

Status: Point in time view as at 01/02/1991.

Changes to legislation: Environmental Protection Act 1990, SCHEDULE 11 is up to date with all changes known to be in force on or before 18 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)

SCHEDULES

SCHEDULE 11

Section 139.

TRANSITIONAL PROVISIONS AND SAVINGS FOR PART VII

PART I

COUNTRYSIDE FUNCTIONS

Preliminary

- 1 In this Part of this Schedule—
- “the appointed day” means the day appointed under section 130(4) of this Act;
 - “the Commission” means the Countryside Commission;
 - “the Council” means the Countryside Council for Wales;
 - “relevant”, in relation to anything done by or in relation to the Commission before the appointed day, means anything which, if it were to be done on or after the appointed day, would be done by or in relation to the Council or, as the case may be, by or in relation to both the Commission (so far as concerning England) and the Council (so far as concerning Wales).

Continuity of exercise of functions

- 2
- (1) Any relevant thing done by or in relation to the Commission before the appointed day shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the Council or, as the case may be, by or in relation to both the Council and the Commission.
 - (2) Any relevant thing which, immediately before the appointed day, is in the process of being done by or in relation to the Commission may be continued by or in relation to the Council or, as the case may be, by or in relation to both the Council and the Commission.

Construction of references to the Countryside Commission

- 3
- (1) This paragraph applies to any provision of any agreement, or of any instrument or other document, subsisting immediately before the appointed day which refers (in whatever terms) to the Commission and does so (or is to be construed as doing so) in relation to, or to things being done in or in connection with, Wales.
 - (2) Any provision to which this paragraph applies shall, subject to sub-paragraphs (3) and (4) below, have effect on and after the appointed day with the substitution for, or the inclusion in, any reference to the Commission of a reference to the Council, according as the reference concerns Wales only or concerns both England and Wales.

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- (3) Any provision to which this paragraph applies which refers in general terms to members of or to persons employed by or agents of the Commission shall have effect on and after the appointed day with the substitution for, or the inclusion in, any such reference of a reference to members of or persons employed by or agents of the Council, according as the reference concerns Wales only or concerns both England and Wales.
- (4) Any provision to which this paragraph applies which refers to a member or employee of the Commission shall have effect on and after the appointed day with the substitution for, or the inclusion in, any such reference of—
- (a) a reference to such person as the Council may appoint, or
 - (b) in default of appointment, to the member or employee of the Council who corresponds as nearly as may be to the member or employee in question, according as the reference concerns Wales only or concerns both England and Wales.
- 4 (1) This paragraph applies to any provision of a local Act passed, or subordinate legislation made, before the appointed day which refers (in whatever terms) to the Commission and relates to, or to things being done in or in connection with, Wales.
- (2) The Secretary of State may by order make such consequential modifications of any provision to which this paragraph applies as appear to him to be necessary or expedient.
- (3) Subject to any exercise of the power conferred by sub-paragraph (2) above, any provision to which this paragraph applies shall have effect on and after the appointed day with the substitution for, or inclusion in, any reference to the Commission of a reference to the Council, according as the reference concerns Wales only or concerns both England and Wales.

Existing areas of outstanding natural beauty and long distance routes

- 5 (1) This paragraph applies to—
- (a) any area of land which immediately before the appointed day is an area of outstanding natural beauty designated under section 87 of the 1949 Act of which part is in England and part is in Wales (referred to as “the two parts” of such an area); and
 - (b) any long distance route under Part IV of that Act of which some parts are in England and other parts in Wales.
- (2) On and after the appointed day the two parts of an area to which this paragraph applies shall be treated as if each were a distinct area of outstanding natural beauty; and accordingly, so far as may be necessary for the purpose of applying paragraphs 2 and 3 above, anything done by or in relation to the Commission in relation to both parts of that area shall be treated as having been done in relation to the part in Wales by or in relation to the Council.
- (3) On and after the appointed day any route to which this paragraph applies shall not cease, by virtue of this Part of this Act to be a single route for the purposes of Part IV of the 1949 Act; but any function which before that day is exercisable by or in relation to the Commission shall, on and after that day be exercisable by or in relation to the Commission (so far as concerns parts of the route in England) and by or in relation to the Council (so far as concerns parts of the route in Wales).

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- (4) On or after the appointed day the Commission and the Council shall each exercise any function of theirs in relation to an area or route to which this paragraph applies only after consultation with the other; and the Commission and the Council may make arrangements for discharging any of their functions in relation to such an area or route jointly.

PART II

NATURE CONSERVATION FUNCTIONS

Preliminary

- 6 In this Part of this Schedule—
“appointed day” means the date appointed under section 131(3) of this Act;
“appropriate new council” shall be construed in accordance with paragraph 7 below; and
“new council” means a council established by section 128(1) of this Act.
- 7 (1) In this Part of this Schedule a reference to “the appropriate new council” is, in relation to or to things done in connection with property, rights or liabilities of the Nature Conservancy Council which are transferred by section 135(2) of this Act to a new council, a reference to that new council.
- (2) Subject to sub-paragraph (1) above, a reference in this Part of this Schedule to “the appropriate new council” is, in relation to anything else done before the appointed day by or in relation to the Nature Conservancy Council in the exercise of or in connection with any function of theirs (other than a function corresponding to a special function of the new councils)—
(a) a reference to the new council by whom the nature conservation function corresponding to that function is exercisable on and after that date; or
(b) where the thing done relates to a matter affecting the area of more than one new council, a reference to each new council by whom the nature conservation function corresponding to that function is exercisable on and after that date;
- and in relation to anything done in the exercise of or in connection with any function of the Nature Conservancy Council corresponding to a special function of the new councils a reference to “the appropriate new council” is a reference to the joint committee or, where directions under section 133(5) of this Act have been given, the new council by whom the corresponding special function is dischargeable (on behalf of the new councils) on and after that day.
- (3) Any question arising under this paragraph as to which new council is the appropriate new council in relation to any particular function of the Nature Conservancy Council may be determined by a direction given by the Secretary of State.

Continuity of exercise of functions

- 8 (1) Anything done (or deemed by any enactment to have been done) by or in relation to the Nature Conservancy Council before the appointed day shall, so far as is required

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for continuing its effect on and after that date, have effect as if done by or in relation to the appropriate new council.

- (2) Anything which immediately before the appointed day is in the process of being done by or in relation to the Nature Conservancy Council may be continued by or in relation to the appropriate new council as if it had been done by or in relation to that council.

Construction of references to the Nature Conservancy Council

- 9 (1) This paragraph applies to any agreement, any instrument and any other document subsisting immediately before the appointed day which refers (in whatever terms) to the Nature Conservancy Council, other than a scheme provided by that Council under paragraph 12 of Schedule 3 to the ^{M1}Nature Conservancy Council Act 1973.
- (2) Any agreement, instrument or other document to which this paragraph applies shall have effect on and after the appointed day with the substitution—
- (a) for any reference to the Nature Conservancy Council of a reference to the appropriate new council;
 - (b) for any reference in general terms to members of or to persons employed by or agents of the Nature Conservancy Council of a reference to members of or persons employed by or agents of the appropriate new council; and
 - (c) for any reference to a member or officer of the Nature Conservancy Council of a reference to such person as the appropriate new council may appoint or, in default of appointment, to the member or employee of that council who corresponds as nearly as may be to the member or officer in question.

Marginal Citations

M1 1973 c. 54.

- 10 (1) This paragraph applies to any provision of a local Act passed, or subordinate legislation made, before the appointed day which refers (in whatever terms) to the Nature Conservancy Council.
- (2) The Secretary of State may by order make such consequential modifications of any provision to which this paragraph applies as appear to him to be necessary or expedient.
- (3) Subject to any exercise of the power conferred by sub-paragraph (2) above, any provision to which this paragraph applies shall have effect on and after the appointed day with the substitution for each reference to the Nature Conservancy Council of a reference to such one or more of the new councils as may be appropriate, according as the provision relates to, or to things being done in or in connection with, England, Scotland or Wales.

Pensions for Nature Conservancy Council staff

- 11 (1) The repeal by this Act of paragraph 12 of Schedule 3 to the ^{M2}Nature Conservancy Council Act 1973 shall not affect the operation on and after the appointed day of any scheme provided by the Nature Conservancy Council for the payment to or in respect of its officers of pensions, allowances or gratuities.

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- (2) Any such scheme shall have effect on and after the appointed day with the substitution for any reference to the Nature Conservancy Council of a reference to the Secretary of State.

Marginal Citations

M2 1973 c. 54.

Existing nature reserves and areas of special scientific interest

- 12 (1) This paragraph applies to any land which, immediately before the appointed day is—
- (a) a nature reserve (within the meaning of Part III of the 1949 Act) which is managed by, or under an agreement entered into with, the Nature Conservancy Council or which is the subject of a declaration under section 35 of the 1981 Act; or
 - (b) an area of special scientific interest which has been notified by the Nature Conservancy Council under section 28(1) of the 1981 Act or is treated by section 28(13) of that Act as having been notified under section 28(1)(a) of that Act or is an area to which an order under section 29(1) of that Act relates; and of which part is in England and part is in Wales or, as the case may be, part is in England and part is in Scotland (referred to as “the two parts” of such a reserve or area).
- (2) On and after the appointed day, the two parts of any reserve or area to which this paragraph applies shall be treated as if each were a distinct nature reserve or area of special scientific interest; and accordingly, so far as may be necessary for the purpose of applying paragraphs 8 and 9 above, anything done by or in relation to the Nature Conservancy Council affecting both parts of that reserve or area shall be treated as having been done by or in relation to each of the two parts separately.
- (3) On and after the appointed day the new council exercising functions as respects either part of a reserve or area to which this paragraph applies shall exercise those functions only after consultation with the new council exercising functions as respects the other part; and those councils may make arrangements for discharging any of those functions jointly.

PART III

SUPPLEMENTARY

- 13 Paragraphs 3, 4, 5, 8, 9, 10 and 12 above are without prejudice to any provision made by or under this Part of this Act in relation to any particular functions, property, rights or liabilities; and, in particular, nothing in this Schedule applies in relation to contracts of employment made by the Countryside Commission or the Nature Conservancy Council.
- 14 The Secretary of State may, in relation to any particular functions of the Countryside Commission or the Nature Conservancy Council, by order exclude, or modify or supplement any provision of this Schedule or make such other transitional provision as he may think necessary or expedient.

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- 15 In this Schedule “the 1949 Act” means the National Parks and Access to the Countryside Act 1949 and “the ^{M3}1981 Act” means the Wildlife and Countryside Act 1981.

Marginal Citations

M3 1949 c. 97.

M4 1981 c. 69.

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