



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

An Act to repeal and re-enact with amendments the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975; to prohibit certain methods of killing or taking wild animals; to amend the law relating to protection of certain mammals; to restrict the introduction of certain animals and plants; to amend the Endangered Species (Import and Export) Act 1976; to amend the law relating to nature conservation, the countryside and National Parks and to make provision with respect to the Countryside Commission; to amend the law relating to public rights of way; and for connected purposes. [30th October 1981]

### Modifications etc. (not altering text)

- C1 Act amended (1.4.1996) by S.I. 1996/593, reg. 2, Sch. 1  
Act: certain functions transferred (E.W.) (19.9.1995) by 1995 c. 25, ss. 69(1), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

## PART I

### WILDLIFE

#### *Protection of birds*

#### **1 Protection of wild birds, their nests and eggs.**

- (1) Subject to the provisions of this Part, if any person intentionally—
- kills, injures or takes any wild bird;
  - takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
  - takes or destroys an egg of any wild bird,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control—

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- (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,
- he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
- (a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the bird, egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions;
- and in this subsection “the relevant provisions” means the provisions of this Part and of orders made under it and, in the case of a bird or other thing falling within subsection (2)(a), the provisions of the Protection of Birds Acts 1954 to 1967 and of orders made under those Acts.
- (4) Any person convicted of an offence under subsection (1) or (2) in respect of—
- (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird;
  - (b) the nest of such a bird; or
  - (c) an egg of such a bird or any part of such an egg,
- shall be liable to a special penalty.
- (5) Subject to the provisions of this Part, if any person intentionally—
- (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
  - (b) disturbs dependent young of such a bird,
- he shall be guilty of an offence and liable to a special penalty.
- (6) In this section “wild bird” does not include any bird which is shown to have been bred in captivity.
- (7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II of that Schedule.

## 2 Exceptions to s. 1.

- (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (2) Subject to the provisions of this section, an authorised person shall not be guilty of an offence under section 1 by reason of—
- (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of a nest of such a bird; or
  - (c) the taking or destruction of an egg of such a bird.

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- (3) Subsections (1) and (2) shall not apply in Scotland on Sundays or on Christmas Day; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.
- (4) In this section and section 1 “close season” means—
- (a) in the case of capercaillie and (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
  - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
  - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.
- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult a person appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order.

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

**C2** S.2(6): Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

### 3 Areas of special protection.

- (1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—
- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally—
    - (i) kills, injures or takes any wild bird or any wild bird so specified;
    - (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
    - (iii) takes or destroys an egg of such a bird;
    - (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
    - (v) disturbs dependent young of such a bird,
 shall be guilty of an offence under this section;

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- (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;
  - (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, the offender shall be liable to a special penalty.
- (2) An authorised person shall not by virtue of any such order be guilty of an offence by reason of—
- (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of the nest of such a bird;
  - (c) the taking or destruction of an egg of such a bird; or
  - (d) the disturbance of such a bird or dependent young of such a bird.
- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.
- (4) Before making any order under this section the Secretary of State shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in his opinion impracticable, by advertisement in a newspaper circulating in the district in which that area is situated.
- (5) The Secretary of State shall not make an order under this section unless—
- (a) all the owners and occupiers aforesaid have consented thereto;
  - (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or
  - (c) any such objections so made have been withdrawn.

#### **4 Exceptions to ss. 1 and 3.**

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or
  - (c) except in the case of a wild bird included in Schedule 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;

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- (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
- (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, or fisheries.

#### Marginal Citations

**M1** 1947 c. 48.

**M2** 1948 c. 45.

**M3** 1981 c. 22.

## 5 Prohibition of certain methods of killing or taking wild birds.

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
  - (c) uses for the purpose of killing or taking any wild bird—
    - (i) any bow or crossbow;
    - (ii) any explosive other than ammunition for a firearm;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
    - (v) any device for illuminating a target or any sighting device for night shooting;
    - (vi) any form of artificial lighting or any mirror or other dazzling device;
    - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
    - (viii) any chemical wetting agent;
  - (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; or

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- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird,  
he shall be guilty of an offence and be liable to a special penalty.
- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exercisable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.
- (5) Nothing in subsection (1) shall make unlawful—
- (a) the use of a cage-trap or net by an authorised person for the purpose of taking a bird included in Part II of Schedule 2;
  - (b) the use of nets for the purpose of taking wild duck in a duck decoy which is shown to have been in use immediately before the passing of the <sup>M4</sup>Protection of Birds Act 1954; or
  - (c) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding;
- but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

#### Marginal Citations

M4 1954 c. 30.

## 6 Sale etc. of live or dead wild birds, eggs etc.

- (1) Subject to the provisions of this Part, if any person—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3, or an egg of a wild bird or any part of such an egg; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Secretary of State—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3, or any part of, or anything derived from, such a wild bird; or

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- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
- (a) any live wild bird other than a bird included in Part I of Schedule 3; or
- (b) any live bird one of whose parents was such a wild bird,
- he shall be guilty of an offence.
- (4) Any person convicted of an offence under this section in respect of—
- (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird; or
- (b) an egg of such bird or any part of such an egg,
- shall be liable to a special penalty.
- (5) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which was bred in captivity and has been ringed or marked in accordance with regulations made by the Secretary of State; and regulations so made may make different provision for different birds or different provisions of this section.
- (6) Any reference in this section to any bird included in Part II or III of Schedule 3 is a reference to any bird included in Part II and, during the period commencing with 1st September in any year and ending with 28th February of the following year, any bird included in Part III of that Schedule.
- (7) The power of the Secretary of State to make regulations under subsection (2) shall include power—
- (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and
- (b) to provide that any contravention of the regulations shall constitute such an offence.
- (8) Regulations under subsection (2) shall secure that no person shall become or remain registered—
- (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; or
- (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,
- no account being taken for this purpose of a conviction which has become spent by virtue of the <sup>M5</sup>Rehabilitation of Offenders Act 1974.
- (9) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where a registered person keeps any wild birds for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.

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- (10) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (9) shall be guilty of an offence.

#### Marginal Citations

M5 1974. c. 53.

## 7 Registration etc. of certain captive birds.

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence and be liable to a special penalty.
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
- to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
  - to make different provision for different birds or different descriptions of birds.
- (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4—
- within five years of his having been convicted of an offence under this Part for which a special penalty is provided; or
  - within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,
- he shall be guilty of an offence.
- (4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person—
- within five years of that person's having been convicted of such an offence as is mentioned in paragraph (a) of subsection (3); or
  - within three years of that person's having been convicted of such an offence as is mentioned in paragraph (b) of that subsection,
- he shall be guilty of an offence.
- (5) No account shall be taken for the purposes of subsections (3) and (4) of any conviction which has become spent for the purpose of the <sup>M6</sup>Rehabilitation of Offenders Act 1974.
- (6) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where any birds included in Schedule 4 are kept for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.
- (7) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (6) shall be guilty of an offence.



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### Marginal Citations

M6 1974 c. 53.

## 8 Protection of captive birds.

- (1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence and be liable to a special penalty.
- (2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird—
  - (a) while that bird is in the course of conveyance, by whatever means;
  - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours; or
  - (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.
- (3) Every person who—
  - (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or
  - (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,
 shall be guilty of an offence and be liable to a special penalty.

### *Protection of other animals*

## 9 Protection of certain wild animals.

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions;
 and in this subsection “the relevant provisions” means the provisions of this Part and of the <sup>M7</sup>Conservation of Wild Creatures and Wild Plants Act 1975.
- (4) Subject to the provisions of this Part, if any person intentionally—
  - (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection; or

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- (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,  
he shall be guilty of an offence.
- (5) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,  
he shall be guilty of an offence.
- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

#### Marginal Citations

M7 1975 c. 48.

## 10 Exceptions to s. 9.

- (1) Nothing in section 9 shall make unlawful—
  - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M8</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M9</sup>Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the <sup>M10</sup>Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
  - (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)
  - (c) as respects anything done in relation to a bat otherwise than in the living area of a

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dwelling house unless he had notified the Nature Conservancy Council [<sup>F1</sup>for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined.

#### Textual Amendments

**F1** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132, 164(3), [Sch. 9 para. 11\(2\)](#)

#### Marginal Citations

**M8** 1947 c. 48.

**M9** 1948 c. 45.

**M10** 1981 c. 22.

## 11 Prohibition of certain methods of killing or taking wild animals.

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
  - (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or cross-bow or any explosive other than ammunition for a firearm; or
  - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
  - (c) uses for the purpose of killing or taking any such wild animal—
    - (i) any automatic or semi-automatic weapon;
    - (ii) any device for illuminating a target or sighting device for night shooting;
    - (iii) any form of artificial light or any mirror or other dazzling device; or

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- (iv) any gas or smoke not falling within paragraphs (a) and (b);
  - (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; or
  - (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal,
- he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person—
- (a) sets in position any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and
  - (b) while the snare remains in position fails, without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day,
- he shall be guilty of an offence.
- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- (5) In any proceedings for an offence under subsection (1)(b) or (c) or (2)(b), (c), (d) or (e), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
- (6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.

## 12 Protection of certain mammals.

Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.

### *Protection of plants*

## 13 Protection of wild plants.

- (1) Subject to the provisions of this Part, if any person—
- (a) intentionally picks, uproots or destroys any wild plant included in Schedule 8; or
  - (b) not being an authorised person, intentionally uproots any wild plant not included in that Schedule,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or

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- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.
- (4) In any proceedings for an offence under subsection (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

### Miscellaneous

## 14 Introduction of new species etc.

- (1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—
- is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
  - is included in Part I of Schedule 9,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9, he shall be guilty of an offence.
- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.
- (5) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land; but nothing in this subsection shall authorise any person to enter a dwelling.
- (6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.

VALID FROM 01/10/2006

### [<sup>F2</sup>14ZA Sale etc. of invasive non-native species

- (1) Subject to the provisions of this Part, a person is guilty of an offence if he sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale—

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- (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (2) Subject to the provisions of this Part, a person is guilty of an offence if he publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell—
- (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (3) This section applies to an animal or plant which—
- (a) is within section 14(1) or (2) (animals and plants which must not be released etc. into the wild),
  - (b) is of a description prescribed for the purposes of this section by an order made by the Secretary of State, and
  - (c) is a live animal or live plant.
- (4) An order under subsection (3) may be made in relation to a particular area or a particular time of the year.
- (5) Subsections (3) and (4) of section 14 (defence of due diligence etc.) apply to an offence under this section as they apply to an offence under that section.]

#### Textual Amendments

**F2** S. 14ZA inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 50, 107](#); [S.I. 2006/2541, art. 2](#)

VALID FROM 01/10/2006

#### [<sup>F3</sup>14ZB Codes of practice in connection with invasive non-native species

- (1) The Secretary of State may issue or approve a code of practice relating to—
  - (a) animals which are not ordinarily resident in and are not regular visitors to Great Britain in a wild state,
  - (b) animals or plants included in Schedule 9, or
  - (c) any description of animals or plants mentioned in paragraph (a) or (b).
- (2) The Secretary of State may revise or replace a code or approve its revision or replacement.
- (3) The Secretary of State must ensure that a code is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it.
- (4) A person's failure to comply with a provision of a code does not make him liable to criminal or civil proceedings.
- (5) A code—
  - (a) is admissible in evidence in any proceedings, and

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- (b) must be taken into account by a court in any case in which it appears to the court to be relevant.]

#### Textual Amendments

- F3** S. 14ZB inserted (E.W.) (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), [ss. 51, 107](#); [S.I. 2006/2541](#), [art. 2](#)

VALID FROM 01/10/2004

#### [<sup>F4</sup>14A Prohibition on sale etc. of certain animals or plants

- (1) This section applies to—
- (a) any animal of a type mentioned in subsection (1) or (1A) of section 14 specified in an order made by the Scottish Ministers for the purposes of this section; and
  - (b) any plant—
    - (i) which does not ordinarily grow in Great Britain in a wild state or which is a hybrid of such a plant; or
    - (ii) of a type mentioned in subsection (2) of section 14, specified in such an order.
- (2) Subject to the provisions of this Part, any person who—
- (a) sells, offers or exposes for sale or has in the person's possession or transports for the purpose of sale any animal or plant to which this section applies; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such animal or plant,
- is guilty of an offence.
- (3) An order under subsection (1) may specify particular types of animals or plants—
- (a) subject to such exceptions;
  - (b) only at such times of the year;
  - (c) only in relation to such areas,
- as the order may specify.

#### Textual Amendments

- F4** Ss. 14A, 14B inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004](#) (asp 6), [ss. 50, 59](#), [Sch. 6 para. 13](#); [S.S.I. 2004/407](#), [art. 2](#)

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VALID FROM 01/10/2004

#### 14B Guidance: non-native species

- (1) The Scottish Ministers may issue guidance (or approve guidance issued by others) for the purpose of providing persons with recommendations, advice and information regarding—
  - (a) any animal of a type mentioned in subsection (1) or (1A) of section 14,
  - (b) any plant of a type mentioned in subsection (2) of that section or specified in an order under section 14A(1)(b)(i),
 and may issue revisions of any guidance issued by them (or approve revisions of guidance issued by others).
- (2) A person who fails to comply with any guidance issued or approved under subsection (1) is not by reason only of that failure liable in any criminal or civil proceedings.
- (3) But any such guidance is admissible in evidence in such proceedings and a court may take account of any failure to comply with it in determining any questions in the proceedings.]

#### Textual Amendments

- F4** Ss. 14A, 14B inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 13](#); [S.S.I. 2004/407](#), [art. 2](#)

#### 15 Endangered species (import and export).

- (1) The <sup>M11</sup>Endangered Species (Import and Export) Act 1976 shall have effect subject to the amendments provided for in Schedule 10 ; and in that Schedule “the 1976 Act” means that Act.
- (2) The functions of the Nature Conservancy [<sup>F5</sup>Council][<sup>F5</sup>Councils] shall include power to advise or assist—
  - (a) any constable;
  - (b) any officer commissioned or other person appointed or authorised by the Commissioners of Customs and Excise to exercise any function conferred on the Commissioners by the said Act of 1976; or
  - (c) any person duly authorised by the Secretary of State under section 7(3) of that Act,
 in, or in connection with, the enforcement of that Act or any order made under it.

#### Textual Amendments

- F5** Word “Councils” substituted (*prosp.*) for “Council” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(3\)](#)



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

- C3** The text of ss. 15(1), 38(6), 40, 46(1)–(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M11** 1976 c. 72.

VALID FROM 01/10/2004

### [<sup>F6</sup>15A Possession of pesticides

- (1) Any person who is in possession of any pesticide containing one or more prescribed active ingredient shall be guilty of an offence.
- (2) A person shall not be guilty of an offence under subsection (1) if the person shows that the possession of the pesticide was for the purposes of doing anything in accordance with—
  - (a) any regulations made under section 16(2) of the Food and Environment Protection Act 1985 (c. 48), or
  - (b) the Biocidal Products Regulations 2001 (S.I. 2001/880) or any regulations replacing those regulations.
- (3) In this section—
 

“pesticide” has the meaning given in the Food and Environment Protection Act 1985 (c. 48), and

“prescribed active ingredient” means an ingredient of a pesticide which fits it for use as such and which is of a type prescribed by order made by the Scottish Ministers.]

#### Textual Amendments

- F6** S. 15A inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 14](#); [S.S.I. 2004/407](#), [art. 2](#)

### Supplemental

#### 16 Power to grant licences.

- (1) Sections 1, 5, 6(3), 7 and 8 and orders under section 3 do not apply to anything done—
  - (a) for scientific or educational purposes;
  - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
  - (c) for the purpose of conserving wild birds;
  - (d) for the purpose of protecting any collection of wild birds;
  - (e) for the purposes of falconry or aviculture;
  - (f) for the purposes of any public exhibition or competition;

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- (g) for the purposes of taxidermy;
- (h) for the purpose of photography;
- (i) for the purposes of preserving public health or public or air safety;
- (j) for the purpose of preventing the spread of disease; or
- (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or fisheries,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (2) Section 1 and orders under section 3 do not apply to anything done for the purpose of providing food for human consumption in relation to—

- (a) a gannet on the island of Sula Sgeir; or
- (b) a gull's egg or, at any time before 15th April in any year, a lapwing's egg,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (3) Sections 9(1), (2) and (4), 11(1) and (2) and 13(1) do not apply to anything done—

- (a) for scientific or educational purposes;
- (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
- (c) for the purpose of conserving wild animals or wild plants or introducing them to particular areas;
- (d) for the purpose of protecting any zoological or botanical collection;
- (e) for the purpose of photography;
- (f) for the purpose of preserving public health or public safety;
- (g) for the purpose of preventing the spread of disease; or
- (h) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (4) The following provisions, namely—

- (a) section 6(1) and (2);
- (b) sections 9(5) and 13(2); and
- (c) section 14,

do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority.

- (5) Subject to subsection (6), a licence under the foregoing provisions of this section—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person;
- (c) may be subject to compliance with any specified conditions;
- (d) may be modified or revoked at any time by the appropriate authority; and
- (e) subject to paragraph (d), shall be valid for the period stated in the licence;

and the appropriate authority may charge therefor such reasonable sum (if any) as they may determine.

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- (6) A licence under subsection (1), (2) or (3) which authorises any person to kill wild birds or wild animals—
- (a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and
  - (b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.
- (7) It shall be a defence in proceedings for an offence under section 8(b) of the <sup>M12</sup>Protection of Animals Act 1911 or section 7(b) of the <sup>M13</sup>Protection of Animals (Scotland) Act 1912 (which restrict the placing on land of poison and poisonous substances) to show that—
- (a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence issued under subsection (1) or (3); and
  - (b) any conditions specified in the licence were complied with.
- (8) For the purposes of a licence granted under the foregoing provisions of this section, the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.
- (9) In this section “the appropriate authority” means—
- (a) in the case of a licence under paragraph (a), (b) or (c) of subsection (1), either the Secretary of State after consultation with whichever one of the advisory bodies he considers is best able to advise him as to whether the licence should be granted, or the [<sup>F7</sup>relevant] Nature Conservancy Council;
  - (b) in the case of a licence under any of paragraphs (d) to (g) of subsection (1), subsection (2) or paragraph (a) or (b) of subsection (4), the Secretary of State after such consultation as aforesaid;
  - (c) in the case of a licence under paragraph (h) of subsection (1) or any of paragraphs (a) to (e) of subsection (3), the [<sup>F7</sup>relevant] Nature Conservancy Council;
  - (d) in the case of a licence under paragraph (i), (j) or (k) of subsection (1) or paragraph (f), (g) or (h) of subsection (3) or a licence under paragraph (c) of subsection (4) which authorises anything to be done in relation to fish or shellfish, the agriculture Minister; and
  - (e) in the case of any other licence under paragraph (c) of subsection (4), the Secretary of State.
- (10) The agriculture Minister—
- (a) shall from time to time consult with [<sup>F8</sup>the Nature Conservancy Council][<sup>F8</sup>each of the Nature Conservancy Councils] as to the exercise [<sup>F9</sup>in the area of that Council] of his functions under this section; and
  - (b) shall not grant a licence of any description unless he has been advised by the [<sup>F10</sup>relevant Nature Conservancy] Council as to the circumstances in which, in their opinion, licences of that description should be granted.
- [<sup>F11</sup>(11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the Nature Conservancy Council for the area in which it is proposed to carry on the activity requiring a licence.]

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### Textual Amendments

- F7** Word inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(4\)\(a\)](#)
- F8** Words “each of the Nature Conservancy Councils” substituted (*prosp.*) for “the Nature Conservancy Councils” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(4\)\(b\)](#)
- F9** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(4\)\(b\)](#)
- F10** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(4\)\(c\)](#)
- F11** S. 16(11) inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(4\)\(d\)](#)

### Marginal Citations

- M12** 1911 c. 27.
- M13** 1912 c. 14.

## 17 False statements made for obtaining registration or licence etc.

A person who, for the purposes of obtaining, whether for himself or another, a registration in accordance with regulations made under section 6(2) or 7(1) or the grant of a licence under section 16—

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular,

shall be guilty of an offence.

## 18 Attempts to commit offences etc.

- (1) Any person who attempts to commit an offence under the foregoing provisions of this Part shall be guilty of an offence and shall be punishable in like manner as for the said offence.
- (2) Any person who for the purposes of committing an offence under the foregoing provisions of this Part, has in his possession anything capable of being used for committing the offence shall be guilty of an offence and shall be punishable in like manner as for the said offence.

VALID FROM 31/05/2006

### <sup>F12</sup>18A Wildlife inspectors

- (1) In this Part, “wildlife inspector” means a person authorised in writing under this section by—
  - (a) the Secretary of State (in relation to England), or
  - (b) the National Assembly for Wales (in relation to Wales).

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- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.
- (4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.

#### Textual Amendments

**F12** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

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

**C4** S. 18A applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 31/05/2006

### 18B Group 1 offences and licences: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
  - (a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;
  - (b) for the purpose of—
    - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or
    - (ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.
- (2) In this Part—
 

“Group 1 offence” means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and

“Group 1 licence” means a licence authorising anything which would otherwise be a Group 1 offence.
- (3) Nothing in this section confers power to enter a dwelling.

#### Textual Amendments

**F12** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

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

- C5** S. 18B applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 31/05/2006

### 18C Group 1 offences and licences: examining specimens and taking samples

- (1) The powers conferred by this section are exercisable where a wildlife inspector has entered any premises for a purpose mentioned in section 18B(1)(a) or (b).
- (2) The inspector, or a veterinary surgeon accompanying him, may—
  - (a) for any such purpose, examine any specimen, and
  - (b) subject to subsection (5) and section 18F, take a sample from it.
- (3) “Specimen” means—
  - (a) any bird, other animal or plant, or
  - (b) any part of, or anything derived from, a bird, other animal or plant.
- (4) “Sample” means a sample of blood, tissue or other biological material.
- (5) No sample may be taken under subsection (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.
- (6) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of—
  - (a) making an examination under subsection (2)(a), or
  - (b) taking a sample under subsection (2)(b).
- (7) The inspector may take and remove from the premises a specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence.

#### Textual Amendments

- F12** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

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

- C6** S. 18C applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 31/05/2006

### 18D Group 2 offences and licences etc.: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
  - (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
- (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
- (d) for the purpose of—
  - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
  - (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.

(2) In this Part—

“Group 2 offence” means an offence under section 6, 7, 9(5), 13(2) or 14,  
 “Group 2 licence” means a licence authorising anything which would otherwise be a Group 2 offence, and  
 “relevant registration” means a registration in accordance with regulations under section 7(1).

(3) In subsection (1)—

- (a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—
  - (i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or
  - (ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and
- (b) paragraph (c) does not confer any power to enter a dwelling.

**Textual Amendments**

**F12** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 31/05/2006

**18E Group 2 offences: examining specimens and taking samples**

- (1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector or a veterinary surgeon.
- (2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by him in the exercise of powers conferred by section 18D in order to determine its identity or ancestry.

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- (3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed in respect of any specimen (the relevant specimen), require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—
- (a) is alleged to be, or
  - (b) which the wildlife inspector suspects with reasonable cause to be,
- a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (4) Where, pursuant to a requirement under this section—
- (a) a bird or other animal is to be examined, or
  - (b) a sample is to be taken from a bird or other animal,
- a person who has the bird or animal in his possession or control must give the person making the examination or taking the sample such assistance as he may reasonably require for that purpose.
- (5) “Specimen” and “sample” have the same meaning as in section 18C.
- (6) This section is subject to section 18F.

#### Textual Amendments

**F12** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 31/05/2006

#### 18F Restrictions on taking of samples from live specimens

- (1) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird or other animal except by a veterinary surgeon.
- (2) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird, other animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.]

#### Textual Amendments

**F12** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

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

**C7** S. 18F applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)



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## 19 Enforcement.

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—
- (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
  - (b) search or examine any thing which that person may then be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that thing;
  - [<sup>F13</sup>(c) arrest that person if he fails to give his name and address to the constable's satisfaction;]
  - (d) seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 21.
- (2) If a constable suspects with reasonable cause that any person is committing an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) [<sup>F14</sup>or arresting a person, in accordance with section 25 of Police and Criminal Evidence Act 1984, for such an offence], enter any land other than a dwelling-house.
- (3) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for suspecting that—
- (a) an offence under section 1, 3, 5, 7 or 8 in respect of which this Part or any order made under it provides for a special penalty; or
  - (b) an offence under section 6, 9, 11(1) or (2), 13 or 14,
- has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable (with or without other persons) to enter upon and search those premises for the purpose of obtaining that evidence.

In the application of this subsection to Scotland, the reference to a justice of the peace includes a reference to the sheriff.

### Textual Amendments

**F13** S. 19(1)(c) repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [Sch. 7 Pt. I](#)

**F14** Words inserted (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [Sch. 6 para. 25](#)

VALID FROM 31/05/2006

### [<sup>F15</sup>19XA] Constables' powers in connection with samples

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred by this section is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (the relevant specimen) may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—

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- (a) is alleged to be, or
  - (b) the constable suspects with reasonable cause to be,
- a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must give the person taking the sample such assistance as he may reasonably require for that purpose.
- (4) “Specimen” and “sample” have the same meaning as in section 18C.
- (5) This section is subject to section 18F (restrictions on taking samples).]

#### Textual Amendments

**F15** S. 19XA, 19XB inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 3](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 31/05/2006

#### [<sup>F15</sup>19XB] Offences in connection with enforcement powers

- (1) A person is guilty of an offence if he—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).
- (2) A person is guilty of an offence if he—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).
- (3) A person is guilty of an offence if he—
- (a) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 19XA(2), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under section 19XA(3).
- (4) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector is guilty of an offence.]

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### Textual Amendments

**F15** S. 19XA, 19XB inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 3](#); S.I. 2006/1382, [art. 2](#)

VALID FROM 30/01/2001

### [<sup>F16</sup>19ZAE] **Enforcement: wildlife inspectors.**

- (1) In this Part, “wildlife inspector” means a person authorised in writing by the Secretary of State under this subsection.
- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised—
  - (a) enter and inspect any premises for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
  - (b) enter and inspect any premises where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
  - (c) enter any premises for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
  - (d) enter and inspect any premises for the purpose of verifying any statement or representation which has been made by an occupier, or any document or information which has been furnished by him, and which he made or furnished—
    - (i) for the purposes of obtaining (whether for himself or another) a relevant registration or licence, or
    - (ii) in connection with a relevant registration or licence held by him.
- (4) In subsection (3)—
  - (a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—
    - (i) a relevant registration or licence held by an occupier of the dwelling, or
    - (ii) an application by an occupier of the dwelling for a relevant registration or licence; and
  - (b) paragraph (c) does not confer any power to enter a dwelling.
- (5) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2) or 14 is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector.
- (6) Any person who has in his possession or control any live bird or other animal shall give any wildlife inspector acting in the exercise of powers conferred by this section

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such assistance as the inspector may reasonably require for the purpose of examining the bird or other animal.

- (7) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by subsection (3) or (5), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under subsection (6),
- shall be guilty of an offence.
- (8) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector shall be guilty of an offence.
- (9) In this section—
- “relevant registration or licence” means—
- (a) a registration in accordance with regulations under section 7(1), or
  - (b) a licence under section 16 authorising anything which would otherwise be an offence under section 6, 7, 9(5), 13(2) or 14; and
- “specimen” means any bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.]

#### Textual Amendments

**F16** Ss. 19ZA, 19ZB inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 8**

VALID FROM 30/01/2001

#### [<sup>F17</sup>19ZB Power to take samples.

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred by section 19 is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample of blood or tissue in order to determine its identity or ancestry.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (“the relevant specimen”) may require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the constable suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (3) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2) or 14 is being or has been committed, require the taking of a sample of blood or tissue from a specimen found by him in the exercise of powers conferred by section 19ZA(3)(a) to (c) in order to determine its identity or ancestry.
- (4) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2) or 14 is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen)

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in that person's possession or control which is alleged to be, or which the wildlife inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

- (5) No sample from a live bird, other animal or plant shall be taken pursuant to a requirement under this section unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.
- (6) No sample from a live bird or other animal shall be taken pursuant to such a requirement except by a veterinary surgeon.
- (7) Where a sample from a live bird or other animal is to be taken pursuant to such a requirement, any person who has possession or control of the specimen shall give the person taking the sample such assistance as he may reasonably require for that purpose.
- (8) A constable entering premises under section 19(2), and any wildlife inspector entering premises under section 19ZA(3), may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be required for the exercise on the premises of powers under subsections (1) to (4).
- (9) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of the power conferred by subsection (3),
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under subsection (2) or (4), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under subsection (7),
- shall be guilty of an offence.
- (10) In this section—
- (a) “specimen” has the same meaning as in section 19ZA, and
  - (b) in relation to a specimen which is a part of, or is derived from, a bird, other animal or plant, references to determining its identity or ancestry are to determining the identity or ancestry of the bird, other animal or plant.]

#### Textual Amendments

**F17** Ss. 19ZA, 19ZB inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 8

VALID FROM 01/10/2004

#### <sup>F18</sup>19ZC Wildlife inspectors: Scotland

- (1) The Scottish Ministers may authorise any person to carry out the functions conferred by this section and section 19ZD(3), (4) and (8) (and any person so authorised is to be known as a “wildlife inspector”).
- (2) An authorisation under subsection (1)—
- (a) shall be in writing, and
  - (b) is subject to any conditions or limitations specified in it.

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- (3) A wildlife inspector may, at any reasonable time and (if required to do so) upon producing evidence of authorisation, enter and inspect—
- (a) any premises for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
  - (b) any premises where the inspector has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
  - (c) any premises where the inspector has reasonable cause to believe that any birds are kept, for the purpose of ascertaining whether an offence under section 8(1) is being, or has been, committed on those premises;
  - (d) any premises for the purpose of ascertaining whether an offence under section 14 or 14A is being, or has been, committed on those premises;
  - (e) any premises for the purpose of verifying any statement or representation which has been made by an occupier, or any document or information which has been furnished by the occupier, and which the occupier made or furnished—
    - (i) for the purposes of obtaining (whether for the occupier or another person) a relevant registration or licence; or
    - (ii) in connection with a relevant registration or licence held by the occupier.
- (4) In subsection (3)—
- (a) paragraphs (a) to (c) do not confer power to enter a dwelling except for purposes connected with—
    - (i) a relevant registration or licence held by an occupier of the dwelling; or
    - (ii) an application by an occupier of the dwelling for a relevant registration or licence,
  - (b) paragraph (d) does not confer power to enter a dwelling.
- (5) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 8(1), 9(5), 13(2), 14 or 14A is being, or has been, committed in respect of any specimen, require any person who has possession or control of the specimen to make it available for examination by the inspector.
- (6) Any person who has possession or control of any live bird or other animal shall give any wildlife inspector acting in the exercise of powers conferred by this section such assistance as the inspector may reasonably require for the purpose of examining the bird or other animal.
- (7) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by subsection (3) or (5); or
  - (b) fails without reasonable excuse to give any assistance reasonably required under subsection (6),
- shall be guilty of an offence.
- (8) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector shall be guilty of an offence.
- (9) In this section—

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“relevant registration or licence” means—

- (a) a registration in accordance with regulations under section 7(1); or
- (b) a licence under section 16 authorising anything which would otherwise be an offence under section 6, 7, 8(1), 9(5), 13(2), 14 or 14A;

“specimen” means any bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.

#### Textual Amendments

**F18** Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 17](#); [S.S.I. 2004/407](#), [art. 2](#)

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

**C8** S. 19ZC applied (with modifications) (S.) (29.11.2004) by [S.I. 1994/2716](#), [reg. 101A\(3\)](#) (as substituted by [The Conservation \(Natural Habitats, & c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#)), [reg. 18](#)

VALID FROM 01/10/2004

#### 19ZD Power to take samples: Scotland

- (1) A constable who suspects with reasonable cause that a specimen found by the constable in the exercise of powers conferred by section 19 is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample of blood or tissue in order to determine its origin, identity or ancestry.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (“the relevant specimen”) may require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the constable suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.
- (3) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2), 14 or 14A is being or has been committed, require the taking of a sample of blood or tissue from a specimen found by the inspector in the exercise of powers conferred by section 19ZC(3)(a) to (d) in order to determine its origin, identity or ancestry.
- (4) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2), 14 or 14A is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.
- (5) No sample from a live bird, other animal or plant shall be taken pursuant to a requirement under this section unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.

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- (6) No sample from a live bird or other animal shall be taken pursuant to such a requirement except by a veterinary surgeon.
- (7) Where a sample from a live bird or other animal is to be taken pursuant to such a requirement, any person who has possession or control of the specimen shall give the person taking the sample such assistance as that person may reasonably require for that purpose.
- (8) A constable entering premises under section 19(2), and any wildlife inspector entering premises under section 19ZC(3), may take with him a veterinary surgeon if the constable or, as the case may be, inspector has reasonable grounds for believing that such a person will be required for the exercise on the premises of powers under subsection (1) or (2) or, as the case may be, (3) or (4).
- (9) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of the power conferred by subsection (3),
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under subsection (2) or (4), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under subsection (7),
- shall be guilty of an offence.
- (10) In this section—
- (a) “specimen” has the same meaning as in section 19ZC;
  - (b) in relation to a specimen which is a part of, or is derived from, a bird, other animal or plant, references to determining its origin, identity or ancestry are to determining the origin, identity or ancestry of the bird, other animal or plant.]

#### Textual Amendments

**F18** Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 17](#); [S.S.I. 2004/407](#), [art. 2](#)

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

**C9** S. 19ZD applied (with modifications) (S.) (29.11.2004) by [S.I. 2004/2716](#), [reg. 101A\(3\)](#) (as substituted by [The Conservation \(Natural Habitats, & c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#)), [reg. 18](#))

VALID FROM 18/09/1993

#### [<sup>F19</sup>19A Evidence in Scotland as to taking or destruction of eggs.

In any proceedings in Scotland for an offence under section 1(1)(c) of, or by virtue of section 3(1)(a)(iii) of, this Act, the accused may be convicted on the evidence of one witness.]



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### Textual Amendments

**F19** S. 19A inserted (18.9.1993) (S.) by 1993 c. 9, s.36 (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(3), Sch.2.

## 20 Summary prosecutions.

- (1) This section applies to—
- (a) any offence under section 1(1) or 3(1) involving the killing or taking of any wild bird or the taking of an egg of such a bird;
  - (b) any offence under section 9(1) involving the killing or taking of any wild animal; and
  - (c) any offence under section 13(1) involving the picking, uprooting or destruction of any wild plant.
- (2) Summary proceedings for an offence to which this section applies may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.
- (3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

## 21 Penalties, forfeitures etc.

- (1) Subject to subsection (5), a person guilty of an offence under section 1, 3, 5, 6, 7 or 8 shall be liable on summary conviction—
- (a) in a case where this Part or any order made under it provides that he shall be liable to a special penalty, to a fine not exceeding [<sup>F20</sup>level 5 on the standard scale].
  - (b) in any other case, to a fine not exceeding [<sup>F21</sup>level 3 on the standard scale].
- (2) Subject to subsection (5), a person guilty of an offence under section 9 or 11(1) or (2) shall be liable on summary conviction to a fine not exceeding [<sup>F20</sup>level 5 on the standard scale].
- (3) Subject to subsection (5), a person guilty of an offence under section 11(3), 13 or 17 shall be liable on summary conviction to a fine not exceeding [<sup>F20</sup>level 4 on the standard scale].
- (4) A person guilty of an offence under section 14 shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (5) Where an offence to which subsection (1), (2) or (3) applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.

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- (6) The court by which any person is convicted of an offence under this Part—
- (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed; and
  - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14, any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.
- (7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

#### Textual Amendments

- F20** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F21** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 54](#)

## 22 Power to vary Schedules.

- (1) The Secretary of State may by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year, add any bird to, or remove any bird from, any of or any Part of Schedules 1 to 4.
- (2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.
- (3) The Secretary of State may, on a representation made [<sup>F22</sup>to him by the Nature Conservancy Council][<sup>F22</sup>jointly to him by the Nature Conservancy Councils], by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year—
- (a) add to Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is in danger of extinction in Great Britain or is likely to become so endangered unless conservation measures are taken; and
  - (b) remove from Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is no longer so endangered or likely to become so endangered
- [<sup>F23</sup>and the functions of the Nature Conservancy Councils under this subsection shall be special functions of the Councils for the purposes of section 133 of the Environmental Protection Act 1990].
- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or with respect to particular provisions of this Part or particular times of the year—
- (a) add any animals to, or remove any animals from, Schedule 5 or Schedule 6; and
  - (b) add any plants to, or remove any plants from, Schedule 8.
- (5) The Secretary of State may by order, either generally or with respect to particular areas of Great Britain—

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- (a) add any animals to, or remove any animals from, Part I of Schedule 9; and
- (b) add any plants to, or remove any plants from, Part II of that Schedule.

#### Textual Amendments

- F22** Words “jointly to him by the Nature Conservancy Councils” substituted (*prosp.*) for “to him by the Nature Conservancy Council” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132, 164(3), [Sch. 9 para. 11\(5\)](#)
- F23** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(5\)](#)

### 23 Advisory bodies and their functions.

- (1) The Secretary of State may—
  - (a) establish any body or bodies, consisting in each case of such members as he may from time to time appoint;
  - (b) assign to any body or bodies the duty referred to in subsection (4).
- (2) Without prejudice to his power under subsection (1), the Secretary of State shall, as soon as practicable after the commencement date,—
  - (a) establish at least one body under paragraph (a) of subsection (1); or
  - (b) assign to at least one body, under paragraph (b) of that subsection, the duty referred to in subsection (4).
- (3) A reference in this Part to an advisory body is a reference to a body which is established under subsection (1) or to which the duty there referred to is assigned under that subsection.
- (4) It shall be the duty of an advisory body to advise the Secretary of State on any question which he may refer to it or on which it considers it should offer its advice—
  - (a) in connection with the administration of this Part; or
  - (b) otherwise in connection with the protection of birds or other animals or plants.
- (5) In so far as it does not have power to do so apart from this subsection, an advisory body may publish reports relating to the performance by it of its duty under subsection (4).
- (6) Before appointing a person to be a member of an advisory body established under subsection (1)(a), the Secretary of State shall consult such persons or bodies as he thinks fit.
- (7) The Secretary of State may, out of moneys provided by Parliament and to such an extent as may be approved by the Treasury, defray or contribute towards the expenses of an advisory body established under subsection (1)(a).

### 24 Functions of Nature Conservancy Council.

- (1) The Nature Conservancy [<sup>F24</sup>Council][<sup>F24</sup>Councils] may at any time and shall five years after [<sup>F25</sup>the passing of this Act][<sup>F25</sup>30th October 1991] and every five years thereafter, review Schedules 5 and 8 and advise the Secretary of State whether, in their opinion,—
  - (a) any animal should be added to, or removed from, Schedule 5;
  - (b) any plant should be added to, or removed from, Schedule 8

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[<sup>F26</sup>and the functions of the Nature Conservancy Councils under this subsection shall be special functions of the Councils for the purposes of section 133 of the Environmental Protection Act 1990].

- (2) Advice may be given under subsection (1) either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year; and any advice so given shall be accompanied by a statement of the reasons which led [<sup>F27</sup>the Council to give that advice.][<sup>F27</sup>to that advice being given.]
- [<sup>F28X1</sup>(3) The Council shall include any advice so given and the statement accompanying it in the annual report submitted by them to the Secretary of State under paragraph 17 of Schedule 3 to the <sup>M14</sup>Nature Conservancy Council Act 1973.]
- [<sup>F28X1</sup>(3) The Secretary of State shall lay before each House of Parliament a copy of any advice so given and the statements accompanying it.]
- (4) The functions of the [<sup>F29</sup>Council][<sup>F29</sup>Nature Conservancy Councils] shall include power to advise or assist—
- (a) any constable;
  - (b) any proper officer of a local authority; or
  - (c) any person duly authorised by the Secretary of State under section 6(9), 7(6) or 14(5),
- in, or in connection with, the enforcement of the provisions of this Part or any order or regulations made under it.

#### Editorial Information

- X1** S. 24 subsection (3) commencing “The Secretary of State shall” substituted (*prosp.*) for subsection (3) commencing “The Council shall” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(6\)\(c\)](#)

#### Textual Amendments

- F24** Words “Councils, acting jointly” substituted (*prosp.*) for “Council” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132, 164(3), [Sch. 9 para. 11\(6\)\(a\)](#)
- F25** Words “30th October 1991” substituted (*prosp.*) for “the passing of this Act” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132, 164(3), [Sch. 9 para. 11\(6\)\(a\)](#)
- F26** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(6\)\(a\)](#)
- F27** Words “to that advice being given.” substituted (*prosp.*) for “Council to give that advice.” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(6\)\(b\)](#)
- F28** S. 24 subsection (3) commencing “The Secretary of State shall” substituted (*prosp.*) for subsection (3) commencing “The Council shall” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(6\)\(c\)](#)
- F29** Words “Nature Conservancy Councils” substituted (*prosp.*) for word “Councils” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(6\)\(d\)](#)

#### Marginal Citations

- M14** 1973 c. 54.

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## 25 Functions of local authorities.

- (1) Every local authority shall take such steps as they consider expedient for bringing to the attention of the public and of schoolchildren in particular the effect of—
  - (a) the provisions of this Part; and
  - (b) any order made under this Part affecting the whole or any part of their area.
- (2) A local authority in England and Wales may institute proceedings for any offence under this Part or any order made under it which is committed within their area.

## 26 Regulations, orders, notices etc.

- (1) Any power to make regulations or orders under this Part shall be exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than sections 2(6), 3, 5 and 11, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order under section 5 or 11 shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making any order under this Part, the Secretary of State—
  - (a) except in the case of an order under section 2(6), shall give to any local authority affected and, except in the case of an order under section 3, any other person affected, by such means as he may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order;
  - (b) except in the case of an order under section 22(3), shall consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made; and
  - (c) may, if he thinks fit, cause a public inquiry to be held.
- (5) Notice of the making of an order under this Part shall be published by the Secretary of State—
  - (a) if the order relates in whole or in part to England and Wales, in the London Gazette; and
  - (b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.
- (6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.

VALID FROM 01/10/2004

### <sup>F30</sup>26A Enforcement of wildlife legislation

Regulations under section 2(2) of the European Communities Act 1972 (c. 68) for the purpose of implementing Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive [97/62/EC](#) may, despite paragraph 1(1)(d) of Schedule 2 to that Act, create offences

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punishable on summary conviction with imprisonment for a term not exceeding six months.]

#### Textual Amendments

**F30** S. 26A inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 22](#); [S.S.I. 2004/407](#), [art. 2](#)

## 27 Interpretation of Part I.

(1) In this Part, unless the context otherwise requires—

“advertisement” includes a catalogue, a circular and a price list;

“advisory body” has the meaning given by section 23;

“agriculture Minister” means the Minister of Agriculture, Fisheries and Food or the Secretary of State;

“authorised person” means—

- (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
- (b) any person authorised in writing by the local authority for the area within which the action authorised is taken;
- (c) as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, [<sup>F31</sup>the Nature Conservancy Council][<sup>F31</sup>any of the Nature Conservancy Councils], [<sup>F32</sup>... a district board for a fishery district within the meaning of the <sup>M15</sup>Salmon Fisheries (Scotland) Act 1862 or a local fisheries committee constituted under the <sup>M16</sup>Sea Fisheries Regulation Act 1966;
- (d) [<sup>F33</sup>any person authorised in writing by the National Rivers Authority, a water undertaker or a sewerage undertaker;]

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

“automatic weapon” and “semi-automatic weapon” do not include any weapon the magazine of which is incapable of holding more than two rounds;

“aviculture” means the breeding and rearing of birds in captivity;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” shall be construed accordingly;

“domestic duck” means any domestic form of duck;

“domestic goose” means any domestic form of goose;

“firearm” has the same meaning as in the <sup>M17</sup>Firearms Act 1968;

“game bird” means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan;

“livestock” includes any animal which is kept—

- (a) for the provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing;

“local authority” means—

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- (a) in relation to England and Wales, a county, district or London borough council<sup>F34</sup> . . . ;
- (b) in relation to Scotland, a regional, islands or district council;
- “occupier”, in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;
- “pick”, in relation to a plant, means gather or pluck any part of the plant without uprooting it;
- “poultry” means domestic fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;
- “sale” includes hire, barter and exchange and cognate expressions shall be construed accordingly;
- “uproot”, in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;
- “vehicle” includes aircraft, hovercraft and boat;
- “water authority”, in relation to Scotland, has the same meaning as in the<sup>M18</sup>Water (Scotland) Act 1980;
- “wild animal” means any animal (other than a bird) which is or (before it was killed or taken) was living wild;
- “wild bird” means any bird of a kind which is ordinarily resident in or is a visitor to Great Britain in a wild state but does not include poultry or, except in sections 5 and 16, any game bird;
- “wild plant” means any plant which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Great Britain in a wild state.
- (2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.
- (3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.
- [<sup>F35</sup>(3A) Any reference in this Part to the Nature Conservancy Councils is a reference to the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland and the Countryside Council for Wales.]
- (4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.
- (5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

#### Textual Amendments

- F31** Words “any of the Nature Conservancy Councils” substituted (*prosp.*) for words “the Nature Conservancy Council” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(7\)\(a\)](#)
- F32** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)

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- F33** Para. (d) in the definition of “authorised person” inserted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 60(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 66(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F34** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, **Sch. 17**
- F35** S. 27(3A) inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), **Sch. 9 para. 11(7)(b)**

#### Marginal Citations

- M15** 1862 c. 97.  
**M16** 1966 c. 38.  
**M17** 1968 c. 27.  
**M18** 1980 c. 45.

VALID FROM 14/07/2004

#### [<sup>F36</sup>27ZA] Application of Part 1 to England and Wales

- (1) The amendments made to this Part of the Act by the 2004 Regulations have effect in relation to England only, and accordingly, in the application of this Act in relation to Wales, this Part continues to have effect without the amendments made by the 2004 Regulations.

This subsection is subject to any regulations which may be made under section 2(2) of the European Communities Act 1972 by the National Assembly for Wales.

- (2) In this section “the 2004 Regulations” means the Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004.]

#### Textual Amendments

- F36** S. 27ZA inserted (E.W.) (14.7.2004) by [The Wildlife and Countryside Act 1981\(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/1487\)](#), {reg. 5}

## PART II

### NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

#### *Nature conservation*

#### [<sup>F37</sup>27A] Construction of references to Nature Conservancy Council.

In this Part references to “the Nature Conservancy Council” are, unless the contrary intention appears, references—

- (a) in relation to land in, or land covered by waters adjacent to, England, to the Nature Conservancy Council for England;
- (b) in relation to land in, or land covered by waters adjacent to, Scotland, to the Nature Conservancy Council for Scotland; and



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- (c) in relation to land in, or land covered by waters adjacent to, Wales, to the Countryside Council for Wales;  
and references to “the Council” shall be construed accordingly.]

#### Textual Amendments

**F37** S. 27A inserted ( prosp. ) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(8\)](#)

VALID FROM 01/10/2006

#### [<sup>F38</sup>27AA] Application of sections 28 to 34 in Wales

In relation to land in Wales, sections 28 to 34 (which relate to sites of special scientific interest and limestone pavements) have effect as if references to Natural England were references to the Countryside Council for Wales.]

#### Textual Amendments

**F38** S. 27AA and preceding heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 78](#); S.I. 2006/2541, [art. 2](#)

## 28 Areas of special scientific interest.

- (1) Where the Nature Conservancy Council are of the opinion that any area of land is of special interest by reason of any of its flora, fauna, or geological or physiographical features, it shall be the duty of the Council to notify that fact—
- to the local planning authority in whose area the land is situated;
  - to every owner and occupier of any of that land; and
  - to the Secretary of State.
- [<sup>F39</sup>(2) A notification under subsection (1) shall specify the time (not being less than three months from the date of the giving of the notification) within which, and the manner in which, representations or objections with respect thereto may be made; and the Council shall consider any representation or objection duly made.]
- (3)
- <sup>F40</sup>(4) A notification under subsection (1)(b) shall specify—
- the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
  - any operations appearing to the Council to be likely to damage that flora or fauna or those features.
- [<sup>F41</sup>(4A) Where a notification under subsection (1) has been given, the Council may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—
- give notice to the persons mentioned in subsection (1) withdrawing the notification; or

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- (b) give notice to those persons confirming the notification (with or without modifications);
- and the notification shall cease to have effect—
- (i) on the giving of notice of its withdrawal under paragraph (a) of this subsection to any of the persons mentioned in subsection (1), or
  - (ii) if not withdrawn or confirmed by notice under paragraph (a) or (b) of this subsection within the said period of nine months, at the end of that period.
- (4B) The Council’s power under subsection (4A)(b) to confirm a notification under subsection (1) with modifications shall not be exercised so as to add to the operations specified in the notification or extend the area to which it applies.
- (4C) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (1)(b) a notice under subsection (4A) confirming the notification with modifications, the notification shall have effect in its modified form in relation to so much (if any) of that land as remains subject to it.]
- (5) The owner or occupier of any land which has been notified under subsection (1)(b) shall not [<sup>F42</sup>while the notification remains in force] carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—
- (a) one of them has, [<sup>F43</sup>after service on him of the notification], given the Council written notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (6) is fulfilled.
- (6) The said conditions are—
- (a) that the operation is carried out with the Council’s written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act; and
  - (c) that [<sup>F44</sup>four months] have expired from the giving of the notice under subsection (5).
- [<sup>F45</sup>(6A) If before the expiry of the four months referred to in subsection (6)(c) the relevant person agrees with the Council in writing that, subject to subsection (6B), the condition specified in paragraph (c) of subsection (6) shall not apply in relation to the operation mentioned in subsection (5)(a), then, subject to subsection (6B), subsection (5) shall as from the date of the agreement have effect in relation to the operation in question (as regards both the owner and the occupier of land) as if paragraph (c) of subsection (6) were omitted.
- (6B) If after an agreement has been made with the Council under subsection (6A) the relevant person (whether a party to the agreement or not) gives the Council written notice that he wishes to terminate the agreement, then as from the giving of the notice subsection (5) shall have effect in relation to the operation in question (as regards both the owner and the occupier of the land) as if paragraph (c) of subsection (6) specified the condition that one month or, if the notice under this subsection specified a longer period, that longer period has expired from the giving of the notice under this subsection.
- (6C) In subsection (6A) and (6B) “the relevant person”—
- (a) in a case where the notice under subsection (5) was given by the owner of the land in question, means the owner of that land;

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- (b) in a case where that notice was given by the occupier of that land, means the occupier of that land.]
- (7) A person who, without reasonable excuse, contravenes subsection (5) shall be liable on summary conviction to a fine not exceeding [<sup>F46</sup>level 4 on the standard scale].
- (8) It is a reasonable excuse in any event for a person to carry out an operation if—
- (a) the operation was authorised by a planning permission granted on an application under [<sup>F47</sup>Part III of the Town and Country Planning Act 1990] or Part III of the <sup>M19</sup>Town and Country Planning (Scotland) Act 1972; or
- (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Council as soon as practicable after the commencement of the operation.
- (9) The Council shall have power to enforce the provisions of this section; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (10) Proceedings in England and Wales for an offence under subsection (7) shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (11) A notification under subsection (1)(b) of land in England and Wales shall be a local land charge.
- [<sup>F48</sup>(12) The Council shall compile and maintain a register of notifications in respect of each local planning authority in Scotland.
- (12A) There shall be included in any such register as is mentioned in subsection (12)—
- (a) copies of all notifications given under subsection (1) which relate wholly or partly to land situated within the district of the authority;
- (b) copies of all plans referred to in any such notification; and
- (c) copies of all notices served under subsection (4A) which relate to any such notification.
- (12B) Each local planning authority in Scotland shall keep a copy of the register relating to their district available at their principal office for free public inspection, and may similarly keep, at such of their other offices as they think fit, a copy of such part of the register as appears to them to relate to the area in which the office is situated.]
- (13) Section 23 of the 1949 Act (which is superseded by this section) shall cease to have effect; but any notification given under that section shall have effect as if given under subsection (1)(a).
- (14<sup>F49</sup>

#### Textual Amendments

- F39** S. 28(2) substituted (with saving) by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), s. 2(2)(10)
- F40** S. 28(3) repealed by [Wildlife and Countryside \(Service of Notices\) Act 1985 \(c. 59, SIF 4:5\)](#), s. 1(2)
- F41** S. 28(4A)–(4C) inserted (with saving) by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), s. 2(4)(10)
- F42** Words inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), s. 2(5)(a)(11)
- F43** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), s. 2(5)(b)(11)

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- F44** Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **2(6)(11)**
- F45** S. 28(6A)–(6C) inserted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **2(7)(ii)**
- F46** Words substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. **46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. **289G**
- F47** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 54(1)**
- F48** S. 28(12)–(12B) substituted for subsection (12) by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **2(8)**
- F49** S. 28(14) repealed (with saving) by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **2(9)(10)**

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

- C10** S. 28(5) excluded by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 9(7), 45, **Sch. 7 Pt. VI para. 2**  
S. 28(5) excluded (18.12.1996) by 1996 c. 61, s. 38, **Sch. 10 para. 6**
- C11** S. 28(11) applied (with modifications) (30.10.1994) by S.I. 1994/2716, **reg. 18(4)(a)**
- C12** S. 28(12)–(12B) applied (with modifications) (30.10.1994) by S.I. 1994/2716, **reg. 18(4)(b)**

#### Marginal Citations

- M19** 1972 c. 52.

VALID FROM 30/01/2001

#### <sup>F50</sup>28A Variation of notification under section 28.

- (1) At any time after notice has been given under section 28(5)(b) confirming a notification (with or without modifications), the Nature Conservancy Council may by notice vary the matters specified or stated in the confirmed notification (whether by adding to them, changing them, or removing matter from them).
- (2) The area of land cannot be varied under this section.
- (3) The Council shall give notice setting out the variation to—
  - (a) the local planning authority in whose area the land is situated,
  - (b) every owner and occupier of any of the land who in the opinion of the Council may be affected by the variation, and
  - (c) the Secretary of State,
 and after service of a notice under paragraph (b) the notification under section 28(1)(b) shall have effect in its varied form.
- (4) Section 28(3) shall apply to such a notice as it applies to a notification under section 28(1).
- (5) Where a notice under subsection (3) has been given, the Council may within the period of nine months beginning with the date the last of the owners and occupiers referred to in subsection (3)(b) was served with the notice either—
  - (a) give notice to the persons mentioned in subsection (3) withdrawing the notice; or
  - (b) give notice to them confirming the notice (with or without modifications).
- (6) A notice under subsection (3) shall cease to have effect—

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- (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (3); or
  - (b) if not withdrawn or confirmed by notice under subsection (5) within the period of nine months referred to in that subsection, at the end of that period.
- (7) As from the time when there is served on the owner or occupier of any land a notice under subsection (5)(b) confirming a notice of variation with modifications, the notification under section 28(1)(b) shall have effect as so varied.
- (8) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notice under subsection (3) or (5)(b).]

#### Textual Amendments

**F50** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 1 (with Sch. 11 paras. 1-17, 20)

VALID FROM 30/01/2001

#### [<sup>F51</sup>28B Notification of additional land.

- (1) Where the Nature Conservancy Council are of the opinion that if land adjacent to a site of special scientific interest (“the extra land”) were combined with the site of special scientific interest (“the SSSI”), the combined area of land would be of special interest by reason of any of its flora, fauna, or geological or physiographical features, the Council may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
- (a) the local planning authority in whose area the extra land is situated;
  - (b) every owner and occupier of any of that extra land; and
  - (c) the Secretary of State.
- (3) No such notification may be given until after notice has been given under section 28(5)(b) confirming (with or without modifications) the notification under section 28(1) relating to the SSSI.
- (4) Subsections (2) and (3) of section 28 shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) A notification under subsection (2)(b) shall also specify—
- (a) the area of land constituting the SSSI;
  - (b) what (as at the date of the notification under subsection (2)(b)) is specified or contained in the notification under section 28(1)(b) relating to the SSSI by virtue of section 28(4); and
  - (c) the reasons why the Council is of the opinion referred to in subsection (1).
- (6) In addition, the notification under subsection (2)(b) shall include a statement—
- (a) saying whether or not anything among the matters specified in the notification by virtue of subsection (5)(c) is particularly relevant to the extra land; and
  - (b) if any such thing is of particular relevance, specifying which.

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- (7) Subsections (5) to (7) of section 28 apply in relation to a notification under subsection (2) of this section as they apply in relation to a notification under subsection (1) of that section, as if references to “subsection (1)” in section 28(5) to (7) were references to subsection (2) of this section.
- (8) As from the time when a notification under subsection (2)(b) is served on the owner or occupier of any land, the notification under section 28(1)(b) shall have effect as if it included the notification under subsection (2)(b).
- (9) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (2)(b) a notice under section 28(5)(b) (as applied by subsection (7) of this section) confirming the notification under subsection (2)(b) with modifications, the notification under section 28(1)(b) (as extended by virtue of subsection (8) of this section) shall have effect in its modified form.
- (10) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notification under subsection (2) or under section 28(5)(b) as applied by subsection (7) of this section.]

#### Textual Amendments

- F51** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### <sup>F52</sup>28C Enlargement of SSSI.

- (1) Where the Nature Conservancy Council are of the opinion that any area of land which includes, but also extends beyond, a site of special scientific interest (“the SSSI”) is of special interest by reason of any of its flora, fauna, or geological or physiological features, the Council may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority in whose area the land (including the SSSI) is situated;
  - (b) every owner and occupier of any of that land (including the SSSI); and
  - (c) the Secretary of State.
- (3) Subsections (2) to (8) of section 28 apply to a notification under subsection (2) of this section as they apply to a notification under subsection (1) of that section, as if references to “subsection (1)” and “subsection (1)(b)” in section 28(2) to (8) were references to subsection (2) and subsection (2)(b) of this section respectively.
- (4) No notification may be given under subsection (2) until after notice has been given under section 28(5)(b) (or section 28(5)(b) as applied by subsection (3)) confirming (with or without modifications) the notification under section 28(1) (or subsection (2)) relating to the SSSI.
- (5) As from the time when a notification under subsection (2) is served on the owner or occupier of any land included in the SSSI, the notification in relation to that

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land which had effect immediately before the service of the notification under subsection (2) shall cease to have effect.

- (6) A notification under subsection (2)(b) of land in England and Wales shall be a local land charge; and, to the extent that any such land was the subject of a local land charge by virtue of section 28(9), that local land charge shall be discharged.
- (7) A notice under section 28E(1)(a) and a consent under section 28E(3)(a) given before a notification under subsection (2)(b) continue to have effect.
- (8) The enlargement of a site of special scientific interest under this section does not affect anything done under section 28J to 28L.
- (9) Any reference to—
  - (a) a notification under section 28(1) (or any of its paragraphs) shall be construed as including the corresponding notification under subsection (2);
  - (b) a notification under section 28(5)(b) shall be construed as including a notification under that provision as applied by subsection (3); and
  - (c) a local land charge existing by virtue of section 28(9) shall be treated as including one existing by virtue of subsection (6).]

#### Textual Amendments

**F52** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 12/01/2010

#### <sup>F53</sup>28CAGuidance in relation to subtidal notifications of SSSIs

- (1) The ministerial authority may issue guidance to Natural England about the exercise of the power conferred by section 28(1B), 28B(2B) or 28C(2B) to give a notification under section 28(1), 28B(2) or 28C(2) (as the case may be) in relation to land lying below mean low water mark.
- (2) In this section and section 28CB “the ministerial authority” means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]

#### Textual Amendments

**F53** S. 28CA inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 7**; S.I. 2014/3088, art. 2(b)

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VALID FROM 12/11/2009

**[<sup>F54</sup>28CB Power to call in subtidal notifications**

- (1) This section applies where a notification under section 28(1), 28B(2) or 28C(2) has been given in relation to land lying below mean low water mark (“the subtidal land”) by virtue of section 28(1B), 28B(2B) or 28C(2B) (as the case may be).
- (2) Natural England may not give notice under section 28(5)(b) confirming the notification unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.  
  
(For the meaning of “the ministerial authority”, see section 28CA.)
- (3) At any time before the notification is confirmed the ministerial authority may give notice to Natural England that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), Natural England may not give notice under section 28(5) until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
  - (a) that the notification (if confirmed) must include all of the subtidal land;
  - (b) that the notification (if confirmed) must not include any of the subtidal land;
  - (c) that the notification (if confirmed) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the notification (if confirmed) should include the subtidal land is to be taken by Natural England.
- (6) If the ministerial authority gives a direction under subsection (5), Natural England must give notice under section 28(5)(a) or (b), in accordance with that direction, within the period of three months beginning with the date on which the direction is received by them.
- (7) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (8) A person appointed under subsection (7) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (9) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (7).
- (10) The power to make regulations under subsection (9) is exercisable by statutory instrument.
- (11) A statutory instrument containing regulations made under subsection (9) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.



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- (12) A statutory instrument containing regulations made under subsection (9) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

- F54** S. 28CB inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 for specified purposes, 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(1\)\(c\)\(d\)\(2\)\(b\)\(ii\)](#), [Sch. 13 para. 8](#); S.I. 2014/3088, art. 2(b)

VALID FROM 30/01/2001

#### <sup>F55</sup>28D Denotification.

- (1) Where the Nature Conservancy Council are of the opinion that all or part of a site of special scientific interest is no longer of special interest by reason of any of the matters mentioned in section 28(1), they may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority in whose area the land which the Council no longer consider to be of special interest is situated;
  - (b) every owner and occupier of any of that land;
  - (c) the Secretary of State;
  - (d) the Environment Agency; and
  - (e) every relevant undertaker (within the meaning of section 4(1) of the <sup>M20</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M21</sup>Land Drainage Act 1991) whose works, operations or activities may affect the land.
- (3) The Council shall also publish a notification of that fact in at least one local newspaper circulating in the area in which the land referred to in subsection (2)(a) is situated.
- (4) Section 28(3) shall apply to a notification under subsection (2) or (3) as it applies to a notification under section 28(1).
- (5) Where a notification under subsection (2) has been given, the Council may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—
  - (a) give notice to the persons mentioned in subsection (2) withdrawing the notification, or
  - (b) give notice to those persons confirming the notification, or confirming it in relation to an area of land specified in the notice which is smaller than that specified in the notification under subsection (2),but if they do neither the notification shall cease to have effect.
- (6) A notification under subsection (2) shall have effect in relation to any land as from the time a notice under subsection (5)(b) is served on its owner or occupier, and from that time a notification under section 28(1)(b) in relation to that land shall cease to have effect.

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(7) A local land charge existing by virtue of section 28(9) shall be discharged in relation to land which is the subject of a notice under subsection (5)(b).]

#### Textual Amendments

**F55** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M20** 1991 c. 56.

**M21** 1991 c. 59.

VALID FROM 30/01/2001

#### <sup>F56</sup>**28E Duties in relation to sites of special scientific interest.**

- (1) The owner or occupier of any land included in a site of special scientific interest shall not while the notification under section 28(1)(b) remains in force carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—
  - (a) one of them has, after service of the notification, given the Nature Conservancy Council notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (3) is fulfilled.
- (2) Subsection (1) does not apply to an owner or occupier being an authority to which section 28G applies acting in the exercise of its functions.
- (3) The conditions are—
  - (a) that the operation is carried out with the Council's written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act;
  - (c) that the operation is carried out in accordance with a management scheme under section 28J or a management notice under section 28K.
- (4) A consent under subsection (3)(a) may be given—
  - (a) subject to conditions, and
  - (b) for a limited period,
 as specified in the consent.
- (5) If the Council do not consent, they shall give notice saying so to the person who gave the notice under subsection (1).
- (6) The Council may, by notice given to every owner and occupier of any of the land included in the site of special scientific interest, or the part of it to which the consent relates—
  - (a) withdraw the consent; or
  - (b) modify it (or further modify it) in any way.
- (7) The following—

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- (a) a consent under subsection (3)(a) granting consent subject to conditions or for a limited period, and
  - (b) a notice under subsection (5) or (6),
- must include a notice of the Council's reasons for imposing the conditions, for the limitation of the period, for refusing consent, or for withdrawing or modifying the consent, and also a notice of the matters set out in subsection (8).
- (8) The matters referred to in subsection (7) are—
    - (a) the rights of appeal under section 28F;
    - (b) the effect of subsection (9); and
    - (c) in the case of a notice under subsection (6), the effect of section 28M.
  - (9) A withdrawal or modification of a consent is not to take effect until—
    - (a) the expiry of the period for appealing against it; or
    - (b) if an appeal is brought, its withdrawal or final determination.
  - (10) The Council shall have power to enforce the provisions of this section.]

#### Textual Amendments

**F56** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

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

**C13** S. 28E(1) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(a) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)  
S. 28E(1) excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6(a)** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

VALID FROM 30/01/2001

#### [<sup>F57</sup>28F Appeals in connection with consents.

- (1) The following persons—
  - (a) an owner or occupier who has been refused a consent under section 28E(3)(a),
  - (b) an owner or occupier who has been granted such a consent but who is aggrieved by conditions attached to it, or by the fact that it is for a limited period, or by the length of that period,
  - (c) an owner or occupier who is aggrieved by the modification of a consent;
  - (d) an owner or occupier who is aggrieved by the withdrawal of a consent,may by notice appeal to the Secretary of State against the relevant decision.
- (2) If the Nature Conservancy Council neither give consent nor refuse it within the period of four months beginning with the date on which the notice referred to in section 28E(1)(a) was sent, the person who gave that notice may for the purposes of subsection (1) treat the Council as having refused consent (and his appeal is to be determined on that basis).

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- (3) Notice of an appeal must reach the Secretary of State—
- (a) except in a case falling within subsection (2), within the period of two months beginning with the date of the notice giving consent or the notice under section 28E(5) or (6), or
  - (b) in a case falling within subsection (2), within the period of two months beginning immediately after the expiry of the four-month period referred to there,
- or, in either case, within such longer period as is agreed in writing between the Council and the appellant.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
- (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,
- and he must act as mentioned in paragraph (a) or (b) if either party to the appeal asks to be heard in connection with the appeal.
- (5) On determining an appeal against a decision, the Secretary of State may—
- (a) affirm the decision,
  - (b) where the decision was a refusal of consent, direct the Council to give consent,
  - (c) where the decision was as to the terms of a consent (whether the original or a modified one), quash all or any of those terms,
  - (d) where the decision was a withdrawal or modification of consent, quash the decision,
- and where he exercises any of the powers in paragraphs (b), (c) or (d) he may give directions to the Council as to the terms on which they are to give consent.
- (6) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
- (a) notices of appeal and supporting documentation required, and
  - (b) how appeals are to be brought and considered,
- and any such regulations may make different provision for different cases and circumstances.
- (7) A statutory instrument containing regulations under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (9) Schedule 10A shall have effect with respect to appointments under subsection (8).
- (10) Subsections (2) to (5) of section 250 of the <sup>M22</sup>Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
- (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and

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(b) to the Minister causing an inquiry to be held were to the Secretary of State.

(11) Section 322A of the <sup>M23</sup>Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.]

#### Textual Amendments

**F57** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M22** 1972 c. 70.

**M23** 1990 c. 8.

VALID FROM 30/01/2001

#### [<sup>F58</sup>**28G Statutory undertakers, etc.: general duty.**

- (1) An authority to which this section applies (referred to in this section and in sections 28H and 28I as “a section 28G authority”) shall have the duty set out in subsection (2) in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.
- (2) The duty is to take reasonable steps, consistent with the proper exercise of the authority’s functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
- (3) The following are section 28G authorities—
  - (a) a Minister of the Crown (within the meaning of the Ministers of the <sup>M24</sup>Crown Act 1975) or a Government department;
  - (b) the National Assembly for Wales;
  - (c) a local authority;
  - (d) a person holding an office—
    - (i) under the Crown,
    - (ii) created or continued in existence by a public general Act of Parliament, or
    - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
  - (e) a statutory undertaker (meaning the persons referred to in section 262(1), (3) and (6) of the <sup>M25</sup>Town and Country Planning Act 1990); and
  - (f) any other public body of any description.]

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### Textual Amendments

**F58** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

### Modifications etc. (not altering text)

**C14** S. 28G(2) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(b) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)

S. 28G(2) excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6(b)** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

### Marginal Citations

**M24** 1975 c. 26.

**M25** 1990 c. 8.

VALID FROM 30/01/2001

## <sup>F59</sup>28H Statutory undertakers, etc.: duty in relation to carrying out operations.

- (1) A section 28G authority shall give notice to the Nature Conservancy Council before carrying out, in the exercise of its functions, operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.
- (2) Subsection (1) applies even if the operations would not take place on land included in a site of special scientific interest.
- (3) In response to the notice referred to in subsection (1), the Council may send a notice—
  - (a) saying that they do not assent to the proposed operations, or
  - (b) assenting to them (with or without conditions),
 but if they do not send a notice under paragraph (b) within the period of 28 days beginning with the date of the notice under subsection (1) they shall be treated as having declined to assent.
- (4) If the Council do not assent, or if the authority proposes to carry out the operations otherwise than in accordance with the terms of the Council's assent, the authority—
  - (a) shall not carry out the operations unless the condition set out in subsection (5) is satisfied, and
  - (b) shall comply with the requirements set out in subsection (6) when carrying them out.
- (5) The condition is that the authority has, after the expiry of the period of 28 days beginning with the date of the notice under subsection (1), notified the Council of—
  - (a) the date on which it proposes to start the operations (which must be after the expiry of the period of 28 days beginning with the date of the notification under this paragraph), and
  - (b) how (if at all) it has taken account of any written advice it received from the Council, before the date of the notification under this paragraph, in response to the notice under subsection (1).

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(6) The requirements are—

- (a) that the authority carry out the operations in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological or physiographical features by reason of which the site is of special interest (taking account, in particular, of any such advice as is referred to in subsection (5)(b)); and
- (b) that the authority restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur.]

**Textual Amendments**

**F59** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

**[<sup>F60</sup>28I Statutory undertakers, etc.: duty in relation to authorising operations.**

- (1) This section applies where the permission of a section 28G authority is needed before operations may be carried out.
- (2) Before permitting the carrying out of operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest, a section 28G authority shall give notice of the proposed operations to the Nature Conservancy Council.
- (3) Subsection (2) applies even if the operations would not take place on land included in a site of special scientific interest.
- (4) The authority shall wait until the expiry of the period of 28 days beginning with the date of the notice under subsection (2) before deciding whether to give its permission, unless the Nature Conservancy Council have notified the authority that it need not wait until then.
- (5) The authority shall take any advice received from the Council into account—
  - (a) in deciding whether or not to permit the proposed operations, and
  - (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to the permission.
- (6) If the Council advise against permitting the operations, or advise that certain conditions should be attached, but the section 28G authority does not follow that advice, the authority—
  - (a) shall give notice of the permission, and of its terms, to the Council, the notice to include a statement of how (if at all) the authority has taken account of the Council's advice, and
  - (b) shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice.

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- (7) In this section “permission”, in relation to any operations, includes authorisation, consent, and any other type of permission (and “permit” and “permitting” are to be construed accordingly).]

#### Textual Amendments

**F60** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

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

**C15** S. 28I excluded (30.1.2001) by 1987 c. 53, s. 9(7) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)  
S. 28I excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

VALID FROM 30/01/2001

#### [<sup>F61</sup>28J Management schemes.

- (1) The Nature Conservancy Council may formulate a management scheme for all or part of a site of special scientific interest.
- (2) A management scheme is a scheme for—
  - (a) conserving the flora, fauna, or geological or physiographical features by reason of which the land (or the part of it to which the scheme relates) is of special interest; or
  - (b) restoring them; or
  - (c) both.
- (3) The Council shall serve notice of a proposed management scheme on every owner and occupier of any of the land (or the part of it to which the scheme would relate); but it may be served on them only after they have been consulted about the proposed management scheme.
- (4) The notice may be served with the notification referred to in section 28(1)(b) or afterwards.
- (5) The owners and occupiers upon whom the notice must be served (referred to in this section as “the relevant owners and occupiers”) are—
  - (a) if it is served with the notification under section 28(1)(b), or later but before the notification referred to in section 28(5)(b), the owners and occupiers referred to in section 28(1)(b);
  - (b) if it is served with the notification under section 28(5)(b) or later, the owners and occupiers of such of the land as remains subject to the notification.
- (6) The notice of a proposed management scheme must include a copy of the proposed scheme.
- (7) The notice must specify the time (not being less than three months from the date of the giving of the notice) within which, and the manner in which, representations or



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objections with respect to the proposed management scheme may be made; and the Council shall consider any representation or objection duly made.

(8) Where a notice under subsection (3) has been given, the Council may within the period of nine months beginning with the date on which the notice was served on the last of the relevant owners and occupiers either—

- (a) give notice to the relevant owners and occupiers withdrawing the notice, or
- (b) give notice to them confirming the management scheme (with or without modifications),

and if notice under paragraph (b) is given, the management scheme shall have effect from the time the notice is served on all of the relevant owners or occupiers.

(9) A notice under subsection (3) shall cease to have effect—

- (a) on the giving of a notice of withdrawal under subsection (8)(a) to any of the relevant owners and occupiers; or
- (b) if not withdrawn or confirmed by notice under subsection (8) within the period of nine months referred to there, at the end of that period.

(10) The Council's power under subsection (8)(b) to confirm a management scheme with modifications shall not be exercised so as to make complying with it more onerous.

(11) The Council may at any time cancel or propose the modification of a management scheme.

(12) In relation to—

- (a) the cancellation of a management scheme, subsections (3) to (5) apply, and
- (b) a proposal to modify a management scheme, subsections (3) to (10) apply, as they apply in relation to a proposal for a management scheme.

(13) An agreement under section 16 of the 1949 Act or section 15 of the 1968 Act relating to a site of special scientific interest may provide for any matter for which a management scheme relating to that site provides (or could provide).]

#### Textual Amendments

**F61** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### [<sup>F62</sup>28K Management notices.

(1) Where it appears to the Nature Conservancy Council that—

- (a) an owner or occupier of land is not giving effect to a provision of a management scheme, and
- (b) as a result any flora, fauna or geological or physiographical features by reason of which the land is of special interest are being inadequately conserved or restored,

they may if they think fit serve a notice on him (a “management notice”).

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- (2) They may not serve a management notice unless they are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land in accordance with the management scheme.
- (3) A management notice is a notice requiring the owner or occupier to—
  - (a) carry out such work on the land, and
  - (b) do such other things with respect to it,
 as are specified in the notice, and to do so before the dates or within the periods so specified.
- (4) The work and other things specified in the notice must appear to the Council to be measures which it is reasonable to require in order to ensure that the land is managed in accordance with the management scheme.
- (5) The management notice must explain the effect of subsection (7) and (8) and of sections 28L and 28M(2) to (4).
- (6) A copy of the management notice must be served on every other owner and occupier of the land.
- (7) If any of the work or other things required by a management notice have not been done within the period or by the date specified in it, the Council may—
  - (a) enter the land, and any other land, and carry out the work, or do the other things; and
  - (b) recover from the owner or occupier upon whom the notice was served any expenses reasonably incurred by them in carrying out the work or doing the other things.
- (8) If an appeal is brought against the management notice, and upon the final determination of the appeal the notice is affirmed (with or without modifications), subsection (7) applies as if the references there to the management notice were to the notice as affirmed.]

#### Textual Amendments

**F62** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### [<sup>F63</sup>28L Appeals against management notices.

- (1) A person who is served with a management notice may appeal against its requirements to the Secretary of State; and a management notice does not take effect until—
  - (a) the expiry of the period for appealing against it; or
  - (b) if an appeal is brought, its withdrawal or final determination.
- (2) An appeal may be on the ground that some other owner or occupier of the land should take all or any of the measures specified in the management notice, or should pay all or part of their cost.

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- (3) Where the grounds of appeal are, or include, that mentioned in subsection (2), the appellant must serve a copy of his notice of appeal on each other person referred to.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,and he must act as mentioned in paragraph (a) or (b) if either party to the appeal (or, in a case falling within subsection (2), any of the other persons mentioned there) asks to be heard in connection with the appeal.
- (5) On determining the appeal, the Secretary of State may quash or affirm the management notice; and if he affirms it, he may do so either in its original form or with such modifications as he thinks fit.
- (6) In particular, on determining an appeal whose grounds are, or include, those mentioned in subsection (2), the Secretary of State may—
  - (a) vary the management notice so as to impose its requirements (or some of them) upon any such other person as is referred to in the grounds; or
  - (b) determine that a payment is to be made by any such other person to the appellant.
- (7) In exercising his powers under subsection (6), the Secretary of State must take into account, as between the appellant and any of the other people referred to in subsection (2)—
  - (a) their relative interests in the land (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
  - (b) their relative responsibility for the state of the land which gives rise to the requirements of the management notice; and
  - (c) the relative degree of benefit to be derived from carrying out the requirements of the management notice.
- (8) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
  - (a) the period within which and the manner in which appeals are to be brought, and
  - (b) the manner in which they are to be considered,and any such regulations may make different provision for different cases or circumstances.
- (9) A statutory instrument containing regulations under subsection (8) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (11) Schedule 10A shall have effect with respect to appointments under subsection (10).
- (12) Subsections (2) to (5) of section 250 of the <sup>M26</sup>Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under

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this section as they apply in relation to local inquiries under that section, but as if the reference there—

- (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
  - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
- (13) Section 322A of the <sup>M27</sup>Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.]

#### Textual Amendments

**F63** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M26** 1972 c. 70.

**M27** 1990 c. 8.

VALID FROM 30/01/2001

#### [<sup>F64</sup>28M Payments.

- (1) Where the Council, under section 28E(6), modify or withdraw a consent, they shall make a payment to any owner or occupier of the land who suffers loss because of the modification or withdrawal.
- (2) The Council may, if they think fit, make one or more payments to any owner or occupier of land in relation to which a management scheme under section 28J is in force.
- (3) The amount of a payment under this section is to be determined by the Council in accordance with guidance given and published by the Ministers.
- (4) Section 50(3) applies to the determination of the amount of payments under this section as it applies to the determination of the amount of payments under that section.]

#### Textual Amendments

**F64** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

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VALID FROM 30/01/2001

**[<sup>F65</sup>28N Compulsory purchase.**

- (1) The Nature Conservancy Council may in circumstances set out in subsection (2) acquire compulsorily all or any part of a site of special scientific interest.
- (2) The circumstances are—
  - (a) that the Council are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land; or
  - (b) that the Council have entered into such an agreement, but they are satisfied that it has been breached in such a way that the land is not being managed satisfactorily.
- (3) A dispute about whether or not there has been a breach of the agreement for the purposes of subsection (2)(b) is to be determined by an arbitrator appointed by the Lord Chancellor.
- (4) Where the Council have acquired land compulsorily under this section, they may—
  - (a) manage it themselves; or
  - (b) dispose of it, or of any interest in it, on terms designed to secure that the land is managed satisfactorily.
- (5) Section 103 of the 1949 Act (general provisions as to acquisition of land) applies for the purposes of this section as it applies for the purposes of that Act.]

**Textual Amendments**

**F65** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

**[<sup>F66</sup>28P Offences.**

- (1) A person who, without reasonable excuse, contravenes section 28E(1) is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.
- (2) A section 28G authority which, in the exercise of its functions, carries out an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest—
  - (a) without first complying with section 28H(1), or
  - (b) (if it has complied with section 28H(1)) without first complying with section 28H(4)(a),is, unless there was a reasonable excuse for carrying out the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

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- (3) A section 28G authority acting in the exercise of its functions which, having complied with section 28H(1), fails without reasonable excuse to comply with section 28H(4) (b) is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.
- (4) For the purposes of subsections (1), (2) and (3), it is a reasonable excuse in any event for a person to carry out an operation (or to fail to comply with a requirement to send a notice about it) if—
- (a) subject to subsection (5), the operation in question was authorised by a planning permission granted on an application under Part III of the<sup>M28</sup>Town and Country Planning Act 1990 or permitted by a section 28G authority which has acted in accordance with section 28I; or
  - (b) the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to the Nature Conservancy Council as soon as practicable after the commencement of the operation.
- (5) If an operation needs both a planning permission and the permission of a section 28G authority, subsection (4)(a) does not provide reasonable excuse unless both have been obtained.
- (6) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse—
- (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which land is of special interest, or intentionally or recklessly disturbs any of those fauna, and
  - (b) knew that what he destroyed, damaged or disturbed was within a site of special scientific interest,
- is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.
- (7) It is a reasonable excuse in any event for a person to do what is mentioned in subsection (6) if—
- (a) paragraph (a) or (b) of subsection (4) is satisfied in relation to what was done (reading references there to an operation as references to the destruction, damage or disturbance referred to in subsection (6)), and
  - (b) where appropriate, subsection (5) is also satisfied, reading the reference there to an operation in the same way.
- (8) A person who without reasonable excuse fails to comply with a requirement of a management notice is guilty of an offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- (10) Proceedings in England and Wales for an offence under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (11) In this section, “a section 28G authority” means an authority to which section 28G applies.]

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#### Textual Amendments

**F66** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))

#### Marginal Citations

**M28** [1990 c. 8.](#)

VALID FROM 30/01/2001

### [<sup>F67</sup>28Q Change of owner or occupier.

- (1) This section applies where the owner of land included in a site of special scientific interest—
  - (a) disposes of any interest of his in the land; or
  - (b) becomes aware that it is occupied by an additional or a different occupier.
- (2) If this section applies, the owner shall send a notice to the Nature Conservancy Council before the end of the period of 28 days beginning with the date on which he disposed of the interest or became aware of the change in occupation.
- (3) The notice is to specify the land concerned and—
  - (a) in a subsection (1)(a) case, the date on which the owner disposed of the interest in the land, and the name and address of the person to whom he disposed of the interest; or
  - (b) in a subsection (1)(b) case, the date on which the change of occupation took place (or, if the owner does not know the exact date, an indication of when to the best of the owner's knowledge it took place), and, as far as the owner knows them, the name and address of the additional or different occupier.
- (4) A person who fails without reasonable excuse to comply with the requirements of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) For the purposes of subsection (1), an owner “disposes of” an interest in land if he disposes of it by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.]

#### Textual Amendments

**F67** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))

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VALID FROM 30/01/2001

**[<sup>F68</sup>28R Byelaws.**

- (1) The Nature Conservancy Council may make byelaws for the protection of a site of special scientific interest.
- (2) The following provisions of the 1949 Act apply in relation to byelaws under this section as they apply in relation to byelaws under section 20 of that Act—
  - (a) subsections (2) and (3) of section 20 (reading references there to nature reserves as references to sites of special scientific interest); and
  - (b) sections 106 and 107.]

**Textual Amendments**

**F68** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))

VALID FROM 01/10/2006

**[<sup>F69</sup>28S Notices and signs relating to SSSIs**

- (1) Natural England may, on any land included in a site of special scientific interest, put up and maintain notices or signs relating to the site.
- (2) Natural England may remove any notice or sign put up under subsection (1).
- (3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under subsection (1) is guilty of an offence.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

**Textual Amendments**

**F69** S. 28S inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 58\(1\), 107](#); [S.I. 2006/2541](#), [art. 2](#)

**29 Special protection for certain areas of special scientific interest.**

- (1) Where it appears to the Secretary of State expedient to do so—
  - (a) in the case of any land to which this paragraph applies, for the purpose of securing the survival in Great Britain of any kind of animal or plant or of complying with an international obligation; or
  - (b) in the case of any land to which this paragraph applies, for the purpose of conserving any of its flora, fauna, or geological or physiological features,



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he may, after consultation with the Nature Conservancy Council, by order apply subsection (3) to that land; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of orders under this section.

An order made under this section may be amended or revoked by a subsequent order so made.

- (2) Paragraphs (a) and (b) of subsection (1) apply to any land which in the opinion of the Secretary of State is—
  - (a) of special interest; and
  - (b) in the case of paragraph (b) of that subsection, of national importance, by reason of any of its flora, fauna, or geological or physiographical features.
- (3) Subject to subsection (4), no person shall carry out on any land to which this subsection applies any operation which—
  - (a) appears to the Secretary of State to be likely to destroy or damage the flora, fauna, or geological or physiographical features by reason of which the land is land to which paragraph (a) or, as the case may be, paragraph (b) of subsection (1) applies; and
  - (b) is specified in the order applying this subsection to the land.
- (4) Subsection (3) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
  - (a) one of them has, after the [<sup>F70</sup>commencement date][<sup>F70</sup>making of the order], given the Council [<sup>F71</sup>written] notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (5) is fulfilled.
- (5) The said conditions are—
  - (a) that the operation is carried out with the Council's written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act; and
  - (c) subject to subsections (6) and (7), that three months have expired from the giving of the notice under subsection (4).
- (6) If before the expiration of the period mentioned in paragraph (c) of subsection (5) the Council offer to enter into an agreement for the acquisition of the interest of the person who gave the notice under subsection (4) or an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments to that person, that paragraph shall have effect as if for the said period there were substituted—
  - (a) where the agreement is entered into before the expiration of twelve months from the giving of the notice, the period expiring on the day on which it is entered into;
  - (b) in any other case, twelve months from the giving of the notice or three months from rejection or withdrawal of the offer to enter into the agreement, whichever period last expires.
- (7) If before the expiration of the period mentioned in paragraph (c) of subsection (5), or that paragraph as it has effect by virtue of subsection (6), an order is made for the compulsory acquisition by the Council of the interest of the person who gave the notice under subsection (4), that paragraph shall have effect as if for the said period there were substituted the period expiring—

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- (a) in the case of an order which is confirmed, on the day on which the Council enter on the land;
  - (b) in any other case, on the day on which the order is withdrawn or the Secretary of State decides not to confirm it.
- (8) A person who, without reasonable excuse, contravenes subsection (3) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (9) It is a reasonable excuse in any event for a person to carry out an operation if—
- (a) the operation was authorised by a planning permission granted on an application under [<sup>F72</sup>Part III of the Town and Country Planning Act 1990] or Part III of the <sup>M29</sup>Town and Country Planning (Scotland) Act 1972; or
  - (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Council as soon as practicable after the commencement of the operation.
- (10) An order made under this section in relation to land in Scotland shall be registered either—
- (a) in a case where the land affected by the order 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.
- (11) A report submitted by the Council to the Secretary of State under [<sup>F73</sup>paragraph 17 of Schedule 3 to the <sup>M30</sup>Nature Conservancy Council Act 1973][<sup>F73</sup>paragraph 20 of Schedule 6 to the Environmental Protection Act 1990] for any year shall set out particulars of any areas of land as respects which orders under this section have come into operation during that year.

#### Textual Amendments

- F70** Words “making of the order” substituted (*prosp.*) for “commencement date” by [Environmental Protection Act 1990 \(c. 43, SIF 46: 4\), ss. 132\(1\)\(a\), 164\(3\), Sch. 9 para. 11\(9\)](#)
- F71** Word inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), ss. 132\(1\)\(a\), 164\(3\), Sch. 9 para. 11\(10\)](#)
- F72** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 54\(1\)](#)
- F73** Words commencing “paragraph 20” substituted (*prosp.*) for words commencing “paragraph 17” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), ss. 132\(1\)\(a\), 164\(3\), Sch. 9 para. 11\(11\)](#)

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

- C16** S. 29(3) excluded by [Channel Tunnel Act 1987 \(c. 53, SIF 102\), ss. 9\(7\), 45, Sch. 7 Pt. VI para. 2](#)

#### Marginal Citations

- M29** 1972 c. 52.  
**M30** 1973 c. 54.

### 30 Compensation where order is made under s. 29.

- (1) Subsection (2) applies where an order is made under section 29 and subsection (3) applies where—

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- (a) notice of a proposal to carry out an operation is duly given to the Nature Conservancy Council under subsection (4) of that section; and
  - (b) paragraph (c) of subsection (5) of that section has effect as modified by subsection (6) or (7) of that section.
- (2) The Council shall pay compensation to any person having at the time of the making of the order an interest in land comprised in an agricultural unit comprising land to which the order relates who, on a claim made to the Council within the time and in the manner prescribed by regulations under this section, shows that the value of his interest is less than what it would have been if the order had not been made; and the amount of the compensation shall be equal to the difference between the two values.
- (3) The Council shall pay compensation to any person having at the time of the giving of the notice an interest in land to which the notice relates who, on a claim made to the Council within the time and in the manner prescribed by regulations under this section, shows that—
  - (a) he has reasonably incurred expenditure which has been rendered abortive, or expenditure in carrying out work which has been rendered abortive, by reason of paragraph (c) of subsection (5) of section 29 having effect as modified by subsection (6) or (7) of that section; or
  - (b) he has incurred loss or damage which is directly attributable to that paragraph having effect as so modified;but nothing in this subsection shall entitle any such person to compensation in respect of any reduction in the value of his interest in the land.
- (4) For the purposes of subsection (2)—
  - (a) an interest in land shall be valued as at the time when the order is made;
  - (b) where a person, by reason of his having more than one interest in land, makes more than one claim under that subsection in respect of the same order, his various interests shall be valued together;
  - (c) section 10 of the <sup>M31</sup>Land Compensation Act 1973 (mortgages, trusts for sale and settlements) or section 10 of the <sup>M32</sup>Land Compensation (Scotland) Act 1973 (restricted interests in land) shall apply in relation to compensation under that subsection as it applies in relation to compensation under Part I of that Act.
- (5) For the purposes of assessing any compensation payable under subsection (2), the rules set out in section 5 of the <sup>M33</sup>Land Compensation Act 1961 or section 12 of the <sup>M34</sup>Land Compensation (Scotland) Act 1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (6) No claim shall be made under subsection (2) in respect of any order under section 29 unless the Secretary of State has given notice under paragraph 6(1) or (2) of Schedule 11 of his decision in respect of the order; and, without prejudice to subsection (4)(a), that decision will be taken into account in assessing the compensation payable in respect of the order.
- (7) Compensation under this section shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 or section 40 of the Land Compensation (Scotland) Act 1963, from the date of the claim until payment.

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- (8) Except in so far as may be provided by regulations under this section, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal or the Lands Tribunal for Scotland.
- (9) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 or sections 9 and 11 of the Land Compensation (Scotland) Act 1963 (procedure and costs) shall apply, subject to any necessary modifications and to the provisions of any regulations under this section.
- (10) Regulations under this section shall be made by the Secretary of State and shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “agricultural unit” means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land.

#### Marginal Citations

- M31 1973 c. 26.  
M32 1973 c. 56.  
M33 1961 c. 33.  
M34 1963 c. 51.

### 31 Restoration where order under s. 29 is contravened.

- (1) Where the operation in respect of which a person is convicted of an offence under section 29 has destroyed or damaged any of the flora, fauna, or geological or physiographical features by reason of which the land on which it was carried out is of special interest, the court by which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations for the purpose of restoring the land to its former condition as may be so specified.
- (2) An order under this section made on conviction on indictment shall be treated for the purposes of sections 30 and 42(1) and (2) of the <sup>M35</sup>Criminal Appeal Act 1968 (effect of appeals on orders for the restitution of property) as an order for the restitution of property; and where by reason of the quashing by the Court of Appeal of a person’s conviction any such order does not take effect, and on appeal to the House of Lords the conviction is restored by that House, the House may make any order under this section which could be made on his conviction by the court which convicted him.
- (3) In the case of an order under this section made by a magistrates’ court the period specified in the order shall not begin to run—
  - (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates’ court;
  - (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.
- (4) At any time before an order under this section has been complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that

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a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.

- (5) If, within the period specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction—
- (a) to a fine not exceeding [<sup>F74</sup>level 5 on the standard scale]; and
  - (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.
- (6) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, the Nature Conservancy Council may enter the land and carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.
- (7) In the application of this section to Scotland—
- (a) subsections (2) and (3) shall not apply; and
  - (b) for the purposes of any appeal or review, an order under this section is a sentence.

#### Textual Amendments

**F74** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

#### Marginal Citations

**M35** [1968 c. 19.](#)

### 32 Duties of agriculture Ministers with respect to areas of special scientific interest.

- (1) Where an application for [<sup>F75</sup>a farm capital grant] is made as respects expenditure incurred or to be incurred for the purpose of activities on land notified under section 28(1) or land to which section 29(3) applies, the appropriate Minister—
- (a) shall, so far as may be consistent with the purposes of [<sup>F76</sup>the grant provisions], so exercise his functions thereunder as to further the conservation of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
  - (b) where the Nature Conservancy Council have objected to the making of the grant on the ground that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State.
- (2) Where, in consequence of an objection by the Council, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (1)(b), the Council shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act—
- (a) imposing restrictions as respects those activities; and
  - (b) providing for the making by them of payments to the applicant.

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[<sup>F77</sup>(3) In this section—

“the appropriate Minister” means the Minister responsible for determining the application;

“farm capital grant” means—

- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970; or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972 to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;

“grant provisions” means—

- (i) in the case of such a grant as is mentioned in paragraph (a) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970; and
- (ii) in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the Community instrument in pursuance of which the regulations were made.]

#### Textual Amendments

**F75** Words substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), [s. 20\(2\)\(a\)](#)

**F76** Words substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), [s. 20\(2\)\(b\)](#)

**F77** [S. 32\(3\)](#) substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), [s. 20\(3\)](#)

### 33 Ministerial guidance as respects areas of special scientific interest.

- (1) The Ministers shall from time to time, after consultation with the Nature Conservancy [<sup>F78</sup>Council][<sup>F78</sup>Councils] and such persons appearing to them to represent other interests concerned as they consider appropriate—
  - (a) prepare codes containing such recommendations, advice and information as they consider proper for the guidance of—
    - (i) persons exercising functions under sections 28 to 32; and
    - (ii) persons affected or likely to be affected by the exercise of any of those functions; and
  - (b) revise any such code by revoking, varying, amending or adding to the provisions of the code in such manner as the Ministers think fit.
- (2) A code prepared in pursuance of subsection (1) and any alterations proposed to be made on a revision of such a code shall be laid before both Houses of Parliament forthwith after being prepared; and the code or revised code, as the case may be, shall not be issued until the code or the proposed alterations have been approved by both Houses.
- (3) Subject to subsection (2), the Ministers shall cause every code prepared or revised in pursuance of subsection (1) to be printed, and may cause copies of it to be put on sale to the public at such price as the Ministers may determine.

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### Textual Amendments

- F78** Word “Councils” substituted (*prosp.*) for “Council” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 12](#)

## 34 Limestone pavement orders.

- (1) Where the Nature Conservancy Council or the Commission are of the opinion that any land in the countryside which comprises a limestone pavement is of special interest by reason of its flora, fauna or geological or physiographical features, it shall be the duty of the Council or the Commission to notify that fact to the local planning authority in whose area the land is situated.
- (2) Where it appears to the Secretary of State or the relevant authority that the character or appearance of any land notified under subsection (1) would be likely to be adversely affected by the removal of the limestone or by its disturbance in any way whatever, the Secretary of State or that authority may make an order (in this section referred to as a “limestone pavement order”) designating the land and prohibiting the removal or disturbance of limestone on or in it; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of limestone pavement orders.
- (3) The relevant authority may, after consultation with the Council and the Commission, amend or revoke a limestone pavement order made by the authority; and the Secretary of State may, after such consultation as aforesaid, amend or revoke any such order made by him or that authority but, in the case of an order made by that authority, only after consultation with that authority.
- (4) If any person without reasonable excuse removes or disturbs limestone on or in any land designated by a limestone pavement order he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (5) It is a reasonable excuse in any event for a person to remove or disturb limestone or cause or permit its removal or disturbance, if the removal or disturbance was authorised by a planning permission granted on an application under <sup>F79</sup>Part III of the Town and Country Planning Act 1990] or Part III of the <sup>M36</sup>Town and Country Planning (Scotland) Act 1972.
- (6) In this section—

“the Commission” means the Countryside Commission in relation to England <sup>F80</sup>and Wales] and the Countryside Commission for Scotland in relation to Scotland;

“limestone pavement” means an area of limestone which lies wholly or partly exposed on the surface of the ground and has been fissured by natural erosion;

<sup>F81</sup> “the relevant authority” means—

  - (a) in relation to a non-metropolitan county, the county planning authority and, in relation to any other area in England, the local planning authority;
  - (b) in relation to Scotland, the authority exercising district planning functions.]

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### Textual Amendments

- F79** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 54\(1\)](#)
- F80** Words repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), ss. 130, 162\(2\), 164\(3\), Sch. 8 para. 6\(2\), Sch. 16 Pt. VI](#)
- F81** Definition substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 2, 7, Sch. 3 para. 7\(2\)](#)

### Marginal Citations

- M36** 1972 c. 52.

## <sup>x2</sup>35 National nature reserves.

- (1) Where the Nature Conservancy Council are satisfied that any land which—
- (a) is being managed as a nature reserve under an agreement entered into with the Council;
  - (b) is held by the Council and is being managed by them as a nature reserve; or
  - (c) is held by an approved body and is being managed by that body as a nature reserve,
- is of national importance, they may declare that land to be a national nature reserve.
- (2) A declaration by the Council that any land is a national nature reserve shall be conclusive of the matters declared; and subsections (4) and (5) of section 19 of the 1949 Act shall apply in relation to any such declaration as they apply in relation to a declaration under that section.
- (3) On the application of the approved body concerned, the Council may, as respects any land which is declared to be a national nature reserve under subsection (1)(c), make byelaws for the protection of the reserve.
- (4) Subsections (2) and (3) of section 20 and section 106 of the 1949 Act shall apply in relation to byelaws under this section as they apply in relation to byelaws under the said section 20.
- (5) In this section—
- “approved body” means a body approved by the Council for the purposes of this section;
- “nature reserve” has the same meaning as in Part III of the 1949 Act.

### Editorial Information

- X2** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

## 36 Marine nature reserves.

- (1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea <sup>F82</sup> which are landward of the baselines from which the breadth of the territorial sea adjacent to Great Britain is measured or are seaward of those baselines



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up to a distance of three nautical miles], it appears to the Secretary of State expedient, on an application made by the Nature Conservancy Council, that the land and waters covering it should be managed by the Council for the purpose of—

- (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area; or
- (b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,

he may by order designate the area comprising that land and those waters as a marine nature reserve; and the Council shall manage any area so designated for either or both of those purposes.

(2) An application for an order under this section shall be accompanied by—

- (a) a copy of the byelaws which, if an order is made, the Council propose making under section 37 for the protection of the area specified in the application; and
- (b) a copy of any byelaws made or proposed to be made for the protection of that area by a relevant authority;

and an order made on the application shall authorise the making under that section of such of the byelaws proposed to be made by the Council as may be set out in the order with or without modifications.

(3) Byelaws the making of which is so authorised—

- (a) shall not require the Secretary of State's consent under subsection (1) of section 37; and
- (b) notwithstanding anything in the provisions applied by subsection (4) of that section, shall take effect on their being made.

(4) The provisions of Schedule 12 shall have effect as to the making, validity and date of coming into operation of orders under this section; and an order made under this section may be amended or revoked by a subsequent order so made.

(5) The powers exercisable by the Council for the purpose of managing an area designated as a marine nature reserve under this section shall include power to install markers indicating the existence and extent of the reserve.

(6) Nothing in this section or in byelaws made under section 37 shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).

(7) In this section—

“enactment” includes an enactment contained in a local Act;

“local authority” means—

- (a) in relation to England and Wales, a county council, a district council,<sup>F83</sup> . . . or a London borough council;
- (b) in relation to Scotland, a regional council, an islands council or a district council;

[<sup>F84</sup> “nautical miles” means international nautical miles of 1,852 metres;]

“relevant authority” means a local authority, [<sup>F85</sup> a water authority or any other statutory water undertakers,]<sup>F85</sup> the National Rivers Authority, a water undertaker, a sewerage undertaker,] an internal drainage board, a navigation authority, a harbour authority,<sup>F86</sup> . . . , a lighthouse authority, a conservancy

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authority, a river purification board, a district board for a fishery district within the meaning of the<sup>M37</sup>Salmon Fisheries (Scotland) Act 1862, or a local fisheries committee constituted under the<sup>M38</sup>Sea Fisheries Regulation Act 1966.

#### Textual Amendments

- F82** Words substituted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), ss. 1(5), 3(1)(2), **Sch. 1 para. 6(a)**
- F83** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, **Sch. 17**
- F84** Definition inserted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), ss. 1(5), 3(1), **Sch. 1 para. 6(b)**
- F85** Words commencing “the National Rivers Authority” substituted (E.W.) for words commencing “a water authority” by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 66\(2\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F86** Words repealed by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(5), **Sch. 3**

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

- C17** [S. 36\(1\)](#): power to extend conferred by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), ss. **1(5), 3(2)(b)**

#### Marginal Citations

- M37** 1862 c. 97.  
**M38** 1966 c. 38.

### <sup>x37</sup> **Byelaws for protection of marine nature reserves.**

- (1) The Nature Conservancy Council may, with the consent of the Secretary of State make byelaws for the protection of any area designated as a marine nature reserve under section 36.
- (2) Without prejudice to the generality of subsection (1), byelaws made under this section as respects a marine nature reserve—
  - (a) may provide for prohibiting or restricting, either absolutely or subject to any exceptions—
    - (i) the entry into, or movement within, the reserve of persons and vessels;
    - (ii) the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the reserve, or the doing of anything therein which will interfere with the sea bed or damage or disturb any object in the reserve; or
    - (iii) the depositing of rubbish in the reserve;
  - (b) 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 the reserve or the doing of anything which would otherwise be unlawful under the byelaws; and
  - (c) may be so made as to apply either generally or with respect to particular parts of the reserve or particular times of the year.
- (3) Nothing in byelaws made under this section shall—
  - (a) prohibit or restrict the exercise of any right of passage by a vessel other than a pleasure boat; or
  - (b) prohibit, except with respect to particular parts of the reserve at particular times of the year, the exercise of any such right by a pleasure boat.
- (4) Nothing in byelaws so made shall make unlawful—

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- (a) anything done for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
  - (b) the discharge of any substance from a vessel; or
  - (c) anything done more than 30 metres below the sea bed.
- (5) Sections 236 to 238 of the <sup>M39</sup>Local Government Act 1972 or sections 202 to 204 of the <sup>M40</sup>Local Government (Scotland) Act 1973 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding the amount there specified and provide for the proof of byelaws in legal proceedings) shall apply to byelaws under this section as if the Council were a local authority within the meaning of the said Act of 1972 or the said Act of 1973, so however that in relation to such byelaws the said sections shall apply subject to such modifications (including modifications increasing the maximum fines which the byelaws may impose) as may be prescribed by regulations made by the Secretary of State.
- Regulations under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In relation to byelaws under this section the confirming authority for the purposes of the said section 236 or the said section 202 shall be the Secretary of State.
- (7) The Secretary of State may, after consultation with the Council, direct them—
- (a) to revoke any byelaws previously made under this section; or
  - (b) to make any such amendments of any byelaws so made as may be specified in the direction.
- (8) The Council shall have power to enforce byelaws made under this section; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (9) Proceedings in England and Wales for an offence under byelaws made under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (10) In this section “vessel” includes a hovercraft and any aircraft capable of landing on water and “pleasure boat” shall be construed accordingly.
- (11) References in this section to animals or plants of any description include references to eggs, seeds, spores, larvae or other immature stages of animals or plants of that description.

#### Editorial Information

- X3** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### Marginal Citations

- M39** 1972 c. 70.  
**M40** 1973 c. 65.

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VALID FROM 30/01/2001

<sup>F87X4</sup>**37A Ramsar sites.**

- (1) Where a wetland in Great Britain has been designated under paragraph 1 of article 2 of the Ramsar Convention for inclusion in the list of wetlands of international importance referred to in that article, the Secretary of State shall—
  - (a) notify English Nature if all or part of the wetland is in England;
  - (b) notify the Countryside Council for Wales if it is in Wales; or
  - (c) notify both of them if it is partly in England and partly in Wales.
- (2) Subject to subsection (3), upon receipt of a notification under subsection (1), each body notified shall, in turn, notify—
  - (a) the local planning authority in whose area the wetland is situated;
  - (b) every owner and occupier of any of that wetland;
  - (c) the Environment Agency; and
  - (d) every relevant undertaker (within the meaning of section 4(1) of the <sup>M41</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M42</sup>Land Drainage Act 1991) whose works, operations or activities may affect the wetland.
- (3) English Nature and the Countryside Council for Wales may agree that in a case where the Secretary of State notifies both of them under subsection (1)(c), any notice under subsection (2) is to be sent by one or the other of them (and not both), so as to avoid duplicate notices under that subsection.
- (4) Subject to subsection (5), the “Ramsar Convention” is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by—
  - (a) the Protocol known as the Paris Protocol done at Paris on 3rd December 1982; and
  - (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting Parties held at Regina, Saskatchewan, Canada, between 28th May and 3rd June 1987.
- (5) If the Ramsar Convention is further amended after the passing of the Countryside and Rights of Way Act 2000, the reference to the Ramsar Convention in subsection (1) is to be taken after the entry into force of the further amendments as referring to that Convention as further amended (and the reference to paragraph 1 of article 2 is, if necessary, to be taken as referring to the appropriate successor provision).]

**Editorial Information**

- X4** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

**Textual Amendments**

- F87** **S. 37A** inserted (30.1.2001) by **2000 c. 37, ss. 77, 103(2)**

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#### Marginal Citations

**M41** 1991 c. 56.

**M42** 1991 c. 59.

### [<sup>F88</sup>38 Grants and loans by Nature Conservancy Council.

- (1) The Nature Conservancy Council may, with the consent of, or in accordance with a general authorisation given by, the Secretary of State, give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person in respect of expenditure incurred or to be incurred by him in doing anything which, in their opinion, is conducive to nature conservation or fostering the understanding of nature conservation.
- (2) No consent or general authorisation shall be given by the Secretary of State under subsection (1) without the approval of the Treasury.
- (3) On making a grant or loan under this section the Council may impose such conditions as they think fit including (in the case of a grant) conditions for repayment in specified circumstances.
- (4) The Council shall so exercise their powers under subsection (3) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, so far as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.
- (5) The exercise of the Council's powers under this section shall be subject to any direction given to the Council by the Secretary of State.
- <sup>X5</sup>(6) Section 3 of the <sup>M43</sup> Nature Conservancy Council Act 1973 (which is superseded by this section) shall cease to have effect.]

#### Editorial Information

**X5** The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Textual Amendments

**F88** S. 38 repealed ( prosp. ) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. VI](#)

#### Marginal Citations

**M43** 1973 c. 54.

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 01/10/2006

*Nature reserves, marine nature reserves and Ramsar sites*

**[<sup>F89</sup>34A Meaning of “appropriate conservation body”**

In the following provisions of this Part “the appropriate conservation body” means—

- (a) in relation to England, Natural England;
- (b) in relation to Wales, the Countryside Council for Wales;
- (c) in relation to Scotland, Scottish Natural Heritage.

**Textual Amendments**

**F89** S. 34A and preceding cross-heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 84](#); S.I. 2006/2541, [art. 2](#)

VALID FROM 12/11/2009

**[<sup>F90</sup>35A Power to call in subtidal declarations**

(1) This section applies where—

- (a) the appropriate conservation body propose to declare land to be a national nature reserve under section 35(1), and
  - (b) the land to which the proposed declaration relates includes, by virtue of section 35(1B), land lying below mean low water mark (“the subtidal land”).
- (2) The appropriate conservation body may not declare the reserve unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.
- (3) At any time before the reserve is declared the ministerial authority may give notice to the appropriate conservation body that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), the appropriate conservation body may not declare the reserve until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
- (a) that the reserve (if declared) must include all of the subtidal land;
  - (b) that the reserve (if declared) must not include any of the subtidal land;
  - (c) that the reserve (if declared) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the reserve (if declared) should include the subtidal land is to be taken by the appropriate conservation body.

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- (6) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (7) A person appointed under subsection (6) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (8) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (6).
- (9) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (10) A statutory instrument containing regulations made under subsection (8) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) A statutory instrument containing regulations made under subsection (8) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this section “the ministerial authority” means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]]

#### Textual Amendments

- F89** S. 34A and preceding cross-heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 84](#); S.I. 2006/2541, [art. 2](#)
- F90** S. 35A inserted (E.W.) (12.11.2009 for certain purposes, 12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(1)(c)(2)(b)(ii), [Sch. 13 para. 11](#); S.I. 2014/3088, [art. 2\(b\)](#)

### Countryside

#### 39 Management agreements with owners and occupiers of land.

- (1) A relevant authority may, for the purpose of conserving or enhancing the natural beauty or amenity of any land which is both in the countryside and within their area or promoting its enjoyment by the public, make an agreement (in this section referred to as a “management agreement”) with any person having an interest in the land with respect to the management of the land during a specified term or without limitation of the duration of the agreement.
- (2) Without prejudice to the generality of subsection (1), a management agreement—
  - (a) may impose on the person having an interest in the land restrictions as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person

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- to carry out works or agricultural or forestry operations or do other things on the land;
- (b) may confer on the relevant authority power to carry out works for the purpose of performing their functions under the 1949 Act and the 1968 Act; and
- (c) may contain such incidental and consequential provisions (including provisions for the making of payments by either party to the other) as appear to the relevant authority to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of a management agreement with any person interested in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the relevant authority against those persons accordingly.
- (4) Schedule 2 to the <sup>M44</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) shall apply to management agreements as it applies to forestry dedication covenants.
- (5) In this section “the relevant authority” means—
- (a) as respects land in a National Park [<sup>F91</sup>and outside a metropolitan county], the county planning authority;
- [<sup>F92</sup>(aa) as respects land within the Broads, the Broads Authority;]
- (b)
- <sup>F93</sup>(c) as respects any other land, the local planning authority.
- (6) The powers conferred by this section on a relevant authority shall be in addition to and not in derogation of any powers conferred on such an authority by or under any enactment.

#### Textual Amendments

**F91** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(3)**

**F92** S. 39(5)(aa) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 para. 31(2)**

**F93** S. 39(5)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

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

**C18** S. 39 modified (19.9.1995) by 1995 c. 25, **ss. 69(2)(a)**, 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

#### Marginal Citations

**M44** 1967 c. 10.

#### <sup>X6</sup>40 Experimental schemes.

For subsections (1) and (2) of section 4 of the 1968 Act (under which the Countryside Commission may submit for the Secretary of State’s approval proposals for experimental schemes in relation to particular areas and are required to carry out proposals approved by him) there shall be substituted the following subsection—

“(1) The Commission, after consultation with such local authorities and other bodies as appear to the Commission to have an interest, may from time to time make and carry out or promote the carrying out of any experimental scheme designed



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to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity which—

- (a) in relation to the countryside generally or to any particular area involves the development or application of new methods, concepts or techniques, or the application or further development of existing methods, concepts or techniques ; and
- (b) is designed to illustrate the appropriateness of the scheme in question for the countryside generally or for any particular area.”

#### Editorial Information

**X6** The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 41 Duties of agriculture Ministers with respect to the countryside.

(1)

<sup>F94</sup>(2) In the exercise of his general duty under section 4(2) of the <sup>M45</sup>Small Landholders (Scotland) Act 1911 of promoting the interests of agriculture and other rural industries, and without prejudice to the generality of that duty, the Secretary of State shall make provision, through such organisation as he considers appropriate, for the giving of

- <sup>F95</sup>(a) advice to persons carrying on agricultural businesses on the conservation and enhancement of the natural beauty and amenity of the countryside;
- (b) advice to such persons on diversification into other enterprises of benefit to the rural economy; and
- (c) advice to government departments and other bodies exercising statutory functions on the promotion and furtherance of such diversification as is mentioned in paragraph (b).]

(3) Where an application for [<sup>F96</sup>a farm capital grant] is made as respects expenditure incurred or to be incurred for the purposes of activities on land which is in a National Park or an area specified for the purposes of this subsection by the Ministers, the appropriate Minister—

- (a) shall, so far as may be consistent with the purposes of the [<sup>F97</sup>the grant provisions], so exercise his functions thereunder as to further the conservation and enhancement of the natural beauty and amenity of the countryside and to promote its enjoyment by the public; and
- (b) where the relevant authority have objected to the making of the grant on the ground that the activities in question have had or will have an adverse effect on the natural beauty or amenity of the countryside or its enjoyment by the public, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State;

and this subsection shall have effect, in its application to Scotland, as if references to the amenity of the countryside were omitted.

(4) Where, in consequence of an objection by the relevant authority, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (3)(b), the relevant authority shall, within three months of their receiving notice of the appropriate

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Minister’s decision, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—

- (a) imposing restrictions as respects those activities; and
- (b) providing for the making by them of payments to the applicant.

(5) In this section—

[<sup>F98</sup> “agricultural business” has the same meaning as in section 29 of the Agriculture Act 1970;][<sup>F98</sup> “the appropriate Minister”, “farm capital grant” and “grant provisions” have the same meanings as in section 32;]

“management agreement”—

- (a) in relation to England and Wales, means an agreement under section 39;
- (b) in relation to Scotland, means an agreement under section 49A of the <sup>M46</sup>Countryside (Scotland) Act 1967;

“the relevant authority”—

- (a) in relation to England and Wales, has the same meaning as in section 39;
- (b) in relation to Scotland, means the authority exercising district planning functions.

[<sup>F99</sup>(5A) For the purposes of this section the Broads shall be treated as a National Park.]

(6) <sup>F100</sup> subsection (2) extends only to Scotland.

#### Textual Amendments

- F94** S. 41(1) repealed by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(5), Sch. 4
- F95** S. 41(2)(a)–(c) substituted for words by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(4), Sch. 3 para. 4
- F96** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(4)(a)
- F97** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(4)(b)
- F98** Definition substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(5)
- F99** S. 41(5A) inserted (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), Sch. 3 Pt. I para. 31(3)
- F100** Words repealed by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(5), Sch. 4

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

- C19** S. 41 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 69(2)(a), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7

#### Marginal Citations

- M45** 1911 c. 49.
- M46** 1967 c. 86.

### National Parks

VALID FROM 01/10/2006

#### [<sup>F101</sup>41A Application of sections 42 to 45 in Wales

In relation to land in Wales, sections 42 to 45 (which relate to National Parks) have effect as if references to Natural England were references to the Countryside Council for Wales.]

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### Textual Amendments

**F101** S. 41A inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 89; S.I. 2006/2541, art. 2

## 42 Notification of agricultural operations on moor and heath in National Parks.

- (1) The Ministers may, if satisfied that it is expedient to do so, by order apply subsection (2) to any land which is comprised in a National Park and which appears to them to consist of or include moor or heath.
- (2) Subject to subsection (3), no person shall—
  - (a) by ploughing or otherwise convert into agricultural land any land to which this subsection applies and which is moor or heath which has not been agricultural land at any time within the preceding 20 years; or
  - (b) carry out on any such land any other agricultural operation or any forestry operation which (in either case) appears to the Ministers to be likely to affect its character or appearance and is specified in the order applying this subsection to that land.
- (3) Subsection (2) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
  - (a) one of them has, after the coming into force of the order, given the [F102]local planning authority] written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (4) is satisfied.
- (4) The said conditions are—
  - (a) that the [F102]local planning authority] have given their consent to the carrying out of the operation;
  - (b) where that authority have neither given nor refused their consent, that three months have expired from the giving of the notice; and
  - (c) where that authority have refused their consent, that twelve months have expired from the giving of the notice.
- (5) A person who, without reasonable excuse, contravenes subsection (2) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) Where the [F102]local planning authority] are given notice under this section in respect of any land, the authority shall forthwith send copies of the notice to the Ministers, the Nature Conservancy Council and the Countryside Commission.
- (7) In considering for the purposes of this section whether land has been agricultural land within the preceding 20 years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section or section 14 of the 1968 Act.
- (8) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (9) The said section 14 (which is superseded by this section) shall cease to have effect; but this section shall have effect as if any order under that section in force immediately before the coming into force of this section had been made under this section.

#### Textual Amendments

**F102** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(4\)](#)

### 43 Maps of National Parks showing certain areas of moor or heath.

- (1) Every <sup>F103</sup>local planning authority] whose area comprises the whole or any part of a National Park shall—
- (a) before the expiration of the period of two years beginning with <sup>F104</sup>the relevant date], prepare a map of the Park or the part thereof showing any areas <sup>F105</sup>to which this section applies whose natural beauty] it is, in the opinion of the authority, particularly important to conserve; and
  - (b) <sup>F106</sup>at intervals of not more than five years] review the particulars contained in the map and make such revisions thereof (if any) as may be requisite.
- <sup>F107</sup>(1A) In considering under subsection (1) whether any area to which this section applies is one whose natural beauty it is particularly important to conserve, a <sup>F108</sup>local planning authority] shall act in accordance with the guidelines from time to time issued <sup>F109</sup>by the Countryside Commission] under subsection (1B).
- (1B) The Countryside Commission <sup>F110</sup>shall][<sup>F110</sup>and the Countryside Council for Wales shall each] issue guidelines for the guidance of county planning authorities in considering as mentioned in subsection (1A), and <sup>F111</sup>may][<sup>F111</sup>the Commission and the Council may each] from time to time revise any guidelines so issued.
- (1C) Before issuing or revising any guidelines under subsection (1B) the Commission <sup>F112</sup>or, as the case may be, the Council] shall consult such bodies as appear to them to represent interests concerned; and before preparing or revising any map under subsection (1) a <sup>F108</sup>local planning authority] shall consult such bodies as appear to the authority to represent interests concerned with matters affecting the Park or part of the Park in question.]
- (2) The authority shall cause a map prepared or revised in pursuance of subsection (1) to be printed, and shall cause copies thereof to be put on sale to the public at such price as the authority may determine.
- <sup>F113</sup>(3) This section applies to any area of mountain, moor, heath, woodland, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore); and in this section “the relevant date” means the date of issue of the first guidelines under subsection (1B).]

#### Textual Amendments

**F103** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(4\)](#)

**F104** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(2\)\(a\)](#)

**F105** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(2\)\(b\)](#)

**F106** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(3\)](#)

**F107** [S. 43\(1A\)–\(1C\)](#) inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(4\)](#)

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- F108** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(4)**
- F109** Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 130, 162(2), 164(3), **Sch. 8 para. 6(3), Sch. 16 Pt. VI**
- F110** Words “and the countryside Council for Wales shall each” substituted (*prosp.*) for the word “shall” by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 130, 164(3), **Sch. 8 para. 6(3)(a)**
- F111** Words “the Commission and the Council may each” substituted (*prosp.*) for the word “may” by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 130, 164(3), **Sch. 8 para. 6(3)(a)**
- F112** Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 130, 164(3), **Sch. 8 para. 6(3)(b)**
- F113** S. 43(3) added by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), **s. 3(5)**

#### 44 Grants and loans for purposes of National Parks.

- (1) Without prejudice to section 11 of the 1949 Act (general powers of local planning authorities in relation to National Parks), a [<sup>F114</sup>local planning authority] may give financial assistance by way of grant or loan, or partly in one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which in the opinion of the authority is conducive to the attainment, in any National Park the whole or part of which is comprised in that authority’s area, of any of the following purposes, that is to say, the conservation and enhancement of the natural beauty of that Park and the promotion of its enjoyment by the public.
- (2) On making a grant or loan under this section a [<sup>F114</sup>local planning authority] may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.
- (3) A [<sup>F114</sup>local planning authority] shall so exercise their powers under subsection (2) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, insofar as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.
- [<sup>F115</sup>(4) For the purposes of this section the Broads Authority shall be treated as a county planning authority and the Broads as a National Park.]

##### Textual Amendments

- F114** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(4)**
- F115** S. 44(4) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 Pt. I para. 31(4)**

#### <sup>x7</sup>45 Power to vary order designating National Park.

The Countryside Commission (as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park, and—

- (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they apply to an order under section 7(4) of that Act with the substitution for

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the reference in section 7(5) to the Secretary of State of a reference to the Countryside Commission; and

- (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to an order designating a National Park.

#### Editorial Information

- X7 S. 45 (the unamended text of which appears first) amended (*prosp.*) as provided by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 130, 164(3), [Sch. 8 para. 6\(4\)](#); s. 45, as so amended, appears second

#### 46 Membership of National Park authorities.

<sup>x8</sup>(1) In Part I of Schedule 17 to the <sup>M47</sup>Local Government Act 1972 (discharge of planning and countryside functions in National Parks) in paragraph 11 after the words “one third” there shall be inserted the words “(to the nearest whole number)”.

<sup>x8</sup>(2) After paragraph 12 of that Schedule there shall be inserted the following paragraph—

“12A (1) The members of a joint planning board, special planning board or National Park Committee established for an area being or comprising the whole or any part of a National Park shall include members (in this paragraph referred to as “district council members”) who are appointed by district councils whose districts comprise any part of that Park (in this paragraph referred to as “relevant district councils”).

- (2) The number of district council members of such a board or Committee shall be equal to—
- (a) the number of relevant district councils ; or
  - (b) one seventh (to the nearest whole number) of the members of the board or Committee,

whichever is the less ; and for the purposes of this sub-paragraph any casual vacancy in the membership of the board or Committee shall be disregarded.

(3) The district council members shall be appointed by such of the relevant district councils as may be agreed between those councils or as in default of agreement may be determined by the Secretary of State.

(4) The district council members shall hold office for a period of one year and shall be eligible for reappointment ; and section 102(5) above shall apply in relation to a district council member appointed under this paragraph as it applies in relation to a member of a committee appointed under that section.”

<sup>x8</sup>(3) In paragraph 14 of that Schedule for the words “subject to paragraph 11 above” there shall be substituted the words “subject to paragraphs 11 and 12A above”.

(4) In the case of a joint planning board, special planning board or National Park Committee established for an area being or comprising the whole or any part of a National Park, members who are members of relevant district councils (within the

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meaning of the said paragraph 12A) and are neither members of a county council nor persons appointed in pursuance of the said paragraph 11 shall cease to be members of the board or Committee as from the coming into force of this section.

**Editorial Information**

**X8** The text of ss. 15(1), 38(6), 40, 46(1)–(3) and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M47** 1972 c. 70.

*Miscellaneous and supplemental*

**47 Provisions with respect to the Countryside Commission.**

- (1) Schedule 13 shall have effect as respects the Countryside Commission.
- (2) The Secretary of State may, with the approval of the Treasury, make to the Countryside Commission [<sup>F116</sup>or to the Countryside Council for Wales] out of moneys provided by Parliament grants of such amount and subject to such conditions (if any) as he may, with the approval of the Treasury, think fit.
- (3) Sections 2, 4 and 95 of the 1949 Act and section 3 of the 1968 Act (which are superseded by this section) shall cease to have effect.

**Textual Amendments**

**F116** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 130, 164(3), [Sch. 8 para. 6\(5\)](#)

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

**C20** The text of ss. 15(1), 38(6), 40, 46(1)–(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**48** ..... **F117**

**Textual Amendments**

**F117** [S. 48](#) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)

**49 Extension of power to appoint wardens.**

- (1) This section applies to any land in a National Park or in the countryside if—
  - (a) the public are allowed access to the land; and

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- (b) there is no power under any of the provisions of the 1949 Act and the 1968 Act for a local authority, a local planning authority [<sup>F118</sup>, the Countryside Council for Wales.] or the Countryside Commission to appoint wardens as respects that land.
- (2) Subject to subsections (3) and (4) the power conferred on a local authority by section 92(1) of the 1949 Act (appointment of wardens) shall include a power, exercisable only with the agreement of the owner and of the occupier of any land to which this section applies, to appoint persons to act as wardens as respects that land.
- (3) The only purpose for which wardens may be appointed by virtue of subsection (2) is to advise and assist the public.
- (4) Notwithstanding the provisions of section 41(8) of the 1968 Act (Countryside Commission [<sup>F118</sup> or the Countryside Council for Wales] to be local authority for purposes of section 92 of the 1949 Act), nothing in this section shall be construed as conferring on the Countryside Commission [<sup>F118</sup> or the Countryside Council for Wales] any additional power to appoint wardens.

#### Textual Amendments

**F118** Words inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 130, 164(3), [Sch. 8 para. 6\(6\)](#)

## 50 Payments under certain agreements offered by authorities.

- (1) This section applies where—
- (a) the Nature Conservancy Council offer to enter into an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments to—
- (i) a person who has given notice under section 28(5) or 29(4); or
  - (ii) a person whose application for farm capital grant has been refused in consequence of an objection by the Council; or
- (b) the relevant authority offer to enter into a management agreement providing for the making by them of payments to a person whose application for a farm capital grant has been refused in consequence of an objection by the authority.
- (2) Subject to subsection (3), the said payments shall be of such amounts as may be determined by the offeror in accordance with guidance given by the Ministers.
- (3) If the offeree so requires within one month of receiving the offer, the determination of those amounts shall be referred to an arbitrator (or, in Scotland, an arbiter) to be appointed, in default of agreement, by the Secretary of State; and where the amounts determined by the arbitrator exceed those determined by the offeror, the offeror shall—
- (a) amend the offer so as to give effect to the arbitrator's (or, in Scotland, the arbiter's) determination; or
  - (b) except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the offeror, withdraw the offer.
- (4) In this section—
- [<sup>F119</sup> “farm capital grant” has the same meaning as in section 32;]



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“management agreement” and “the relevant authority” have the same meanings as in section 41.

#### Textual Amendments

**F119** Definition substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), **s. 20(6)**

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

**C21** [S. 50](#) modified (E.W.) (19.9.1995) by [1995 c. 25, ss. 69\(2\)\(a\), 125\(2\)](#) (with [ss. 7\(6\), 115, Sch. 8 para. 7](#))

## 51 Powers of entry.

- (1) Any person authorised in writing by the relevant authority may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for any of the following purposes—
- to ascertain whether an order should be made in relation to that land under section 29 or if an offence under that section is being, or has been, committed on that land;
  - to ascertain the amount of any compensation payable under section 30 in respect of an interest in that land;
  - to ascertain whether an order should be made in relation to that land under section 34 or if an offence under that section is being, or has been, committed on that land;
  - to ascertain whether an order should be made in relation to that land under section 42 or if an offence under that section is being, or has been, committed on that land;
- but nothing in this subsection shall authorise any person to enter a dwelling.
- (2) In subsection (1) “the relevant authority” means—
- for the purposes of paragraphs (a) and (b) of that subsection, the Nature Conservancy Council;
  - for the purposes of paragraph (c) of that subsection, the Secretary of State or the relevant authority within the meaning of section 34;
  - for the purposes of paragraph (d) of that subsection, the Ministers or the <sup>F120</sup>local planning authority].
- (3) A person shall not demand admission as of right to any land which is occupied unless either—
- 24 hours notice of the intended entry has been given to the occupier; or
  - the purpose of the entry is to ascertain if an offence under section 29, 34 or 42 is being, or has been, committed on that land.
- (4) Any person who intentionally obstructs a person acting in the exercise of any power conferred by subsection (1) shall be liable on summary conviction to a fine not exceeding <sup>F121</sup>level 3 on the standard scale].

#### Textual Amendments

**F120** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), [ss. 1, 2, 7, Sch. 3 para. 7\(4\)](#)

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**F121** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

VALID FROM 01/05/2006

**[<sup>F122</sup>51A Summary prosecutions**

- (1) Proceedings in England and Wales for a summary offence under this Part may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.
- (2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.]

**Textual Amendments**

**F122** [S. 51A](#) inserted (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 53, 107, Sch. 6 para. 4; S.I. 2006/1382, art. 2](#)

**52 Interpretation of Part II.**

- (1) In this Part, unless the context otherwise requires,—
  - “agricultural land” does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land;
  - “the Ministers”, in the application of this Part to England, means the Secretary of State and the Minister of Agriculture, Fisheries and Food, and, in the application of this Part to Scotland or Wales, means the Secretary of State.
  - [<sup>F123</sup> “the Nature Conservancy Councils” means the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland and the Countryside Council for Wales;
 and references to “the Nature Conservancy Council” shall be construed in accordance with section 27A.]
- (2) [<sup>F124</sup>In the application of this Part to England (except as respects a metropolitan county or Greater London) and to Wales references to a local planning authority shall be construed—
  - (a) in sections 42, 43, 44 and 51(2)(c) as references to a county planning authority; and
  - (b) in any other provision, as references to a county planning authority and a district planning authority;]

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and in the application of this Part to Scotland references to a local planning authority shall be construed as references to a regional planning authority, a general planning authority and a district planning authority.

- (3) References in this Part to the conservation of the natural beauty of any land shall be construed as including references to the conservation of its flora, fauna and geological and physiographical features.
- (4) Section 114 of the 1949 Act shall apply for the construction of this Part.
- (5) Any power or duty which under this Part (except sections 41 and 42(1)) falls to be exercised or performed by or in relation to the Ministers may, in England, be exercised or performed by or in relation to either of them.

#### Textual Amendments

**F123** Definition inserted (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 132(1)(a), 164(3), [Sch. 9 para. 11\(13\)](#)

**F124** Words and s. 52(2)(a)(b) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(5\)](#)

## PART III

### PUBLIC RIGHTS OF WAY

#### *Ascertainment of public rights of way*

#### **53 Duty to keep definitive map and statement under continuous review.**

- (1) In this Part “definitive map and statement”, in relation to any area, means, subject to section 57(3),—
  - (a) the latest revised map and statement prepared in definitive form for that area under section 33 of the 1949 Act; or
  - (b) where no such map and statement have been so prepared, the original definitive map and statement prepared for that area under section 32 of that Act; or
  - (c) where no such map and statement have been so prepared, the map and statement prepared for that area under section 55(3).
- (2) As regards every definitive map and statement, the surveying authority shall—
  - (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
  - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in subsection (2) are as follows—

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- (a) the coming into operation of any enactment or instrument, or any other event, whereby—
    - (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
    - (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or
    - (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path;
  - (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path;
  - (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—
    - (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies;
    - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or
    - (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- (4) The modifications which may be made by an order under subsection (2) shall include the addition to the statement of particulars as to—
- (a) the position and width of any public path or byway open to all traffic which is or is to be shown on the map; and
  - (b) any limitations or conditions affecting the public right of way thereover.
- (5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.
- (6) Orders under subsection (2) which make only such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (a) of subsection (3) shall take effect on their being made; and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of other orders under subsection (2).

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

- C22** S. 53: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1  
 S. 53 excluded (*prosp.*) by 2000 c. 37, ss. 49(5), 103(3)

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VALID FROM 21/11/2005

**[<sup>F125</sup>53A Power to include modifications in other orders.**

- (1) This section applies to any order—
  - (a) which is of a description prescribed by regulations made by the Secretary of State,
  - (b) whose coming into operation would, as regards any definitive map and statement, be an event within section 53(3)(a),
  - (c) which is made by the surveying authority, and
  - (d) which does not affect land outside the authority's area.
- (2) The authority may include in the order such provision as it would be required to make under section 53(2)(b) in consequence of the coming into operation of the other provisions of the order.
- (3) An authority which has included any provision in an order by virtue of subsection (2)—
  - (a) may at any time before the order comes into operation, and
  - (b) shall, if the order becomes subject to special parliamentary procedure, withdraw the order and substitute for it an order otherwise identical but omitting any provision so included.
- (4) Anything done for the purposes of any enactment in relation to an order withdrawn under subsection (3) shall be treated for those purposes as done in relation to the substituted order.
- (5) No requirement for the confirmation of an order applies to provisions included in the order by virtue of subsection (2), but any power to modify an order includes power to make consequential modifications to any provision so included.
- (6) Provisions included in an order by virtue of subsection (2) shall take effect on the date specified under section 56(3A) as the relevant date.
- (7) Where any enactment provides for questioning the validity of an order on any grounds, the validity of any provision included by virtue of subsection (2) may be questioned in the same way on the grounds—
  - (a) that it is not within the powers of this Part, or
  - (b) that any requirement of this Part or of regulations made under it has not been complied with.
- (8) Subject to subsections (5) to (7), the Secretary of State may by regulations provide that any procedural requirement as to the making or coming into operation of an order to which this section applies shall not apply, or shall apply with modifications prescribed by the regulations, to so much of the order as contains provision included by virtue of subsection (2).
- (9) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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### Textual Amendments

**F125** S. 53A inserted (21.11.2005 for W. and 18.2.2008 for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 2; S.I. 2005/1314, art. 4; S.I. 2008/308, art. 2

VALID FROM 27/09/2005

### [<sup>F126</sup>53B Register of applications under section 53.

- (1) Every surveying authority shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect to applications under section 53(5).
- (2) The register shall contain such information as may be prescribed with respect to the manner in which such applications have been dealt with.
- (3) Regulations may make provision for the register to be kept in two or more parts, each part containing such information relating to applications under section 53(5) as may be prescribed.
- (4) Regulations may make provision—
  - (a) for a specified part of the register to contain copies of applications and of the maps submitted with them, and
  - (b) for the entry relating to any application, and everything relating to it, to be removed from any part of the register when—
    - (i) the application (including any appeal to the Secretary of State) has been finally disposed of, and
    - (ii) if an order is made, a decision has been made to confirm or not to confirm the order,
 (without prejudice to the inclusion of any different entry relating to it in another part of the register).
- (5) Every register kept under this section shall be available for inspection free of charge at all reasonable hours.
- (6) In this section—
 

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State by statutory instrument;

and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

### Textual Amendments

**F126** S. 53B inserted (27.9.2005 for E. and 21.11.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 2; S.I. 2005/2459, art. 2(1); S.I. 2005/1314, art. 4

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## 54 Duty to reclassify roads used as public paths.

- (1) As regards every definitive map and statement, the surveying authority shall, as soon as reasonably practicable after the commencement date,—
  - (a) carry out a review of such of the particulars contained in the map and statement as relate to roads used as public paths; and
  - (b) by order make such modifications to the map and statement as appear to the authority to be requisite to give effect to subsections (2) and (3);and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of orders under this subsection.
- (2) A definitive map and statement shall show every road used as a public path by one of the three following descriptions, namely—
  - (a) a byway open to all traffic;
  - (b) a bridleway;
  - (c) a footpath,and shall not employ the expression “road used as a public path” to describe any way.
- (3) A road used as a public path shall be shown in the definitive map and statement as follows—
  - (a) if a public right of way for vehicular traffic has been shown to exist, as a byway open to all traffic;
  - (b) if paragraph (a) does not apply and public bridleway rights have not been shown not to exist, as a bridleway; and
  - (c) if neither paragraph (a) nor paragraph (b) applies, as a footpath.
- (4) Each way which, in pursuance of an order under subsection (1), is shown in the map and statement by any of the three descriptions shall, as from the coming into operation of the order, be a highway maintainable at the public expense; and each way which, in pursuance of paragraph 9 of Part III of Schedule 3 to the 1968 Act, is so shown shall continue to be so maintainable.
- (5) In this section “road used as a public path” means a way which is shown in the definitive map and statement as a road used as a public path.
- (6) In subsections (2)(a) and (5) of section 51 of the 1949 Act (long distance routes) references to roads used as public paths shall include references to any way shown in a definitive map and statement as a byway open to all traffic.
- (7) Nothing in this section or section 53 shall limit the operation of traffic orders under the Road Traffic Regulation Act [<sup>F127</sup>1984] or oblige a highway authority to provide, on a way shown in a definitive map and statement as a byway open to all traffic, a metalled carriage-way or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.

### Textual Amendments

**F127** “1984” substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, [Sch. 13 para. 53](#)

### Modifications etc. (not altering text)

**C23** [S. 54](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by [S.I. 2000/2853, reg. 2\(1\)](#), [Sch. 1](#) Head I

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PROSPECTIVE

[<sup>F128</sup> **54A BOATS not to be added to definitive maps.**

- (1) No order under this Part shall, after the cut-off date, modify a definitive map and statement so as to show as a byway open to all traffic any way not shown in the map and statement as a highway of any description.
- (2) In this section “the cut-off date” means, subject to regulations under subsection (3), 1st January 2026.
- (3) The Secretary of State may make regulations—
  - (a) substituting as the cut-off date a date later than the date specified in subsection (2) or for the time being substituted under this paragraph;
  - (b) containing such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the operation of subsection (1), including in particular its operation in relation to—
    - (i) an order under section 53(2) for which on the cut-off date an application is pending,
    - (ii) an order under this Part which on that date has been made but not confirmed,
    - (iii) an order under section 55 made after that date, or
    - (iv) an order under this Part relating to any way as respects which such an order, or any provision of such an order, has after that date been to any extent quashed.
- (4) Regulations under subsection (3)(a)—
  - (a) may specify different dates for different areas; but
  - (b) may not specify a date later than 1st January 2031, except as respects an area within subsection (5).
- (5) An area is within this subsection if it is in—
  - (a) the Isles of Scilly, or
  - (b) an area which, at any time before the repeal by section 73 of this Act of sections 27 to 34 of the 1949 Act—
    - (i) was excluded from the operation of those sections by virtue of any provision of the 1949 Act, or
    - (ii) would have been so excluded but for a resolution having effect under section 35(2) of that Act.
- (6) Where by virtue of regulations under subsection (3) there are different cut-off dates for areas into which different parts of any way extend, the cut-off date in relation to that way is the later or latest of those dates.
- (7) Where it appears to the Secretary of State that any provision of this Part can by virtue of subsection (1) have no further application he may by order make such amendments or repeals in this Part as appear to him to be, in consequence, necessary or expedient.
- (8) An order or regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]



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### Textual Amendments

**F128** S. 54A inserted (prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 4

## 55 No further surveys or reviews under the 1949 Act.

- (1) No survey under sections 27 to 32 of the 1949 Act, or review under section 33 of that Act, shall be begun after the commencement date; and where on that date a surveying authority have not completed such a survey or review begun earlier, the Secretary of State may, after consultation with the authority, direct the authority—
  - (a) to complete the survey or review; or
  - (b) to abandon the survey or review to such extent as may be specified in the direction.
- (2) Where such a survey or review so begun is abandoned, the Secretary of State shall give such notice of the abandonment as appears to him requisite.
- (3) Where, in relation to any area, no such survey has been so begun or such a survey so begun is abandoned, the surveying authority shall prepare for that area a map and statement such that, when they have been modified in accordance with the provisions of this Part, they will serve as the definitive map and statement for that area.
- (4) Where such a survey so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement prepared under subsection (3) so as—
  - (a) to give effect to any determination or decision of the authority under section 29(3) or (4) of the 1949 Act in respect of which either there is no right of appeal or no notice of appeal has been duly served;
  - (b) to give effect to any decision of the Secretary of State under section 29(6) of that Act; and
  - (c) to show any particulars shown in the draft map and statement with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections had been withdrawn.
- (5) Where such a review so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement under review so as—
  - (a) to give effect to any decision of the Secretary of State under paragraph 4(4) of Part II of Schedule 3 to the 1968 Act; and
  - (b) to show any particulars shown in the draft map and statement but not in the map and statement under review, and to omit any particulars shown in the map and statement under review but not in the draft map and statement, being (in either case) particulars with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections have been withdrawn.
- (6) Orders under subsection (4) or (5) shall take effect on their being made.

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## 56 Effect of definitive map and statement.

- (1) A definitive map and statement shall be conclusive evidence as to the particulars contained therein to the following extent, namely—
  - (a) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover a right of way on foot, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than that right;
  - (b) where the map shows a bridleway, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights;
  - (c) where the map shows a byway open to all traffic, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way for vehicular and all other kinds of traffic;
  - (d) where the map shows a road used as a public path, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights; and
  - (e) where by virtue of the foregoing paragraphs the map is conclusive evidence, as at any date, as to a highway shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at that date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.
- (2) For the purposes of this section “the relevant date”—
  - (a) in relation to any way which is shown on the map otherwise than in pursuance of an order under the foregoing provisions of this Part, means the date specified in the statement as the relevant date for the purposes of the map;
  - (b) in relation to any way which is shown on the map in pursuance of such an order, means the date which, in accordance with subsection (3), is specified in the order as the relevant date for the purposes of the order.
- (3) Every order under the foregoing provisions of this Part shall specify, as the relevant date for the purposes of the order, such date, not being earlier than six months before the making of the order, as the authority may determine.
- (4) A document purporting to be certified on behalf of the surveying authority to be a copy of or of any part of a definitive map or statement as modified in accordance with the provisions of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

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- (5) Where it appears to the Secretary of State that paragraph (d) of subsection (1) can have no further application, he may by order made by statutory instrument repeal that paragraph.

## **57 Supplementary provisions as to definitive maps and statements.**

- (1) An order under the foregoing provisions of this Part shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, on such scale as may be so prescribed, showing the modifications to which the order relates.
- (2) Regulations made by the Secretary of State may prescribe the scale on which maps are to be prepared under section 55(3), and the method of showing in definitive maps and statements anything which is required to be so shown.
- (3) Where, in the case of a definitive map and statement for any area which have been modified in accordance with the foregoing provisions of this Part, it appears to the surveying authority expedient to do so, they may prepare a copy of that map and statement as so modified; and where they do so, the map and statement so prepared, and not the map and statement so modified, shall be regarded for the purposes of the foregoing provisions of this Part as the definitive map and statement for that area.
- (4) The statement prepared under subsection (3) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) As regards every definitive map and statement, the surveying authority shall keep—
- (a) a copy of the map and statement; and
  - (b) copies of all orders under this Part modifying the map and statement,
- available for inspection free of charge at all reasonable hours at one or more places in each district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority, a place in each parish so comprised; and the authority shall be deemed to comply with the requirement to keep such copies available for inspection in a district or parish if they keep available for inspection there a copy of so much of the map and statement and copies of so many of the orders as relate to the district or parish.
- (6) Notwithstanding anything in subsection (5), an authority shall not be required to keep available for inspection more than one copy of—
- (a) any definitive map and statement; or
  - (b) each order under this Part modifying the map and statement,
- if, as respects the area to which that map and statement relate, a subsequent map and statement have been prepared under subsection (3); and the said single copies may be kept in such place in the area of the authority as they may determine.
- (7) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the provisions of this Part including, in particular, section 53(5) and subsection (5).
- (8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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VALID FROM 13/02/2004

**[<sup>F129</sup>57A Consolidation of definitive maps and statements.**

- (1) Where—
  - (a) different definitive maps and statements relate to different parts of a surveying authority's area,
  - (b) as respects so much of each definitive map and statement as relates to that area the requirements of section 53(2), and of section 55 so far as it applies, have been complied with, and
  - (c) there is no part of that area to which no definitive map and statement relate, the authority may, if it appears to them expedient to do so, prepare a map and statement comprising copies of so much of each definitive map and statement as relates to the authority's area; and where they do so the map and statement so prepared and not, so far as copied, the earlier maps and statements shall be regarded for the purposes of sections 53 to 56 and 57(2) and (3) as the definitive map and statement for the area to which they relate.
- (2) The power conferred by subsection (1) is not exercisable by a surveying authority if the definitive map and statement relating to any part of the authority's area is a map and statement in respect of which a review under section 33 of the 1949 Act was begun before the commencement date but has been neither abandoned in pursuance of a direction under section 55(1) nor completed.
- (3) References in subsection (1) to a definitive map and statement are, in the case of a map and statement modified in accordance with any of the foregoing provisions of this Part, references to the map and statement as modified.
- (4) The statement prepared under subsection (1) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the preparation by them of any map and statement under subsection (1).]

**Textual Amendments**

**F129** S. 57A inserted (13.2.2004 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 8; S.I. 2004/292, art. 2; S.I. 2005/1314, art. 2

**58 Application of ss. 53 to 57 to inner London.**

- (1) Subject to subsection (2), the foregoing provisions of this Part shall not apply to any area to which this subsection applies; and this subsection applies to any area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (2) A London borough council may by resolution adopt the said foregoing provisions as respects any part of their area specified in the resolution, being a part to which subsection (1) applies, and those provisions shall thereupon apply accordingly.

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- (3) Where by virtue of a resolution under subsection (2), the said foregoing provisions apply to any area, those provisions shall have effect in relation thereto as if for references to the commencement date there were substituted references to the date on which the resolution comes into operation.

*Miscellaneous and supplemental*

**59 Prohibition on keeping bulls on land crossed by public rights of way.**

- (1) If, in a case not falling within subsection (2), the occupier of a field or enclosure crossed by a right of way to which this Part applies permits a bull to be at large in the field or enclosure, he shall be liable on summary conviction to a fine not exceeding [<sup>F130</sup>level 3 on the standard scale].
- (2) Subsection (1) shall not apply to any bull which—
  - (a) does not exceed the age of ten months; or
  - (b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.
- (3) Nothing in any byelaws, whenever made, shall make unlawful any act which is, or but for subsection (2) would be, made unlawful by subsection (1).
- (4) In this section “recognised dairy breed” means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.
- (5) The Secretary of State may by order add any breed to, or remove any breed from, subsection (4); and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F130** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

<sup>F131</sup>**60** .....

**Textual Amendments**

**F131** S. 60 repealed by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, [Sch. 14](#)

<sup>F132X9</sup>**61 Ploughing of public rights of way.**

- (1) Section 134 of the <sup>M48</sup>Highways Act 1980 (ploughing of footpath or bridleway) shall have effect subject to the amendments provided for by subsections (2) to (9).
- (2) Subsection (3) (7 days’ notice of intention to plough) shall be omitted.
- (3) In subsection (4) (duty to restore surface of footpath or bridleway), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

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- “(a) not later than 2 weeks from the time when the occupier began to plough the footpath or bridleway, or
- (b) if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter.”
- (4) In subsection (5) (failure to comply with subsection (3) or (4)) the words “(3) or” shall be omitted, for paragraphs (a) and (b) there shall be substituted the words “to a fine not exceeding £200” and for the words “subsection (4)”, in the second place where they occur, there shall be substituted the words “that subsection”.
- (5) After that subsection there shall be inserted the following subsection—
- “(5A) A person who ploughs any footpath, bridleway or other highway otherwise than in the exercise of a right to plough it shall be guilty of an offence and liable to a fine not exceeding £200.”
- (6) In subsection (6) (enforcement of subsections (3) to (5)) for the words “subsections (3) to (5) above as respects any footpath or bridleway” there shall be substituted the words “subsections (4) to (5A) above as respects any footpath, bridleway or other highway”.
- (7) In subsection (7) (proceedings by parish or community councils) after the words “subsection (4)” there shall be inserted the words “or (5A)”.
- (8) In subsection (8) (power of competent authority to restore surface of footpath or bridleway) for the words “footpath or bridleway” there shall be substituted the words “footpath, bridleway or other highway”.
- (9) In subsection (10) (competent authorities for the purposes of subsections (8) and (9)) for the words “footpath or bridleway”, in both places where they occur, there shall be substituted the words “footpath, bridleway or other highway”.
- (10) In section 135(1) of the said Act of 1980 (temporary diversion of footpath or bridleway ploughed up under section 134) the words “6 or” and “6 weeks or” shall be omitted.]

#### Editorial Information

**X9** The text of s. 61 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Textual Amendments

**F132** S. 61 repealed (E.W.) by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 6(4)

#### Marginal Citations

**M48** 1980 c. 66.

## 62 Appointment of wardens for public rights of way.

A local authority may appoint such number of persons as appears to the authority to be necessary or expedient to act as wardens as respects a footpath, bridleway or byway open to all traffic which is both in the countryside and in the area of the authority, and the purpose for which the wardens may be so appointed is to advise and assist the public in connection with the use of the path or way.

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

- C24** S. 62: functions made exercisable concurrently (22.7.2004) by virtue of [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), **art. 25(1)(2)(xxx)**, Sch. (with art. 35)
- S. 62: functions made exercisable concurrently (22.7.2004) by virtue of [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), **art. 25(1)(2)(xxx)**, Sch. (with art. 35)

**63 Orders creating, extinguishing or diverting footpaths and bridleways.**

The enactments mentioned in Schedule 16 (which relate to the making and confirmation of certain orders creating, extinguishing or diverting footpaths and bridleways) shall have effect subject to the amendments provided for in that Schedule.

**<sup>X10</sup>64 Publication of dedication of footpaths and bridleways.**

At the end of section 25 of the <sup>M49</sup> Highways Act 1980 (creation of footpath or bridleway by agreement) there shall be inserted the following subsection—

“(6) As soon as may be after the dedication of a footpath or bridleway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated.”.

**Editorial Information**

- X10** The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M49** 1980 c. 66.

**<sup>X11</sup>65 Signposting of byways open to all traffic.**

(1) In section 27 of the 1968 Act (signposting of footpaths and bridleways) for the words “or bridleway”, wherever they occur, there shall be substituted the words “bridleway or byway”; and for the words “and bridleways” in subsection (6) of that section there shall be substituted the words “bridleways and byways”.

(2) After subsection (7) of that section there shall be inserted the following subsection—

“(8) In this section “byway” means a byway open to all traffic, that is to say, a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are so used.”

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### Editorial Information

**X11** The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 66 Interpretation of Part III.

### (1) In this Part—

“bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

“byway open to all traffic” means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used;

“definitive map and statement” has the meaning given by section 53(1);

“footpath” means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road;

“horse” includes a pony, ass and mule, and “horseback” shall be construed accordingly;

“public path” means a highway being either a footpath or a bridleway;

“right of way to which this Part applies” means a right of way such that the land over which the right subsists is a public path or a byway open to all traffic;

[<sup>F133</sup> “surveying authority”, in relation to any area, means the county council, metropolitan district council, or London borough council whose area includes that area.]

(2) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in subsection (1) by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

(3) The provisions of section 30(1) of the 1968 Act (riding of pedal cycles on bridleways) shall not affect the definition of bridleway in subsection (1) and any rights exercisable by virtue of those provisions shall be disregarded for the purposes of this Part.

### Textual Amendments

**F133** Definition substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(6\)](#)



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## PART IV

### MISCELLANEOUS AND GENERAL

VALID FROM 01/10/2006

#### [<sup>F134</sup>66A Application of Part 1 to Crown

- (1) Subject to subsections (2) to (5), Part 1 and regulations and orders made under it bind the Crown.
- (2) No contravention by the Crown of any provision of Part 1 makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), Part 1 applies to persons in the public service of the Crown as it applies to other persons.
- (4) But the powers conferred by sections 18A to 19XA are not exercisable in relation to premises occupied by the Crown.
- (5) Nothing in this Part affects Her Majesty in her private capacity.
- (6) Subsection (5) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Act.]

#### Textual Amendments

**F134** S. 66A inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. [54\(1\)](#), [107](#); S.I. 2006/2541, [art. 2](#)

#### 67 Application to Crown.

- (1) Subject to the following provisions of this section, Part II, except section 51, and Part III shall apply to Crown land, that is to say, land an interest in which belongs to Her Majesty in the 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 Her Majesty for the purposes of a Government department.
- (2) No order shall be made under section 29, 34, 36 or 42 in relation to Crown land unless the appropriate authority has consented to the making of that order.
- (3) An agreement under section 39 as respects any interest in Crown land, other than an interest held by or on behalf of the Crown, shall not have effect unless approved by the appropriate authority.
- (4) Section 101(11) of the 1949 Act (Crown land) shall apply for the construction of references in this section to the appropriate authority.

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## 68 Application to the Isles of Scilly.

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order made by statutory instrument provide for the application of the provisions of Part II or III to the Isles of Scilly as if those Isles were a separate county; any any such order may provide for the application of those provisions to those Isles subject to such modifications as may be specified in the order.

## 69 Offences by bodies corporate etc.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## 70 Financial provisions.

- (1) There shall be defrayed out of money provided by Parliament—
  - (a) any administrative expenses incurred by any Minister of the Crown under this Act; and
  - (b) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received by a Minister of the Crown under this Act shall be paid into the Consolidated Fund.

## [<sup>F135</sup>70A Service of notices.

- (1) Subject to subsection (2), [<sup>F136</sup>section 329 of the <sup>M50</sup>Town and Country Planning Act 1990] and section 269 of the <sup>M51</sup>Town and Country Planning (Scotland) Act 1972 (which provide for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act.
- (2) [<sup>F137</sup>Subsections (2) and (3) of the said section 329] shall not apply to a notice required to be served under paragraph 2 of Schedule 14.
- (3) This section shall not affect the operation of paragraph 2(4) of Schedule 11 or paragraph 3(4) of Schedule 15.

### Textual Amendments

**F135** S. 70A inserted by Wildlife and Countryside (Services of Notices) Act 1985 (c. 59, SIF 4:5), s. 1(1)

**F136** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 54(2)(a)

**F137** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 54(2)(b)

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### Marginal Citations

**M50** 1990 c. 8 (123:1).

**M51** 1972 c. 52 (123:2).

VALID FROM 31/05/2006

### <sup>F138</sup>70B Effect of failure to serve certain notices

- (1) This section applies where the relevant conservation body—
  - (a) has (whether before or after the commencement of this section) taken all reasonable steps to ensure that, under any provision listed in subsection (2), notice is served on every owner and occupier of any land to which the notice relates, but
  - (b) has failed to do so.
- (2) The provisions are—
  - (a) section 28(1) (notification of SSSI);
  - (b) section 28(5) (confirmation or withdrawal of notification of SSSI);
  - (c) section 28A(3) (notice varying notification under section 28);
  - (d) section 28A(5) (notice confirming or withdrawing variation of notification);
  - (e) section 28B(2) (notification of additional land to be included in SSSI);
  - (f) section 28B(7) (confirmation or withdrawal of notification);
  - (g) section 28C(2) (notification of enlargement of SSSI);
  - (h) section 28C(3) (confirmation or withdrawal of notification of enlargement);
  - (i) section 28D(2) (denotification);
  - (j) section 28D(5) (withdrawal or confirmation of denotification);
  - (k) section 28J(3) (notice of proposed management scheme);
  - (l) section 28J(8) (withdrawal or confirmation of management scheme).
- (3) The validity of the notice is not affected by the failure to serve it on every owner and occupier of the land.
- (4) For the purposes of sections 28 to 28Q, the time when the notice is to be treated as having been served is the time when the relevant conservation body took the last of the steps referred to in subsection (1)(a).
- (5) If the relevant conservation body becomes aware of its failure to serve a notice on an owner or occupier, it must serve a copy of the notice on that owner or occupier.
- (6) Nothing in subsection (3) or (4) renders the owner or occupier liable—
  - (a) in relation to anything done or omitted to be done before the commencement of this section, or
  - (b) under section 28P(1) or 28Q(4) in relation to anything done or omitted to be done before the copy of the notice is served under subsection (5).
- (7) “The relevant conservation body” means—
  - (a) in relation to land in an area in England—
    - (i) subject to sub-paragraph (ii), Natural England;

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- (ii) in relation to any time before the commencement of section 27AA, English Nature;
- (b) in relation to land in an area in Wales, the Countryside Council for Wales.]

**Textual Amendments**  
**F138** S. 70B inserted (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), **ss. 57, 107**; [S.I. 2006/1382](#), **art. 2**

**71 General interpretation.**

In this Act—

- “the <sup>M52</sup>1949 Act” means the National Parks and Access to the Countryside Act 1949;
- “the <sup>M53</sup>1968 Act” means the Countryside Act 1968;
- [<sup>F139</sup> “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.]
- “the commencement date”, in relation to any provision of this Act and any area, means the date of the coming into force of that provision in that area;
- “London borough council” includes the Common Council of the City of London;
- “modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;
- “statutory maximum”, in relation to a fine on summary conviction, means—
  - (a) in England and Wales, the prescribed sum within the meaning of section 32 of the <sup>M54</sup>Magistrates’ Courts Act 1980 (at the passing of this Act £1,000); and
  - (b) in Scotland, the prescribed sum within the meaning of section 289B of the <sup>M55</sup>Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000).

**Textual Amendments**  
**F139** Definition inserted (E.W.) by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), **ss. 2(5), 23(2), 27(2), Sch. 3 Pt. 1 para. 31(5)**

**Marginal Citations**  
**M52** 1949 c. 97.  
**M53** 1968 c. 41.  
**M54** 1980 c. 43.  
**M55** 1975 c. 21.

**72 Minor amendments.**

- (1) ..... <sup>F140</sup>
- (2) In section 20(2) of the <sup>M56</sup>Hill Farming Act 1946 (penalty for contravening regulations with respect to the burning of heather and grass) as originally enacted for the words from “five pounds” onwards there shall be substituted the words “£200”.

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- (3) In sections 27 of that Act (penalty for contravening the provisions of that Act relating to muirburn) for the words from “five pounds” onwards there shall be substituted the words “£200”.
- (4) In section 39 of the <sup>M57</sup> Agriculture (Scotland) Act 1948 for the words “the First Schedule to the Protection of Birds Act 1954” there shall be substituted the words “Schedule I to the Wildlife and Countryside Act 1981”.
- (5) In section 11(1) of the 1949 Act (general powers of local planning authorities in relation to National Parks) after the word “accomplishment” there shall be inserted the words “of any”.
- (6) In section 74(4) of the <sup>M58</sup> Public Health Act 1961 (power to reduce numbers of pigeons and other birds in built-up areas), for the words “the Protection of Birds Act 1954” there shall be substituted the words “Part I of the Wildlife and Countryside Act 1981”.
- (7) In section 2(8) of the 1968 Act (publicity and information services) for the words from “encouraging” onwards there shall be substituted the words “informing persons resorting to the countryside of their rights and obligations”.
- (8) In section 15(1) of that Act (areas of special scientific interest) the words “which is not for the time being managed as a nature reserve but” shall be omitted.
- (9) In section 37 of that Act (protection for interests in the countryside) for the words “and the Act of 1949” there shall be substituted the words “the Act of 1949 and the Wildlife and Countryside Act 1981”.
- (10) The functions of a county council [<sup>F141</sup>or metropolitan district council] under this Act as a local planning authority shall be included among the functions of such a council to which Part I of Schedule 17 to the <sup>M59</sup>Local Government Act 1972 (planning and countryside functions in National Parks) applies.
- (11) In section 31(10) of the <sup>M60</sup> Highways Act 1980 (dedication of way as highway presumed after public use for 20 years), for the words from “subsection (4)” to “that section” there shall be substituted the words “section 56(1) of the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement” and the words “or of that subsection” onwards shall be omitted.
- (12) Section 80 of that Act (power of highway authority to fence highways) shall have effect in relation to any area in the countryside of which walls of a particular construction are a feature, as if references to fences included references to walls of that construction ; and in exercising their powers under that section in relation to any such area, a highway authority shall have regard to the desirability of exercising the powers conferred by the foregoing provisions of this subsection.
- (13) In section 136(4) of that Act (time when hedges may not be required to be cut or pruned) immediately before the words “between the last day of September and the first day of April” there shall be inserted the word “except”.
- (14) In section 4(5) of the <sup>M61</sup>Zoo Licensing Act 1981 (grant or refusal of licence) the entries relating to the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975 shall be omitted and there shall be added at the end the following entry—  
  
“Part I of the Wildlife and Countryside Act 1981”.

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#### Textual Amendments

**F140** S. 72(1) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. VII**

**F141** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(7)**

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

**C25** The text of ss. 64, 65, 72(2)–(9)(11)(13(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M56** 1946 c. 73.

**M57** 1948 c. 45.

**M58** 1961 c. 64.

**M59** 1972 c. 70.

**M60** 1980 c. 66.

**M61** 1981 c. 37.

### 73 Repeals and savings.

- (1) The enactments mentioned in Schedule 17 are hereby repealed to the extent specified in the third column of that Schedule.
- (2) Nothing in the repeals made by this section shall affect the operation of sections 27 to 32 of the 1949 Act in relation to any survey begun before the commencement date.
- (3) Nothing in the repeals made by this section shall affect the operation of sections 33 and 34 of the 1949 Act and Parts II, III, and IV of Schedule 3 to the 1968 Act in relation to any review begun before the commencement date.
- (4) Notwithstanding the repeal by this section of the <sup>M62</sup>Conservation of Wild Creatures and Wild Plants Act 1975, section 9 of the <sup>M63</sup>Badgers Act 1973 shall continue to have effect with the amendment made by section 16 of the said Act of 1975.

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

**C26** The text of ss. 64, 65, 72(2)–(9)(11)(13(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M62** 1975 c. 48.

**M63** 1973 c. 57.

### 74 Short title commencement and extent.

- (1) This Act may be cited as the Wildlife and Countryside Act 1981.
- (2) The following provisions of this Act, namely—  
Part II, except sections 29 to 32, 41 and 46 to 48 and Schedule 13;  
sections 59 to 62 and 65 and 66; and

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Part IV, except section 72(4), (6) and (14) and section 73(1) so far as relating to Part II of Schedule 17,

shall come into force on the expiration of the period of one month beginning with the passing of this Act.

- (3) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed under this subsection for different provisions, different purposes or different areas.
- (4) An order under subsection (3) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (5) The following provisions of this Act, namely—  
sections 39, 40 and 42 to 49 and Schedule 13; and Part III, do not extend to Scotland.
- (6) This Act, except section 15(1) and Schedule 10 and, so far as regards any enactment mentioned in Schedule 17 that so extends, section 73 and that Schedule, does not extend to Northern Ireland.

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

**C27** Power of appointment conferred by s. 74(3) fully exercised: [S.I. 1982/3237](#), 990, 1136, 1217, 1983/20, 87

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## SCHEDULES

VALID FROM 31/05/2006

### [<sup>F142</sup>SCHEDULE ZA1

#### BIRDS WHICH RE-USE THEIR NESTS

##### Textual Amendments

**F142** Sch. ZA1 inserted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 47, 107; S.I. 2006/1382, art. 2

<i>Common name</i>	<i>Scientific name</i>
Eagle, Golden	<i>Aquila chrysaetos</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Osprey	<i>Pandion haliaetus</i>

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.]

VALID FROM 29/11/2004

### [<sup>F143</sup>SCHEDULE A1

#### PROTECTED NESTS AND NEST SITES: BIRDS

##### Textual Amendments

**F143** Sch. A1 inserted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 24; S.S.I. 2004/495, art. 2



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## SCHEDULE 1

Sections 1, 2, 4, 6, 19 and 22.

### BIRDS WHICH ARE PROTECTED BY SPECIAL PENALTIES

#### PART I

#### AT ALL TIMES

<i>Common name</i>	<i>Scientific name</i>
Avocet	<i>Recurvirostra avosetta</i>
Bee-eater	<i>Merops apiaster</i>
Bittern	<i>Botaurus stellaris</i>
Bittern, Little	<i>Ixobrychus minutus</i>
Bluethroat	<i>Luscinia svecica</i>
Brambling	<i>Fringilla montifringilla</i>
Bunting, Cirl	<i>Emberiza cirlus</i>
Bunting, Lapland	<i>Calcarius lapponicus</i>
Bunting, Snow	<i>Plectrophenax nivalis</i>
Buzzard, Honey	<i>Pernis apivorus</i>
Chough	<i>Pyrrhocorax pyrrhocorax</i>
Corncrake	<i>Crex crex</i>
Crake, Spotted	<i>Porzana porzana</i>
Crossbills (all species)	<i>Loxia</i>
Curlew, Stone	<i>Burhinus oediconemus</i>
Divers (all species)	<i>Gavia</i>
Dotterel	<i>Charadrius morinellus</i>
Duck, Long-tailed	<i>Clangula hyemalis</i>
Eagle, Golden	<i>Aquila chrysaetos</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Falcon, Gyr	<i>Falco rusticolus</i>
Fieldfare	<i>Turdus pilaris</i>
Firecrest	<i>Regulus ignicapillus</i>
Garganey	<i>Anas querquedula</i>
Godwit, Black-tailed	<i>Limosa limosa</i>
Goshawk	<i>Accipiter gentilis</i>
Grebe, Black-necked	<i>Podiceps nigricollis</i>
Grebe, Slavonian	<i>Podiceps auritus</i>

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Greenshank	Tringa nebularia
Gull, Little	Larus minutus
Gull, Mediterranean	Larus melanocephalus
Harriers (all species)	Circus
Heron, Purple	Ardea purpurea
Hobby	Falco subbuteo
Hoopoe	Upupa epops
Kingfisher	Alcedo atthis
Kite, Red	Milvus milvus
Merlin	Falco columbarius
Oriole, Golden	Oriolus oriolus
Osprey	Pandion haliaetus
Owl, Barn	Tyto alba
Owl, Snowy	Nyctea scandiaca
Peregrine	Falco peregrinus
Petrel, Leach's	Oceanodroma leucorhoa
Phalarope, Red-necked	Phalaropus lobatus
Plover, Kentish	Charadrius alexandrinus
Plover, Little Ringed	Charadrius dubius
Quail, Common	Coturnix coturnix
Redstart, Black	Phoenicurus ochruros
Redwing	Turdus iliacus
Rosefinch, Scarlet	Carpodacus erythrinus
Ruff	Philomachus pugnax
Sandpiper, Green	Tringa ochropus
Sandpiper, Purple	Calidris maritima
Sandpiper, Wood	Tringa glareola
Scaup	Aythya marila
Scoter, Common	Melanitta nigra
Scoter, Velvet	Melanitta fusca
Serin	Serinus serinus
Shorelark	Eremophila alpestris
Shrike, Red-backed	Lanius collurio
Spoonbill	Platalea leucorodia
Stilt, Black-winged	Himantopus himantopus

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Stint, Temminck's	Calidris temminckii
Swan, Bewick's	Cygnus bewickii
Swan, Whooper	Cygnus cygnus
Tern, Black	Chlidonias niger
Tern, Little	Sterna albifrons
Tern, Roseate	Sterna dougallii
Tit, Bearded	Panurus biarmicus
Tit, Crested	Parus cristatus
Treecreeper, Short-toed	Certhia brachydactyla
Warbler, Cetti's	Cettia cetti
Warbler, Dartford	Sylvia undata
Warbler, Marsh	Acrocephalus palustris
Warbler, Savi's	Locustella luscinioides
Whimbrel	Numenius phaeopus
Woodlark	Lullula arborea
Wryneck	Jynx torquilla

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## PART II

### DURING THE CLOSE SEASON

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<b><i>Common name</i></b>	<b><i>Scientific name</i></b>
Goldeneye	Bucephala clangula
Goose, Greylag (in Outer Hebrides, Caithness, Sutherland and Wester Ross only)	Anser anser
Pintail	Anas acuta

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Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

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VALID FROM 29/11/2004

[<sup>F144</sup>SCHEDULE 1A

## BIRDS WHICH ARE PROTECTED FROM HARASSMENT

**Textual Amendments**

**F144** Sch. 1A inserted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 25; S.S.I. 2004/495, art. 2

## SCHEDULE 2

Sections 2, 3, and 22.

## BIRDS WHICH MAY BE KILLED OR TAKEN

## PART I

## OUTSIDE THE CLOSE SEASON

<i>Common name</i>	<i>Scientific name</i>
Capercaillie	Tetrao urogallus
Coot	Fulica atra
Duck, Tufted	Aythya fuligula
Gadwall	Anas strepera
Goldeneye	Bucephala clangula
Goose, Canada	Branta canadensis
Goose, Greylag	Anser anser
Goose, Pink-footed	Anser brachyrhynchus
Goose, White-fronted (in England and Wales only)	Anser albifrons
Mallard	Anas platyrhynchos
Moorhen	Gallinula chloropus
Pintail	Anas acuta
Plover, Golden	Pluvialis apricaria
Pochard	Aythya ferina
Shoveler	Anas clypeata

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Snipe, Common	Gallinago gallinago
Teal	Anas crecca
Wigeon	Anas penelope
Woodcock	Scolopax rusticola

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## PART II

BY AUTHORISED PERSONS AT ALL TIMES

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<i>Common name</i>	<i>Scientific name</i>
Crow	Corvus corone
Dove, Collared	Streptopelia decaocto
Gull, Great Black-backed	Larus marinus
Gull, Lesser Black-backed	Larus fuscus
Gull, Herring	Larus argentatus
Jackdaw	Corvus monedula
Jay	Garrulus glandarius
Magpie	Pica pica
Pigeon, Feral	Columba livia
Rook	Corvus frugilegus
Sparrow, House	Passer domesticus
Starling	Sturnus vulgaris
Woodpigeon	Columba palumbus

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## SCHEDULE 3

Sections 6 and 22.

### BIRDS WHICH MAY BE SOLD

#### PART I

ALIVE AT ALL TIMES IF RINGED AND BRED IN CAPTIVITY

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<i>Common name</i>	<i>Scientific name</i>
Blackbird	Turdus merula

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Brambling	Fringilla montifringilla
Bullfinch	Pyrrhula pyrrhula
Bunting, Reed	Emberiza schoeniclus
Chaffinch	Fringilla coelebs
Dunnock	Prunella modularis
Goldfinch	Carduelis carduelis
Greenfinch	Carduelis chloris
Jackdaw	Corvus monedula
Jay	Garrulus glandarius
Linnet	Carduelis cannabina
Magpie	Pica pica
Owl, Barn	Tyto alba
Redpoll	Carduelis flammea
Siskin	Carduelis spinus
Starling	Sturnus vulgaris
Thrush, Song	Turdus philomelos
Twite	Carduelis flavirostris
Yellowhammer	Emberiza citrinella

## PART II

DEAD AT ALL TIMES

<i>Common name</i>	<i>Scientific name</i>
Pigeon, Feral	Columba livia
Woodpigeon	Columba palumbus

## PART III

DEAD FROM 1ST SEPTEMBER TO 28TH FEBRUARY

<i>Common name</i>	<i>Scientific name</i>
Capercaillie	Tetrao urogallus
Coot	Fulica atra
Duck, Tufted	Aythya fuligula
Mallard	Anas platyrhynchos
Pintail	Anas acuta

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Plover, Golden	Pluvialis apricaria
Pochard	Aythya ferina
Shoveler	Anas clypeata
Snipe, Common	Gallinago gallinago
Teal	Anas crecca
Wigeon	Anas penelope
Woodcock	Scolopax rusticola

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#### SCHEDULE 4

Sections 7 and 22.

#### BIRDS WHICH MUST BE REGISTERED AND RINGED IF KEPT IN CAPTIVITY

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<b><i>Common name</i></b>	<b><i>Scientific name</i></b>
Avocet	Recurvirostra avosetta
Bee-eater	Merops apiaster
Bittern	Botaurus stellaris
Bittern, Little	Ixobrychus minutus
Bluethroat	Luscinia svecica
Bunting, Cirl	Emberiza cirlus
Bunting, Lapland	Calcarius lapponicus
Bunting, Snow	Plectrophenax nivalis
Chough	Pyrhhorcorax pyrrhhorcorax
Corncrake	Crex crex
Crake, Spotted	Porzana porzana
Crossbills (all species)	Loxia
Curlew, Stone	Burhinus oedicephalus
Divers (all species)	Gavia
Dotterel	Charadrius morinellus
Duck, Long-tailed	Clangula hyemalis
Falcons (all species)	Falconidae
Fieldfare	Turdus pilaris
Firecrest	Regulus ignicapillus
Godwit, Black-tailed	Limosa limosa

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Grebe, Black-necked	Podiceps nigricollis
Grebe, Slavonian	Podiceps auritus
Greenshank	Tringa nebularia
Hawks, True (except Old world vultures) that is to say, Buzzards, Eagles, Harriers, Hawks and Kites (all species in each case)	Accipitridae (except the genera Aegypius, Gypaetus, Gypohierax, Gyps, Neophron, Sarcogyps and Trionoceps)
Hoopoe	Upupa epops
Kingfisher	Alcedo atthis
Oriole, Golden	Oriolus oriolus
Osprey	Pandion haliaetus
Petrel, Leach's	Oceanodroma leucorhoa
Phalarope, Red-necked	Phalaropus lobatus
Plover, Kentish	Charadrius alexandrinus
Plover, Little ringed	Charadrius dubius
Quail, Common	Coturnix coturnix
Redstart, Black	Phoenicurus ochruros
Redwing	Turdus iliacus
Rosefinch, Scarlet	Carpodacus erythrinus
Ruff	Philomachus pugnax
Sandpiper, Green	Tringa ochropus
Sandpiper, Purple	Calidris maritima
Sandpiper, Wood	Tringa glareola
Scoter, Common	Melanitta nigra
Scoter, Velvet	Melanitta fusca
Serin	Serinus serinus
Shorelark	Eremophila alpestris
Shrike, Red-backed	Lanius collurio
Spoonbill	Platalea leucorodia
Stilt, Black-winged	Himantopus himantopus
Stint, Temminck's	Calidris temminckii
Tern, Black	Chlidonias niger
Tern, Little	Sterna albifrons
Tern, Roseate	Sterna dougallii
Tit, Bearded	Panurus biarmicus
Tit, Crested	Parus cristatus



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Treecreeper, Short-toed	<i>Certhia brachydactyla</i>
Warbler, Cetti's	<i>Cettia cetti</i>
Warbler, Dartford	<i>Sylvia undata</i>
Warbler, Marsh	<i>Acrocephalus palustris</i>
Warbler, Savi's	<i>Locustella Liscinioides</i>
Whimbrel	<i>Numenius phaeopus</i>
Woodlark	<i>Lullula arborea</i>
Wryneck	<i>Jynx torquilla</i>

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## SCHEDULE 5

Sections 9, 10, 22 and 24.

### ANIMALS WHICH ARE PROTECTED

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

**C28** By S.I. 1988/288, art. 2(2) it is provided that all Dolphins (Cetacea) and all Porpoises (Cetacea) not already listed in Schedule 5 are added to that Schedule.

<i>Common name</i>	<i>Scientific name</i>
Adder (in respect of section 9(5) only)	<i>Vipera berus</i>
[ <sup>F145</sup> Anemone, Ivell's Sea]	[ <sup>F145</sup> Edwardisia ivelli]
[ <sup>F145</sup> Anemone, Startlet Sea]	[ <sup>F145</sup> Nematosella vectensis]
[ <sup>F145</sup> Apus]	[ <sup>F145</sup> Triops cancriformis]
Bats, Horseshoe (all species)	Rhinolophidae
Bats, Typical (all species)	Vespertilionidae
Beetle, Rainbow Leaf	<i>Chrysolina cerealis</i>
[ <sup>F145</sup> Beetle, Violet Click]	[ <sup>F145</sup> Limoniscus violaceus]
Burbot	<i>Lota lota</i>
...	...
<sup>F146</sup>	<sup>F146</sup>
[ <sup>F147</sup> Butterfly, Northern Brown Argus]	[ <sup>F147</sup> Aricia artaxerxes]
[ <sup>F147</sup> Butterfly, Adonis Blue]	[ <sup>F147</sup> Lysandra bellargus]
[ <sup>F147</sup> Butterfly, Chalkhill Blue]	[ <sup>F147</sup> Lysandra coridon]

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[ <sup>F147</sup> Butterfly, Silver-studded Blue]	[ <sup>F147</sup> Plebejus argus]
[ <sup>F147</sup> Butterfly, Small Blue]	[ <sup>F147</sup> Cupido minimus]
[ <sup>F147</sup> Butterfly, Large Copper]	[ <sup>F147</sup> Lycaena dispar]
[ <sup>F147</sup> Butterfly, Purple Emperor]	[ <sup>F147</sup> Apatura iris]
[ <sup>F147</sup> Butterfly, Duke of Burgandy Fritillary]	[ <sup>F147</sup> Hamearis lucina]
[ <sup>F147</sup> Butterfly, Glanville Fritillary]	[ <sup>F147</sup> Melitaea cinxia]
Butterfly, Heath Fritillary	Mellicta athalia (otherwise known as Melitaea athalia)
[ <sup>F147</sup> Butterfly, High Brown Fritillary]	[ <sup>F147</sup> Argynnis adippe]
[ <sup>F147</sup> Butterfly, Marsh Fritillary]	[ <sup>F147</sup> Eurodryas aurinia]
[ <sup>F147</sup> Butterfly, Pearl-bordered Fritillary]	[ <sup>F147</sup> Boloria euphrosyne]
[ <sup>F147</sup> Butterfly, Black Hairstreak]	[ <sup>F147</sup> Strymonidia pruni]
[ <sup>F147</sup> Butterfly, Brown Hairstreak]	[ <sup>F147</sup> Thecla betulae]
[ <sup>F147</sup> Butterfly, White Letter Hairstreak]	[ <sup>F147</sup> Stymonida w-album]
[ <sup>F147</sup> Butterfly, Large Heath]	[ <sup>F147</sup> Coenonympha tullia]
Butterfly, Large Blue	Maculinea arion
[ <sup>F147</sup> Butterfly, Mountain Ringlet]	[ <sup>F147</sup> Erebia epiphron]
...	...
F146	F146
[ <sup>F147</sup> Butterfly, Chequered Skipper]	[ <sup>F147</sup> Carterocephalus palaemon]
[ <sup>F147</sup> Butterfly, Lulworth Skipper]	[ <sup>F147</sup> Thymelicus acteon]
[ <sup>F147</sup> Butterfly, Silver Spotted Skipper]	[ <sup>F147</sup> Hesperia comma]
Butterfly, Swallowtail	Papilio machaon
[ <sup>F147</sup> Butterfly, Large tortoiseshell]	[ <sup>F147</sup> Nymphalis polychloros]
[ <sup>F147</sup> Butterfly, Wood White]	[ <sup>F147</sup> Leptidea sinapis]
[ <sup>F145</sup> Cat, Wild]	[ <sup>F145</sup> Felis silverstris]
[ <sup>F145</sup> Cicada, New Forest]	[ <sup>F145</sup> Cicadetta montana]
[ <sup>F148</sup> Crayfish, Atlantic Stream]	[ <sup>F148</sup> Austropotamobius pallipes]
Cricket, Field	Gryllus campestris
Cricket, Mole	Gryllotalpa gryllotalpa
Dolphin, Bottle-nosed	Tursiops truncatus (otherwise known as Tursiops tursio)
Dolphin, Common	Delphinus delphis
[ <sup>F145</sup> Dormouse]	[ <sup>F145</sup> Muscardinus avellanarius]

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Dragonfly, Norfolk Aeshna	Aeshna isosceles
Frog, Common (in respect of section 9(5) only)	Rana temporaria
Grasshopper, Wart-biter	Decticus verrucivorus
[ <sup>F145</sup> Leech, Medicinal]	[ <sup>F145</sup> Hirudo medicinalis]
Lizard, Sand	Lacerta agilis
[ <sup>F149</sup> Lizard, Viviparous (in respect of section 9(5) only)]	[ <sup>F149</sup> Lacerta vivipara]
[ <sup>F145</sup> Marten, Pine]	[ <sup>F145</sup> Martes martes]
[ <sup>F145</sup> Mat. Trembling Sea]	[ <sup>F145</sup> Victorella pavida]
Moth, Barberry Carpet	Pareulype berberata
Moth, Black-veined	Siona lineata (otherwise known as Ideaea lineata)
Moth, Essex Emerald	Thetidia smaragdaria
Moth, New Forest Burnet	Zygaena viciae
Moth, Reddish Buff	Acosmetia caliginosa
[ <sup>F145</sup> Moth, Viper's Bugloss]	[ <sup>F145</sup> Hadena irregularis]
Newt, Great Crested (otherwise known as Warty newt)	Triturus cristatus
Newt, Palmate (in respect of section 9(5) only)	Triturus helveticus
Newt, Smooth (in respect of section 9(5) only)	Triturus vulgaris
Otter, Common	Lutra lutra
Porpoise, Harbour (otherwise known as Common porpoise)	Phocaena phocaena
[ <sup>F145</sup> Sandworm, Lagoon]	[ <sup>F145</sup> Armandia cirrhosa]
[ <sup>F145</sup> Shrimp, Fairy]	[ <sup>F145</sup> Chirocephalus diaphanus]
[ <sup>F145</sup> Shrimp, Lagoon Sand]	[ <sup>F145</sup> Gammarus insensibilis]
[ <sup>F149</sup> Slow-worm (in respect of section 9(5) only)]	[ <sup>F149</sup> Anguis fragilis]
⋮ F146	⋮ F146
Snail, Glutinous	Myxas glutinosa
Snail, Sandbowl	Catinella arenaria
[ <sup>F149</sup> Snake, Grass (in respect of section 9(5) only)]	[ <sup>F149</sup> Natrix helvetica (also known as Natrix natrix)]

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Snake, Smooth	<i>Coronella austriaca</i>
Spider, Fen Raft	<i>Dolomedes plantarius</i>
Spider, Ladybird	<i>Eresus niger</i>
Squirrel, Red	<i>Sciurus vulgaris</i>
Toad, Common (in respect of section 9(5) only)	<i>Bufo bufo</i>
Toad, Natterjack	<i>Bufo calamita</i>
[ <sup>F145</sup> Turtles, Marine (all species)]	[ <sup>F145</sup> Dermochelyidae and Cheloniidae]
[ <sup>F145</sup> Vendace]	[ <sup>F145</sup> Coregonus albula]
[ <sup>F145</sup> Walrus]	[ <sup>F145</sup> Odebenus rosmarus]
[ <sup>F145</sup> Whale (all species)]	[ <sup>F145</sup> Cetacea]
[ <sup>F145</sup> Whitefish]	[ <sup>F145</sup> Coregonus lavaretus]

#### Textual Amendments

**F145** Entry added as provided by [S.I. 1988/288, art. 2\(1\)](#)

**F146** Entry removed from Schedule as provided by [S.I. 1988/288, art. 2\(5\)](#)

**F147** Entry added (in respect of s. 9(5) only) by [S.I. 1989/906, art. 2](#)

**F148** Entry added (only in respect of s. 9(1) so far as it relates to taking and in respect of s. 9(5)) by [S.I. 1988/288, art. 2\(3\)](#)

**F149** By [S. I. 1988/288, art. 2\(4\)](#) entry (which is already listed in respect of section 9(5) only) is further listed in respect of s. 9(1) so far as it relates to killing and injuring

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## SCHEDULE 6

Sections 11 and 22.

### ANIMALS WHICH MAY NOT BE KILLED OR TAKEN BY CERTAIN METHODS

<i>Common name</i>	<i>Scientific name</i>
Badger	<i>Meles meles</i>
Bats, Horseshoe (all species)	Rinolophidae
Bats, Typical (all species)	Vespertilionidae
Cat, Wild	<i>Felis silvestris</i>
Dolphin, Bottle-nosed	<i>Tursiops truncatus</i> (otherwise known as <i>Tursiops tursio</i> )
Dolphin, Common	<i>Delphinis delphis</i>
Dormice (all species)	Gliridae

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Hedgehog	Erinaceus europaeus
Marten, Pine	Martes martes
Otter, Common	Lutra lutra
Polecat	Mustela putorius
Porpoise, Harbour (otherwise known as Common porpoise)	Phocaena phocaena
Shrews (all species)	Soricidae
Squirrel, Red	Sciurus vulgaris

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## SCHEDULE 7

### PROTECTION OF CERTAIN MAMMALS

#### *The Ground Game Act 1880*

- 1 (1) Notwithstanding the provisions of section 6 of the <sup>M64</sup>Ground Game Act 1880, it shall not be unlawful for the occupier of any land himself, or one other person authorised by him under section 1 of that Act, to use firearms for the purpose of killing ground game thereon between the expiration of the first hour after sunset and the commencement of the last hour before sunrise if (except where he has the exclusive right) the occupier has the written authority of the other person or one of the other persons entitled to kill and take the ground game on the land.
- (2) In this paragraph “ground game” means hares and rabbits.

#### **Marginal Citations**

**M64** 1880 c. 47.

#### *The Agriculture (Scotland) Act 1948*

- 2 (1) Notwithstanding the provisions of section 50(1)(a) of the <sup>M65</sup>Agriculture (Scotland) Act 1948, it shall not be unlawful for the owner of the shooting rights on any land or any person holding those rights from him, or subject to sub-paragraph (2) below the occupier of any land, to use a firearm for the purpose of killing ground game thereon between the expiration of the first hour after sunset and the commencement of the last hour before sunrise.
- (2) The occupier of any land shall not use a firearm as mentioned in sub-paragraph (1) above unless (except where he has the exclusive right) he has first obtained the written authority of the other person or one of the other persons entitled to kill and take the ground game on the land.

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(3) An occupier who is entitled, in terms of this paragraph, to use a firearm for the purpose of killing ground game may, subject to the provisions of section 1 of the Ground Game Act 1880, authorise one other person so to use a firearm.

(4) In this paragraph “ground game” means hares and rabbits.

#### Marginal Citations

**M65** 1948 c. 45.

#### *The Dogs (Protection of Livestock) Act 1953*

<sup>x123</sup> (1) At the end of subsection (2) of section 1 of the <sup>M66</sup> Dogs (Protection of Livestock) Act 1953 (penalty where dog worries livestock on agricultural land) there shall be inserted the words “or

(c) being at large (that is to say not on a lead or otherwise under close control) in a field or enclosure in which there are sheep”.

(2) After that subsection there shall be inserted the following subsection—

“(2A) Subsection (2)(c) of this section shall not apply in relation to—

(a) a dog owned by, or in charge of, the occupier of the field or enclosure or the owner of the sheep or a person authorised by either of those persons ; or

(b) a police dog, a guide dog, a trained sheep dog, a working gun dog or a pack of hounds.”

#### Editorial Information

**X12** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M66** 1953 c. 28.

#### *The Deer Act 1963*

4 For subsection (3) of section 10 of the <sup>M67</sup> Deer Act 1963 (general exceptions) there shall be substituted the following subsections—

“(3) A person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of any smooth-bore gun for the purpose of killing any deer if he shows that the deer had been so seriously injured otherwise than by his unlawful act or was in such a condition that to kill it was an act of mercy.

(4) A person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use as a slaughtering instrument, for the purpose of killing any deer, of a smooth-bore gun which—

(a) is of not less gauge than 12 bore ;

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- (b) has a barrel less than 24 inches (609.6 millimetres) in length ; and
- (c) is loaded with a cartridge purporting to contain shot none of which is less than .203 inches (5.16 millimetres) in diameter (that is to say, size AAA or any larger size).”

**Marginal Citations**

M67 1963 c. 36.

- 5 (1) After section 10 of that Act there shall be inserted the following section—

**“10A Exceptions for authorised persons.**

- (1) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 1 of this Act by reason of—
  - (a) the taking or killing of any deer by means of shooting ; or
  - (b) the injuring of any deer by means of shooting in an attempt to take or kill it,on any cultivated land, pasture or enclosed woodland.
- (2) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 1 of this Act by reason of—
  - (a) the taking or killing of any deer by means of shooting ; or
  - (b) the injuring of any deer by means of shooting in an attempt to take or kill it,on any cultivated land, pasture or enclosed woodland.
- (2) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use, for the purpose of taking or killing any deer on any land, of any smooth-bore gun of not less gauge than 12 bore which is loaded with—
  - (a) a cartridge containing a single non-spherical projectile weighing not less than 350 grains (22.68 grammes) ; or
  - (b) a cartridge purporting to contain shot each of which is .203 inches (5.16 millimetres) in diameter (that is to say, size AAA).
- (3) An authorised person shall not be entitled to rely on the defence provided by subsection (1) or (2) of this section as respects anything done in relation to any deer on any land unless he shows that—
  - (a) he had reasonable grounds for believing that caused, damage to crops, vegetables, fruit, growing timber or any other form of property on the land ;
  - (b) it was likely that further damage would be so caused and any such damage was likely to be serious ; and
  - (c) his action was necessary for the purpose of preventing any such damage.
- (4) The Secretary of State and the agriculture Minister acting jointly may by order, either generally or in relation to any area or any species and description of deer specified in the order, repeal subsection (2) of this section or amend

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it by adding any firearm or ammunition or by altering the description of, or deleting, any firearm or ammunition mentioned in it, or by adding any further conditions which must be satisfied.

(5) Before making an order under subsection (4) of this section, the Secretary of State and the agriculture Minister shall consult organisations that appear to them to represent persons likely to be interested in or affected by the order.

(6) In this section—

“agriculture Minister” means the Minister of Agriculture Fisheries and Food in relation to England and the Secretary of State for Wales in relation to Wales ;

“authorised person” means—

- (a) the occupier of the land on which the action is taken ;
- (b) any member of the occupier’s household normally resident on the occupier’s land, acting with the written authority of the occupier ;
- (c) any person in the ordinary service of the occupier on the occupier’s land, acting with the written authority of the occupier ; or
- (d) any person having the right to take or kill deer on the land on which the action is taken or any person acting with the written authority of a person having that right.”

(2) In sections 1(1) and 3(1) of that Act for the words “sections 10 and 11” there shall be substituted the words “sections 10, 10A and 11”.

(3) For subsection (1) of section 12 of that Act (orders) there shall be substituted the following subsections—

- “(1) Any power to make orders under this Act shall be exercisable by statutory instrument.
- (1A) A statutory instrument containing an order under section 1(2) or 3(4) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (1B) No order under section 10A(4) of this Act shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.”

6 (1) In paragraph 1 of Schedule 2 to that Act (prohibited firearms and ammunition) the words “of less gauge than 12 bore” shall be omitted.

(2) In paragraph 4 of that Schedule the words from “other than” onwards shall be omitted.

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

**C29** The text of Sch. 7 paras. 3– 12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.



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### *The Conservation of Seals Act 1970*

- <sup>x137</sup> (1) In subsection (1)(c) of section 10 of the <sup>M68</sup>Conservation of Seals Act 1970 (power to grant licences), the word “or” immediately following sub-paragraph (ii) shall be omitted and after sub-paragraph (iii) there shall be inserted the words “or
- (iv) the protection of flora or fauna in an area to which subsection (4) of this section applies.”.
- (2) In subsection (3)(b) of that section for the words from “a nature reserve” onwards there shall substituted the words “an area to which subsection (4) of this section applies”.
- (3) After subsection (3) of that section there shall be inserted the following subsection—
- “(4) This subsection applies to any area which—
- (a) is a nature reserve within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949 ;
- (b) has been notified under section 28(1) of the Wildlife and Countryside Act 1981 (areas of special scientific interest) ;
- (c) is an area to which section 29(3) of that Act (special protection for certain areas of special scientific interest) applies ; or
- (d) has been designated as a marine nature reserve under section 36 of that Act.”

#### **Editorial Information**

**X13** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M68** 1970 c. 30.

### *The Badgers Act 1973*

- 8 For subsections (2) and (3) of section 1 of the <sup>M69</sup> Badgers Act 1973 (possession of recently killed badgers etc. ) there shall be substituted the following subsections—
- “(2) If, save as permitted by or under this Act, any person has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) above if he shows that—
- (a) the badger had not been killed, or had been killed otherwise than in contravention of the provisions of this Act ; or
- (b) the badger or other thing in his possession or control had been sold (whether to him or any other person) and, at the time of the purchase, the purchaser had had no reason to believe that the badger had been killed in contravention of those provisions.”

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### Marginal Citations

M69 1973 c. 57.

- 9 (1) Section 7 of that Act (exceptions for authorised persons) shall be omitted.
- (2) In section 2(c) of that Act for the words “subject to section 7(3) of this Act” there shall be substituted the words “save as permitted by or under this Act”.
- (3) Section 6 of that Act (areas within which section 7(1) does not apply) shall be omitted.
- (4) In subsection (2) of section 8 of that Act (general exception) paragraph (c) (live badger taken in circumstances in which, by virtue of section 7(1) or (2), the taking did not constitute an offence) shall be omitted.
- (5) In section 11 of that Act (interpretation) the definitions of “area of special protection” and “authorised person” shall be omitted.
- 10 (1) In section 8 of that Act (general exceptions), after subsection (1) there shall be inserted the following subsections—
- “(1A) A person shall not be guilty of an offence under section 1(1) of this Act by reason of—
- (a) the killing or taking or the attempted killing or taking of any badger, or
- (b) the injuring of any badger in the course of taking it or attempting to kill it,
- if he shows that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other forms of property.
- (1B) The defence provided by subsection (1A) above shall not apply in relation to any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 9 of this Act authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent ; or
- (b) an application for such a licence had been determined”.
- (2) In section 9 of that Act (licences) at the end of subsection (1) there shall be inserted the following paragraph—
- “(e) for the purpose of preventing serious damage to land, crops, poultry or any other form of property, to kill or take badgers within an area specified in the licence by any means so specified.”
- (3) In subsection (2)(b) of that section after the words “paragraph (d)” there shall be inserted the words “or (e)”.
- (4) After subsection (3) of that section there shall be inserted the following subsection—

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“(4) The Minister of Agriculture, Fisheries and Food and the Secretary of State shall from time to time consult with the Nature Conservancy Council as to the exercise of their functions under subsection (1)(e) above ; and neither of them shall grant a licence of any description unless he has been advised by the Council as to the circumstances in which, in the Council’s opinion, licences of that description should be granted.”

11 (1) In subsection (1)(c) of section 10 of that Act (enforcement, penalties etc. ) for the words from “any badger” onwards there shall be substituted the words “anything which may be evidence of the commission of the offence or may be liable to be forfeited under subsection (3) below”.

(2) In subsection (2) of that section for “£20” there shall be substituted “£200” and for “£100” there shall be substituted “£1000”.

12 In section 11 of that Act (interpretation) for the definition of “local authority” there shall be substituted the following definition—

““sale” includes hire, barter and exchange and cognate expressions shall be construed accordingly.”

## SCHEDULE 8

Sections 13, 22 and 24.

### PLANTS WHICH ARE PROTECTED

<i>Common name</i>	<i>Scientific name</i>
[ <sup>F150</sup> Adder’s-tongue, Least]	[ <sup>F150</sup> Ophioglossum lusitanicum]
Alison, Small	Alyssum alyssoides
Broomrape, Bedstraw	Orobanche caryophyllacea
Broomrape, Oxtongue	Orobanche loricata
Broomrape, Thistle	Orobanche reticulata
[ <sup>F150</sup> Cabbage, Lundy]	[ <sup>F150</sup> Rhynchosinapis wrightii]
Calamint, Wood	Calamintha sylvatica
Catchfly, Alpine	Lychnis alpina
Cinquefoil, Rock	Potentilla rupestris
Club-rush, Triangular	Scirpus triquetrus
[ <sup>F150</sup> Colt’s-foot, Purple]	[ <sup>F150</sup> Homogyne alpina]
Cotoneaster, Wild	Cotoneaster integerrimus
[ <sup>F150</sup> Cottongrass, Slender]	[ <sup>F150</sup> Eriophorum gracile]
Cow-wheat, Field	Melampyrum arvense

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[ <sup>F150</sup> Crocus, Sand]	[ <sup>F150</sup> Romulea columnae]
Cudweed, Jersey	Gnaphalium luteoalbum
[ <sup>F150</sup> Cudweed, Red-tipped]	[ <sup>F150</sup> Filago lutescens]
Diapensia	Diapensia lapponica
Eryngo, Field	Eryngium campestre
Fern, Dickie’s Bladder	Cystopteris dickiana
Fern, Killarney	Trichomanes speciosum
[ <sup>F150</sup> Fleabane, Alpine]	[ <sup>F150</sup> Erigeron borealis]
[ <sup>F150</sup> Fleabane, Small]	[ <sup>F150</sup> Pulicaria vulgaris]
Galingale, Brown	Cyperus fuscus
Gentian, Alpine	Gentiana nivalis
[ <sup>F150</sup> Gentian, Fringed]	[ <sup>F150</sup> Gentianella ciliata]
Gentian, Spring	Gentiana verna
[ <sup>F150</sup> Germander, Cut-leaved]	[ <sup>F150</sup> Teucrium botrys]
Germander, Water	Teucrium scordium
Gladiolus, Wild	Gladiolus illyricus
[ <sup>F150</sup> Goosefoot, Stinking]	[ <sup>F150</sup> Chenopodium vulvaria]
[ <sup>F150</sup> Grass-poly]	[ <sup>F150</sup> Lythrum hyssopifolia]
Hare’s-ear, Sickle-leaved	Bupleurum falcatum
Hare’s-ear, Small	Bupleurum baldense
[ <sup>F150</sup> Hawk’s-beard, Stinking]	[ <sup>F150</sup> Crepis foetida]
Heath, Blue	Phyllodoce caerulea
Helleborine, Red	Cephalanthera rubra
[ <sup>F150</sup> Helleborine, Young’s]	[ <sup>F150</sup> Epipactis youngiana]
[ <sup>F150</sup> Horsetail, Branched]	[ <sup>F150</sup> Equisetum ramosissimum]
[ <sup>F150</sup> Hound’s-tongue, Green]	[ <sup>F150</sup> Cynoglossum germanicum]
Knawel, Perennial	Scleranthus perennis
Knotgrass, Sea	Polygonum maritimum
Lady’s-slipper	Cypripedium calceolus
Lavender, Sea	Limonium paradoxum
	Limonium recurvum
Leek, Round-headed	Allium sphaerocephalon
Lettuce, Least	Lactuca saligna
Lily, Snowdon	Lloydia serotina

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Marsh-mallow, Rough	<i>Althaea hirsuta</i>
[ <sup>F150</sup> Marshwort, Creeping]	[ <sup>F150</sup> <i>Apium repens</i> ]
[ <sup>F150</sup> Milk-parsley, Cambridge]	[ <sup>F150</sup> <i>Selinum carvifolia</i> ]
[ <sup>F150</sup> Naiad, Holly-leaved]	[ <sup>F150</sup> <i>Najas marina</i> ]
Orchid, Early Spider	<i>Ophryas sphegodes</i>
Orchid, Fen	<i>Liparis loeselii</i>
Orchid, Ghost	<i>Epipogium aphyllum</i>
Orchid, Late Spider	<i>Ophrys fuciflora</i>
Orchid, Lizard	<i>Himantoglossum hircinum</i>
Orchid, Military	<i>Orchis militaris</i>
Orchid, Monkey	<i>Orchis simia</i>
Pear, Plymouth	<i>Pyrus cordata</i>
[ <sup>F150</sup> Pennyroyal]	[ <sup>F150</sup> <i>Mentha pulegium</i> ]
[ <sup>F150</sup> Pigmyweed]	[ <sup>F150</sup> <i>Crassula aquatica</i> ]
Pink, Cheddar	<i>Dianthus gratianopolitanus</i>
Pink, Childling	<i>Petroraghia nanteuillii</i>
[ <sup>F150</sup> Ragwort, Fen]	[ <sup>F150</sup> <i>Senecio paludosus</i> ]
[ <sup>F150</sup> Ramping-fumitory, Martin's]	[ <sup>F150</sup> <i>Fumaria martinii</i> ]
[ <sup>F150</sup> Restharrow, Small]	[ <sup>F150</sup> <i>Ononis reclinata</i> ]
[ <sup>F150</sup> Rock-cress, Alpine]	[ <sup>F150</sup> <i>Arabis alpina</i> ]
[ <sup>F150</sup> Rock-cress, Bristol]	[ <sup>F150</sup> <i>Arabis stricta</i> ]
Sandwort, Norwegian	<i>Arenaria norvegica</i>
Sandwort, Teesdale	<i>Minuartia stricta</i>
Saxifrage, Drooping	<i>Saxifraga cernua</i>
Saxifrage, Tufted	<i>Saxifraga cespitosa</i>
Solomon's-seal, Whorled	<i>Polygonatum verticillatum</i>
Sow-thistle, Alpine	<i>Cicerbita alpina</i>
Spearwort, Adder's-tongue	<i>Ranunculus ophioglossifolius</i>
[ <sup>F150</sup> Speedwell, Fingered]	[ <sup>F150</sup> <i>Veronica triphyllos</i> ]
Speedwell, Spiked	<i>Veronica spicata</i>
Spurge, Purple	<i>Euphorbia peplis</i>
[ <sup>F150</sup> Star-of-Bethlehem, Early]	[ <sup>F150</sup> <i>Gagea bohemica</i> ]
Starfruit	<i>Damasonium alisma</i>

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[ <sup>F150</sup> Stonewort, Foxtail]	[ <sup>F150</sup> Lamprothamnium papulosum]
[ <sup>F150</sup> Strapwort]	[ <sup>F150</sup> Corrigiola litoralis]
Violet, Fen	Viola persicifolia
[ <sup>F150</sup> Viper's-grass]	[ <sup>F150</sup> Scorzonera humilis]
Water-plantain, Ribbon leaved	Alisma gramineum
Wood-sedge, Starved	Carex depauperata
Woodsia, Alpine	Woodsia alpina
Woodsia, Oblong	Woodsia ilvensis
Wormwood, Field	Artemisia campestris
Woundwort, Downy	Stachys germanica
Woundwort, Limestone	Stachys alpina
Yellow-rattle, Greater	Rhinanthus serotinus

#### Textual Amendments

**F150** Entry added by [S.I. 1988/288, art. 3](#)

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

## SCHEDULE 9

Sections 14 and 22.

### ANIMALS AND PLANTS TO WHICH SECTION 14 APPLIES

#### PART I

##### ANIMALS WHICH ARE ESTABLISHED IN THE WILD

<i>Common name</i>	<i>Scientific name</i>
Bass, Large-mouthed Black	Micropterus salmoides
Bass, Rock	Ambloplites rupestris
Bitterling	Rhodeus sericeus
Budgerigar	Melopsittacus undulatus
Capercaillie	Tetrao urogallus
Coypu	Myocastor coypus
Dormouse, Fat	Glis glis
Duck, Carolina Wood	Aix sponsa

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Duck, Mandarin	<i>Aix galericulata</i>
Duck, Ruddy	<i>Oxyura jamaicensis</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Frog, Edible	<i>Rana esculenta</i>
Frog, European Tree (otherwise known as Common tree frog)	<i>Hyla arborea</i>
Frog, Marsh	<i>Rana ridibunda</i>
Gerbil, Mongolian	<i>Meriones unguiculatus</i>
Goose, Canada	<i>Branta canadensis</i>
Goose, Egyptian	<i>Alopochen aegyptiacus</i>
Heron, Night	<i>Nycticorax nycticorax</i>
Lizard, Common Wall	<i>Podarcis muralis</i>
Marmot, Prairie (otherwise known as Prairie dog)	<i>Cynomys</i>
Mink, American	<i>Mustela vison</i>
Newt, Alpine	<i>Triturus alpestris</i>
Parakeet, Ring-necked	<i>Psittacula krameri</i>
Partridge, Chukar	<i>Alectoris chukar</i>
Partridge, Rock	<i>Alectoris graeca</i>
Pheasant, Golden	<i>Chrysolophus pictus</i>
Pheasant, Lady Amherst's	<i>Chrysolophus amherstiae</i>
Pheasant, Reeves'	<i>Syrnaticus reevesii</i>
Pheasant, Silver	<i>Lophura nycthemera</i>
Porcupine, Crested	<i>Hystrix cristata</i>
Porcupine, Himalayan	<i>Hystrix hodgsonii</i>
Pumpkinseed (otherwise known as Sun-fish or Pond-perch)	<i>Lepomis gibbosus</i>
Quail, Bobwhite	<i>Colinus virginianus</i>
Rat, Black	<i>Rattus rattus</i>
Squirrel, Grey	<i>Sciurus carolinensis</i>
Terrapin, European Pond	<i>Emys orbicularis</i>
Toad, African Clawed	<i>Xenopus laevis</i>
Toad, Midwife	<i>Alytes obstetricans</i>
Toad, Yellow-bellied	<i>Bombina variegata</i>
Wallaby, Red-necked	<i>Macropus rufogriseus</i>
Wels (otherwise known as European catfish)	<i>Silurus glanis</i>

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Zander

Stizostedion lucioperca

**PART II**

## PLANTS

<i>Common name</i>	<i>Scientific name</i>
Hogweed, Giant	<i>Heracleum mantegazzianum</i>
Kelp, Giant	<i>Macrocystis pyrifera</i>
Knotweed, Japanese	<i>Polygonum cuspidatum</i>
Seaweed, Japanese	<i>Sargassum muticum</i>

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

<sup>X14</sup>SCHEDULE 10

Section 15

## AMENDMENT OF THE ENDANGERED SPECIES (IMPORT AND EXPORT) ACT 1976

**Editorial Information**

**X14** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**PART I**

## THE AMENDMENTS

*Licences*

- 1 (1) After subsection (3) of section 1 of the 1976 Act (restriction on importation and exportation of certain animals and plants) there shall be inserted the following subsections—
- “(3A) Subsection (3) above shall not apply in relation to an application of any description if the scientific authority concerned has advised the Secretary of State as to whether licences should be issued in pursuance of applications of that description and, if so, their terms.
- (3B) Where the Secretary of State is satisfied that the issue of a licence authorising the importation or exportation of any item which—



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- (a) is part of or derives from or is made wholly or partly from an animal of any of the kinds to which Schedule 1 or a plant of any of the kinds to which Schedule 2 to this Act for the time being applies ; but
- (b) is not an item to which Schedule 3 to this Act for the time being applies.

would facilitate the importation or exportation of that item, he may, if he considers it expedient to do so, issue such a licence.”

(2) In subsections (4), (5), (6) and (7) of that section after the words “subsection (2)” there shall be inserted the words “or (3B)”.

(3) In subsection (4) of that section after paragraph (a) there shall be inserted the following paragraphs—

- “(aa) may be issued either to all persons, to persons of a class or to a particular person ;
- (ab) may be subject to compliance with any specified conditions;” and in paragraph (c) of that subsection for the words from “a period” to “shorter” there shall be substituted the word “such”.

#### *Expenses of returning animals and plants to the wild*

2 After subsection (8) of section 1 of the 1976 Act there shall be inserted the following subsection—

“(9) Where, in the case of a live animal or a plant of any kind which is condemned or deemed to be condemned as forfeited, the Commissioners of Customs and Excise incur any expenses in connection with, or with a view to—

- (a) its return to the wild ; or
- (b) its being kept at premises (whether within or outside the United Kingdom) which are suitable for the keeping of animals or plants of that kind,

those expenses may be recovered, as a debt due to the Crown, from the importer or intending exporter of the animal or plant or any person possessing or having control of it at the time of its seizure.

In this subsection expressions which are also used in the Customs and Excise Management Act 1979 have the same meanings as in that Act.”

#### *Powers of entry*

3 After the subsection inserted by paragraph 2 as subsection (9) of section 1 of the 1976 Act there shall be inserted the following subsections—

“(10) Any person duly authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is so authorised, enter any premises where animals of any of the kinds to which Schedule 1 or plants of any of the kinds to which Schedule 2 to this Act for the time being applies are kept (whether temporarily or permanently) in order to ascertain whether any of the animals or plants kept there have been imported contrary to this section.

(11) Any person who wilfully obstructs a person acting under subsection (10) above shall be liable on summary conviction to a fine not exceeding £200.”

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#### *Power to modify Schedules*

- 4 (1) In paragraph (c) of section 3 of the 1976 Act (power to modify Schedules) after the word “conservation” there shall be inserted the words “in any area” and after the word “endangered” there shall be inserted the word “there”.
- (2) After paragraph (d) of that section there shall be inserted the following paragraph—
- “(dd) to restrict the importation of animals or plants of any kind which appear to the Secretary of State to be unlikely to survive for any appreciable time if they are kept in the United Kingdom ;”.

#### *Sale of certain animals or plants or their derivatives*

- 5 (1) In subsection (1) of section 4 of the 1976 Act (offences to sell etc. things imported contrary to section 1 or their derivatives) for the words “Subject to subsection (2)” there shall be substituted the words “Subject to subsections (1B) and (2)”, after the words “has in his possession” there shall be inserted the words “or transports” and the words “and in the following provisions” onwards shall be omitted.
- (2) After that subsection there shall be inserted the following subsections—
- “(1A) Subject to subsections (1B) and (2) below, a person who sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale—
- (a) a live or dead animal of any of the kinds to which Schedule 4 to this Act for the time being applies or an egg or other immature stage of such an animal ;
- (b) a live or dead plant of any of the kinds to which Schedule 5 to this Act for the time being applies ; or
- (c) any part of or anything which derives from or is made wholly or partly from anything referred to in paragraph (a) or (b) above,
- shall be guilty of an offence ; but nothing in this subsection shall apply in relation to anything falling within subsection (1) above or anything which has been imported, or is a part of or derives from or is made wholly or partly from anything which has been imported, before the passing of the Wildlife and Countryside Act 1981.
- (1B) Subsections (1) and (1A) above do not apply to anything done under and in accordance with the terms of a licence issued by the Secretary of State ; and subsections (4) to (7) of section 1 above shall apply in relation to a licence issued under this subsection as they apply in relation to a licence issued under subsection (2) of that section.
- (1C) In the following provisions of this section “restricted article” means anything falling within subsection (1) or (1A) above.”
- (3) In subsection (2) of that section after the words “subsection (1)” there shall be inserted the words “or (1A)”.
- (4) In subsection (5) of that section after the words “subsection (1)” there shall be inserted the words “, (1A)”.
- (5) In subsection (6) of that section after the words “references to” there shall be inserted the word “hire”.

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(6) After Schedule 3 to the 1976 Act there shall be inserted as Schedule 4 the Schedule set out in Part II of this Schedule.

(7) After the Schedule inserted in the 1976 Act by sub-paragraph (6) there shall be inserted as Schedule 5 the Schedule set out in Part III of this Schedule.

## PART II

### SCHEDULE INSERTED AS SCHEDULE 4

#### SCHEDULE 4

##### ANIMALS THE SALE ETC. OF WHICH IS RESTRICTED

This Schedule applies to the following kinds of animals, namely—

#### MAMMALS

1 The kinds of mammal specified in the first column below—

##### *Marsupials*

<i>Kind</i>	<i>Common name</i>
Bettongia	Rat kangaroo
Caloprymnus campestris	Desert rat-kangaroo
Lagorchestes hirsutus	Western hare-wallaby
Lagostrophus fasciatus	Banded hare-wallaby
Onychogalea fraenata	Bridle nail-tailed wallaby
Onychogalea lunata	Crescent nail-tailed wallaby
Lasiorhinus krefftii	Queensland hairy-nosed wombat
Chaeropus ecaudatus	Pig-footed bandicoot
Macrotis lagotis	Rabbit-bandicoot
Macrotis leucara	Lesser rabbit-bandicoot
Perameles bougainville	Western barred bandicoot
Sminthopsis longicaudata	Long-tailed dunnart
Sminthopsis psammophila	Sandhill dunnart
Thylacinus cynocephalus	Tasmanian wolf

##### *Primates*

Allocebus

Hairy-eared dwarf lemur

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Cheirogaleus	Dwarf lemurs
Hapalemur	Gentle lemurs
Lemur	Lemurs
Lepilemur	Sportive and weasel lemurs
Microcebus	Mouse lemurs
Phaner	Fork-marked mouse lemurs
Avahi	Avahis (otherwise known as Woolly indris)
Indri	Indris
Propithecus	Sifakas
Daubentonia madagascariensis	Aye-aye
Callimico goeldii	Goeldi's marmoset (otherwise known as Goeldi's tamarin)
Callithrix aurita	White eared marmoset
Callithrix flaviceps	Buff-headed marmoset
Leontopithecus	Maned tamarin (otherwise known as Golden tamarin)
Saguinus bicolor	Pied tamarin
Saguinus geoffroyi	Geoffroy's tamarin
Saguinus leucopus	White-footed tamarin
Saguinus oedipus	Cotton-headed tamarin
Alouatta palliata (otherwise known as Alouatta villosa)	Mantled howler
Ateles geoffroyi frontatus	Black-browed spider monkey
Ateles geoffroyi panamensis	Red spider monkey
Brachyteles arachnoides	Woolly spider monkey
Cacajao	Uakaris
Chiropotes albinasus	White-nosed saki
Saimiri oerstedii	Red-backed squirrel monkey
Cercocebus galeritus galeritus	Tana River mangabey
Cercopithecus diana	Diana monkey
Colobus badius kirkii	Kirk's red colobus (otherwise known as Zanzibar red colobus)
Colobus badius rufomitratu	Tana River red colobus
Macaca silenus	Lion-tailed macaque
Nasalis larvatus	Proboscis monkey
Papio leucophaeus (otherwise known as Mandrillus leucophaeus)	Drill

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Papio sphinx (otherwise known as Mandrillus sphinx)	Mandrill
Presbytis entellus	Langur (otherwise known as Entellus langur or True langur)
Presbytis geei	Golden langur
Presbytis pileatus	Caped langur
Presbytis potenziani	Mentawi leaf monkey
Pygathrix nemaeus	Douc langur
Rhinopithecus roxellanae	Snub-nosed langur
Simias concolor	Mentawi snub-nosed langur
Hylobates	Gibbons
Symphalangus syndactylus	Siamang
Pongidae	Great apes

#### *Edentates*

Pridontes giganteus (otherwise known as Priodontes maximus)	Giant armadillo
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#### *Pangolins*

Manis temmincki	South African pangolin
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#### *Rabbits and hares*

Caprolagus hispidus	Assam rabbit (otherwise known as Hispid hare)
Romerolagus diazi	Volcano rabbit

#### *Rodents*

Cynomys mexicanus	Mexican prairie marmot
Leporillus conditor	Australian sticknest rat
Pseudomys fumeus	Smoky mouse
Pseudomys praeconis	Shark Bay mouse
Xeromys myoides	False water rat
Zyzomys pendunculatus	Central thick-tailed rat

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Chinchilla (except any domestic form of Chinchilla laniger)	Chinchilla
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*Cetaceans*

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Lipotes vexillifer	Chinese river dolphin
Physter catodon (otherwise known as Physter macrocephalus)	Sperm whale
Platanista gangetica	Ganges dolphin
Platanista minor	Indus river dolphin
Sotalia	Humpbacked dolphins
Sousa	Humpbacked dolphins
Neophocaena phocaenoides	Finless porpoise
Phocoena sinus	Cochito
Balaena mysticetus	Greenland right whale (otherwise known as Bowhead whale)
Balaenoptera borealis	Sei whale
Balaenoptera musculus	Blue whale
Balaenoptera physalus	Common rorqual
Eschrichtius	Grey whales
Eubalaena	Right whales
Megaptera novaeangliae	Humpback whale

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*Carnivores*

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Spethos venaticus	Bush dog
Vulpes velox hebes	Northern kit fox
Helarctos malayanus	Sun bear
Selenarctos thibetanus	Asiatic black bear
Tremarctos ornatus	Spectacled bear
Ursus arctos isabellinus	Brown bear
Ursus arctos nelsoni	Mexican brown bear
Ursus arctos pruinosus	Tibetan brown bear
Aonyx microdon	Cameroon clawless otter
Enhydra lutris nereis	Southern sea otter
Lutra felina	Marine otter
Lutra longicaudis	South American otter

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Lutra lutra	Eurasian otter
Lutra provocax	Southern river otter
Mustela nigripes	Black-footed ferret
Pteronura brasiliensis	Giant otter
Prionodon pardicolor	Spotted linsang
Hyaena brunnea	Brown hyaena
Acinonyx jubatus	Cheetah
Felis bengalensis bengalensis	Leopard cat
Felis concolor coryi	Florida puma
Felis concolor costaricensis	Costa Rica puma
Felis concolor cougar	Eastern puma
Felis jacobita	Andean cat
Felis rufa escuinapae	Mexican bobcat
Felis marmorata	Marbled cat
Felis nigripes	Black-footed cat
Felis pardalis mearnsi	Costa Rica ocelot
Felis pardalis mitis	Brazilian ocelot
Felis planiceps	Flat-headed cat
Felis rubiginosa	Rusty spotted cat
Felis temmincki	Asiatic golden cat
Felis tigrina oncilla	Little spotted cat
Felis wiedii nicaraguae	Nicaraguan margay
Felis wiedii salvinia	Guatemalan margay
Felis yagouaroundi cacomitli	Jaguarundi
Felis yagouaroundi fossata	Jaguarundi
Felis yagouaroundi panamensis	Jaguarundi
Felis yagouaroundi tolteca	Jaguarundi
Neofelis nebulosa	Clouded leopard
Panthera leo persica	Asiatic lion
Panthera onca	Jaguar
Panthera pardus	Leopard
Panthera tigris	Tiger
Panthera uncia	Snow leopard

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*Seals*

Arcocephalus townsendi	Guadelupe fur seal
Monachus	Monk seals

*Elephants*

Elephas maximus	Asian elephant
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*Sea-cows*

Dugong dugon	Dugong (otherwise known as Sea-cow)
Trichechus inunguis	Amazonian manatee
Trichechus manatus	West Indian manatee

*Odd-toed ungulates*

Equus grevyi	Grevy's zebra
Equus hemionus hemionus	Mongolian wild ass
Equus hemionus khur	Indian wild ass
Equus przewalskii	Przewalski's horse
Equus zebra zebra	Cape mountain zebra
Tapirus bairdii	Central American tapir
Tapirus indicus	Malayan tapir (otherwise known as Indian tapir)
Tapirus pinchaque	Mountain tapir (otherwise known as Woolly tapir)
Rhinocerotidae	Rhinoceroses

*Even-toed ungulates*

Babyrousa babyrussa	Babirusa
Sus salvanius	Pygmy hog
Vicugna vicugna	Calamian deer
Axis kuhli	Bawean deer
Axis porcinus annamiticus	Thai hog deer
Blastocerus dichotomus	Marsh deer



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Cervus duvauceli	Swamp deer
Cervus elaphus hanglu	Kashmir stag (otherwise known as Hanglu)
Cervus eldi	Brow-antlered deer
Dama mesopotamica	Persian fallow deer
Hippocamelus antiensis	Peruvian huemal
Hippocamelus bisulcus	Chilean huemal
Moschus moschiferus moschiferus	Himalayan musk deer
Ozotoceros bezoarticus	Pampas deer
Pudu pudu	Chilean pudu
Antilocapra americana peninsularis	Lower California pronghorn
Antilocapra americana sonoriensis	Sonoran pronghorn
Bison bison athabasca	Wood bison
Bos gaurus	Gaur
Bos mutus	Wild yak
Bubalus depressicornis	Lowland anoa
Bubalus mindorensis	Tamaraw
Bubalus quarlesi	Mountain anoa
Capra falconeri chiltanensis	Markhor
Capra falconeri jerdoni	Markhor
Capra falconeri megaceros	Markhor
Capricornis sumatraensis	Serow
Hippotragus niger variani	Giant sable antelope
Nemorhaedua goral	Goral
Novibos sauveli	Koupray
Oryx leucoryx	Arabian oryx
Ovis ammon hodgsoni	Great Tibetan sheep
Ovis orientalis ophion	Cyprian mouflon
Ovis vignei	Urial
Pantholops hodgsoni	Tibetan antelope
Rupicapra rupicapra ornata	Abruzzi chamois

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## BIRDS

2 The kinds of bird specified in the first column below—

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*Rheas*

Pterocnemia pennata	Lesser rhea
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*Tinamous*

Tinamus solitarius	Solitary tinamou
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*Penguins*

Spheniscus humboldti	Humboldt penguin
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*Grebes*

Podilymbus gigas	Atitlan grebe
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*Albatrosses*

Diomedea albatrus	Short-tailed albatross
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*Pelican-like birds*

Sula abbotti	Abbot's booby
Fregata andrewsi	Christmas Island frigatebird

*Storks*

Ciconia ciconia boyciana	Japanese white stork
Geronticus eremita	Bald ibis
Nipponia nippon	Japanese crested ibis

*Waterfowl*

Anas aucklandica nesiotis	Campbell Island Flightless teal
Anas laysanensis	Laysan duck
Anas oustaleti	Marianas Island duck (otherwise known as Marianas Mallard)
Branta canadensis leucopareia	Aleutian Canada goose

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Branta sandvicensis	Hawaiian goose (otherwise known as Nene)
Cairina scutulata	White winged wood duck
Rhodonessa caryophyllacea	Pink-headed duck

#### *Diurnal Birds of Prey*

Cathartidae	New world vultures
Pandion haliaetus	Osprey
Accipitridae	True hawks
Sagittarius serpentarius	Secretary bird
Falconidae	Falcons

#### *Gamebirds*

Aburria jacutinga	Black-fronted curassow (otherwise known as Black-fronted guan)
Aburria pipile	White-headed curassow (otherwise known as Piping guan)
Catreus wallichii	Cheer pheasant
Colinus virginianus ridgwayi	Masked bobwhite
Crax blumenbachii	Red-billed curassow
Crax mitu	Razor-billed curassow
Crossoptilon crossoptilon	White Eared-pheasant
Crossoptilon mantchuricum	Brown Eared-pheasant
Lophophorus impejanus	Himalayan monal
Lophophorus lhuysii	Chinese monal
Lophophorus sclateri	Sclater's monal
Lophura edwardsi	Edward's pheasant
Lophura imperialis	Imperial pheasant
Lophura swinhoei	Swinhoe's pheasant
Macrocephalon maleo	Maleo Fowl
Oreophasis derbianus	Horned guan
Penelope albipennis	White-winged guan
Polyplectron emphanum	Palawan peacock pheasant
Syrmaticus ellioti	Elliot's pheasant
Syrmaticus humiae	Hume's pheasant (otherwise known as Bar-tailed pheasant)

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Syrmaticus mikado	Mikado pheasant
Tetraogallus caspius	Caspian snowcock
Tetraogallus tibetanus	Tibetan snowcock
Tragopan blythii	Blyth's tragopan
Tragopan caboti	Cabot's tragopan
Tragopan melanocephalus	Western tragopan
Tympanuchus cupido attwateri	Attwater's prairie chicken

#### *Cranes and rails*

Grus americana	Whooping crane
Grus canadensis nesiotis	Cuban sandhill crane
Grus canadensis pulla	Mississippi sandhill crane
Grus japonensis	Manchurian crane (otherwise known as Japanese crane)
Grus leucogeranus	Siberian White crane
Grus monacha	Hooded crane
Grus nigricollis	Black-necked crane
Grus vipio	White-necked crane (otherwise known as White-naped crane)
Tricholimnas sylvestris	Lord Howe wood-rail
Rhynochetos jubatus	Kagu
Chlamydotis undulata	Houbara bustard
Choriotis nigriceps (otherwise known as Ardeotis nigriceps)	Great Indian bustard
Eupodotis bengalensis	Bengal florican

#### *Waders and Gulls*

Numenius borealis	Eskimo curlew
Tringa guttifer	Spotted greenshank (otherwise known as Nordmann's greenshank)
Larus relictus	Relict gull

#### *Pigeons and doves*

Caloenas nicobarica	Nicobar pigeon
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Ducula mindorensis	Mindoro imperial pigeon
<i>Parrots</i>	
Amazona arausiaca	Red-necked parrot (otherwise known as Red-necked amazon)
Amazona barbadensis	Yellow-shouldered parrot (otherwise known as Yellow-shouldered amazon)
Amazona brasiliensis	Red-tailed parrot (otherwise known as Red-tailed amazon)
Amazona guildingii	St. Vincent parrot (otherwise known as St. Vincent amazon)
Amazona imperialis	Imperial parrot (otherwise known as Imperial amazon)
Amazona leucocephala	Cuban parrot (otherwise known as Cuban amazon)
Amazona pretrei	Red-spectacled parrot (otherwise known as Red-spectacled amazon)
Amazona rhodocorytha (otherwise known as Amazona dufresniana rhodocorytha)	Red-crowned parrot (otherwise known as Red-crowned amazon)
Amazona versicolor	St Lucia parrot (otherwise known as St Lucia amazon)
Amazona vinacea	Vinaceous parrot (otherwise known as Vinaceous amazon)
Amazona vittata	Puerto Rico parrot (otherwise known as Puerto Rican amazon)
Anodorhynchus glaucus	Glaucous macaw
Anodorhynchus leari	Lear's macaw
Aratinga guaruba	Golden parakeet (otherwise known as Golden conure)
Cyanopsitta spixii	Spix's macaw
Cyanoramphus auriceps forbesi	Forbes' parakeet
Cyanoramphus novaezelandiae	Red-fronted parakeet
Cyclopsitta diophthalma coxeni (otherwise known as Oropsitta diophthalma coxeni)	Coxen's fig parrot
Geopsittacus occidentalis	Australian night parrot
Neophema chrysogaster	Orange-bellied parakeet (otherwise known as Orange-bellied parrot)
Pezoporus wallicus	Ground parrot

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Pionopsitta pileata	Red-capped parrot (otherwise known as Pileated parrot)
Psephotus chrysopterygius	Golden-shouldered parakeet (otherwise known as Golden-shouldered parrot or Hooded parakeet)
Psephotus pulcherrimus	Paradise parrot
Psittacula echo (otherwise known as Psittacula krameri echo)	Mauritius parakeet (otherwise known as Mauritius ring-necked parakeet)
Psittacus erithacus princeps	Fernando Po grey parrot
Pyrrhura cruentata	Blue-throated conure
Rhynchopsitta pachyrhyncha	Thick-billed parrot
Rhynchopsitta terrisi	Maroon-fronted parrot
Strigops habroptilus	Kakapo (otherwise known as Owl parrot)

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*Hummingbirds*

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Ramphodon dohrnii	Hook-billed hermit
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*Trogons*

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Pharomachrus mocinno costaricensis	Costa Rican quetzal (otherwise known as Resplendent quetzal)
Pharomachrus mocinno mocinno	Magnificent quetzal (otherwise known as Resplendent quetzal)

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*Owls*

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Tytonidae	Barn owls
Strigidae	Typical owls

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*Hornbills*

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Buceros bicornis (otherwise known as Buceros homrai)	Great pied hornbill
Rhinoplax vigil	Helmeted hornbill

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*Woodpeckers*

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Campephilus imperialis	Imperial woodpecker
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Dryocopus javensis richardsi	Tristram's woodpecker (otherwise known as White-bellied black woodpecker)
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### Songbirds

Cotinga maculata	Banded cotinga
Xipholena atropurpurea	White-winged cotinga
Pitta kochi	Koch's pitta
Atrichornis clamosa	Noisy scrub-bird
Leucopsar rothschildi	Rothschild's mynah
Dasyornis brachypterus longirostris	Western bristlebird
Dasyornis broadbenti littoralis	Western rufous bristlebird
Picathartes gymnocephalus	White-necked rockfowl (otherwise known as Yellow-headed rockfowl or Guinea bear-headed rockfowl)
Picathartes oreas	Grey-necked rockfowl (otherwise known as Cameroon bare-headed rockfowl or Red-headed rockfowl)
Zosterops albogularis	White-breasted silver-eye
Meliphaga cassidix	Helmeted honeyeater
Spinus cucullatus (otherwise known as Carduelis cucullatus)	Red siskin

### REPTILES

3 The kinds of reptile specified in the first column below—

#### Crocodilians

Alligator sinensis	Chinese alligator
Caiman crocodilus apaporiensis	Rio Apaporis caiman (otherwise known as Spectacled caiman)
Caiman latirostris	Broad-nosed caiman
Melanosuchus niger	Black caiman
Crocodylus acutus	American crocodile
Crocodylus cataphractus	African slender-snouted crocodile (otherwise known as African sharp-nosed crocodile)
Crocodylus intermedius	Orinoco crocodile

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Crocodylus moreletii	Morelet’s crocodile
Crocodylus niloticus	Nile crocodile
Crocodylus novaeguineae mindorensis	Philippine crocodile
Crocodylus palustris	Mugger (otherwise known as Marsh crocodile or Broad-snouted crocodile)
Crocodylus porosus	Estuarine crocodile (otherwise known as Salt-water crocodile)
Crocodylus rhombifer	Cuban crocodile
Crocodylus siamensis	Siamese crocodile
Osteolaemus tetraspis	West African dwarf crocodile
Tomistoma schlegelii	False gharial (otherwise known as False gavial)
Gavialis gangeticus	Indian gharial (otherwise known as Indian gavial)

#### *Iguanas*

Brachylophus	Fijian iguanas
Cyclura	Caribbean rock iguanas
Sauromalus varius	San Esteban Island chuck-walla

#### *Lizards*

Varanus bengalensis	Bengal monitor (otherwise known as Indian monitor or Common monitor)
Varanus flavescens	Yellow monitor
Varanus griseus	Desert monitor (otherwise known as Agra monitor or Grey monitor)
Varanus komodoensis	Komodo dragon

#### *Snakes*

Acrantophis	Madagascar boas
Bolyeria	Round island boas
Casarea	Round island boas
Epicrates inornatus	Yellow tree boa
Epicrates subflavus	Jamaican boa



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Python molurus molurus	Indian python (otherwise known as Indian rock python)
Sanzinia madagascariensis	Madagascar boa
<i>Tuatara</i>	
Sphenodon punctatus	Tuatara
<i>Chelonians</i>	
Batagur baska	River terrapin (otherwise known as Tuntong)
Geoclemys hamiltonii (otherwise known as Damonia hamiltonii)	Black pond turtle (otherwise known as Spotted pond turtle)
Melanochelys tricarinata (otherwise known as Geoemyda tricarinata or Nicoria tricarinata)	Three-keeled turtle (otherwise known as Three-keeled land tortoise)
Kachuga tecta tecta	Indian tent turtle (otherwise known as Indian sawback turtle or Roofed turtle or Dura turtle)
Morenia ocellata	Burmese swamp turtle
Terrapene coahuila	Aquatic box turtle (otherwise known as Water box turtle)
Geochelone elephantopus (otherwise known as Testudo elephantopus)	Galapagos giant tortoise
Geochelone radiata (otherwise known as Testudo radiata)	Radiated tortoise (otherwise known as Rayed tortoise)
Geochelone yniphora (otherwise known as Testudo yniphora)	Madagascar tortoise (otherwise known as Rayed tortoise or Angonoka)
Gopherus flavomarginatus (otherwise known as Crophemus polyphemus flavomarginatus)	Mexican gopher tortoise
Psammobates geometricus (otherwise known as Testudo geometricus)	Geometric tortoise
Cheloniidae	Sea turtles
Dermochelys coriacea	Leatherback turtle (otherwise known as Leathery turtle or Luth)
Lissemys punctata punctata	Indian flap-shelled turtle
Trionyx ater	Cuatro Cienegas soft-shell turtle (otherwise known as Black soft-shelled turtle)
Trionyx gangeticus	Ganges soft-shelled turtle (otherwise known as Indian soft-shelled turtle)
Trionyx hurum	Peacock-marked soft-shelled turtle

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Trionyx nigricans	Dark-coloured soft-shelled turtle
Pseudemys umbrina	Short-necked turtle (otherwise known as Western swamp turtle)

#### AMPHIBIANS

The kinds of amphibian specified in the first column below—

Andrias davidianus (otherwise known as Megalobatrachus davidianus)	Chinese giant salamander
Andrias japonicus (otherwise known as Megalobatrachus japonicus)	Japanese giant salamander
Atelopus varius zeteki	Golden frog (otherwise known as Zetek's frog)
Bufo periglenes	Golden toad (otherwise known as Orange toad)
Bufo superciliaris	Cameroon toad
Nectophrynoides	Viviparous toads

#### FISH

5 The kinds of fish specified in the first column below—

<i>Kind</i>	<i>Common name</i>
Acipenser brevirostrum	Shortnose sturgeon
Scleropages formosus	Asiatic bonytongue
Coregonus alpenae	Longjaw cisco
Chasmistes cujus	Cui-ui
Probarbus jullieni	Ikan temolek
Pangasianodon gigas	Giant catfish
Stizostedion vitreum glaucum	Blue walleye
Cynoscion macdonaldi	Drum fish

#### MOLLUSCS

6 The kinds of mollusc specified below—

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Conradilla caelata

Dromus dromas

Epioblasma florentina curtisi (otherwise known as Dysnomia florentina curtisi)

Epioblasma florentina florentina (otherwise known as Dysnomia florentina florentina)

Epioblasma sampsoni (otherwise known as Dysnomia sampsoni)

Epioblasma sulcata perobliqua (otherwise known as Dysnomia sulcata perobliqua)

Epioblasma torulosa gubernaculum (Otherwise known as Dysnomia torulosa gubernaculum)

Epioblasma torulosa torulosa (otherwise known as Dysnomia torulosa torulosa)

Epioblasma turgidula (otherwise known as Dysnomia turgidula)

Epioblasma walkeri (otherwise known as Dysnomia walkeri)

Fusconaia cuneolus

Fusconaia edgariana

Lampsilis higginsii

Lampsilis orbiculata orbiculata

Lampsilis satura

Lampsilis verescens

Plethobasus cicatricosus

Plethobasus cooperianus

Pleurobema plenum

Potamilus capax (otherwise known as Proptera capax)

Quadrula intermedia

Quadrula sparsa

Toxolasma cylindrella (otherwise known as Carunculina cylindrella)

Unio nickliniana (otherwise known as Megaloniaias nickliniana)

Unio tampicoensis tecomatensis (otherwise known as Lampsilis tampicoensis tecomatensis)

Villosa trabalis (otherwise known as Micromya trabalis)

NOTE. The second column of this Schedule gives a common name or names, where available, and is included by way of guidance only ; in the event of any dispute or proceedings, only the first column is to be taken into account.

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### PART III

#### SCHEDULE INSERTED AS SCHEDULE 5

#### SCHEDULE 5

##### PLANTS THE SALE ETC. OF WHICH IS RESTRICTED

This Schedule applies to the kinds of plant specified in the second column below—

<i>Family</i>	<i>Kind</i>
Apocynaceae	Pachypodium namaquanum
Araceae	Alocasia sanderana
Cactaceae	Ariocarpus agavoides
	Ariocarpus scapharostrus
	Aztekium ritteri
	Echinocereus lindsayi
	Obregonia denegrii
	Pelecypora aselliformis
	Pelecypora strobiliformis
Caryocaraceae	Caryocar costaricense
Caryophyllaceae	Gymnocarpus przewalskii
	Melandrium mongolicus
	Silene mongolica
	Stellaria pulvinata
	Fitzroya cupressoides
Cupressaceae	Pilgerodendron uviferum
	Mirocycas calocoma
Cycadaceae	Prepusa hookeriana
Gentianaceae	Vantanea barbourii
Humiriaceae	Engelhardtia pterocarpa
Juglandaceae	Ammopiptanthus mongolicum
Leguminosae	Cynometra hemitomophylla
	Platymiscium pleiostachyum
	Tachigalia versicolor

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Liliaceae	Aloe albida
	Aloe pillansii
	Aloe polyphylla
	Aloe thorncropftii
	Aloe vossii
Melastomataceae	Lavoisiera itambana
Meliaceae	Guarea longipetiola
Moraceae	Batocarpus costaricensis
Nepenthaceae	Nepenthes rajah
Orchidaceae	Cattleya skinneri
	Cattleya trianae
	Didiciea cunninghamii
	Laelia jongheana
	Laelia lobata
	Lycaste virginalis var alba
	Peristeria elata
	Renanthera imschootiana
	Vanda coerulea
Pinaceae	Abies guatemalensis
	Abies nebrodensis
Podocarpaceae	Podocarpus costalis
	Podocarpus parlatoresi
Proteaceae	Orothamnus zeyheri
	Protea odorata
Rubiaceae	Balmea stormae
Sarraceniaceae	Sarracenia alabamensis alabamensis
	Sarracenia jonesii
	Sarracenia oreophila
Saxifragaceae (otherwise known as Grossulariaceae)	Ribes sardoum
Stangeriaceae	Stangeria eriopus
Ulmaceae	Celtis aetnensis
Welwitschiaceae	Welwitschia bainesii
Zamiaceae	Encephalartos
Zingiberaceae	Hedychium philippinense

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VALID FROM 30/01/2001

## [<sup>F151</sup>SCHEDULE 10A

### DELEGATION OF APPELLATE FUNCTIONS

#### Textual Amendments

**F151** Sch. 10A inserted (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 7

## SCHEDULE 11

Sections 29 and 34.

### PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART II

#### *Coming into operation*

- 1 (1) An original order or a restrictive amending order shall take effect on its being made.
- (2) It shall be the duty of the Secretary of State to consider every original order or restrictive amending order made by him or a relevant authority, and any such order shall cease to have effect nine months after it is made unless the Secretary of State has previously given notice under paragraph 6 that he has considered it and does not propose to amend or revoke it or he has amended or revoked it or, in the case of an order made by such an authority, the authority has revoked it.
- (3) An amending or revoking order, other than a restrictive amending order, made by a relevant authority shall be submitted by the authority to the Secretary of State for confirmation and shall not take effect until confirmed by him.
- (4) Subject to paragraphs 3(1) and 4(4), an amending or revoking order, other than a restrictive amending order, made by the Secretary of State shall not take effect until confirmed by him.
- (5) An amending or revoking order requiring confirmation shall, by virtue of this subparagraph, stand revoked if the Secretary of State gives notice under paragraph 6 that the order is not to be confirmed.

#### *Publicity for orders*

- 2 (1) Where an order takes effect immediately, the authority making the order (whether the relevant authority or the Secretary of State) shall give notice—
  - (a) setting out the order or describing its general effect and in either case stating that it has taken effect;

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- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
  - (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Where an order requires confirmation, the authority making the order shall give notice—
- (a) setting out the order or describing its general effect and in either case stating that it has been made and requires confirmation; and
  - (b) stating in relation to it the matters specified in sub-paragraph (1)(b) and (c).
- (3) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) or (2) shall be given—
- (a) by publication in the Gazette and also at least one local newspaper circulating in the area in which the land to which the order relates is situated;
  - (b) by serving a like notice on every owner and occupier of any of that land; and
  - (c) in the case of a notice given by the Secretary of State, by serving a like notice on the relevant authority in whose area the land to which the order relates is situated.
- (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b); but if he 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 the notice shall be affixed to some conspicuous object or objects on the land.

#### *Unopposed orders*

- 3
- (1) Where an order made by a relevant authority takes effect immediately and no representations or objections are duly made in respect of it or any so made are withdrawn,—
- (a) the Secretary of State shall as soon as practicable after considering it decide either to take no action on the order or to make an order amending or revoking it (subject, however, to paragraph 5); and
  - (b) the amending or revoking order shall take effect immediately, but it shall not require confirmation and no representation or objection with respect to it shall be entertained.
- (2) Where an order requiring confirmation is made and no representations or objections are duly made in respect of it or any so made are withdrawn, the Secretary of State may confirm the order (with or without modifications).

#### *Opposed orders*

- 4
- (1) If any representation or objection duly made with respect to an order is not withdrawn, then, as soon as practicable in the case of an order having immediate effect and before confirming an order requiring confirmation, the Secretary of State shall either—

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- (a) cause a local inquiry to be held; or
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
- (2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the Secretary of State—
- (a) shall, if the order has already taken effect, decide either to take no action on the order or to make an order (subject, however, to paragraph 5) amending or revoking the order as the Secretary of State thinks appropriate in the light of the report, representations or objections, without consulting the relevant authority where that authority made the order; or
  - (b) if the order requires confirmation, may confirm it (with or without modifications).
- (3) The provisions of subsections (2) to (5) of section 250 of the <sup>M70</sup>Local Government Act 1972 or subsections (4) to (8) of section 210 of the <sup>M71</sup>Local Government (Scotland) Act 1973 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under this paragraph as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
- (4) An amending or revoking order made by virtue of this paragraph shall take effect immediately, but it shall not require confirmation and no representation or objection with respect to it shall be entertained.

#### Marginal Citations

**M70** 1972 c. 70.

**M71** 1973 c. 65.

#### *Restriction on power to amend orders or confirm them with modifications*

- 5 The Secretary of State shall not by virtue of paragraph 3(1) or 4(2) amend an order which has taken effect, or confirm any other order with modifications, so as to extend the area to which an original order applies.

#### *Notice of final decision on orders*

- 6 (1) The Secretary of State shall as soon as practicable after making an order by virtue of paragraph 3(1) or 4(2) give notice—
- (a) setting out the order or describing its general effect and in either case stating that it has taken effect; and
  - (b) stating the name of the place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.



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- (2) The Secretary of State shall give notice of any of the following decisions of his as soon as practicable after making the decision—
  - (a) a decision under paragraph 3(1) or 4(2) to take no action on an order which has already taken effect;
  - (b) a decision to confirm or not to confirm an order requiring confirmation under this Schedule.
- (3) A notice under this paragraph of a decision to confirm an order shall—
  - (a) set out the order as confirmed or describe its general effect, and in either case state the day on which the order took effect;
  - (b) state the name of the place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours.
- (4) A notice under this paragraph shall be given by publishing it in accordance with paragraph 2(3) and serving a copy of it on any person on whom a notice was required to be served under paragraph 2(3) or (4).

#### *Proceedings for questioning validity of orders*

- 7 (1) This paragraph applies to any order which has taken effect and as to which the Secretary of State has given notice under paragraph 6 of a decision of his to take no action or to amend the order in accordance with paragraph 3 or 4; and in this paragraph “the relevant notice” means any such notice.
- (2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the ground that it is not within the powers of section 29 or 34, as the case may be, or that any of the requirements of this Schedule have not been complied with in relation to it, he may within six weeks from the date of the relevant notice make an application to the Court under this paragraph.
- (3) On any such application the Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements—
  - (a) in England and Wales, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant; or
  - (b) in Scotland, make such declarator as seems to the Court to be appropriate.
- (4) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.
- (5) In this paragraph “the Court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.

#### *Interpretation*

- 8 In this Schedule—
  - “amending order” and “revoking order” mean an order which amends or, as the case may be, revokes a previous order;
  - “the Gazette” means—

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- (a) if the order relates in whole or in part to England and Wales, the London Gazette;
  - (b) if the order relates in whole or in part to Scotland, the Edinburgh Gazette;
- “order” means an order under section 29 or 34;  
 “original order” means an order other than an amending or revoking order;  
 “the relevant authority” has the same meaning as in section 34;  
 “restrictive amending order” means an amending order which extends the area to which a previous order applies.

## SCHEDULE 12

Section 36.

### PROCEDURE IN CONNECTION WITH ORDERS UNDER SECTION 36

#### *Consultation*

- 1 Before making an order, the Secretary of State shall consult with such person as he may consider appropriate.

#### *Publicity for draft orders*

- 2 (1) Before making an order, the Secretary of State shall prepare a draft of the order and give notice—
- (a) stating that he proposes to make the order and the general effect of it;
  - (b) naming a place in the area in which the land to which the draft order relates is situated where a copy of the draft order, and of any byelaws made or proposed to be made by a relevant authority for the protection of the area specified in the draft order, may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
  - (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the draft order may be made.
- (2) Subject to sub-paragraph (3), the notice to be given under sub-paragraph (1) shall be given—
- (a) by publication in the Gazette and also at least one local newspaper circulating in the area in which the land to which the draft order relates is situated;
  - (b) by serving a like notice on—
    - (i) every person in whom is vested an interest in or right over any of that land;
    - (ii) every relevant authority whose area includes any of that land; and
    - (iii) such other bodies as may be prescribed or as the Secretary of State may consider appropriate; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—

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- (i) at council offices in the locality of the land to which the draft order relates; and
  - (ii) at such other places as the Secretary of State may consider appropriate.
- (3) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i).
- (4) Subject to sub-paragraph (3), sub-paragraph (2)(b) and (c) shall be complied with not less than 28 days before the expiration of the time specified in the notice.

#### *Unopposed orders*

- 3 If no representations or objections are duly made, or if any so made are withdrawn, the Secretary of State may make the order with or without modifications.

#### *Opposed orders*

- 4 (1) If any representation or objection duly made is not withdrawn the Secretary of State shall, before making the order, either—
- (a) cause a local inquiry to be held; or
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
- (2) On considering any representations or objections duly made and the report of the person appointed to hold the inquiry or hear representations or objections, the Secretary of State may make the order with or without modifications.

#### *Restriction on power to make orders with modifications*

- 5 (1) The Secretary of State shall not make an order with modifications so as—
- (a) to affect land not affected by the draft order; or
  - (b) to authorise the making of any byelaw not authorised by the draft order, except after complying with the requirements of sub-paragraph (2).
- (2) The said requirements are that the Secretary of State shall—
- (a) give such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;
  - (b) hold a local inquiry or afford 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 the Secretary of State for the purpose; and
  - (c) consider the report of the person appointed to hold the inquiry or to hear representations or objections.

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### *Local inquiries*

- 6 (1) The provisions of subsections (2) to (5) of section 250 of the <sup>M72</sup>Local Government Act 1972 or subsections (4) to (8) of section 210 of the <sup>M73</sup>Local Government (Scotland) Act 1973 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under paragraph 4 or 5 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
- (2) A local inquiry caused to be held under paragraph 4 or 5 before the making of an order may be held concurrently with any local inquiry caused to be held before the confirmation of byelaws made by a relevant authority for the protection of the area specified in the order.

#### **Marginal Citations**

**M72** 1972 c. 70.

**M73** 1973 c. 65.

### *Notice of making of orders*

- 7 (1) As soon as practicable after an order is made, the Secretary of State shall give notice—
- (a) describing the general effect of the order as made and stating the date on which it took effect; and
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order as made may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours.
- (2) A notice under sub-paragraph (1) shall be given—
- (a) by publication in the manner required by paragraph 2(2)(a);
  - (b) by serving a like notice on any persons on whom notices were required to be served under paragraph 2(2)(b); and
  - (c) by causing like notices to be displayed in the like manner as the notices required to be displayed under paragraph 2(2)(c).

### *Proceedings for questioning validity of orders*

- 8 (1) If any person is aggrieved by an order which has taken effect and desires to question its validity on the ground that it is not within the powers of section 36 or that any of the requirements of this Schedule have not been complied with in relation to it, he may within 42 days from the date of publication of the notice under paragraph 7 make an application to the Court under this paragraph.
- (2) On any such application the Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements—

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- (a) in England and Wales, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant; or
  - (b) in Scotland, make such declarator as seems to the Court to be appropriate.
- (3) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatever.
- (4) In this paragraph “the Court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.

### *Supplemental*

- 9 (1) In this Schedule—
- “area” includes district;
  - “council offices” means offices or buildings acquired or provided by a local authority;
  - “the Gazette” means—
    - (a) if the order relates in whole or in part to England and Wales, the London Gazette;
    - (b) if the order relates in whole or in part to Scotland, the Edinburgh Gazette;
  - “order” means an order under section 36;
  - “prescribed” means prescribed by regulations made by the Secretary of State;
- and expressions to which a meaning is assigned by section 36 have the same meanings in this Schedule as in that section.
- (2) References in this Schedule to land include references to any waters covering it; and for the purposes of this Schedule any area in Great Britain which is bounded by tidal waters or parts of the sea shall be taken to include—
- (a) the waters adjacent to that area up to the seaward limits of territorial waters; and
  - (b) the land covered by the said adjacent waters.
- (3) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## SCHEDULE 13

Section 47.

### PROVISIONS WITH RESPECT TO THE COUNTRYSIDE COMMISSION

#### *Status*

- 1 The Commission shall be a body corporate.

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- 2 The Commission shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown; and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

### *Members*

- 3 (1) The Commission shall consist of a chairman and such number of other members as the Secretary of State may determine, of whom one may be appointed to be deputy chairman.
- (2) The members of the Commission shall be appointed by the Secretary of State and shall hold and vacate office in accordance with such terms as may be prescribed by or under regulations made by the Secretary of State and, on vacating office, shall be eligible for re-appointment.
- (3) Regulations under sub-paragraph (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A member may at any time by notice in writing to the Secretary of State resign his office.
- 4 (1) The Commission—
- (a) shall pay to their members such remuneration and allowances (if any) as the Secretary of State may, with the approval of the Minister, determine; and
- (b) as regards any member in whose case the Secretary of State may, with the approval of the Minister, so determine, shall pay such pension to or in respect of him, or make such payments towards the provision of such pension as the Secretary of State may, with the Minister's approval, determine.
- (2) If a person ceases to be a member of the Commission, and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may, with the approval of the Minister, require the Commission to pay to that person a sum of such amount as the Secretary of State may, with the Minister's approval, determine.

### *Committee for Wales*

- [<sup>F1525</sup>] (1) The Commission shall, after consultation with the Secretary of State, appoint a Committee for Wales.
- (2) The membership of the Committee for Wales shall consist partly of persons who are members of the Commission, one of whom shall be the chairman of the Committee, and partly of persons, not exceeding such number as the Secretary of State may for the time being approve, who are not members of the Commission.
- (3) The Commission may, after consulting the Secretary of State and subject to such conditions as they think appropriate, delegate any of their functions in Wales to the Committee for Wales, including (for Wales) their advisory functions under section 2

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of the 1968 Act, and their duty of making recommendations under that section in respect of local authorities' applications for Exchequer grants.

- (4) The Commission may, in the case of such members of the Committee for Wales as are not members of the Commission, pay to them such reasonable allowances in respect of—
- (a) expenses properly incurred in the performance of their duties;
  - (b) loss of remunerative time; or
  - (c) additional expenses (other than as aforesaid) necessarily incurred by them for the purpose of enabling them to perform their duties, being expenses to which they would not otherwise have been subject,
- as the Secretary of State may, with the approval of the Minister, determine.]

#### Textual Amendments

**F152** Sch. 13 para. 5 repealed (prosp. ) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. VI](#)

#### Procedure

- 6 The procedure (including the quorum) of the Commission shall be such as they may determine.
- 7 The validity of any proceeding of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

#### Staff

- 8 (1) The Commission shall appoint—
- (a) with the approval of the Secretary of State, a chief officer and
  - (b) such number of other employees as they may with the approval of the Secretary of State and the Minister determine.
- (2) The Commission shall pay to their employees such remuneration and allowances as they may with the approval of the Secretary of State and the Minister determine.
- (3) In the case of any person to be employed by them on and after the appointed day who immediately before that day was a civil servant, the Commission shall ensure that, so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the coming into force of this Schedule, the terms and conditions of his employment, taken as a whole, are not less favourable than those which he then enjoyed.
- (4) In relation to any person who—
- (a) is a civil servant before the appointed day; and
  - (b) is as from that day employed by the Commission,

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Schedule 13 to the <sup>M74</sup>Employment Protection (Consolidation) Act 1978 (ascertainment, for the purposes of that Act and section 119 of the <sup>M75</sup>Employment Protection Act 1975, of the length of an employee's period of employment and whether that employment has been continuous) shall have effect as if his service as a civil servant had been employment under the Commission.

**Marginal Citations**

**M74** 1978 c. 44.

**M75** 1975 c. 71.

- 9 (1) The Commission shall in the case of such of their employees as they may with the approval of the Secretary of State and the Minister determine,—
- (a) pay such pension to or in respect of them;
  - (b) make such payments towards the provision of such pensions; or
  - (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions,
- as they may with the approval of the Secretary of State and the Minister determine.
- (2) In this paragraph any reference to the payment of pensions to or in respect of the Commission's employees includes a reference to the payment of pensions by way of compensation to or in respect of any of the Commission's employees who suffer loss of office or employment or loss or diminution of emoluments.
- 10 (1) Employment with the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the <sup>M76</sup>Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) the words "Countryside Commission" shall be inserted after the words "Monopolies Commission".
- (2) The Commission shall pay to the Minister at such times in each financial year as may be determined by the Minister, subject to any directions of the Treasury, sums of such amounts as he may so determine for the purposes of this paragraph as being equivalent to the increase during the year of such liabilities of his under the Principal Civil Service Pension Scheme as are attributable to the provision of pensions to or in respect of persons who are, or have been, in the service of the Commission in so far as that increase results from the service of those persons during that financial year and to the expense to be incurred in administering those pensions.

**Marginal Citations**

**M76** 1972 c. 11.

*Accounts and report*

- 11 (1) The Commission shall keep proper accounts and other records, and shall prepare for each financial year a statement of account in such form as the Secretary of State with



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the approval of the Treasury may direct and submit those statements of account to the Secretary of State at such time as he may with the approval of the Treasury direct.

- (2) The Secretary of State shall, as respects each financial year, send the Commission's statement of accounts to the Comptroller and Auditor General not later than the end of November following the year.
- (3) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts and lay copies of it, together with his report, before each House of Parliament.

12 The Commission shall furnish the Secretary of State with such returns, accounts and other information with respect to their property and activities or proposed activities as he may from time to time require, and shall afford to the Secretary of State facilities for the verification of information so furnished and for that purpose permit any person authorised in that behalf by the Secretary of State to inspect and make copies of the Commission's accounts, books, documents or papers and give that person such explanation of them as he may reasonably require.

- 13
- (1) The Commission shall, as soon as possible after the end of each financial year, make to the Secretary of State a report on the discharge by them of their functions under the 1949 Act, the 1968 Act and this Act during that year.
  - (2) Without prejudice to the generality of sub-paragraph (1), but subject to the provisions of sub-paragraph (3), the report of the Commission for any year shall include—
    - (a) a statement of the action taken by the Commission to promote the enjoyment of the countryside by members of the public who are disabled; and
    - (b) a record of all questions with which the Commission have been concerned during that year and which appear to the Commission to be of general public interest, indicating the purport of any representations or recommendations made by the Commission with respect thereto, and the conclusions (if any) reached thereon.
  - (3) The report of the Commission for any year shall set out any direction given by the Secretary of State during that year under section 3 of the 1949 Act unless the Secretary of State has notified to the Commission his opinion that it is against the interests of national security so to do.
  - (4) The Secretary of State shall lay a copy of every report of the Commission under this paragraph before each House of Parliament.

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

**C30** Sch. 13 para. 13(3): Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

*Land*

14 The Commission, for the purpose of providing themselves with office or other accommodation in connection with the exercise of any of their functions, may, with the approval of the Secretary of State, acquire land, erect and maintain buildings or

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other structures thereon, and when the land is no longer required for such purpose, dispose of it.

- 15 Any land occupied by the Commission shall, for the purpose of any rate on property, be treated as if it were property occupied by or on behalf of the Crown for public purposes.

### *Interpretation*

- 16 In this Schedule—
- “appointed day” means the day appointed for the coming into force of this Schedule;
  - “the Commission” means the Countryside Commission;
  - “financial year” means the period commencing with the appointed day and ending with 31st March following that day, and each successive period of twelve months;
  - “the Minister” means [<sup>F153</sup>the Treasury];
  - “pension” includes allowance or gratuity.

#### **Textual Amendments**

**F153** Words substituted by [S.I. 1981/1670, art. 2\(1\)\(c\)\(d\)\(2\)](#)

## SCHEDULE 14

Section 53.

### APPLICATIONS FOR CERTAIN ORDERS UNDER PART III

#### *Form of applications*

- 1 An application shall be made in the prescribed form and shall be accompanied by—
- (a) a map drawn to the prescribed scale and showing the way or ways to which the application relates; and
  - (b) copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application.

#### *Notice of applications*

- 2 (1) Subject to sub-paragraph (2), the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates.
- (2) If, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on him by sub-paragraph (1) may be served by addressing it to him by the

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description “owner” or “occupier” of the land (describing it) and by affixing it to some conspicuous object or objects on the land.

- (3) When the requirements of this paragraph have been complied with, the applicant shall certify that fact to the authority.
- (4) Every notice or certificate under this paragraph shall be in the prescribed form.

#### *Determination by authority*

- 3 (1) As soon as reasonably practicable after receiving a certificate under paragraph 2(3), the authority shall—
  - (a) investigate the matters stated in the application; and
  - (b) after consulting with every local authority whose area includes the land to which the application relates, decide whether to make or not to make the order to which the application relates.
- (2) If the authority have not determined the application within twelve months of their receiving a certificate under paragraph 2(3), then, on the applicant making representations to the Secretary of State, the Secretary of State may, after consulting with the authority, direct the authority to determine the application before the expiration of such period as may be specified in the direction.
- (3) As soon as practicable after determining the application, the authority shall give notice of their decision by serving a copy of it on the applicant and any person on whom notice of the application was required to be served under paragraph 2(1).

#### *Appeal against a decision not to make an order*

- 4 (1) Where the authority decide not to make an order, the applicant may, at any time within 28 days after service on him of notice of the decision, serve notice of appeal against that decision on the Secretary of State and the authority.
- (2) If on considering the appeal the Secretary of State considers that an order should be made, he shall give to the authority such directions as appear to him necessary for the purpose.

#### *Interpretation*

- 5 (1) In this Schedule—
  - “application” means an application under section 53(5);
  - “local authority” means [<sup>F154</sup>a non-metropolitan district council], a parish or community council or the parish meeting of a parish not having a separate parish council;
  - “prescribed” means prescribed by regulations made by the Secretary of State.
- (2) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### Textual Amendments

**F154** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(8\)](#)

## SCHEDULE 15

Sections 53 and 54.

### PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART III

#### *Consultation*

- 1 Before making an order, the authority shall consult with every local authority whose area includes the land to which the order relates.

#### *Coming into operation*

- 2 An order shall not take effect until confirmed either by the authority or the Secretary of State under paragraph 6 or by the Secretary of State under paragraph 7.

#### *Publicity for orders*

- 3 (1) On making an order, the authority shall give notice in the prescribed form—
- (a) describing the general effect of the order and stating that it has been made and requires confirmation;
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
  - (c) specifying the time (not being less than 42 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) shall be given—
- (a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated;
  - (b) by serving a like notice on—
    - (i) every owner and occupier of any of that land;
    - (ii) every local authority whose area includes any of that land;
    - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3); and
    - (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—
    - (i) at the ends of so much of any way as is affected by the order;

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- (ii) at council offices in the locality of the land to which the order relates;  
and
  - (iii) at such other places as the authority may consider appropriate.
- (3) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such orders as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph “specified” means specified in the requirement.
- (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i); but if he 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 the notice shall be affixed to some conspicuous object or objects on the land.
- (5) Sub-paragraph (2)(b) and (c) and, where applicable, sub-paragraph (4) shall be complied with not less than 42 days before the expiration of the time specified in the notice.
- (6) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, shall be accompanied by a copy of so much of the order as relates to that land or, as the case may be, the area of that authority; and a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate shall be accompanied by a copy of the order.
- (7) A notice required to be displayed by sub-paragraph (2)(c) at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.
- (8) At any time after the publication of a notice under this paragraph and before the expiration of the period specified in the notice for the making of representations and objections, any person may require the authority to inform him what documents (if any) were taken into account in preparing the order and—
- (a) as respects any such documents in the possession of the authority, to permit him to inspect them and take copies; and
  - (b) as respects any such documents not in their possession, to give him any information the authority have as to where the documents can be inspected;
- and on any requirement being made under this sub-paragraph the authority shall comply therewith within 14 days of the making of the requirement.
- (9) Nothing in sub-paragraph (8) shall be construed as limiting the documentary or other evidence which may be adduced at any local inquiry or hearing held under paragraph 7 or 8.

*Representations or objections made with respect to abandoned surveys or reviews*

- 4 (1) This paragraph applies where a survey begun under sections 27 to 32 of the 1949 Act, or a review begun under section 33 of that Act, is abandoned after a draft map and statement have been prepared.
- (2) If an order modifies the definitive map and statement so as—

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- (a) to show any particulars shown in the draft map and statement but not in the definitive map and statement; or
- (b) to omit any particulars shown in the definitive map and statement but not in the draft map and statement,

any representation or objection duly made with respect to the showing in or omission from the draft map and statement of those particulars shall be treated for the purposes of paragraphs 6 and 7 as a representation or objection duly made with respect to the corresponding modifications made by the order.

#### *Severance of orders*

- 5 (1) Where at any time representations or objections duly made and not withdrawn relate to some but not all of the modifications made by an order, the authority may, by notice given to the Secretary of State, elect that, for the purposes of the following provisions of this Schedule, the order shall have effect as two separate orders—
- (a) the one comprising the modifications to which the representations or objections relate; and
  - (b) the other comprising the remaining modifications.
- (2) Any reference in sub-paragraph (1) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.

#### *Unopposed orders*

- 6 (1) If no representations or objections are duly made, or if any so made are withdrawn, the authority may—
- (a) confirm the order without modification; or
  - (b) if they require any modification to be made, submit the order to the Secretary of State for confirmation by him.
- (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State may confirm the order with or without modifications.

#### *Opposed orders*

- 7 (1) If any representation or objection duly made is not withdrawn the authority shall submit the order to the Secretary of State for confirmation by him.
- (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State shall either—
- (a) cause a local inquiry to be held; or
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
- (3) On considering any representations or objections duly made and the report of the person appointed to hold the inquiry or hear representations or objections, the Secretary of State may confirm the order with or without modifications.

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### *Restriction on power to confirm orders with modifications*

- 8 (1) The Secretary of State shall not confirm an order with modifications so as—
- (a) to affect land not affected by the order;
  - (b) not to show any way shown in the order or to show any way not so shown; or
  - (c) to show as a highway of one description a way which is shown in the order as a highway of another description,
- except after complying with the requirements of sub-paragraph (2).
- (2) The said requirements are that the Secretary of State shall—
- (a) give such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;
  - (b) hold a local inquiry or afford 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 the Secretary of State for the purpose; and
  - (c) consider the report of the person appointed to hold the inquiry or to hear representations or objections.

### *Local inquiries*

- 9 The provisions of subsections (2) to (5) of section 250 of the <sup>M77</sup>Local Government Act 1972 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under paragraph 7 or 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.

#### **Marginal Citations**

M77 1972 c. 70.

### *Appointment of inspectors etc.*

- 10 (1) A decision of the Secretary of State under paragraph 6, 7 or 8 shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.
- (2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
- (3) Where the Secretary of State has appointed a person to make a decision under paragraph 6, 7 or 8 the Secretary of State may, at any time before the making of the

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decision, appoint another person to make it instead of the person first appointed to make it.

- (4) Where by virtue of sub-paragraph (2) or (3) a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.
- (5) Regulations under this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

VALID FROM 13/02/2004

*[<sup>F155</sup> Hearings and local inquiries]*

**Textual Amendments**

**F155** Sch. 15 para. 10A and cross-heading inserted (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, {art.2(a)}; S.I. 2005/2459, art. 2(2)(b)(iii)

[<sup>F156</sup>10(A)] Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the <sup>M78</sup>Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) shall apply in relation to any hearing or local inquiry held under paragraph 7 or 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.

- (2) In its application to a hearing or inquiry held under paragraph 7 or 8 by a person appointed under paragraph 10(1), subsection (5) of that section shall have effect as if the reference to the Minister causing the inquiry to be held were a reference to the person so appointed or the Secretary of State.
- (3) Section 322A of the <sup>M79</sup>Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) shall apply in relation to a hearing or local inquiry under paragraph 7 or 8 as it applies in relation to a hearing or local inquiry for the purposes referred to in that section.]

**Textual Amendments**

**F156** Sch. 15 para. 10A and cross-heading inserted (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, {art.2(a)}; S.I. 2005/2459, art. 2(2)(b)(iii)

**Marginal Citations**

**M78** 1972 c. 70.  
**M79** 1990 c. 8.



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### *Notice of final decisions on orders*

- 11 (1) As soon as practicable after a decision to confirm an order is made or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his decision, the authority shall give notice—
- (a) describing the general effect of the order as confirmed and stating that it has been confirmed (with or without modification) and the date on which it took effect; and
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours.
- (2) A notice under sub-paragraph (1) shall be given—
- (a) by publication in the manner required by paragraph 3(2)(a);
  - (b) by serving a like notice on any persons on whom notices were required to be served under paragraph 3(2)(b) or (4); and
  - (c) by causing like notices to be displayed in the like manner as the notices required to be displayed under paragraph 3(2)(c).
- (3) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, shall be accompanied by a copy of so much of the order as confirmed as relates to that land or, as the case may be, the area of that authority; and, in the case of an order which has been confirmed with modifications, a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate shall be accompanied by a copy of the order as confirmed.
- (4) As soon as practicable after a decision not to confirm an order or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his decision, the authority shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 3(2)(b) or (4).

### *Proceedings for questioning validity of orders*

- 12 (1) If any person is aggrieved by an order which has taken effect and desires to question its validity on the ground that it is not within the powers of section 53 or 54 or that any of the requirements of this Schedule have not been complied with in relation to it, he may within 42 days from the date of publication of the notice under paragraph 11 make an application to the High Court under this paragraph.
- (2) On any such application the High Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.
- (3) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.

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*Supplemental*

- 13 (1) The Secretary of State may, subject to the provisions of this Schedule, by regulations make such provision as to the procedure on the making, submission and confirmation of orders as appears to him to be expedient.
- (2) In this Schedule—
  - “council offices” means offices or buildings acquired or provided by the authority or by a local authority;
  - “local authority” means [<sup>F157</sup>a non-metropolitan district council], a parish or community council or the parish meeting of a parish not having a separate parish council;
  - “order” means an order to which the provisions of this Schedule apply;
  - “prescribed” means prescribed by regulations made by the Secretary of State.
- (3) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**  
**F157** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(8\)](#)

<sup>X15</sup>SCHEDULE 16

Section 63.

ORDERS CREATING, EXTINGUISHING OR DIVERTING FOOTPATHS OR BRIDLEWAYS

**Editorial Information**  
**X15** The text of Sch. 16 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

<sup>F158</sup>1—4. ....

**Textual Amendments**  
**F158** [Sch. 16 paras. 1–4](#) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), ss. 3, 5, [Sch. 1 Pt. I](#), Sch. 3

*The Highways Act 1980*

- 5 (1) In subsection (1) of section 119 of the Highways Act 1980 (diversion of footpaths and bridleways) for the words from the beginning to “or on to land” there shall be substituted the words “Where it appears to a council as respects a footpath or bridleway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of

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the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or”.

- (2) In subsection (5) of that section for the words “the council may require the owner, lessee or occupier on whose representations they are acting” there shall be substituted the words “on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him”.
- 6 (1) In sub-paragraphs (1)(b) and 2(b) of paragraph I of Schedule 6 to that Act (procedure as to certain orders relating to footpaths and bridleways) after the words “free of charge” there shall be inserted the words “and copies thereof may be obtained at a reasonable charge”.
- (2) For sub-paragraph (3) of that paragraph there shall be substituted the following sub-paragraph—
- “(3) The notices to be given under sub-paragraph (1) or (2) above shall be given—
- (a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated ;
  - (b) by serving a like notice on—
    - (i) every owner, occupier and lessee (except tenants for a month or any period less than a month and statutory tenants within the meaning of the Rent (Agriculture) Act 1976 or the Rent Act 1977) of any of that land ;
    - (ii) every council, the council of every parish or community and the parish meeting of every parish not having a separate parish council, being a council, parish or community whose area includes any of that land ;
    - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3A) or (3B) below ; and
    - (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority or, as the case may be, the Secretary of State may consider appropriate ; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—
    - (i) at the ends of so much of any footpath or bridleway as is created, stopped up or diverted by the order ;
    - (ii) at council offices in the locality of the land to which the order relates ; and
    - (iii) at such other places as the authority or, as the case may be, the Secretary of State may consider appropriate.”
- (3) After that sub-paragraph there shall be inserted the following sub-paragraphs—
- “(3A) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such public path creation orders, public path extinguishment orders and public path diversion orders as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area ; and in this sub-paragraph “specified” means specified in the requirement.
- (3B) Any person may, on payment of such reasonable charge as the Secretary of State may consider appropriate, require the Secretary

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of State to give him notice of all such draft public path creation orders, draft public path extinguishment orders and draft public path diversion orders as are prepared by the Secretary of State during a specified period, are of a specified description and relate to land comprised in a specified area ; and in this sub-paragraph “specified” means specified in the requirement.

(3C) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub- paragraph (3)(b)(i) above ; but if he 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 the notice shall be affixed to some conspicuous object or objects on the land.”

(4) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraphs—

“(4A) Sub-paragraph (3)(b) and (c) and, where applicable, sub-paragraphs (3C) and (4) above shall be complied with not less than 28 days before the expiration of the time specified in the notice.

(4B) A notice required to be served by sub-paragraph (3)(b)(i), (ii) or (iv) above shall be accompanied by a copy of the order.

(4C) A notice required to be displayed by sub-paragraph (3)(c)(i) above at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.

(4D) In sub-paragraph (3)(c)(ii) above “council offices” means offices or buildings acquired or provided by a council or by the council of a parish or community or the parish meeting of a parish not having a separate parish council.”

7 After paragraph 2 of that Schedule there shall be inserted the following paragraph—

“(2A) (1) A decision of the Secretary of State under paragraph 2 above as respects an order made by an authority other than the Secretary of State shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State ; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.

(2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) above and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.

(3) Where the Secretary of State has appointed a person to make a decision under paragraph 2 above the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.

(4) Where by virtue of sub-paragraph (2) or (3) above a particular decision falls to be made by the Secretary of State or any other

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- person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.
- (5) Provision may be made by regulations of the Secretary of State for the giving of publicity to any directions given by the Secretary of State under this paragraph.”
- 8 (1) In paragraph 4 of that Schedule after the words “free of charge” there shall be inserted the words “and copies thereof may be obtained at a reasonable charge” and for heads (a) and (b) there shall be substituted the following heads—
- “(a) serve a like notice on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above ; and
- (b) cause like notices to be displayed in the like manner as the notices caused to be displayed under paragraph 1(3)(c) above;”.
- (2) That paragraph as so amended shall be renumbered as paragraph 4(1) of that Schedule and after that provision as so renumbered there shall be inserted the following sub-paragraphs—
- “(2) A notice required to be served by sub-paragraph (1)(a) above, on—
- (a) a person on whom notice was required to be served by paragraph 1(3)(b)(i) or (ii) above , or
- (b) in the case of an order which has been confirmed or made with modifications, a person on whom notice was required to be served by paragraph 1(3)(b)(iv) above,
- shall be accompanied by a copy of the order as confirmed or made.
- (3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the authority by whom the order was made shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above.”.
- 9 After that paragraph there shall be inserted the following paragraph—
- “(4A) As soon as may be after an order to which this Schedule applies has come into operation otherwise than—
- (a) on the date on which it was confirmed or made by the Secretary of State or confirmed as an unopposed order ; or
- (b) at the expiration of a specified period beginning with that date,
- the authority by whom the order was made or, in the case of an order made by the Secretary of State, the Secretary of State shall give notice of its coming into operation by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.”

### *Supplemental*

- 10 (1) The amendments made by the foregoing provisions of this Schedule shall not apply in relation to any order if it was made or a draft thereof was prepared, or a notice relating to it was given under paragraph 1 of the relevant Schedule, before the commencement date.
- (2) Any reference in this paragraph to Schedule 6 to the <sup>M80</sup>Highways Act 1980 includes a reference to that Schedule as applied by paragraph 3 of the provisions of Part I of

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Schedule 3 to the 1968 Act which relate to the<sup>M81</sup> Acquisition of Land (Authorisation Procedure) Act 1946.

#### Marginal Citations

**M80** 1980 c. 66.

**M81** 1946 c. 49.

## X16 SCHEDULE 17

Section 73.

### ENACTMENTS REPEALED

#### Editorial Information

**X16** The text of Sch. 17 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## PART I

### ENACTMENTS REPEALED ONE MONTH AFTER THE PASSING OF THIS ACT

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 97.	The National Parks and Access to the Countryside Act 1949.	Section 23.
1968 c. 41.	The Countryside Act 1968.	Section 14. In section 15(1) the words “which is not for the time being managed as a nature reserve but”.
1973 c. 37.	The Water Act 1973.	In section 22(3) the words “not being land for the time being managed as a nature reserve”.
1973 c. 54.	The Nature Conservancy Council Act 1973.	Section 3.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 27, in Part II, paragraph 101.
1980 c. 66.	The Highways Act 1980.	In section 134, subsection (3) and in subsection (5) the words “(3) or”. In section 135(1), the words “6 or” and “6 weeks or”.

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## PART II

### ENACTMENTS REPEALED ON A DAY TO BE APPOINTED

Chapter	Short title	Extent of repeal
2 & 3 Geo. 5. c. 14	The Protection of Animals (Scotland) Act 1912.	In section 9 the words “or any snare” and “or snare”.
12, 13 & 14 Geo. 6. c. 97.	The National Parks and Access to the Countryside Act 1949.	Sections 2 and 4.  Sections 27 to 35. Section 38. Section 95.
2 & 3 Eliz. 2. c. 30.	The Protection of Birds Act 1954.	The whole Act.
1963 c. 33.	The London Government Act 1963.	In section 60, subsections (1) to (4).
1963 c. 36	The Deer Act 1963.	In Schedule 2, in paragraph 1 the words “of less gauge than 12 bore” and in paragraph 4 the words from “other than” onwards.
1964 c. 59.	The Protection of Birds Act 1954 (Amendment) Act 1964.	The whole Act.
1967 c. 46.	The Protection of Birds Act 1967.	The whole Act.
1968 c. 41.	The Countryside Act 1968.	In section 1, subsection (4) and, in subsection (5), the words “and 2(1)” and the words “and in section 4(1)” onwards. Section 3.  In Schedule 3, in Part I, the entry relating to the National Parks and Access to the Countryside Act 1949, and Parts II, III and IV.
1970 c. 30.	The Conservation of Seals Act 1970.	In section 10(1)(c), the word “or” immediately following sub-paragraph (ii).
1971 c. 23.	The Courts Act 1971.	In Schedule 8, paragraph 31.  In Schedule 9, in Part II, the entry relating to section 31 of the National Parks and

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		Access to the Countryside Act 1949.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 20, in paragraph 1(2)(a), the words “in the London Gazette and”.
1972 c. 70.	The Local Government Act 1972.	In Schedule 17, paragraphs 22 to 33. In Schedule 29, paragraph 37.
1973 c. 37.	The Water Act 1973.	In Schedule 8, paragraph 67.
1973 c. 54.	The Nature Conservancy Council Act 1973.	In section 5(3) the words from the beginning to “save as aforesaid”.
1973 c. 57.	The Badgers Act 1973.	Sections 6 and 7. Section 8(2)(c). In section 11, the definitions of “area of special protection” and “authorised person”.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 27, in Part II, paragraphs 115 and 168.
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In Schedule 7C, the entries relating to the Protection of Birds Act 1954 and the Conservation of Wild Creatures and Wild Plants Act 1975.
1975 c. 48.	The Conservation of Wild Creatures and Wild Plants Act 1975.	The whole Act.
1976 c. 16.	The Statute Law (Repeals) Act 1976.	In Schedule 2, in Part II, the entry relating to the Protection of Birds Act 1967.
1976 c. 72.	The Endangered Species (Import and Export) Act 1976.	Section 13(6).
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entries relating to the Protection of Birds Act 1954 and the Conservation of Wild Creatures and Wild Plants Act 1975.
1979 c. 2.	The Customs and Excise Management Act 1979.	In Schedule 4, in paragraph 12, in the Table the entry relating to the Protection of Birds Act 1954.



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1980 c. 66.	The Highways Act 1980.	In section 31(10) the words “or of that subsection” onwards. Section 340(2)(d).
1981 c. 22.	The Animal Health Act 1981.	In Schedule 5, paragraph 1.
1981 c. 37.	The Zoo Licensing Act 1981.	In section 4(5), the entries relating to the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975.

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