



Countryside and Rights of Way Act 2000

CHAPTER 37

ARRANGEMENT OF SECTIONS

PART I

ACCESS TO THE COUNTRYSIDE

CHAPTER I

RIGHT OF ACCESS

General

Section

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PART III

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Enforcement of
wildlife legislation.

81.—(1) Schedule 12 to this Act (which contains amendments relating to offences and enforcement powers under Part I of the 1981 Act) has effect.

1972 c. 68.

(2) In relation to England and Wales, regulations under section 2(2) of the European Communities Act 1972 (“the 1972 Act”) for the purpose of implementing any of the instruments mentioned in subsection (3) may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.

(3) Those instruments are—

- (a) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive 97/62/EC;
- (b) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating the trade therein; and
- (c) Commission Regulation 939/97/EC on the implementation of the Council Regulation mentioned in paragraph (b).

PART IV

AREAS OF OUTSTANDING NATURAL BEAUTY

Designation of
areas.

82.—(1) Where it appears to the Countryside Agency (in this Part referred to as “the Agency”) that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, the Agency may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.

(2) Where it appears to the Countryside Council for Wales (in this Part referred to as “the Council”) that an area which is in Wales but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, the Council may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.

(3) In this Part “area of outstanding natural beauty” means an area designated under this section as an area of outstanding natural beauty.

Procedure for
designation
orders.

83.—(1) Where the Agency or the Council propose to make an order under section 82, the Agency or the Council shall consult every local authority whose area includes any part of the area to which the proposed order is to relate.

(2) Before making the order, the Agency or the Council shall then publish, in the London Gazette and in one or more newspapers circulating in the area of every such local authority, notice that they propose to make the order, indicating the effect of the order and stating the time within which and manner in which representations with respect to the proposed order may be made to the Agency or the Council (as the case may be), and shall consider any representations duly made.

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(3) An order under section 82 shall not come into operation unless and until confirmed—

- (a) in the case of an order made by the Agency, by the Secretary of State, or
- (b) in the case of an order made by the Council, by the National Assembly for Wales,

and, in submitting any such order to the Secretary of State or the Assembly, the Agency or Council shall forward to the Secretary of State or the Assembly any representations made by a local authority consulted under subsection (1) or made by any other person under subsection (2), other than representations to which effect is given by the order as submitted to the Secretary of State or the Assembly.

(4) The Secretary of State or the National Assembly for Wales may confirm an order submitted to him or it under this section either as submitted or with such modifications as the Secretary of State or the Assembly thinks expedient.

(5) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the Secretary of State shall consult the Agency and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.

(6) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the National Assembly for Wales shall consult the Council and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.

(7) An order under section 82 may be revoked or varied by a subsequent order under that section.

(8) Without prejudice to the powers of the Agency or the Council to vary an order under section 82, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order vary any order under that section made by the Agency or the Council; and subsection (1) applies to any order under section 82 made by the Secretary of State or the Assembly by virtue of this subsection with the substitution for references to the Agency of references to the Secretary of State and for references to the Council of references to the Assembly.

(9) It is the duty of the Agency and the Council to secure that copies of any order under section 82 relating to England or, as the case may be, to Wales, are available for inspection by the public at all reasonable times—

- (a) at the office of the Agency or, as the case may be, the Council,
- (b) at the offices of each local authority whose area includes any part of the area to which the order relates, and
- (c) at such other place or places in or near that area as the Agency or, as the case may be, the Council may determine.

84.—(1) The following provisions of the National Parks and Access to the Countryside Act 1949 (in this Part referred to as “the 1949 Act”)—

- (a) section 6(4)(e) (duty of Agency or Council to give advice in connection with development matters),
- (b) section 9 (consultation in connection with development plan),

Functions of certain bodies in relation to areas of outstanding natural beauty.
1949 c. 97.

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(c) section 64(5) (consultation in connection with access agreements), and

(d) section 65(5) and (5A) (consultation in connection with access orders),

apply in relation to areas of outstanding natural beauty as they apply in relation to National Parks.

(2) In section 6(4)(e) of the 1949 Act as it applies by virtue of subsection (1), “appropriate planning authority” means a local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty and includes a local authority, not being a local planning authority, by whom any powers of a local planning authority as respects an area of outstanding natural beauty are exercisable, whether under the 1949 Act or otherwise.

(3) Section 4A of the 1949 Act (which confers on the Council functions under Part II of that Act corresponding to those exercisable as respects England by the Agency) applies to the provisions mentioned in subsection (1)(a) and (b) for the purposes of their application to areas of outstanding natural beauty as that section applies for the purposes of Part II of the 1949 Act.

(4) A local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty has power, subject to subsections (5) and (6), to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty or so much of it as is included in their area.

(5) Nothing in this Part is to be taken to limit the generality of subsection (4); but in so far as the provisions of this Part or of the 1949 Act confer specific powers falling within that subsection those powers are to be exercised in accordance with those provisions and subject to any limitations expressed or implied in them.

(6) Without prejudice to the powers conferred by this Part, subsection (4) has effect only for the purpose of removing any limitation imposed by law on the capacity of a local planning authority by virtue of its constitution, and does not authorise any act or omission on the part of such an authority which apart from that subsection would be actionable at the suit of any person on any ground other than such a limitation.

(7) In this section “local planning authority” has the same meaning as in the Town and Country Planning Act 1990.

1990 c. 8.

General duty of public bodies etc.

85.—(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

(2) The following are relevant authorities for the purposes of this section—

(a) any Minister of the Crown,

(b) any public body,

(c) any statutory undertaker,

(d) any person holding public office.

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(3) In subsection (2)—

“public body” includes

- (a) a county council, county borough council, district council, parish council or community council;
- (b) a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990;
- (c) a joint committee appointed under section 102(1)(b) of the Local Government Act 1972;

1990 c. 8.

1972 c. 70.

“public office” means—

- (a) an office under Her Majesty;
- (b) an office created or continued in existence by a public general Act; or
- (c) an office the remuneration in respect of which is paid out of money provided by Parliament.

86.—(1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may—

Establishment of conservation boards.

- (a) in the case of any existing area of outstanding natural beauty, or
- (b) in connection with the designation of any area as an area of outstanding natural beauty,

by order establish a board (in this Part referred to as “a conservation board”) to carry out in relation to that area the functions conferred on such a board by or under this Part.

(2) Schedule 13 (which relates to the constitution of conservation boards) has effect.

(3) Where the Secretary of State or the National Assembly for Wales considers it expedient for either of the purposes mentioned in section 87(1), an order under subsection (1) may—

- (a) provide for the transfer to the conservation board to which the order relates of any of the functions of local authorities, so far as relating to the area of outstanding natural beauty in question, or
- (b) provide for any function of a local authority, so far as relating to the area of outstanding natural beauty in question, to be exercisable concurrently by the local authority and by the conservation board.

(4) Subsection (3) does not apply to functions of a local authority under Part II, III, VII or XIII of the Town and Country Planning Act 1990.

(5) An order under subsection (1) may make further provision as to the constitution and administration of the conservation board to which it relates, including provision with respect to—

- (a) the appointment of members,
- (b) the removal and disqualification of members,
- (c) the conduct of members,
- (d) proceedings of the board,
- (e) the appointment of staff,
- (f) consultation with other public bodies,
- (g) records and documents of the board,

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- (h) the provision of information by the board, and
- (i) complaints of maladministration.

(6) Before making an order under subsection (1) in relation to an area of outstanding natural beauty in England, the Secretary of State shall consult—

- (a) the Agency, and
- (b) every local authority whose area consists of or includes the whole or part of the area of outstanding natural beauty,

and shall not make the order unless satisfied that the majority of those local authorities consent.

(7) Before making an order under subsection (1) in relation to an area of outstanding natural beauty in Wales, the National Assembly for Wales shall consult—

- (a) the Council, and
- (b) every local authority whose area consists of or includes the whole or part of the area of outstanding natural beauty,

and shall not make the order unless satisfied that the majority of those local authorities consent.

(8) An order under subsection (1) which amends or revokes a previous order under that subsection establishing a conservation board—

- (a) may be made only after consultation with the conservation board to which it relates (as well as the consultation required by subsection (6) or (7)), and
- (b) in the case of an order revoking a previous order, may provide for the winding up of the board.

(9) Subject to any order under subsection (10), where there is a variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the area of outstanding natural beauty for which that board is or is to be the conservation board shall be taken, as from the time when the variation takes effect, to be that area as varied.

(10) Where provision is made for the variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order make such transitional provision as he or it thinks fit with respect to—

- (a) any functions which, in relation to any area that becomes part of the area of outstanding natural beauty, are by virtue of the variation to become functions of that conservation board; and
- (b) any functions which, in relation to any area that ceases to be part of the area of outstanding natural beauty, are by virtue of the variation to become functions of a person other than that conservation board.

General purposes
and powers.

87.—(1) It is the duty of a conservation board, in the exercise of their functions, to have regard to—

- (a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and

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- (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty,

but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).

(2) A conservation board, while having regard to the purposes mentioned in subsection (1), shall seek to foster the economic and social well-being of local communities within the area of outstanding natural beauty, but without incurring significant expenditure in doing so, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of outstanding natural beauty.

(3) Sections 37 and 38 of the Countryside Act 1968 (general duties as to the protection of interests of the countryside and the avoidance of pollution) apply to conservation boards as they apply to local authorities. 1968 c. 41.

(4) The powers of a conservation board include power to do anything which, in the opinion of the board, is calculated to facilitate, or is conducive or incidental to—

- (a) the accomplishment of the purposes mentioned in subsection (1), or
- (b) the carrying out of any functions conferred on it by virtue of any other provision of this Part or by virtue of any enactment not contained in this Part.

(5) The powers conferred on a conservation board by subsection (4) do not include—

- (a) power to do anything in contravention of any restriction imposed by virtue of this Part in relation to any express power of the board, or
- (b) power to raise money (whether by borrowing or otherwise) in a manner which is not authorised apart from that subsection,

but the things that may be done in exercise of those powers are not to be treated as excluding anything by reason only that it involves the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights.

(6) Schedule 14 (which relates to the supplemental and incidental powers of conservation boards) has effect.

(7) An order under section 86(1) may—

- (a) make further provision with respect to the supplemental and incidental powers of the conservation board to which it relates or the limits on those powers, including provision relating to the borrowing of money, and
- (b) provide for any enactment which relates to or limits the supplemental or incidental powers or duties of local authorities or relates to the conduct of, or transactions by, local authorities to apply in relation to the conservation board with such modifications as may be specified in the order.

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Orders
establishing
conservation
boards.

88.—(1) Any power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) is exercisable by statutory instrument.

(2) No order shall be made under section 86(1) by the Secretary of State unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(3) A statutory instrument containing an order made under section 86(10) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) If a draft of an order made under section 86(1) by the Secretary of State would, apart from this section, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.

(5) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make such incidental, supplemental, consequential and transitional provision as the person making the order thinks necessary or expedient.

(6) The power of the Secretary of State or the National Assembly for Wales by an order under section 86(1) or (10) to make incidental, supplemental, consequential or transitional provision includes power for any incidental, supplemental, consequential or, as the case may be, transitional purpose—

- (a) to apply with or without modifications,
- (b) to extend, exclude or modify, or
- (c) to repeal or revoke with or without savings,

any enactment or any instrument made under any enactment.

(7) The provision that may be made for incidental, supplemental, consequential or transitional purposes in the case of any order under section 86(1) or (10) which—

- (a) establishes a conservation board or provides for the winding up of such a board, or
- (b) otherwise has the effect of transferring functions from one person to another or of providing for functions to become exercisable concurrently by two or more persons or to cease to be so exercisable,

includes provision for the transfer of property, rights and liabilities from one person to another.

(8) The power of the Secretary of State or the National Assembly for Wales under section 86(1) or (10) to provide by order for the transfer of any property, rights or liabilities, or to make transitional provision in connection with any such transfer or with any order by which functions become or cease to be exercisable by any conservation board, includes, in particular, power to provide—

- (a) for the management and custody of any transferred property (whether real or personal);
- (b) for any liabilities transferred to include liabilities under any enactment;

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- (c) for legal proceedings commenced by or against any person to be continued by or against a person to whom property, rights or liabilities are transferred or, as the case may be, any board or other authority by whom any functions are to become exercisable;
- (d) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and
- (e) for treating any person to whom a transfer of property, rights or liabilities is made or, as the case may be, by whom any functions are to become exercisable as, for some or all purposes, the same person in law as the person from whom the transfer is made or the authority by whom the functions have previously been exercisable.

(9) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make different provision for different cases, including different provision for different areas or localities and for different boards.

(10) In this section “enactment” includes an enactment contained in an Act passed after this Act.

89.—(1) Every conservation board shall, within two years after the date on which they are established, prepare and publish a plan which formulates their policy for the management of their area of outstanding natural beauty and for the carrying out of their functions in relation to it.

Management plans.

(2) Subject to subsection (3), the relevant local authority in respect of an area of outstanding natural beauty shall, before the end of the period of three years beginning with whichever is the later of—

- (a) the commencement of this section, or
- (b) the date on which the area is designated as an area of outstanding natural beauty,

prepare and publish a plan which formulates their policy for the management of the area of outstanding natural beauty and for the carrying out of their functions in relation to it.

(3) Subsection (2) does not apply where, before the end of the period mentioned in that subsection, a conservation board has been established for the area of outstanding natural beauty.

(4) A plan prepared under subsection (1) or (2) is to be known as an area of outstanding natural beauty management plan.

(5) A conservation board or relevant local authority may, instead of preparing a plan under subsection (1) or (2),—

- (a) review any plan for the management of the area of outstanding natural beauty which has been prepared before the commencement of this section—
 - (i) by a local authority, or
 - (ii) by a joint committee established by two or more local authorities, and
- (b) adopt the plan as reviewed as their area of outstanding natural beauty management plan, and
- (c) publish it under subsection (1) or (2) within the time required by that subsection.

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(6) A conservation board may, within six months of the date on which they are established, adopt an area of outstanding natural beauty management plan prepared for their area of outstanding natural beauty by the relevant local authority as their area of outstanding natural beauty management plan, and publish it under subsection (1).

(7) Subject to subsection (8), a conservation board shall review their area of outstanding natural beauty management plan before the end of the period of five years beginning with the date on which it was published and, after the first review, at intervals of not more than five years.

(8) Where a conservation board have adopted a plan under subsection (6), the first review must take place before the end of the period of three years beginning with the date on which the plan was published.

(9) Where an area of outstanding natural beauty management plan has been prepared under subsection (2), the relevant local authority shall review the plan before the end of the period of five years beginning with the date on which it was published and, after the first review, at intervals of not more than five years, but this subsection does not apply where a conservation board has been established for the area of outstanding natural beauty.

(10) Where a conservation board or relevant local authority review any plan under this section, they shall—

- (a) determine on that review whether it would be expedient to amend the plan and what (if any) amendments would be appropriate,
- (b) make any amendments that they consider appropriate, and
- (c) publish a report on the review specifying any amendments made.

(11) In this section “relevant local authority” means—

- (a) in the case of an area of outstanding natural beauty which is wholly comprised in one principal area, the local authority for that area, and
- (b) in any other case, the local authorities for all the principal areas wholly or partly comprised in the area of outstanding natural beauty, acting jointly.

Supplementary provisions relating to management plans.

90.—(1) A conservation board or relevant local authority which is proposing to publish, adopt or review any plan under section 89 shall—

- (a) give notice of the proposal—
 - (i) if the area of outstanding natural beauty is in England, to the Agency and English Nature,
 - (ii) if the area of outstanding natural beauty is in Wales, to the Council, and
 - (iii) in the case of a conservation board, to every local authority whose area is wholly or partly comprised in the area of outstanding natural beauty,
- (b) send a copy of the plan, together (where appropriate) with any proposed amendments of the plan, to every body to which notice of the proposal is required to be given by paragraph (a), and

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(c) take into consideration any observations made by any such body.

(2) A conservation board or relevant local authority shall send to the Secretary of State or the National Assembly for Wales a copy of every plan, notice or report which they are required to publish under section 89.

(3) In this section “relevant local authority” has the same meaning as in section 89.

91.—(1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may make grants to a conservation board, of such amounts and on such terms and conditions as the Secretary of State or the Assembly thinks fit.

Grants to conservation boards.

(2) Before determining the amount of any grant which he proposes to make to a conservation board under this section, or the purpose for which the grant is to be made, the Secretary of State shall consult the Agency.

(3) Before determining the amount of any grant which it proposes to make to a conservation board under this section, or the purpose for which the grant is to be made, the National Assembly for Wales shall consult the Council.

92.—(1) In this Part, unless a contrary intention appears—

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949;

“the Agency” means the Countryside Agency;

“area of outstanding natural beauty” has the meaning given by section 82(3);

“conservation board” has the meaning given by section 86(1);

“the Council” means the Countryside Council for Wales;

“liability”, in relation to the transfer of liabilities from one person to another, does not include criminal liability;

“local authority” means a principal council within the meaning of the Local Government Act 1972;

“principal area” has the same meaning as in the Local Government Act 1972.

Interpretation of Part IV and supplementary provision.
1949 c. 97.

1972 c. 70.

(2) Any reference in this Part to the conservation of the natural beauty of an area includes a reference to the conservation of its flora, fauna and geological and physiological features.

(3) This Part does not apply in relation to any of the lands mentioned in section 112(1) of the 1949 Act (Epping Forest and Burnham Beeches).

93. Schedule 15 (which contains consequential amendments and transitional provisions relating to areas of outstanding natural beauty) has effect.

Consequential amendments and transitional provisions.