect accordingly.

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.

NOTES**Initial Commencement*****Royal Assent***

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

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.

(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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

Subordinate Legislation

National Parks and Access to the Countryside Regulations 1950, SI 1950/1066.

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 . . . ; 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words omitted repealed by the Countryside Act 1968, ss 21(3), 50(2), Sch 5.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

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 of 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

See Further

See further: the Countryside Act 1968, s 12(6).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 section 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

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.

(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) . . .

(5) [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (4): repealed by the Local Government, Planning and Land Act 1980, ss 118, 194, Sch 23, Part II, para 2, Sch 34, Part XIII.

Sub-s (5): words in square brackets substituted by the Local Government, Planning and Land Act 1980, s 118, Sch 23, Part II, para 2.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

Transfer of Functions

Functions of a Minister of the Crown, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

78 Maps of land subject to public access

(1) A local planning authority whose area comprises any land—

- (a) which is subject to an access agreement or order, or
- (b) 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—

- (i) the land subject to the agreement or order or the land acquired and held as aforesaid, as the case may be;
- (ii) 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;
- (iii) 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—

- (a) reproductions of the map on an appropriate scale,
- (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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

Subordinate Legislation

National Parks and Access to the Countryside Regulations 1950, SI 1950/1066.

79 . . .

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NOTES

Amendment

Repealed by the Local Government, Planning and Land Act 1980, ss 1(3), 194, Sch 3, para 8, 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 . . . 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) . . .
- (6) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (3): words omitted repealed by the Local Government, Planning and Land Act 1980, ss 1(3), 194, Sch 3, para 9, Sch 34, Part III.

Sub-ss (5), (6): repealed by SI 2005/1082, reg 28(1), (2), Sch 5, Pt 1, para 6, Sch 6, Pt 1.

Date in force: 26 April 2005: see SI 2005/1082, reg 1(1).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Modification

Modification: references to a local planning authority to be construed, in relation to any National

Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

83 Repeal of 2 & 3 Geo 6 c 30

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NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

This section repeals the Access to Mountains Act 1939.

Part VI
General, Financial and Supplementary

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84 ...

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NOTES

Amendment

Repealed by the Countryside Act 1968, s 50(2), Sch 5.

General Powers and Duties of [Natural England]

NOTES

Amendment

Cross-heading: words "Natural England" in square brackets substituted by virtue of the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, paras 10(i)–(k), 22, 23.
Date in force: 1 October 2006: see SI 2006/2541, art 2.

85 General duty of [Natural England and the [Natural Resources Body for Wales]] to advise on questions relating to natural beauty

Without prejudice to [their respective duties] relating to National Parks, it shall be the duty of [Natural England] [and the [Natural Resources Body for Wales]]—

- (a) < . . . >
- (b) in circumstances where it appears to the Minister and to [Natural England] [or, as the case may be, to the Minister and to the [Natural Resources Body for Wales],] 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 [Natural England] [(as respects England) or to the [Natural Resources Body for Wales] (as respects Wales)] to be likely to be prejudicial thereto.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Section heading: words in square brackets beginning with the words “Natural England and the” substituted by virtue of the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 22.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Section heading: words “Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 21.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Words “their respective duties” in square brackets substituted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(10).

Words “Natural England” in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(i).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Words in square brackets beginning with the words “and the” inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(10).

Words “Natural Resources Body for Wales” in square brackets in each place they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 21.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Para (a) repealed by the Countryside Act 1968, s 50(2), Sch 5.

In para (b) words in square brackets beginning with the words “, or, as the” inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(10).

In para (c) words in square brackets beginning with the words “(as respects England)” inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(10).

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

86 Information services to be provided by [Natural England]

(1) It shall be the duty of [Natural England] 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 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 [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, [Natural England] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Section heading: words "Natural England" in square brackets substituted by virtue of the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 23.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(j).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in para (b) word "archaeological" in square brackets inserted by the Countryside Act 1968, s 21(4).

Sub-s (2): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(j).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[86A Information services to be provided by [Natural Resources Body for Wales]]

[The provisions of section eighty-six of this Act shall apply to the [Natural Resources Body for Wales] in relation to National Parks and other land in Wales as they apply to [Natural England] in relation to National Parks and other land in England.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(11).

Section heading: words "Natural Resources Body for Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 21.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Words “Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 21.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(k).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

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NOTES

Amendment

Repealed by virtue of the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt V.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(i), (m).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(i), (q).

87 ...

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NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt V.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(i), (m).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(i), (q).

[88 ...]

...

NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt V.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(i), (m).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(i), (q).

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.

[(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,

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) . . .]

(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) . . . nothing in [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) [A local authority] may acquire land compulsorily for the purpose of any of their functions under this section.

(6) Where [a 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.

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (2): substituted by the Derelict Land Act 1982, s 3(1).

Sub-s (2A): inserted by the Local Authorities (Land) Act 1963, s 6(1); repealed by the Local Government Act 1972, ss 184, 272(1), Sch 17, Part III, para 38, Sch 30.

Sub-s (4): words omitted repealed by the Countryside Act 1968, ss 21(5), 50(2), Sch 5; words in square brackets substituted by the Local Authorities (Land) Act 1963, s 6(2).

Sub-ss (5), (6): words in square brackets substituted by the Local Authorities (Land) Act 1963, s 6(1).

Sub-s (7): inserted by the Local Authorities (Land) Act 1963, s 6(4); words omitted repealed by the Local Government Act 1972, ss 184, 272(1), Sch 17, Part III, para 38, Sch 30.

Modification

Modification: references to local planning authorities, local authorities and functions conferred on local planning authorities modified by the Environment Act 1995, s 68(2), (6).

See Further

See further, in relation to the exercise of functions under this section by a National Park authority in relation to land or countryside in a National Park in England for which that authority is the local planning authority: the Environment Act 1995, s 68(6).

90 Local authority byelaws

(1) A local planning authority may, as respects land in their area 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 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) . . .

(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;

. . .

(4) Before making byelaws under the foregoing provisions of this section as respects a National Park or area of outstanding natural beauty, [the local planning authority] shall consult with [Natural England] [(as regards land in England) or the [Natural Resources Body for Wales] (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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (3): words omitted repealed by the Countryside Act 1968, s 50(2), Sch 5.

Sub-s (2): repealed by the Local Government Act 1972, ss 184, 272(1), Sch 17, Part III, para 39, Sch 30.

Sub-s (4): words “the local planning authority” in square brackets substituted by the Local Government Act 1972, s 184, Sch 17, Pt III, para 39.

Sub-s (4): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(l).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3,

Schedule, para 1 thereto.

Sub-s (4): words in square brackets beginning with the words “(as regards land” inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(14).

Sub-s (4): words “Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 22.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

See Further

See further: the Countryside Act 1968, s 41(10), (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 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 [Natural England] [(as regards land or waterways in England) or the [Natural Resources Body for Wales] (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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 10(m).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (1): words in square brackets beginning with the words “(as regards land” inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(15).

Sub-s (1): words “Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 22.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the

National Park authority, by virtue of the Environment Act 1995, s 68.

See Further

See further: the Countryside Act 1968, s 41(10).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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) . . .

(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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (2): repealed by the Countryside Act 1968, s 50(2), Sch 5.

Modification

Modification: by virtue of the Environment Act 1995, s 68(2), (8), the powers conferred on a local authority by or under this section are, in relation to any National Park for which a National Park authority is the local planning authority, exercisable by that authority but not by any other authority.

See Further

See further: the Countryside Act 1968, ss 13(9), (10), 41(8)–(10), 42, and the Wildlife and Countryside Act 1981, s 49.

See further, in relation to the exercise of powers under this section in relation to a National Park authority: the Environment Act 1995, s 68(8).

93 . . .

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NOTES

Amendment

Repealed by the Countryside Act 1968, ss 32(11), 50(2), Sch 5.

94 . . .

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NOTES

Amendment

Repealed by the Countryside Act 1968, ss 32(11), 50(2), Sch 5.

Financial Provisions

95 . . .

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NOTES

Amendment

Repealed by the Wildlife and Countryside Act 1981, s 47(3), Sch 17, Pt II.

96 . . .

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NOTES

Amendment

Repealed by the Science and Technology Act 1965, s 6(3), Sch 4.

97 . . .

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NOTES

Amendment

Repealed, with a saving, by the Derelict Land Act 1982, ss 1(12), 2(3), 5, Schedule.

98 . . .

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NOTES

Amendment

Repealed by the Local Government Act 1974, s 42(2), 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.

(2) In this section the expression "local authority" means a local planning authority, the council of a county . . . not being a local planning authority, or the council of a county district.

(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

(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 . . . may defray or contribute towards any expenditure [[incurred by the Environment Agency, the Natural Resources Body for Wales 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (2): words omitted repealed, in relation to England and Wales, by the Local Government Act 1972, s 272(1), Sch 30; this subsection has been further amended, in relation to Scotland only, by the Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 33, this amendment has not been incorporated into the text above, to avoid confusion.

Sub-s (4): repealed by the Highways Act 1959, s 312(2), Sch 25.

Sub-s (6): words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

Sub-s (6): words in square brackets ending with the words “drainage board being” substituted by the Water Act 1989, s 190, Sch 25, para 13.

Sub-s (6): words “incurred by the Environment Agency, the Natural Resources Body for Wales or an” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 23.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

See Further

See further: the Countryside Act 1968, s 46(1).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 . . . and [the Minister of Agriculture, Fisheries and Food];
- (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 Local Government Act 1948.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Words omitted repealed by the Science and Technology Act 1965, s 6(3), Sch 4; words in square brackets substituted by virtue of the Transfer of Functions (Ministry of Food) Order 1955, SI 1955/554.

Transfer of Functions

Minister of Town and Country Planning renamed the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No 1) Order 1951, SI 1951/142, and was further renamed the Minister of Housing and Local Government by the Minister of Local Government and Planning (Change of Style and Title) Order 1951, SI 1951/1900. The Minister of Land and Natural Resources Order 1965, SI 1965/143 transferred (subject to exceptions) the functions of the Minister of Housing and Local Government under this Act to the Minister of Land and Natural Resources. The Secretary of State for Wales and Minister of Land and Natural Resources Order 1965, SI 1965/319 transferred the functions of the Minister of Housing and Local Government under this Act, so far as not already transferred by SI 1965/143, to the Secretary of State for Wales in relation to Wales and Monmouthshire (again subject to minor exceptions). The Ministry of Land and Natural Resources was dissolved by the Ministry of Land and Natural Resources (Dissolution) Order 1967, SI 1967/156 and the functions of the Minister were transferred to the Minister of Housing and Local Government. The Transfer of Functions (Miscellaneous) Order 1967, SI 1967/486 transferred a limited number of functions of the Minister of Housing and Local Government under this Act to that Minister and the Secretary of State acting jointly. The Ministry of Housing and Local Government was dissolved, and the functions of that Minister were transferred to the Secretary of State, by the Secretary of State for the Environment Order 1970, SI 1970/1681.

Functions of Secretary of State for Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 . . . 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 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) . . .

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

- (a) an agreement authorised by the said subsection (3) and made . . . 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (9): repealed by the Countryside Act 1968, s 50(2), Sch 5.

Sub-s (10): words omitted repealed by the Countryside Act 1968, ss 47(9), 50(2), Sch 5.

Sub-s (6): words omitted repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, ss 16(2), 93(1), Sch 6, para 70, Sch 18, Part II.

Modification

Modification: references to a local planning authority to be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority, by virtue of the Environment Act 1995, s 68.

102 . . .

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NOTES

Amendment

Repealed by the Local Government Act 1972, s 272(1), Sch 30.

103 General provisions as to acquisition of land

[(1) Any power conferred by this Act on [the appropriate conservation body] [(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.]

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

(2) *In relation to the compulsory acquisition of land under this Act by [Scottish Natural Heritage] or a local authority, the 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 [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), (4) < . . . >

(5) The following provision shall have effect, in relation to the acquisition of land under this Act, in substitution for section one hundred and fifty-seven of the Local Government Act 1933 (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; *and the provisions of the Lands Clauses Acts incorporated with this Act by virtue of paragraph 1 of the Second Schedule to the 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 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 Acquisition of Land (Authorisation Procedure) Act 1946, and to section 157 of the Local Government Act 1933, respectively, references to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, and to section [70 of the 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): substituted by the Nature Conservancy Council Act 1973, s 1(1)(b), (7), Sch 1, para 2.

Sub-s (1): words "the appropriate conservation body" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(g).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words "(as defined in section 15A of this Act)" in square brackets inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 1(4).

Sub-s (1A): inserted by the Acquisition of Land Act 1981, s 34, Sch 4, para 8.

Sub-s (2): repealed, in relation to England and Wales, by the Acquisition of Land Act 1981, s 34, Sch 6, Part I; amended, in relation to Scotland, by the Natural Heritage (Scotland) Act 1991, s 4, Sch 2, para 1.

Sub-s (3): repealed, in relation to England and Wales, by the Land Compensation Act 1961, ss 40(3), 41, Sch 5, and, in relation to Scotland, by the Land Compensation (Scotland) Act 1963, s 47(3), Sch 4.

Sub-s (4): repealed, in relation to England and Wales, by the Acquisition of Land Act 1981, s 34, Sch 6, Part I, and does not apply to Scotland by virtue of sub-s (7) above.

Sub-s (6): words in italics repealed, in relation to England and Wales, by the Acquisition of Land Act 1981, s 34, Sch 6, Part I.

Sub-s (7): words in square brackets substituted by the Local Government (Scotland) Act 1973, s

214(2), Sch 27, para 103.

Modification

Modification: references to a local authority modified by the Environment Act 1995, s 68.

See Further

See further, in relation to the application of this section: the Countryside Act 1968, s 46(1).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 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, subsections (2) and (3) of section one hundred and sixty-three of the Local Government Act 1933 . . . (which relate to the operation of section sixty-eight of the 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), (8) . . .

(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 subsection (1) of section one hundred and sixty-three and sections one hundred and sixty-four and one hundred and sixty-five of the Local Government Act 1933, . . . [or of sections 73 and 74 of the Local Government (Scotland) Act 1973].

(11) Section one hundred and sixty-six of the Local Government Act 1933 . . . (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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-ss (4), (11): words omitted repealed by the London Government Act 1963, s 93(1), Sch 18, Part II.

Sub-ss (7), (8): repealed by the Local Government Act 1974, ss 35(1), (2), 42(2), Sch 6, para 6(3), Sch 8.

Sub-s (10): words omitted repealed by the London Government Act 1963, s 93(1), Sch 18, Part II; words in square brackets substituted by the Local Government (Scotland) Act 1973, s 214, Sch 27, Part II, para 104.

Sub-s (12): applies to Scotland only.

Modification

Modification: this section, except sub-s (11), has effect as if references to a local authority included references to a National Park authority, by virtue of the Environment Act 1995, s 68(9).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

105 . . .

. . .

NOTES

Amendment

Repealed by the Local Government Act 1974, ss 35(1), (2), 42(2), Sch 6, para 6(4), Sch 8.

106 Supplementary provisions as to byelaws

(1) Sections two hundred and fifty to two hundred and fifty-two of the Local Government Act 1933 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding five pounds, and provide for the proof of byelaws in legal proceedings) 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 1933, so, however, that in relation to byelaws made by [the appropriate conservation body] [(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 section two hundred and fifty 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 the Local Government Act 1972 and to sections 236 to 238 thereof there shall be substituted references to the Local Government (Scotland) Act 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 15(h).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (1): words “(as defined in section 15A of this Act)” in square brackets inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 1(5).

See Further

See further: the Countryside Act 1968, ss 8(5), 12(5), 13(8), 41(7), and the Wildlife and Countryside Act 1981, s 35(4).

See further, the application of this section in relation to byelaws under the Nature Conservation (Scotland) Act 2004, s 20(1): the Nature Conservation (Scotland) Act 2004, s 20.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Nature Conservancy Council (Byelaws) Regulations 1975, SI 1975/1970 (made under sub-s (1)).

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, . . . , and under section seventy thereof.
- (2) Any dispute arising on a claim for any such compensation shall be determined by the [Upper Tribunal].
- (3) For the purposes of any reference to the [Upper Tribunal] under the last foregoing subsection, section five of the Acquisition of Land (Assessment of Compensation) Act 1919 (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 section two of the said Act of 1919 (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 [Upper 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 securities has priority over any other heritable securities secured on the land:

Provided that until sections one to three of the Lands Tribunal Act 1949 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 [the Land Compensation (Scotland) Act 1963], and the

following provisions of the said [Act of 1963] thereof (which relates to procedure), [section 5] thereof (which relates to costs) . . . but with the substitution for references to the acquiring authority of references to the authority from whom the compensation in question is claimed, and [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): words omitted repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, ss 16(2), 93(1), Sch 6, para 70, Sch 18, Part II.

Sub-s (2): words "Upper Tribunal" in square brackets substituted by SI 2009/1307, art 5(1), (2), Sch 1, para 19(a).

Date in force: 1 June 2009: see SI 2009/1307, art 1; for transitional and savings provisions see art 5(6), Sch 5 thereto.

Sub-s (3): words "Upper Tribunal" in square brackets substituted by SI 2009/1307, art 5(1), (2), Sch 1, para 19(a).

Date in force: 1 June 2009: see SI 2009/1307, art 1; for transitional and savings provisions see art 5(6), Sch 5 thereto.

Sub-s (6): in para (a) words "Upper Tribunal" in square brackets substituted by SI 2009/1307, art 5(1), (2), Sch 1, para 19(b).

Date in force: 1 June 2009: see SI 2009/1307, art 1; for transitional and savings provisions see art 5(6), Sch 5 thereto.

Sub-s (6): words in square brackets substituted by virtue of the Land Compensation (Scotland) Act 1963, s 47(1).

Sub-s (6): words omitted are spent.

See Further

See further, the application of this section in relation to byelaws under the Nature Conservation (Scotland) Act 2004, s 20(1): the Nature Conservation (Scotland) Act 2004, s 20.

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) . . .
 - (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 [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 [level 1 on the standard scale].

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): para (b) repealed by the Highways Act 1959, s 312(2), Sch 25, and the London Government Act 1963, ss 16(2), 93(1), Sch 6, para 70, Sch 18, Part II.

Sub-s (3): words in square brackets substituted by the Countryside Act 1968, s 46(3).

Sub-s (4): maximum fine increased and converted to a level on the standard scale by virtue of the Criminal Justice Act 1982, ss 37, 38, 46.

See Further

See further: the Countryside Act 1968, s 46(1), (3).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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

(1) Section one hundred and four of the Act of 1947 (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) Section one hundred and five of the Act of 1947 and section one hundred and one of the Town and Country Planning (Scotland) Act 1947 (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 Acquisition of Land (Authorisation Procedure) Act 1946, or the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, as applied by this Act.

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

See Further

See further: the Countryside Act 1968, s 46(1).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

110 Regulations and orders

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

(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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

See Further

See further: the Countryside Act 1968, s 46(1).

Subordinate Legislation

National Parks and Access to the Countryside (Isles of Scilly) Order 1973, SI 1973/1395.
Wildlife and Countryside (Isles of Scilly) Order 2001, SI 2001/1805.

[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—

(a) sections . . . 74 and 78 were omitted; and

(b) . . . 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.]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Norfolk and Suffolk Broads Act 1988, s 2(5), (6), Sch 3, Part I, para 2.

Sub-s (3): in para (a) words omitted repealed by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt I.

Date in force: 1 April 2001: see SI 2001/114, art 2(2)(i), (k).

Sub-s (3): in para (b) words omitted repealed by the Environment Act 1995, s 120(3), Sch 24.

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 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-nine] to ninety-four thereof.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (2): words “eighty-nine” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 93, Sch 15, Pt I, para 2.

Date in force: 1 April 2001: see SI 2001/114, art 2(2)(e).

See Further

See further: the Countryside Act 1968, s 46(4) (as amended by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 55(1), (3), Sch 12).

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

See Further

See further: the Countryside Act 1968, s 46(5).

114 Interpretation

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

“Act of 1947” means the Town and Country Planning Act 1947;

[“area of outstanding natural beauty” means an area designated under section 82 of the Countryside and Rights of Way Act 2000;]

. . .

. . .]

[“drainage authority” means—

- (a) as respects England, the Environment Agency;
- (b) as respects Wales, the Natural Resources Body for Wales;
- (c) in either case, 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 the Minister of Town and Country Planning, 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;

“owner”, in relation to any land, means, except in Part III of this Act [or in relation to Scotland], 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 . . .;

< . . . >

“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 the Act of 1947 or, in their application to Scotland, as in the Town and Country Planning (Scotland) Act 1947.

(2) References in this Act to the preservation[, or the conservation] of the natural beauty of an area shall be construed as including references to the preservation [or, as the case may be, the conservation] of [its 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Sub-s (1): definition “area of outstanding natural beauty” substituted by the Countryside and Rights of Way Act 2000, s 93, Sch 15, Pt I, para 3.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(e).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(g).

Sub-s (1): definition “the Agency” (omitted) repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 24, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): definition “the Council” (omitted) repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 24(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): definition “drainage authority” substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 24(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in definition “owner” words “or in relation to Scotland” in square brackets inserted by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), Sch 12, para 19(1), (3)(a).

Date in force: this amendment came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Sub-s (1): in definition “owner” words omitted repealed by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), (2), Sch 12, para 19(1), (3)(b), Sch 13.

Date in force: this repeal came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Sub-s (1): definition “river board” omitted repealed by the Water Resources Act 1963, s 136(2),

Sch 14, Pt I.

Sub-s (2): first and second words in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(8); final words in square brackets substituted by the Countryside Act 1968, s 21(7).

See Further

See further, in relation to definition “open-air recreation”: the Countryside Act 1968, s 21(6).

Transfer of Functions

Minister of Town and Country Planning renamed the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No 1) Order 1951, SI 1951/142, and was further renamed the Minister of Housing and Local Government by the Minister of Local Government and Planning (Change of Style and Title) Order 1951, SI 1951/1900. The Minister of Land and Natural Resources Order 1965, SI 1965/143 transferred (subject to exceptions) the functions of the Minister of Housing and Local Government under this Act to the Minister of Land and Natural Resources. The Secretary of State for Wales and Minister of Land and Natural Resources Order 1965, SI 1965/319 transferred the functions of the Minister of Housing and Local Government under this Act, so far as not already transferred by SI 1965/143, to the Secretary of State for Wales in relation to Wales and Monmouthshire (again subject to minor exceptions). The Ministry of Land and Natural Resources was dissolved by the Ministry of Land and Natural Resources (Dissolution) Order 1967, SI 1967/156 and the functions of the Minister were transferred to the Minister of Housing and Local Government. The Transfer of Functions (Miscellaneous) Order 1967, SI 1967/486 transferred a limited number of functions of the Minister of Housing and Local Government under this Act to that Minister and the Secretary of State acting jointly. The Ministry of Housing and Local Government was dissolved, and the functions of that Minister were transferred to the Secretary of State, by the Secretary of State for the Environment Order 1970, SI 1970/1681.

Functions of the Secretary of State for Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

SCHEDULE 1

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

Part I

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

- (1) Before—
 - (a) an order designating a National Park,
 - (b) . . .
 - (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 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 [every county or county borough which] includes any of the land to which the order relates:
 - (b) in the case of . . . 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) . . .

[(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 [is vested in the incumbent of a benefice of the Church of England], a like notice shall be served on the [Diocesan Board of Finance for the diocese in which the land is situated].

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,

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:

< . . . >

[(2A) In sub-paragraph (2) “local authority” does not include—

- (a) in relation to an order designating a National Park in England, a parish council, or
- (b) in relation to an order designating a National Park in Wales, a community council.]

(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, < . . . >

(4) Where, in the case of an access order, it is [represented by the Environment Agency (as respects England), the Natural Resources Body for Wales (as respects Wales), or a] [water undertaker] being a water undertaking, 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, and 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 [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 and the [Secretary of State] acting jointly.

(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 [Natural England][, the [Natural Resources Body for Wales]] [a National Park authority,] [county planning authority] [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 [Natural England, the] [Natural Resources Body for Wales], 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.

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 [(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.

[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.]

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) < . . . >

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Para 1: sub-para (1)(b) repealed by the Highways Act 1959, s 312(2), Sch 25.

Para 1: in sub-para (3)(a) words “every county or county borough which” in square brackets substituted by the Local Government (Wales) Act 1994, s 20(4), Sch 6, para 15(3).

Para 1: sub-para (3A) inserted by the Environment Act 1995, s 78, Sch 10, para 2(9)(a).

Para 1: in sub-para (4) words “is vested in the incumbent of a benefice of the Church of England” in square brackets substituted by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 4.

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

Para 1: in sub-para (4) words “Diocesan Board of Finance for the diocese in which the land is situated” in square brackets substituted by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 4.

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

Para 2: in sub-para (2) words omitted repealed by the Highways Act 1959, s 312(2), Sch 25.

Para 2: sub-para (2A) inserted by the Natural Environment and Rural Communities Act 2006, s 60(1), (5).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Para 2: in sub-para (3)(c) words omitted repealed by the Highways Act 1959, s 312(2), Sch 25.

Para 2: in sub-para (4) words from “represented by the” to “Wales), or a” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 25(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Para 2: in sub-para (4) words “water undertaker” in square brackets substituted by virtue of the Water Act 1989, s 190, Sch 25, para 13.

Para 2: in sub-para (4)(a) words from “the statutory undertaking” to “undertaker” in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 13.

Para 2: in sub-para (4) words “Secretary of State” in square brackets substituted by virtue of SI 1968/1699, art 5(4).

Para 2: in sub-para (5) words “Natural England” and “Natural England, the” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 25.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Para 2: in sub-para (5) words in square brackets beginning with the word “, the” inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 1(17).

Para 2: in sub-para (5) words “Natural Resources Body for Wales” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 15, 25(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Para 2: in sub-para (5) words “a National Park authority,” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(9)(b).

Para 2: in sub-para (5) words “county planning authority” in square brackets substituted by the Local Government Act 1972, s 184, Sch 17, Pt III, para 41.

Para 2: in sub-para (5) words “or, in Wales, the local planning authority” in square brackets inserted by the Local Government (Wales) Act 1994, s 20(4), Sch 6, para 15(3).

Para 3: in sub-para (a) words “(3A) or” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 2(9)(c).

Para 3A: inserted by the Environment Act 1995, s 78, Sch 10, para 2(9)(d).

Para 4: sub-para (2) repealed by the Highways Act 1959, s 312(2), Sch 25.

See Further

See further, in relation to statutory undertakers: the Post Office Act 1969, ss 76, 88, 139, Sch 4,

para 93, the Civil Aviation Act 1982, s 19, Sch 2, para 4, the Water Act 1989, s 190, Sch 25, para 1, the Electricity Act 1989, s 112(1), Sch 16, para 1 and the Gas Act 1995, s 16(1), Sch 4, para 2(1)(v).

Transfer of Functions

Functions of the Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

National Parks and Access to the Countryside Regulations 1950, SI 1950/1066 (made under para 4).

Part II

. . .

. . .

NOTES

Amendment

Repealed by the Countryside Act 1968, s 50(2), 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 . . . 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 comply with any such requirement as aforesaid, may quash the order either generally or in so far as it affects the applicant.

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 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 . . . 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Paras 8, 11: words omitted repealed by the Countryside Act 1968, s 50(2), Sch 5.

[SCHEDULE 1A COASTAL ACCESS REPORTS]

NOTES

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(2), Sch 19.

Date in force (in so far as it confers power to make regulations): 12 November 2009: see the Marine and Coastal Access Act 2009, s 324(1)(c).

Date in force (for remaining purposes): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

[Introductory

1

In this Schedule—

- (a) “coastal access report” means a report submitted under section 51 pursuant to the coastal access duty;

- (b) references to a fair balance are references to a fair balance between—
- (i) the interests of the public in having rights of access over land, and
 - (ii) the interests of any person with a relevant interest in the land,
- (to which section 297(3) of the Marine and Coastal Access Act 2009 (general duties in connection with the coastal access duty) refers).

Advertising etc of coastal access reports

2

- (1) Natural England must—
- (a) advertise a coastal access report, and
 - (b) take such steps as are reasonable to give notice of the report to persons within sub-paragraph (2).
- (2) Those persons are—
- (a) persons with a relevant interest in affected land;
 - (b) each access authority for an area in which affected land is situated;
 - (c) each local access forum for an area in which affected land is situated;
 - (d) the Historic Buildings and Monuments Commission for England;
 - (e) the Environment Agency;
 - (f) such other persons as may be specified in regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations make provision about—
- (a) the form and manner in which reports are to be advertised under sub-paragraph (1)(a);
 - (b) the form and manner in which notices are to be given under sub-paragraph (1)(b);
 - (c) the timing of any advertisement or the giving of any notice.

Objections by persons with relevant interest in affected land

3

- (1) Any person who has a relevant interest in affected land may make an objection to Natural England about a coastal access report.
- (2) For the purposes of this Schedule an objection is not an admissible objection unless it—
- (a) satisfies the conditions in sub-paragraphs (3) and (4), and
 - (b) is made in accordance with any requirements imposed by regulations under sub-paragraph (7)(b).
- (3) The first condition is that the objection is made on the ground that the proposals in the report, in

such respects as are specified in the objection, fail to strike a fair balance as a result of one or more of the following—

- (a) the position of any part of the proposed route;
- (b) the inclusion of proposals under subsection (2) of section 55B or the nature of any proposal under that subsection;
- (c) the inclusion of, or failure to include, an alternative route under section 55C(2) or the position of any such alternative route or any part of such a route;
- (d) the inclusion of, or failure to include, proposals under one or more of paragraphs (a) to (c) of section 55D(2) or the nature of any proposal made under such a paragraph;
- (e) the inclusion of, or failure to include, a proposal under section 55D(5) or the terms of any such proposal;
- (f) the exercise of a discretion conferred by section 301(2) or (3) of the Marine and Coastal Access Act 2009, or failure to exercise a discretion conferred by section 301(3) of that Act, in relation to a river.

(4) The second condition is that the objection specifies the reasons why the person making the objection is of the opinion that a fair balance is not struck as a result of the matter or matters within sub-paragraph (3)(a) to (f).

(5) An objection under this paragraph may propose modifications of the proposals in the report if the person making the objection considers—

- (a) that those modifications would remedy, or mitigate the effects of, the failure to strike a fair balance to which the objection relates, and
- (b) that the proposals as so modified would satisfy the requirements of sub-paragraph (6).

(6) Modified proposals satisfy the requirements of this sub-paragraph if what they propose—

- (a) is practicable,
- (b) takes account of the matters mentioned in section 297(2), and (where appropriate) section 301(4), of the Marine and Coastal Access Act 2009 (matters to which Natural England and the Secretary of State must have regard when discharging the coastal access duty), and
- (c) is in accordance with the scheme approved under section 298 of that Act (the scheme in accordance with which Natural England must act when discharging the coastal access duty) or, where that scheme has been revised, the revised scheme.

(7) The Secretary of State may by regulations make provision about—

- (a) the steps to be taken by Natural England to make persons with an interest in affected land aware of their entitlement to make objections under this paragraph;
- (b) the form and manner in which, and period within which, objections are to be made.

Referral of objections to the appointed person

- (1) Natural England must send to the Secretary of State a copy of any objection received under paragraph 3 about a coastal access report.
- (2) The Secretary of State must refer any objection received under sub-paragraph (1) to a person appointed by the Secretary of State for the purposes of this Schedule (“the appointed person”).
- (3) An appointment under sub-paragraph (2)—
 - (a) must be in writing;
 - (b) may relate to any particular objection specified in the appointment or to objections of a description so specified;
 - (c) may provide for a payment or payments to be made to the appointed person.
- (4) An appointment under sub-paragraph (2) may, by notice in writing given to the appointed person, be revoked at any time by the Secretary of State in respect of any objection if the appointed person has not, before that time, given the Secretary of State a report containing a recommendation under paragraph 11 in relation to the objection.
- (5) Where the appointment of the appointed person is revoked in respect of any objection, the Secretary of State must appoint another person under sub-paragraph (2) to deal with the objection afresh under this Schedule.
- (6) Nothing in sub-paragraph (5) requires any person to be given an opportunity to make fresh representations or comments or to modify or withdraw any representations or comments already made.

Determination of admissibility of objections

5

Where an objection is referred under paragraph 4(2), the appointed person must—

- (a) determine whether the objection is an admissible objection, and
- (b) give notice of that determination, together with the reasons for it, to—
 - (i) the person who made the objection,
 - (ii) the Secretary of State, and
 - (iii) Natural England.

Admissible objections

6

- (1) Where Natural England is notified under paragraph 5(b) that an objection is an admissible objection, it must send to the Secretary of State its comments on the objection.
- (2) A notice under paragraph 5(b) that an objection is an admissible objection may require Natural England to include in its comments under sub-paragraph (1)—
 - (a) either—
 - (i) an outline of any relevant alternative modifications of the proposals in the

coastal access report, or

- (ii) if Natural England considers there are no such modifications, a statement to that effect;
 - (b) if an outline is included under paragraph (a)(i), an assessment of the effects of the relevant alternative modifications on the interests of the public in having rights of access over land and the interests of any person with a relevant interest in affected land;
 - (c) either—
 - (i) an outline of any relevant rejected proposals which were considered by Natural England in connection with the preparation of the coastal access report and of its reasons for rejecting them, or
 - (ii) if there are no such proposals, a statement to that effect;
 - (d) information of such other description as the appointed person may specify in the notice under paragraph 5(b), being information which the appointed person considers to be material for the purpose of making a determination under paragraph 10(2).
- (3) In this paragraph, a reference to relevant alternative modifications of the proposals is to modifications of the proposals which Natural England considers—
- (a) might reasonably be regarded as relevant for the purpose of determining—
 - (i) whether, in the respects identified in the objection, the proposals in the report strike a fair balance, or
 - (ii) whether any modification of those proposals would produce proposals that strike a fair balance or mitigate the effects of any failure to strike a fair balance,
 - (b) are materially different from any modifications included in the objection under paragraph 3(5), and
 - (c) would, if made, result in proposals which satisfy the requirements of paragraph 3(6)(a) and (c).
- (4) In this paragraph, a reference to relevant rejected proposals is to proposals which, if to be given effect to, would require modifications to be made of the proposals in the coastal access report which—
- (a) are materially different from—
 - (i) any modifications included in the objection under paragraph 3(5), and
 - (ii) any relevant alternative modifications outlined in Natural England's comments on the objection, and
 - (b) would be relevant alternative modifications but for a failure to satisfy the requirement of paragraph 3(6)(a).

Representations about reports

7

- (1) Representations about a coastal access report may be made by any person to Natural England.

- (2) The Secretary of State may by regulations make provision about—
- (a) the steps to be taken by Natural England to make persons aware of their entitlement to make representations under this paragraph;
 - (b) the form and manner in which, and period within which, representations are to be made.

8

- (1) Natural England must send to the Secretary of State—
- (a) a copy of any representations made by a person within paragraph 2(2)(b) to (f) about a coastal access report,
 - (b) a summary of any other representations made about the report, and
 - (c) Natural England's comments on representations within paragraph (a) or (b).
- (2) In this paragraph references to representations are to representations made under paragraph 7 in accordance with any requirements imposed by regulations under paragraph 7(2)(b).

Reference of objection to the appointed person

9

- (1) This paragraph applies where the Secretary of State is notified under paragraph 5(b) that an objection made about a coastal access report is an admissible objection.
- (2) The Secretary of State must send to the appointed person the relevant documents in relation to the objection.
- (3) The relevant documents are—
- (a) a copy of the coastal access report to which the objection relates,
 - (b) a copy of Natural England's comments on the objection received under paragraph 6,
 - (c) a copy of any representations received under paragraph 8(1)(a) about the coastal access report, so far as those representations appear to the Secretary of State to be relevant to the objection,
 - (d) if there are such representations, a copy of Natural England's comments on them received under paragraph 8(1)(c),
 - (e) if a summary of representations about the coastal access report has been received under paragraph 8(1)(b), a copy of any part of the summary which appears to the Secretary of State to be relevant to the objection, and
 - (f) if there is such a part, a copy of Natural England's comments on the representations to which the part relates received under paragraph 8(1)(c).

Consideration of objections by appointed person

10

- (1) This paragraph applies where the appointed person—

- (a) has determined that an objection about a coastal access report is an admissible objection, and
 - (b) has received, under paragraph 9, the relevant documents in relation to the objection.
- (2) The appointed person must determine whether the proposals set out in the report fail, in the respects specified in the objection, to strike a fair balance as a result of the matter or matters within paragraph 3(3)(a) to (f) specified in the objection.
- (3) If the appointed person is minded to determine that the proposals fail to strike a fair balance, the appointed person must comply with sub-paragraphs (4) and (5) before making such a determination.
- (4) The appointed person must publish a notice containing—
- (a) details of the objection and Natural England’s comments on it under paragraph 6,
 - (b) a statement that the appointed person is minded to determine that the proposals fail to strike a fair balance, and
 - (c) an invitation to submit to the appointed person representations about—
 - (i) the objection (including any modifications of the proposals proposed by the objection),
 - (ii) any relevant alternative modifications contained in Natural England’s comments on the objection under paragraph 6, and
 - (iii) any observations which the appointed person has made in the notice regarding any such relevant alternative modifications or any modifications proposed by the objection.
- (5) The appointed person must give a copy of that notice to—
- (a) Natural England;
 - (b) any person with a relevant interest in—
 - (i) affected land to which the objection relates, or
 - (ii) land which is not affected land but would be such land if any of the modifications referred to in sub-paragraph (4)(c)(i) or (ii) were made to the proposals;
 - (c) any person within paragraph 2(2)(b) to (f).
- (6) The Secretary of State may by regulations make provision about—
- (a) the form and manner in which notices are to be published or given under this paragraph,
 - (b) the timing of the publication or giving of notices under this paragraph, and
 - (c) the form and manner in which, and period within which, representations are to be made in response to an invitation in a notice under this paragraph.
- (7) The appointed person may require the Secretary of State, at the Secretary of State’s expense—
- (a) to discharge the appointed person’s duty to publish or give a notice under this paragraph;

- (b) to receive on behalf of the appointed person any representations made in response to an invitation in a notice under this paragraph and forward such representations to the appointed person.

Recommendations of the appointed person

11

- (1) Where a determination is made in respect of an objection under paragraph 10(2), the appointed person must give the Secretary of State a report which—
 - (a) sets out that determination, and
 - (b) makes one or more recommendations in accordance with this paragraph.
- (2) Sub-paragraph (3) applies if the appointed person concludes under paragraph 10(2) that the proposals do not fail, in the respects specified in the objection, to strike a fair balance as a result of any of the matters within paragraph 3(3)(a) to (f) specified in the objection.
- (3) The appointed person must recommend that the Secretary of State makes a determination to that effect.
- (4) Sub-paragraphs (5) and (7) apply if the appointed person concludes that the proposals fail, in the respects (or certain of the respects) specified in the objection, to strike a fair balance as a result of one or more of the matters within paragraph 3(3)(a) to (f) specified in the objection.
- (5) The appointed person must determine whether there are any modifications of the proposals which would meet the coastal access requirements.
- (6) For the purposes of this paragraph, modifications meet the coastal access requirements if they—
 - (a) remedy the failure to strike a fair balance identified by the objection, and
 - (b) produce proposals which satisfy the requirements of paragraph 3(6).
- (7) The appointed person must—
 - (a) recommend that the Secretary of State determines that the proposals fail, in one or more of the respects specified in the objection, to strike a fair balance but that there is no modification which would satisfy the coastal access requirements,
 - (b) recommend that, if minded to approve the proposals, the Secretary of State approves the proposals with modifications of a kind described in the recommendation, being modifications which the appointed person considers would meet the coastal access requirements, or
 - (c) recommend that, if minded to approve the proposals, the Secretary of State considers whether modifications of a kind described in the recommendation would meet the coastal access requirements.
- (8) Where a report contains a recommendation under sub-paragraph (7)(a), the appointed person may include in the report—
 - (a) a recommendation that, if minded to approve the proposals, the Secretary of State should approve the proposals with modifications of a kind described in the recommendation, being modifications which the appointed person considers would mitigate the effects of the failure to strike a fair balance, or

- (b) a recommendation that, if minded to approve the proposals, the Secretary of State should consider whether modifications of a kind described in the recommendation would mitigate the effects of the failure to strike a fair balance.

(9) Sub-paragraph (10) applies where, in a case to which sub-paragraph (4) applies, the appointed person also determines that the proposals do not fail, in the respects (or certain of the respects) specified in the objection, to strike a fair balance by reason of one or more of the matters within paragraph 3(3)(a) to (f) specified in the objection.

(10) The appointed person must recommend that the Secretary of State makes a determination to that effect (in addition to any recommendation under sub-paragraph (7) or (8)).

(11) A report under this paragraph must also set out the appointed person's reasons for any recommendation contained in the report.

Information and documents

12

(1) The appointed person may give Natural England a notice requiring it to provide the appointed person with information or documents—

- (a) which is or are in the possession of Natural England, and
- (b) which the appointed person reasonably requires for the purpose of exercising functions under this Schedule.

(2) Natural England must send the Secretary of State a copy of any information or document provided by it in response to a notice under sub-paragraph (1).

(3) The appointed person may give the Secretary of State a notice requiring the Secretary of State to provide the appointed person with—

- (a) a copy of any coastal access report specified in the notice which the appointed person reasonably requires for the purpose of exercising functions under this Schedule;
- (b) any information in the possession of the Secretary of State which the appointed person reasonably so requires.

Holding of local inquiries and other hearings by appointed person

13

(1) Where the appointed person considers it necessary or expedient to do so, the appointed person may hold a local inquiry or other hearing in connection with the consideration of an objection under this Schedule.

(2) Subject to sub-paragraph (3), the costs of a local inquiry or other hearing held under this paragraph are to be defrayed by the Secretary of State.

(3) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) apply to local inquiries or other hearings held under this Schedule by the appointed person as they apply to inquiries caused to be held under that section by a Minister, but as if—

- (a) in subsection (2) (evidence) the reference to the person appointed to hold the inquiry were a

- reference to the appointed person,
- (b) in subsection (4) (recovery of costs of holding the inquiry)—
 - (i) references to the Minister causing the inquiry to be held were references to the appointed person, and
 - (ii) references to a local authority were references to Natural England, and
 - (c) in subsection (5) (orders as to the costs of the parties) the reference to the Minister causing the inquiry to be held were a reference to the appointed person.

Supplementary provision about procedure in connection with objections

14

- (1) Subject to the provisions of this Schedule, the Secretary of State may, by regulations, make provision about the consideration of objections by the appointed person.
- (2) Such regulations may, in particular, include—
 - (a) provision enabling two or more objections, in the circumstances specified in the regulations, to be considered by the appointed person together;
 - (b) provision enabling the appointed person to conduct an inspection of any land;
 - (c) provision about the procedure for the conduct of local inquiries and other hearings.

Preliminary consultation

15

- (1) The Secretary of State may, by regulations, make provision about the procedure to be followed where, before determining whether or not to approve the proposals in a coastal access report (with or without modifications), the Secretary of State wishes—
 - (a) to identify or investigate possible modifications of the proposals to which it might be appropriate to give further consideration, and
 - (b) to consult persons for the purposes of identifying or investigating such modifications.
- (2) Regulations under this paragraph may, in particular, apply any provision of this Schedule (with or without modifications).

Determinations under section 52

16

- (1) Before making a determination under section 52 in respect of a coastal access report, the Secretary of State must consider—
 - (a) any objection about the report which the appointed person has determined is an admissible objection,
 - (b) Natural England's comments under paragraph 6 on any such objections,

- (c) any report under paragraph 11 in respect of any such objection,
- (d) any representations made about the coastal access report, or summary of such representations, and any comments on those representations, received under paragraph 8, and
- (e) any information or document a copy of which is sent to the Secretary of State under paragraph 12(2).

(2) The power under section 52 to approve proposals contained in a report submitted under section 51 pursuant to the coastal access duty includes a power to approve those proposals (with or without modifications) so far as they relate to one or more parts of the route only, and reject the remaining proposals.

(3) Where a report required to be considered under sub-paragraph (1)(c) contains a statement of a finding of fact, the Secretary of State in making the determination is bound by that finding unless the Secretary of State is satisfied—

- (a) that the finding involves an assessment of the significance of a matter to any person with a relevant interest in land or to the public,
- (b) that there was insufficient evidence to make the finding,
- (c) that the finding was made by reference to irrelevant factors or without regard to relevant factors, or
- (d) that the finding was otherwise perverse or irrational.

(4) The Secretary of State may, by regulations, make provision about the procedure to be followed where the Secretary of State is minded to approve proposals with modifications other than modifications made in accordance with a recommendation under paragraph 11(7)(b) or (c) or (8)(a) or (b).

(5) For the purposes of sub-paragraph (4) a modification is to be regarded as made in accordance with a recommendation under paragraph 11(7)(b) or (c) or (8)(a) or (b) if it is not materially different from a modification which could be so made.

(6) Regulations under sub-paragraph (4) may, in particular, apply any provision of this Schedule (with or without modifications).

(7) Any requirement imposed by virtue of sub-paragraph (4) is in addition to the duty to consult imposed by section 52(1).

Notice of determinations under section 52

17

(1) Where the Secretary of State makes a determination under section 52 in respect of a coastal access report, the Secretary of State must, as soon as reasonably practicable, comply with this paragraph.

(2) The Secretary of State must—

- (a) take reasonable steps to give notice of the determination to persons with a relevant interest in affected land, or
- (b) if the Secretary of State considers it appropriate, publish a notice of the determination in such

manner as the Secretary of State considers likely to bring it to the attention of those persons.

(3) The Secretary of State (in addition to complying with section 52(2)) must give notice of the determination to—

- (a) any body of a kind mentioned in section 52(2) in whose Park or area affected land is situated (but which is not required to be notified under section 52(2)),
- (b) any London borough council for an area in which affected land is situated,
- (c) any local access forum for an area in which affected land is situated,
- (d) the Historic Buildings and Monuments Commission for England, and
- (e) the Environment Agency.

(4) Where the Secretary of State was required under paragraph 16(1)(a) to consider an objection when making the determination, a statement of the reasons for the determination (so far as relevant to the objection) must be included in—

- (a) any notice given or published under sub-paragraph (2),
- (b) any notification of the determination under section 52(2), and
- (c) any notice given under sub-paragraph (3).

(5) Where the Secretary of State was required under paragraph 16(1)(c) to consider a report and the Secretary of State in making the determination does not follow a recommendation in the report, the statement of reasons required by sub-paragraph (4) must also include the reasons for not following the recommendation.

Interpretation

18

In this Schedule—

“admissible objection” is to be construed in accordance with paragraph 3(2);

“the appointed person” has the meaning given by paragraph 4(2);

“coastal access report” has the meaning given by paragraph 1(a);

“fair balance” is to be construed in accordance with paragraph 1(b);

“relevant alternative modifications” has the meaning given by paragraph 6(3);

“the relevant documents”, in relation to an objection, has the meaning given by paragraph 9(3).]

NOTES

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).

Amendment

Inserted by the Marine and Coastal Access Act 2009, s 302(2), Sch 19.

Date in force (in so far as it confers power to make regulations): 12 November 2009: see the

Marine and Coastal Access Act 2009, s 324(1)(c).
Date in force (for remaining purposes): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(d).

Subordinate Legislation

Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010, SI 2010/1976 (made under paras 2(2)(f), (3), 3(7), 7(2), 10(6), 14, 15(1), 16(4), (6)).

SCHEDULE 2

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 16 December 1949: (no specific commencement provision).

Extent

This Act (except Pt III and so much of Pt VI as relates to Pt III) does not extend to Scotland: see s 115(2).