



# Countryside and Rights of Way Act 2000

## 2000 CHAPTER 37

### PART I

#### ACCESS TO THE COUNTRYSIDE

#### CHAPTER I

#### RIGHT OF ACCESS

#### *General*

### **1 Principal definitions for Part I.**

- (1) In this Part “access land” means any land which—
- (a) is shown as open country on a map in conclusive form issued by the appropriate countryside body for the purposes of this Part,
  - (b) is shown on such a map as registered common land,
  - (c) is registered common land in any area outside Inner London for which no such map relating to registered common land has been issued,
  - (d) is situated more than 600 metres above sea level in any area for which no such map relating to open country has been issued, or
  - (e) is dedicated for the purposes of this Part under section 16,
- but does not (in any of those cases) include excepted land or land which is treated by section 15(1) as being accessible to the public apart from this Act.
- (2) In this Part—
- “access authority”—
- (a) in relation to land in a National Park, means the National Park authority, and
  - (b) in relation to any other land, means the local highway authority in whose area the land is situated;

*Status: Point in time view as at 19/09/2004.*

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“the appropriate countryside body” means—

- (a) in relation to England, the Countryside Agency, and
- (b) in relation to Wales, the Countryside Council for Wales;

“excepted land” means land which is for the time being of any of the descriptions specified in Part I of Schedule 1, those descriptions having effect subject to Part II of that Schedule;

“mountain” includes, subject to the following definition, any land situated more than 600 metres above sea level;

“mountain, moor, heath or down” does not include land which appears to the appropriate countryside body to consist of improved or semi-improved grassland;

“open country” means land which—

- (a) appears to the appropriate countryside body to consist wholly or predominantly of mountain, moor, heath or down, and
- (b) is not registered common land.

(3) In this Part “registered common land” means—

- (a) land which is registered as common land under the <sup>M1</sup>Commons Registration Act 1965 (in this section referred to as “the 1965 Act”) and whose registration under that Act has become final, or
- (b) subject to subsection (4), land which fell within paragraph (a) on the day on which this Act is passed or at any time after that day but has subsequently ceased to be registered as common land under the 1965 Act on the register of common land in which it was included being amended by reason of the land having ceased to be common land within the meaning of that Act.

(4) Subsection (3)(b) does not apply where—

- (a) the amendment of the register of common land was made in pursuance of an application made before the day on which this Act is passed, or
- (b) the land ceased to be common land by reason of the exercise of—
  - (i) any power of compulsory purchase, of appropriation or of sale which is conferred by an enactment,
  - (ii) any power so conferred under which land may be made common land within the meaning of the 1965 Act in substitution for other land.

#### Marginal Citations

M1 1965 c. 64.

## 2 Rights of public in relation to access land.

(1) Any person is entitled by virtue of this subsection to enter and remain on any access land for the purposes of open-air recreation, if and so long as—

- (a) he does so without breaking or damaging any wall, fence, hedge, stile or gate, and
- (b) he observes the general restrictions in Schedule 2 and any other restrictions imposed in relation to the land under Chapter II.

(2) Subsection (1) has effect subject to subsections (3) and (4) and to the provisions of Chapter II.

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- (3) Subsection (1) does not entitle a person to enter or be on any land, or do anything on any land, in contravention of any prohibition contained in or having effect under any enactment, other than an enactment contained in a local or private Act.
- (4) If a person becomes a trespasser on any access land by failing to comply with—
- (a) subsection (1)(a),
  - (b) the general restrictions in Schedule 2, or
  - (c) any other restrictions imposed in relation to the land under Chapter II,
- he may not, within 72 hours after leaving that land, exercise his right under subsection (1) to enter that land again or to enter other land in the same ownership.
- (5) In this section “owner”, in relation to any land which is subject to a farm business tenancy within the meaning of the <sup>M2</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M3</sup>Agricultural Holdings Act 1986 applies, means the tenant under that tenancy, and “ownership” shall be construed accordingly.

#### Commencement Information

- I1** S. 2 in force at 19.9.2004 or the end of a period of six months beginning with the day on which the land is dedicated for the purposes of Part I under s. 16, whichever is the later or the end of a period of six months beginning with the day on which the land is dedicated for the purposes of Part I under s. 16, whichever is the later by S.I. 2004/2173, art. 2(2)
- I2** S. 2 in force at 19.9.2004 for specified purposes for E. by S.I. 2004/2173, art. 2(1)(a)

#### Marginal Citations

- M2** 1995 c. 8.  
**M3** 1986 c. 5.

### 3 Power to extend to coastal land.

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order amend the definition of “open country” in section 1(2) so as to include a reference to coastal land or to coastal land of any description.
- (2) An order under this section may—
- (a) make consequential amendments of other provisions of this Part, and
  - (b) modify the provisions of this Part in their application to land which is open country merely because it is coastal land.
- (3) In this section “coastal land” means—
- (a) the foreshore, and
  - (b) land adjacent to the foreshore (including in particular any cliff, bank, barrier, dune, beach or flat which is adjacent to the foreshore).

#### *Maps*

### 4 Duty to prepare maps.

- (1) It shall be the duty of the Countryside Agency to prepare, in respect of England outside Inner London, maps which together show—

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- (a) all registered common land, and
  - (b) all open country.
- (2) It shall be the duty of the Countryside Council for Wales to prepare, in respect of Wales, maps which together show—
- (a) all registered common land, and
  - (b) all open country.
- (3) Subsections (1) and (2) have effect subject to the following provisions of this section and to the provisions of sections 5 to 9.
- (4) A map prepared under this section must distinguish between open country and registered common land, but need not distinguish between different categories of open country.
- (5) In preparing a map under this section, the appropriate countryside body—
- (a) may determine not to show as open country areas of open country which are so small that the body consider that their inclusion would serve no useful purpose, and
  - (b) may determine that any boundary of an area of open country is to be treated as coinciding with a particular physical feature (whether the effect is to include other land as open country or to exclude part of an area of open country).
- 5 Publication of draft maps.**
- The appropriate countryside body shall—
- (a) issue in draft form any map prepared by them under section 4,
  - (b) consider any representations received by them within the prescribed period with respect to the showing of, or the failure to show, any area of land on the map as registered common land or as open country,
  - (c) confirm the map with or without modifications,
  - (d) if the map has been confirmed without modifications, issue it in provisional form, and
  - (e) if the map has been confirmed with modifications, prepare a map incorporating the modifications, and issue that map in provisional form.
- 6 Appeal against map after confirmation.**
- (1) Any person having an interest in any land may appeal—
- (a) in the case of land in England, to the Secretary of State, or
  - (b) in the case of land in Wales, to the National Assembly for Wales,
- against the showing of that land on a map in provisional form as registered common land or as open country.
- (2) An appeal relating to the showing of any land as registered common land may be brought only on the ground that the land is not registered common land.
- (3) An appeal relating to the showing of any land as open country may be brought only on the ground that—
- (a) the land does not consist wholly or predominantly of mountain, moor, heath or down, and

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- (b) to the extent that the appropriate countryside body have exercised their discretion under section 4(5)(b) to treat land which is not open country as forming part of an area of open country, the body ought not to have done so.
- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
- (a) approve the whole or part of the map which is the subject of the appeal, with or without modifications, or
  - (b) require the appropriate countryside body to prepare under section 4 a new map relating to all or part of the area covered by the map which is the subject of the appeal.

## 7 Appeal procedure.

- (1) Before determining an appeal under section 6, the Secretary of State or the National Assembly for Wales may, if he or it thinks fit—
- (a) cause the appeal to take, or continue in, the form of a hearing, or
  - (b) cause a local inquiry to be held;
- and the appeal authority shall act as mentioned in paragraph (a) or (b) if a request is made by either party to the appeal to be heard with respect to the appeal.
- (2) Subsections (2) to (5) of section 250 of the <sup>M4</sup>Local Government Act 1972 (local inquiries: evidence and costs) apply to a hearing or local inquiry held under this section as they apply to a local inquiry held under that section, but as if—
- (a) references in that section to the person appointed to hold the inquiry were references to the Secretary of State or the National Assembly for Wales, and
  - (b) references in that section to the Minister causing an inquiry to be held were references to the Secretary of State or the Assembly.
- (3) Where—
- (a) for the purposes of an appeal under section 6, the Secretary of State or the National Assembly for Wales is required by subsection (1)—
    - (i) to cause the appeal to take, or continue in, the form of a hearing, or
    - (ii) to cause a local inquiry to be held, and
  - (b) the inquiry or hearing does not take place, and
  - (c) if it had taken place, the Secretary of State or the Assembly or a person appointed by the Secretary of State or the Assembly would have had power to make an order under section 250(5) of the <sup>M5</sup>Local Government Act 1972 requiring any party to pay the costs of the other party,
- the power to make such an order may be exercised, in relation to costs incurred for the purposes of the inquiry or hearing, as if it had taken place.
- (4) This section has effect subject to section 8.

### Marginal Citations

- M4 1972 c. 70.
- M5 1972 c. 70.

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## **8 Power of Secretary of State or Assembly to delegate functions relating to appeals.**

- (1) The Secretary of State or the National Assembly for Wales may—
  - (a) appoint any person to exercise on his or its behalf, with or without payment, the function of determining—
    - (i) an appeal under section 6, or
    - (ii) any matter involved in such an appeal, or
  - (b) refer any matter involved in such an appeal to such person as the Secretary of State or the Assembly may appoint for the purpose, with or without payment.
- (2) Schedule 3 has effect with respect to appointments under subsection (1)(a).

## **9 Maps in conclusive form.**

- (1) Where—
  - (a) the time within which any appeal under section 6 may be brought in relation to a map in provisional form has expired and no appeal has been brought, or
  - (b) every appeal brought under that section in relation to a map has—
    - (i) been determined by the map or part of it being approved without modifications, or
    - (ii) been withdrawn,

the appropriate countryside body shall issue the map (or the part or parts of it that have been approved without modifications) as a map in conclusive form.
- (2) Where—
  - (a) every appeal brought under section 6 in relation to a map in provisional form has been determined or withdrawn, and
  - (b) on one or more appeals, the map or any part of it has been approved with modifications,

the appropriate countryside body shall prepare a map which covers the area covered by the map in provisional form (or the part or parts of the map in provisional form that have been approved with or without modifications) and incorporates the modifications, and shall issue it as a map in conclusive form.
- (3) Where either of the conditions in subsection (1)(a) and (b) is satisfied in relation to any part of a map in provisional form, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct the relevant countryside body to issue that part of the map as a map in conclusive form.
- (4) Where on an appeal under section 6 part of a map in provisional form has been approved with modifications but the condition in subsection (2)(a) is not yet satisfied, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct the relevant countryside body to issue a map which covers the area covered by that part of the map in provisional form and incorporates the modifications, and to issue it as a map in conclusive form.
- (5) Where a map in conclusive form has been issued in compliance with a direction under subsection (3) or (4), subsections (1) and (2) shall have effect as if any reference to the map in provisional form were a reference to the part not affected by the direction.
- (6) A document purporting to be certified on behalf of the appropriate countryside body to be a copy of or of any part of a map in conclusive form issued by that body for the

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purposes of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

## **10 Review of maps.**

- (1) Where the appropriate countryside body have issued a map in conclusive form in respect of any area, it shall be the duty of the body from time to time, on a review under this section, to consider—
  - (a) whether any land shown on that map as open country or registered common land is open country or registered common land at the time of the review, and
  - (b) whether any land in that area which is not so shown ought to be so shown.
- (2) A review under this section must be undertaken—
  - (a) in the case of the first review, not more than ten years after the issue of the map in conclusive form, and
  - (b) in the case of subsequent reviews, not more than ten years after the previous review.
- (3) Regulations may amend paragraphs (a) and (b) of subsection (2) by substituting for the period for the time being specified in either of those paragraphs such other period as may be specified in the regulations.

## **11 Regulations relating to maps.**

- (1) Regulations may make provision supplementing the provisions of sections 4 to 10.
- (2) Regulations under this section may in particular make provision with respect to—
  - (a) the scale on which maps are to be prepared,
  - (b) the manner and form in which they are to be prepared and issued,
  - (c) consultation with access authorities, local access forums and other persons on maps in draft form,
  - (d) the steps to be taken for informing the public of the issue of maps in draft form, provisional form or conclusive form,
  - (e) the manner in which maps in draft form, provisional form or conclusive form are to be published or to be made available for inspection,
  - (f) the period within which and the manner in which representations on a map in draft form may be made to the appropriate countryside body,
  - (g) the confirmation of a map under section 5(c),
  - (h) the period within which and manner in which appeals under section 6 are to be brought,
  - (i) the advertising of such an appeal,
  - (j) the manner in which such appeals are to be considered,
  - (k) the procedure to be followed on a review under section 10, including the issue of maps in draft form, provisional form and conclusive form on a review, and
  - (l) the correction by the appropriate countryside body of minor errors or omissions in maps.
- (3) Regulations made by virtue of subsection (2)(b) or (e) may authorise or require a map to be prepared, issued, published or made available for inspection in electronic form, but must require any map in electronic form to be capable of being reproduced in printed form.

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- (4) Regulations made by virtue of subsection (2)(k) may provide for any of the provisions of this Chapter relating to appeals to apply (with or without modifications) in relation to an appeal against a map issued in provisional form on a review.

*Rights and liabilities of owners and occupiers*

**12 Effect of right of access on rights and liabilities of owners.**

- (1) The operation of section 2(1) in relation to any access land does not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in the access land or any adjoining land in respect of the state of the land or of things done or omitted to be done on the land.
- (2) Any restriction arising under a covenant or otherwise as to the use of any access land shall have effect subject to the provisions of this Part, and any liability of a person interested in any access land in respect of such a restriction is limited accordingly.
- (3) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across land in the exercise of the right conferred by section 2(1) is to be disregarded.
- (4) The use of any land by the inhabitants of any locality for the purposes of open-air recreation in the exercise of the right conferred by section 2(1) is to be disregarded in determining whether the land has become a town or village green.

**Commencement Information**

**I3** S. 12 in force at 19.9.2004 for E. by S.I. 2004/2173, art. 2(1)(b)

**13 Occupiers' liability.**

- (1) In section 1 of the <sup>M6</sup>Occupiers' Liability Act 1957 (liability in tort: preliminary), for subsection (4) there is substituted—

“(4) A person entering any premises in exercise of rights conferred by virtue of—  
 (a) section 2(1) of the Countryside and Rights of Way Act 2000, or  
 (b) an access agreement or order under the National Parks and Access to the <sup>M7</sup>Countryside Act 1949,  
 is not, for the purposes of this Act, a visitor of the occupier of the premises.”

- (2) In section 1 of the <sup>M8</sup>Occupiers' Liability Act 1984 (duty of occupier to persons other than his visitors), after subsection (6) there is inserted—

“(6A) At any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to land which is access land for the purposes of Part I of that Act, an occupier of the land owes (subject to subsection (6C) below) no duty by virtue of this section to any person in respect of—

- (a) a risk resulting from the existence of any natural feature of the landscape, or any river, stream, ditch or pond whether or not a natural feature, or



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- (b) a risk of that person suffering injury when passing over, under or through any wall, fence or gate, except by proper use of the gate or of a stile.
- (6B) For the purposes of subsection (6A) above, any plant, shrub or tree, of whatever origin, is to be regarded as a natural feature of the landscape.
- (6C) Subsection (6A) does not prevent an occupier from owing a duty by virtue of this section in respect of any risk where the danger concerned is due to anything done by the occupier—
  - (a) with the intention of creating that risk, or
  - (b) being reckless as to whether that risk is created.”
- (3) After section 1 of that Act there is inserted—

**“1A Special considerations relating to access land.**

In determining whether any, and if so what, duty is owed by virtue of section 1 by an occupier of land at any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to the land, regard is to be had, in particular, to—

- (a) the fact that the existence of that right ought not to place an undue burden (whether financial or otherwise) on the occupier,
- (b) the importance of maintaining the character of the countryside, including features of historic, traditional or archaeological interest, and
- (c) any relevant guidance given under section 20 of that Act.”

**Commencement Information**

**I4** S. 13 in force at 19.9.2004 for E. by S.I. 2004/2173, art. 2(1)(c)

**Marginal Citations**

**M6** 1957 c. 31.

**M7** 1949 c. 97.

**M8** 1984 c. 3.

**14 Offence of displaying on access land notices deterring public use.**

- (1) If any person places or maintains—
  - (a) on or near any access land, or
  - (b) on or near a way leading to any access land,
 a notice containing any false or misleading information likely to deter the public from exercising the right conferred by section 2(1), he is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (2) The court before whom a person is convicted of an offence under subsection (1) may, in addition to or in substitution for the imposition of a fine, order him to remove the notice in respect of which he is convicted within such period, not being less than four days, as may be specified in the order.

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- (3) A person who fails to comply with an order under subsection (2) is guilty of a further offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Commencement Information

**I5** S. 14 in force at 19.9.2004 for E. by S.I. 2004/2173, art. 2(1)(d)

#### *Access under other enactments or by dedication*

### 15 Rights of access under other enactments.

- (1) For the purposes of section 1(1), land is to be treated as being accessible to the public apart from this Act at any time if, but only if, at that time—
- section 193 of the <sup>M9</sup>Law of Property Act 1925 (rights of the public over commons and waste lands) applies to it,
  - by virtue of a local or private Act or a scheme made under Part I of the <sup>M10</sup>Commons Act 1899 (as read with subsection (2)), members of the public have a right of access to it at all times for the purposes of open-air recreation (however described),
  - an access agreement or access order under Part V of the National Parks and Access to the <sup>M11</sup>Countryside Act 1949 is in force with respect to it, or
  - the public have access to it under subsection (1) of section 19 of the <sup>M12</sup>Ancient Monuments and Archaeological Areas Act 1979 (public access to monuments under public control) or would have access to it under that subsection but for any provision of subsections (2) to (9) of that section.
- (2) Where a local or private Act or a scheme made under Part I of the <sup>M13</sup>Commons Act 1899 confers on the inhabitants of a particular district or neighbourhood (however described) a right of access to any land for the purposes of open-air recreation (however described), the right of access exercisable by those inhabitants in relation to that land is by virtue of this subsection exercisable by members of the public generally.

#### Marginal Citations

**M9** 1925 c. 20.

**M10** 1899 c. 30.

**M11** 1949 c. 97.

**M12** 1979 c. 46.

**M13** 1899 c. 30.

### 16 Dedication of land as access land.

- (1) Subject to the provisions of this section, a person who, in respect of any land, holds—
- the fee simple absolute in possession, or
  - a legal term of years absolute of which not less than 90 years remain unexpired,
- may, by taking such steps as may be prescribed, dedicate the land for the purposes of this Part, whether or not it would be access land apart from this section.

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- (2) Where any person other than the person making the dedication holds—
  - (a) any leasehold interest in any of the land to be dedicated, or
  - (b) such other interest in any of that land as may be prescribed,the dedication must be made jointly with that other person, in such manner as may be prescribed, or with his consent, given in such manner as may be prescribed.
- (3) In relation to a dedication under this section by virtue of subsection (1)(b), the reference in subsection (2)(a) to a leasehold interest does not include a reference to a leasehold interest superior to that of the person making the dedication.
- (4) A dedication made under this section by virtue of subsection (1)(b) shall have effect only for the remainder of the term held by the person making the dedication.
- (5) Schedule 2 to the<sup>M14</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) applies to dedications under this section as it applies to forestry dedication covenants.
- (6) Regulations may—
  - (a) prescribe the form of any instrument to be used for the purposes of this section,
  - (b) enable a dedication under this section to include provision removing or relaxing any of the general restrictions in Schedule 2 in relation to any of the land to which the dedication relates,
  - (c) enable a dedication previously made under this section to be amended by the persons by whom a dedication could be made, so as to remove or relax any of those restrictions in relation to any of the land to which the dedication relates, and
  - (d) require any dedication under this section, or any amendment of such a dedication by virtue of paragraph (c), to be notified to the appropriate countryside body and to the access authority.
- (7) A dedication under this section is irrevocable and, subject to subsection (4), binds successive owners and occupiers of, and other persons interested in, the land to which it relates, but nothing in this section prevents any land from becoming excepted land.
- (8) A dedication under this section is a local land charge.

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

**C1** S. 16(2)-(4) applied (with modifications) (1.9.2003) by [Access to the Countryside \(Dedication of Land\) \(England\) Regulations 2003 \(S.I. 2003/2004\)](#), regs. 1(1), **7(2)**

**Marginal Citations**

**M14** 1967 c. 10.

*Miscellaneous provisions relating to right of access*

**17 Byelaws.**

- (1) An access authority may, as respects access land in their area, make byelaws—
  - (a) for the preservation of order,
  - (b) for the prevention of damage to the land or anything on or in it, and

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- (c) for securing that persons exercising the right conferred by section 2(1) so behave themselves as to avoid undue interference with the enjoyment of the land by other persons.
- (2) Byelaws under this section may relate to all the access land in the area of the access authority or only to particular land.
- (3) Before making byelaws under this section, the access authority shall consult—
- (a) the appropriate countryside body, and
  - (b) any local access forum established for an area to which the byelaws relate.
- (4) Byelaws under this section shall not interfere—
- (a) with the exercise of any public right of way,
  - (b) with any authority having under any enactment functions relating to the land to which the byelaws apply, or
  - [<sup>F1</sup>(c) with the provision of an electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the operator of any such network.]
- (5) Sections 236 to 238 of the <sup>M15</sup>Local Government Act 1972 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding level 2 on the standard scale, and provide for the proof of byelaws in legal proceedings) apply to all byelaws under this section whether or not the authority making them is a local authority within the meaning of that Act.
- (6) The confirming authority in relation to byelaws made under this section is—
- (a) as respects England, the Secretary of State, and
  - (b) as respects Wales, the National Assembly for Wales.
- (7) Byelaws under this section relating to any land—
- (a) may not be made unless the land is access land or the access authority are satisfied that it is likely to become access land, and
  - (b) may not be confirmed unless the land is access land.
- (8) Any access authority having power under this section to make byelaws also have power to enforce byelaws made by them; and any county council or district or parish council may enforce byelaws made under this section by another authority as respects land in the area of the council.

#### Textual Amendments

- F1** S. 17(4)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 165\(2\)](#) (with [Sch. 18](#)); S.I. 2003/1900, arts. 1(2), 2(1), [Schs. 1](#) (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

#### Marginal Citations

- M15** 1972 c. 70.

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## 18 Wardens.

- (1) An access authority or a district council may appoint such number of persons as may appear to the authority making the appointment to be necessary or expedient, to act as wardens as respects access land in their area.
- (2) As respects access land in an area for which there is a local access forum, an access authority shall, before they first exercise the power under subsection (1) and thereafter from time to time, consult the local access forum about the exercise of that power.
- (3) Wardens may be appointed under subsection (1) for the following purposes—
  - (a) to secure compliance with byelaws under section 17 and with the general restrictions in Schedule 2 and any other restrictions imposed under Chapter II,
  - (b) to enforce any exclusion imposed under Chapter II,
  - (c) in relation to the right conferred by section 2(1), to advise and assist the public and persons interested in access land,
  - (d) to perform such other duties (if any) in relation to access land as the authority appointing them may determine.
- (4) For the purpose of exercising any function conferred on him by or under this section, a warden appointed under subsection (1) may enter upon any access land.
- (5) A warden appointed under subsection (1) shall, if so required, produce evidence of his authority before entering any access land in the exercise of the power conferred by subsection (4), and shall also produce evidence of his authority while he remains on the access land, if so required by any person.
- (6) Except as provided by subsection (4), this section does not authorise a warden appointed under subsection (1), on land in which any person other than the authority who appointed him has an interest, to do anything which apart from this section would be actionable at that person's suit by virtue of that interest.

### Commencement Information

- I6** S. 18 in force at 21.6.2004 for W. by S.I. 2004/1489, art. 2(a)  
**I7** S. 18 in force at 19.9.2004 for E. by S.I. 2004/2173, art. 2(1)(e)

## 19 Notices indicating boundaries, etc.

- (1) An access authority may erect and maintain—
  - (a) notices indicating the boundaries of access land and excepted land, and
  - (b) notices informing the public of—
    - (i) the effect of the general restrictions in Schedule 2,
    - (ii) the exclusion or restriction under Chapter II of access by virtue of section 2(1) to any land, and
    - (iii) any other matters relating to access land or to access by virtue of section 2(1) which the access authority consider appropriate.
- (2) In subsection (1)(b)(ii), the reference to the exclusion or restriction of access by virtue of section 2(1) is to be interpreted in accordance with section 21(2) and (3).
- (3) Before erecting a notice on any land under subsection (1) the access authority shall, if reasonably practicable, consult the owner or occupier of the land.

*Status: Point in time view as at 19/09/2004.*

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- (4) An access authority may also, as respects any access land in their area, defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person in displaying such notices as are mentioned in subsection (1)(a) and (b).

## 20 Codes of conduct and other information.

- (1) In relation to England, it shall be the duty of the Countryside Agency to issue, and from time to time revise, a code of conduct for the guidance of persons exercising the right conferred by section 2(1) and of persons interested in access land, and to take such other steps as appear to them expedient for securing—
- (a) that the public are informed of the situation and extent of, and means of access to, access land, and
  - (b) that the public and persons interested in access land are informed of their respective rights and obligations—
    - (i) under this Part, and
    - (ii) with regard to public rights of way on, and nature conservation in relation to, access land.
- (2) In relation to Wales, it shall be the duty of the Countryside Council for Wales to issue, and from time to time revise, a code of conduct for the guidance of persons exercising the right conferred by section 2(1) and of persons interested in access land, and to take such other steps as appear to them expedient for securing the results mentioned in paragraphs (a) and (b) of subsection (1).
- (3) A code of conduct issued by the Countryside Agency or the Countryside Council for Wales may include provisions in pursuance of subsection (1) or (2) and in pursuance of section 86(1) of the National Parks and Access to the <sup>M16</sup>Countryside Act 1949.
- (4) The powers conferred by subsections (1) and (2) include power to contribute towards expenses incurred by other persons.

### Commencement Information

**I8** S. 20 in force at 21.6.2004 for W. by S.I. 2004/1489, art. 2(b)

**I9** S. 20 in force at 19.9.2004 for E. by S.I. 2004/2173, art. 2(1)(f)

### Marginal Citations

**M16** 1949 c. 97.

## CHAPTER II

### EXCLUSION OR RESTRICTION OF ACCESS

## 21 Interpretation of Chapter II.

- (1) References in this Chapter to the exclusion or restriction of access to any land by virtue of section 2(1) are to be interpreted in accordance with subsections (2) and (3).
- (2) A person excludes access by virtue of subsection (1) of section 2 to any land where he excludes the application of that subsection in relation to that land.

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- (3) A person restricts access by virtue of subsection (1) of section 2 to any land where he provides that the right conferred by that subsection—
  - (a) is exercisable only along specified routes or ways,
  - (b) is exercisable only after entering the land at a specified place or places,
  - (c) is exercisable only by persons who do not take dogs on the land, or
  - (d) is exercisable only by persons who satisfy any other specified conditions.
- (4) In this Chapter, except section 23(1), “owner”, in relation to land which is subject to a farm business tenancy within the meaning of the <sup>M17</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M18</sup>Agricultural Holdings Act 1986 applies, means the tenant under that tenancy.
- (5) Subject to subsection (6), in this Chapter “the relevant authority”—
  - (a) in relation to any land in a National Park, means the National Park authority, and
  - (b) in relation to any other land, means the appropriate countryside body.
- (6) Where—
  - (a) it appears to the Forestry Commissioners that any land which is dedicated for the purposes of this Part under section 16 consists wholly or predominantly of woodland, and
  - (b) the Forestry Commissioners give to the body who are apart from this subsection the relevant authority for the purposes of this Chapter in relation to the land a notice stating that the Forestry Commissioners are to be the relevant authority for those purposes as from a date specified in the notice,the Forestry Commissioners shall as from that date become the relevant authority in relation to that land for those purposes, but subject to subsection (7).
- (7) Where it appears to the Forestry Commissioners that any land in relation to which they are by virtue of subsection (6) the relevant authority for the purposes of this Chapter has ceased to consist wholly or predominantly of woodland, the Forestry Commissioners may, by giving notice to the body who would apart from subsection (6) be the relevant authority, revoke the notice under subsection (6) as from a date specified in the notice under this subsection.

#### **Marginal Citations**

**M17** 1995 c. 8.

**M18** 1986 c. 5.

## **22 Exclusion or restriction at discretion of owner and others.**

- (1) Subject to subsections (2) and (6), an entitled person may, by giving notice to the relevant authority in accordance with regulations under section 32(1)(a), exclude or restrict access by virtue of section 2(1) to any land on one or more days specified in the notice.
- (2) The number of days on which any entitled person excludes or restricts under this section access by virtue of section 2(1) to any land must not in any calendar year exceed the relevant maximum.
- (3) In this section “entitled person”, in relation to any land, means—

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- (a) the owner of the land, and
  - (b) any other person having an interest in the land and falling within a prescribed description.
- (4) Subject to subsection (5), in this section “the relevant maximum” means twenty-eight.
- (5) If regulations are made under subsection (3)(b), the regulations must provide that, in cases where there are two or more entitled persons having different interests in the land, the relevant maximum in relation to each of them is to be determined in accordance with the regulations, but so that the number of days on which access by virtue of section 2(1) to any land may be excluded or restricted under this section in any calendar year does not exceed twenty-eight.
- (6) An entitled person may not under this section exclude or restrict access by virtue of section 2(1) to any land on—
- (a) Christmas Day or Good Friday, or
  - (b) any day which is a bank holiday under the <sup>M19</sup>Banking and Financial Dealings Act 1971 in England and Wales.
- (7) An entitled person may not under this section exclude or restrict access by virtue of section 2(1) to any land—
- (a) on more than four days in any calendar year which are either Saturday or Sunday,
  - (b) on any Saturday in the period beginning with 1st June and ending with 11th August in any year,
  - (c) on any Sunday in the period beginning with 1st June and ending with 30th September in any year.
- (8) Regulations may provide that any exclusion or restriction under subsection (1) of access by virtue of section 2(1) to any land must relate to an area of land the boundaries of which are determined in accordance with the regulations.

#### Marginal Citations

M19 1971 c. 80.

### 23 Restrictions on dogs at discretion of owner.

- (1) The owner of any land consisting of moor managed for the breeding and shooting of grouse may, so far as appears to him to be necessary in connection with the management of the land for that purpose, by taking such steps as may be prescribed, provide that, during a specified period, the right conferred by section 2(1) is exercisable only by persons who do not take dogs on the land.
- (2) The owner of any land may, so far as appears to him to be necessary in connection with lambing, by taking such steps as may be prescribed, provide that during a specified period the right conferred by section 2(1) is exercisable only by persons who do not take dogs into any field or enclosure on the land in which there are sheep.
- (3) In subsection (2) “field or enclosure” means a field or enclosure of not more than 15 hectares.
- (4) As respects any land—



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- (a) any period specified under subsection (1) may not be more than five years,
  - (b) not more than one period may be specified under subsection (2) in any calendar year, and that period may not be more than six weeks.
- (5) A restriction imposed under subsection (1) or (2) does not prevent a blind person from taking with him a trained guide dog, or a deaf person from taking with him a trained hearing dog.

## **24 Land management.**

- (1) The relevant authority may by direction, on an application made by a person interested in any land, exclude or restrict access to that land by virtue of section 2(1) during a specified period, if the authority are satisfied that the exclusion or restriction under this section of access by virtue of section 2(1) to the extent provided by the direction is necessary for the purposes of the management of the land by the applicant.
- (2) The reference in subsection (1) to a specified period includes a reference to—
- (a) a specified period in every calendar year, or
  - (b) a period which is to be—
    - (i) determined by the applicant in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d).
- (3) In determining whether to any extent the exclusion or restriction under this section of access by virtue of section 2(1) during any period is necessary for the purposes of land management, the relevant authority shall have regard to—
- (a) the existence of the right conferred by section 22,
  - (b) the extent to which the applicant has exercised or proposes to exercise that right, and
  - (c) the purposes for which he has exercised or proposes to exercise it.
- (4) Where an application under this section relates to land which is not access land at the time when the application is made, the relevant authority shall not give a direction under this section unless they are satisfied that it is likely that the land will be access land during all or part of the period to which the application relates.

## **25 Avoidance of risk of fire or of danger to the public.**

- (1) The relevant authority may by direction exclude or restrict access by virtue of section 2(1) in relation to any land during a specified period if the authority are satisfied—
- (a) that, by reason of any exceptional conditions of weather or any exceptional change in the condition of the land, the exclusion or restriction under this section of access to the land by virtue of section 2(1) to the extent provided by the direction is necessary for the purpose of fire prevention, or
  - (b) that, by reason of anything done, or proposed to be done, on the land or on adjacent land, the exclusion or restriction under this section of access to the land by virtue of section 2(1) to the extent provided by the direction is necessary for the purpose of avoiding danger to the public.
- (2) The reference in subsection (1) to a specified period includes a reference to—
- (a) a specified period in every calendar year, and

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- (b) a period which is to be—
  - (i) determined by a specified person in accordance with the direction, and
  - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d).
- (3) The relevant authority may exercise their powers under subsection (1) on the application of any person interested in the land, or without any such application having been made.
- (4) In determining on an application made by a person interested in the land whether the condition in subsection (1)(a) or (b) is satisfied, the relevant authority shall have regard to—
  - (a) the existence of the right conferred by section 22,
  - (b) the extent to which the applicant has exercised or proposes to exercise that right, and
  - (c) the purposes for which he has exercised or proposes to exercise it.
- (5) Where an application under this section relates to land which is not access land at the time when the application is made, the relevant authority shall not give a direction under this section unless they are satisfied that it is likely that the land will be access land during all or part of the period to which the application relates.

## 26 Nature conservation and heritage preservation.

- (1) The relevant authority may by direction exclude or restrict access by virtue of section 2(1) to any land during any period if they are satisfied that the exclusion or restriction of access by virtue of section 2(1) to the extent provided by the direction is necessary for either of the purposes specified in subsection (3).
- (2) A direction under subsection (1) may be expressed to have effect—
  - (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year, or
  - (c) during a period which is to be—
    - (i) determined by a specified person in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d), or
  - (d) indefinitely.
- (3) The purposes referred to in subsection (1) are—
  - (a) the purpose of conserving flora, fauna or geological or physiographical features of the land in question;
  - (b) the purpose of preserving—
    - (i) any scheduled monument as defined by section 1(11) of the <sup>M20</sup>Ancient Monuments and Archaeological Areas Act 1979, or
    - (ii) any other structure, work, site, garden or area which is of historic, architectural, traditional, artistic or archaeological interest.
- (4) In considering whether to give a direction under this section, the relevant authority shall have regard to any advice given to them by the relevant advisory body.

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- (5) Subsection (4) does not apply where the direction is given by the Countryside Council for Wales for the purpose specified in subsection (3)(a) or revokes a direction given by them for that purpose.
- (6) In this section “the relevant advisory body” —
- (a) in relation to a direction which is to be given for the purpose specified in subsection (3)(a) or which revokes a direction given for that purpose, means—
    - (i) in the case of land in England, English Nature, and
    - (ii) in the case of land in Wales in respect of which the Countryside Council for Wales are not the relevant authority, the Countryside Council for Wales, and
  - (b) in relation to a direction which is to be given for the purpose specified in subsection (3)(b) or which revokes a direction given for that purpose, means—
    - (i) in the case of land in England, the Historic Buildings and Monuments Commission for England, and
    - (ii) in the case of land in Wales, the National Assembly for Wales.

#### Marginal Citations

M20 1979 c. 46.

## 27 Directions by relevant authority: general.

- (1) Before giving a direction under section 24, 25 or 26 in relation to land in an area for which there is a local access forum so as to exclude or restrict access to the land—
- (a) indefinitely, or
  - (b) during a period which exceeds, or may exceed, six months,
- the relevant authority shall consult the local access forum.
- (2) Any direction under section 24, 25 or 26 may be revoked or varied by a subsequent direction under that provision.
- (3) Where a direction given under section 24, 25 or 26 in relation to any land by the relevant authority excludes or restricts access to the land—
- (a) indefinitely,
  - (b) for part of every year or of each of six or more consecutive calendar years, or
  - (c) for a specified period of more than five years,
- the authority shall review the direction not later than the fifth anniversary of the relevant date.
- (4) In subsection (3) “the relevant date”, in relation to a direction, means—
- (a) the day on which the direction was given, or
  - (b) where it has already been reviewed, the day on which it was last reviewed.
- (5) Before revoking or varying a direction under section 24 or 25 which was given on the application of a person interested in the land to which the direction relates (“the original applicant”), the relevant authority shall—
- (a) where the original applicant still holds the interest in the land which he held when he applied for the direction and it is reasonably practicable to consult him, consult the original applicant, and

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- (b) where the original applicant does not hold that interest, consult any person who holds that interest and with whom consultation is reasonably practicable.
- (6) Before revoking or varying a direction under section 26, the relevant authority shall consult the relevant advisory body as defined by section 26(6), unless the direction falls within section 26(5).

## **28 Defence or national security.**

- (1) The Secretary of State may by direction exclude or restrict access by virtue of section 2(1) to any land during any period if he is satisfied that the exclusion or restriction of such access to the extent provided by the direction is necessary for the purposes of defence or national security.
- (2) A direction under subsection (1) may be expressed to have effect—
- (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year,
  - (c) during a period which is to be—
    - (i) determined in accordance with the direction by a person authorised by the Secretary of State, and
    - (ii) notified by that person to the relevant authority in accordance with regulations under section 32(1)(c), or
  - (d) indefinitely.
- (3) Any direction given by the Secretary of State under this section may be revoked or varied by a subsequent direction.
- (4) Where a direction given under this section in relation to any land excludes or restricts access to the land—
- (a) indefinitely,
  - (b) for part of every year or of each of six or more consecutive calendar years, or
  - (c) for a specified period of more than five years,
- the Secretary of State shall review the direction not later than the fifth anniversary of the relevant date.
- (5) In subsection (4) “the relevant date”, in relation to a direction, means—
- (a) the day on which the direction was given, or
  - (b) where it has previously been reviewed, the day on which it was last reviewed.
- (6) If in any calendar year the Secretary of State reviews a defence direction, he shall—
- (a) prepare a report on all reviews of defence directions which he has undertaken during that year, and
  - (b) lay a copy of the report before each House of Parliament.
- (7) In subsection (6) “defence direction” means a direction given under this section for the purposes of defence.

## **29 Reference by relevant advisory body.**

- (1) Subsections (2) and (3) apply where—
- (a) the relevant advisory body has given advice under section 26(4) or on being consulted under section 27(6), but

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- (b) in any respect, the relevant authority decide not to act in accordance with that advice.
- (2) The relevant advisory body may refer the decision—
  - (a) in the case of land in England, to the [<sup>F2</sup>Secretary of State], or
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (3) On a reference under this section the [<sup>F3</sup>Secretary of State] or the National Assembly for Wales may, if he or it thinks fit—
  - (a) cancel any direction given by the relevant authority, or
  - (b) require the relevant authority to give such direction under section 26 as the [<sup>F3</sup>Secretary of State] or, as the case may be, the Assembly, think fit.
- (4) Sections 7 and 8 (and Schedule 3) have effect in relation to a reference under this section as they have effect in relation to an appeal under section 6 <sup>F4</sup> . . .
- (5) In this section—
  - <sup>F5</sup> . . .
  - “the relevant advisory body” has the same meaning as in section 26, except that it does not include the National Assembly for Wales.

#### Textual Amendments

- F2** Words in s. 29(2)(a) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 43(2)** (with arts. 5(3), 6)
- F3** Words in s. 29(3) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 43(3)** (with arts. 5(3), 6)
- F4** Words in s. 29(4) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)
- F5** S. 29(5): Definition of “the appropriate Minister” repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)

### 30 Appeal by person interested in land.

- (1) Subsections (2) and (3) apply where—
  - (a) a person interested in any land (in this section referred to as “the applicant”)—
    - (i) has applied for a direction under section 24 or 25, or
    - (ii) has made representations on being consulted under section 27(5), but
  - (b) in any respect, the relevant authority decide not to act in accordance with the application or the representations.
- (2) The relevant authority shall inform the applicant of their reasons for not acting in accordance with the application or representations.
- (3) The applicant may appeal against the decision—
  - (a) in the case of land in England, to the [<sup>F6</sup>Secretary of State], or
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (4) On appeal under this section the [<sup>F7</sup>Secretary of State] or the National Assembly for Wales may, if he or it thinks fit—
  - (a) cancel any direction given by the relevant authority, or
  - (b) require the relevant authority to give such direction under section 24 or 25 as the [<sup>F7</sup>Secretary of State] or, as the case may be, the Assembly, think fit.

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- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6<sup>F8</sup>. . . .
- (6)<sup>F9</sup> . . . . .

#### Textual Amendments

- F6** Words in s. 30(3)(a) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 44(2)** (with arts. 5(3), 6)
- F7** Words in s. 30(4) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 44(3)** (with arts. 5(3), 6)
- F8** Words in s. 30(5) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)
- F9** S. 30(6) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)

### 31 Exclusion or restriction of access in case of emergency.

- (1) Regulations may make provision enabling the relevant authority, where the authority are satisfied that an emergency has arisen which makes the exclusion or restriction of access by virtue of section 2(1) necessary for any of the purposes specified in section 24(1), 25(1) or 26(3), by direction to exclude or restrict such access in respect of any land for a period not exceeding three months.
- (2) Regulations under this section may provide for any of the preceding provisions of this Chapter to apply in relation to a direction given under the regulations with such modifications as may be prescribed.

### 32 Regulations relating to exclusion or restriction of access.

- (1) Regulations may make provision—
- (a) as to the giving of notice under section 22(1),
  - (b) as to the steps to be taken under section 23(1) and (2),
  - (c) as to the procedure on any application to the relevant authority under section 24 or 25, including the period within which any such application must be made,
  - (d) as to the giving of notice for the purposes of section 24(2)(b)(ii), 25(2)(b)(ii), 26(2)(c)(ii) or 28(2)(c)(ii),
  - (e) prescribing the form of any notice or application referred to in paragraphs (a) to (d),
  - (f) restricting the cases in which a person who is interested in any land only as the holder of rights of common may make an application under section 24 or 25 in respect of the land,
  - (g) as to requirements to be met by relevant authorities or the Secretary of State in relation to consultation (whether or not required by the preceding provisions of this Chapter),
  - (h) as to the giving of directions by relevant authorities or the Secretary of State,
  - (i) as to notification by relevant authorities or the Secretary of State of decisions under this Chapter,
  - (j) as to steps to be taken by persons interested in land, by relevant authorities, by the bodies specified in section 26(6) or by the Secretary of State for informing the public about the exclusion or restriction under this Chapter of access by

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virtue of section 2(1), including the display of notices on or near the land to which the exclusion or restriction relates,

- (k) as to the carrying out of reviews by relevant authorities under section 27(3) or by the Secretary of State under section 28(4),
  - (l) as to the period within which and manner in which appeals under section 30 are to be brought,
  - (m) as to the advertising of such an appeal, and
  - (n) as to the manner in which such appeals are to be considered.
- (2) Regulations made under subsection (1)(k) may provide for any of the provisions of this Chapter relating to appeals to apply (with or without modifications) on a review under section 27.

### **33 Guidance by countryside bodies to National Park authorities.**

- (1) Subject to subsection (3), the Countryside Agency may issue guidance—
- (a) to National Park authorities in England with respect to the discharge by National Park authorities of their functions under this Chapter, and
  - (b) to the Forestry Commissioners with respect to the discharge by the Forestry Commissioners of any functions conferred on them by virtue of section 21(6) in relation to land in England.
- (2) Subject to subsection (3), the Countryside Council for Wales may issue guidance—
- (a) to National Park authorities in Wales with respect to the discharge by National Park authorities of their functions under this Chapter, and
  - (b) to the Forestry Commissioners with respect to the discharge by the Forestry Commissioners of any functions conferred on them by virtue of section 21(6) in relation to land in Wales.
- (3) The Countryside Agency or the Countryside Council for Wales may not issue any guidance under this section unless the guidance has been approved—
- (a) in the case of the Countryside Agency, by the Secretary of State, and
  - (b) in the case of the Countryside Council for Wales, by the National Assembly for Wales.
- (4) Where the Countryside Agency or the Countryside Council for Wales issue any guidance under this section, they shall arrange for the guidance to be published in such manner as they consider appropriate.
- (5) A National Park authority or the Forestry Commissioners shall have regard to any guidance issued to them under this section.

## **CHAPTER III**

### MEANS OF ACCESS

### **34 Interpretation of Chapter III.**

In this Chapter—

“access land” does not include any land in relation to which the application of section 2(1) has been excluded under any provision of Chapter II either

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indefinitely or for a specified period of which at least six months remain unexpired;

“means of access”, in relation to land, means—

- (a) any opening in a wall, fence or hedge bounding the land (or part of the land), with or without a gate, stile or other works for regulating passage through the opening,
- (b) any stairs or steps for enabling persons to enter on the land (or part of the land), or
- (c) any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary of the land.

### **35 Agreements with respect to means of access.**

- (1) Where, in respect of any access land, it appears to the access authority that—
  - (a) the opening-up, improvement or repair of any means of access to the land,
  - (b) the construction of any new means of access to the land,
  - (c) the maintenance of any means of access to the land, or
  - (d) the imposition of restrictions—
    - (i) on the destruction, removal, alteration or stopping-up of any means of access to the land, or
    - (ii) on the doing of any thing whereby the use of any such means of access to the land by the public would be impeded,

is necessary for giving the public reasonable access to that land in exercise of the right conferred by section 2(1), the access authority may enter into an agreement with the owner or occupier of the land as to the carrying out of the works or the imposition of the restrictions.
- (2) An agreement under this section may provide—
  - (a) for the carrying out of works by the owner or occupier or by the access authority, and
  - (b) for the making of payments by the access authority—
    - (i) as a contribution towards, or for the purpose of defraying, costs incurred by the owner or occupier in carrying out any works for which the agreement provides, or
    - (ii) in consideration of the imposition of any restriction.

### **36 Failure to comply with agreement.**

- (1) If the owner or occupier of any access land fails to carry out within the required time any works which he is required by an agreement under section 35 to carry out, the access authority, after giving not less than twenty-one days’ notice of their intention to do so, may take all necessary steps for carrying out those works.
- (2) In subsection (1) “the required time” means the time specified in, or determined in accordance with, the agreement as that within which the works must be carried out or, if there is no such time, means a reasonable time.
- (3) If the owner or occupier of any access land fails to observe any restriction which he is required by an agreement under section 35 to observe, the access authority may give him a notice requiring him within a specified period of not less than twenty-one days



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to carry out such works as may be specified in the notice, for the purpose of remedying the failure to observe the restriction.

- (4) A notice under subsection (3) must contain particulars of the right of appeal conferred by section 38.
- (5) If the person to whom a notice under subsection (3) is given fails to comply with the notice, the access authority may take all necessary steps for carrying out any works specified in the notice.
- (6) Where the access authority carry out any works by virtue of subsection (1), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the works would fall to be borne.
- (7) Where the access authority carry out any works by virtue of subsection (5), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works from the person to whom the notice under subsection (3) was given.

### **37 Provision of access by access authority in absence of agreement.**

- (1) Where, in respect of any access land—
  - (a) it appears to the access authority that—
    - (i) the opening-up, improvement or repair of any means of access to the land,
    - (ii) the construction of any new means of access to the land, or
    - (iii) the maintenance of any means of access to the land,is necessary for giving the public reasonable access to that land, or to other access land, in pursuance of the right conferred by section 2(1), and
  - (b) the access authority are satisfied that they are unable to conclude on reasonable terms an agreement under section 35 with the owner or occupier of the land for the carrying out of the works,the access authority may, subject to subsection (3), give the owner or occupier a notice stating that, after the end of a specified period of not less than twenty-one days, the authority intend to take all necessary steps for carrying out the works specified in the notice for the opening-up, improvement, repair, construction or maintenance of the means of access.
- (2) A notice under subsection (1) must contain particulars of the right of appeal conferred by section 38.
- (3) Where a notice under subsection (1) is given to any person as the owner or occupier of any land, the access authority shall give a copy of the notice to every other owner or occupier of the land.
- (4) An access authority exercising the power conferred by subsection (1) in relation to the provision of a means of access shall have regard to the requirements of efficient management of the land in deciding where the means of access is to be provided.
- (5) If, at the end of the period specified in a notice under subsection (1), any of the works specified in the notice have not been carried out, the access authority may take all necessary steps for carrying out those works.

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### **38 Appeals relating to notices.**

- (1) Where a notice under section 36(3) or 37(1) has been given to a person in respect of any land, he or any other owner or occupier of the land may appeal against the notice—
  - (a) in the case of land in England, to the Secretary of State, and
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (2) An appeal against a notice under section 36(3) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which are not necessary for remedying a breach of the agreement,
  - (b) that any of the works have already been carried out, and
  - (c) that the period specified in the notice as that before the end of which the works must be carried out is too short.
- (3) An appeal against a notice under section 37(1) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which are not necessary for giving the public reasonable access to the access land in question,
  - (b) in the case of works to provide a means of access, that the means of access should be provided elsewhere, or that a different means of access should be provided, and
  - (c) that any of the works have already been carried out.
- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
  - (a) confirm the notice with or without modifications, or
  - (b) cancel the notice.
- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6.
- (6) Regulations may make provision as to—
  - (a) the period within which and manner in which appeals under this section are to be brought,
  - (b) the advertising of such an appeal, and
  - (c) the manner in which such appeals are to be considered.
- (7) Where an appeal has been brought under this section against a notice under section 36(3) or 37(1), the access authority may not exercise their powers under section 36(5) or section 37(5) (as the case may be) pending the determination or withdrawal of the appeal.

### **39 Order to remove obstruction.**

- (1) Where at any time two or more access notices relating to a means of access have been given to any person within the preceding thirty-six months, a magistrates' court may, on the application of the access authority, order that person—
  - (a) within such time as may be specified in the order, to take such steps as may be so specified to remove any obstruction of that means of access, and
  - (b) not to obstruct that means of access at any time when the right conferred by section 2(1) is exercisable.

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- (2) If a person (“the person in default”) fails to comply with an order under this section—
- (a) he is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and
  - (b) the access authority may remove any obstruction of the means of access and recover from the person in default the costs reasonably incurred by them in doing so.
- (3) In this section “access notice” means a notice under section 36(3) or 37(1) in respect of which the period specified in the notice has expired, other than a notice in respect of which an appeal is pending or which has been cancelled on appeal.

## CHAPTER IV

### GENERAL

#### **40 Powers of entry for purposes of Part I.**

- (1) A person who is authorised by the appropriate countryside body to do so may enter any land—
- (a) for the purpose of surveying it in connection with the preparation of any map under this Part or the review of any map issued under this Part,
  - (b) for the purpose of determining whether any power conferred on the appropriate countryside body by Chapter II should be exercised in relation to the land,
  - (c) for the purpose of ascertaining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (d) in connection with an appeal under any provision of this Part, or
  - (e) for the purpose of determining whether to apply to the Secretary of State or the National Assembly for Wales under section 58.
- (2) A person who is authorised by a local highway authority to do so may enter any land—
- (a) for the purpose of determining whether the local highway authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
  - (b) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (c) for the purposes of erecting or maintaining notices under section 19(1).
- (3) A person who is authorised by a National Park authority to do so may enter any land—
- (a) for the purpose of enabling the authority to determine whether to exercise any power under Chapter II of this Act in relation to the land,
  - (b) for the purpose of determining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (c) in connection with an appeal under any provision of this Part,
  - (d) for the purpose of determining whether the authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),

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- (e) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (f) for the purposes of erecting or maintaining notices under section 19(1).
- (4) A person who is authorised by the Forestry Commissioners to do so may enter any land—
- (a) for the purpose of determining whether any power conferred on the Forestry Commissioners by Chapter II should be exercised in relation to the land, or
  - (b) in connection with an appeal under any provision of this Part.
- (5) A person acting in the exercise of a power conferred by this section may—
- (a) use a vehicle to enter the land;
  - (b) take a constable with him if he reasonably believes he is likely to be obstructed;
  - (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - (d) take samples of the land and of anything on it.
- (6) If in the exercise of a power conferred by this section a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.
- (7) A person authorised under this section to enter upon any land—
- (a) shall, if so required, produce evidence of his authority before entering, and
  - (b) shall produce such evidence if required to do so at any time while he remains on the land.
- (8) A person shall not under this section demand admission as of right to any occupied land, other than access land, unless—
- (a) at least twenty-four hours' notice of the intended entry has been given to the occupier, or
  - (b) it is not reasonably practicable to give such notice, or
  - (c) the entry is for the purpose specified in subsection (2)(b) and (3)(e).
- (9) The rights conferred by this section are not exercisable in relation to a dwelling.
- (10) A person who intentionally obstructs a person acting in the exercise of his powers under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **41 Compensation relating to powers under s. 40.**

- (1) It is the duty of a body by which an authorisation may be given under section 40 to compensate any person who has sustained damage as a result of—
- (a) the exercise of a power conferred by that section by a person authorised by that body to do so, or
  - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (6) of that section,
- except where the damage is attributable to the fault of the person who sustained it.
- (2) Any dispute as to a person's entitlement to compensation under this section or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement—

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- (a) as respects entry on land in England, by the Secretary of State, and
- (b) as respects entry on land in Wales, by the National Assembly for Wales.

#### **42 References to public places in existing enactments.**

- (1) This section applies to any enactment which—
  - (a) is contained in an Act passed before or in the same Session as this Act, and
  - (b) relates to things done, or omitted to be done, in public places or places to which the public have access.
- (2) Regulations may provide that, in determining for the purposes of any specified enactment to which this section applies whether a place is a public place or a place to which the public have access, the right conferred by section 2(1), or access by virtue of that right, is to be disregarded, either generally or in prescribed cases.

#### **43 Crown application of Part I.**

- (1) This Part binds the Crown.
- (2) No contravention by the Crown of any provision of this Part shall make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) The provisions of this Part apply to persons in the public service of the Crown as they apply to other persons.

#### **44 Orders and regulations under Part I.**

- (1) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales is exercisable by statutory instrument.
- (2) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales includes power—
  - (a) to make different provision for different cases, and
  - (b) to make such incidental, supplementary, consequential or transitional provision as the person making the order or regulations considers necessary or expedient.
- (3) No order under section 3 or regulations under paragraph 3 of Schedule 2 shall be made by the Secretary of State unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument containing regulations made by the Secretary of State under any other provision of this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **45 Interpretation of Part I.**

- <sup>F10</sup>(1) In this Part, unless a contrary intention appears—
  - “access authority” has the meaning given by section 1(2);
  - “access land” has the meaning given by section 1(1);
  - “the appropriate countryside body” has the meaning given by section 1(2);

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“excepted land” has the meaning given by section 1(2);

“Inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;

“interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an estate or interest in land or by virtue of a licence or agreement, and in particular includes rights of common and sporting rights, and references to a person interested in land shall be construed accordingly;

“livestock” means cattle, sheep, goats, swine, horses or poultry, and for the purposes of this definition “cattle” means bulls, cows, oxen, heifers or calves, “horses” include asses and mules, and “poultry” means domestic fowls, turkeys, geese or ducks;

“local highway authority” has the same meaning as in the <sup>M21</sup>Highways Act 1980;

“local or private Act” includes an Act confirming a provisional order;

“mountain” has the meaning given by section 1(2);

“open country” has the meaning given by section 1(2);

“owner”, in relation to any land, means, subject to subsection (2), any person, other than a mortgagee not in possession, who, whether in his own right or as trustee for another person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

“prescribed” means prescribed by regulations;

“registered common land” has the meaning given by section 1(3);

“regulations” means regulations made by the Secretary of State (as respects England) or by the National Assembly for Wales (as respects Wales);

“rights of common” has the same meaning as in the <sup>M22</sup>Commons Registration Act 1965;

<sup>F10</sup>  
...

- (2) In relation to any land which is subject to a farm business tenancy within the meaning of the <sup>M23</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M24</sup>Agricultural Holdings Act 1986 applies, the definition of “owner” in subsection (1) does not apply where it is excluded by section 2(5) or 21(4) or by paragraph 7(4) of Schedule 2.
- (3) For the purposes of this Part, the Broads are to be treated as a National Park and the Broads Authority as a National Park authority.
- (4) In subsection (3) “the Broads” has the same meaning as in the <sup>M25</sup>Norfolk and Suffolk Broads Act 1988.

#### Textual Amendments

**F10** Words in s. 45(1) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Schs. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

#### Marginal Citations

**M21** 1980 c. 66.

**M22** 1965 c. 64.

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**M23** 1995 c. 8.

**M24** 1986 c. 5.

**M25** 1988 c. 4.

## 46 Repeal of previous legislation, and amendments relating to Part I.

- (1) The following provisions (which are superseded by the provisions of this Part) shall cease to have effect—
- (a) in section 193 of the <sup>M26</sup>Law of Property Act 1925, subsection (2) (power by deed to declare land subject to that section), and
  - (b) sections 61 to 63 of the National Parks and Access to the <sup>M27</sup>Countryside Act 1949 (which relate to reviews of access requirements and the preparation of maps).
- (2) No access agreement or access order under Part V of the National Parks and Access to the <sup>M28</sup>Countryside Act 1949 (access to open country) may be made after the commencement of this section in relation to land which is open country or registered common land for the purposes of this Part.
- (3) Schedule 4 (which contains minor and consequential amendments relating to access to the countryside) has effect.

### Commencement Information

- I10** S. 46 partly in force; s. 46 not in force at Royal Assent see s. 103(3); s. 46(1)(b) in force for E. and s. 46(3) in force for certain purposes for E. at 1.4.2001 by S.I. 2001/114, **art. 2(2)(a)(b)**; s. 46(1)(b) in force for W. and s. 46(3) in force for certain purposes for W. at 1.5.2001 by S.I. 2001/1410, **art. 2(a)(b)**
- I11** S. 46(1)(a) in force at 21.6.2004 for specified purposes for W. by S.I. 2004/1489, **art. 2(c)**
- I12** S. 46(3) in force at 19.9.2004 for specified purposes for E. by S.I. 2004/2173, **art. 2(1)(g)**

### Marginal Citations

**M26** 1925 c. 20.

**M27** 1949 c. 97.

**M28** 1949 c. 97.

**Status:**

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**Changes to legislation:**

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