



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART II

#### NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

##### <sup>F1</sup><sup>F2</sup>*Nature reserves, ... and Ramsar sites*

#### Textual Amendments

- F1** Words in cross-heading preceding s. 34A omitted (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by virtue of [Marine and Coastal Access Act 2009](#) (c. 23), ss. 146(1), 324(2)(b)(i), [Sch. 11 para. 2\(3\)](#) (with s. 145); S.I. 2014/3088, art. 2(b); and those same words repealed (S.) (1.7.2010) by [Marine \(Scotland\) Act 2010](#) (asp 5), ss. 167, 168(1), [Sch. 4 para. 5\(a\)](#) (with s. 162); S.S.I. 2010/230, [art. 2\(h\)](#)
- F2** 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](#)

#### 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, [<sup>F3</sup>the Natural Resources Body for Wales];
- (c) in relation to Scotland, Scottish Natural Heritage.]

#### Textual Amendments

- F3** Words in s. 34A(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), art. 1(2), [Sch. 2 para. 173](#) (with Sch. 7)

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**<sup>x1</sup>35 National nature reserves.**

- (1) Where [<sup>F4</sup>the appropriate conservation body] are satisfied that any land which—
- (a) is being managed as a nature reserve under an agreement entered into with [<sup>F4</sup>the appropriate conservation body];
  - (b) is held by [<sup>F4</sup>the appropriate conservation body] 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.
- [<sup>F5</sup>(1A) The land which may be declared to be a national nature reserve in England or Wales includes—
- (a) any land lying above mean low water mark;
  - (b) any land covered by estuarial waters.
- (1B) Where the area of land to which a declaration under subsection (1) relates includes land falling within subsection (1A)(a) or (b) (“area A”), it may also include land not falling within subsection (1A)(a) or (b) (“area B”) if—
- (a) area B adjoins area A, and
  - (b) any of the conditions in subsection (1C) is satisfied.
- (1C) The conditions are—
- (a) that the flora, fauna or features leading to the management of area A as a nature reserve is or are also present in area B;
  - (b) that the management of area A as a nature reserve is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
  - (c) that, without the inclusion of area B, the identification of the boundary of the land declared to be a national nature reserve (either in the declaration or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.
- (1D) The ministerial authority may issue guidance to the appropriate conservation body about the exercise of the power conferred by subsection (1B) to make a declaration in relation to land lying below mean low water mark.
- “The ministerial authority” has the meaning given by section 35A(12).]
- (2) A declaration by [<sup>F4</sup>the appropriate conservation body] 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, [<sup>F4</sup>the appropriate conservation body], 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—

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“approved body” means a body approved by [<sup>F4</sup>the appropriate conservation body] for the purposes of this section;

“nature reserve” has the same meaning as in Part III of the 1949 Act.

#### Editorial Information

- X1** 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

- F4** Words in s. 35 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 85](#); S.I. 2006/2541, [art. 2](#)
- F5** S. 35(1A)-(1D) 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. 10](#) (with [Sch. 13 para. 10\(2\)](#)); S.I. 2014/3088, [art. 2\(b\)](#)

### [<sup>F6</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.
- (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.

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- (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**

**F6** 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)

**<sup>F7</sup>36 Marine nature reserves.**

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**Textual Amendments**

**F7** S. 36 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(a), Sch. 22 Pt. 3 (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(b)(c); and s. 36 repealed (S.) (1.7.2010) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 167, 168(1), Sch. 4 para. 5(b) (with s. 162); S.S.I. 2010/230, art. 2(h)

**[<sup>F8</sup>37 Byelaws for protection of marine nature reserves.**

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**Textual Amendments**

**F8** S. 37 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(a), [Sch. 22 Pt. 3](#) (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(b)(c); and s. 37 repealed (S.) (1.7.2010) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 167, 168(1), [Sch. 4 para. 5\(b\)](#) (with s. 162); S.S.I. 2010/230, [art. 2\(h\)](#)

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<sup>x2</sup>[<sup>F9</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 [<sup>F10</sup>Natural England] if all or part of the wetland is in England;
- (b) notify [<sup>F11</sup>the Natural Resources Body 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; [<sup>F12</sup>and]
- <sup>F13</sup>(c) .....
- (d) every relevant undertaker (within the meaning of section 4(1) of the <sup>M1</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M2</sup>Land Drainage Act 1991) whose works, operations or activities may affect the wetland.

[ Subject to subsection (3), upon receipt of a notification under subsection (1), Natural <sup>F14</sup>(2A) England shall, in turn, notify the Environment Agency.]

[ Subject to subsection (3), upon receipt of a notification under subsection (1) relating <sup>F15</sup>(2B) to a wetland all or part of which is in [<sup>F16</sup>the area of a corporate joint committee to which Part 6 of the Planning and Compulsory Purchase Act 2004 applies by virtue of regulations under Part 5 of the Local Government and Elections (Wales) Act 2021], the Natural Resources Body for Wales shall, in turn, notify [<sup>F17</sup>that corporate joint committee].]

(3) [<sup>F10</sup>Natural England] and [<sup>F18</sup>the Natural Resources Body 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).]

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**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

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the continuity of historical versions of the existing provisions which are now brought under that new heading.

**Textual Amendments**

- F9** S. 37A inserted (30.1.2001) by [2000 c. 37, ss. 77, 103\(2\)](#)
- F10** Words in s. 37A(1)(a)(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 36; S.I. 2006/2541, art. 2](#)
- F11** Words in s. 37A(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 175\(2\) \(with Sch. 7\)](#)
- F12** Word in s. 37A(2)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 175\(3\)\(a\) \(with Sch. 7\)](#)
- F13** S. 37A(2)(c) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 175\(3\)\(b\) \(with Sch. 7\)](#)
- F14** S. 37A(2A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 175\(4\) \(with Sch. 7\)](#)
- F15** S. 37A(2B) inserted (6.9.2015 for specified purposes, 7.1.2021 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), s. 58\(2\)\(b\)\(4\)\(b\), Sch. 2 para. 7; S.I. 2021/7, reg. 2\(c\)](#)
- F16** Words in s. 37A(2B) substituted (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\), s. 175\(1\)\(e\), Sch. 9 para. 22\(a\)](#)
- F17** Words in s. 37A(2B) substituted (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\), s. 175\(1\)\(e\), Sch. 9 para. 22\(b\)](#)
- F18** Words in s. 37A(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 175\(5\) \(with Sch. 7\)](#)

**Marginal Citations**

- M1** 1991 c. 56.
- M2** 1991 c. 59.

**F19**<sup>38</sup> .....

**Textual Amendments**

- F19** S. 38 repealed (1.4.1991) by [Environmental Protection Act 1990 \(c.43, SIF 46:4\), s. 162\(2\), Sch. 16 Pt. VI; S.I. 1991/685, art. 3](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 53(3)(c)(ia) inserted by [2015 c. 20 Sch. 7 para. 2\(b\)](#)
- s. 53B(4A)(4B) inserted by [2015 c. 20 Sch. 7 para. 4](#)
- s. 53ZA inserted by [2015 c. 20 Sch. 7 para. 3](#)
- s. 54B54C inserted by [2015 c. 20 Sch. 7 para. 5](#)
- Sch. 13A inserted by [2015 c. 20 Sch. 7 para. 6](#)
- Sch. 14A inserted by [2015 c. 20 Sch. 7 para. 7](#)