



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART II

#### NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

##### *Nature conservation*

#### **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—
  - (a) to the local planning authority in whose area the land is situated;
  - (b) to every owner and occupier of any of that land ; and
  - (c) to the Secretary of State.
- (2) Before giving a notification under subsection (1), the Council shall give notice to the persons mentioned in that subsection—
  - (a) setting out the proposed notification ; and
  - (b) specifying 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 objections with respect thereto may be made,and shall consider any representation or objections duly made.
- (3) If, after reasonable inquiry has been made, the Council are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land a notification or notice required to be served on him may be served by addressing it to him by the description " owner " or " occupier " of the land (describing it) and by affixing it to some conspicuous object or objects on the land.
- (4) A notification under subsection (1)(b) shall specify—
  - (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and

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- (b) any operations appearing to the Council to be likely to damage that flora or fauna or those features.
- (5) The owner or occupier of any land which has been notified under subsection (1)(b) shall not 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 the commencement date, 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 three months have expired from; the giving of the notice under subsection (5).
- (7) A person who, without reasonable excuse, contravenes subsection (5) shall be liable on summary conviction to a fine not exceeding £500.
- (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 Part III of the Town and Country Planning Act 1971 or Part III of the 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.
- (12) A notification under subsection (1)(b) of land in Scotland shall be registered either—
  - (a) in a case where the land 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.
- (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 U)(a).
- (14) Subsection (2) shall not apply in relation to a notification of any land under subsection (1)(b) where a notification of that land under the said section 23 has effect as if given under subsection (1)(a).

## **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 physiographical features,
- 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 commencement date, given the 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 (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 ;

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- (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—
  - (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 Part III of the Town and Country Planning Act 1971 or Part III of the 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 paragraph 17 of Schedule 3 to the Nature Conservancy Council Act 1973 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.

### **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—
  - (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.

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- (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 Land Compensation Act 1973 (mort gages, trusts for sale and settlements) or section 10 of the 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 Land Compensation Act 1961 or section 12 of the 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
- (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.

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- (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.

### **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 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 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 £1,000 ; 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.

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

- (1) Where an application for a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants) 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 the scheme and section 29 of the said Act of 1970, 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.
- (3) In this section " the appropriate Minister " has the same meaning as in section 29 of the said Act of 1970.

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

- (1) The Ministers shall from time to time, after consultation with the Nature Conservancy Council 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.

### **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 Part III of the Town and Country Planning Act 1971 or Part III of the Town and Country Planning (Scotland) Act 1972.
- (6) In this section—
  - "the Commission" means the Countryside Commission in relation to England 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;
  - "the relevant authority" means the county planning authority in relation to England and Wales and the authority exercising district planning functions in relation to Scotland.

### **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.

### **36 Marine nature reserves**

- (1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea in or adjacent to Great Britain up to the seaward limits of territorial waters, 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.

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- (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, the Greater London Council or a London borough council;
    - (b) in relation to Scotland, a regional council, an islands council or a district council;
  - " relevant authority " means a local authority, a water authority or any other statutory water undertakers, an internal drainage board, a navigation authority, a harbour authority, a pilotage authority, a lighthouse authority, a conservancy authority, a river purification board, a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862, or a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966.

### **37 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

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- (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—
  - (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 Local Government Act 1972 or sections 202 to 204 of the 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.

### **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.

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- (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.
- (6) Section 3 of the Nature Conservancy Council Act 1973 (which is superseded by this section) shall cease to have effect.

### *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 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 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, the county planning authority;
  - (b) as respects land in Greater London, the Greater London Council or the London borough council; and
  - (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.

#### **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 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.”

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

- (1) The advice for the giving of which free of charge the Minister of Agriculture, Fisheries and Food and the Secretary of State are required by section 1(1) of the Agriculture (Miscellaneous Provisions) Act 1944 to make provision through such organisation as they consider appropriate shall include—
- (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).
- (2) In the exercise of his general duty under section 4(2) of the 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 such advice as is mentioned in paragraphs (a), (b) and (c) of subsection (1).
- (3) Where an application for a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants) is made as respects expenditure incurred or to be incurred for the purposes of activities on land which is in a National Park or

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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 scheme and the said section 29, 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 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—

"agricultural business" and "the appropriate Minister" have the same meanings as in the said section 29 ;

" 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 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.

- (6) Subsection (1) extends only to England and Wales and subsection (2) extends only to Scotland.

### *National Parks*

## **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 county 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 county 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 county 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.
- (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.

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

- (1) Every county 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 the commencement date, prepare a map of the Park or the part thereof showing any areas of moor or heath the natural beauty of which it is, in the opinion of the authority, particularly important to conserve ; and
  - (b) at such intervals thereafter as they think fit (but not less than once in any year), review the particulars contained in the map and make such revisions thereof (if any) as may be requisite.

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- (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.

#### **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 county 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 county 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 county 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.

#### **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 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.

#### **46 Membership of National Park authorities**

- (1) In Part I of Schedule 17 to the 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) ".
- (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



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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.”

- (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 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.

#### *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 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.

### **48 Duties of water authorities etc. with respect to nature conservation and the countryside**

- (1) For subsection (1) of section 22 of the Water Act 1973 (duties with respect to nature conservation and amenity) there shall be substituted the following subsection—

“(1) In formulating or considering any proposals relating to the discharge of any of the functions of water authorities, those authorities and the appropriate Minister or Ministers—

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- (a) shall, so far as may be consistent with the purposes of this Act and of the Land Drainage Act 1976, so exercise their functions with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
  - (b) shall have regard to the desirability of protecting buildings or other objects or archaeological, architectural or historic interest; and
  - (c) shall take into account any effect which the proposals would have on the beauty of, or amenity in, any rural or urban area or on any such flora, fauna, features, buildings or objects.”
- (2) In subsection (3) of that section the words " not being land for the time being managed as a nature reserve " shall be omitted.
- (3) After that subsection there shall be inserted the following subsections—
  - “(4) Where any land has been notified to a water authority under subsection (3) above, the authority shall consult with the Council before executing or carrying out any works or operations appearing to them to be likely to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest.
  - (5) Subsection (4) above shall not apply in relation to any emergency operation particulars of which (including details of the emergency) are notified to the Council as soon as practicable after the commencement of the operation.
  - (6) References in this section to water authorities shall include references to internal drainage boards and the reference in subsection (3) above to the water authority in whose area the land is situated shall include a reference to the internal drainage board in whose district the land is situated.”

#### **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
  - (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 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 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 any additional power to appoint wardens.

## **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—

" farm capital grant " means a grant under a scheme made under section 29 of the Agriculture Act 1970 ;

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

## **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—
  - (a) 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;
  - (b) to ascertain the amount of any compensation payable under section 30 in respect of an interest in that land;
  - (c) 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;
  - (d) 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—

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- (a) for the purposes of paragraphs (d) and (b) of that subsection, the Nature Conservancy Council;
  - (b) for the purposes of paragraph (c) of that subsection, the Secretary of State or the relevant authority within the meaning of section 34 ;
  - (c) for the purposes of paragraph (d) of that subsection, the Ministers or the county planning authority.
- (3) A person shall not demand admission as of right to any land which is occupied unless either—
- (a) 24 hours notice of the intended entry has been given to the occupier; or
  - (b) 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 £200.

## **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.
- (2) In the application of this Part to England and Wales—
- (a) references to a local planning authority shall be construed, except as respects Greater London, as references to a county planning authority and a district planning authority and, as respects Greater London, as references to a London borough council; and
  - (b) references to a county planning authority shall be construed, as respects Greater London, as references to a London borough council;
- 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(D)) 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.