



# Countryside (Scotland) Act 1981

CHAPTER 44

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ELIZABETH II



# Countryside (Scotland)

## Act 1981

1981 CHAPTER 44

An Act to make further provision for the better enjoyment of the Scottish countryside, and as respects the Countryside Commission for Scotland; to amend the Countryside (Scotland) Act 1967; and for connected purposes.  
[27 July 1981]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. For section 7 of the Act of 1967 (grants and loans to Grants and persons other than public bodies) there shall be substituted— loans.

“Grants and loans. 7.—(1) In accordance with arrangements approved by the Secretary of State and the Treasury, the Commission shall have power to make grants, loans (or both) to any person, including a public body, in respect of expenditure incurred by him in doing anything which in the opinion of the Commission is conducive to the attainment of any of the purposes of this Act.

(2) Grants or loans made in terms of subsection (1) above to local authorities shall be made only in

respect of expenditure incurred by those authorities in relation to the countryside in or in connection with—

- (a) the exercise of their powers under this Act ;
- 1960 c. 62. (b) the exercise of their powers under section 24 of the Caravan Sites and Control of Development Act 1960 (which relates to the provision of caravan sites by local authorities) ;
- 1964 c. 67. (c) the exercise of their powers under section 2 (except subsection (1)(b)) of the Local Government (Development and Finance) (Scotland) Act 1964 (which empowers local authorities to develop land in certain circumstances) ;
- 1972 c. 52. (d) the payment of compensation under section 159, or by virtue of section 163, of the Town and Country Planning (Scotland) Act 1972 (which respectively relate to compensation in respect of the control of the use of land and to tree preservation orders) ;
- (e) the exercise of their powers of acquiring land, whether by agreement or compulsorily, under or by virtue of any of the enactments referred to in the preceding paragraphs of this subsection.

(3) On making a grant or a loan under this section the Commission may impose conditions including (in the case of a grant) conditions for repayment in specified circumstances.

(4) The exercise of the Commission's power under this section shall be subject to any directions given to them by the Secretary of State."

Extension of definition of "open country".

2. In subsection 10(2) of the Act of 1967 (which defines "open country") for the words after "adjacent thereto" there shall be substituted the following words—

"and any waterway ; and in this section "waterway" and "foreshore" shall include any bank, barrier, dune, beach, flat or other land adjacent to the waterway or foreshore."

3.—(1) At the end of section 13 of the Act of 1967 (which relates to access agreements) there shall be added the following subsection—

“(11) Payments made under subsection (2) above in consideration of the making of the agreement shall be made on the basis of an assessment of the capital value of the land arrived at in accordance with the provisions of Schedule 4 to this Act.”

(2) After Schedule 3 to the Act of 1967 there shall be inserted the following Schedule—

“ SCHEDULE 4

PROVISIONS AS TO THE CALCULATION FOR FIXING CONSIDERATION IN RESPECT OF THE MAKING OF ACCESS AGREEMENTS.

(1) The district valuer shall value the land covered by the access agreement, as at the first day of the twelve month period to which the consideration will relate, assuming—

- (a) a sale on the open market by a willing seller ; and
- (b) that the use of the land is unfettered by the access agreement.

(2) The planning authority shall, before or as soon as possible after the coming into operation of the access agreement, agree with the owner of the interest in the land what proportion of the figure set by the district valuer should be paid by the planning authority in respect of each twelve month period.

(3) The first twelve month period shall begin on the day on which the public is first given access to the land under the agreement.”

4. In section 24 of the Act of 1967 (which relates to the acquisition by planning authorities of land for public access), in subsection (1), for the words “ or acquire the land compulsorily.” there shall be substituted the words “ or, with the consent of the Secretary of State, acquire the land compulsorily: provided that the authority may not acquire the land compulsorily unless it is impracticable to obtain such access by an access agreement or an access order.”

Powers of Secretary of State in relation to acquisition of land for public access

5. After section 35 of the Act of 1967 (which relates to the diversion of public paths) there shall be added the following section—

Relaxation of control by Secretary of State.

“Relaxation of controls. 35A.—(1) Notwithstanding the terms of sections 31(1), 34(1) and 35(1) of this Act, a planning author-

ity shall not submit to the Secretary of State for his approval and confirmation any public path creation order, public path extinguishment order or public path diversion order to which no objections have been made, or the objections to which have been withdrawn.

(2) Part II of Schedule 3 to this Act shall apply to orders of the kind referred to in subsection (1) above as it applies to other orders made under any of the said sections 31, 34 or 35."

**Fines.**

**6.** In sections 43, 44, 60 and 75 of the Act of 1967 (which set out, inter alia, the penalties for offences under these sections) the maximum fines to which a person shall be liable on summary conviction shall be increased as follows—

- (a) in section 43(4) (a) for " £50 " there shall be substituted " £200 ";
- (b) in section 43(4) (b) for " £10 " there shall be substituted " £50 ";
- (c) in section 43(4) (c) for " £50 " there shall be substituted " £200 ";
- (d) in section 44(2) for " £50 " there shall be substituted " £200 ";
- (e) in section 60(6) for " £20 " there shall be substituted " £50 ";
- (f) in section 75(6) for " £20 " there shall be substituted " £200 ".

**Amendment of certain references to local authorities, etc.**

**7.** In section 46 of the Act of 1967 (which imposes duties and confers powers on all planning authorities in respect of the protection and maintenance of public rights of way)—

- (a) in subsection (2), for the words " Any local authority or " there shall be substituted the word " A " ; and
- (b) at the end there shall be added the following subsection—

" (5) The references in subsections (1) to (3) above to planning authorities shall be construed as references to planning authorities which carry out district planning functions ; and in this subsection " district planning functions " has the same meaning as in Part IX of the Local Government (Scotland) Act 1973."

1973 c. 65.

**Establishment of regional parks.**

**8.** After section 48 of the Act of 1967 there shall be inserted the following section—

"Regional parks 48A.—(1) A regional park is an extensive area of land, part of which is devoted to the recreational needs of the public.

(2) Regional councils shall have power—

- (a) by order to designate lands within their region as regional parks, and
- (b) to manage as a single administrative unit any parts of any such park which are under the control of the council,

and where it is appropriate that lands extending into more than one region should be designated as a regional park the regional councils concerned may jointly exercise the powers conferred by this subsection.

(3) Subject to subsection (4)(c) below, an order under subsection (2)(a) above shall not take effect until it is confirmed by the Secretary of State, who may confirm such order either without modification or subject to such modifications as he considers expedient.

(4) The Secretary of State shall by regulations made by statutory instrument prescribe the procedure for making orders under subsection (2)(a) above and the form of such orders; and (without prejudice to the generality of this subsection) the regulations shall make provision as follows:—

- (a) that before an order under subsection (2)(a) above is submitted to the Secretary of State for confirmation, notice of the terms of the order shall be given to the owners, lessees and occupiers of land within the area designated in the order, and to such other persons, if any, as may be specified in the regulations;
- (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered by the Secretary of State before he confirms the order;
- (c) that if no objections or representations are made in respect of any order, or if any objections or representations made are withdrawn, the order shall not be submitted to the Secretary of State for confirmation, but shall be confirmed without modification as an unopposed order by the council or councils who made it; and
- (d) that copies of confirmed orders shall be served on such persons as may be specified in the regulations.

(5) Any statutory instrument made in terms of subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Where a planning application is made in relation to lands which fall within an area designated as a regional park, the planning authority shall have regard to the fact that the area has been so designated in considering the application.”

Management agreements.

9. After section 49 of the Act of 1967 there shall be inserted the following section—

“Management agreements.

49A.—(1) A planning authority or the Commission may enter into agreements (to be known as “management agreements”) with any person having an interest in land to do, or to secure the doing of, whatever in the opinion of the parties to the agreement may be necessary to preserve or enhance the natural beauty of the countryside or to promote the enjoyment of the countryside by the public.

(2) Before entering into any management agreement, the Commission shall consult the relevant planning authorities.

(3) In this section, “the relevant planning authorities” include any planning authority for an area within which any land liable to be affected by the management agreement is situated.

(4) A planning authority or the Commission may make such payments in respect of such agreements as are specified in the agreement.

(5) Any person, being the liferenter or the heir of entail, in possession of any land shall have power to enter into management agreements relating to the land or any part thereof.

1921 c. 58.

(6) The Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general power of trustees) there were included a power to enter into management agreements relating to the trust estate or any part thereof.

(7) Subsections (8) to (10) of section 13 of this Act shall apply to management agreements as they apply to access agreements.

(8) Where any person having such an interest in any land as enables him to bind the land enters into



any such agreement as aforesaid, the agreement may be registered either—

- (a) in a case where the land affected by the agreement is registered in that Register, in the Land Register of Scotland, or
- (b) in any other case, in the appropriate Division of the General Register of Sasines.

(9) Any agreement registered in terms of subsection (8) above shall be enforceable at the instance of the planning authority or of the Commission, as the case may be, against persons deriving title to the land from the person who entered into the agreement; provided that any such agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infetment or not) to the land prior to the agreement being registered as aforesaid, or against any person deriving title from such third party.

(10) Notwithstanding the terms of any management agreement, it shall be open at any time to the parties to the agreement, or to persons deriving title from the parties, as the case may be, to agree to terminate it; and where any management agreement has been registered in terms of subsection (8) above, the subsequent agreement to terminate it shall be registered in the like manner.”.

**10.**—(1) In section 54 of the Act of 1967 (which provides for the making of byelaws as respects country parks etc.), for section (1) there shall be substituted the following subsections—

Extension of power to make byelaws.

“ (1) A local authority may, as respects land in their area belonging to them and situated in the countryside, and a planning authority may, as respects—

(a) a public path created—

- (i) in accordance with a public path creation agreement to which they are party;
- (ii) by a public path creation order made by them and confirmed where necessary by the Secretary of State; or
- (iii) by a public path diversion order made by them and confirmed where necessary by the Secretary of State;

(b) a long-distance route which passes through their area;

- (c) a public right of way in relation to which a duty is imposed on them by section 46(1) of this Act ;
- (d) a country park provided by them under section 48 of this Act ; or
- (e) land or a waterway—
  - (i) in relation to which an agreement or order has been made by them for the purpose of giving access to the public ;
  - or
  - (ii) to which the public are given access in consequence of acquisition by the authority,

make byelaws for the preservation of order, for the prevention of damage to the land, path, route, right of way, park or waterway or anything thereon, therein, or adjacent thereto, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land, path, route, right of way, park or waterway by other persons.

(1A) In subsection (1) above—

“ long-distance route ” means a route in relation to which there are approved proposals under section 40 of this Act (or approved proposals having effect subject to the provisions of a report or direction under section 42 of this Act) and includes any road forming part of the route and any ferry, proposals for the provision and operation of which are included in the approved proposals ; and

“ public path ” has the meaning assigned to it in section 30 of this Act.”.

(2) In subsection (2) of the said section, after the word “ land ”, in both places where it occurs, there shall be inserted the words “ path, route, right of way,”.

(3) After subsection (5) of the said section there shall be added the following subsection—

“ (5A) Byelaws made under this section in relation to long-distance routes shall not come into operation in relation to any part of the route until—

- (a) the Secretary of State’s approval of the route under section 40 of this Act has been notified to the local authority or planning authority as the case may be ; and
- (b) access over that part of the route is available to the public.”.

- 11.** After section 56 of the Act of 1967 there shall be added the following section—
- “Control of engine noise in quiet areas. 56A.—(1) For the purpose of preventing disturbance by the engine noise of vehicles and aircraft to the enjoyment by the public of quiet areas of the countryside, district and islands councils shall, subject to the following provisions of this section, have power by byelaws to control—
- (a) the use on land or waterways of vehicles (including hovercraft and boats) ; and
  - (b) the landing and taking off of aircraft.
- (2) Byelaws made under subsection (1) above shall not apply to the use of such vehicles or aircraft by—
- (a) emergency services ;
  - (b) statutory undertakers ; or
  - (c) owners, occupiers or tenants of the land, or owners of an interest in the land, on which the disturbance occurs, provided that the use involved is for agriculture, forestry, the maintenance of the land or for the exercise of sporting rights.
- (3) Subsection (1) above shall not apply to the Crown.
- (4) In this section—
- (a) “ aircraft ” includes model aircraft.
  - (b) “ vehicles ” includes model vehicles.”.

Power of district and islands councils to control noise in the countryside.

- 12.** In section 65(3) of the Act of 1967, for the words from “ comprised ” to “ this Act ” there shall be substituted the words—
- Extension of powers of rangers.
- “ (a) comprised in an access agreement or order in force under Part II of this Act ; or
  - (b) in relation to which byelaws made under section 56A of this Act are in force ; or
  - (c) as respects which he is otherwise appointed to act as a ranger.”.

- 13.**—(1) After paragraph 3(2) of Schedule 1 to the Act of 1967 (which relates to the constitution and proceedings of the Commission) there shall be added the following sub-paragraph—
- Payment of compensation to members and staff of the Commission.
- “ (3) Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Commission may make to him a payment of such

amount as the Secretary of State may, with the consent of the Minister for the Civil Service, determine.”.

(2) After paragraph 4(b) of Schedule 1 to the Act of 1967 there shall be added the following sub-paragraph—

“(c) may pay to or in respect of any of its officers or servants who suffers loss of office or employment otherwise than on retirement such pension, allowance or gratuity by way of compensation as the Secretary of State may, with the consent of the Minister for the Civil Service, determine.”.

Minor and consequential amendments. **14.** The enactments specified in the first Schedule to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments and amendments consequential on the provisions of this Act.

Repeals. **15.** The enactments mentioned in Schedule 2 to this Act are repealed to the extent specified in the third column of that Schedule.

Expenses. **16.** There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of such moneys under any other Act.

Interpretation. **17.** In this Act “the Act of 1967” means the Countryside (Scotland) Act 1967.

Citation, etc. **18.—(1)** This Act may be cited as the Countryside (Scotland) Act 1981.

(2) This Act will commence on such date as the Secretary of State may prescribe by order made by statutory instrument, and different dates may be prescribed for different enactments.

(3) This Act applies to Scotland only.

SCHEDULES

Section 14.

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Countryside (Scotland) Act 1967 (c. 86)*

1. In section 5(1)(b), between the words "any" and "proposals", there shall be inserted the word "such".

2. In section 36(1)—

(a) for the words "they apply" there shall be substituted the words "it applies"; and

(b) for the word "subsections" there shall be substituted the word "subsection".

3. In section 43(5) (ploughing of public right of way), for the words from ", after" to "intention, may" there shall be substituted the words "on whom a duty is imposed in relation to that way by section 46(1) of this Act may, after giving to the occupier not less than 14 days' notice of their intention,".

4. In section 65 (appointment to act as warden)—

(a) in each of subsections (1), (2) and (4) for the word "wardens" there shall be substituted the word "rangers";

(b) in subsection (3), for the word "warden" there shall be substituted the word "ranger"; and

(c) after subsection (5) there shall be inserted the following subsection—

"(6) In this section "land" includes a long-distance route as defined in section 54(1A) of this Act."

*The Local Government (Scotland) Act 1973 (c. 65)*

5. In section 178(1) (local authority and planning authority for the purposes of the Act of 1967), after the word "and" there shall be inserted the words ", subject to section 46(5) of that Act,".

SCHEDULE 2

Section 15.

REPEALS

Chapter	Short title	Extent of repeal
1967 c. 86.	Countryside (Scotland) Act 1967.	In section 5(1)(a), the words "and submit to the Secretary of State for his approval". In section 5(1)(b), the words "so approved". Section 5(2) and (3). Section 9. In section 13(1), the words "with the approval of the Secretary of State".

## SCH. 2

Chapter	Short title	Extent of repeal
1967 c. 86— <i>cont.</i>	Countryside (Scotland) Act 1967— <i>cont.</i>	<p>In section 13(6), the words from “ ; and before entering ” to “ the Commission ”.</p> <p>In section 14(6), the words from “ ; and before making ” to “ the Commission ”.</p> <p>Section 14(7).</p> <p>In section 24(1), the words from “ , if it appears to them ” to “ access order,” and the words “ , with the consent of the Secretary of State,”.</p> <p>In section 27(3), the words “ made with the approval of the Secretary of State ”.</p> <p>Section 32(1) and (3).</p> <p>Section 33(2) to (4).</p> <p>In section 36(1), the words “(1) and”.</p> <p>Section 36(2) and (3).</p> <p>In section 43(4), the words from “ and where a person ” to “ offence is so continued.”.</p> <p>Section 45(2).</p> <p>In section 45(3), the words “ or by the Secretary of State under the last foregoing subsection ”.</p> <p>In section 48(8), the words “ with the approval of the Secretary of State,”.</p> <p>Section 48(9).</p> <p>In section 54(3), the words from “ and ” to “ control, shall,”.</p> <p>In section 55(1), in the proviso, the words from “ , and ” to “ control, shall,”.</p> <p>Section 67.</p> <p>Section 68.</p> <p>In section 78(1), the words “ “ area of special planning control ” has the meaning assigned to it by section 9 of this Act; ”.</p> <p>In paragraph 3(2) of Schedule 1, the words “ on his retirement or death ”.</p>



**c. 44**

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