

Natural Environment and Rural Communities Act 2006

2006 CHAPTER 16

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An Act to make provision about bodies concerned with the natural environment and rural communities; to make provision in connection with wildlife, sites of special scientific interest, National Parks and the Broads; to amend the law relating to rights of way; to make provision as to the Inland Waterways Amenity Advisory Council; to provide for flexible administrative arrangements in connection with functions relating to the environment and rural affairs and certain other functions; and for connected purposes.

[30th March 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Extent

Preamble: England, Wales

PART 1

NATURAL ENGLAND AND THE COMMISSION FOR RURAL COMMUNITIES

CHAPTER 1

NATURAL ENGLAND

Constitution and general purpose

✔ Law In Force

1 Constitution

- (1) There is to be a body known as Natural England.
- (2) Natural England is to have the functions conferred on it by or under this Act or any other enactment.
- (3) Except where otherwise expressly provided, Natural England's functions are exercisable in relation to England [(including, where the context requires, the territorial sea adjacent to England)]¹ only.

[(3A) An order or Order in Council made—

- (a) under section 158(3) of the Government of Wales Act 2006 for the purposes of determining which waters are treated as being adjacent to Wales, or
- (b) under section 126(2) of the Scotland Act 1998 for the purposes of determining which waters are treated as being adjacent to Scotland,

applies for the purposes of this section as it applies for the purposes of the Act under which it is made.

] ²

- (4) English Nature and the Countryside Agency are dissolved and their functions are (subject to the provisions of this Act) transferred to Natural England.
- (5) Schedule 1 contains provisions about the constitution of Natural England and related matters.

Notes

¹ Words inserted by Marine and Coastal Access Act 2009 c. 23 Pt 10 s.311(2) (January 12, 2010)

² Added by Marine and Coastal Access Act 2009 c. 23 Pt 10 s.311(3) (January 12, 2010)

Commencement

Pt 1 c. 1 s. 1(1)-(3), (5): May 2, 2006 (SI 2006/1176 art. 4)

Pt 1 c. 1 s. 1(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 1(1)-(5): England, Wales

✔ Law In Force

2 General purpose

- (1) Natural England's general purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.
- (2) Natural England's general purpose includes—
 - (a) promoting nature conservation and protecting biodiversity,
 - (b) conserving and enhancing the landscape,
 - (c) securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment,

- (d) promoting access to the countryside and open spaces and encouraging open-air recreation, and
- (e) contributing in other ways to social and economic well-being through management of the natural environment.

(3) The purpose in subsection (2)(e) may, in particular, be carried out by working with local communities.

Commencement

Pt 1 c. 1 s. 2(1)-(3): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 2(1)-(3): England, Wales

Advisory functions

✔ Law In Force

3 Review and research

- (1) Natural England must keep under review all matters relating to its general purpose.
- (2) When reviewing any matter, Natural England must consult such bodies as appear to it to have an interest in the matter.
- (3) Natural England may—
 - (a) undertake research into any matter relating to its general purpose, or
 - (b) commission or support (by financial means or otherwise) research into any such matter.
- (4) In discharging its functions in monitoring nature conservation, carrying out research or analysing the resultant information, Natural England must have regard to common standards established under section 34(2)(c).

Commencement

Pt 1 c. 1 s. 3(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 3(1)-(4): England, Wales

✔ Law In Force

4 Advice

- (1) Natural England must, at the request of a public authority, give advice to that authority on any matter relating to Natural England's general purpose.

- (2) Subsection (3) applies if Natural England has reason to believe that advice given under subsection (1) has been rejected.
- (3) At the request of Natural England, the public authority must inform Natural England in writing whether the advice has been rejected and, if so, why.
- (4) Natural England may give advice to any person on any matter relating to its general purpose—
- (a) at the request of that person, or
 - (b) if Natural England thinks it appropriate to do so, on its own initiative.
- (5) The advice that may be given under this section includes, in relation to any power to make byelaws, recommendations as to the matters in respect of which byelaws should be made.
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Commencement

Pt 1 c. 1 s. 4(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 4(1)-(5): England, Wales

General implementation powers

✓ Law In Force

5 Carrying out proposals etc.

Natural England may—

- (a) carry out proposals which appear to it to further its general purpose, or
 - (b) assist in, coordinate or promote the carrying out of such proposals by others.
-

Commencement

Pt 1 c. 1 s. 5(a)-(b): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 5(a)-(b): England, Wales

✓ Law In Force

6 Financial and other assistance

- (1) Natural England may give financial assistance to any person, if doing so appears to it to further its general purpose.
- (2) Financial assistance under this section may be given in any form, and may in particular be given by way of a grant, a loan or a guarantee.
- (3) Financial assistance under this section may be given subject to conditions, including (in the case of a grant) conditions for repayment in specified circumstances.

(4) Natural England may, if doing so appears to it to further its general purpose, provide assistance to any person by making available goods or equipment free of charge or at a reduced cost.

Commencement

Pt 1 c. 1 s. 6(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 6(1)-(4): England, Wales

✔ Law In Force

7 Management agreements

(1) Natural England may make an agreement (a “management agreement”) with a person who has an interest in land about the management or use of the land, if doing so appears to it to further its general purpose.

(2) A management agreement may, in particular–

- (a) impose on the person who has an interest in the land obligations in respect of the use of the land;
- (b) impose on the person who has an interest in the land restrictions on the exercise of rights over the land;
- (c) provide for the carrying out of such work as may be expedient for the purposes of the agreement by any person or persons;
- (d) provide for any matter for which a management scheme relating to a site of special scientific interest provides (or could provide);
- (e) provide for the making of payments by either party to the other party or to any other person;
- (f) contain incidental and consequential provision.

(3) A management agreement is, unless the agreement otherwise provides–

- (a) binding on persons deriving title under or from the person with whom Natural England makes the agreement, and
- (b) enforceable by Natural England against those persons.

(4) Schedule 2 to the Forestry Act 1967 (c. 10) (power for tenant for life and others to enter into forestry dedication covenants) applies to management agreements as it applies to forestry dedication covenants.

(5) 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 at any time while it is the subject of a management agreement is to be disregarded.

(6) “Interest in land” has the same meaning as in the National Parks and Access to the Countryside Act 1949 (c. 97).

(7) “Management scheme” and “site of special scientific interest” have the same meaning as in Part 2 of the Wildlife and Countryside Act 1981 (c. 69).

Commencement

Pt 1 c. 1 s. 7(1)-(7): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 7(1)-(7): England, Wales

✔ Law In Force

8 Experimental schemes

(1) Natural England may—

- (a) make and carry out experimental schemes designed to establish ways in which its general purpose might be furthered, or
- (b) promote the making and carrying out of such schemes.

(2) A scheme is experimental if it involves—

- (a) the development or application of new methods, concepts or techniques, or
- (b) the testing or further development of existing methods, concepts or techniques.

(3) Before making an experimental scheme, Natural England must consult such persons as appear to it to have an interest in the subject matter of the scheme.

Commencement

Pt 1 c. 1 s. 8(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 8(1)-(3): England, Wales

Other functions

✔ Law In Force

9 Information services etc.

(1) Natural England may—

- (a) publish documents or provide information about any matter relating to its general purpose, or
- (b) assist in the provision of such publications or information.

(2) Nothing in any other enactment imposing a duty or conferring a power on Natural England—

- (a) to publish or assist in the publication of documents of a particular kind, or
- (b) to provide or assist in the provision of information of a particular kind,

is to be read as limiting the power conferred by subsection (1).

Commencement

Pt 1 c. 1 s. 9(1)-(2)(b): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 9(1)-(2)(b): England, Wales

✓ Law In Force

10 Consultancy services and training

(1) Natural England may, if the conditions in subsection (2) are met, place the services of its officers or employees, or of any consultants it has engaged, at the disposal of any person.

(2) The conditions are that—

- (a) the person has requested Natural England to act under subsection (1), and
- (b) Natural England thinks that the request concerns a matter relating to its general purpose and presents special problems or requires special professional or technical skill.

(3) Natural England may provide training in relation to any matters in respect of which it has functions.

Commencement

Pt 1 c. 1 s. 10(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 10(1)-(3): England, Wales

✓ Law In Force

11 Power to charge for services and licences

(1) Natural England may, with the consent of the Secretary of State, make such charges for its services as appear to it to be reasonable.

(2) “Services” includes, in particular, anything done under—

- (a) section 4(1) or (4)(a) (advice);
- (b) section 9 (information services etc.);
- (c) section 10 (consultancy services).

(3) The Secretary of State may by order make provision requiring charges to be paid in respect of, and for the purpose of meeting the cost of, issuing licences to which this subsection applies.

(4) Subsection (3) applies to licences issued by Natural England under or by virtue of any enactment, other than licences for which charges are payable apart from this section.

(5) An order under subsection (3) may make provision as to—

- (a) exemptions from or reductions in charges;

(b) remission of charges in whole or in part.

(6) The power to make an order under subsection (3) is exercisable by statutory instrument.

(7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement

Pt 1 c. 1 s. 11(1)-(2), (2)(b): May 2, 2006 (SI 2006/1176 art. 4)

Pt 1 c. 1 s. 11(2)(a), (2)(c)-(7): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 11(1)-(7): England, Wales

✓ Law In Force

12 Power to bring criminal proceedings

(1) Natural England may institute criminal proceedings.

(2) A person who is authorised by Natural England to prosecute on its behalf in proceedings before a magistrates' court is entitled to prosecute in such proceedings [...] ¹ .

Notes

¹ Words repealed by Legal Services Act 2007 c. 29 Sch.23 para.1 (January 1, 2010 as SI 2009/3250)

Commencement

Pt 1 c. 1 s. 12(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 1 s. 12(1)-(2): England, Wales

✓ Law In Force

13 Incidental powers

(1) Natural England may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular, Natural England may—

- (a) enter into agreements;
- (b) acquire or dispose of property;
- (c) borrow money;
- (d) subject to the approval of the Secretary of State, form bodies corporate or acquire or dispose of interests in bodies corporate;
- (e) accept gifts;
- (f) invest money.

Commencement

Pt 1 c. 1 s. 13(1)-(2)(f): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 13(1)-(2)(f): England, Wales

Powers of Secretary of State

✔ Law In Force

14 Grants

(1) The Secretary of State may make grants to Natural England of such amounts as the Secretary of State thinks fit.

(2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.

Commencement

Pt 1 c. 1 s. 14(1)-(2): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 14(1)-(2): England, Wales

✔ Law In Force

15 Guidance

(1) The Secretary of State must give Natural England guidance as to the exercise of any functions of Natural England that relate to or affect regional planning and associated matters.

(2) The Secretary of State may give Natural England guidance as to the exercise of its other functions.

(3) Before giving guidance under this section the Secretary of State must consult—

- (a) Natural England,
- (b) the Environment Agency, and
- (c) such other persons as the Secretary of State thinks appropriate.

(4) The Secretary of State must publish any guidance given under this section as soon as is reasonably practicable after giving the guidance.

(5) The power to give guidance under this section includes power to vary or revoke it.

(6) In discharging its functions, Natural England must have regard to guidance given under this section.


Commencement

Pt 1 c. 1 s. 15(1): October 1, 2006 (SI 2006/2541 art. 2)

Pt 1 c. 1 s. 15(2)-(6): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 15(1)-(6): England, Wales

 Law In Force

16 Directions

(1) The Secretary of State may give Natural England general or specific directions as to the exercise of its functions.

(2) Subsection (1) does not apply to functions of Natural England that are exercisable through the Joint Nature Conservation Committee.

(3) The Secretary of State must publish any directions given under this section as soon as is reasonably practicable after giving the directions.

(4) The power to give directions under this section includes power to vary or revoke the directions.

(5) Natural England must comply with any directions given under this section.

Commencement

Pt 1 c. 1 s. 16(1)-(5): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 1 s. 16(1)-(5): England, Wales

CHAPTER 2**COMMISSION FOR RURAL COMMUNITIES***The Commission and its general purpose*

 Repealed

17 [...]¹**Notes**

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

18 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

Functions

 Repealed

19 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

20 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

21 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

22 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

23 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

Powers of Secretary of State

 Repealed

24 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

25 [...]¹


Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

CHAPTER 3

SUPPLEMENTARY

Transfer schemes etc.

 Law In Force

26 Transfers on dissolution of English Nature and Countryside Agency

(1) The power conferred by subsection (2) is exercisable in connection with the dissolution of English Nature and the Countryside Agency.

(2) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities of English Nature or the Countryside Agency to—

- (a) Natural England,
- (b) the Commission,

- (c) [...]¹
- (d) a Minister of the Crown.

(3) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

(4) [...]¹

Notes

¹ Repealed by Public Bodies Act 2011 c. 24 Sch.6 para.1 (July 1, 2012: repeal has effect as SI 2012/1662 at 00.02)

Commencement

Pt 1 c. 3 s. 26(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 3 s. 26(1)-(4): England, Wales

✓ Law In Force

27 Continuing powers to make transfer schemes

(1) The powers conferred by this section are exercisable in connection with the efficient management for public purposes of any property, rights or liabilities.

(2) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a Minister of the Crown to—

- (a) Natural England,
- (b) the Commission, or
- (c) a person acting on behalf of Natural England and the Commission.

(3) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of—

- (a) Natural England, or
- (b) the Commission,

to a Minister of the Crown.

(4) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

Commencement

Pt 1 c. 3 s. 27(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 3 s. 27(1)-(4): England, Wales

✓ Law In Force

28 Transfer schemes: supplementary

(1) Schedule 3 contains further provisions relating to the making of schemes under sections 26 and 27.

(2) In sections 26 and 27 and Schedule 3–

“designated” in relation to a scheme, means specified in or determined in accordance with the scheme;

“the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.

Commencement

Pt 1 c. 3 s. 28(1)-(2) definition of "the transfer date": October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 3 s. 28(1)-(2) definition of "the transfer date": England, Wales

✓ Law In Force

29 Interim arrangements

The Secretary of State may by written notice require English Nature or the Countryside Agency to provide staff, premises and other facilities on a temporary basis to–

(a) Natural England, or

(b) the Commission.

Commencement

Pt 1 c. 3 s. 29(a)-(b): May 2, 2006 (SI 2006/1176 art. 4)

Extent

Pt 1 c. 3 s. 29(a)-(b): England, Wales

Interpretation

✓ Law In Force

30 Interpretation

(1) In this Part–

“the Commission” means the Commission for Rural Communities;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);

“nature conservation” means the conservation of flora, fauna or geological or physiographical features;

“research” includes inquiries and investigations.

(2) For the purposes of this Part, a public authority is any of the following—

- (a) a Minister of the Crown;
- (b) a public body (including a government department, a local authority and a local planning authority);
- (c) a person holding an office—
 - (i) under the Crown,
 - (ii) created or continued in existence by a public general Act, or
 - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
- (d) a statutory undertaker.

(3) In subsection (2)—

“local authority” means a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

“local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (c. 8);

“statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.

Commencement

Pt 1 c. 3 s. 30(1)-(3) definition of "statutory undertaker": October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 1 c. 3 s. 30(1)-(3) definition of "statutory undertaker": England, Wales

PART 2

NATURE CONSERVATION IN THE UK

Joint Nature Conservation Committee etc.

 Law In Force

31 Joint Nature Conservation Committee

The Joint Nature Conservation Committee—

- (a) is to continue in existence, but
- (b) is to be re-constituted in accordance with Schedule 4.

Commencement

Pt 2 s. 31(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 31(a)-(b): United Kingdom

✔ Law In Force

32 UK conservation bodies

(1) In this Part “the UK conservation bodies” means–

- (a) for England, Natural England;
- (b) for Wales, [the Natural Resources Body for Wales]¹ ;
- (c) for Scotland, Scottish Natural Heritage;
- (d) for Northern Ireland, the Council for Nature Conservation and the Countryside.

(2) In this Part “the GB conservation bodies” means the bodies mentioned in subsection (1)(a) to (c).

Notes

¹ Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.432 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Commencement

Pt 2 s. 32(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 32(1)-(2): United Kingdom

✔ Law In Force

33 Purpose of functions under this Part

(1) The UK conservation bodies and the joint committee have the functions conferred on them by this Part for the purposes of–

- (a) nature conservation, and
- (b) fostering the understanding of nature conservation.

(2) Each of them must, in discharging their functions under this Part, have regard to–

- (a) actual or possible ecological changes, and
- (b) the desirability of contributing to sustainable development.

Commencement

Pt 2 s. 33(1)-(2)(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 33(1)-(2)(b): United Kingdom

Coordinated functions

✓ Law In Force

34 Functions of national or international significance

(1) The UK conservation bodies have the functions described in subsection (2), but those functions may be discharged only through the joint committee.

(2) The functions are—

(a) providing advice to the appropriate authorities on the development and implementation of policies for or affecting any nature conservation matter which—

(i) arises throughout the United Kingdom and raises issues common to England, Wales, Scotland and Northern Ireland,

(ii) arises in one or more (but not all) of those places and affects the interests of the United Kingdom as a whole, or

(iii) arises outside the United Kingdom;

(b) providing advice to any persons and disseminating knowledge about any matter falling within paragraph (a)(i), (ii) or (iii);

(c) establishing common standards throughout the United Kingdom for the monitoring of nature conservation and for research into nature conservation and the analysis of the resulting information;

(d) commissioning or supporting (whether by financial means or otherwise) research which the joint committee thinks is relevant to any matter mentioned in paragraphs (a) to (c).

(3) “The appropriate authorities” means—

(a) the Secretary of State (or any other Minister of the Crown),

(b) the National Assembly for Wales,

(c) the Scottish Ministers, and

(d) the relevant Northern Ireland department.

Commencement

Pt 2 s. 34(1)-(3)(d): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 34(1)-(3)(d): United Kingdom

✓ Law In Force

35 Advice from joint committee to UK conservation body

(1) The joint committee may give advice or information to any of the UK conservation bodies on any matter which—

- (a) is connected with the functions of that UK conservation body, and
- (b) in the opinion of the joint committee—
 - (i) arises throughout the United Kingdom and raises issues common to England, Wales, Scotland and Northern Ireland,
 - (ii) arises in one or more (but not all) of those places and affects the interests of the United Kingdom as a whole, or
 - (iii) arises outside the United Kingdom.

(2) In discharging their functions relating to nature conservation, the UK conservation bodies must have regard to any advice given to them under subsection (1).

Commencement

Pt 2 s. 35(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 35(1)-(2): United Kingdom

✓ Law In Force

36 GB functions with respect to wildlife

(1) The GB conservation bodies have the functions described in subsection (2), but those functions may be discharged only through the joint committee.

- (2) The functions are—
- (a) those under sections 22(3) and 24(1) of the 1981 Act (listing of protected animals and plants);
 - (b) commissioning or supporting (whether by financial means or otherwise) research which the joint committee thinks is relevant to those functions.

(3) “The 1981 Act” means the Wildlife and Countryside Act 1981 (c. 69).

Commencement

Pt 2 s. 36(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 36(1)-(3): United Kingdom

✓ Law In Force

37 UK conservation bodies: incidental powers for UK purposes, etc.

- (1) Each of the UK conservation bodies may do anything that appears to it to be conducive or incidental to its functions under this Part.
- (2) In particular each of them may for the purposes of its functions under this Part—
 - (a) acquire or dispose of property;
 - (b) accept gifts;
 - (c) undertake research directly related to those functions if it appears appropriate to do so.
- (3) Nothing in any of the enactments concerning the functions of the UK conservation bodies prevents any of them—
 - (a) if requested to do so by any of the others, from giving advice or information to the other, or
 - (b) from giving advice or information to the joint committee.
- (4) “Enactment” includes an Act of the Scottish Parliament and Northern Ireland legislation.

Commencement

Pt 2 s. 37(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 37(1)-(4): United Kingdom

Directions

✓ Law In Force

38 Directions

- (1) The Secretary of State may give the joint committee general or specific directions as to the discharge of any function under section 34 or 35 (but not as to the discharge of a function under section 36).
- (2) Before giving any directions under this section, the Secretary of State must consult the National Assembly for Wales, the Scottish Ministers and the relevant Northern Ireland department.
- (3) The Secretary of State must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (4) The power to give directions under this section includes power to vary or revoke the directions.
- (5) The joint committee must comply with any directions given under this section.


Commencement

Pt 2 s. 38(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 38(1)-(5): United Kingdom

Interpretation

 Law In Force

39 Interpretation

In this Part—

“the joint committee” means the Joint Nature Conservation Committee;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);

“nature conservation” means the conservation of flora, fauna or geological or physiographical features;

“the relevant Northern Ireland department” means the Department of the Environment in Northern Ireland;

“research” includes inquiries and investigations.


Commencement

Pt 2 s. 39 definition of "the joint committee"- definition of "research": October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 2 s. 39 definition of "the joint committee"- definition of "research": United Kingdom

PART 3**WILDLIFE ETC.***Biodiversity*

 Law In Force With Amendments Pending

40 Duty to conserve biodiversity

[(A1) This section applies where—

- (a) Her Majesty's Revenue and Customs are exercising their functions;
- (b) any other public authority is exercising its functions in relation to England.

] ¹

(1) [The] ² public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

(2) In complying with subsection (1), a Minister of the Crown [or government department] ³ must in particular have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.

(3) Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

(4) "Public authority" means any of the following—

- (a) a Minister of the Crown;
- (b) [...] ⁴
- (c) a public body (including a government department, a local authority [and a local planning authority] ⁵);
- (d) a person holding an office—
 - (i) under the Crown,
 - (ii) created or continued in existence by a public general Act, or
 - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
- (e) a statutory undertaker.

(5) In this section—

"local authority" means—

- (a) [a county council in England] ⁶ , a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) [...] ⁷

"local planning authority" has the same meaning as in the Town and Country Planning Act 1990 (c. 8);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);

"statutory undertaker" means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990 [;] ⁸ ["strategic planning panel" means a strategic planning panel established under section 60D of the Planning and Compulsory Purchase Act 2004.] ⁸

Notes

¹ Added by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(a) (May 21, 2016)

² Word substituted by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(b) (May 21, 2016)

³ Words substituted by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(c) (May 21, 2016)

⁴ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(d)(i) (May 21, 2016)

⁵ Words substituted by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(d)(ii) (May 21, 2016)

⁶ Words substituted by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(e)(i) (May 21, 2016)

⁷ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(2)(e)(ii) (May 21, 2016)

- ⁸ Definition inserted by Planning (Wales) Act 2015 anaw. 4 Sch.2 para.28(3) (September 6, 2015 for the purposes of enabling the Welsh Ministers to exercise any function of making regulations or orders by statutory instrument under any enactment as amended by 2015 anaw 4 Pts 3-8; not yet in force otherwise)

Amendments Pending


- Pt 3 s. 40(6)-(7): added by Environment Act 2021 c. 30, Pt 6 s. 102(7) (date to be appointed)
- Pt 3 s. 40(3): substituted by Environment Act 2021 c. 30, Pt 6 s. 102(6) (date to be appointed)
- Pt 3 s. 40(2A)-(2D): added by Environment Act 2021 c. 30, Pt 6 s. 102(5) (date to be appointed)
- Pt 3 s. 40(2): words substituted by Environment Act 2021 c. 30, Pt 6 s. 102(4) (date to be appointed)
- Pt 3 s. 40(A1)-(1): s.40(A1), (1) and (1A)-(1F) substituted for s.40(A1) and (1) by Environment Act 2021 c. 30, Pt 6 s. 102(3) (date to be appointed)
- Pt 3 s. 40: words inserted by Environment Act 2021 c. 30, Pt 6 s. 102(2) (date to be appointed)

Commencement

- Pt 3 s. 40(1)-(5) definition of "statutory undertaker": October 1, 2006 (SI 2006/2541 art. 2)

Extent

- Pt 3 s. 40(A1)-(7): England, Wales

 Not Yet In Force

[40A Biodiversity reports

- (1) This section applies to—
- a local authority in England other than a parish council,
 - a local planning authority in England, and
 - a designated authority (see subsection (8)(a)).
- (2) A public authority to which this section applies ("the authority") must publish biodiversity reports in accordance with this section.
- (3) A biodiversity report so published must contain—
- a summary of the action which the authority has taken over the period covered by the report for the purpose of complying with its duties under section 40(1) and (1A),
 - a summary of the authority's plans for complying with those duties over the period of five years following the period covered by the report,
 - any quantitative data required to be included in the report by regulations under subsection (8)(b), and
 - any other information that the authority considers it appropriate to include in the report.
- (4) If the authority is a local planning authority, its biodiversity report must also contain—
- a summary of the action taken by the authority in carrying out its functions under Schedule 7A to the Town and Country Planning Act 1990 (biodiversity gain as condition of planning permission) over the period covered by the report,
 - information about any biodiversity gains resulting or expected to result from biodiversity gain plans approved by the authority during that period, and

- (c) a summary of the authority's plans for carrying out those functions over the five year period following the period covered by the report.
- (5) A biodiversity report—
- (a) must specify the period covered by the report, and
 - (b) must be published within the period of 12 weeks following the last day of that period.
- (6) The authority's first biodiversity report must cover a period chosen by the authority which—
- (a) is no longer than three years, and
 - (b) begins with the day on which the authority first becomes subject to the duty under subsection (2).
- (7) A subsequent biodiversity report made by the authority must cover a period chosen by the authority which—
- (a) is no longer than five years, and
 - (b) begins with the day after the last day of the period covered by its most recent biodiversity report.
- (8) The Secretary of State may by regulations—
- (a) provide for specified public authorities, or public authorities of a specified description, to be designated authorities for the purposes of this section;
 - (b) require biodiversity reports to include specified quantitative data relating to biodiversity in any area of land in England in relation to which the authority exercises any functions.
- In this subsection "specified" means specified in the regulations.
- (9) Public authorities with no functions exercisable in relation to England may not be designated under subsection (8)(a).
- (10) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (11) A statutory instrument containing regulations under subsection (8) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) Terms used in this section and section 40 have the same meaning as in that section.

]¹

Notes

- ¹ Added by Environment Act 2021 c. 30 Pt 6 s.103(1) (date to be appointed)

Extent

Pt 3 s. 40A(6)-(5)(b): England, Wales

 Law In Force With Amendments Pending

41 Biodiversity lists and action (England)

- (1) The Secretary of State must, as respects England, publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity.

- (2) Before publishing any list the Secretary of State must consult Natural England as to the living organisms or types of habitat to be included in the list.
- (3) Without prejudice to section 40(1) and (2), the Secretary of State must—
- (a) take such steps as appear to the Secretary of State to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published under this section, or
 - (b) promote the taking by others of such steps.
- (4) The Secretary of State must, in consultation with Natural England—
- (a) keep under review any list published under this section,
 - (b) make such revisions of any such list as appear to the Secretary of State appropriate, and
 - (c) publish any list so revised as soon as is reasonably practicable after revising it.

Amendments Pending

Pt 3 s. 41(3): words substituted by Environment Act 2021 c. 30, Pt 6 s. 102(8)(b) (date to be appointed)

Pt 3 s. 41(1): words inserted by Environment Act 2021 c. 30, Pt 6 s. 102(8)(a) (date to be appointed)

Commencement

Pt 3 s. 41(1)-(4)(c): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 41(1)-(4)(c): England, Wales

 Repealed

42 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(3) (May 21, 2016)

Pesticides harmful to wildlife

 Law In Force

43 Possession of pesticides harmful to wildlife

- (1) A person is guilty of an offence if he has in his possession a pesticide containing an ingredient that is prescribed for the purposes of this section by an order made by the Secretary of State.
- (2) The Secretary of State may not make an order under subsection (1) unless he is satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm.

- (3) It is a defence for a person charged with an offence under this section to prove that his possession of the pesticide was for the purposes of doing anything in accordance with—
- (a) provision made by or under the Poisons Act 1972 (c. 66);
 - (b) regulations made under section 16(2) of the Food and Environment Protection Act 1985 (c. 48);
 - [(c) Regulation (EU) No 528/2012 of the European Parliament and of the Council [, as last corrected by a corrigendum (OJ No L 280, 28.10.2017, p 57)]² ;]¹
 - [(d) Regulation (EC) No 1107/2009 of the European Parliament and of the Council⁴ [, as last amended by [Regulation (EU) 2019/1009 of the European Parliament and of the Council⁷]⁶]⁵ .]³
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or both).
- (5) The court by which a person is convicted of an offence under this section may order the forfeiture of the pesticide in respect of which the offence was committed.
- (6) The power to make an order under subsection (1) is exercisable by statutory instrument.
- (7) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The Secretary of State must take such steps as are reasonably practicable to bring information about the effect of an order under subsection (1) to the attention of persons likely to be affected by the order.
- (9) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.

Notes

- ¹ Substituted by Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013/1506 Sch.5(1) para.2 (September 1, 2013)
- ² Words inserted by Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018/942 Pt 2(1) reg.5(a) (September 17, 2018)
- ³ Substituted by Health and Safety (Miscellaneous Amendments and Revocation) Regulations 2017/304 Pt 2 reg.2(2) (April 6, 2017)
- ⁴ OJ No L 309, 24.11.2009, p1.
- ⁵ Words inserted by Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018/942 Pt 2(1) reg.5(b) (November 10, 2018)
- ⁶ Words substituted by Pesticides (Amendment) Regulations 2019/1290 Pt 2 reg.2 (October 31, 2019)
- ⁷ OJ No L 170, 25.6.2019, p 1.

Commencement

Pt 3 s. 43(1)-(9): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 43(1)-(9): England, Wales

✓ Law In Force

44 Enforcement powers in connection with pesticides

- (1) An inspector may–
- (a) enter any premises if he has reasonable grounds to suspect that he may find there evidence that an offence is being committed under section 43,
 - (b) require any person whom he reasonably believes has information about the formulation, effects or use of any substance found on the premises to give him that information, and
 - (c) seize any substance found on the premises, if he has reasonable grounds for believing that it is evidence of an offence under section 43.
- (2) “Inspector” means–
- (a) a person authorised in writing by the Secretary of State to exercise the powers under this section in relation to England;
 - (b) a person authorised in writing by the National Assembly for Wales to exercise the powers under this section in relation to Wales.
- (3) An authorisation under subsection (2) is subject to any conditions or limitations specified in it.
- (4) Schedule 2 to the Food and Environment Protection Act 1985 (officers and their powers), other than paragraph 2A(1)(b) of that Schedule, has effect with respect to inspectors as it has effect with respect to persons authorised to enforce Part 3 of that Act.
- (5) Subsections (6) and (7) apply where an inspector seizes a substance under subsection (1)(c).
- (6) The inspector must give to a person on the premises, or affix conspicuously to some object on the premises, a notice stating–
- (a) what he has seized and the ground for seizing it, and
 - (b) the address for service for any claim for the return of the substance.
- (7) The inspector–
- (a) may retain the substance for so long as is reasonably necessary for the purposes of any investigation or proceedings in respect of an offence under section 43;
 - (b) subject to any order for forfeiture under section 43(5) or any claim made within the relevant period by a person entitled to the return of the substance, may retain the substance or, after the relevant period, destroy or otherwise dispose of it.
- (8) “The relevant period” means the period ending 28 days after–
- (a) any proceedings in respect of an offence under section 43 are finally determined, or
 - (b) if no such proceedings are brought, the time for bringing such proceedings expires.

Commencement

Pt 3 s. 44(1)-(8)(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 44(1)-(8)(b): England, Wales

✓ Law In Force

45 Codes of practice

- (1) The Secretary of State may–
 - (a) issue a code of practice in connection with any of the provisions of section 44 or Schedule 2 to the Food and Environment Protection Act 1985 (c. 48) as applied by section 44(4), and
 - (b) revise or replace such a code.
- (2) An inspector must have regard to any relevant provision of a code when discharging any function under any provision mentioned in subsection (1)(a).
- (3) But an inspector's failure to have regard to any provision of a code does not make him liable to criminal or civil proceedings.
- (4) A code–
 - (a) is admissible in evidence in any proceedings, and
 - (b) must be taken into account by a court in any case in which it appears to the court to be relevant.

Commencement

Pt 3 s. 45(1)-(4)(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 45(1)-(4)(b): England, Wales

✓ Law In Force

46 Interpretation

- (1) This section has effect for the interpretation of sections 43 and 44.
- (2) “Pesticide” means–
 - (a) a pesticide as defined by section 16(15) of the Food and Environment Protection Act 1985;
 - (b) anything to which Part 3 of the 1985 Act applies (by virtue of section 16(16) of the Act) as if it were a pesticide.
- (3) “Wild bird” and “wild animal” have the same meaning as in Part 1 of the Wildlife and Countryside Act 1981 (c. 69).
- (4) “Premises” includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport.

Commencement

Pt 3 s. 46(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 46(1)-(4): England, Wales

Protection of birds

✓ Law In Force

47 Protection for nests of certain birds which re-use their nests

(1) Amend the Wildlife and Countryside Act 1981 (c. 69) as follows.

(2) In section 1 (protection of wild birds, their nests and eggs), in subsection (1), after paragraph (a) insert—

“(aa) takes, damages or destroys the nest of a wild bird included in Schedule ZA1;”.

(3) At the beginning of the Schedules insert—

“SCHEDULE ZA1**BIRDS WHICH RE-USE THEIR NESTS**

| <i>Common name</i> | <i>Scientific name</i> |
|---------------------|-----------------------------|
| Eagle, Golden | <i>Aquila chrysaetos</i> |
| Eagle, White-tailed | <i>Haliaeetus albicilla</i> |
| Osprey | <i>Pandion haliaetus</i> |

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.”

(4) In—

(a) section 4 (exceptions to sections 1 and 3), in subsection (1)(c), and

(b) section 7 (registration etc. of certain captive birds), in subsection (3A)(a)(i) and (c)(i), after “Schedule” insert “ZA1 or”.

(5) In section 22 (power to vary Schedules), in subsection (1), for “Schedules 1 to 4” substitute “Schedules ZA1 to 4”.

Commencement

Pt 3 s. 47(1)-(5): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 3 s. 47(1)-(5): England, Wales

✓ Law In Force

48 Birds released into the wild as part of re-population programme

(1) In section 1 of the 1981 Act (protection of wild birds, their nests and eggs), for subsection (6) substitute—

“(6) For the purposes of this section the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless it has been lawfully released into the wild as part of a re-population or re-introduction programme.

(6A) “Re-population” and “re-introduction” have the same meaning as in the Directive of the Council of the European Communities dated 2nd April 1979 (No 1979/409/EEC) on the conservation of wild birds.”

(2) In section 6 of the 1981 Act (sale etc. of live or dead wild birds, eggs etc.), for subsection (5) substitute–

“(5) Any reference in this section to any bird included in Part 1 of Schedule 3 is a reference to any bird included in that Part which–

- (a) was bred in captivity,
- (b) has been ringed or marked in accordance with regulations made by the Secretary of State, and
- (c) has not been lawfully released into the wild as part of a re-population or re-introduction programme.

(5A) “Re-population” and “re-introduction” have the same meaning as in the Directive of the Council of the European Communities dated 2nd April 1979 (No 1979/409/EEC) on the conservation of wild birds.


(5B) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.”

Commencement

Pt 3 s. 48(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 48(1)-(2): England, Wales

 Law In Force

49 Registration etc. of certain captive birds

In section 7 of the 1981 Act (registration etc. of certain captive birds), in subsection (3A), after paragraph (c) insert–

“(ca) any offence under subsection (1);”.

Commencement

Pt 3 s. 49: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 49: England, Wales

Invasive non-native species

✓ Law In Force

50 Sale etc. of invasive non-native species

After section 14 of the 1981 Act insert–

“14ZA Sale etc. of invasive non-native species

(1) Subject to the provisions of this Part, a person is guilty of an offence if he sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale–

- (a) an animal or plant to which this section applies, or
- (b) anything from which such an animal or plant can be reproduced or propagated.

(2) Subject to the provisions of this Part, a person is guilty of an offence if he publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell–

- (a) an animal or plant to which this section applies, or
- (b) anything from which such an animal or plant can be reproduced or propagated.

(3) This section applies to an animal or plant which–

- (a) is within section 14(1) or (2) (animals and plants which must not be released etc. into the wild),
- (b) is of a description prescribed for the purposes of this section by an order made by the Secretary of State, and
- (c) is a live animal or live plant.

(4) An order under subsection (3) may be made in relation to a particular area or a particular time of the year.

(5) Subsections (3) and (4) of section 14 (defence of due diligence etc.) apply to an offence under this section as they apply to an offence under that section.”

Commencement

Pt 3 s. 50: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 50: England, Wales

✓ Law In Force

51 Codes of practice in connection with invasive non-native species

After section 14ZA of the 1981 Act insert–

“14ZB Codes of practice in connection with invasive non-native species

(1) The Secretary of State may issue or approve a code of practice relating to–

- (a) animals which are not ordinarily resident in and are not regular visitors to Great Britain in a wild state,
 - (b) animals or plants included in Schedule 9, or
 - (c) any description of animals or plants mentioned in paragraph (a) or (b).
- (2) The Secretary of State may revise or replace a code or approve its revision or replacement.
- (3) The Secretary of State must ensure that a code is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it.
- (4) A person's failure to comply with a provision of a code does not make him liable to criminal or civil proceedings.
- (5) A code—
- (a) is admissible in evidence in any proceedings, and
 - (b) must be taken into account by a court in any case in which it appears to the court to be relevant.”


Commencement

Pt 3 s. 51: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 51: England, Wales

Enforcement etc. of provisions relating to wildlife

 Law In Force

52 Enforcement powers in connection with wildlife

Schedule 5 contains amendments relating to enforcement powers in connection with wildlife.

Commencement

Pt 3 s. 52: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 3 s. 52: England, Wales

 Law In Force

53 Wildlife offences: time limits for proceedings

Schedule 6 contains provisions extending the time limit for summary proceedings for certain offences relating to wildlife.

Commencement

Pt 3 s. 53: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 3 s. 53: England, Wales

✔ Law In Force

54 Application of Part 1 of 1981 Act to Crown

(1) In the 1981 Act, before section 67 insert–

“66A Application of Part 1 to Crown

(1) Subject to subsections (2) to (5), Part 1 and regulations and orders made under it bind the Crown.

(2) No contravention by the Crown of any provision of Part 1 makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), Part 1 applies to persons in the public service of the Crown as it applies to other persons.

(4) But the powers conferred by sections 18A to 19XA are not exercisable in relation to premises occupied by the Crown.

(5) Nothing in this Part affects Her Majesty in her private capacity.

(6) Subsection (5) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Act.”

(2) For the heading to section 67, substitute “Application of Parts 2 and 3 to Crown land”.

Commencement

Pt 3 s. 54(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 3 s. 54(1)-(2): England, Wales

PART 4**SITES OF SPECIAL SCIENTIFIC INTEREST**

✓ Law In Force

55 Offences in connection with SSSIs

(1) Amend section 28P of the Wildlife and Countryside Act 1981 (c. 69) (offences) as follows.

(2) After subsection (5) insert–

“(5A) A section 28G authority which, in the exercise of its functions, permits the carrying out of an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest–

(a) without first complying with section 28I(2), or

(b) where relevant, without first complying with section 28I(4) or (6),

is, unless there was a reasonable excuse for permitting the carrying out of the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(5B) For the purposes of subsection (5A), it is a reasonable excuse in any event for a section 28G authority to permit the carrying out of an operation without first complying with section 28I(2), (4) or (6) if the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to Natural England as soon as practicable after the permission was given.”

(3) After subsection (6) insert–

“(6A) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse–

(a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or

(b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

(4) In subsection (7), after “(6)” (in both places) insert “or (6A)”.

(5) In section 31 of the 1981 Act (restoration following offence under section 28P), in subsection (1)(b), after “28P(6)” insert “or (6A)”.

Commencement

Pt 4 s. 55(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 4 s. 55(1)-(5): England, Wales

✓ Law In Force

56 Denotification

In section 28D of the 1981 Act (denotification), in subsection (1), for “no longer” substitute “not”.

Commencement

Pt 4 s. 56: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 4 s. 56: England, Wales

✔ Law In Force

57 Effect of failure to serve certain notices in connection with SSSIs

After section 70A of the 1981 Act insert–

“70B Effect of failure to serve certain notices

- (1) This section applies where the relevant conservation body–
- (a) has (whether before or after the commencement of this section) taken all reasonable steps to ensure that, under any provision listed in subsection (2), notice is served on every owner and occupier of any land to which the notice relates, but
 - (b) has failed to do so.
- (2) The provisions are–
- (a) section 28(1) (notification of SSSI);
 - (b) section 28(5) (confirmation or withdrawal of notification of SSSI);
 - (c) section 28A(3) (notice varying notification under section 28);
 - (d) section 28A(5) (notice confirming or withdrawing variation of notification);
 - (e) section 28B(2) (notification of additional land to be included in SSSI);
 - (f) section 28B(7) (confirmation or withdrawal of notification);
 - (g) section 28C(2) (notification of enlargement of SSSI);
 - (h) section 28C(3) (confirmation or withdrawal of notification of enlargement);
 - (i) section 28D(2) (denotification);
 - (j) section 28D(5) (withdrawal or confirmation of denotification);
 - (k) section 28J(3) (notice of proposed management scheme);
 - (l) section 28J(8) (withdrawal or confirmation of management scheme).
- (3) The validity of the notice is not affected by the failure to serve it on every owner and occupier of the land.
- (4) For the purposes of sections 28 to 28Q, the time when the notice is to be treated as having been served is the time when the relevant conservation body took the last of the steps referred to in subsection (1)(a).
- (5) If the relevant conservation body becomes aware of its failure to serve a notice on an owner or occupier, it must serve a copy of the notice on that owner or occupier.
- (6) Nothing in subsection (3) or (4) renders the owner or occupier liable–
- (a) in relation to anything done or omitted to be done before the commencement of this section, or

(b) under section 28P(1) or 28Q(4) in relation to anything done or omitted to be done before the copy of the notice is served under subsection (5).

(7) “The relevant conservation body” means–

(a) in relation to land in an area in England–

(i) subject to sub-paragraph (ii), Natural England;

(ii) in relation to any time before the commencement of section 27AA, English Nature;


(b) in relation to land in an area in Wales, the Countryside Council for Wales.”

Commencement

Pt 4 s. 57: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 4 s. 57: England, Wales

 Law In Force

58 Notices and signs relating to SSSIs

(1) After section 28R of the 1981 Act insert–

“28S Notices and signs relating to SSSIs

(1) Natural England may, on any land included in a site of special scientific interest, put up and maintain notices or signs relating to the site.

(2) Natural England may remove any notice or sign put up under subsection (1).

(3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under subsection (1) is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

(2) In section 51 of the 1981 Act (powers of entry), in subsection (1), after paragraph (k) insert–

“(ka) for the purposes of putting up, maintaining or removing notices or signs under section 28S;”.

(3) In subsection (2) of that section, for “paragraphs (a) to (k)” substitute “paragraphs (a) to (ka)”.

Commencement

Pt 4 s. 58(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 4 s. 58(1)-(3): England, Wales

PART 5

NATIONAL PARKS AND THE BROADS

✓ Law In Force

59 Criteria for designating National Parks

(1) In section 5 of the National Parks and Access to the Countryside Act 1949 (c. 97) (criteria for designating National Parks), after subsection (2) insert–

“(2A) Natural England may–

- (a) when applying subsection (2)(a) in relation to an area, take into account its wildlife and cultural heritage, and
- (b) when applying subsection (2)(b) in relation to that area, take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of its special qualities by the public.”

(2) The amendment made by subsection (1) applies for the purposes of the confirmation or variation on or after the day on which this section comes into force of orders made before that day as it applies for the purposes of the confirmation or variation of orders made on or after that day.

Commencement

Pt 5 s. 59(1)-(2): May 31, 2006 (2006 c. 16 Pt 10 s. 107(3)(a))

Extent

Pt 5 s. 59(1)-(2): England, Wales

✓ Law In Force

60 Procedure for orders designating National Parks

(1) Amend the 1949 Act as follows.

(2) In section 7 (designation and variation of National Parks), in subsection (1), for “county council, county borough council and county district council” substitute “and local authority”.

(3) After subsection (6) of that section insert–

“(7) In this section and Schedule 1 “local authority” means–

- (a) in relation to England, a county council, district council or parish council;
- (b) in relation to Wales, a county council, county borough council or community council.”

(4) In section 9 (development plans relating to National Parks), omit subsection (2).

(5) In Schedule 1, in paragraph 2, after sub-paragraph (2) (local inquiries to be held where objection by local authority not withdrawn) insert–

- “(2A) In sub-paragraph (2) “local authority” does not include—
- (a) in relation to an order designating a National Park in England, a parish council, or
 - (b) in relation to an order designating a National Park in Wales, a community council.”

Commencement

Pt 5 s. 60(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 5 s. 60(1)-(5): England, Wales

✔ Law In Force

61 Members of National Park authorities

(1) Amend Schedule 7 to the Environment Act 1995 (c. 25) (National Park authorities) as follows.

(2) In paragraph 1, for sub-paragraphs (2) to (6) (constitution of National Park authorities) substitute—

- “(2) A National Park authority shall consist of—
- (a) a specified number of local authority members,
 - (b) in the case of a National Park in England, a specified number of parish members to be appointed by the Secretary of State, and
 - (c) a specified number of other members to be appointed by the Secretary of State;
- and “specified” means specified in the relevant order.

- (3) The total number of—
- (a) local authority members, and
 - (b) parish members,
- must exceed the number of other members.”

(3) In paragraph 2 (local authority members), for sub-paragraph (6) substitute—

“(5A) Sub-paragraph (5B) applies to a person who retires from being a member of a council by virtue of an election.

(5B) Sub-paragraph (5)(a) does not terminate his office as member of a National Park authority until—

- (a) three months after he retires from being a member of the council, or
- (b) if earlier, the day on which the National Park authority receives notice of a proposed replacement appointment;

but if he is re-elected he is eligible for re-appointment to the National Park authority.”

(4) In paragraph 3 (parish members of English National Park authorities), for sub-paragraph (4) substitute—

“(4A) Sub-paragraph (4B) applies to a person who retires from being a member of a parish council by virtue of an election.

(4B) Sub-paragraph (3) does not terminate his office as member of a National Park authority until–

- (a) three months after he ceases to be a member of the parish council, or
- (b) if earlier, the day on which the National Park authority receives notice of a proposed replacement appointment;

but if he is re-elected he is eligible for re-appointment to the National Park authority.”

(5) For sub-paragraph (6) of that paragraph substitute–

“(5A) Sub-paragraph (5B) applies to a person who retires from being chairman of a parish meeting by virtue of an election.

(5B) Sub-paragraph (5) does not terminate his office as member of a National Park authority until–

- (a) three months after he retires from being chairman, or
- (b) if earlier, the day on which the National Park authority receives notice of a proposed replacement appointment;

but if he is re-elected as chairman he is eligible for re-appointment to the National Park authority.”

(6) In paragraph 4 (members, other than parish members, appointed by the Secretary of State), in sub-paragraph (2)(a) for “three years” substitute “four years”.

Commencement

Pt 5 s. 61(1): October 1, 2006 for provisions specified in SI 2006/2541 art.2; May 10, 2007 otherwise (SI 2006/2541 art. 2; SI 2007/816 art. 3)

Pt 5 s. 61(2)-(5): May 10, 2007 (SI 2007/816 art. 3)

Pt 5 s. 61(6): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 5 s. 61(1)-(6): England, Wales

 Law In Force

62 Expenditure by National Parks authorities

In section 11A of the National Parks and Access to the Countryside Act 1949 (c. 97), in subsection (1) (duty of National Park authority to foster economic and social well-being of local communities in National Park), omit “, but without incurring significant expenditure in doing so,”.

Commencement

Pt 5 s. 62: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 5 s. 62: England, Wales

✓ Law In Force

63 Notification of agricultural operations on moor and heath in National Parks

(1) Amend section 42 of the Wildlife and Countryside Act 1981 (c. 69) (notification of agricultural operations on moor and heath in National Parks) as follows.

(2) In subsection (1)–

- (a) for “The Ministers” substitute “A National Park authority”, and
- (b) for “a National Park” substitute “the relevant Park”.

(3) In subsection (2)(b), for “the Ministers” substitute “the National Park authority”.

(4) In subsection (6), for “the Ministers, the Nature Conservancy Council and the Countryside Agency” substitute “Natural England”.

(5) For subsection (8) substitute–

“(8) An order under this section shall be made by statutory instrument and the Statutory Instruments Act 1946 shall apply to such an instrument as if the order had been made by a Minister of the Crown.”

(6) In section 51 (powers of entry), in subsection (2)(c), omit “the Ministers or”.

Commencement

Pt 5 s. 63(1)-(6): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 5 s. 63(1)-(6): England, Wales

✓ Law In Force

64 Functions of Broads Authority and others in relation to the Broads

(1) Amend the Norfolk and Suffolk Broads Act 1988 (c. 4) as follows.

(2) In section 2 (functions of the Authority: general), in subsection (1), for paragraphs (a) and (b) substitute–

- “(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and”.

(3) In section 17A (general duty of public bodies etc.), in subsection (1), for paragraphs (a) and (b) substitute–

- “(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and”.

(4) Any increase in the expenses of the Broads Authority attributable to subsection (2) and not related to protecting the interests of navigation is to be met otherwise than by means of—


- (a) charges of a kind mentioned in section 13(1) of the 1988 Act, or
- (b) levies under section 14(1) of the 1988 Act.

Commencement

Pt 5 s. 64(1)-(4)(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 5 s. 64(1)-(4)(b): England, Wales

 Law In Force

65 Emergency financial assistance

(1) Amend section 155(4) of the Local Government and Housing Act 1989 (c. 42) (authorities eligible for emergency financial assistance) as follows.

(2) After paragraph (h) insert—

- “(i) a National Park authority; or
- (j) the Broads Authority.”

(3) Omit “or” preceding paragraph (h).

Commencement

Pt 5 s. 65(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 5 s. 65(1)-(3): England, Wales

PART 6**RIGHTS OF WAY**

Rights of way and mechanically propelled vehicles

✓ Law In Force

66 Restriction on creation of new public rights of way

(1) No public right of way for mechanically propelled vehicles is created after commencement unless it is—

- (a) created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for such vehicles, or
- (b) created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.

(2) For the purposes of the creation after commencement of any other public right of way, use (whenever occurring) of a way by mechanically propelled vehicles is to be disregarded.

Commencement

Pt 6 s. 66(1)-(2): May 2, 2006 immediately after the coming into force of 2000 c.37, ss.47-50 in relation to England; November 16, 2006 in relation to Wales (SI 2006/1176 art. 6; SI 2006/2992 art. 2)

Extent

Pt 6 s. 66-(2): England, Wales

✓ Law In Force

67 Ending of certain existing unrecorded public rights of way

(1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—

- (a) was not shown in a definitive map and statement, or
- (b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

But this is subject to subsections (2) to (8).

(2) Subsection (1) does not apply to an existing public right of way if—

- (a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,
- (b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense),
- (c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,
- (d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or
- (e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way over a way if—

- (a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,


- (b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or
 - (c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles—
 - (i) was reasonably necessary to enable that person to obtain access to the land, or
 - (ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only.
- (4) “The relevant date” means—
- (a) in relation to England, 20th January 2005;
 - (b) in relation to Wales, 19th May 2005.
- (5) Where, immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies—
- (a) was reasonably necessary to enable a person with an interest in land to obtain access to the land, or
 - (b) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only,
- the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.
- (6) For the purposes of subsection (3), an application under section 53(5) of the 1981 Act is made when it is made in accordance with paragraph 1 of Schedule 14 to that Act.
- (7) For the purposes of subsections (3)(c)(i) and (5)(a), it is irrelevant whether the person was, immediately before commencement, in fact—
- (a) exercising the existing public right of way, or
 - (b) able to exercise it.
- (8) Nothing in this section applies in relation to an area in London to which Part 3 of the Wildlife and Countryside Act 1981 (c. 69) does not apply.
- (9) Any provision made by virtue of section 48(9) of the Countryside and Rights of Way Act 2000 (c. 37) has effect subject to this section.

Commencement

Pt 6 s. 67(1)-(9): May 2, 2006 immediately after the coming into force of 2000 c.37, ss.47-50 in relation to England; November 16, 2006 in relation to Wales (SI 2006/1176 art. 6; SI 2006/2992 art. 2)

Extent

Pt 6 s. 67-(9): England, Wales

 Law In Force

68 Presumed dedication of restricted byways and use by pedal cycles etc.

- (1) Amend section 31 of the Highways Act 1980 (c. 66) (dedication of highway presumed after public use for 20 years) as follows.
- (2) After subsection (1) insert—

“(1A) Subsection (1)–

(a) is subject to section 66 of the Natural Environment and Rural Communities Act 2006 (dedication by virtue of use for mechanically propelled vehicles no longer possible), but

(b) applies in relation to the dedication of a restricted byway by virtue of use for non-mechanically propelled vehicles as it applies in relation to the dedication of any other description of highway which does not include a public right of way for mechanically propelled vehicles.”

(3) After subsection (10) insert–

“(10A) Nothing in subsection (1A) affects the obligations of the highway authority, or of any other person, as respects the maintenance of a way.”

(4) After subsection (11) insert–


“(12) For the purposes of subsection (1A) “mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (electrically assisted pedal cycle).”

Commencement

Pt 6 s. 68(1)-(4): May 2, 2006 immediately after the coming into force of 2000 c.37, ss.47-50 in relation to England; November 16, 2006 in relation to Wales (SI 2006/1176 art. 6; SI 2006/2992 art. 2)

Extent

Pt 6 s. 68-(4): England, Wales

 Law In Force

69 Presumed dedication and applications under section 53(5) of the 1981 Act

(1) In section 31 of the 1980 Act, after subsection (7) insert–

“(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.

(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.”

(2) The applications in relation to which the amendments made by subsection (1) apply include any application under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) which falls within section 67(3)(a), (b) or (c).

Commencement

Pt 6 s. 69(1)-(2): May 2, 2006 immediately after the coming into force of 2000 c.37, ss.47-50 in relation to England; November 16, 2006 in relation to Wales (SI 2006/1176 art. 6; SI 2006/2992 art. 2)

Extent

Pt 6 s. 69-(2): England, Wales

✔ Law In Force

70 Supplementary

(1) In section 53(3) of the Wildlife and Countryside Act 1981 (modification of definitive map and statement in consequence of certain events)–

- (a) in paragraph (b) (expiration of period raising a presumption of dedication), after “public path” insert “or restricted byway”, and
- (b) in paragraph (c)(i) (discovery of evidence of right of way), after “public path” insert “, a restricted byway”.

(2) Amend section 34 of the Road Traffic Act 1988 (c. 52) (prohibition of driving mechanically propelled vehicles elsewhere than on roads) as follows.

(3) In subsection (2), omit “(subject to section 34A of this Act)”.

(4) After subsection (2) insert–

“(2A) It is not an offence under this section for a person with an interest in land, or a visitor to any land, to drive a mechanically propelled vehicle on a road if, immediately before the commencement of section 47(2) of the Countryside and Rights of Way Act 2000, the road was–

- (a) shown in a definitive map and statement as a road used as a public path, and
- (b) in use for obtaining access to the land by the driving of mechanically propelled vehicles by a person with an interest in the land or by visitors to the land.”

(5) In subsection (6), for “and section 34A of this Act do” substitute “does”.

(6) In subsection (7), insert at the appropriate place in the alphabetical order–

““interest”, in relation to land, includes any estate in land and any right over land (whether exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights;”.

(7) After subsection (7) insert–

“(8) A person–

- (a) entering any land in exercise of rights conferred by virtue of section 2(1) of the Countryside and Rights of Way Act 2000, or
- (b) entering any land which is treated by section 15(1) of that Act as being accessible to the public apart from that Act,

is not for the purposes of subsection (2A) a visitor to the land.”

(8) In Schedule 7 to the Countryside and Rights of Way Act 2000 (c. 37), omit paragraphs 6 and 7.

Commencement

Pt 6 s. 70(1)-(8): May 2, 2006 immediately after the coming into force of 2000 c.37, ss.47-50 in relation to England; November 16, 2006 in relation to Wales (SI 2006/1176 art. 6; SI 2006/2992 art. 2)

Extent

Pt 6 s. 70-(8): England, Wales

✔ Law In Force

71 Interpretation

(1) In sections 66 and 67–

“interest”, in relation to land, includes any estate in land and any right over land (whether exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights, “mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (c. 52) (electrically assisted pedal cycle), and

expressions defined for the purposes of Part 3 of the Wildlife and Countryside Act 1981 (c. 69) by section 66(1) of that Act have the same meaning as in that Part.

(2) In each of sections 66 and 67 “commencement” means the commencement of that section; and in section 67 “existing” means in existence immediately before commencement.

Commencement

Pt 6 s. 71(1)-(2): May 2, 2006 immediately after the coming into force of 2000 c.37, ss.47-50 in relation to England; November 16, 2006 in relation to Wales (SI 2006/1176 art. 6; SI 2006/2992 art. 2)

Extent

Pt 6 s. 71-(2): England, Wales

Traffic regulation in National Parks

✔ Law In Force

72 Traffic regulation on byways etc. in National Parks

After section 22B of the Road Traffic Regulation Act 1984 (c. 27) insert–

“22BB Traffic regulation on byways etc. in National Parks in England and Wales

- (1) This section applies to a road—
- (a) which is in a National Park in England or Wales,
 - (b) which is—
 - (i) shown in a definitive map and statement as a byway open to all traffic, a restricted byway, a bridleway or a footpath, or
 - (ii) a carriageway whose surface, or most of whose surface, does not consist of concrete, tarmacadam, coated roadstone or other prescribed material, and
 - (c) in respect of which no relevant order is in force.
- (2) The National Park authority may—
- (a) for a purpose mentioned in section 1(1)(a) to (g) or 22(2), by order make in respect of the road any such provision as is mentioned in section 2(1), (2) or (3) or 4(1);
 - (b) for the purpose of carrying out an experimental scheme of traffic control, by order make in respect of the road any such provision as is mentioned in section 2(1), (2) or (3) or 4(1);
 - (c) for a reason given in section 14(1)(a) or (b) or for a purpose mentioned in section 14(1)(c) or 22(2), by order make in respect of the road—
 - (i) any such provision as is mentioned in section 2(1), (2) or (3) or 4(1), or
 - (ii) any provision restricting the speed of vehicles.
- (3) This Act has effect, subject to subsection (4) and any prescribed modifications, in relation to an order by a National Park authority under subsection (2)(a), (b) or (c) as it has effect in relation to an order by a local traffic authority under section 1, 9 or 14(1).
- (4) Before making any order under subsection (2), the National Park authority must consult any authority which is a highway authority for the road.

22BC Section 22BB: supplementary

- (1) Expressions used in section 22BB(1)(b) that are defined for the purposes of Part 3 of the Wildlife and Countryside Act 1981 by section 66(1) of that Act have the same meaning as in that Part.
- (2) In section 22BB(1)(c) “relevant order” means—
- (a) a traffic regulation order,
 - (b) an experimental traffic order,
 - (c) an order under section 14(1),
 - (d) an order under section 22(4), or
 - (e) an order under section 22B,
- but does not include an order made under section 22BB(2).
- (3) In section 22BB “prescribed” means prescribed by regulations made—
- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the National Assembly for Wales.
- (4) Any functions exercisable by the National Assembly for Wales by virtue of this section are to be treated for the purposes of section 44 of the Government of Wales Act 1998

(parliamentary procedures for subordinate legislation) as if made exercisable by the Assembly by an Order in Council under section 22 of that Act.”

Commencement

Pt 6 s. 72: November 16, 2006 in relation to Wales; October 1, 2007 in relation to England (SI 2006/2992 art. 2; SI 2007/2540 art. 2)

Extent

Pt 6 s. 72: England, Wales

PART 7**INLAND WATERWAYS**

 Repealed

73 [...]¹

Notes

¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)

 Repealed

74 [...]¹

Notes

¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)

 Repealed

75 [...]¹

Notes

¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)

 Repealed

76 [...]¹

Notes

¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)


 Repealed

77 [...] ¹

Notes

¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)

PART 8**FLEXIBLE ADMINISTRATIVE ARRANGEMENTS****CHAPTER 1****AGREEMENTS WITH DESIGNATED BODIES***Powers to enter into agreements*

 Law In Force

78 Agreement between Secretary of State and designated body

(1) The Secretary of State may enter into an agreement with a designated body authorising that body to perform a DEFRA [or BEIS] ¹ function—

- (a) either in relation to the whole of England or in relation to specified areas in England;
- (b) subject to paragraph (a), either generally or in specified cases.

“Specified” means specified in the agreement.

(2) An agreement under this section—

- (a) may be cancelled by the Secretary of State at any time, and
- (b) does not prevent the Secretary of State from performing a function to which the agreement relates.

(3) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

Notes

¹ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(2)(a) (November 9, 2016)

Commencement

Pt 8 c. 1 s. 78(1)-(3): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 78(1)-(3): England, Wales

✔ Law In Force

79 Agreement between designated bodies

(1) A designated body (“A”) may, with the approval of the Secretary of State, enter into an agreement with another designated body (“B”) authorising B to perform a function of A that is related to or connected with a DEFRA [or BEIS]¹ function—

- (a) either in relation to the whole of England or in relation to specified areas in England;
- (b) subject to paragraph (a), either generally or in specified cases.

“Specified” means specified in the agreement.

(2) The Secretary of State's approval may be given—

- (a) in relation to a particular agreement or in relation to a description of agreements;
- (b) unconditionally or subject to conditions specified in the approval.

(3) Subject to subsection (5), the Secretary of State—

- (a) must review an agreement under this section no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and
- (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.

(4) Subject to subsection (5), an agreement under this section may not be varied except—

- (a) by agreement between A and B, and
- (b) with the approval of the Secretary of State.

(5) An approval given under subsection (1) may provide that subsection (3) or (4) does not apply (or that both of them do not apply).

(6) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

Notes

¹ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(2)(b) (November 9, 2016)

Commencement

Pt 8 c. 1 s. 79(1)-(6): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 79(1)-(6): England, Wales

✓ Law In Force

80 Designated bodies

- (1) In this Chapter “designated body” means a body listed in Schedule 7.
- (2) The Secretary of State may by order amend Schedule 7 so as to—
- (a) add a body to the list, or
 - (b) remove a body from it.
- (3) But the Secretary of State may not exercise the power conferred by subsection (2)(a) unless satisfied that at least one of the purposes or functions of the body to be added to the list is related to or connected with a DEFRA [or BEIS]¹ function.
- (4) A body to be added to the list need not be a public body.
- (5) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

- ¹ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(2)(c) (November 9, 2016)

Commencement

Pt 8 c. 1 s. 80(1)-(6): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 80(1)-(6): England, Wales

✓ Law In Force

81 Reserved functions

- (1) An agreement may not authorise a designated body to perform a reserved function.
- (2) The reserved functions are—
- (a) any function whose performance by the designated body would be incompatible with the purposes for which the body was established;
 - (b) any power of a Minister of the Crown to make or terminate appointments or lay reports or accounts;
 - (c) any power to make subordinate legislation, give directions or guidance or issue codes of practice (or to vary or revoke any of those things);
 - (d) any power to fix fees or charges other than a power prescribed for the purposes of this section by an order made by the Secretary of State;
 - (e) any function of an accounting officer in his capacity as such;
 - (f) except in relation to an agreement authorising a public body to perform functions—
 - (i) any power to enter, inspect, take samples or seize anything, and
 - (ii) any other power exercisable in connection with suspected offences;

(g) any function of the Secretary of State under the Water Industry Act 1991 or under any subordinate legislation made under that Act [;]¹

[(h) any function as principal regulator of an exempt charity (within the meaning of [section 25 of the Charities Act 2011)]² .]¹

(3) The power to make an order under subsection (2)(d) is exercisable by statutory instrument.

(4) A statutory instrument containing an order under subsection (2)(d) is subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

¹ Added by Charities Act 2006 (Principal Regulators of Exempt Charities) Regulations 2010/501 Sch.1(2) para.6 (June 1, 2010)

² Words substituted by Charities Act 2011 c. 25 Sch.7(2) para.109 (March 14, 2012: substitution has effect subject to transitional provisions and savings specified in 2011 c.25 Sch.7 para.2 and Sch.8)

Commencement

Pt 8 c. 1 s. 81(1)-(4): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 81(1)-(4): England, Wales

 Law In Force

82 Maximum duration of agreement

The maximum period for which an agreement may authorise a designated body to perform—

(a) a DEFRA [or BEIS]¹ function, or

(b) a function that is related to or connected with a DEFRA [or BEIS]¹ function,
is 20 years.

Notes

¹ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(2)(d) (November 9, 2016)

Commencement

Pt 8 c. 1 s. 82(a)-(b): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 82(a)-(b): England, Wales

Supplementary

✓ Law In Force

83 Particular powers

- (1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.
- (2) The Secretary of State or a designated body (“A”) may, under an agreement, authorise a designated body (“B”) to perform a function even though under the relevant enactments or subordinate legislation—
- (a) the function is conferred on A by reference to specified circumstances or cases and the same type of function is conferred on B in different specified circumstances or cases,
 - (b) the function is exercisable by A and B jointly,
 - (c) B is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or
 - (d) B is required to consent to the exercise of the function (whether generally or in specified circumstances).
- (3) An agreement may provide—
- (a) for the performance of a function to be subject to the fulfilment of conditions;
 - (b) for payments to be made in respect of the performance of the function.
- (4) A designated body which is authorised under an agreement to perform a function—
- (a) is to be treated as having power to do so;
 - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply—
 - (i) authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf;
 - (ii) form a body corporate and authorise that body to perform the function on its behalf.
- (5) However, where the designated body is a local authority—
- (a) subsection (4)(a) is subject to section 84(5)(a), and
 - (b) section 84 applies in place of subsection (4)(b).
- (6) Subject to subsection (4)(b) and section 84, a designated body which is authorised under an agreement to perform a function may not authorise any other body or other person to perform that function.

Commencement

Pt 8 c. 1 s. 83(1)-(6): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 83(1)-(6): England, Wales

✓ Law In Force

84 Agreements with local authorities

- (1) This section applies where a local authority is authorised under an agreement to perform a function.
- (2) Subject to subsection (5), the function that the local authority is authorised to perform is to be treated as a function of the local authority for the purposes of—
 - (a) any power of a local authority to arrange for the discharge of the function by any person mentioned in subsection (3), and
 - (b) any power of a person mentioned in subsection (3) to arrange for the discharge of a function by any other person mentioned there.
- (3) The persons are any committee, sub-committee, member, officer or employee of the local authority.
- (4) “Committee” does not include a joint committee of two or more local authorities.
- (5) If the local authority is operating executive arrangements—
 - (a) the function is to be treated as a function of the local authority for the purposes of section 13 of the Local Government Act 2000 (c. 22), and
 - (b) if (or to the extent that) the function is the responsibility of the executive of the local authority—
 - (i) subsection (2) does not apply, and
 - (ii) sections 14 to 16 of the 2000 Act, and any regulations made under sections 17 and 18 of the 2000 Act, apply.
- (6) “Executive arrangements” and “executive” have the same meaning as in Part 2 of the 2000 Act.
- (7) An agreement may provide that the provisions of subsection (2) or those mentioned in subsection (5)(b)(ii) do not apply (or do not apply to a specified extent).

Commencement

Pt 8 c. 1 s. 84(1)-(7): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 84(1)-(7): England, Wales

✓ Law In Force

85 Supplementary provisions with respect to agreements

- (1) An agreement, and any approval given by the Secretary of State under section 79, must be in writing.
- (2) The Secretary of State must arrange for a copy of an agreement to be published in a way that the Secretary of State thinks is suitable for bringing it to the attention of persons likely to be affected by it.

(3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—

- (a) requiring it to enter into an agreement;
- (b) prohibiting it from entering into an agreement;
- (c) requiring it to include, or prohibiting it from including, particular terms;
- (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of an agreement.


(4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c. 40) (restrictions on disclosure of information) applies in relation to an authorisation by a designated body under this Chapter as it applies in relation to an authorisation under section 69 of that Act by an office-holder.

Commencement

Pt 8 c. 1 s. 85(1)-(4): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 85(1)-(4): England, Wales

 Law In Force

86 Interpretation

(1) In sections 81 to 85 “agreement” means an agreement under section 78 or 79.

[(2) In this Chapter [“DEFRA or BEIS function”]² means—

- (a) a function which at the material time falls to be performed by or through the Department for Environment, Food and Rural Affairs, or
- (b) a former DEFRA function which at the material time falls to be performed by or through the [Department for Business, Energy and Industrial Strategy]³ .

(2A) In subsection (2) “former DEFRA function” has the meaning given by article 2(3) of the Secretary of State for Energy and Climate Change Order 2009 [(and see also the Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016)]⁴ .]¹

(3) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (2) is conclusive evidence of that fact.

(4) In this Chapter—

“designated body” has the meaning given by section 80;

“local authority” means—

- (a) a local authority as defined in section 1(a) of the Local Government Act 2000 (c. 22), and
- (b) the Greater London Authority;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

Notes

- ¹ S.86(2) and (2A) substituted for s.86(2) by Secretary of State for Energy and Climate Change Order 2009/229 Sch.2(1) para.4(2) (March 5, 2009)
- ² Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(2)(e) (November 9, 2016)
- ³ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(3)(a) (November 9, 2016)
- ⁴ Words inserted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(3)(b) (November 9, 2016)

Commencement

Pt 8 c. 1 s. 86(1)-(4) definition of "subordinate legislation": May 31, 2006 (SI 2006/1382 art. 2)

Extent

Pt 8 c. 1 s. 86(1)-(4) definition of "subordinate legislation": England, Wales

CHAPTER 2

POWERS TO REFORM AGRICULTURAL ETC. BODIES

Power to create boards

 Law In Force

87 Power to establish boards

- (1) The appropriate authority may by order—
 - (a) establish a body for a purpose or purposes falling within section 88, and
 - (b) assign to it a function or functions falling within section 89.
- (2) The order must specify the area or areas in relation to which assigned functions are exercisable.
- (3) The areas which may be specified under subsection (2) are—
 - (a) England or an area in England;
 - (b) Wales or an area in Wales;
 - (c) Scotland or an area in Scotland;
 - (d) Northern Ireland or an area in Northern Ireland;
 - (e) any combination of any of the areas mentioned in paragraphs (a) to (d).
- (4) In this Chapter—
 - “the appropriate authority” has the meaning given by section 96;
 - “board” means a body established by an order under this section;
 - “section 87 order” means an order under this section.

(5) A board is to be known by a name specified in the order.

(6) Schedule 8 contains provisions about the constitution of boards and related matters.

Commencement

Pt 8 c. 2 s. 87(1)-(6): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 87(1)-(6): United Kingdom

✔ Law In Force

88 Permissible purposes of boards

(1) The purposes referred to in section 87(1)(a) are–

- (a) increasing efficiency or productivity in an agricultural or related industry;
- (b) improving marketing in an agricultural or related industry;
- (c) improving or developing services that an agricultural or related industry provides or could provide to the community;
- (d) improving the ways in which an agricultural or related industry contributes to sustainable development.

(2) A section 87 order must specify–

- (a) the purpose or purposes for which the board is established, and
- (b) the industry to which the order relates.

(3) For the purposes of subsection (2)(b), it does not matter whether the specified industry is regarded for any other purpose as–

- (a) an industry,
- (b) a group of industries, or
- (c) a sector or sectors of an industry.

(4) “Agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.

(5) “Related industry” means an industry which is concerned with the production, processing, manufacture, marketing or distribution of–

- (a) anything (including any creature alive or dead) produced in the course of agriculture, and
- (b) any product which is derived to any substantial extent from anything so produced.

(6) “Services” includes environmental and educational services.

Commencement

Pt 8 c. 2 s. 88(1)-(6): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 88(1)-(6): United Kingdom

✓ Law In Force

89 Permissible functions of boards

- (1) The functions referred to in section 87(1)(b) are—
- (a) a function specified in Schedule 9 (a “Schedule 9 function”);
 - (b) a function which, immediately before the commencement of the section 87 order, is a function of an existing levy body (“an existing function”);
 - (c) a function which is a more limited version of a Schedule 9 function or an existing function;
 - (d) a function which is a combination of two or more Schedule 9 functions or existing functions;
 - (e) any additional function, if it appears to the appropriate authority—
 - (i) to be related or similar to, or connected with, any function being assigned by virtue of any of paragraphs (a) to (d), or
 - (ii) to be capable of being conveniently exercised in association with any function being so assigned.
- (2) In this Chapter “existing levy body” means—
- (a) the British Potato Council;
 - (b) the Home-Grown Cereals Authority;
 - (c) the Horticultural Development Council;
 - (d) the Meat and Livestock Commission;
 - (e) the Milk Development Council.

Commencement

Pt 8 c. 2 s. 89(1)-(2)(e): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 89(1)-(2)(e): United Kingdom

✓ Law In Force

[89A Identification and traceability of animals

- (1) Where the Secretary of State makes or has made an order under section 87(1)(a) establishing a body, the functions that may be assigned to the body under section 87(1)(b) by the Secretary of State include functions that are exercisable in relation to England, Wales, Northern Ireland or Scotland and relate to—
- (a) collecting, managing and making available information regarding the identification, movement and health of animals, or
 - (b) the means of identifying animals.
- (2) An order of the Secretary of State assigning functions under section 87(1)(b) by virtue of subsection (1) may only be made with the approval of—
- (a) the Welsh Ministers, if the functions are exercisable in relation to Wales,

- (b) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, if the functions are exercisable in relation to Northern Ireland, and
- (c) the Scottish Ministers, if the functions are exercisable in relation to Scotland.

(3) Provision made by virtue of subsection (1) may not require or authorise the disclosure or use of information in contravention of the data protection legislation (within the meaning of section 3 of the Data Protection Act 2018).

(4) In this section "animals" has the same meaning as it has for the purposes of section 8 of the Animal Health Act 1981.


] ¹

Notes

- ¹ Added by Agriculture Act 2020 c. 21 Pt 4 s.34(1) (January 11, 2021: 2020 c.21 s.34(1) came into force on November 11, 2020 for limited purposes specified in 2020 c.21 s.57(1)(b) and (c); January 11, 2021 otherwise)

Extent

Pt 8 c. 2 s. 89A(1)-(4): United Kingdom

 Law In Force

90 Ancillary provisions

Schedule 10 makes further provision about the contents of a section 87 order.


Commencement

Pt 8 c. 2 s. 90: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 90: United Kingdom

Power to dissolve existing levy bodies and boards

 Law In Force

91 Power to dissolve existing levy bodies

(1) The appropriate authority may by order provide for the dissolution of any or all of the existing levy bodies.

(2) If an order is made providing for the dissolution of the Home-Grown Cereals Authority, the order must provide for the Cereals Marketing Act 1965 (c. 14) to cease to have effect.

(3) If an order is made providing for the dissolution of the Meat and Livestock Commission, the order must provide for the relevant provisions of the Agriculture Act 1967 (c. 22) to cease to have effect.

- (4) The relevant provisions of the 1967 Act are–
Part 1 (livestock and meat marketing);
Schedule 1 (the Meat and Livestock Commission);
Schedule 2 (supplementary provisions with respect to development schemes).
- (5) If an order is made providing for the dissolution of–
(a) the British Potato Council,
(b) the Horticultural Development Council, or
(c) the Milk Development Council,
the order must provide for the revocation of the development council order establishing the Council.
- (6) “Development council order” has the meaning given by section 1(2) of the Industrial Organisation and Development Act 1947 (c. 40) (power to establish development councils etc.).

Commencement

Pt 8 c. 2 s. 91(1)-(6): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 91(1)-(6): United Kingdom

✔ Law In Force

92 Power to dissolve board

- (1) The appropriate authority may by order provide for the dissolution of a board.
- (2) An order under this section must provide for the revocation of the section 87 order.

Commencement

Pt 8 c. 2 s. 92(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 92(1)-(2): United Kingdom

✔ Law In Force

93 Dissolution: supplementary

- (1) Subsection (2) applies if an order is made providing for–
(a) the dissolution of an existing levy body, or
(b) the dissolution of a board.
- (2) The order may provide for the transfer of any property, rights or liabilities of the existing levy body or board.
- (3) Subsection (4) applies if an order is made providing for–
(a) the dissolution of an existing levy body, or

- (b) the dissolution of a board in relation to which provision has been made by virtue of paragraph 5 of Schedule 10 (levies).
- (4) The order must provide for the application of any surplus—
- (a) for the purposes for which the existing levy body or board was established, or
 - (b) for connected purposes.
- (5) “Surplus” means an amount by which the assets of the existing levy body or board exceeds its liabilities and expenses.
-

Commencement

Pt 8 c. 2 s. 93(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 93(1)-(5): United Kingdom

Powers of appropriate authority

✓ Law In Force

94 Grants

- (1) The appropriate authority may make grants to a board of such amounts as the appropriate authority thinks fit.
- (2) A grant under this section may be made subject to such conditions as the appropriate authority thinks fit.
-

Commencement

Pt 8 c. 2 s. 94(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 94(1)-(2): United Kingdom

✓ Law In Force

95 Directions

- (1) The appropriate authority may give a board general or specific directions as to the exercise of its functions.
- (2) The appropriate authority must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (3) The power to give directions under this section includes power to vary or revoke the directions.
- (4) A board must comply with any directions given under this section.

Commencement

Pt 8 c. 2 s. 95(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 95(1)-(4): United Kingdom

Supplementary

✓ Law In Force

96 “The appropriate authority”

- (1) In this Chapter “the appropriate authority” means—
- (a) in relation to matters concerning England only, the Secretary of State;
 - (b) in relation to matters concerning Wales only, the National Assembly for Wales;
 - (c) in relation to matters concerning Scotland only, the Scottish Ministers;
 - (d) in relation to matters concerning Northern Ireland only, the relevant Northern Ireland department;
 - (e) in relation to the matters mentioned in subsection (2), the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers or (as the case may be) the relevant Northern Ireland department.
- (2) The matters referred to are—
- (a) making a section 87 order establishing a board which has cross-border functions;
 - (b) making an order under section 91 or 92 dissolving an existing levy body or such a board;
 - (c) making appointments to such a board or exercising other powers in relation to a cross-border function of a board.
- (3) “Cross-border functions” means functions relating to—
- (a) England, and
 - (b) Wales, Scotland or Northern Ireland.
- (4) The Scottish Ministers may not give their approval for the purposes of subsection (1)(e) to the making of—
- (a) an order establishing a board whose cross-border functions include functions relating to Scotland, or
 - (b) an order dissolving an existing levy body or a board whose cross-border functions include functions relating to Scotland,
- unless a draft of the order has been laid before, and approved by a resolution of, the Scottish Parliament.
- (5) In this Chapter “the relevant Northern Ireland department” means the Department of Agriculture and Rural Development in Northern Ireland.

Commencement

Pt 8 c. 2 s. 96(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 96(1)-(5): United Kingdom

✓ Law In Force

97 Orders: procedure etc.

(1) An order under this Chapter may include supplementary, incidental, consequential, transitory, transitional or saving provision.

(2) An order under this Chapter making provision of a description referred to in subsection (1) may—

- (a) amend or repeal any enactment, or
- (b) amend or revoke any subordinate legislation,

whenever passed or made.

(3) “Enactment” includes Acts of the Scottish Parliament and Northern Ireland legislation.

(4) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30), except that it includes any instrument made under an Act of the Scottish Parliament and any instrument within the meaning of section 1(c) of the Interpretation Act (Northern Ireland) 1954 (c. 33 N.I.).

(5) Before making any order under this Chapter the appropriate authority must consult such organisations as appear to it to be representative of interests substantially affected by the proposed order.

(6) Subject to subsection (7), any power to make an order under this Chapter is exercisable by statutory instrument.

(7) Any power of the relevant Northern Ireland department to make an order under this Chapter is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12)).

(8) An order under this Chapter may not be made—

- (a) by the Secretary of State, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament;
- (b) by the Scottish Ministers, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament;
- (c) by the relevant Northern Ireland department, unless a draft of the statutory rule containing the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

Commencement

Pt 8 c. 2 s. 97(1)-(8)(c): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 8 c. 2 s. 97(1)-(8)(c): United Kingdom

CHAPTER 3**FINANCIAL ASSISTANCE**

✔ Law In Force

98 Financial assistance

(1) The Secretary of State may give or arrange for the giving of financial assistance in respect of expenditure incurred or to be incurred in any matter related to or connected with a DEFRA [or BEIS]¹ function.

(2) Financial assistance under this section may be given in any form, and may in particular be given by way of a grant, a loan or a guarantee.

(3) Financial assistance under this section may be given subject to such conditions as may be determined by, or in accordance with arrangements made by, the Secretary of State.

(4) The conditions may, in particular, include (in the case of a grant) conditions for repayment in specified circumstances.

[(5) [“DEFRA or BEIS function”]¹ means—

(a) a function which falls to be performed by or through the Department for Environment, Food and Rural Affairs, or

(b) a former DEFRA function which falls to be performed by or through the [Department for Business, Energy and Industrial Strategy]³ .

(5A) In subsection (5) “former DEFRA function” has the meaning given by article 2(3) of the Secretary of State for Energy and Climate Change Order 2009 [(and see also the Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016)]⁴ .]²

(6) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (5) is conclusive evidence of that fact.

(7) The power to give financial assistance under this section may be exercised even though a more specific power to give financial assistance exists.

Notes

¹ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(2)(f) (November 9, 2016)

- ² S.98(5) and (5A) substituted for s.98(5) by Secretary of State for Energy and Climate Change Order 2009/229 Sch.2(1) para.4(3) (March 5, 2009)
- ³ Words substituted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(4)(a) (November 9, 2016)
- ⁴ Words inserted by Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016/992 Sch.1(1) para.11(4)(b) (November 9, 2016)

Commencement

Pt 8 c. 3 s. 98(1)-(7): May 2, 2006 (SI 2006/1176 art. 5)

Extent

Pt 8 c. 3 s. 98(1)-(7): England, Wales, Northern Ireland

PART 9

MISCELLANEOUS

✓ Law In Force

99 Natural beauty in the countryside

The fact that an area in England or Wales consists of or includes—

- (a) land used for agriculture or woodlands,
- (b) land used as a park, or
- (c) any other area whose flora, fauna or physiographical features are partly the product of human intervention in the landscape,

does not prevent it from being treated, for the purposes of any enactment (whenever passed), as being an area of natural beauty (or of outstanding natural beauty).

Commencement

Pt 9 s. 99(a)-(c): May 31, 2006 (2006 c. 16 Pt 10 s. 107(7)(a))

Extent

Pt 9 s. 99(a)-(c): England, Wales

✓ Law In Force

100 Byelaws relating to land drainage

(1) In the Water Resources Act 1991 (c. 57), in Schedule 25, in paragraph 5(1) (power of Environment Agency to make byelaws for securing efficient working of drainage system), for the words from “necessary for securing” to the end of paragraph 5(1) substitute

“necessary–

- (a) for securing the efficient working of any drainage system, or
- (b) for regulating the effects of any drainage system on the environment.”

(2) In paragraph 5(5) of that Schedule, after “banks” insert “, drainage”.

(3) In the Land Drainage Act 1991 (c. 59), in section 66(1) (power of land drainage authorities etc. to make byelaws for securing efficient working of drainage system), for the words from “necessary for securing” to the end of section 66(1) substitute

“necessary–


- “(a) for securing the efficient working of any drainage system in their district or area, or
- (b) for regulating the effects in their district or area of any drainage system on the environment.”

Commencement

Pt 9 s. 100(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Pt 9 s. 100(1)-(3): England, Wales

 Law In Force

101 Abolition of certain agricultural etc. committees

The following are abolished–

- (a) the advisory committee for England, Wales and Northern Ireland established under section 32 of the Hill Farming Act 1946 (c. 73),
- (b) the sub-committee for Wales and Monmouthshire established under that section,
- (c) the advisory committee for Scotland established under that section,
- (d) the consumers' committees and committees of investigation established under section 19 of the Agricultural Marketing Act 1958 (c. 47), and
- (e) the committee of investigation established under Article 21 of the Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12)).

Commencement

Pt 9 s. 101(a)-(e): October 1, 2006 (2006 c. 16 Pt 10 s. 107(7)(b); SI 2006/2541 art. 2)

Extent

Pt 9 s. 101-(e): United Kingdom

PART 10**FINAL PROVISIONS**

✓ Law In Force

102 Crown land

- (1) The appropriate authority may enter into an agreement under section 7 as respects an interest in Crown land held by or on behalf of the Crown.
- (2) An agreement under section 7 as respects any other interest in Crown land is of no effect unless approved by the appropriate authority.
- (3) “Crown land” means land an interest in which—
- (a) belongs to Her Majesty in right of the Crown,
 - (b) belongs to Her Majesty in right of the Duchy of Lancaster,
 - (c) belongs to the Duchy of Cornwall, or
 - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (4) “The appropriate authority”, in relation to any land, means—
- (a) if the land belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question;
 - (b) if the lands belongs to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
 - (c) if the land belongs to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
 - (d) if the land belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department.
- (5) If any question arises under this section as to what authority is the appropriate authority in relation to any land, that question is to be referred to the Treasury, whose decision is final.

Commencement

Pt 10 s. 102(1)-(5): March 30, 2006

Extent

Pt 10 s. 102(1)-(5): England, Wales

✓ Law In Force

103 Wales


In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), the reference to the Wildlife and Countryside Act 1981 (c. 69) is to be read as a reference to the 1981 Act as amended by this Act.

Commencement

Pt 10 s. 103: March 30, 2006

Extent

Pt 10 s. 103: England, Wales

 Law In Force

104 Power to make further provision

(1) The Secretary of State may by order make such supplementary, incidental, consequential, transitory, transitional or saving provision as the Secretary of State considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.

(2) An order under subsection (1) may—

- (a) amend or repeal any enactment contained in an Act passed on or before the last day of the Session in which this Act is passed;
- (b) amend or revoke any subordinate legislation made before the passing of this Act.

(3) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

(4) The power to make an order under subsection (1) is exercisable by statutory instrument.

(5) An order under subsection (1) which contains any provision (whether alone or with other provisions) made by virtue of subsection (2)(a) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

(6) A statutory instrument containing any other order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement

Pt 10 s. 104(1)-(6): March 30, 2006

Extent

Pt 10 s. 104(1)-(6): England, Wales

 Partially In Force

105 Minor and consequential amendments etc.

(1) Schedule 11 contains minor and consequential amendments.

(2) Schedule 12 contains repeals and revocations.

Commencement

Pt 10 s. 105(1): May 2, 2006 for provisions specified in SI 2006/1176 art.4; October 1, 2006 for provisions specified in SI 2006/2541 art.2; April 1, 2007 for provisions specified in SI 2007/816 art.2(b); not yet in force otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2; SI 2007/816 art. 2(b))

Pt 10 s. 105(2): May 2, 2006 in relation to England for repeals specified in SI 2006/1176, art.6; October 1, 2006 for repeals specified in SI 2006/2541 art.2; April 1, 2007 for repeals specified in SI 2007/816 art.2(c) (SI 2006/1176 art. 6; SI 2006/2541 art. 2; SI 2007/816 art. 2(c))

Extent

Pt 10 s. 105(1)-(2): United Kingdom

✓ Law In Force

106 Financial provisions

There is to be paid out of money provided by Parliament–

- (a) any expenditure incurred by a Minister of the Crown in consequence of this Act, and
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

Commencement

Pt 10 s. 106(a)-(b): March 30, 2006

Extent

Pt 10 s. 106(a)-(b): England, Wales

✓ Law In Force

107 Commencement

(1) Part 1 (Natural England and the Commission for Rural Communities) comes into force in accordance with provision made by order by the Secretary of State.

(2) Part 2 (nature conservation in the UK) comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers and the Department of Agriculture and Rural Development in Northern Ireland.

(3) In Parts 3 to 5 (wildlife etc., SSSIs, National Parks and the Broads)–

- (a) section 59 comes into force at the end of the period of two months beginning with the day on which this Act is passed, and
- (b) the other provisions come into force in accordance with provision made by order by the Secretary of State.

(4) Part 6 (rights of way) comes into force in accordance with provision made by order by–

- (a) the Secretary of State (in relation to England), or
- (b) the National Assembly for Wales (in relation to Wales).

- (5) Part 7 (inland waterways) comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers.
- (6) In Part 8 (flexible administrative arrangements)–
- (a) Chapter 1 comes into force in accordance with provision made by order by the Secretary of State,
 - (b) Chapter 2 comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers and the Department of Agriculture and Rural Development in Northern Ireland, and
 - (c) Chapter 3 comes into force in accordance with provision made by order by the Secretary of State.
- (7) In Part 9 (miscellaneous)–
- (a) section 99 (natural beauty in the countryside) comes into force at the end of the period of two months beginning with the day on which this Act is passed, and
 - (b) section 101 (abolition of certain agricultural etc. committees) comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers and the Department of Agriculture and Rural Development in Northern Ireland.
- (8) In this Part–
- (a) section 105 and Schedules 11 and 12, except so far as relating to an Act of the Scottish Parliament or a provision which extends to Northern Ireland only, comes into force in accordance with provision made by order by the Secretary of State,
 - (b) section 105 and Schedules 11 and 12, so far as relating to an Act of the Scottish Parliament, comes into force in accordance with provision made by order by the Secretary of State after consulting the Scottish Ministers, and
 - (c) section 105 and Schedules 11 and 12, so far as relating to a provision which extends to Northern Ireland only, comes into force in accordance with provision made by order by the Secretary of State, after consulting the Department of Agriculture and Rural Development and the Department of the Environment in Northern Ireland.
- (9) The power to make an order under this section is exercisable by statutory instrument.
- (10) An order under this section may make different provision for different purposes or different areas.
- (11) An order under this section may make such transitional, transitory or saving provision as the person making the order considers expedient.

Commencement

Pt 10 s. 107(1)-(11): March 30, 2006

Extent

Pt 10 s. 107(1)-(11): United Kingdom

✔ Law In Force

108 Extent

- (1) Except as provided by this section, this Act extends to England and Wales only.
- (2) Part 2 (nature conservation in the UK) extends also to Scotland and Northern Ireland.
- (3) In Part 3–
 - (a) amendments affecting any provisions of the Wildlife and Countryside Act 1981 (c. 69) that extend to the territorial waters adjacent to England and Wales extend also to those waters, and
 - (b) paragraphs 1, 2, 5 and 6 of Schedule 6 (wildlife offences: time limits for proceedings), and section 53 so far as necessary, extend to any place to which the enactments amended by Schedule 6 extend.
- (4) [...] ¹
- (5) In Part 8 (flexible administrative arrangements)–
 - (a) Chapter 2 (powers to reform agricultural etc. bodies) extends also to Scotland and Northern Ireland, and
 - (b) Chapter 3 (financial assistance) extends also to Northern Ireland.
- (6) In Part 9 (miscellaneous), section 101 (abolition of certain agricultural etc. committees) extends also to Scotland and Northern Ireland.
- (7) In this Part–
 - (a) sections 105, 107 and 109 and this section extend also to Scotland and Northern Ireland so far as necessary, and
 - (b) the amendments, repeals and revocations in Schedules 11 and 12 have the same extent as the provisions to which they relate (except where otherwise provided).

Notes

- ¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)

Commencement

Pt 10 s. 108(1)-(7)(b): March 30, 2006

Extent

Pt 10 s. 108(1)-(7)(b): United Kingdom

✔ Law In Force

109 Short title

This Act may be cited as the Natural Environment and Rural Communities Act 2006.

Commencement

Pt 10 s. 109: March 30, 2006

Extent

Pt 10 s. 109: United Kingdom

SCHEDULE 1
NATURAL ENGLAND

Section 1

Status

✔ Law In Force

1

Natural England is to be a body corporate.

Commencement

Sch. 1 para. 1: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 1: England, Wales

✔ Law In Force

2

Subject to paragraph 22 (nature reserves), Natural England is not to be regarded—

- (a) as a servant or agent of the Crown, or
- (b) as enjoying any status, privilege or immunity of the Crown,

and Natural England's property is not to be regarded as property of, or held on behalf of, the Crown.

Commencement

Sch. 1 para. 2(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 2-(b): England, Wales

Membership

✔ Law In Force

3

- (1) Natural England is to consist of—
- (a) a chairman appointed by the Secretary of State, and
 - (b) not less than 8 nor more than 15 other members appointed by the Secretary of State.
- (2) The Secretary of State must consult the chairman before appointing the other members.
- (3) In appointing a person to be a member, the Secretary of State must have regard to the desirability of appointing a person who has experience of, and has shown some capacity in, some matter relevant to the exercise of Natural England's functions.
- (4) The Secretary of State may by order amend sub-paragraph (1)(b) so as to substitute a different number for a number specified there.
- (5) The power to make an order under sub-paragraph (4) is exercisable by statutory instrument.
- (6) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement

Sch. 1 para. 3(1)-(6): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 3-(6): England, Wales

✔ Law In Force

4

The Secretary of State may appoint one of the members to be deputy chairman.

Commencement

Sch. 1 para. 4: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 4: England, Wales

Term of office

✔ Law In Force

5

Subject to paragraphs 6 to 8, a member holds and vacates office in accordance with the terms of his appointment.

Commencement

Sch. 1 para. 5: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 5: England, Wales

✔ Law In Force

6

A member may resign by giving written notice to the Secretary of State.

Commencement

Sch. 1 para. 6: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 6: England, Wales

✔ Law In Force

7

The Secretary of State may remove a member who—

- (a) has been absent from meetings of Natural England for a period longer than 6 months without the permission of Natural England,
- (b) has become bankrupt [or has had a debt relief order made in respect of him (under Part 7A of the Insolvency Act 1986)]¹ or has made an arrangement with his creditors or has had his estate sequestrated in Scotland, or
- (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.

Notes

¹ Words inserted by Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012/2404 Sch.2 para.56(2) (October 1, 2012: insertion has effect subject to transitional provisions specified in SI 2012/2404 art.5)

Commencement

Sch. 1 para. 7(a)-(c): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 7-(c): England, Wales

✔ Law In Force

8

A person ceases to be chairman or deputy chairman if he—

- (a) resigns that office by giving written notice to the Secretary of State, or
 - (b) ceases to be a member.
-

Commencement

Sch. 1 para. 8(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 8-(b): England, Wales

✔ Law In Force

9

A person who—

- (a) ceases to be a member, or
- (b) ceases to be chairman or deputy chairman,

is eligible for reappointment to that office.

Commencement

Sch. 1 para. 9(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 9-(b): England, Wales

Remuneration and pensions etc.

✔ Law In Force

10

Natural England may pay to the members such remuneration and allowances as the Secretary of State may determine.

Commencement

Sch. 1 para. 10: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 10: England, Wales

✔ Law In Force

11

If required to do so by the Secretary of State, Natural England must–

- (a) pay such pensions, gratuities or allowances to or in respect of any member as the Secretary of State may determine;
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any member.

Commencement

Sch. 1 para. 11(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 11-(b): England, Wales

✔ Law In Force

12

(1) This paragraph applies if–

- (a) a person ceases to be a member, and
- (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.

(2) The Secretary of State may require Natural England to pay the person such amount as the Secretary of State may determine.

Commencement

Sch. 1 para. 12(1)-(2): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 12-(2): England, Wales

Staff

✔ Law In Force

13

(1) Natural England must appoint a person to be chief executive, but may only appoint a person who has been approved by the Secretary of State.

(2) The chief executive is an employee of Natural England.

(3) The Secretary of State may appoint the first chief executive.

Commencement

Sch. 1 para. 13(1)-(3): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 13-(3): England, Wales

✔ Law In Force

14

Natural England may appoint other employees.

Commencement

Sch. 1 para. 14: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 14: England, Wales

✔ Law In Force

15

If required to do so by the Secretary of State, Natural England must–

(a) pay such pensions, gratuities or allowances to or in respect of any employee as the Secretary of State may determine;

(b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any employee.

Commencement

Sch. 1 para. 15(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 15-(b): England, Wales

✓ Law In Force

16

(1) Employment with Natural England is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.

(2) Natural England must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

Commencement

Sch. 1 para. 16(1)-(2): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 16-(2): England, Wales

Procedure

✓ Law In Force

17

Natural England may determine its own procedure (including quorum).

Commencement

Sch. 1 para. 17: May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 17: England, Wales

✓ Law In Force

18

No proceeding is invalidated by–

- (a) a vacancy in the office of chairman, or
- (b) any defect in the appointment of any member.

Commencement

Sch. 1 para. 18(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 18-(b): England, Wales

Discharge of functions

✔ Law In Force

19

(1) Natural England may authorise a committee, sub-committee, member or employee of Natural England to exercise any of Natural England's functions.

(2) Sub-paragraph (1) does not prevent Natural England from exercising the function itself or affect the power of Natural England to authorise an employee to carry out functions of Natural England.

Commencement

Sch. 1 para. 19(1)-(2): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 19-(2): England, Wales

Membership of committees and sub-committees

✔ Law In Force

20

(1) A committee or sub-committee may include persons who are not members of Natural England.

(2) Natural England may pay such remuneration and allowances as the Secretary of State may determine to any person who—

- (a) is a member of a committee or sub-committee, but
- (b) is not a member or employee of Natural England.

Commencement

Sch. 1 para. 20(1)-(2)(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 20-(2)(b): England, Wales

Application of seal and proof of documents

✓ Law In Force

21

- (1) The application of Natural England's seal must be authenticated by the signature of–
- (a) a member of Natural England who is authorised (generally or specially) for that purpose, or
 - (b) an employee who is so authorised.
- (2) A document purporting to be duly executed under the seal of Natural England–
- (a) is to be received in evidence, and
 - (b) is to be treated as so executed unless the contrary is shown.

Commencement

Sch. 1 para. 21(1)-(2)(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 21-(2)(b): England, Wales

Nature reserves

✓ Law In Force

22

- (1) This paragraph applies to land in which Natural England has an interest and which is managed as a nature reserve.
- (2) For the purposes of the application of any enactment or rule of law to the land Natural England is to be treated as a government department.
- (3) An interest in land includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement.

Commencement

Sch. 1 para. 22(1)-(3): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 22-(3): England, Wales

Reports, accounts etc.

✓ Law In Force

23

- (1) For each financial year, Natural England must—
 - (a) prepare an annual report on how it has discharged its functions during the year, and
 - (b) send a copy of the report to the Secretary of State within such period as the Secretary of State directs.
- (2) In this paragraph and paragraph 24, “financial year” means—
 - (a) the period beginning with the day on which Natural England is established and ending with the next 31st March, and
 - (b) each subsequent period of 12 months ending with 31st March.

Commencement

Sch. 1 para. 23(1)-(2)(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 23-(2)(b): England, Wales

✓ Law In Force

24

- (1) Natural England must keep proper accounts and proper records in relation to the accounts.
- (2) For each financial year, Natural England must—
 - (a) prepare a statement of accounts in respect of that financial year, and
 - (b) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period as the Secretary of State directs.
- (3) The statement must be in such form as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the statement, and
 - (b) send a copy of the certified statement and of his report to the Secretary of State as soon as possible.

Commencement

Sch. 1 para. 24(1)-(4)(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 24-(4)(b): England, Wales

✓ Law In Force

25

The Secretary of State must lay before each House of Parliament a document consisting of—


- (a) a copy of the report sent under paragraph 23(1), and
- (b) a copy of the statement and report sent under paragraph 24(4).

Commencement

Sch. 1 para. 25(a)-(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 25-(b): England, Wales

 Law In Force

26

(1) Natural England must provide the Secretary of State with such information as he may require relating to Natural England's property or to the discharge or proposed discharge of its functions.

(2) Natural England must also—

- (a) permit any person authorised by the Secretary of State to inspect and make copies of any accounts or other documents of Natural England, and
- (b) provide such explanation of them as that person or the Secretary of State may require.

Commencement

Sch. 1 para. 26(1)-(2)(b): May 2, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/1176 art. 4)

Extent

Sch. 1 para. 26-(2)(b): England, Wales

SCHEDULE 2**COMMISSION FOR RURAL COMMUNITIES****Section 17***Status*

 Repealed

1 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

2 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

Membership

 Repealed

3 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

4 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

Term of office

 Repealed

5 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

 Repealed

6 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

7 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

8 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

9 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Remuneration and pensions etc.

 Repealed

10 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

11 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

12 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Staff

 Repealed

13 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

14 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

15 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

16 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Procedure

 Repealed

17 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

18 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Discharge of functions

 Repealed

19 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Membership of committees and sub-committees

 Repealed

20 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Application of seal and proof of documents

 Repealed

21 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

Reports, accounts etc.

 Repealed

22 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

23 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

24 [...]¹

Notes

- ¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)
-

 Repealed

25 [...]¹

Notes


¹ Repealed by Public Bodies (Abolition of the Commission for Rural Communities) Order 2012/2654 Sch.1 para.1 (April 1, 2013 for the repeals specified in SI 2012/2654 art.1(4); April 2, 2013 otherwise)

SCHEDULE 3

TRANSFER SCHEMES

Section 28

Creation and apportionment of property, rights and liabilities etc.

 Law In Force

1

A scheme may—


- (a) create for the transferor interests in or rights over property transferred by virtue of the scheme;
- (b) create for the transferee interests in or rights over property retained by the transferor;
- (c) create rights or liabilities between the transferor and the transferee.

Commencement

Sch. 3 para. 1(a)-(c): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 1-(c): England, Wales

 Law In Force

2

(1) A scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.

(2) In particular, it may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

(3) It does not matter whether the provision referred to in sub-paragraph (2) has effect under an enactment or an agreement or in any other way.

Commencement

Sch. 3 para. 2(1)-(3): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 2-(3): England, Wales

✓ Law In Force

3

A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.

Commencement

Sch. 3 para. 3: October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 3: England, Wales

Employment contracts

✓ Law In Force

4

(1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.

(2) The contract of employment—

(a) is not terminated by the transfer, and

(b) has effect from the transfer date as if made between the employee and the transferee.

(3) The rights, powers, duties and liabilities of the transferor under or in connection with the contract are transferred to the transferee on the transfer date.

(4) Anything done before the transfer date by or in relation to the transferor in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

(5) This paragraph is subject to paragraph 5.

Commencement

Sch. 3 para. 4(1)-(5): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 4-(5): England, Wales

✔ Law In Force

5

(1) Rights and liabilities under a contract of employment are not transferred under this Schedule if the employee informs the transferor or transferee that he objects to the transfer.

(2) If the employee informs the transferor or transferee that he objects—

- (a) his contract of employment is terminated immediately before the transfer date, but
- (b) he is not to be treated, for any purpose, as having been dismissed by the transferor.

Commencement

Sch. 3 para. 5(1)-(2)(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 5-(2)(b): England, Wales

✔ Law In Force

6

Nothing in this Schedule affects any right a person has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

Commencement

Sch. 3 para. 6: October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 6: England, Wales

Civil servants treated as employed under a contract of employment etc.

✔ Law In Force

7

(1) This Schedule applies with the following modifications in relation to employment in the civil service of the State on terms which do not constitute a contract of employment.

(2) In the case of an individual who holds employment in the civil service of the State immediately before the transfer date—

- (a) he is to be treated as employed by virtue of a contract of employment,
- (b) the terms of that employment are to be regarded as constituting the terms of that contract, and
- (c) the reference in paragraph 5 to dismissal by the transferor is to termination of that employment.

(3) In the case of an individual who is to hold employment in the civil service of the State on and after the transfer date, the terms and conditions of his contract of employment immediately before that date have effect on and after that date as if they were terms and conditions of his employment in the civil service of the State.

Commencement

Sch. 3 para. 7(1)-(3): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 7-(3): England, Wales

Compensation

✔ Law In Force

8

A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

Commencement

Sch. 3 para. 8: October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 8: England, Wales

Continuity

✓ Law In Force

9

A transfer under this Schedule does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

Commencement

Sch. 3 para. 9: October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 9: England, Wales

✓ Law In Force

10

Anything which–

(a) is done by the transferor for the purposes of or otherwise in connection with anything transferred by virtue of a scheme, and

(b) is in effect immediately before the transfer date,

is to be treated as done by the transferee.

Commencement

Sch. 3 para. 10(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 10-(b): England, Wales

✓ Law In Force

11

There may be continued by or in relation to the transferee anything (including legal proceedings)–

(a) which relates to anything transferred by virtue of a scheme, and

(b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.

Commencement

Sch. 3 para. 11(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 11-(b): England, Wales

✔ Law In Force

12

(1) This paragraph applies to any document—

- (a) which relates to anything transferred by virtue of a scheme, and
- (b) which is in effect immediately before the transfer date.

(2) Any references in the document to the transferor are to be read as references to the transferee.

Commencement

Sch. 3 para. 12(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 12-(2): England, Wales

Incidental provision

✔ Law In Force

13

A scheme may include supplementary, incidental, transitional and consequential provision.

Commencement

Sch. 3 para. 13: October 1, 2006 (2006 c. 16 Pt 10 s. 107(1); SI 2006/2541 art. 2)

Extent

Sch. 3 para. 13: England, Wales

SCHEDULE 4

JOINT NATURE CONSERVATION COMMITTEE

Section 31

Membership

✔ Law In Force

1

(1) The joint committee is to consist of 14 members—

- (a) a chairman appointed by the Secretary of State;
- (b) 5 members appointed by the Secretary of State;
- (c) the chairman or deputy chairman of each of the GB conservation bodies and one other member of each of those bodies appointed by the body in question;
- (d) the chairman of the Council for Nature Conservation and the Countryside and one other member of the Council appointed by the relevant Northern Ireland department.


(2) The joint committee may appoint a member to be deputy chairman.

Commencement

Sch. 4 para. 1(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 1-(2): United Kingdom

 Law In Force

2


The members appointed by the Secretary of State must not be members of the UK conservation bodies.

Commencement

Sch. 4 para. 2: October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 2: United Kingdom

 Law In Force

3

- (1) The members appointed by the Secretary of State must be persons appearing to the Secretary of State to have experience in or scientific knowledge of nature conservation.
- (2) Before appointing any members under paragraph 1(1), the Secretary of State must consult the National Assembly for Wales, the Scottish Ministers and the relevant Northern Ireland department.
- (3) Before appointing members under paragraph 1(1)(b), the Secretary of State must consult—
 - (a) the chairman, and
 - (b) such persons having scientific knowledge of nature conservation as the Secretary of State thinks appropriate.

Commencement

Sch. 4 para. 3(1)-(3)(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 3-(3)(b): United Kingdom

Term of office of members appointed by Secretary of State

✔ Law In Force

4

Subject to paragraphs 5 and 6, a member appointed by the Secretary of State holds and vacates office in accordance with the terms of his appointment.

Commencement

Sch. 4 para. 4: October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 4: United Kingdom

✔ Law In Force

5

A member appointed by the Secretary of State may resign by giving him written notice.

Commencement

Sch. 4 para. 5: October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 5: United Kingdom

✔ Law In Force

6

The Secretary of State may remove a member appointed by him who—

- (a) has been absent from meetings of the joint committee for a period longer than 6 months without the permission of the joint committee,

- (b) has become bankrupt [or had a debt relief order made in respect of him (under Part 7A of the Insolvency Act 1986)]¹ or made an arrangement with his creditors, or has had his estate sequestrated in Scotland, or
- (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.

Notes

- ¹ Words inserted by Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012/2404 Sch.2 para.56(4) (October 1, 2012: insertion has effect subject to transitional provisions specified in SI 2012/2404 art.5)


Commencement

Sch. 4 para. 6(a)-(c): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 6-(c): United Kingdom

Remuneration and allowances etc.

 Law In Force

7


The joint committee must pay to the members appointed by the Secretary of State such remuneration and allowances as the Secretary of State may determine.

Commencement

Sch. 4 para. 7: October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 7: United Kingdom

 Law In Force

8

If required to do so by the Secretary of State, the joint committee must—


- (a) pay such pensions, gratuities or allowances to or in respect of the chairman as the Secretary of State may determine, or
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of the chairman.

Commencement

Sch. 4 para. 8(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 8-(b): United Kingdom

 Law In Force

9

(1) This paragraph applies if–

- (a) a person ceases to be chairman, and
- (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.

(2) The Secretary of State may require the joint committee to pay the person such sum as the Secretary of State may determine.


Commencement

Sch. 4 para. 9(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 9-(2): United Kingdom

Staff: general

 Law In Force

10

The joint committee may, with the approval of the Secretary of State, appoint employees.

Commencement

Sch. 4 para. 10: October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 10: United Kingdom

✓ Law In Force

11

The joint committee must pay to its employees such remuneration and allowances as the joint committee may, with the approval of the Secretary of State, determine.

Commencement

Sch. 4 para. 11: October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 11: United Kingdom

✓ Law In Force

12

The joint committee may—

- (a) pay such pensions, gratuities or allowances to or in respect of any employee or former employee,
- (b) pay such sums towards provision for the payment of such pensions, allowances or gratuities, or
- (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as it may, with the approval of the Secretary of State, determine.

Commencement

Sch. 4 para. 12(a)-(c): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 12-(c): United Kingdom

Formation of company

✓ Law In Force

13

(1) With the consent of the Secretary of State, and subject to any conditions he may impose, the joint committee may form a company limited by guarantee the main objects of which fall within sub-paragraph (2).

(2) The objects are—

- (a) providing administrative and corporate support services to the joint committee, including the employment of staff, for the purposes of its functions,

- (b) making charges and holding land or any interest in or right over land for those purposes, and
 - (c) doing such other things as are conducive or incidental to the discharge of those functions.
- (3) The constitution of any company formed under this paragraph must include provision to ensure that only members of the joint committee are members of the company.
- (4) The members of any company formed under this paragraph must ensure that no-one is appointed, or continues to serve, as a director of the company who is not a member of the joint committee, or an employee of the joint committee or of the company.
- (5) Sub-paragraphs (2) and (4) do not affect the power of the UK conservation bodies acting through the joint committee to undertake anything mentioned in sub-paragraph (2) by virtue of Part 2.
- (6) Where a company is formed under this paragraph the requirements as to the approval of the Secretary of State apply in respect of appointment, payment and pension matters for employees and former employees of the company as they do in respect of employees or former employees of the joint committee under paragraphs 10 to 12.


Commencement

Sch. 4 para. 13(1)-(6): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 13-(6): United Kingdom

Funding

 Law In Force

14


- (1) The funding bodies must provide the joint committee with such financial resources as the appropriate authorities consider are needed for the proper discharge of the functions conferred by Part 2.
- (2) When determining what financial resources should be provided, the appropriate authorities must take into account—
- (a) any grant being made under paragraph 15, and
 - (b) the views of the joint committee and the funding bodies.
- (3) The contributions of each of the funding bodies are to be such as are agreed by the appropriate authorities, having taken into account the views of those bodies.
- (4) “The funding bodies” means—
- (a) the GB conservation bodies, and
 - (b) the relevant Northern Ireland department.

Commencement

Sch. 4 para. 14(1)-(4)(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 14-(4)(b): United Kingdom

 Law In Force

15

(1) The Secretary of State may make grants to the joint committee of such amounts as the Secretary of State thinks fit.

(2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.


Commencement

Sch. 4 para. 15(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 15-(2): United Kingdom

Procedure

 Law In Force

16

(1) The joint committee may determine its own procedure (including quorum).

(2) No proceeding of the joint committee is invalidated by—
(a) a vacancy among the members, or
(b) any defect in the appointment of any member.

Commencement

Sch. 4 para. 16(1)-(2)(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 16-(2)(b): United Kingdom

Discharge of functions

✔ Law In Force

17

- (1) The joint committee may authorise any of their functions to be exercised by—
- (a) any member of the joint committee,
 - (b) a company formed under paragraph 13,
 - (c) any of the UK conservation bodies, or
 - (d) any employee of the joint committee, of such a company, or of any of those bodies.
- (2) Sub-paragraph (1) does not prevent the joint committee from doing anything that another person has been authorised to do.

Commencement

Sch. 4 para. 17(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 17-(2): United Kingdom

Annual reports

✔ Law In Force

18

- (1) As soon as possible after the end of each financial year, the joint committee must—
- (a) prepare an annual report on how it has discharged their functions during the year, and
 - (b) send a copy of the report to the appropriate authorities and the UK conservation bodies.
- (2) The Secretary of State must lay a copy of the report before each House of Parliament.
- (3) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.

Commencement

Sch. 4 para. 18(1)-(3): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 18-(3): United Kingdom

Interpretation

✓ Law In Force

19

(1) In this Schedule “the appropriate authorities” means—

- (a) the Secretary of State,
- (b) the National Assembly for Wales,
- (c) the Scottish Ministers, and
- (d) the relevant Northern Ireland department.

(2) In this Schedule “financial year” means the period of 12 months ending with 31st March.

Commencement

Sch. 4 para. 19(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(2); SI 2006/2541 art. 2)

Extent

Sch. 4 para. 19-(2): United Kingdom

SCHEDULE 5

ENFORCEMENT POWERS IN CONNECTION WITH WILDLIFE

Section 52

PART 1

AMENDMENTS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

✓ Law In Force

1

After section 18 insert—

“18A Wildlife inspectors

(1) In this Part, “wildlife inspector” means a person authorised in writing under this section by—

- (a) the Secretary of State (in relation to England), or
- (b) the National Assembly for Wales (in relation to Wales).

(2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.

(3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.

(4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.

18B Group 1 offences and licences: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
- (a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;
 - (b) for the purpose of—
 - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or
 - (ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.
- (2) In this Part—
- “Group 1 offence” means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and
 - “Group 1 licence” means a licence authorising anything which would otherwise be a Group 1 offence.
- (3) Nothing in this section confers power to enter a dwelling.

18C Group 1 offences and licences: examining specimens and taking samples

- (1) The powers conferred by this section are exercisable where a wildlife inspector has entered any premises for a purpose mentioned in section 18B(1)(a) or (b).
- (2) The inspector, or a veterinary surgeon accompanying him, may—
- (a) for any such purpose, examine any specimen, and
 - (b) subject to subsection (5) and section 18F, take a sample from it.
- (3) “Specimen” means—
- (a) any bird, other animal or plant, or
 - (b) any part of, or anything derived from, a bird, other animal or plant.
- (4) “Sample” means a sample of blood, tissue or other biological material.
- (5) No sample may be taken under subsection (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.
- (6) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of—
- (a) making an examination under subsection (2)(a), or
 - (b) taking a sample under subsection (2)(b).
- (7) The inspector may take and remove from the premises a specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence.

18D Group 2 offences and licences etc.: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
- (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
 - (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
 - (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
 - (d) for the purpose of—
 - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
 - (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.

- (2) In this Part—

“Group 2 offence” means an offence under section 6, 7, 9(5), 13(2) or 14,

“Group 2 licence” means a licence authorising anything which would otherwise be a Group 2 offence, and

“relevant registration” means a registration in accordance with regulations under section 7(1).

- (3) In subsection (1)—

(a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—

(i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or

(ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and

(b) paragraph (c) does not confer any power to enter a dwelling.

18E Group 2 offences: examining specimens and taking samples

(1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector or a veterinary surgeon.

(2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by him in the exercise of powers conferred by section 18D in order to determine its identity or ancestry.

(3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—

(a) is alleged to be, or

(b) which the wildlife inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

(4) Where, pursuant to a requirement under this section—

(a) a bird or other animal is to be examined, or

(b) a sample is to be taken from a bird or other animal,

a person who has the bird or animal in his possession or control must give the person making the examination or taking the sample such assistance as he may reasonably require for that purpose.

(5) “Specimen” and “sample” have the same meaning as in section 18C.

(6) This section is subject to section 18F.

18F Restrictions on taking of samples from live specimens

(1) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird or other animal except by a veterinary surgeon.

(2) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird, other animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.”

Commencement

Sch. 5(1) para. 1: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(1) para. 1: England, Wales

 Law In Force

2

(1) Amend section 19 (powers of constables to stop, search, enter etc.) as follows.

(2) In subsection (2)—

(a) after “is committing” insert “or has committed”, and

(b) for “enter any land other than a dwelling-house” substitute “enter any premises other than a dwelling”.

(3) After subsection (2) insert—

“(2A) A constable may, for the purpose of assisting him in exercising the powers conferred by subsection (1)(b) and (d) when he has entered any premises under subsection (2), take with him—

(a) any other person, and

(b) any equipment or materials.”

(4) In subsection (3), omit “(with or without other persons)”.

Commencement

Sch. 5(1) para. 2(1)-(4): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(1) para. 2(1)-(4): England, Wales

✔ Law In Force

3

After section 19 insert–

“19XA Constables' powers in connection with samples

(1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred by this section is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.

(2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (“the relevant specimen”) may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which–

(a) is alleged to be, or

(b) the constable suspects with reasonable cause to be,

a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

(3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must give the person taking the sample such assistance as he may reasonably require for that purpose.

(4) “Specimen” and “sample” have the same meaning as in section 18C.

(5) This section is subject to section 18F (restrictions on taking samples).

19XB Offences in connection with enforcement powers

(1) A person is guilty of an offence if he–

(a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or

(b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).

(2) A person is guilty of an offence if he–

(a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or

(b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or

- (c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).
- (3) A person is guilty of an offence if he—
- (a) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 19XA(2), or
 - (b) fails without reasonable excuse to give any assistance reasonably required under section 19XA(3).
- (4) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector is guilty of an offence.”

Commencement

Sch. 5(1) para. 3: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(1) para. 3: England, Wales

✓ Law In Force

4

Omit sections 19ZA (enforcement: wildlife inspectors) and 19ZB (power to take samples).

Commencement

Sch. 5(1) para. 4: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(1) para. 4: England, Wales

✓ Law In Force

5

- (1) Amend section 21 (penalties etc.) as follows.
- (2) Omit subsections (4A) and (4D) (penalties in connection with power of entry and powers in connection with examination of specimens and taking samples).
- (3) Before subsection (4B) insert—
- “(4AA) Except in a case falling within subsection (4B) a person guilty of an offence under section 19XB(1), (2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”
- (4) In subsection (4B) (penalty for obstructing wildlife inspector to ascertain whether section 14 offence is being or has been committed)—
- (a) for “subsection (7) of section 19ZA” substitute “section 19XB(1)(a) or (2)(a)”, and

(b) for “acting in the exercise of the power conferred by subsection (3)(c) of that section” substitute “entering premises to ascertain whether an offence under section 14 or 14ZA is being or has been committed”.

(5) In subsection (4C) (penalty for pretending to be wildlife inspector), for “19ZA(8)” substitute “19XB(4)”.

Commencement

Sch. 5(1) para. 5(1)-(5): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(1) para. 5(1)-(5): England, Wales

✔ Law In Force

6

In section 27 (interpretation of Part 1), in subsection (1), in the definition of “wildlife inspector”, for “section 19ZA(1)” substitute “section 18A(1)”.

Commencement

Sch. 5(1) para. 6: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(1) para. 6: England, Wales

PART 2

POWERS OF WILDLIFE INSPECTORS EXTENDED TO CERTAIN OTHER ACTS

✔ Law In Force

7 Introduction

In this Part “the enforcement provisions of the 1981 Act relating to Group 1 offences and Group 1 licences” means the following provisions of the Wildlife and Countryside Act 1981 (c. 69)–

- (a) section 18A (power to authorise persons to act as wildlife inspectors);
- (b) section 18B (power of wildlife inspector to enter premises);
- (c) section 18C (power to examine specimens and take samples);
- (d) section 18F (restrictions on taking samples from live specimens);
- [(da) section 19XB(1) and (4) (offences in connection with enforcement powers);]¹
- (e) section 21(4AA) to (4C) (penalties for obstructing etc. wildlife inspectors).

Notes

¹ Added by Criminal Justice and Immigration Act 2008 c. 4 Sch.26(2) para.80 (July 14, 2008)

Commencement

Sch. 5(2) para. 7(a)-(e): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(2) para. 7(a)-(e): England, Wales

✔ Law In Force

8 Destructive Imported Animals Act 1932 (c. 12)

(1) The enforcement provisions of the 1981 Act relating to Group 1 offences and Group 1 licences apply for the purposes of the 1932 Act as if–

- (a) any reference to a Group 1 offence were a reference to any offence under the 1932 Act,
- (b) any reference to a Group 1 licence were a reference to a licence under the 1932 Act, and
- (c) as if the power to take a sample included power to take a sample from a destructive animal (whether live or dead) for the purpose of testing for disease.

(2) “Destructive animal” means a musk rat or other animal to which the 1932 Act applies.

Commencement

Sch. 5(2) para. 8(1)-(2): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(2) para. 8(1)-(2): England, Wales

✔ Law In Force

9 Conservation of Seals Act 1970 (c. 30)

The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1970 Act as if–

- (a) [United Kingdom Research and Innovation]¹ were required to be consulted about any authorisation of a person to exercise the powers of a wildlife inspector for the purposes of the 1970 Act,
- (b) any reference to a Group 1 offence were a reference to any offence under the 1970 Act,
- (c) any reference to a Group 1 licence were a reference to a licence under section 10 of the 1970 Act, and
- (d) the power to take a sample from a specimen did not include any power to take a sample from a live seal.

Notes


¹ Words substituted by Higher Education and Research Act 2017 c. 29 Sch.12 para.20 (April 1, 2018)

Commencement

Sch. 5(2) para. 9(a)-(d): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(2) para. 9(a)-(d): England, Wales

 Law In Force

10 Deer Act 1991 (c. 54)

The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1991 Act as if–

- (a) any reference to a Group 1 offence were a reference to any offence under the 1991 Act,
 - (b) any reference to a Group 1 licence were a reference to a licence under section 8 of the 1991 Act, and
 - (c) as if the power to take a sample included power to take a sample from a deer (whether live or dead) for the purpose of testing for disease.
-

Commencement

Sch. 5(2) para. 10(a)-(c): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(2) para. 10(a)-(c): England, Wales

 Law In Force

11 Protection of Badgers Act 1992 (c. 51)

The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1992 Act as if–

- (a) any reference to a Group 1 offence were a reference to any offence under the 1992 Act,
 - (b) any reference to a Group 1 licence were a reference to a licence under section 10 of the 1992 Act, and
 - (c) as if the power to take a sample included power to take a sample from a badger (whether live or dead) for the purpose of testing for disease.
-

Commencement

Sch. 5(2) para. 11(a)-(c): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(2) para. 11(a)-(c): England, Wales

PART 3

CODES OF PRACTICE

✔ Law In Force

12

(1) The Secretary of State may—

- (a) issue a code of practice in connection with any of the provisions of sections 18A to 18F of the 1981 Act (including any of those provisions as applied by Part 2 of this Schedule), and
- (b) revise or replace such a code.

(2) An inspector must have regard to any relevant provision of a code when discharging any function under any of the provisions mentioned in sub-paragraph (1)(a).

(3) But an inspector's failure to have regard to any provision of a code does not make him liable to criminal or civil proceedings.

(4) A code—

- (a) is admissible in evidence in any proceedings, and
- (b) must be taken into account by a court in any case in which it appears to the court to be relevant.

Commencement

Sch. 5(3) para. 12(1)-(4)(b): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(3) para. 12(1)-(4)(b): England, Wales

PART 4

CONSTABLE'S SEARCH WARRANT POWER EXTENDED TO CERTAIN OTHER ACTS

✔ Law In Force

13

(1) Section 19(3) of the 1981 Act (issue of search warrants for purpose of obtaining evidence of offence) applies in relation to an offence under each of the Acts mentioned in sub-paragraph (2) as it applies in relation to an offence under Part 1 of the 1981 Act.

(2) The Acts are—

- (a) the Destructive Imported Animals Act 1932 (c. 12);
- (b) the Conservation of Seals Act 1970 (c. 30);
- (c) the Deer Act 1991 (c. 54);
- (d) the Protection of Badgers Act 1992 (c. 51).


Commencement

Sch. 5(4) para. 13(1)-(2)(d): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 5(4) para. 13(1)-(2)(d): England, Wales

SCHEDULE 6**WILDLIFE OFFENCES: TIME LIMITS FOR PROCEEDINGS****Section 53***Destructive Imported Animals Act 1932 (c. 12)*

 Law In Force

1

In section 6 (offences relating to importation etc. of musk rats without licence etc.), after subsection (2) insert—

“(3) Proceedings in England and Wales for an offence under this section may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Commencement

Sch. 6 para. 1: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 6 para. 1: England, Wales

Conservation of Seals Act 1970 (c. 30)

✓ Law In Force

2

In section 5 (penalties for offences), after subsection (2) insert–

“(3) Proceedings in England and Wales for an offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Commencement

Sch. 6 para. 2: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 6 para. 2: England, Wales

Wildlife and Countryside Act 1981 (c. 69)

✓ Law In Force

3

(1) Amend section 20 (summary prosecutions) as follows.

(2) In subsection (2), for “Summary proceedings for an offence under this Part” substitute “Proceedings for a summary offence under this Part”.

(3) In the heading, for “Summary prosecutions” substitute “Proceedings for summary offences”.

Commencement

Sch. 6 para. 3(1)-(3): May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 6 para. 3(1)-(3): England, Wales

✔ Law In Force

4

After section 51 insert—

“51A Summary prosecutions

(1) Proceedings in England and Wales for a summary offence under this Part may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Commencement

Sch. 6 para. 4: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 6 para. 4: England, Wales

Deer Act 1991 (c. 54)

✔ Law In Force

5

In section 9 (penalties for offences relating to deer), after subsection (2) insert—

“(3) Proceedings for an offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Commencement

Sch. 6 para. 5: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 6 para. 5: England, Wales

Protection of Badgers Act 1992 (c. 51)

✓ Law In Force

6

After section 12 insert–

“12ZA Time limit for bringing summary proceedings (England and Wales)

(1) Proceedings in England and Wales for a summary offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Commencement

Sch. 6 para. 6: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 6 para. 6: England, Wales

SCHEDULE 7**DESIGNATED BODIES****Section 80**

 Law In Force

1

A conservation board for an area of outstanding natural beauty in England.

Commencement

Sch. 7 para. 1: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 1: England, Wales

 Not Yet In Force

[1A

An inshore fisheries and conservation authority for a district established under section 149 of the Marine and Coastal Access Act 2009.

]¹

Notes

¹ Added by Marine and Coastal Access Act 2009 c. 23 Sch.14 para.20 (date to be appointed)

Extent

Sch. 7 para. 1A: United Kingdom

✔ Law In Force

2

A joint committee of two or more local authorities which is discharging, in relation to an area of outstanding natural beauty, functions of those authorities under sections 89 and 90 of the Countryside and Rights of Way Act 2000 (c. 37).

Commencement

Sch. 7 para. 2: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 2: England, Wales

✔ Law In Force

3

A local authority (as defined by section 86).

Commencement

Sch. 7 para. 3: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 3: England, Wales

✔ Law In Force

4

A National Park authority established for a National Park in England.

Commencement

Sch. 7 para. 4: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 4: England, Wales

✔ Law In Force

5


The Board of Trustees of the Royal Botanic Gardens, Kew.

Commencement

Sch. 7 para. 5: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 5: England, Wales

 Law In Force

6


The British Potato Council.

Commencement

Sch. 7 para. 6: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 6: England, Wales

 Law In Force

7

[Canal & River Trust.]¹

Notes


¹ Words substituted by British Waterways Board (Transfer of Functions) Order 2012/1659 Sch.3(1) para.18 (July 2, 2012 subject to transitional provisions and savings specified in SI 2012/1659 arts 5 and 6)

Commencement

Sch. 7 para. 7: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 7: England, Wales

 Law In Force

8


The Broads Authority.

Commencement

Sch. 7 para. 8: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 8: England, Wales

 Law In Force

9


The Commission for Rural Communities.

Commencement

Sch. 7 para. 9: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 9: England, Wales

 Law In Force

10

The Environment Agency.

Commencement

Sch. 7 para. 10: May 31, 2006 (SI 2006/1382 art. 2)

Extent


Sch. 7 para. 10: England, Wales

 Repealed

11 [...]¹

Notes

¹ Repealed by Public Bodies (Abolition of Food from Britain) Order 2014/1924 Sch.1 para.1 (July 18, 2014 except for purposes specified in SI 2014/1924 art.1(4); July 19, 2014 otherwise)

 Law In Force

12

The Forestry Commissioners.

Commencement

Sch. 7 para. 12: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 12: England, Wales

✔ Law In Force

13

The [Gangmasters and Labour Abuse Authority]¹.

Notes

¹ Words substituted by Immigration Act 2016 c. 19 Sch.3 para.26 (July 12, 2016)

Commencement

Sch. 7 para. 13: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 13: England, Wales

✔ Law In Force

14

The Historic Buildings and Monuments Commission for England.

Commencement

Sch. 7 para. 14: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 14: England, Wales

✔ Law In Force

15

The Home-Grown Cereals Authority.

Commencement

Sch. 7 para. 15: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 15: England, Wales

✔ Law In Force

16

The Horticultural Development Council.

Commencement

Sch. 7 para. 16: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 16: England, Wales

✔ Law In Force

[16A

The Marine Management Organisation².

] ¹

Notes

- ¹ Added by Sea Fishing (Penalty Notices and Designation) (England) (Amendment) (EU Exit) Order 2020/1635 art.3 (January 20, 2021)
- ² The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009.

Extent

Sch. 7 para. 16A: England, Wales

✔ Law In Force

17


The Meat and Livestock Commission.

Commencement

Sch. 7 para. 17: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 17: England, Wales

 Law In Force

18


The Milk Development Council.

Commencement

Sch. 7 para. 18: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 18: England, Wales

 Law In Force

19


The National Forest Company.

Commencement

Sch. 7 para. 19: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 19: England, Wales

 Law In Force

20

Natural England.

Commencement

Sch. 7 para. 20: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 20: England, Wales

✔ Law In Force

21

The Seafish Industry Authority.

Commencement

Sch. 7 para. 21: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 21: England, Wales

✔ Law In Force

22

The Wine Standards Board.

Commencement

Sch. 7 para. 22: May 31, 2006 (SI 2006/1382 art. 2)

Extent

Sch. 7 para. 22: England, Wales

SCHEDULE 8

AGRICULTURAL ETC. BOARDS

Section 87

Status

✔ Law In Force

1

A board is (by virtue of this Schedule) a body corporate.

Commencement

Sch. 8 para. 1: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 1: United Kingdom

✔ Law In Force

2

A board is not to be regarded–

(a) as a servant or agent of the Crown, or

(b) as enjoying any status, privilege of immunity of the Crown,

and the board's property is not to be regarded as property of, or held on behalf of, the Crown.

Commencement

Sch. 8 para. 2(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 2-(b): United Kingdom

Membership

✔ Law In Force

3

A board is to consist of–

(a) a chairman appointed by the appropriate authority, and

(b) such other number of members as the appropriate authority may appoint.

Commencement

Sch. 8 para. 3(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 3-(b): United Kingdom

✔ Law In Force

4

The appropriate authority may appoint one of the members to be deputy chairman.

Commencement

Sch. 8 para. 4: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 4: United Kingdom

✔ Law In Force

5

A section 87 order may include provision as to qualification or disqualification for membership.

Commencement

Sch. 8 para. 5: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 5: United Kingdom

Term of office

✔ Law In Force

6

A section 87 order may include provision as to—

- (a) the members' term of office, and
 - (b) their removal from office.
-

Commencement

Sch. 8 para. 6(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 6-(b): United Kingdom

Remuneration and pensions

✔ Law In Force

7

A section 87 order may include provision—

- (a) as to the payment to the members of remuneration and allowances, and
 - (b) as to the payment of pensions, gratuities or allowances to or in respect of the members.
-

Commencement

Sch. 8 para. 7(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 7-(b): United Kingdom

Staff

✔ Law In Force

8

A section 87 order may include provision as to the appointment of employees, their remuneration and other terms of employment.

Commencement

Sch. 8 para. 8: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 8: United Kingdom

Reports, accounts etc.

✔ Law In Force

9

A section 87 order may include provision requiring the board to prepare and submit reports to persons specified in the order.

Commencement

Sch. 8 para. 9: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 9: United Kingdom

✔ Law In Force

10

A section 87 order must include provision—

- (a) requiring the board to prepare and submit accounts to persons specified in the order;
- (b) requiring a statement of the accounts to be examined, certified and reported on by the Comptroller and Auditor General.

Commencement

Sch. 8 para. 10(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 10-(b): United Kingdom

✔ Law In Force

11

A section 87 order may include provision requiring any documents of a description specified in the order to be laid before—

- (a) each House of Parliament;
 - (b) the National Assembly for Wales;
 - (c) the Scottish Parliament;
 - (d) the Northern Ireland Assembly.
-

Commencement

Sch. 8 para. 11(a)-(d): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 8 para. 11-(d): United Kingdom

SCHEDULE 9**FUNCTIONS WHICH MAY BE ASSIGNED TO BOARDS****Section 89**

✔ Law In Force

1

Promoting or undertaking scientific research.

Commencement

Sch. 9 para. 1: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 1: United Kingdom

✓ Law In Force

2

(1) Promoting or undertaking inquiry–

- (a) as to materials and equipment, and
- (b) as to methods of production, management and labour utilisation.

(2) Promoting or undertaking inquiry under sub-paragraph (1) includes promoting or undertaking–

- (a) the discovery and development of–
 - (i) new materials, equipment and methods, and
 - (ii) improvements in those already in use,
- (b) the assessment of the advantages of different alternatives, and
- (c) the conduct of experimental establishments and of tests on a commercial scale.

Commencement

Sch. 9 para. 2(1)-(2)(c): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 2-(2)(c): United Kingdom

✓ Law In Force

3

Promoting the production and marketing of standard products.

Commencement

Sch. 9 para. 3: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 3: United Kingdom

✓ Law In Force

4

Promoting the better definition of trade descriptions and consistency in the use of trade descriptions.

Commencement

Sch. 9 para. 4: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 4: United Kingdom

✔ Law In Force

5

Developing, promoting, marketing or operating—
(a) standards relating to the quality of products, or
(b) systems for the classification of products.

Commencement

Sch. 9 para. 5(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 5-(b): United Kingdom

✔ Law In Force

6

Developing, reviewing or operating schemes for the certification of products or of operations connected with production or supply of products.

Commencement

Sch. 9 para. 6: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 6: United Kingdom

✔ Law In Force

7

Undertaking the certification of products, the registration of certification trade marks, and the functions of proprietors of such marks.

Commencement

Sch. 9 para. 7: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 7: United Kingdom

✔ Law In Force

8

Providing or promoting the provision of—
(a) training for persons engaged in or proposing to be engaged in the industry, and
(b) their education in subjects relevant to the industry.

Commencement

Sch. 9 para. 8(a)-(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 8-(b): United Kingdom

✔ Law In Force

9**(1) Promoting–**

- (a) the adoption of measures for securing safer and better working conditions, and
- (b) the provision and improvement of amenities for persons employed.

(2) Promoting or undertaking inquiry as to measures for securing safer and better working conditions.

Commencement

Sch. 9 para. 9(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 9-(2): United Kingdom

✔ Law In Force

10

Promoting or undertaking research into the incidence, prevention and cure of industrial diseases.

Commencement

Sch. 9 para. 10: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 10: United Kingdom

✔ Law In Force

11

Promoting or undertaking arrangements for encouraging the entry of persons into the industry.

Commencement

Sch. 9 para. 11: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 11: United Kingdom

✔ Law In Force

12

Promoting or undertaking research for improving arrangements for marketing and distributing products.

Commencement

Sch. 9 para. 12: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 12: United Kingdom

✔ Law In Force

13

Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.

Commencement

Sch. 9 para. 13: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 13: United Kingdom

✔ Law In Force

14

Promoting arrangements–

- (a) for co-operative organisations,
- (b) for supplying materials and equipment, and
- (c) for marketing and distributing products.

Commencement

Sch. 9 para. 14(a)-(c): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 14-(c): United Kingdom

✔ Law In Force

15

Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.

Commencement

Sch. 9 para. 15: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 15: United Kingdom

✔ Law In Force

16

Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.

Commencement

Sch. 9 para. 16: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 16: United Kingdom

✔ Law In Force

17

Promoting or undertaking the collection and formulation of statistics.

Commencement

Sch. 9 para. 17: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 17: United Kingdom

✔ Law In Force

18

Advising on any matters relating to the industry (other than remuneration or conditions of employment) as to which the appropriate authority may request the board to advise, and undertaking inquiry for the purpose of enabling the board to advise on such matters.

Commencement

Sch. 9 para. 18: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 18: United Kingdom

✔ Law In Force

19

Undertaking arrangements for making available information obtained, and for advising, on matters with which the board is concerned in the exercise of any of its functions.

Commencement

Sch. 9 para. 19: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 9 para. 19: United Kingdom

SCHEDULE 10

ANCILLARY PROVISIONS RELATING TO BOARDS

Section 90

✔ Law In Force

1 Acting through subsidiaries

- (1) A section 87 order may include provision—
 - (a) enabling the board to establish subsidiaries, and
 - (b) enabling or requiring the board to carry out specified functions through subsidiaries.
- (2) “Subsidiary” means a subsidiary as defined by [section 1159 of the Companies Act 2006]¹.

Notes

- ¹ Words substituted by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009/1941 Sch.1 para.255 (October 1, 2009)

Commencement

Sch. 10 para. 1(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 1-(2): United Kingdom

✔ Law In Force

2 Registers, returns and other information

- (1) A section 87 order may include provision—
- (a) with respect to registration in a register kept by the board of persons carrying on business in a specified industry;
 - (b) requiring the register to be made available (in accordance with the order) for inspection by the public;
 - (c) under which any right to inspect the register is subject to the payment of a reasonable fee.
- (2) A section 87 order may include provision conferring power on the board to require persons carrying on business in a specified industry to supply to the board returns and other information.
-

Commencement

Sch. 10 para. 2(1)-(2): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 2-(2): United Kingdom

✔ Law In Force

3 Investigative powers

- (1) A section 87 order may include provision conferring a power of entry on authorised officers for the purpose of enabling them to carry out functions of the board.
- (2) But a section 87 order may not include provision by virtue of sub-paragraph (1) conferring power to enter a dwelling.
- (3) A section 87 order may include provision conferring power on authorised officers to require persons of a description specified in the order—
- (a) to provide information of a description so specified, or
 - (b) to produce documents of a description so specified.

(4) “Authorised officer”, in relation to a power, means a person authorised to exercise the power by, or on behalf of, the board to which the section 87 order relates.

(5) A section 87 order may include provision—

- (a) enabling a board to hold inquiries;
- (b) enabling a board to require a person to attend to give evidence;
- (c) as to appeals against a requirement imposed by virtue of paragraph (b).

Commencement

Sch. 10 para. 3(1)-(5)(c): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 3-(5)(c): United Kingdom

✔ Law In Force

4 Reserve funds etc.

(1) A section 87 order may include provision for enabling the board to establish and maintain a reserve fund for the purposes of its functions.

(2) A section 87 order may also make provision with respect to powers of investment over a reserve fund or any other money of the board which is not immediately required for any other purpose.

(3) A section 87 order may confer on the board—

- (a) power to borrow money;
- (b) power to charge property.

Commencement

Sch. 10 para. 4(1)-(3)(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 4-(3)(b): United Kingdom

✔ Law In Force

5 Levies

(1) A section 87 order may include provision—

- (a) for the imposition by the board of charges (“levies”) on such persons as may be specified in the order;
- (b) as to limits on the amounts of levies;
- (c) for the recovery of levies in such ways and through such channels as may be specified in the order.

(2) But a section 87 order may not include provision by virtue of sub-paragraph (1) except for the purpose of enabling a board—

- (a) to meet its expenses in the exercise of its functions;
- (b) to meet its administrative expenses;
- (c) to further a purpose or the purposes for which it is established;
- (d) to establish a reserve fund.


(3) The purpose or purposes for which any levies are imposed must be specified in the section 87 order.

Commencement

Sch. 10 para. 5(1)-(3): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 5-(3): United Kingdom

 Law In Force

6 Power to charge for services


A section 87 order may provide that the board (or a subsidiary of the board) may make such charges for any services as appear to the board (or subsidiary) to be reasonable.

Commencement

Sch. 10 para. 6: October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 6: United Kingdom

 Law In Force

7 Incidental powers

(1) A section 87 order may include provision enabling the board to do anything that appears to it to be conducive or incidental to the discharge of its functions.

- (2) The order may, in particular, provide that the board may—
- (a) enter into agreements;
 - (b) acquire or dispose of property;
 - (c) raise funds by means of voluntary contributions;
 - (d) accept gifts.

(3) The power to make provision falling within sub-paragraph (2)(c) applies whether or not the order also makes provision under paragraph 5 (levies).

Commencement

Sch. 10 para. 7(1)-(3): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 7-(3): United Kingdom

✔ Law In Force

8 Approval of appropriate authority, consultation etc.

(1) A section 87 order may include provision making the exercise of a specified function or description of functions conferred on the board—

- (a) subject to the approval of the appropriate authority, or
- (b) subject to any other conditions.

(2) The provision that may be made by virtue of sub-paragraph (1)(b) includes, in particular—

- (a) provision requiring the board to be satisfied, before a levy is—
 - (i) imposed, or
 - (ii) terminated,

that the imposition or termination of the levy is desired by a substantial number of the persons who would be or are affected by the levy;

- (b) provision requiring ballots to be conducted, in such circumstances as may be specified in the order, for the purpose of ascertaining the views of persons who would be or are affected by a levy;

- (c) provision requiring the board to consult a specified person or a description of persons before exercising a specified function or description of functions.

(3) A section 87 order may include provision for the appointment of a Consumers' Committee which the board is required to consult in relation to specified matters.

Commencement

Sch. 10 para. 8(1)-(3): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 8-(3): United Kingdom

✔ Law In Force

9 Offences

(1) A section 87 order may create offences in relation to—

- (a) failing to comply with a requirement relating to registration;
- (b) obstructing an authorised officer exercising a power of entry;
- (c) failing to comply with a requirement to provide information or produce documents;
- (d) neglecting or failing to comply with a requirement to attend to give evidence;

- (e) providing false or misleading information to a board or an authorised officer.
- (2) If a section 87 order creates an offence by virtue of sub-paragraph (1), the order—
- (a) must provide for the offence to be triable only summarily, and
 - (b) may not provide for the offence to be punishable with imprisonment.
- (3) A section 87 order—
- (a) may make provision enabling proceedings for an offence under the order to be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge, but
 - (b) may not authorise the commencement of proceedings for such an offence more than 2 years after the date on which the offence was committed.

Commencement


Sch. 10 para. 9(1)-(3)(b): October 1, 2006 (2006 c. 16 Pt 10 s. 107(6)(b); SI 2006/2541 art. 2)

Extent

Sch. 10 para. 9-(3)(b): United Kingdom

SCHEDULE 11**MINOR AND CONSEQUENTIAL AMENDMENTS****Section 105(1)****PART 1****GENERAL**

Destructive Imported Animals Act 1932 (c. 12)

 Law In Force

1

- (1) Amend section 5 (provisions as to musk rats found at large) as follows.
- (2) In subsection (3) for “any persons employed by, or on behalf of, the department for that purpose” substitute “any authorised persons”.
- (3) After subsection (3) insert—
- “(3A) “Authorised person” means—

- (a) in relation to England and Wales, a person authorised in writing by the appropriate department to exercise powers under subsection (3);
- (b) in relation to Scotland, a person employed by or on behalf of the appropriate department for the purposes of subsection (3).”


Commencement

Sch. 11(1) para. 1(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 1(1)-(3): United Kingdom

Hill Farming Act 1946 (c. 73)

 Law In Force

2


Omit section 32 (advisory committees).

Commencement

Sch. 11(1) para. 2: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 2: United Kingdom

 Law In Force

3

In section 34 (power to enter on and inspect land), after subsection (2) insert—

“(3) This section applies in relation to land in England as if, for the purposes of an agreement under Chapter 1 of Part 8 of the Natural Environment and Rural Communities Act 2006 (agreements with designated bodies), references to an officer of the appropriate Minister authorised by general or special directions given by him were references to a person authorised by the appropriate Minister by general or special directions given by him.”

Commencement

Sch. 11(1) para. 3: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 3: United Kingdom

Industrial Organisation and Development Act 1947 (c. 40)

✓ Law In Force

4

In section 5 (restriction on disclosure of information), after subsection (3) insert–

“(3A) Subsections (2) and (3) do not apply to disclosure–

- (a) by a development council established in relation to an industry whose activities include an agricultural activity;
- (b) to, or to an officer of, Natural England;
- (c) to, or to an officer of, the Commission for Rural Communities;
- (d) to, or to an officer of, the Joint Nature Conservation Committee;
- (e) to, or to an officer of, a body specified in Schedule 7 to the Natural Environment and Rural Communities Act 2006;
- (f) to, or to an officer of, a board established under Chapter 2 of Part 8 of the 2006Act.”

Commencement

Sch. 11(1) para. 4: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 4: United Kingdom

✓ Law In Force

5

(1) Amend section 9 (levies for certain purposes for industries for which there is no development council) as follows.

(2) In subsection (1), for “not a development council” substitute “neither a development council nor a relevant board”.

(3) After subsection (1) insert–

“(1A) “Relevant board” means a board established under Chapter 2 of Part 8 of the Natural Environment and Rural Communities Act 2006.”

Commencement

Sch. 11(1) para. 5(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 5(1)-(3): United Kingdom

National Parks and Access to the Countryside Act 1949 (c. 97)

 Repealed

6 [...]¹**Notes**

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(a) (May 21, 2016)

 Repealed


7 [...]¹**Notes**

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(a) (May 21, 2016)

 Repealed

8 [...]¹**Notes**

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(a) (May 21, 2016)

 Law In Force

9

In section 4A (application of Part 2 in Wales), in subsection (2), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 9: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 9: United Kingdom

 Law In Force

10

In each of the following provisions for “the Agency” substitute “Natural England”–

- (a) section 5(2) and (3);
- (b) section 6(1), (3), (4) and (5);
- (c) section 7(1), (2), (4) and (6);
- (d) section 9(1);

- (e) section 51(1), (2), (3) and (4);
- (f) section 52(1) and (2);
- (g) section 55(1) and (2);
- (h) section 65(5) and (5A);
- (i) section 85;
- (j) section 86(1) and (2);
- (k) section 86A;
- (l) section 90(4);
- (m) section 91(1).

Commencement

Sch. 11(1) para. 10(a)-(m): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 10(a)-(m): United Kingdom

✔ Law In Force

11

- (1) Amend section 6 (general duties of Agency in relation to National Parks) as follows.
- (2) In subsection (1), omit “as soon as may be after the commencement of this Act, and thereafter”.
- (3) In subsection (4), omit paragraphs (a) and (c).
- (4) In the heading, for “Commission” substitute “Natural England”.

Commencement

Sch. 11(1) para. 11(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 11(1)-(4): United Kingdom

✔ Law In Force

12

For section 15 (meaning of “nature reserve”) substitute—

“15 Meaning of “nature reserve”

- (1) In this Part, “nature reserve” means—
 - (a) land managed solely for a conservation purpose, or
 - (b) land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose.


- (2) Land is managed for a conservation purpose if it is managed for the purpose of–
- (a) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or
 - (b) preserving flora, fauna or geological or physiographical features of special interest in the area,
- or for both those purposes.
- (3) Land is managed for a recreational purpose if it is managed for the purpose of providing opportunities for the enjoyment of nature or for open-air recreation.”

Commencement

Sch. 11(1) para. 12: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 12: United Kingdom

 Law In Force

13

- (1) Amend section 15A (meaning of “Nature Conservancy Council”) as follows.
- (2) Number the provisions of section 15A as subsection (1).
- (3) In subsection (1)–
- (a) for “references to “the Nature Conservancy Council” are references” substitute “references to the appropriate conservation body are references”, and
 - (b) in paragraph (a), for “English Nature” substitute “Natural England”.
- (4) After subsection (1) insert–
- “(2) In this Part of this Act–
- (a) “nature reserve agreement” means an agreement under section 7 of the 2006 Act for securing that land which it appears expedient in the national interest should be managed as a nature reserve shall be so managed, and
 - (b) “the 2006 Act” means the Natural Environment and Rural Communities Act 2006.”
- (5) In the heading for ““Nature Conservancy Council”” substitute “appropriate conservation body”.

Commencement

Sch. 11(1) para. 13(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 13(1)-(5): United Kingdom

✓ Law In Force

14

- (1) Amend section 16 (agreements for management of nature reserves) as follows.
- (2) In subsection (1), for “the Nature Conservancy Council”–
 - (a) in the first place where it occurs, substitute “The Council or Scottish Natural Heritage”, and
 - (b) in the second place where it occurs, substitute “the Council or (as the case may be) Scottish Natural Heritage”.
- (3) In subsection (3)(b) and (c), for “the Nature Conservancy Council” substitute “the Council or (as the case may be) Scottish Natural Heritage”.
- (4) [...] ¹
- (5) For the heading substitute “Agreements for management of nature reserves in Scotland and Wales”.

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(b) (May 21, 2016)

Commencement

Sch. 11(1) para. 14(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 14(1)-(5): United Kingdom

✓ Law In Force

15

In each of the following provisions for “the Nature Conservancy Council” substitute “the appropriate conservation body”–

- (a) section 17(1) and (2);
- (b) section 18(1) and (2);
- (c) section 19(1), (2), (3), (4) and (5);
- (d) section 20(1), (2)(c) and (3);
- (e) section 21(1) and (6);
- (f) section 22;
- (g) section 103(1);
- (h) section 106(1).

Commencement

Sch. 11(1) para. 15(a)-(h): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 15(a)-(h): United Kingdom

✔ Law In Force

16

In section 17 (compulsory acquisition of land for establishment of nature reserves)–

- (a) in subsection (2), for “agreement under the last foregoing section” substitute “nature reserve agreement or an agreement under section 16”, and
- (b) in the heading, for “Conservancy” substitute “conservation body”.

Commencement

Sch. 11(1) para. 16(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 16(a)-(b): United Kingdom

✔ Law In Force

17

In section 18 (compulsory acquisition of land for maintenance of nature reserves)–

- (a) in subsection (1), for “an agreement under the last but one foregoing section” substitute “a nature reserve agreement or an agreement under section 16”, and
- (b) in the heading, for “Conservancy” substitute “conservation body”.

Commencement

Sch. 11(1) para. 17(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 17(a)-(b): United Kingdom

✔ Law In Force

18

In section 19 (declarations as to what are nature reserves), in subsection (1), for “an agreement entered into with them under the foregoing provisions of this Part of this Act” substitute “a nature reserve agreement or an agreement under section 16”.

Commencement

Sch. 11(1) para. 18: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 18: United Kingdom

✔ Law In Force

19

In section 21 (establishment of nature reserves by local authorities), in subsection (4), for “the Nature Conservancy Council” substitute “the appropriate conservation body, the Council or Scottish Natural Heritage”.

Commencement

Sch. 11(1) para. 19: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 19: United Kingdom

✔ Law In Force

20

In section 50A (application of Part 4 in Wales), in subsection (2), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 20: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 20: United Kingdom

✔ Law In Force

21

In section 64 (access agreements), omit subsection (5).

Commencement

Sch. 11(1) para. 21: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 21: United Kingdom

✔ Law In Force

22

In the heading to section 85 (general duty of Commission to advise on questions relating to natural beauty), for “Commission” substitute “Natural England and the Council”.

Commencement

Sch. 11(1) para. 22: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 22: United Kingdom

✔ Law In Force

23

In the heading to section 86 (information services to be provided by Commission), for “Commission” substitute “Natural England”.

Commencement

Sch. 11(1) para. 23: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 23: United Kingdom

✔ Law In Force

24

In section 114 (interpretation), in subsection (1), omit the definition of “the Agency”.

Commencement

Sch. 11(1) para. 24: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 24: United Kingdom

✔ Law In Force

25

In Schedule 1 (provisions as to making, confirmation, coming into operation and validity of certain instruments), in paragraph 2(5)–

- (a) for “the Agency,” in the first place where it occurs, substitute “Natural England,”, and
- (b) for “the Agency,” in the second place where it occurs, substitute “Natural England, the”.

Commencement

Sch. 11(1) para. 25(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 25(a)-(b): United Kingdom

Manoeuvres Act 1958 (7 & 8 Eliz. 2 c. 7)

✔ Law In Force

26

In—

(a) section 1 (power to authorise execution of manoeuvres), in subsection (3)(a)(iii), and
(b) section 4 (manoeuvres commissions), in subsection (1)(d),
for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 26(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 26(a)-(b): United Kingdom

Agricultural Marketing Act 1958 (c. 47)

✔ Law In Force

27

In section 19 (consumers' committees and committees' of investigation), omit subsections (1) to (5) and (9).

Commencement

Sch. 11(1) para. 27: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 27: United Kingdom

✔ Law In Force

28

- (1) Amend section 20 (directions by Ministers to boards as respects certain matters) as follows.
- (2) In subsection (3), omit the words from “, and if, within” to the end.
- (3) Omit subsections (4) and (7).

Commencement

Sch. 11(1) para. 28(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 28(1)-(3): United Kingdom

✔ Law In Force

29

- (1) Amend section 21 (temporary directions by Ministers) as follows.
- (2) In subsection (1), omit—
 - (a) paragraph (b) and “or” preceding it,
 - (b) “or, as the case may be, of the report or complaint”, and
 - (c) “or direction”.
- (3) In subsection (2), omit the proviso.
- (4) Omit subsection (3).
- (5) In subsection (4), for “periods prescribed by subsections (2) and (3)” substitute “period prescribed by subsection (2)”.

Commencement

Sch. 11(1) para. 29(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 29(1)-(5): United Kingdom

✔ Law In Force

30

- (1) Amend section 32 (general provisions as to commissions and committees) as follows.
- (2) In subsection (1), omit—
 - (a) “or committee” (in both places), and
 - (b) “or appointed”.
- (3) In subsections (2) and (3), omit “or committee” (in each place).

(4) Omit subsection (4).

Commencement

Sch. 11(1) para. 30(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 30(1)-(4): United Kingdom

✔ Law In Force

31

In section 47 (restrictions on disclosing certain information obtained under Act), in subsection (2), omit “, consumers' committee, committee of investigation”.

Commencement

Sch. 11(1) para. 31: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 31: United Kingdom

✔ Law In Force

32

In section 53 (provisions as to Northern Ireland), in subsection (5)–

- (a) omit “consumers' committee and committees of investigation shall operate, and the”,
- (b) for “operate and are applicable respectively” substitute “are applicable”, and
- (c) omit the words from “, but when any such committee” to the end of the subsection.

Commencement

Sch. 11(1) para. 32(a)-(c): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 32(a)-(c): United Kingdom

✔ Law In Force

33

In Schedule 3 (matters referred to in the definition of “the Minister”), in Parts 2, 5 and 6, omit paragraphs 2 and 3.

Commencement

Sch. 11(1) para. 33: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 33: United Kingdom

Public Records Act 1958 (c. 51)

✔ Law In Force

34

(1) In Schedule 1 (definition of public records), amend Part 2 of the table at the end of paragraph 3 as follows.

(2) Insert at the appropriate places–

“Commission for Rural Communities.”, and
“Natural England.”.

(3) Omit the entries relating to English Nature and the Countryside Agency.

Commencement

Sch. 11(1) para. 34(1)-(2): May 2, 2006 for purposes specified in SI 2006/1176, art.4; October 1, 2006 otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2)

Sch. 11(1) para. 34(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 34(1)-(3): United Kingdom

Cereals Marketing Act 1965 (c. 14)

✔ Law In Force

35

In section 6 (further non-trading functions of Authority), in subsection (2), omit “(subject to section 17(2) of this Act)”.

Commencement

Sch. 11(1) para. 35: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 35: United Kingdom

✔ Law In Force

36

In section 17 (offences in relation to scheme under section 16), omit—
(a) subsection (2), and
(b) in subsection (3), paragraph (c) and “or” preceding it.

Commencement

Sch. 11(1) para. 36(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 36(a)-(b): United Kingdom

Superannuation Act 1965 (c. 74)

✔ Law In Force

37

In section 39 (meaning of “public office” etc.), in subsection (1), in paragraph 7, omit the entry relating to English Nature.

Commencement

Sch. 11(1) para. 37: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 37: United Kingdom

Sea Fisheries Regulation Act 1966 (c. 38)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
[England, Scotland and Northern Ireland](#) | [Wales](#)

 Repealed

England, Scotland and Northern Ireland

38 [...]¹

Notes

¹ Repealed by Marine and Coastal Access Act 2009 c. 23 Sch.22(4) para.1 (April 1, 2011 as SI 2011/556)


Wales

[...]¹

Notes

¹ Repealed by Marine and Coastal Access Act 2009 c. 23 Sch.22(4) para.1 (April 1, 2010 as SI 2010/630)

Parliamentary Commissioner Act 1967 (c. 13)

 Law In Force

39

(1) Amend Schedule 2 (departments and authorities subject to investigation) as follows.

(2) Insert at the appropriate places–

“Commission for Rural Communities.”, and
“Natural England.”

(3) Omit the entries relating to the Countryside Agency and English Nature.

Commencement

Sch. 11(1) para. 39(1)-(2): May 2, 2006 for purposes specified in SI 2006/1176, art.4; October 1, 2006 otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2)

Sch. 11(1) para. 39(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 39(1)-(3): United Kingdom

Agriculture Act 1967 (c. 22)

✔ Law In Force

40

Omit section 24 (disclosure of information).

Commencement

Sch. 11(1) para. 40: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 40: United Kingdom

Countryside Act 1968 (c. 41)

✘ Repealed

41 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(c) (May 21, 2016)

✘ Repealed

42 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(c) (May 21, 2016)

✔ Law In Force

43

(1) Amend section 2 (new functions of the Agency) as follows.

(2)-(3) [...]¹

(4) In subsection (5)–

(a)-(b) [...]²

(c) in paragraph (b)–

(i) [...]²

(ii) for “provisions of section 1(2)” substitute “purposes mentioned in section 1(1)”.

(5) [...]³

(6) In subsection (9)–

(a) omit “Agency and the” and “Agency or”, and

(b) for “Exchequer grants under the Act of 1949” substitute “grants under section 16 of the Welsh Development Agency Act 1975”.

(7) [...]⁴**Notes**

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(d)(i) (May 21, 2016)

² Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(d)(ii) (May 21, 2016)

³ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(d)(iii) (May 21, 2016)

⁴ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(d)(iv) (May 21, 2016)

Commencement

Sch. 11(1) para. 43(1)-(7): October 1, 2006 (SI 2006/2541 art. 2)


Extent

Sch. 11(1) para. 43(1)-(7): United Kingdom

 Repealed

44 [...]¹**Notes**

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(e) (May 21, 2016)

 Law In Force

45


In section 8 (country park: sailing, boating, bathing and fishing), in subsection (5), for “the Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 45: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 45: United Kingdom

 Law In Force

46

(1) Amend section 12 (facilities in or near National Parks) as follows.

(2) In subsection (1)–

- (a) in the first sentence, omit “, at the request of, and in accordance with terms laid down by, the Agency or, as the case may be, the Council,” and
- (b) omit the second sentence.

(3) In subsection (5), in the first sentence, for “the Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 46(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 46(1)-(3): United Kingdom

✔ Law In Force

47

In section 13 (lakes in national parks: control of boats etc.), in subsection (4)–

- (a) for “sections 1 and” substitute “section”, and
- (b) for “the Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 47(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 47(a)-(b): United Kingdom

✔ Law In Force

48

(1) Amend section 15 (agreements in respect of areas of special scientific interest) as follows.

(2) In–

- (a) subsection (1), for “the Nature Conservancy Council (in this section referred to as “the Council”)” substitute “the Council or Scottish Natural Heritage”, and
- (b) in subsections (2) and (3), after “the Council” insert “or (as the case may be) Scottish Natural Heritage”.

(3) In subsection (6), in the substituted subsection (4), for “the Council” substitute “Scottish Natural Heritage”.

(4) Omit subsection (6A).

Commencement

Sch. 11(1) para. 48(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 48(1)-(4): United Kingdom

✔ Law In Force

49

(1) Amend section 15A (compulsory purchase) as follows.

(2) For subsection (1) substitute—

“(1) Natural England or the Council may, in the circumstances set out in subsection (2), acquire compulsorily all or part of the land which it appears to that body expedient to acquire for the purpose of conserving flora, fauna, or geological or physiographical features of special interest.”

(3) In subsection (2)—

(a) in paragraph (a)—

(i) for “the Nature Conservancy Council” substitute “Natural England or (as the case may be) the Council”, and

(ii) for “such an agreement as is referred to in section 15(2)” substitute “an SSSI agreement”, and

(b) in paragraph (b), for “such an agreement” substitute “an SSSI agreement”.

(4) In subsection (4), for “the Nature Conservancy Council” substitute “Natural England or the Council”.

(5) Omit subsection (5).

(6) After subsection (4) insert—

“(6) In this section “SSSI agreement” means—

(a) in relation to Natural England, an agreement under section 7 of the 2006 Act imposing, for the purpose of conserving flora, fauna, or geological or physiographical features of special interest, restrictions on the exercise of rights over land by persons having an interest in the land, or

(b) in relation to the Council, such an agreement as is referred to in section 15(2).”

Commencement

Sch. 11(1) para. 49(1)-(6): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 49(1)-(6): United Kingdom

 Repealed

50 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(f) (May 21, 2016)

 Law In Force

51


In section 37 (protection for interests in countryside) for “the Agency, the Council, English Nature” substitute “Natural England, the Council”.

Commencement

Sch. 11(1) para. 51: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 51: United Kingdom

 Law In Force

52


In section 38 (avoidance of pollution), for “the Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 52: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 52: United Kingdom

 Law In Force

53

(1) Amend section 41 (power to make byelaws and related provisions about wardens) as follows.

(2) For subsection (2) substitute–

“(2) Natural England and the Council may make byelaws for the preservation of order and other purposes mentioned in subsection (1)–

(a) in the case of Natural England, as respects land–

(i) to which the public have rights of access under a management agreement under section 7 of the Natural Environment and Rural Communities Act 2006, or

- (ii) held by them for the purposes of an experimental scheme under section 8 of that Act, and
- (b) in the case of the Council, as respects land–
 - (i) held by them for the purposes of section 4, or
 - (ii) to which the public have access under an agreement under section 4(5)(b).”


(3) In subsections (5), (8) and (9), for “the Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 53(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 53(1)-(3): United Kingdom

 Law In Force

54


In section 45 (agreements with landowners), in subsection (1), omit “the Agency”.

Commencement

Sch. 11(1) para. 54: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 54: United Kingdom

 Law In Force

55

(1) Amend section 46 (application of general provisions of 1949 Act) as follows.

(2) [...] ¹

(3) In subsection (4), omit “experimental projects or schemes”.

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(g) (May 21, 2016)

Commencement

Sch. 11(1) para. 55(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 55(1)-(3): United Kingdom

✔ Law In Force

56

In section 49 (interpretation), in subsection (2), omit the definition of “the Agency”.

Commencement

Sch. 11(1) para. 56: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 56: United Kingdom

Conservation of Seals Act 1970 (c. 30)

✘ Repealed

57 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(h) (May 21, 2016)

Superannuation Act 1972 (c. 11)

✔ Law In Force

58

(1) Amend Schedule 1 (kinds of employment to which that Act applies) as follows.

(2) Insert at the appropriate places–

“Commission for Rural Communities.”, and
“Natural England.”

(3) Omit the entries relating to the Countryside Agency and English Nature.

Commencement

Sch. 11(1) para. 58(1)-(2): May 2, 2006 for purposes specified in SI 2006/1176, art.4; October 1, 2006 otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2)

Sch. 11(1) para. 58(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 58(1)-(3): United Kingdom

Local Government Act 1974 (c. 7)


 Repealed

59 [...] ¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(i) (May 21, 2016)

House of Commons Disqualification Act 1975 (c. 24)

 Law In Force

60

(1) Amend Schedule 1 (offices disqualifying for membership) as follows.

(2) In Part 2 (bodies of which all members are disqualified), insert at the appropriate places—

“Commission for Rural Communities.”, and
“Natural England.”

(3) In Part 3 omit the entries relating to the Countryside Agency and English Nature.

Commencement

Sch. 11(1) para. 60(1)-(2): May 2, 2006 for purposes specified in SI 2006/1176, art.4; October 1, 2006 otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2)

Sch. 11(1) para. 60(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 60(1)-(3): United Kingdom

Race Relations Act 1976 (c. 74)

 Repealed

61 [...] ¹

Notes

¹ Repealed by Equality Act 2010 c. 15 Sch.27(1A) para.1 (April 5, 2011 as SI 2011/1066)

Import of Live Fish (England and Wales) Act 1980 (c. 27)

✓ Law In Force

62

In section 1 (power to limit the import etc. of fish and fish eggs), in subsection (2) for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 62: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 62: United Kingdom

Highways Act 1980 (c. 66)

✓ Law In Force

63

In section 105B (procedure), in subsection (8), in paragraph (b) of the definition of “the consultation bodies”, for “the Countryside Agency, English Heritage and English Nature” substitute “Natural England and English Heritage”.

Commencement

Sch. 11(1) para. 63: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 63: United Kingdom

✓ Law In Force

64

In section 119D (diversion of certain highways for protection of sites of special scientific interest), in subsection (12), in paragraph (a) of the definition of “the appropriate conservation body”, for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 64: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 64: United Kingdom

✔ Law In Force

65

In section 119E (provisions supplementary to section 119D), in subsection (2), at the end of paragraph (a) insert “and” and omit paragraph (c) and “and” preceding it.

Commencement

Sch. 11(1) para. 65: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 65: United Kingdom

✔ Law In Force

66

In section 120 (exercise of powers of making public path extinguishment and diversion orders), in subsection (2)(c), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 66: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 66: United Kingdom

✔ Law In Force

67

In section 135A (temporary diversion for dangerous works), in subsection (6)(b), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 67: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 67: United Kingdom

Animal Health Act 1981 (c. 22)

✔ Law In Force

68

(1) Amend section 21 (destruction of wild life on infection other than rabies) as follows.

(2) In subsection (3), for “Nature Conservancy Council” substitute “appropriate conservation body”.

(3) In subsection (9), in the definition of “Nature Conservancy Council”, for ““Nature Conservancy Council” means English Nature,” substitute ““appropriate conservation body” means Natural England,”.

Commencement

Sch. 11(1) para. 68(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 68(1)-(3): United Kingdom

✔ Law In Force

69

In section 22 (powers of entry for section 21), in subsection (7)–

(a) in paragraph (a), for “a Nature Conservancy Council under section 132 of the Environmental Protection Act 1990 or by Scottish Natural Heritage under section 4(7) of the Natural Heritage (Scotland) Act 1991” substitute “the appropriate conservation body”, and

(b) for “the Council” (in both places) substitute “the body”.

Commencement

Sch. 11(1) para. 69(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 69(a)-(b): United Kingdom

Wildlife and Countryside Act 1981 (c. 69)

✔ Law In Force

70

In section 10 (exceptions to section 9), in subsection (5), for “Nature Conservancy Council” substitute “conservation body”.

Commencement

Sch. 11(1) para. 70: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 70: United Kingdom

✔ Law In Force

71

In section 15 (endangered species (import and export)), in subsection (2), for “Nature Conservancy Councils” substitute “GB conservation bodies”.

Commencement

Sch. 11(1) para. 71: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 71: United Kingdom

✔ Law In Force

72

(1) Amend section 16 (power to grant licences) as follows.

(2) In subsection (4), for “section 14” substitute “sections 14 and 14ZA”.

(3) In subsections (9)(a) and (c), (10)(b) and (11), for “Nature Conservancy Council” substitute “conservation body”.

(4) In subsection (10)(a)–

(a) for “Nature Conservancy Councils” substitute “GB conservation bodies”, and

(b) for “Council” substitute “body”.

(5) Sub-paragraph (2) extends to England and Wales (including their adjacent territorial waters) only.

Commencement

Sch. 11(1) para. 72(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 72(1), (3)-(5): United Kingdom

Sch. 11(1) para. 72(2): England, Wales

✔ Law In Force

73

(1) In section 21 (penalties, forfeitures, etc.), in subsections (4) and (6)(b), after “section 14” insert “or 14ZA”.

(2) This paragraph extends to England and Wales (including their adjacent territorial waters) only.

Commencement

Sch. 11(1) para. 73(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 73(1): England, Wales

Sch. 11(1) para. 73(2): United Kingdom

✔ Law In Force

74

(1) Amend section 22 (power to vary Schedules) as follows.

(2) In subsection (3)–

(a) for “jointly to him by the Nature Conservancy Councils” substitute “to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act”; and

(b) omit the words following paragraph (b).

(3) After subsection (3) insert–

“(3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.”

Commencement

Sch. 11(1) para. 74(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 74(1)-(3): United Kingdom

✔ Law In Force

75

- (1) Amend section 24 (functions of Nature Conservancy Council) as follows.
- (2) In subsection (1)–
 - (a) for “Nature Conservancy Councils, acting jointly,” substitute “GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act”, and
 - (b) omit the words following paragraph (b).
- (3) After subsection (1) insert–

“(1A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.”
- (4) In subsection (4), for “Nature Conservancy Councils” substitute “GB conservation bodies”.
- (5) For the heading substitute “Functions of GB conservation bodies”.

Commencement

Sch. 11(1) para. 75(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 75(1)-(5): United Kingdom

✔ Law In Force

76

- (1) Amend section 27 (interpretation of Part 1) as follows.
- (2) In subsection (1), in paragraph (c) of the definition of “authorised person”, for “Nature Conservancy Councils” substitute “GB conservation bodies”.
- (3) In that subsection, after the definition of “poultry”, insert–

““premises” includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport;”.
- (4) For subsection (3A) substitute–

“(3A) In this Part “the GB conservation bodies” means–
 - (a) Natural England,
 - (b) the Countryside Council for Wales, and
 - (c) Scottish Natural Heritage,and references to a conservation body are to be read accordingly.”
- (5) Sub-paragraph (3) extends to England and Wales (including their adjacent territorial waters) only.

Commencement

Sch. 11(1) para. 76(1)-(5): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 76(1)-(2), (4)-(5): United Kingdom

Sch. 11(1) para. 76(3): England, Wales

✔ Law In Force

77

Omit section 27A (construction of references to Nature Conservancy Council) and the heading preceding it.

Commencement

Sch. 11(1) para. 77: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 77: United Kingdom

✔ Law In Force

78

Before section 28 insert–

“Sites of special scientific interest and limestone pavements

27AA Application of sections 28 to 34 in Wales

In relation to land in Wales, sections 28 to 34 (which relate to sites of special scientific interest and limestone pavements) have effect as if references to Natural England were references to the Countryside Council for Wales.”

Commencement

Sch. 11(1) para. 78: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 78: United Kingdom

✔ Law In Force

79

In sections 28 to 32 (which relate to sites of special scientific interest), for “the Nature Conservancy Council” and “the Council” (or “the Council's”) substitute “Natural England” (or “Natural England's”).

Commencement

Sch. 11(1) para. 79: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 79: United Kingdom

✘ Repealed

80 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(j) (May 21, 2016)

✔ Law In Force

81

(1) Amend section 28G (statutory undertakers, etc.: general duty) as follows.

(2) In subsection (3)(e), omit “(meaning the persons referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990)”.

(3) After subsection (3) insert–

“(4) “Statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.”

Commencement

Sch. 11(1) para. 81(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 81(1)-(3): United Kingdom

✔ Law In Force

82

In section 33 (ministerial guidance as respects areas of special scientific interest), in subsection (1), for “Nature Conservancy Councils” substitute “Natural England”.

Commencement

Sch. 11(1) para. 82: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 82: United Kingdom

✔ Law In Force

83

(1) Amend section 34 (limestone pavement orders) as follows.

(2) For subsection (1) substitute–

“(1) Natural England must notify any local planning authority of any limestone pavement in that authority's area.”

(3) In subsection (3), for “the Council and the Agency” substitute “Natural England”.

(4) In subsection (5), omit from “or Part” to the end.

(5) In subsection (6), omit–

(a) the definition of “the Agency”, and

(b) paragraph (b) of the definition of “the relevant authority”.

Commencement

Sch. 11(1) para. 83(1)-(5)(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 83(1)-(5)(b): United Kingdom

✔ Law In Force

84

Before section 35 insert–

“Nature reserves, marine nature reserves and Ramsar sites

34A Meaning of “appropriate conservation body”

In the following provisions of this Part “the appropriate conservation body” means–

(a) in relation to England, Natural England;

(b) in relation to Wales, the Countryside Council for Wales;


(c) in relation to Scotland, Scottish Natural Heritage.”

Commencement

Sch. 11(1) para. 84: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 84: United Kingdom

 Law In Force

85


In sections 35 to 37, for “the Nature Conservancy Council” and “the Council” substitute “the appropriate conservation body”.

Commencement

Sch. 11(1) para. 85: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 85: United Kingdom

 Law In Force

86


In section 37A (Ramsar sites- wetlands of international importance), in subsections (1)(a) and (3) for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 86: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 86: United Kingdom

 Law In Force

87

In section 39 (management agreements with owners and occupiers of land), omit subsection (5)(d).

Commencement

Sch. 11(1) para. 87: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 87: United Kingdom

✔ Law In Force

88

- (1) Amend section 41 (duties of agriculture Ministers with respect to the countryside) as follows.
- (2) In subsection (3), omit the words after paragraph (b).
- (3) In subsection (5), for the definitions of “management agreement” and “the relevant authority” substitute–

““management agreement” means–

- (a) in relation to England, an agreement under section 39 or under section 7 of the Natural Environment and Rural Communities Act 2006, and
- (b) in relation to Wales, an agreement under section 39;

“the relevant authority” has the same meaning as in section 39 except that in relation to England it also includes Natural England.”

- (4) Omit subsection (6).

Commencement

Sch. 11(1) para. 88(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 88(1)-(4): United Kingdom

✔ Law In Force

89

Before section 42 insert–

“41A Application of sections 42 to 45 in Wales

In relation to land in Wales, sections 42 to 45 (which relate to National Parks) have effect as if references to Natural England were references to the Countryside Council for Wales.”

Commencement

Sch. 11(1) para. 89: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 89: United Kingdom

✔ Law In Force

90

- (1) Amend section 43 (maps of National Parks showing certain areas of moor or heath) as follows.
 - (2) In subsection (1B)–
 - (a) for “The Countryside Agency and the Countryside Council for Wales shall each” substitute “Natural England shall”, and
 - (b) for “the Agency and the Council may each” substitute “Natural England may”.
 - (3) In subsection (1C), for “the Agency or, as the case may be, the Council” substitute “Natural England”.
-

Commencement

Sch. 11(1) para. 90(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 90(1)-(3): United Kingdom

✔ Law In Force

91

- (1) Amend section 45 (power to vary orders designating National Park) as follows.
 - (2) In subsection (1)–
 - (a) for “the Countryside Agency” (in both places) substitute “Natural England”, and
 - (b) omit “in England”.
 - (3) Omit subsection (2).
-

Commencement

Sch. 11(1) para. 91(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 91(1)-(3): United Kingdom

✔ Law In Force

92

- (1) Amend section 47 (provisions with respect to the Countryside Agency) as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), omit “to the Countryside Agency or”.
- (4) For the heading substitute “Grants to the Countryside Council for Wales”.

Commencement

Sch. 11(1) para. 92(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 92(1)-(4): United Kingdom

✔ Law In Force

93

In section 49 (extension of power to appoint wardens)–

(a) in subsection (1) for “the Countryside Agency”, and

(b) in subsection (4) for “Countryside Agency” and “the Countryside Agency”,
substitute “Natural England”.

Commencement

Sch. 11(1) para. 93(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 93(a)-(b): United Kingdom

✔ Law In Force

94

(1) Amend section 50 (payments under certain agreements offered by authorities) as follows.

(2) In subsection (1), in paragraph (a), for “the Nature Conservancy Council offer to enter into an agreement under” substitute “Natural England or the Countryside Council for Wales offer to enter into a nature reserve agreement or an SSSI agreement or an agreement under”.

(3) In subsection (3), omit “(or, in Scotland, an arbiter)” and “(or, in Scotland, the arbiter's)”.

(4) In subsection (4), at the end insert–

““nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act;
“SSSI agreement” has the same meaning as in section 15A of the 1968 Act.”

Commencement

Sch. 11(1) para. 94(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 94(1)-(4): United Kingdom

✔ Law In Force

95

(1) Amend section 51 (powers of entry) as follows.

(2) In subsection (1)–

(a) in paragraph (c), after “enter into”, and

(b) in paragraph (h), after “terms of” in the first place where it occurs,
insert “a nature reserve agreement or an SSSI agreement or”.

(3) In subsection (2)(a), for “the Nature Conservancy Council” substitute “Natural England or the Countryside Council for Wales”.

(4) After subsection (2) insert–

“(2A) In subsection (1)–

“nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act;

“SSSI agreement” has the same meaning as in section 15A of the 1968 Act.”

Commencement

Sch. 11(1) para. 95(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 95(1)-(4): United Kingdom

✔ Law In Force

96

In section 52 (interpretation of Part 2), in subsection (1), omit the definition of “the Nature Conservancy Councils” and the words concerning the construction of references to “the Nature Conservancy Council”.

Commencement

Sch. 11(1) para. 96: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 96: United Kingdom

✔ Law In Force

97

(1) Amend section 71 (general interpretation) as follows.

(2) Re-number the existing provision subsection (1).

(3) After that subsection insert–

“(2) For the avoidance of doubt it is hereby declared that in this Act “plants” include fungi and algae.”

(4) This paragraph extends only to England and Wales and to the territorial waters adjacent to England and Wales.

Commencement

Sch. 11(1) para. 97(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 97(1)-(4): England, Wales

 Law In Force

98

Omit Schedule 13 (provisions with respect to the Countryside Agency).

Commencement

Sch. 11(1) para. 98: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 98: United Kingdom

Derelict Land Act 1982 (c. 42)

 Repealed

99 [...]¹

Notes

¹ Repealed by Deregulation Act 2015 c. 20 Sch.22(1) para.7(2) (May 26, 2015)

Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))

 Law In Force

100

Omit—


- (a) Article 21 (committee of investigation), and
- (b) Article 22 (action following report by a committee of investigation).

Commencement

Sch. 11(1) para. 100(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 100(a)-(b): United Kingdom

 Law In Force

101

(1) Amend Article 29 (restrictions on disclosing certain information obtained under Part 2) as follows.

(2) In paragraph (2), for the words from “this Part” to the end of the paragraph substitute “this Part on any board”.

(3) In paragraph (3), omit “or by the General Consumer Council (Northern Ireland) Order 1984”.


Commencement

Sch. 11(1) para. 101(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 101(1)-(3): United Kingdom

Miscellaneous Financial Provisions Act 1983 (c. 29)

 Law In Force

102

Omit section 1 (functions of Countryside Agency in relation to economic and social development of rural areas in England).

Commencement

Sch. 11(1) para. 102: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 102: United Kingdom

National Heritage Act 1983 (c. 47)

✔ Law In Force

103

In section 24 (general functions of the Board), omit subsections (7) and (8) (fixing of opening hours and fees subject to Treasury consent).

Commencement

Sch. 11(1) para. 103: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 103: United Kingdom

Road Traffic Regulation Act 1984 (c. 27)

✔ Law In Force

104

(1) Amend section 22 (traffic regulation for special areas in the countryside) as follows.

(2) In subsection (1)(a), for sub-paragraphs (iv) and (v) substitute–

“(iv) an area in which Natural England is conducting an experimental scheme under section 8 of the Natural Environment and Rural Communities Act 2006 or the Countryside Council for Wales are conducting a scheme under section 4 of the 1968 Act,

(v) a nature reserve or an area subject to an SSSI agreement or an agreement under section 15 of the 1968 Act.”.

(3) In subsection (3), for “The Countryside Agency” substitute “Natural England”.

(4) After subsection (4) insert–

“(4A) In subsection (1)(a)(v) above, “SSSI agreement” has the same meaning as in section 15A of the Countryside Act 1968”.

Commencement

Sch. 11(1) para. 104(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 104(1)-(4): United Kingdom

Inheritance Tax Act 1984 (c. 51)

✔ Law In Force

105

In Schedule 3 (gifts for national purposes, etc.), for “English Nature” substitute–

“Commission for Rural Communities.
Natural England.”

Commencement

Sch. 11(1) para. 105: May 2, 2006 for purposes specified in SI 2006/1176, art.4; October 1, 2006 otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 105: United Kingdom

General Consumer Council (Northern Ireland) Order 1984 (S.I. 1984/1822 (N.I. 12))

✔ Law In Force

106

Omit Article 7 (functions of the General Consumer Council in relation to agricultural marketing schemes).

Commencement

Sch. 11(1) para. 106: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 106: United Kingdom

Agriculture Act 1986 (c. 49)

✔ Law In Force

107

In section 18 (designation and management of environmentally sensitive areas), in subsection (2)(a) for “the Countryside Agency and English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 107: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 107: United Kingdom

Channel Tunnel Act 1987 (c. 53)

✔ Law In Force

108

In Schedule 2 (supplementary provisions as to the scheduled works and other authorised works), in paragraph 5(3), for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 108: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 108: United Kingdom

✔ Law In Force

109

In Schedule 3 (planning permission), in paragraph 17(4), for paragraphs (a) and (b) substitute—

“(a) where the authority consider that nature conservation or the conservation of the natural beauty and amenity of the countryside may be affected, Natural England;”.

Commencement

Sch. 11(1) para. 109: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 109: United Kingdom

Norfolk and Suffolk Broads Act 1988 (c. 4)

✓ Law In Force

110

- (1) Amend section 4 (conservation of areas of natural beauty) as follows.
- (2) In subsection (3)(a), for “English Nature” substitute “Natural England”.
- (3) In subsection (4), for “Countryside Commission” substitute “Agency”.
- (4) In subsection (5), for the words from “the Countryside Commission” to the end substitute “the Agency must consult such bodies appearing to it to represent interests concerned as it considers appropriate.”

Commencement

Sch. 11(1) para. 110(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 110(1)-(4): United Kingdom

✓ Law In Force

111

In section 5 (notification of certain operations within the Broads), in subsection (4), for “, English Nature and the Countryside Commission” substitute “and Natural England”.

Commencement

Sch. 11(1) para. 111: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 111: United Kingdom

✓ Law In Force

112

In—

- (a) section 6 (byelaws: general), in subsection (4),
 - (b) section 15 (grants from Secretary of State), in subsection (2), and
 - (c) Schedule 1 (the Broads Authority), in paragraph 6,
- for “the Countryside Commission” substitute “Natural England”.

Commencement

Sch. 11(1) para. 112(a)-(c): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 112(a)-(c): United Kingdom

✔ Law In Force

113

In Schedule 2 (variation of area treated as the broads)–

(a) in paragraph 3, for “the Countryside Commission”, and

(b) in paragraphs 4, 5, 6, 7 and 10, for “the Commission” (in each place), substitute “Natural England”.

Commencement

Sch. 11(1) para. 113(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 113(a)-(b): United Kingdom

✔ Law In Force

114

In Schedule 3 (functions of Authority), in paragraph 33(1), for paragraphs (b) and (c) substitute–

“(b) Natural England;”.

Commencement

Sch. 11(1) para. 114: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 114: United Kingdom

Electricity Act 1989 (c. 29)

✔ Law In Force

115

In Schedule 9 (preservation of amenity and fisheries), in paragraph 2(2)–

(a) omit “with the Countryside Agency, and”, and

(b) for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 115(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 115(a)-(b): United Kingdom

Environmental Protection Act 1990 (c. 43)

 Repealed

116 [...]¹

Notes

¹ Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

 Repealed

117 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(k) (May 21, 2016)

 Repealed

118 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(k) (May 21, 2016)

 Repealed

119 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(k) (May 21, 2016)

 Repealed

120 [...]¹

Notes


¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(k) (May 21, 2016)

 Repealed

121 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(k) (May 21, 2016)

 Law In Force

122

Omit section 133 (special functions of the Councils).

Commencement

Sch. 11(1) para. 122: October 1, 2006 (SI 2006/2541 art. 2)

Extent


Sch. 11(1) para. 122: United Kingdom

 Repealed

123 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(l) (May 21, 2016)

 Law In Force

124

Omit sections 135 to 138 (dissolution of Nature Conservancy Council etc.).

Commencement

Sch. 11(1) para. 124: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 124: United Kingdom

✔ Law In Force

125

In section 161 (regulations, orders and directions), in subsection (4)(b), after “under section” insert “128(3)”.

Commencement

Sch. 11(1) para. 125: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 125: United Kingdom

✘ Repealed

126 [...]¹

Notes

¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(m) (May 21, 2016)

✔ Law In Force

127

Omit Schedules 7 (the Joint Nature Conservation Committee) and 10 (transfer schemes and staff of existing councils).

Commencement

Sch. 11(1) para. 127: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 127: United Kingdom

Deer Act 1991 (c. 54)

✔ Law In Force

128

(1) Amend section 8 (exceptions for persons licensed by the Nature Conservancy Council for England or the Countryside Council for Wales) as follows.

(2) In subsections (1) and (4), for “English Nature” substitute “Natural England”.

(3) In the heading, for “the Nature Conservancy Council for England” substitute “Natural England”.

Commencement

Sch. 11(1) para. 128(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 128(1)-(3): United Kingdom

Water Industry Act 1991 (c. 56)

✔ Law In Force

129

- (1) Amend section 4 (environmental duties with respect to sites of special interest) as follows.
- (2) In subsection (1)–
 - (a) for “English Nature” substitute “Natural England”, and
 - (b) for “that Council” substitute “Natural England or (as the case may be) the Council”.
- (3) In subsection (4), for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 129(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 129(1)-(3): United Kingdom

✔ Law In Force

130

In section 5 (codes of practice with respect to environmental and recreational duties), in subsection (4)(b), for “the Countryside Agency, English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 130: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 130: United Kingdom

✓ Law In Force

131

(1) Amend section 156 (restriction on disposals of land) as follows.

(2) In subsection (4)(c), for sub-paragraphs (i) and (ii) substitute–

“(i) consult with Natural England (as respects land in England) or the Countryside Council for Wales (as respects land in Wales); and
(ii) enter into such management agreements or such covenants under subsection (6) below as the Secretary of State may determine;”.

(3) In subsection (4)(d)–

(a) for “the Countryside Agency” substitute “Natural England”, and

(b) for “that Agency or Council” substitute “Natural England or the Countryside Council for Wales”.

(4) In subsection (8), omit “and” preceding the definition of “the Broads” and after that definition insert–

““management agreement” means–

(a) in relation to land in England, an agreement under section 39 of the Wildlife and Countryside Act 1981 or section 7 of the Natural Environment and Rural Communities Act 2006;

(b) in relation to land in Wales, an agreement under section 39 of the Wildlife and Countryside Act 1981.”

Commencement

Sch. 11(1) para. 131(1)-(4): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 131(1)-(4): United Kingdom

✓ Law In Force

132

In Schedule 1A (the Water Services Regulation Authority), omit paragraph 11.

Commencement

Sch. 11(1) para. 132: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 132: United Kingdom

Water Resources Act 1991 (c. 57)

✓ Law In Force

133

In Schedule 6 (orders relating to abstraction of small quantities and compulsory registration of protected rights), in paragraph 1(4)(g), for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 133: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 133: United Kingdom

Land Drainage Act 1991 (c. 59)

✓ Law In Force

134

(1) Amend section 61C (duties with respect to sites of special scientific interest) as follows.

(2) In subsection (1)–

(a) for “English Nature” substitute “Natural England”, and

(b) for “that Council” substitute “Natural England or the Countryside Council for Wales”.

(3) In subsection (4), for “English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 134(1)-(3): September 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 134(1)-(3): United Kingdom

✓ Law In Force

135

In section 61E (codes of practice), in subsection (4)(b), for “the Countryside Agency, English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 135: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 135: United Kingdom

Transport and Works Act 1992 (c. 42)

✔ Law In Force

136

In section 6 (applications for orders relating to railways, tramways, inland waterways etc.), in subsection (7)–

- (a) in paragraph (a), for “the Countryside Agency” substitute “Natural England”, and
- (b) omit paragraph (e) and “and” preceding it.

Commencement

Sch. 11(1) para. 136(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 136(a)-(b): United Kingdom

Protection of Badgers Act 1992 (c. 51)

✔ Law In Force

137

In section 10 (licences)–

- (a) in subsections (1), (3), (4) and (6), for “the appropriate Conservancy Council” (in each place) substitute “the appropriate conservation body”,
- (b) in subsection (4)(a), for “English Nature” substitute “Natural England”, and
- (c) in subsection (6), for “Council's” substitute “body's”.

Commencement

Sch. 11(1) para. 137(a)-(c): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 137(a)-(c): United Kingdom

Agriculture Act 1993 (c. 37)

✔ Law In Force

138

Omit section 20 (functions under section 19 of the Agricultural Marketing Act 1958).

Commencement

Sch. 11(1) para. 138: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 138: United Kingdom

Agriculture (Northern Ireland) Order 1993 (S.I. 1993/2665 (N.I. 10))

✔ Law In Force

139

Omit Article 22 (functions of certain bodies in relation to agricultural marketing schemes).

Commencement

Sch. 11(1) para. 139: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 139: United Kingdom

Environment Act 1995 (c. 25)

✔ Law In Force

140

In section 4 (principal aims and objectives of the Environment Agency), in subsection (5), for the words from “after consultation with the Agency and such other bodies or persons as” substitute

“after consultation with—
 “(a) the Agency,
 (b) Natural England, and


(c) such other persons as”.

Commencement

Sch. 11(1) para. 140: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 140: United Kingdom

 Law In Force

141

(1) Amend section 8 (environmental duties with respect to sites of special interest) as follows.

(2) In subsection (1)–

(a) for “English Nature” substitute “Natural England” [.]¹

(b) [...] ¹

(3) In subsection (4), for “English Nature” substitute “Natural England”.

Notes


¹ Repealed by Environment (Wales) Act 2016 anaw. 3 Sch.2(1) para.9(4)(n) (May 21, 2016)

Commencement

Sch. 11(1) para. 141(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 141(1)-(3): United Kingdom

 Law In Force

142


In section 9 (codes of practice with respect to environmental and recreational duties), in subsection (3)(b), for “the Countryside Agency, English Nature,” substitute “Natural England”.

Commencement

Sch. 11(1) para. 142: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 142: United Kingdom

 Law In Force

143

In section 66 (National Park Management Plans), in subsection (7)(a), for “the Countryside Agency and English Nature” substitute “Natural England”.

Commencement

Sch. 11(1) para. 143: October 1, 2006 (SI 2006/2541 art. 2)

Extent


Sch. 11(1) para. 143: United Kingdom

 Repealed

144 [...]¹

Notes

¹ Repealed by Deregulation Act 2015 c. 20 Sch.22(1) para.11(2) (May 26, 2015)

 Law In Force

145

In section 99 (consultation before making or modifying certain subordinate legislation for England), in subsection (2), for paragraphs (b) and (c) substitute–

“(b) Natural England;”.

Commencement

Sch. 11(1) para. 145: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 145: United Kingdom

 Law In Force

146

In Schedule 7 (National Park authorities), in paragraphs 4(1) and 14(3), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 146: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 146: United Kingdom

Channel Tunnel Rail Link Act 1996 (c. 61)

✓ Law In Force

147

In Schedule 6 (planning conditions), in the table in paragraph 27(4), for the entries relating to English Nature and the Countryside Agency substitute–

“Nature conservation or conservation of the natural beauty or amenity
of the countryside | Natural England.”

Commencement

Sch. 11(1) para. 147: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 147: United Kingdom

✓ Law In Force

148

In Schedule 14 (overhead lines: consent), in the table in paragraph 7(4), for the entries relating to English Nature and the Countryside Agency substitute–

“Nature conservation or conservation of the natural beauty or amenity
of the countryside | Natural England.”

Commencement

Sch. 11(1) para. 148: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 148: United Kingdom

Government of Wales Act 1998 (c. 38)

✓ Law In Force

149

In Schedule 4 (public bodies subject to reform by Assembly), omit paragraph 6.

Commencement

Sch. 11(1) para. 149: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 149: United Kingdom

✓ Law In Force

150

In Schedule 5 (bodies and offices covered by section 74), omit paragraph 21.

Commencement

Sch. 11(1) para. 150: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 150: United Kingdom

Greater London Authority Act 1999 (c. 29)

✓ Law In Force

151

In section 352 (the Mayor's biodiversity action plan), in subsection (3), for paragraphs (a) and (b) substitute—

“(a) Natural England, and”.

Commencement

Sch. 11(1) para. 151: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 151: United Kingdom

✓ Law In Force

152

In section 408 (transfer of property, rights or liabilities), in subsection (3), for paragraph (g) substitute–

“(g) Natural England;”.

Commencement

Sch. 11(1) para. 152: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 152: United Kingdom

Freedom of Information Act 2000 (c. 36)

✓ Law In Force

153

(1) In Schedule 1 (public authorities), amend Part 6 as follows.

(2) Insert at the appropriate places–

“Commission for Rural Communities.”, and
“Natural England.”

(3) Omit the entries relating to–

- (a) the Committee of Investigation for Great Britain,
- (b) the consumers' committee for Great Britain appointed under section 19 of the Agricultural Marketing Act 1958,
- (c) the Countryside Agency, and
- (d) English Nature.

Commencement

Sch. 11(1) para. 153(1)-(2): May 2, 2006 for purposes specified in SI 2006/1176, art.4; October 1, 2006 otherwise (SI 2006/1176 art. 4; SI 2006/2541 art. 2)

Sch. 11(1) para. 153(3)-(3)(d): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 153(1)-(3)(d): United Kingdom

Countryside and Rights of Way Act 2000 (c. 37)

✔ Law In Force

154

In section 1 (principal definitions for Part 1), in subsection (2), in paragraph (a) of the definition of “the appropriate countryside body”, for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 154: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 154: United Kingdom

✔ Law In Force

155

In section 4 (duty to prepare maps), in subsection (1), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 155: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 155: United Kingdom

✔ Law In Force

156

(1) Amend section 20 (codes of conduct and other information) as follows.

(2) In subsection (1), for “the Countryside Agency” substitute “Natural England”.

(3) In subsection (3), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 156(1)-(3): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 156(1)-(3): United Kingdom

✔ Law In Force

157

In section 26 (nature conservation and heritage preservation), in subsection (6)(a)(i), for “, English Nature” substitute “in respect of which Natural England is not the relevant authority, Natural England”.

Commencement

Sch. 11(1) para. 157: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 157: United Kingdom

✔ Law In Force

158

In section 33 (guidance by countryside bodies to National Park authorities)–
(a) in subsections (1) and (3), for “The Countryside Agency”, and
(b) in subsection (4), for “the Countryside Agency”,
substitute “Natural England”.

Commencement

Sch. 11(1) para. 158(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 158(a)-(b): United Kingdom

✔ Law In Force

159

In section 58 (application for path creation order), for subsection (1) substitute–

“(1) An application for the making of a public path creation order under section 26(2) of the 1980 Act may be made–

- (a) by Natural England to the Secretary of State, or
- (b) for the purpose of enabling the public to obtain access to any access land (within the meaning of Part 1) or of facilitating such access, by the Countryside Council for Wales to the National Assembly for Wales.”

Commencement

Sch. 11(1) para. 159: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 159: United Kingdom

✔ Law In Force

160

In section 61 (rights of way improvement plans: supplemental), in subsection (1)(f), for “the Countryside Agency” substitute “Natural England”.

Commencement

Sch. 11(1) para. 160: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 160: United Kingdom

✔ Law In Force

161

Omit section 73 (Nature Conservancy Council for England: change of name).

Commencement

Sch. 11(1) para. 161: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 161: United Kingdom

✔ Law In Force

162

Omit section 74 (conservation of biological diversity).

Commencement

Sch. 11(1) para. 162: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 162: United Kingdom

✔ Law In Force

163

In section 82 (designation of areas of outstanding natural beauty), in subsection (1)–
(a) for “the Countryside Agency (in this Part referred to as “the Agency”)” substitute “Natural England”, and


(b) for “the Agency may” substitute “Natural England may”.

Commencement

Sch. 11(1) para. 163(a)-(b): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 163(a)-(b): United Kingdom

 Law In Force

164

In each of the following provisions for “the Agency” substitute “Natural England”–

- (a) section 83(1), (2), (3), (5), (8) and (9);
- (b) section 84(1)(a) and (3);
- (c) section 86(6)(a);
- (d) section 90(1)(a)(i);
- (e) [...] ¹
- (f) in Schedule 13, paragraph 6(1).

Notes


¹ Repealed by Deregulation Act 2015 c. 20 Sch.22(1) para.15(2) (May 26, 2015)

Commencement

Sch. 11(1) para. 164(a)-(f): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 164(a)-(f): United Kingdom

 Law In Force

165

In section 85 (general duty of public bodies etc.), in subsection (3), after the definition of “public office” insert–

““statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990”.

Commencement

Sch. 11(1) para. 165: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 165: United Kingdom

✔ Law In Force

166

In section 87 (general purposes and powers), in subsection (2), omit “, but without incurring significant expenditure in doing so,”.

Commencement

Sch. 11(1) para. 166: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 166: United Kingdom

✔ Law In Force

167

In section 90 (supplementary provisions relating to management plans for areas of outstanding natural beauty), in subsection (1)(a)(i), omit “and English Nature”.

Commencement

Sch. 11(1) para. 167: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 167: United Kingdom

✔ Law In Force

168

In section 92 (interpretation of Part 4 etc.), in subsection (1), omit the definition of “the Agency”.

Commencement

Sch. 11(1) para. 168: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 168: United Kingdom

✔ Law In Force

169


In section 101 (expenses), omit paragraph (a).

Commencement

Sch. 11(1) para. 169: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 169: United Kingdom

 Law In Force

170

(1) In Schedule 11 (transitional provisions and savings relating to sites of special scientific interest), in paragraph 7, after sub-paragraph (2) insert—

“(3) In relation to a site of special scientific interest which is the subject of a notification to which this paragraph applies—

- (a) section 28B (notification of additional land) shall have effect as if subsection (3) were omitted; and
- (b) section 28C (enlargement of SSSI) shall have effect as if subsection (4) were omitted.”

(2) In the heading to paragraph 7, for “section 28A” substitute “sections 28A to 28C”.


Commencement

Sch. 11(1) para. 170(1)-(2): October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 170(1)-(2): United Kingdom

Scottish Public Services Ombudsman Act 2002 (asp 11)

 Law In Force

171

In Schedule 2 (listed authorities), in Part 2, omit paragraphs 62 and 65.


Commencement

Sch. 11(1) para. 171: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 171: United Kingdom

Water Act 2003 (c. 37)

 Law In Force

172

In Schedule 1 (the Water Services Regulation Authority), in the Schedule 1A to be inserted in the Water Industry Act 1991, omit paragraph 11.


Commencement

Sch. 11(1) para. 172: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 172: United Kingdom

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

 Law In Force

173

In Schedule 2 (the specified authorities), omit the entry relating to the Hill Farming Advisory Committee for Scotland.

Commencement

Sch. 11(1) para. 173: October 1, 2006 (SI 2006/2541 art. 2)

Extent

Sch. 11(1) para. 173: United Kingdom

Civil Contingencies Act 2004 (c. 36)

 Repealed

174 [...] ¹**Notes**

¹ Repealed, never in force by Marine and Coastal Access Act 2009 c. 23 Sch.22(8) para.1 (January 12, 2010)

PART 2


INLAND WATERWAYS

 Repealed

175 [...]¹

Notes

¹ Repealed by Inland Waterways Advisory Council (Abolition) Order 2012/1658 Sch.1 para.1 (July 2, 2012)

 Law In Force

176

In Part 1 of Schedule 17 to the Transport Act 1968 (provisions extending to Northern Ireland), omit “and 110”.

Commencement

Sch. 11(2) para. 176: April 1, 2007 (SI 2007/816 art. 2(b))


Extent

Sch. 11(2) para. 176: United Kingdom

SCHEDULE 12

REPEALS AND REVOCATIONS

Section 105(2)

 Law In Force

Repeals

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|---|--|
| Hill Farming Act 1946 (c. 73) | Section 32. |
| National Parks and Access to the Countryside Act 1949 (c. 97) | In section 1(1), “There shall be a Countryside Agency which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and” and “corresponding” (in both places). Section 1(2). In the heading to section 1, “Countryside Agency and the”. In section 6(1), “as soon as may be after the commencement of this Act, and thereafter”. Section 6(4) (a) and (c). |

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|--|---|
| Agricultural Marketing Act 1958 (c. 47) | <p>Section 9(2).</p> <p>In section 11A(1), “, but without incurring significant expenditure in doing so.”.</p> <p>Section 64(5).</p> <p>In section 114(1), the definition of “the Agency”.</p> <p>In section 19, subsections (1) to (5) and (9).</p> <p>In section 20, in subsection (3), the words from “, and if, within” to the end and subsections (4) and (7).</p> <p>In section 21, in subsection (1), paragraph (b) and “or” preceding it, “or, as the case may be, of the report or complaint” and “or direction”, in subsection (2), the proviso and subsection (3).</p> <p>In section 32, in subsection (1), “or committee” (in both places) and “or appointed”, in subsections (2) and (3), “or committee” (in each place) and subsection (4).</p> <p>In section 47, in subsection (2), “, consumers' committee, committee of investigation”.</p> <p>In section 53, in subsection (5), “consumers' committee and committees of investigation shall operate, and the” and the words from “, but when any such committee” to the end of the subsection.</p> <p>In Schedule 3, in Parts 2, 5 and 6, paragraphs 2 and 3.</p> |
| Public Records Act 1958 (c. 51) | In Schedule 1, in Part 2 of the table at the end of paragraph 3, the entries relating to English Nature and the Countryside Agency. |
| Cereals Marketing Act 1965 (c. 14) | <p>In section 6(2), “(subject to section 17(2) of this Act)”.</p> <p>In section 17, subsection (2) and, in subsection (3), paragraph (c) and “or” preceding it.</p> |
| Superannuation Act 1965 (c. 74) | In section 39, in subsection (1), in paragraph 7, the entry relating to English Nature. |
| Parliamentary Commissioner Act 1967 (c. 13) | In Schedule 2, the entries relating to the Countryside Agency and English Nature. |
| Agriculture Act 1967 (c. 22) | Section 24. |
| Countryside Act 1968 (c. 41) | <p>In section 2(9), “Agency and the” and “Agency or”.</p> <p>In section 12(1), in the first sentence, “, at the request of, and in accordance with terms laid down by, the Agency or, as the case may be, the Council,” and the second sentence.</p> <p>Section 15(6A).</p> <p>Section 15A(5).</p> <p>In section 23(5), “Countryside Agency and the” and “each”.</p> <p>In section 45(1), “the Agency,”.</p> <p>In section 46(4), “experimental projects or schemes,”.</p> <p>In section 49(2), the definition of “the Agency”.</p> |
| Transport Act 1968 (c. 73) | In Schedule 17, in Part 1, “and 110”. |
| Superannuation Act 1972 (c. 11) | In Schedule 1, the entries relating the Countryside Agency and English Nature. |
| Nature Conservancy Council Act 1973 (c. 54) | In Schedule 1, paragraphs 1, 2(2) and 9. |
| House of Commons Disqualification Act 1975 (c. 24) | In Schedule 1, in Part 3, the entries relating to the Countryside Agency and English Nature. |
| Race Relations Act 1976 (c. 74) | In Schedule 1A, in Part 2, the entries relating to English Nature, the Hill Farming Advisory Committee for Scotland and the Hill Farming Advisory Sub-Committee for Wales and, in Part 3, the entry relating to the Countryside Agency. |
| Highways Act 1980 (c. 66) | In section 119E(2), paragraph (c) and “and” preceding it. |

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|---|--|
| Wildlife and Countryside Act 1981 (c. 69) | In section 19(3), “(with or without other persons)”. Sections 19ZA and 19ZB. Section 21(4A) and (4D). In section 22(3), the words following paragraph (b). In section 24(1), the words following paragraph (b). Section 27A and the heading preceding it. In section 28G(3)(e), “(meaning the persons referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990)”. In section 34, in subsection (5), from “or Part” to the end and in subsection (6) the definition of “the Agency” and paragraph (b) of the definition of “the relevant authority”. Section 39(5)(d). In section 41, in subsection (3), the words after paragraph (b) and subsection (6). In section 45, in subsection (1), “in England” and subsection (2). In section 47, subsection (1) and, in subsection (2), “to the Countryside Agency or”. In section 50(3), “(or, in Scotland, an arbiter)” and “(or, in Scotland, the arbiter’s)”. In section 51(2)(c), “the Ministers or”. In section 52(1), the definition of “the Nature Conservancy Councils” and the words concerning the construction of references to “the Nature Conservancy Council”. Schedule 13. |
| Miscellaneous Financial Provisions Act 1983 (c. 29) | Section 1. |
| National Heritage Act 1983 (c. 47) | Section 24(7) and (8). |
| Road Traffic Act 1988 (c. 52) | In section 34(2), “(subject to section 34A of this Act)”. In Schedule 9, in paragraph 2(2), “with the Countryside Agency, and”. |
| Electricity Act 1989 (c. 29) | In section 155(4), “or” preceding paragraph (h). |
| Local Government and Housing Act 1989 (c. 42) | In section 130, in subsection (1) “, in place of the Commission established under section 1 of the National Parks and Access to the Countryside Act 1949 (so far as concerns Wales),” and, in subsection (4), “and the Countryside Agency” and “respective”. Section 131(5). In section 132, in subsection (1), the words from “and the Councils shall” to the end, and subsection (3). Section 133. Section 134(2). Sections 135 to 138. In Schedule 6, paragraphs 1 and 15(1). Schedule 7. In Schedule 8, paragraphs 2(2) to (4) and (6)(a), 6(3) and (4). In Schedule 9, paragraphs 4(2)(b), 10(3), 11(3), (5), (6)(a), (7)(b), (8), (12) and (13). Schedule 10. |
| Environmental Protection Act 1990 (c. 43) | In section 130, in subsection (1) “, in place of the Commission established under section 1 of the National Parks and Access to the Countryside Act 1949 (so far as concerns Wales),” and, in subsection (4), “and the Countryside Agency” and “respective”. Section 131(5). In section 132, in subsection (1), the words from “and the Councils shall” to the end, and subsection (3). Section 133. Section 134(2). Sections 135 to 138. In Schedule 6, paragraphs 1 and 15(1). Schedule 7. In Schedule 8, paragraphs 2(2) to (4) and (6)(a), 6(3) and (4). In Schedule 9, paragraphs 4(2)(b), 10(3), 11(3), (5), (6)(a), (7)(b), (8), (12) and (13). Schedule 10. |
| Natural Heritage (Scotland) Act 1991 (c. 28) | In Schedule 2, paragraphs 7(3) and 8(5). |
| Water Industry Act 1991 (c. 56) | In section 156(8), “and” preceding the definition of “the Broads”. In Schedule 1A, paragraph 11. |
| Transport and Works Act 1992 (c. 42) | In section 6(7), paragraph (e) and “and” preceding it. |
| Agriculture Act 1993 (c. 37) | Section 20. |

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|--|--|
| Government of Wales Act 1998 (c. 38) | In Schedule 4, paragraph 6. In Schedule 5, paragraph 21. |
| Freedom of Information Act 2000 (c. 36) | In Schedule 1, in Part 6, the entries relating to the Committee of Investigation for Great Britain, the consumers' committee for Great Britain appointed under section 19 of the Agricultural Marketing Act 1958, the Countryside Agency and English Nature. |
| Countryside and Rights of Way Act 2000 (c. 37) | Sections 73 and 74. Section 80(4)(a). In section 87(2), “, but without incurring significant expenditure in doing so.” In section 90(1)(a)(i), “and English Nature”. In section 92(1), the definition of “the Agency”. Section 101(a). In Schedule 4, paragraph 5. In Schedule 7, paragraphs 6 and 7. In Schedule 8, paragraphs 1 and 2. In Schedule 12, paragraph 8. In Schedule 15, paragraph 1. |
| Scottish Public Services Ombudsman Act 2002 (asp 11) | In Schedule 2, in Part 2, paragraphs 62 and 65. |
| Water Act 2003 (c. 37) | In Schedule 1, in the Schedule 1A to be inserted in the Water Industry Act 1991, paragraph 11. |
| Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) | In Schedule 2, the entry relating to the Hill Farming Advisory Committee for Scotland. |

Revocations

| <i>Title and number</i> | <i>Extent of revocation</i> |
|--|--|
| Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12)) | Articles 21 and 22. In Article 29(3), “or by the General Consumer Council (Northern Ireland) Order 1984”. |
| General Consumer Council (Northern Ireland) Order 1984 (S.I. 1984/1822 (N.I. 12)) | Article 7. In Schedule 2, Part 3. |
| Agriculture (Northern Ireland) Order 1993 (S.I. 1993/2665 (N.I. 10)) | Article 22. |
| Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (S.I. 1999/416) | In Schedule 1, paragraphs 1 to 13, 14(2) and (5) and 15 to 18. |
| National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) | In Schedule 1, in the entry relating to the Environmental Protection Act 1990, paragraph (d). |

Commencement

Sch. 12 para. 1: May 2, 2006 in relation to England for repeals specified in SI 2006/1176, art.6; October 1, 2006 for repeals specified in SI 2006/2541 art.2; April 1, 2007 for repeals specified in SI 2007/816 art.2(c) (SI 2006/1176 art. 6; SI 2006/2541 art. 2; SI 2007/816 art. 2(c))

Extent

Sch. 12 para. 1-: United Kingdom

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Natural Environment and Rural Communities Act which received Royal Assent on 30 March 2006. They have been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the contents of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.
3. In addition to these notes Defra has prepared four documents showing how certain Acts, or parts of Acts, have been amended by this Act. The Acts, or parts of Acts, are: Parts 1 to 3 of the National Parks and Access to the Countryside Act 1949; the Countryside Act 1968; the Wildlife and Countryside Act 1981; and Part 7 of the Environment Protection Act 1990. The documents are available on Defra's website, and are currently located at <http://www.defra.gov.uk/rural/ruraldelivery/bill/default>.
4. They are not published by authority and users should verify for themselves whether any provision contained in them is in force or whether it has been amended or repealed by subsequent legislation.

SUMMARY

5. The Act is primarily intended to implement key aspects of the Government's Rural Strategy published in July 2004; it also addresses a wider range of issues relating broadly to the natural environment.
6. The Act establishes an independent body — Natural England — responsible for conserving, enhancing and managing England's natural environment for the benefit of current and future generations. Natural England brings together the functions of English Nature and certain functions currently performed by the Countryside Agency and the Rural Development Service (a Defra Directorate). Natural England will work in close partnership with other organisations and bodies that have a major role in relation to the natural environment, in particular the Environment Agency, the Forestry Commission, English Heritage and local authorities.
7. The Act also establishes the Commission for Rural Communities (“the Commission”). Some of its staff will come from the Countryside Agency. But several of its functions will be new. The Commission will be an independent advocate, watchdog and expert adviser for rural England, with a particular focus on people suffering from social disadvantage and areas suffering from economic under-performance. It will provide information, advice, monitoring and reporting to Government and others on issues and policies affecting rural needs.

8. The Act also reconstitutes the Joint Nature Conservation Committee and renames and reconstitutes the Inland Waterways Amenity Advisory Council (which becomes the Inland Waterways Advisory Council).

9. In line with the 2004 Rural Strategy, the Act extends both the Secretary of State's funding powers for functions within Defra's remit, and the ability to authorise other bodies to carry out those functions. Public bodies for which Defra is responsible are given the power to enter agreements to enable various other designated bodies to perform functions on their behalf. These various powers are intended to be used to simplify and devolve delivery arrangements and to improve their effectiveness and efficiency.

10. The Act makes provision in respect of biodiversity, pesticides harmful to wildlife and the protection of birds, and in respect of invasive non-native species. It alters enforcement powers in connection with wildlife protection, and extends time limits for prosecuting certain wildlife offences. It addresses a small number of gaps and uncertainties which have been identified in relation to the law on sites of special scientific interest. And it amends the functions and constitution of National Park authorities, the functions of the Broads Authority and the law on rights of way.

BACKGROUND

11. The Government set out its proposals for the countryside in the Rural White Paper, published in November 2000.

12. Following the creation of Defra in June 2001, the Secretary of State for Environment, Food and Rural Affairs initiated a number of steps designed to improve the focus and delivery of rural policy. These were:

- a full review of the Rural White Paper
- improvement of the evidence base on rural affairs
- an independent review of rural delivery carried out by Lord Haskins.

13. The Government published the full review of the Rural White Paper in January 2004, alongside a report called "Social and Economic Change and Diversity in Rural England" whose purpose was to develop the evidence base for rural policy.

14. The review by Lord Haskins was published in November 2003, having taken evidence from 350 organisations, authorities and groups and received comments from nearly 300 individual recipients of rural policy delivery. The Government gave its initial response to Lord Haskins' report in November 2003, agreeing with Lord Haskins that Defra's delivery structures are confusing and too bureaucratic and centralised, and accepting the thrust of his recommendations. Lord Haskins' review and the Government's response are currently available on the Defra website at: <http://www.defra.gov.uk/rural>.

15. The Government published its Rural Strategy in July 2004. This contained its detailed response to Lord Haskins' recommendations. It is currently available on the Defra website.

16. Meanwhile, since the publication of the Rural White Paper in 2000, there have also been wider policy papers and reforms that are relevant to rural policy and delivery. In particular, these include:

- "Decentralisation — Your Region, Your Choice: Revitalising the English Regions", White Paper, Office of the Deputy Prime Minister ("ODPM") 2002
- "Devolved Decision-Making Review Report", published with the budget in 2004
- "Strategy for Sustainable Farming and Food", Defra 2002
- Common Agricultural Policy reform agreed in the EU in 2003

- Single Payment Scheme announced in 2004
- “Sustainable Communities, Building for the Future”, ODPM 2003
- “Energy White Paper — Our Energy Future — Creating a Low Carbon Economy”, Department of Trade and Industry/Defra 2003
- “Working with the Grain of Nature: A Biodiversity Strategy for England”, Defra 2002
- “Securing the Future — the UK Sustainable Development Strategy”, Defra 2005 (Cm. 6467)

17. In its 2004 Rural Strategy, the Government made a commitment to publish a draft Bill in Spring 2005 to make the changes in the law needed to give effect to the Strategy. A draft Bill was duly published on 10 February 2005. (See the *Draft Natural Environment and Rural Communities Bill*, Cm 6460.) The Environment Food and Rural Affairs Select Committee carried out pre-legislative scrutiny of the draft Bill following its publication. The Select Committee published its report on the Rural Strategy and the draft Bill on 26 March 2005 (HC 408-I, 408-II 2004–2005). This report is available on the UK Parliament's website at: www.publications.parliament.uk/pa/cm200405/cmselect/cmenvfru/cmenvfru.htm.

18. The Government's response to the Select Committee's report was published in May 2005 (Cm. 6574) and is available on Defra's website.

19. In relation to rights of way, following its decision that it could not implement section 34A of the Road Traffic Act 1988 (introduced by Schedule 7 to the Countryside and Rights of Way Act 2000), the Government published a consultation paper in December 2003, in which it proposed a series of alternative measures for tackling problems arising from the use of rights of way by mechanically propelled vehicles. In response, the Government received more than 14,000 representations, approximately half of which were from motor vehicle users. After considering these, the Government set out its conclusions and legislative proposals in the ‘Framework for Action’ document, which was published in January 2005. The consultation paper and ‘Framework for Action’ are available on Defra's website, and are currently located at: www.defra.gov.uk/wildlife-countryside/cl/publicrow.htm. It is these proposals that gave rise to the main provisions of sections 66 and 67 of this Act.

20. The Act's rights of way provisions also respond to a judgment by the House of Lords (*Bakewell Management Ltd v Brandwood* [2004] UKHL 14, [2004] 2 AC 519) regarding the creation of rights of way for mechanically propelled vehicles. In that case the House of Lords held that a right of way may arise where mechanically propelled vehicles have used a route for a 20-year period, even where that use is illegal. The Act alters the law so that illegal use of this kind will not create public rights of way.

21. In relation to the criteria for designating National Parks and the meaning of “natural beauty”, the Act's provisions also respond to the High Court judgment of 3 November 2005 in the case of *Meyrick Estate Management Ltd v Secretary of State for Environment, Food and Rural Affairs* [2005] EWHC 2618 (Admin) regarding the designation of land as part of the New Forest National Park.

THE ACT

Part 1: Natural England and the Commission for Rural Communities

22. Part 1 and Schedules 1 to 3 establish two new independent non-departmental public bodies (“NDPBs”), Natural England and the Commission for Rural Communities (“the Commission”).

They also provide for the dissolution of two existing NDPBs, namely, English Nature and the Countryside Agency.

23. As mentioned in the summary, Natural England brings together the functions of the two existing NDPBs and the Rural Development Service (“RDS”). RDS's mainly regional staff of about 1500 will become employees of Natural England (and so will be public sector employees instead of being civil servants). Most of the functions that RDS staff have performed on behalf of the Secretary of State will still be carried out by them, but as employees of Natural England. This is because the intention is that any RDS functions that derive from legislation will be the subject of long term service delivery agreements made between the Secretary of State and Natural England under Chapter 1 of Part 8 of this Act.

24. Part 1 provides for the transfer of property, rights and liabilities in connection with the dissolution of English Nature and the Countryside Agency. This Part also confers power to make transfers in the future between Natural England, the Commission and a Minister of the Crown. This power is exercisable for the efficient management of property, rights and liabilities.

Part 2: Nature conservation in the UK

25. Part 2 and Schedule 4 reconstitute the Joint Nature Conservation Committee as a UK-wide organisation, and make other changes to its remit.

Part 3: Wildlife etc.

26. Part 3 makes provision in respect of biodiversity, pesticides harmful to wildlife, the protection of birds and invasive non-native species. It also introduces Schedules 5 and 6 which make provision in relation to enforcement powers in connection with wildlife and time limits for proceedings in respect of certain wildlife offences.

Part 4: Sites of special scientific interest

27. Part 4 addresses a small number of gaps and uncertainties which have been identified for sites of special scientific interest (“SSSIs”). Specifically it creates a new offence for certain authorities (broadly speaking, public bodies and their employees) to permit the carrying out of an operation which damages an SSSI without reasonable excuse. It also creates a related offence of intentionally or recklessly destroying or damaging an SSSI's flora, fauna, or geographical or physiographical features without reasonable excuse.

28. Part 4 also contains provisions dealing with the effects of failure to serve notices on all the correct persons when notifying or denotifying an SSSI. It empowers Natural England and the Countryside Council for Wales to put up notices and signs relating to SSSIs, and makes it an offence to intentionally or recklessly, and without reasonable excuse, damage, destroy or obscure those notices or signs.

Part 5: National Parks and the Broads

29. Part 5 responds to the High Court judgment of 3 November 2005 in the case of *Meyrick Estate Management Ltd v Secretary of State for Environment, Food and Rural Affairs* [2005] EWHC 2618 (Admin), clarifying what factors may be taken into account when designating a National Park.

30. Part 5 also amends the functions and the constitution of National Park authorities and the functions of the Broads Authority, and enables emergency funding to be given to National Park authorities and the Broads Authority if need be.

Part 6: Rights of way

31. Under current law, evidence of use by non-mechanically propelled vehicles of a route for a 20 year period or a dedication for such use gives rise to a public right of way for all vehicles and this public right of way can be recorded on the definitive map and statement as a byway open to all traffic. (The “definitive map and statement” is a document kept by a local authority which shows footpaths, bridleways, restricted byways and byways open to all traffic.).

32. In *Bakewell Management Ltd v Brandwood* [2004] UKHL 14, [2004] 2 AC 519, the House of Lords decided that a right of way may arise where mechanically propelled vehicles have used a route for the 20-year period, even where that use was illegal. Use of footpaths or bridleways by mechanically propelled vehicles has been illegal since the 1930's. Part 6 halts the implied creation of new public rights of way for mechanically propelled vehicles, preventing post-1930 use of a way by a mechanically propelled vehicle from giving rise to any future public right of way.

33. Part 6 also extinguishes existing public rights of way for mechanically propelled vehicles, where those rights are not already recorded on the definitive map and statement, although this is subject to certain exceptions.

34. Property owners and others with an interest in land may have been relying on unrecorded public vehicular rights of way for access to that land. Part 6 ensures that, if the public right of way for mechanically propelled rights is extinguished, these people are provided with a private right of way to access the land by mechanically propelled vehicle.

35. All claims made under Part 3 of the Wildlife and Countryside Act 1981 to establish new rights for mechanically propelled vehicles which were lodged before 20 January 2005 (in England) or 19 May 2005 (in Wales) will be preserved and dealt with under the old law. So also will applications that were lodged after the relevant date but have reached the stage of being determined by the surveying authority. So too will applications lodged by landowners who want to maintain access to their property by mechanically propelled vehicle.

36. Part 6 also amends provisions of the Highways Act 1980 that deal with the creation of public rights by a period of use. One purpose of the amendments is to make clear that use by non-mechanically propelled vehicles (such as pedal cycles) can still give rise to a new public right of way for non-mechanically propelled vehicles. Another is to clarify the date on which a public right to use a way is to be regarded as brought into question (for the purpose of calculating the length of the period of use, and thus whether or not a new public right of way has been created) in a case where the public right has been brought into question by an application to modify the definitive map and statement.

37. Finally, Part 6 includes provision to enable National Park authorities to make traffic regulation orders and other orders regulating traffic, in relation to recorded byways, footpaths and bridleways and unsealed carriageways in National Parks.

Part 7: Inland waterways

38. Part 7 re-constitutes the Inland Waterways Amenity Advisory Council by severing its administrative connections with British Waterways and setting it up as an independent body supported by Defra (or, in Scotland, by the Scottish Executive). Part 7 replaces the Council's existing statutory advisory functions with new, wider terms of reference enabling it to advise Government, navigation authorities and other interested persons about the inland waterways generally. The Council is renamed the Inland Waterways Advisory Council to reflect its new role. The Act does not change the Council's existing functions as a statutory consultee.

Part 8: Flexible administrative arrangements

39. Chapter 1 of Part 8 enables the Secretary of State to make agreements with bodies listed in Schedule 7 (“designated bodies”) for certain types of function to be performed by those bodies. Designated bodies also have the power to authorise other designated bodies by agreement to perform their functions. In both situations the relevant function must be either a Defra or Defra-related one that is compatible with the purposes of the receiving body.

40. As mentioned above, this Chapter will enable Natural England to be authorised to carry out activities currently carried out by the Rural Development Service on behalf of the Secretary of State.

41. Chapter 2 of Part, and Schedules 8, 9 and 10, confer power to establish boards for the purpose of helping to develop and promote agricultural and related industries. This Chapter also contains power to abolish certain existing agricultural levy bodies that are within Defra's remit (namely, the British Potato Council, the Home-Grown Cereals Authority, the Horticultural Development Council, the Meat and Livestock Commission and the Milk Development Council). These provisions are intended to enable action to be taken in the light of the Radcliffe Review of Agricultural and Horticultural Levy Bodies. This was published in October 2005, with document reference PB 11427, and is currently to be found at: www.defra.gov.uk/corporate/consult/levy-bodies/index.htm.

42. Chapter 3 confers a wide power to enable financial assistance to be given by the Secretary of State for any purposes connected with Defra activities.

Part 9: Miscellaneous

43. Various Acts, apart from the Act dealing with the designation of National Parks, refer to areas of natural beauty. Section 99 clarifies what may be taken to contribute to natural beauty for the purposes of such references. This section was included in this Act as part of the response to the *Meyrick* case mentioned above.

44. Section 100 amends byelaw-making powers relating to flood defence and the drainage system more generally, so that they can take environmental matters into account.

45. Section 101 provides for the abolition of certain defunct statutory committees.

Part 10: Final provisions

46. Part 10, as well as providing standard provisions in relation to transitional arrangements, commencement and extent, introduces two Schedules: Schedule 11 which contains minor and consequential amendments, and Schedule 12 which contains repeals.

TERRITORIAL EXTENT

47. Section 108 deals with extent.

48. Part 1 (Natural England and the Commission for Rural Communities) extends to England and Wales only. But section 1(2) makes it clear that, except where expressly otherwise provided, Natural England's functions are exercisable only in relation to England. Similarly, the Commission's general purpose relates to England only.

49. Part 2 (nature conservation in the UK) extends to Scotland and Northern Ireland as well as England and Wales.

50. Part 3 (wildlife etc.), extends to England and Wales only, except that its amendments to the Wildlife and Countryside Act 1981 (including those in Schedule 5) extend also to the territorial

waters adjacent to England and Wales, and section 52 and Schedule 6 (wildlife offences: time limits for proceedings) extend to any place to which the enactments amended by Schedule 6 extend.

51. Parts 4 (sites of special scientific interest), 5 (National Parks and the Broads) and 6 (rights of way) extend to England and Wales only.

52. Part 7 (inland waterways) extends to England and Wales, and Scotland.

53. All of Part 8 (flexible administrative arrangements) extends to England and Wales. Chapter 2 (powers to reform agricultural etc. bodies) extends also to Scotland and Northern Ireland. Chapter 3 (financial assistance) extends also to Northern Ireland, but it should be noted that that Part does not confer power to give financial assistance in respect of devolved matters.

54. In Part 9 (miscellaneous), section 98 (byelaws relating to land drainage) extends to England and Wales only and section 99 (abolition of certain agricultural etc. committees) extends to the whole of the United Kingdom.

55. Part 10 (final provisions) extends to England, Wales, Scotland and Northern Ireland as appropriate. Amendments, repeals and revocations in Schedules 11 and 12 have the same extent as the provision to which they relate, or as provided in the Schedules.

COMMENTARY ON SECTIONS

Part 1: Natural England and the Commission for Rural Communities

Chapter 1: Natural England

Constitution and general purpose

Section 1: Constitution

56. This section establishes Natural England, dissolves the Countryside Agency and English Nature and introduces Schedule 1.

57. Schedule 1 sets out the constitution of Natural England, and includes provisions about its status, membership, chief executive and other employees, pay and pensions, procedure, accounts and annual reports.

58. The functions of English Nature and the Countryside Agency are transferred to Natural England, subject to the provisions of the Act. An example of a function that is not transferred is the function of the Countryside Agency under section 1 of the Miscellaneous Financial Provisions Act 1983, under which the Agency was under a duty to further social and economic development in rural areas.

59. Natural England may have functions which are not spelt out in Part 1. For example, it may have functions under legislation amended by Schedule 11, or under European Community schemes or EC Regulations.

Section 2: General purpose

60. Subsection (1) sets out that Natural England's general purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. The terms "natural environment" and "benefit" are not defined but are meant to be broad and encompassing, going wider than the specific purposes listed in subsection (2), so that the natural environment could be found in towns in open spaces as well as in the countryside. The reference in subsection (1) to sustainable development indicates

that Natural England is meant to seek solutions which, while achieving environmental benefits, also provide long-term economic and social benefits, and avoid untoward economic and social impacts.

61. Subsection (2) lists specific matters covered by the general purpose. Those matters include ones which have been purposes of the Countryside Agency and English Nature and aims of the Rural Development Service. Subsection (2) is not intended to be a comprehensive or hierarchical list. Natural England will also be able to pursue anything which falls within its general purpose as set out in subsection (1).

62. Subsection (2)(a) provides that the general purpose includes promoting nature conservation and protecting biodiversity. “Nature conservation” is defined in section 30 as the conservation of flora, fauna or geological or physiographical features.

63. Subsection (2)(b) sets out a purpose of conserving and enhancing the landscape. This includes, but goes wider than, conserving the natural beauty of the landscape. It could for example cover conserving field boundaries (such as hedgerows and dry stone walls), and monuments, buildings and sub-surface archaeological features which contribute to the landscape. Natural England will be able to conserve and enhance the English landscape for aesthetic, cultural and historic purposes as well as those carried out for habitat protection purposes.

64. Subsection (2)(c) and (d) provides that Natural England's general purpose includes securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment, as well as encouraging open-air recreation and promoting access to the countryside and open spaces. These purposes are similar to the purposes of the Countryside Agency and English Nature under the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”), the Countryside Act 1968 (“the 1968 Act”) and the Wildlife and Countryside Act 1981 (“the 1981 Act”).

65. Subsection (2)(e) provides that Natural England's general purpose includes contributing to social and economic well-being through management of the natural environment.

66. Subsection (3) makes clear that the purpose in subsection (2)(e) may be carried out by working with local communities.

Advisory functions

Section 3: Review and research

67. Subsections (1) and (2) ensure that Natural England keeps under review matters relating to its general purpose, and that it consults bodies that it considers to have an interest when doing so.

68. Subsection (3) gives Natural England powers to undertake research which relates to its general purpose, and to commission or support others to undertake such research. The power to support research is not limited to financial support and so could include the provision of accommodation, equipment and expertise. “Research” is defined by section 30 to include inquiries and investigations, and so could include, for example, surveys and monitoring of the natural environment.

69. Subsection (4) ensures that when Natural England is carrying out functions to monitor nature conservation and related activities it should have regard to the common standards for monitoring of nature conservation, research into nature conservation and analysis of resulting information that have been established by the Joint Nature Conservation Committee.

Section 4: Advice

70. This section specifies Natural England's duties and powers to provide advice to public authorities and others in relation to Natural England's general purpose. "Public authority" is defined in section 30.

*General implementation powers***Section 5: Carrying out proposals etc.**

71. As well as allowing Natural England to carry out proposals itself in pursuit of its general purpose, this section gives Natural England power to assist, coordinate and promote others' carrying out of such proposals. This power will enable Natural England to enter into a variety of working arrangements with persons or organisations in the public, private, voluntary and charity sectors.

Section 7: Management agreements

72. Management agreements are agreements that Natural England may enter into with people who have an interest in land. Their aim is to ensure that the land is managed or used in a way that helps to further Natural England's general purpose. This section replaces English Nature and the Countryside Agency's agreement-making powers in other legislation, but transitional provisions will ensure that any existing agreements made by English Nature and the Countryside Agency remain in force.

73. Section 7 needs to be read in conjunction with the consequential amendments made to the 1949 Act, the 1968 Act and the 1981 Act by Schedule 11. Those Acts make further provision about the consequences of entering into or not entering into management agreements, and other related matters.

Section 8: Experimental schemes

74. The Countryside Agency currently has powers under section 4 of the 1968 Act to make and carry out experimental schemes designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity. This section gives Natural England power to enter into experimental schemes over its whole remit.

*Other functions***Sections 9 and 10: Information, consultancy and training services etc.**

75. These sections specify information, consultancy and training services that Natural England may provide. In relation to information services, section 9 provides that the power is not to be read as limited by any other enactment conferring more specific information powers. (An example of a more specific power is section 86 of the 1949 Act, which requires information to be provided about the location and means of access to National Parks, areas of outstanding natural beauty and long-distance routes.)

Section 11: Power to charge for services and licences

76. This section gives Natural England power, with the consent of the Secretary of State, to charge for its services. Charges are to be reasonable. The intention is to allow cost recovery.

77. The section also gives the Secretary of State a power, exercisable by negative-resolution statutory instrument, to require charges for licences where no charging provisions are set out elsewhere and to provide for exemptions or remissions from those charges.

Section 12: Power to bring criminal proceedings

78. This section provides that Natural England has the power to institute proceedings and the power to authorise persons other than barristers or solicitors to bring prosecutions on its behalf. This enables Natural England to have prosecutors on its staff in the same way as do organisations such as the Environment Agency and local authorities.

Section 13: Incidental powers

79. Subsection (1) gives Natural England power to do anything conducive or incidental to the discharge of its functions. This includes but is not limited to the powers listed in subsection (2). The power to enter into agreements is not limited, and therefore can include working arrangements with persons in the private, public, voluntary and charity sectors.

*Powers of Secretary of State***Section 15: Guidance**

80. This section gives the Secretary of State power, following consultation with Natural England and the Environment Agency, to give guidance to Natural England about how to carry out its functions. Subsection (1) requires the Secretary of State to give guidance to Natural England as to how it exercises its functions in relation to regional planning and associated functions.

81. Similarly, Schedule 11 contains an amendment to section 4(5) of the Environment Protection Act 1995 to require the Secretary of State to consult Natural England as well as the Environment Agency before giving guidance to the Environment Agency.

82. Natural England and the Environment Agency are required to have regard to guidance issued to them by the Secretary of State.

Section 16: Directions

83. This section gives the Secretary of State power to give general or specific directions to Natural England and requires that those directions be published. Subsection (2) provides that the direction-giving power does not apply to functions that Natural England exercises through the Joint Nature Conservation Committee. (The Secretary of State has a separate power to give directions to that committee under section 38. See further below.)

84. Natural England must comply with directions given under this section.

Chapter 2: Commission for Rural Communities*The Commission and its general purpose***Section 17: Commission for Rural Communities**

85. This section establishes the Commission for Rural Communities.

86. It introduces Schedule 2, which sets out the constitution of the Commission, including provisions about its status, membership, chief executive and other employees, pay and pensions, procedure, accounts and annual reports.

Section 18: Commission's general purpose

87. This section sets out the general purpose of the Commission. The purpose is focused upon the social and economic needs of persons in rural areas of England, especially people suffering from social disadvantage and areas suffering from economic under-performance. The general purpose of the Commission is to promote awareness among relevant persons of rural needs, and to promote

the meeting of those needs in ways that contribute to sustainable development. “Relevant persons” is defined by section 18 as meaning public authorities and other bodies which appear to the Commission to be concerned with any aspect of rural needs.

Functions

Section 19: Representation, advice and monitoring

88. The three main functions of the Commission are:

- representation: i.e. to be an advocate to the Government and others for the social and economic needs of rural people, especially those suffering social disadvantage and those in areas suffering from economic under-performance;
- information and advice: i.e. to provide advice to the Government and others on issues affecting rural needs in England and ways of meeting them; and
- monitoring and reporting: i.e. to monitor and report on the way in which relevant persons' policies are developed, adopted and implemented report (by rural proofing or otherwise) and the extent to which those policies are meeting rural needs.

Section 20: Research

89. This section gives the Commission powers to undertake, commission and support research which relates to its general purpose. The power to support research is not limited to financial support and so could include the provision of accommodation, equipment, expertise and any supporting working arrangements. “Research” is defined by section 30 to include inquiries and investigations.

Section 21: Information services etc.

90. The Commission may publish documents or provide information about any matter relating to its general purpose. It may also assist others in such activities.

91. In broad terms it is intended that the Commission will be a body that gives advice based on its assessment of rural needs; it is not intended that it will provide services directly to the public.

Section 22: Power to charge for services

92. This section enables the Commission to charge what it considers a reasonable amount for services. This would, for example, enable the Commission to charge for its publications. The Commission must obtain the Secretary of State's consent before it charges for any services.

Section 23: Incidental powers

93. This section gives the Commission powers to take action which will help it to exercise its functions.

Powers of Secretary of State

Section 24: Grants

94. This section enables the Secretary of State to fund the Commission. The Secretary of State may impose conditions when giving a grant (for example, a condition requiring the Commission to supply a financial memorandum or enter into a management agreement).

Section 25: Directions

95. This section enables the Secretary of State to give the Commission directions as to the exercise of its functions. The Commission must comply with directions made under this section.

Chapter 3: Supplementary

Transfer schemes etc.

Section 26: Transfers on dissolution of English Nature and Countryside Agency

96. This section makes provision for the transfer of property, rights and liabilities in connection with the dissolution of English Nature and the Countryside Agency. This will be by way of transfer schemes made by the Secretary of State (see Schedule 3).

97. The transfers may be to Natural England, the Commission for Rural Communities, regional development agencies and Ministers of the Crown.

98. In relation to the transfer of employment rights and liabilities, Schedule 3 provides for an equivalent of regulation 5 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended) (“TUPE”). Schedule 3 also provides for staff pensions. This is in the context of the Cabinet Office statement of practice of January 2000 “Staff Transfers in the Public Sector”, which states that public sector bodies should ensure that the principles of TUPE are followed and that transferring public sector staff are offered terms that are, overall, no less favourable those set out in TUPE.

Section 27: Continuing powers to make transfer schemes

99. This section enables further transfer schemes to be made in the future, in connection with the efficient management for public purposes of property, rights and liabilities.

100. The transfers allowed are set out in subsections (2) and (3) and are those from a Minister for the Crown to Natural England, the Commission or a person acting on their behalf, and those to a Minister for the Crown from Natural England or the Commission.

Section 29: Interim arrangements

101. This section gives the Secretary of State the power to require English Nature or the Countryside Agency to provide staff, premises or other facilities, on a temporary basis, to the Natural England or the Commission.

102. This power can be used during any period of transition between the establishment of the Natural England and the Commission for Rural Communities and the dissolution of English Nature and the Countryside Agency.

Part 2: Nature Conservation in the UK

Joint Nature Conservation Committee etc.

Section 31: Joint Nature Conservation Committee

103. The Joint Nature Conservation Committee, referred to as “the joint committee”, was established under Part 7 of the Environmental Protection Act 1990 (“the 1990 Act”). The Act re-enacts, with changes, the provisions of the 1990 Act that relate to the joint committee. The main change is that under the Act the joint committee has a UK-wide remit (covering England, Wales, Scotland and Northern Ireland), rather than merely a Great Britain remit (covering England, Wales and Scotland). This is reflected in Schedule 4, which reconstitutes the joint committee. The Schedule includes provision for Northern Ireland to have voting members.

104. Schedule 4 also reproduces the effect of the changes made to the 1990 Act by the Regulatory Reform (Joint Nature Conservation Committee) Order 2005 (S.I. 2005/634). This will, amongst other things, provide the joint committee with the ability to employ its own staff and pay its chairman

and independent members. It will also enable the Secretary of State to pay money directly to the joint committee.

105. Those powers are supplemented by provisions which provide that the conservation bodies for England, Wales and Scotland and the relevant Northern Ireland department must together contribute sufficient financial resources to the joint committee to enable it to discharge its functions. The level of contribution from each of the four bodies is decided by agreement by the relevant Ministers and Assembly members in Great Britain and the Northern Ireland department, following consultation with the bodies.

Section 32: UK conservation bodies

106. This section defines the terms “UK conservation bodies” and “GB conservation bodies”. Some of the joint functions to be discharged by the joint committee are UK-wide; others are GB-wide.

Section 33: Purpose of functions under this Part

107. The joint committee is given functions for the purpose of nature conservation and fostering the understanding of nature conservation. In discharging their functions under this Part, the UK conservation bodies and the joint committee are required to have regard to actual or possible ecological changes and the desirability of contributing to sustainable development.

Coordinated functions

Section 34: Functions of national or international significance

108. This section sets out functions of the UK conservation bodies that can be discharged only through the joint committee. These are functions of UK-wide or international significance. They include giving advice about nature conservation matters of UK-wide or international significance. Advice on the development and implementation of policies can be given to “the appropriate authorities”, i.e. the Ministers or governmental body in the relevant part of the UK. Advice can also be given, and knowledge disseminated, to any other person. The functions also include establishing common standards for nature conservation monitoring and for research and analysis, and commissioning or supporting research.

Section 35: Advice from joint committee to UK conservation body

109. This section gives the joint committee power to provide advice to UK conservation bodies, so long as that advice is connected with the functions of the body and is of UK-wide or international significance.

Section 36: GB functions with respect to wildlife

110. This section requires certain functions of the GB conservation bodies under the 1981 Act, to do with listing of protected animals and plants and related research, to be performed through the joint committee. The relevant provisions of the 1981 Act do not extend to Northern Ireland.

Directions

Section 38: Directions

111. This section enables the Secretary of State to give the joint committee directions about the exercise of certain functions. It is expected that, as the joint committee is a cross border body, any direction under this power would be made after consulting Scottish, Welsh and Northern Ireland Ministers. Directions made under this section must be complied with.

Part 3: Wildlife etc.*Biodiversity***Section 40: Duty to conserve biodiversity**

112. This section and sections 41 and 42 replace section 74 of the Countryside and Rights of Way Act 2000 (conservation of biological diversity). In these notes, that Act is referred to as “CRoW”.

113. Section 40 extends to all public authorities the existing section 74 duty to have regard to biodiversity as far as is consistent with the proper exercise of their functions. However, only Ministers, government departments and the National Assembly for Wales (that is, roughly, those bound by the original section 74 CRoW duty) are obliged to have particular regard to the 1992 Convention; other public authorities are not. “Public authority” is defined in section 40. It includes, for example, local authorities, local planning authorities and statutory undertakers.

Section 41: Biodiversity lists and action (England)

114. This section replaces and reflects what is in existing subsections (2) to (5) of section 74 of CRoW. It places a duty on the Secretary of State to publish, review and revise lists of living organisms and types of habitat in England that are of principal importance for the purpose of conserving English biodiversity, and to consult Natural England before doing so. It also requires the Secretary of State to take, and promote the taking of, steps to further the conservation of the listed organisms and habitats. A list was published in 2002 under the existing duty placed on the Secretary of State by section 74(5) of CRoW.

Section 42: Biodiversity lists and action (Wales)

115. This section is equivalent to section 41, but relates to Wales rather than England. It requires the National Assembly for Wales to publish, review, revise and act on lists of organisms of principal importance in Wales. The Countryside Council for Wales is the body to be consulted.

*Pesticides harmful to wildlife***Section 43: Possession of pesticides harmful to wildlife**

116. The Secretary of State may, by negative resolution order, prescribe those ingredients of pesticides that she believes could cause harm to wild birds and/or animals. An order under section 43 could be made in relation to several pesticide ingredients that have been linked with poisoned bait and that are known to be very dangerous to animals, in particular to birds of prey. It will be an offence to possess a pesticide containing a prescribed ingredient unless it can be shown that possession was for lawful use in accordance with relevant pesticide, biocide or poisons legislation.

117. Existing legislation in Part 1 of the Wildlife and Countryside Act 1981 already provides for an offence where it can be shown that a person has set or used a poisoned bait (sections 5(1)(a) and (b) and 11(2)(a) and (b)). However, in practice, it has been difficult to prove that the person set or used the bait, and so under the new section 43 offence it will not be necessary to show this.

118. A similar offence to that set out in section 43 has been introduced in Scotland by the Nature Conservation (Scotland) Act 2004.

119. The offence in section 43 is not inserted in the 1981 Act partly for reasons connected with enforcement powers. Section 43 needs to be read with section 44, which confers enforcement powers in connection with the new offence, including certain powers contained in Schedule 2 to

the Food and Environment Protection Act 1985 (FEPA) that are available in connection with other provisions regulating pesticides.

Section 44: Enforcement powers in connection with pesticides

120. The inspectors on whom the enforcement powers under this section are conferred will be authorised by the Secretary of State (in England) or the National Assembly for Wales (in Wales).

121. Under subsection (1) inspectors may enter premises to check if persons have a pesticide containing a prescribed ingredient in storage without any lawful use for it if they have reasonable grounds to suspect that they may find evidence of an offence. This power could be used where there have been reports of poisoning wild birds or animals in a neighbourhood and an inspector wishes to check for possession of such pesticides in that neighbourhood. The inspector can require the disclosure of information under (1)(b) about any substance that he finds.

122. Subsection (4) applies most of the enforcement provisions of Schedule 2 to FEPA to the enforcement of the offence in section 43. This is particularly significant in connection with the power of entry conferred by subsection (1)(a) of section 44. Under paragraph 7 of Schedule 2 to FEPA, an inspector may enter a dwelling only if a justice of the peace has issued a warrant authorising him to do so. Such warrant will only be issued in certain prescribed circumstances as listed in that Schedule (for instance, where it is not possible to communicate with any person entitled to grant entry to the dwelling).

123. Authorised inspectors using enforcement powers under paragraph 2 of Schedule 2 to FEPA may bring with them other persons and any equipment or materials to assist them in performing their functions. They must only operate at reasonable hours. Additionally they will be able to use reasonable force to perform their functions (for example in opening containers). They can photograph evidence. Related offences are provided for under paragraph 10 of the FEPA Schedule. These include supplying false information to an inspector and obstructing an inspector who is performing his duties.

124. By virtue of subsection (1)(c) an inspector can seize any substance that he has reasonable grounds to believe to be a pesticide containing a prescribed ingredient. This power could be used to take a sample for analysis, or to take the whole of the substance away.

125. Subsections (5) to (8) provide safeguards in connection with seizure and a procedure for recovery of the seized substance if proceedings are not brought or after the completion of any criminal proceedings.

Section 45 Codes of Practice

126. The Secretary of State may issue a code that details how the authorised pesticide inspector will conduct himself before, during and after he has entered premises under the powers given by section 44. The inspector must have regard to such code and it will be admissible in evidence in any proceedings where it can be taken into account by a court.

Section 46: Interpretation

127. Subsection (2) defines “pesticide”. The term can include substances, preparations or organisms prepared or used for destroying any pests.

128. Subsection (3) defines “wild bird” and “wild animal”. Under the Wildlife and Countryside Act 1981 “wild bird” means any bird of a species that is ordinarily resident in or is a visitor to the European territory of any member state in a wild state, but does not include poultry, or game birds

(other than in a few specified circumstances). “Wild animal” under the 1981 Act means any animal (other than a bird) which is or (before it was taken) was living wild.

129. It is necessary to be able to inspect not only land and buildings but also vehicles, vessels and so on, and therefore in subsection (4) “premises” is given an extended meaning. It is not uncommon in legislation for the meaning of “premises” to be extended in this way.

Protection of birds

Section 47: Protection of nests of certain birds which re-use their nests

130. This section introduces a new paragraph into section 1(1) of the Wildlife and Countryside Act 1981. The new paragraph makes it an offence, at any time of the year, to take, damage or destroy the nest of a wild bird species included in a new Schedule ZA1 to the 1981 Act. Schedule ZA1 contains three bird species which traditionally re-use their nests: the golden eagle (*Aquila chrysaetos*), the white-tailed eagle (*Haliaeetus albicilla*), and the osprey (*Pandion haliaetus*). Section 22 of the 1981 Act is also amended so that the list of species in Schedule ZA1 may be changed by the Secretary of State by order.

Section 48: Birds released into the wild as part of a re-population programme

131. This section substitutes a new section 1(6) in the 1981 Act and thus extends the protection afforded to wild birds under section 1 of that Act to birds which have been bred in captivity and lawfully released into the wild as part of a re-population or re-introduction programme. The section also substitutes a new subsection 6(5) in the 1981 Act which has the effect of making it an offence under section 6(1) to sell, offer or expose for sale, or have in possession or transport for the purpose of sale any live, captive-bred wild bird included in the relevant list (under Part 1 of Schedule 3 to the 1981 Act) which has been released into the wild as part of a re-population or re-introduction programme.

Section 49: Registration etc. of certain captive birds

132. This section amends section 7(3A) of the 1981 Act and makes it an offence to keep or have in one's possession any bird listed in Schedule 4 to the 1981 Act within 5 years of having been convicted of an offence under section 7(1) of the 1981 Act. Under section 7(1) it is an offence to keep or have in one's possession any bird included in Schedule 4 to the 1981 Act which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State.

Invasive non-native species

Section 50: Sale etc. of invasive non-native species

133. This section introduces a new section 14ZA into the 1981 Act.

134. Under section 14ZA(1), it is an offence to sell, offer or expose for sale, or to have in one's possession or transport for the purpose of sale, any animal or plant to which the section applies or anything from which such an animal or plant can be propagated, such as an egg or a seed. Under section 14ZA(2) it is also an offence to publish or cause to be published any advertisement for the purchase or sale of these animals and plants.

135. Section 14ZA(3) sets out the animals and plants to which the offences in section 14ZA(1) and (2) apply. These are live animals and plants which are included in section 14(1) or (2) of the 1981

Act (animals and plants which must not be released etc. into the wild) **and** which have been prescribed by an order made by the Secretary of State.

136. Under section 14ZA(5) there is a defence available to these new offences where the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

Section 51: Codes of practice in connection with invasive non-native species

137. This section introduces a new section 14ZB into the 1981 Act 1981 which gives the Secretary of State the power to issue codes of practice, or approve a code of practice issued by others, relating to non-native animal and plant species. It is intended that the codes will be used to provide recommendations, advice and information on how to stop the damage caused by non-native animals and plants.

138. Failure to comply with such a code is not in itself an offence; however it may be used as admissible evidence in any criminal or civil proceedings and a court must take account of a failure to comply with the code where it considers this to be relevant. For example, in proceedings for the release of a non-native species prohibited under section 14(1) of the 1981 Act, compliance with the code could be used to decide whether the accused may rely on the due diligence defence contained in section 14(3).

Enforcement etc of provisions relating to wildlife

Section 52: Enforcement powers in connection with wildlife

139. This section introduces Schedule 5, which inserts various new sections relating to enforcement into the 1981 Act, and applies enforcement provisions under the 1981 Act to the other four main Acts that deal with licensing for the protection of wildlife: the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992.

Part 1 of Schedule 5— Amendments of the 1981 Act

140. The Countryside and Rights of Way Act 2000 introduced for the first time the ability for wildlife inspectors to check for compliance with licences and enforce certain specified provisions of Part 1 of the 1981 Act alongside the police. Two new sections were introduced into the 1981 Act, sections 19ZA (enforcement: wildlife inspectors) and 19ZB (power to take samples).

141. Part 1 of Schedule 5 inserts a number of new sections in the 1981 Act, which take the place of existing sections 19ZA and 19ZB (which are being repealed).

Police powers enhanced

142. Schedule 5 amends the existing enforcement powers of the police in section 19 of the 1981 Act and, in a new section 19XA inserted in the 1981 Act, gives the police revised powers in connection with taking samples in place of their powers in section 19ZB(1) and (2). (In addition, Part 4 of Schedule 5 extends the police power of entry under warrant currently contained in section 19(3) of the 1981 Act to offences under other Acts. This is explained below.)

Wildlife inspector powers enhanced

143. Wildlife inspectors are currently authorised under section 19ZA(1) of the 1981 Act. Under the Schedule 5 amendments, they will in future be authorised under a new section 18A. The powers of the inspectors currently found in sections 19ZA and 19ZB(3) and (4) are re-enacted and extended

under new sections 18B and 18C for what are to be known as “Group 1 offences”, and under new sections 18D and 18E for what are to be known as “Group 2 offences”.

144. The “Group 2 offences” are those currently dealt with under sections 19ZA and 19ZB(3) and (4) of the 1981 Act. These offences mainly relate to licensing of captive, ringed and registered birds, and certain other licences for other animals and plants. Many captive birds are kept in dwellings, and therefore section 18D includes a power for inspectors to enter dwellings except in the case of enforcement of section 14 of the 1981 Act (introduction of new species etc.).

145. The “Group 1 offences” are offences not covered by the existing powers of enforcement of the wildlife inspectors under Part 1 of the 1981 Act. These offences mainly deal with animals, birds and plants that are found in the wild and of which it is rare for any person to have possession or control.

146. Offences in connection with all enforcement powers (whether in relation to the police or the wildlife inspectors) appear in new section 19XB; and these offences include obstructing a wildlife inspector acting in the exercise of his powers, not providing reasonable assistance, failure to make specimens available for inspection and falsely pretending to be a wildlife inspector.

147. Finally, paragraph 5 of Schedule 5 amends section 21 of the 1981, which sets out the penalties for the offences in new section 19XB.

Part 2 of Schedule 5— **Enforcement of four other Acts**

148. The same officials authorised by the Secretary of State to act as wildlife inspectors under the 1981 Act will also monitor and enforce compliance with the four other main pieces of wildlife legislation in England and Wales mentioned above (the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992). This Part of Schedule 5 extends the enforcement powers available to the inspectors for “Group 1 offences” under the 1981 Act (as amended by this Act) to the others mentioned above, so that there is a common regime for enforcing these various pieces of wildlife legislation. This should make it simpler to train officials and issue appropriate authorisations for inspectors.

Part 3 of Schedule 5— **Codes of Practice**

149. The Secretary of State may issue a code that details how a wildlife inspector will conduct himself before, during and after he has entered premises under the powers under Part 1 of the 1981 Act or any of the four Acts mentioned above. The inspector must have regard to such code, and it will be admissible in evidence in any proceedings where it can be taken into account by a court.

Part 4 of Schedule 5— **Constable's search warrant power extended to certain other Acts**

150. Part 4 of Schedule 5 removes certain disparities between the four Acts' enforcement powers. Currently, only police have powers of entry under the Deer Act 1991 and the Protection of Badgers Act 1992 (except where there is a licence agreement that specifies that authorised officials of English Nature or the Secretary of State may enter the premises to monitor the terms of the licence). Authorised inspectors have certain limited powers of entry in connection with the enforcement of the Destructive Imported Animals Act 1932 (namely, police can seize wild musk rats, coypu and mink). Under the Conservation of Seals Act 1970 police have powers to stop and search persons that are suspected of an offence of killing or injuring seals without a licence, and authorised persons representing Secretary of State may enter land for the purpose of obtaining information relating to seals. Part 4 of Schedule 5 therefore extends police powers of entry under warrant found in section 19(3) of the 1981 Act to the investigation of offences under these other wildlife licensing Acts.

Section 53: Wildlife offences: time limit for proceedings

151. This section introduces Schedule 6. Schedule 6 alters the present requirement to bring summary proceedings for certain offences concerning wildlife and habitats within six months of the commission of the offence. In relation to the legislation detailed in the Schedule, summary proceedings must be brought within six months of the acquisition of evidence sufficient in the prosecutor's opinion to warrant proceedings, and in any event within two years of the commission of the offence.

Section 54: Application of Part 1 of the 1981 Act to Crown

152. This section introduces a new section 66A into the 1981 Act which, with specified exceptions, applies the provisions of Part 1 of the Act to the Crown. This is required by European law obligations under the Wild Birds Directive (79/409/EEC) and the Habitats Directive (92/42/EEC).

153. Where the Crown, for example a government department, contravenes any provision of Part 1, it will not be criminally liable for the action (or lack of action) in question; rather it will be open to anyone with an interest in the contravention to apply to the High Court for a declaration that the activity was unlawful. However, Part 1 will apply to people in the service of the Crown, such as civil servants, as it applies to any other person. Part 1 will not apply to the Queen in her personal capacity and this includes Her Majesty in right of the Duchy of Lancaster and the Duke of Cornwall.

154. Powers of entry for enforcement purposes granted to police constables and wildlife inspectors under sections 18A to 19XA of the 1981 Act will not apply to premises occupied by the Crown. For example, there will be no rights of entry for the purposes of enforcing the 1981 Act over land occupied by the Ministry of Defence.

Part 4: Sites of special scientific interest (SSSIs)**Section 55: Offences in connection with SSSIs**

155. This section introduces two new offences concerning SSSIs.

156. Subsection (2) provides that where a section 28G authority (as defined in section 28G of the 1981 Act — broadly speaking, any public body or its employees), fails to comply with its obligations under section 28I of the 1981 Act (notification to Natural England or, as the case may be, the Countryside Council for Wales, before permitting operations likely to damage an SSSI, etc.), it commits an offence unless it had a reasonable excuse. Emergency situations qualify as a reasonable excuse, provided notification is given as soon as practicable after the permission was given.

157. Subsection (3) provides a new offence of intentionally or recklessly destroying or damaging the listed features of a SSSI or disturbing its listed fauna, without reasonable excuse. This offence is in addition to that in section 28P(6) of the 1981 Act. The difference between them is that commission of this new offence does not require knowledge that what was destroyed, damaged or disturbed was within an SSSI. Accordingly, it carries a lesser penalty.

158. Subsection (5) provides that the court's powers to make a restoration order under section 31 of the 1981 Act also apply to convictions under the new offence created by subsection (3).

Section 56: Denotification

159. This section amends section 28D of the 1981 Act to allow the relevant conservation body to denotify a site of special scientific interest, or part of a site, where it is “not” of special interest. Before this amendment, denotification could only take place if a site, or part of it, was “no longer” of special interest.

Section 57: Effect of failure to serve certain notices

160. This adds a new section 70B to the 1981 Act.

161. Subsections (1) and (3) of section 70B provide that where, in relation to a piece of land, a relevant conservation body has taken all reasonable steps to serve on every owner and occupier one of the notices listed in subsection (2), but has failed to do so, the notice will remain valid. Section 70B applies to notices served both before and after the Act comes into force.

162. Subsection (4) of section 70B makes provision for calculating the time when a notice is deemed to have been served under section 28 to 28Q of the 1981 Act. A notice is deemed to have been served when the relevant conservation body has taken the last of the reasonable steps in subsection (1).

163. Subsection (5) requires a relevant conservation body to serve a notice on an owner or occupier of land when it becomes aware that it has failed to do so.

164. Subsection (6) provides that owners and occupiers are not liable for anything they have done or have omitted to do before section 70B comes into effect (paragraph (a)). Even once section 70B has come into effect, the fact that a notice is deemed to be valid under subsection (3) does not in itself render them liable for offences under subsections 28P(1) and 28Q(4) until they have been served with a copy of the notice (paragraph (b)).

Section 58: Notices and signs relating to SSSIs

165. This section adds a new section 28S to the 1981 Act, conferring a general power on Natural England (or, in Wales, the Countryside Council for Wales) to erect, maintain and remove signs or notices about an SSSI, on land included in that SSSI. (The application of section 28S to Wales is achieved by section 27AA of the 1981 Act, inserted by paragraph 78 of Schedule 11.) Under section 28S, it will be an offence to, without reasonable excuse, intentionally or recklessly take down, damage, destroy or obscure such a sign or notice.

166. Subsection (2) ensures that the powers of entry to land provided by section 51 of the 1981 Act will be available for the purposes of putting up, etc. signs under section 28S.

Part 5: National Parks and the Broads**Section 59: Criteria for designating National Parks**

167. This section clarifies the requirements that are contained in section 5 of the National Parks and Access to the Countryside Act 1949 for designating land in a Park by adding a new subsection (2A) which aligns the criteria with the purposes as set out in section 5(1) of that Act. When considering the natural beauty of land, Natural England may take into account its wildlife and cultural heritage. Additionally, when considering the opportunities that extensive tracts of land afford for open-air recreation, Natural England may take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of their special qualities by the public. This clarification seeks to reinstate the working assumptions that had been made by those involved in the designation process prior to the decision in *Meyrick Estate Management Ltd v Secretary of State for Environment, Food and Rural Affairs* [2005] EWHC 2618 (Admin).

Section 60: Procedure for orders designating National Parks

168. This section makes various amendments to the 1949 Act.

169. Subsections (2) and (3) bring up to date the terminology describing the types of principal local authority that must be consulted on the designation or alteration of National Park boundaries. As well as updating old terminology, the subsections include a new requirement to consult parish councils in England and community councils in Wales.

170. Subsection (4) repeals section 9(2) of the 1949 Act. Section 9(2) enabled regulations to be made allowing proceedings preliminary to orders designating and varying National Parks to be taken concurrently with proceedings required in connection with development plans.

171. Subsection (5) amends Schedule 1 to the 1949 Act to make it clear that only objections by principal councils (and not parish or community councils) trigger an automatic public inquiry into National Park designation or boundary amendment. This will, for example, prevent an objection by a single parish council automatically triggering a public inquiry into the designation of a National Park or amendment to a National Park boundary.

Section 61: Members of National Park authorities

172. This section amends various provisions of Schedule 7 to the Environment Act 1995 relating to the membership of National Park authorities. The precise make-up of each National Park authority is set individually by secondary legislation. However, the general mix of members of each authority must be in keeping with a basic formula which is set out in Schedule 7 to the 1995 Act. Subsections (1) and (2) simplify the basic formula so that any composition in which (in Wales) local authority members outnumber “national” members or (in England) local authority members and parish members together outnumber “national” members will be possible. “National” members are the members who are not local authority or parish members. They are appointed by the Secretary of State.

173. Subsections (3) to (5) allow councillors (or chairs of parish meetings) who are waiting to be re-appointed or replaced on a National Park authority following an election, to nevertheless continue to act as National Park authority members, subject to an upper limit of three months. The subsections are intended to minimise interregnums between members.

174. Subsection (6) allows “national” members of National Park authorities to be appointed for up to four years at a time rather than the current three years. This brings them into line with local authority and parish members who normally serve four-year terms.

Section 62: Expenditure by National Park authorities

175. The Environment Act 1995 added a provision to the 1949 Act which stated that National Park authorities should not incur “significant” expenditure in support of their socio-economic duty. This has caused uncertainty and therefore section 62 removes this qualification.

Section 63: Notification of agricultural operations on moor and heath in National Parks

176. This section transfers the power from the Secretary of State to a National Park authority to make an order under section 42 of the Wildlife and Countryside Act 1981. An order so issued places a temporary prohibition on ploughing, and on other specified agricultural or forestry operations on moor or heath in National Parks, and may be issued if those operations are likely to affect the land's character or appearance.

Section 64: Functions of Broads Authority and others in relation to the Broads

177. This section amends the Norfolk and Suffolk Broads Act 1988. It aligns the wording of the first two purposes of the Broads Authority and other relevant authorities with that of the first two

purposes of the National Parks. The purposes of the different areas had previously shared common wording until the National Park purposes (in section 5(1) of the 1949 Act) were amended in 1995.

Section 65: Emergency financial assistance

178. This section adds any National Park authority and the Broads Authority to the list of bodies in section 155(4) of the Local Government and Housing Act 1989. This gives these authorities the ability to apply to a fund for emergency assistance following a natural disaster.

Part 6: Rights of way

Section 66: Restriction on creation of new public rights of way

179. This section limits the creation of new public rights of way for mechanically propelled vehicles. It will prevent use over a period of 20 years by any vehicle from giving rise to a public right of way for mechanically propelled vehicles in the future. Instead, new public rights of way for mechanically propelled vehicular rights will be created only if they are expressly provided for or if they relate to a road intended to be used by mechanically propelled vehicles and constructed for that purpose under an enactment.

180. Subsection (2) is intended to ensure that where there is illegal use of a way by mechanically propelled vehicles, that use cannot give rise to “lower” public rights of way (such as footpath, bridleway or restricted byway rights).

Section 67: Ending of certain existing unrecorded public rights of way

181. This section extinguishes (subject to stated exceptions) unrecorded rights of way for mechanically propelled vehicles. This extinguishment prevents these rights being used to add new byways open to all traffic to the definitive map and statement for an area.

182. Some of the exceptions are set out in subsection (2). Exception (a) ensures that existing rights of way for mechanically propelled vehicles are not extinguished if the main lawful use of the way for 5 years preceding commencement has been use for mechanically propelled vehicles. Exception (b) ensures that unclassified and other minor roads are not brought within the scope of the extinguishment. Exceptions (c) and (d) are identical to the exceptions in section 61. Exception (e) ensures that where rights were created by a qualifying period of use by mechanically propelled vehicles during a period prior to 1 December 1930, those vehicular rights are not extinguished.

183. Some more exceptions are set out in subsection (3). These exceptions relate to cases where an application to record a public right of way for mechanically propelled vehicles has already been lodged. Under paragraph (a), all applications made under Part 3 of the 1981 Act to record rights for mechanically propelled vehicles which were lodged before the relevant date will be preserved and dealt with under the old law. The relevant date is 20 January 2005 (in England) and 19 May 2005 (in Wales) (see subsection (4)). Where such applications have been lodged after the relevant date and have reached the stage of being determined by the surveying authority they will also be processed under the existing law (see paragraph (b)), as will applications in situations where landowners need the public right of way for mechanically propelled vehicles in order to access their property (see paragraph (c)).

184. In addition, subsection (5) ensures that where an unrecorded public right of way for mechanically propelled vehicles is relied upon at the time of commencement to enable access to land to be obtained by a person with an interest in the land or by a lawful visitor to that land, that public right becomes a private right of way for mechanically propelled vehicles for the benefit of that land. (This will only be relevant if subsection (3)(c) does not apply.)

185. This section does not apply to areas in London where there is no definitive map and statement.

Section 68: Presumed dedication of restricted byways and use by pedal cycles etc.

186. Section 31 of the Highways Act 1980 enables a public right of way to be treated as having been created as a result of a period of use for 20 years. This section amends section 31 of the 1980 Act so as to ensure that use of a way by a non-mechanically propelled vehicle (such as a pedal cycle) is capable in appropriate circumstances of giving rise to a public right of way for non-mechanically propelled vehicles (a restricted byway).

Section 69: Presumed dedication and applications under section 53(5) of the 1981 Act

187. This section also amends section 31 of the Highways Act 1980. This time, the purpose is to clarify the application of section 31 in cases where an application is brought to modify the definitive map and statement so as to show a public right of way. Under section 31, the period of use is calculated by reference to the time when the right of the public to use the way is brought into question. Section 69 amends section 31 so as to make clear that, where the right of the public to use the way is brought into question by an application to modify the definitive map and statement, the date on which right of the public is brought into question is to be treated as being the date on which the application is made.

Section 70: Supplementary

188. Subsection (1) amends section 53(3) of the 1981 Act. The purpose of this amendment is to allow the recording on the definitive map and statement for the area of a newly discovered right of way which is a restricted byway.

189. Subsections (2) to (7) amend section 34 of the Road Traffic Act 1988. Section 34 makes it an offence to drive a mechanically propelled vehicle on a footpath, bridleway or restricted byway. The amendments create a limited exception for a person who has an interest in land or is a visitor to land and who drives on a restricted byway which came into being under the Countryside and Rights of Way Act 2000 and which before it became a restricted byway was in use for obtaining access to land. Subsection (7) clarifies that the phrase “visitor to the land” does not include those exercising their public rights in relation to access land under section 1 of the Countryside and Rights of Way Act 2000, or other public rights of access listed in section 15(1) of that Act.

190. Subsection (8) recognises that the new section 34A of the Road Traffic Act 1988, which was to be inserted by Schedule 7 to the Countryside and Rights of Way Act 2000 is not going to be brought into force, by repealing the relevant provision in Schedule 7. The Government announced in a written Parliamentary statement of 9 December 2003 (Hansard Vol. 415 Col. 80WS) that it would not be implementing section 34A. This is on the basis that the provision appears incompatible with Article 6(2) of the European Convention on Human Rights.

Section 71: Interpretation

191. This section provides various definitions for the purposes of Part 6. In particular, it is worth noting that the definition of a mechanically propelled vehicle excludes electrically assisted pedal cycles. In the absence of this definition, the fact a pedal cycle is mechanically assisted might be thought to mean that it is a mechanically propelled vehicle.

Section 72: Traffic regulation on byways etc. in National Parks in England and Wales

192. This section inserts two new sections in the Road Traffic Regulation Act 1984 (sections 22BB and 22BC) giving each National Park authority power to make traffic regulation orders and other traffic-related orders under that Act. The orders must be in relation to roads that are in the National Park that are either byways, footpaths or bridleways shown in a definitive map and statement or unsealed carriageways.

Part 7: Inland Waterways

Section 73: Inland Waterways Advisory Council

193. This section changes the name of the Inland Waterways Amenity Advisory Council to the Inland Waterways Advisory Council.

Section 74: Constitution of Council

194. This section substitutes for section 110 of the Transport Act 1968 (which governs the existing Inland Waterways Amenity Advisory Council) a new section 110 setting out the arrangements governing the composition of the Council and the procedures to be adopted for the appointment of the chairman and members. The section removes the requirement to consult the chairman of the British Waterways (referred to in the 1968 Act as the Waterways Board) before making appointments to the Council.

Section 75: Term of office, procedure etc.

195. This section adds a new section 110A to the 1968 Act setting out the terms under which the members of the new Council hold office, and the procedure for the appointment of regional and other committees. The new section also provides for the payment of members' expenses and allowances, and the remuneration of the chairman.

196. The Waterways Board is currently required to provide the Council with staff and accommodation. This requirement is dropped under the new section 110A. Under the new provision the Secretary of State and Scottish Ministers must provide the Council with staff and accommodation.

Section 76: Functions of Council: England and Wales

197. This section adds a new section 110B to the 1968 Act setting out the functions of the new Council in relation to England and Wales. New section 110B effectively replaces section 110(2) of the 1968 Act in relation to England and Wales. It gives the Council the role of providing advice to the Secretary of State and navigation authorities about matters relevant to inland waterways in England and Wales. It also allows the Council to provide any other interested person with such advice.

Section 77: Functions of Council: Scotland

198. This section changes the functions of the Council in relation to Scotland by adding a new section 110C to the 1968 Act. New section 110C effectively replaces section 110(2) of the 1968 Act in relation to Scotland. It gives the Council the function of providing advice to Scottish Ministers and the Waterways Board about matters relevant to inland waterways in Scotland which are either owned or managed by the Waterways Board or in respect of which the Board is providing advice or assistance. It also allows the Council to advise other interested persons about such matters.

Part 8: Flexible administrative arrangements

Chapter 1: Agreements with designated bodies

Powers to enter into agreements

Section 78: Agreement between Secretary of State and designated body

199. This section gives the Secretary of State a power to enter into an agreement with a designated body authorising that body to carry out a Defra function on behalf of the Minister. A Defra function is one that the Secretary of State certifies as one that falls to be performed by or through the Department for Environment, Food and Rural Affairs.

200. “Designated body” is defined as a body listed in Schedule 7. The Secretary of State can amend the list in Schedule 7 by statutory instrument.

201. An agreement made under this section will, for example, enable activities that are currently carried out by Defra's Rural Development Service to be carried out by Natural England.

Section 79: Agreement between designated bodies

202. This section allows one designated body (“A”) to enter into an agreement with another designated body (“B”) authorising “B” to carry out a function of “A” that is related to or connected with a Defra function. This would be by mutual agreement, and subject to the approval of the Secretary of State.

203. The section allows for the Secretary of State's approval to be given either to a particular agreement or to a description of agreements. This will enable the Secretary of State to approve an agreement in respect of a single function or to give a generic approval (which may be time limited if desired) that covers a group of similar functions.

Section 80: Designated bodies

204. This section introduces Schedule 7, which lists designated bodies. It also sets out the circumstances in which the Secretary of State may add bodies to the list or remove them from it. Most of the bodies listed in Schedule 7 are bodies in the “Defra family” (i.e. bodies sponsored by Defra). Others carry out at least one function that is related to or connected with a function of Defra. For instance, the Forestry Commission (a non-ministerial department) and the Historic Buildings and Monuments Commission for England (a non departmental public body known as “English Heritage” and sponsored by the Department for Culture, Media and Sport) have been included in the list. Local authorities have been included in the list because they already perform a number of Defra-related functions.

Section 81: Reserved functions

205. This section provides that a function cannot be subject to an agreement under section 78 or 79 (a “Chapter 1 agreement”) if it is a “reserved function”. Reserved functions are listed in subsection (2) and include, for example: functions whose performance by the designated body would be incompatible with that body's purposes, powers of a Minister to make and terminate appointments; Ministerial powers to give directions, guidance issue codes of practice and make subordinate legislation; Ministerial powers to fix fees and charges (unless the Secretary of State has ordered otherwise); accounting officer functions; and functions under the Water Industry Act 1991 and any subordinate legislation made under that Act. Powers of entry, inspection, sampling and seizure and related powers are also reserved functions, except where the body being authorised is a public body.

Section 82: Maximum duration of agreement

206. This section imposes a 20-year limit on the duration of Chapter 1 agreements.

Section 83: Particular powers

207. Subsection (2) of this section provides for various cases where the body being authorised to carry out a function under a Chapter 1 agreement is already involved with the function in some way, for example as a consultee, as a body that must give its consent before Ministers or others can perform the function, or in the joint exercise of the function. The subsection clarifies that Chapter 1 agreements can still be made in such circumstances.

208. Subsection (4) provides that the lack of a specific power to carry out a function, will not be prevent a body from performing it if the body has been authorised to so under a Chapter 1 agreement. It also provides that the body can delegate performance to a specially-formed body corporate or to a committee, sub-committee, member officer or employee of the body (except in certain local authority cases, or if the agreement prohibits this). However, subsection (6) provides that delegation of the performance of the function to anyone else is generally not permitted.

Section 84: Agreements with local authorities

209. This section makes particular provision for local authorities in relation to Chapter 1 agreements. Local authorities require this provision due to the legislative streamlining of local government decision-making under the Local Government Act 2000. Under that Act and subordinate legislation each function of a principal local authority is (depending on the function) administered either directly by the full council or through executive arrangements. Detailed arrangements for the performance of the functions are specified in regulations made under section 13 of the 2000 Act.

210. This section provides that where a function is to be discharged on behalf of the Secretary of State or another designated body by a local authority under a Chapter 1 agreement, the existing allocation of responsibility for the performance of that type of function under the 2000 Act and subordinate legislation (whether executive or full council) will apply.

211. The section also provides that the full council (or the executive, as applicable) may use various usual powers of delegation (for example, to committees and officers) to perform the function.

Section 85: Supplementary provisions with respect to agreements

212. Subsection (1) of this section provides that Chapter 1 agreements, and any approvals for them under section 72, must be in writing. Under subsection (2) the agreements are to be made public in such a way that, in the Secretary of State's opinion, bodies and people likely to be affected by an agreement have it brought to their attention.

213. Subsection (3) provides that no power of a Minister of the Crown to give directions to a statutory body can be used to require the body to enter into a Chapter 1 agreement, or to prohibit it from doing so.

214. Subsection (4) applies Schedule 15 to the Deregulation and Contracting Out Act 1994 to authorisations by a designated body under section 72. This is to make clear to each contracting body how to handle confidential information and the situations where sharing of information between the contracting bodies is permitted.

Chapter 2: Powers to reform agricultural etc. bodies

Power to create boards

215. This Chapter gives the Secretary of State the powers to establish new bodies for agricultural and related industries and to dissolve both existing levy bodies and any bodies created using the provisions in this Chapter. This Chapter also allows for property, rights, liabilities and any surplus to be transferred from the dissolved body or board.

Section 87: Power to establish boards

216. This section confers power on the appropriate authority to make an order establishing a board. The order will specify the purpose for which the board is established and assign certain functions to it. The permissible purposes are set out in section 88; the permissible functions are set out in section 89. An order under this section must specify the geographical area in relation to which assigned functions are to be exercised.

217. “The appropriate authority” is defined in section 96—

- in relation to matters concerning England only, the appropriate authority is the Secretary of State;
- in relation to matters concerning Wales only, the appropriate authority is the National Assembly for Wales;
- in relation to matters concerning Scotland only, the appropriate authority is the Scottish Ministers;
- in relation to matters concerning Northern Ireland only, the appropriate authority is the Department of Agriculture and Rural Development in Northern Ireland;
- in relation to certain other specified matters (broadly speaking cross-border matters), the appropriate authority is the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers (where a draft of the order has been approved by a resolution of the Scottish Parliament) or the Department of Agriculture and Rural Development in Northern Ireland.

218. An order under this section is referred to in the Act (and in these notes) as a “section 87 order”.

219. The procedure for making a section 87 order is provided for in section 97.

Section 88: Permissible purposes of boards

220. Subsection (1) lists the purposes for which a board may be established. Subsection (2) requires a section 87 order to specify the purposes for which the board is established and to define the industry to which the order relates.

Section 89: Permissible function of boards

221. This section sets out the variety of functions which may be assigned to a board under a section 87 order. The section introduces Schedule 9, which contains a list of functions that is based on those available for development councils set up under the Industrial Organisation and Development Act 1947. The functions include promoting and undertaking scientific research, and promoting marketing, product certification, development of export trade, education and training. The other permissible functions that may be assigned to a board are functions of the five main existing levy bodies. Three of them, those dealing with horticulture, potatoes and milk, are set up as development councils under the 1947 Act. There is a separate Act, the Cereals Marketing Act 1965, that set up the levy board in the cereals sector (Home Grown Cereals Association), and Part 1 of the Agriculture Act 1967 that set up the Meat and Livestock Commission. These bodies will remain in place unless and until the appropriate authority decides to dissolve them (see section 91).

Section 90: Ancillary provisions

222. This section introduces Schedule 10, which contains further provisions about the contents of a section 87 order. These include provisions relating to acting through subsidiaries, registers, returns and other information, investigative powers, levies, reserve funds, power to charge for services, incidental powers, approval of appropriate authority, consultation and offences.

223. In particular the board of a new body will be able to demand sight of records and other documents so as to enable it to verify that the correct levy is raised from people. It will also take note of the views of the different sectors.

Power to dissolve existing levy bodies and boards

Section 91: Power to dissolve existing levy bodies

224. This section confers power on the appropriate authority to dissolve the existing levy bodies (as defined by section 89(2)). The section ensures that where an existing levy body is dissolved the primary or secondary legislation which established the body is repealed or revoked.

Section 92: Power to dissolve board

225. This section confers power on the appropriate authority to dissolve any board established under this Chapter.

Section 93: Dissolution: supplementary

226. This section provides that, in the event of an order for the dissolution of an existing levy body or a board created under this Chapter, the order may deal with the transfer of any property, rights or liabilities of the existing body or board. Also, where an existing levy body or a board has collected levies, any surplus assets can be applied elsewhere by the order (for example, for the benefit of the industry that has paid the levies in past years).

Powers of appropriate authority

Section 94: Grants

227. Under this section the appropriate authority may make grants to a board under such conditions as the authority sees fit.

Section 95: Directions

228. Under this section the appropriate authority may give a board directions as to the exercise of its functions, and revoke or amend such directions (which have to be in published).

Chapter 3 Financial assistance

Section 98: Financial assistance

229. This section enables the Secretary of State to provide financial assistance in respect of expenditure incurred or to be incurred in any matter related to or connected with a Defra function, subject to any conditions (for example terms governing reimbursement on breach) specified. These grant-giving powers are couched broadly and flexibly in order to enable the Secretary of State to fund any function within Defra's remit, even where a more specific power to give financial assistance exists. This will, for example, enable the Secretary of State to fund directly matters such as social and economic regeneration of deprived rural areas. At present she can do this only through the Countryside Agency or some other delivery agency. The new power can be exercised in relation to Wales and Northern Ireland.

Part 9: Miscellaneous

Section 99: Natural beauty in the countryside

230. This section makes clear that the mere fact that land is used for agriculture, woodlands, as a park or its flora, fauna or physiographical features have been derived, in part, from human intervention in the landscape, does not prevent it from being regarded as land within an area of

“natural beauty”. References to places of “natural beauty” are to be found in a range of enactments (not just the core enactments dealing with the establishment and maintenance of National Parks and areas of outstanding natural beauty). This clarification allows a broader view to be taken of the meaning of “natural beauty” than was taken in the *Meyrick* case mentioned above.

Section 100: Byelaws relating to land drainage

231. The existing byelaw making powers in Schedule 25 to the Water Resources Act 1991 and section 66 of the Land Drainage Act 1991 do not integrate environmental issues into the byelaw decision-making process. This section amends the two enactments to do so.

Section 101: Abolition of certain agricultural etc. committees

232. Paragraphs (a) to (c) of this section abolish three redundant hill farming advisory committees that have operated under section 32 of the Hill Farming Act 1946 in the various parts of the United Kingdom. Paragraphs (d) and (e) abolish various consumer and investigation committees that were originally set up under section 19 of the Agricultural Marketing Act 1958 and a related Northern Ireland Order and have not been in operation for several years.

Part 10: Final Provisions

Section 102: Crown land

233. This section provides that “the appropriate authority” (as defined by subsection (4)) may enter into section 7 management agreements in relation to the Crown's interests in Crown land. “Crown land” is defined widely to include land in which Her Majesty in right of the Crown, either of the Duchies of Lancaster and Cornwall, or a government department holds an interest. “The appropriate authorities” are variously (depending on the type of land involved) the Crown Estate Commissioners, the Chancellor of the Duchy of Lancaster, the appointee of the Duke of Cornwall (or of any other possessor of the Duchy), or the government department that owns, manages or has the benefit of the land.

Section 103: Wales

234. This section ensures that the amendments made by the Act to the Wildlife and Countryside Act 1981 are governed by National Assembly for Wales (Transfer of Functions) Order 1999, thus ensuring that certain functions under the amendments are devolved to Wales.

Section 104: Power to make further provision

235. This section gives the Secretary of State power to give effect to the Act by making supplementary, incidental, consequential, transitory, transitional or saving provisions by order. Secondary legislation will need to be amended under this power to reflect the fact that Natural England is taking over the roles (for example as statutory consultee) of English Nature and the Countryside Agency. Orders under this section containing provisions that amend primary legislation require the approval of both Houses of Parliament. The negative procedure (annulment) applies to a statutory instrument containing any other order under this section.

Section 105: Minor and consequential amendments etc.

236. This introduces Schedules 11 (minor and consequential amendments) and 12 (repeals and revocations).

237. Paragraph 97 of Schedule 11 introduces a new section 71(2) into the Wildlife and Countryside Act 1981 to clarify the meaning of “plants” in that Act. The drafting of the 1981 Act, which includes

certain fungi species in Schedule 8 to that Act (which is about protected plants), assumes that fungi are plants. Similarly, the drafting of the 1981 Act, which includes algae in Part 2 of Schedule 9 to that Act (plants to which section 14 applies), also assumes that algae are plants. But from the standard scientific point of view fungi and algae are not regarded as plants. Paragraph 97 is intended to make clear that for the purposes of the 1981 Act fungi and algae species are regarded as “plants”.

Section 108: **Extent**

238. Most of the Act extends to England and Wales only. However, under Part 2 the Joint Nature Conservation Committee is a body that has a UK remit. The Inland Waterways Advisory Council's functions extend to Scotland and therefore Part 7 extends to Scotland. Chapter 2 of Part 8, which deals with the agricultural levy boards, has UK-wide extent. Chapter 3 of that same Part (dealing with financial assistance) extends to Northern Ireland as well as England and Wales. Various sections in Parts 9 (miscellaneous) and 10 (final provisions) and Schedules 11 (minor and consequential amendments) and 12 (repeals and revocations) extend to Scotland and/or Northern Ireland.

TERRITORIAL APPLICATION: WALES

239. Natural England and the Commission for Rural Communities are both created under Part 1, and given functions in relation to England but not Wales. The Countryside Council for Wales continues in existence and, where it is dealt with in legislative provisions that also mention the (abolished) English Nature or Countryside Agency, consequential amendments preserve its functions. However, the preserved functions are not exactly the same as those of the new Natural England and Commission for Rural Communities.

240. Section 33, which is in Part 2, adjusts slightly the role of the Countryside Council for Wales, by requiring it to have regard to the desirability of contributing to sustainable development for the purposes of its functions under Part 2. The same obligation is placed on the other UK conservation bodies. Under section 58 (read with paragraph 78 of Schedule 11) the Countryside Council for Wales is given the same power as Natural England to put up and maintain notices or signs on sites of special scientific interest. Under section 63 (read with paragraph 89 of Schedule 11) the Countryside Council for Wales is given the same right as Natural England to receive notification of agricultural operations on moor and heath in National Parks.

241. The amendment of the Local Government and Housing Act 1989 made by section 65 will enable Welsh National Park authorities, as well as English ones, to benefit from being able to apply for emergency financial assistance following a natural disaster.

242. The Act affects the National Assembly for Wales. Under sections 44(2)(b) (enforcement powers in connection with pesticides — definition of “inspector”) and 52 (enforcement powers in connection with wildlife) the Assembly is given a new power to authorise inspectors. Sections 50 and 51 both amend the 1981 Act in a way that indirectly confers on the National Assembly for Wales the new functions of prescribing invasive non-native species whose sale etc. may be an offence, and approving and publicising codes of practice regarding invasive non-native species. (This is by virtue of section 103, which ensures that certain new functions inserted in the 1981 Act by the Act are exercisable by the National Assembly in relation to Wales.)

243. Wales is treated differently for the purposes of flexible administrative arrangements under Chapter 1 of Part 8. That Chapter, which enables the Secretary of State and designated bodies to enter into agreements with other designated bodies for the carrying out of Defra functions and Defra-related functions, applies to English functions but not Welsh ones.

244. In Chapter 2 of Part 8, section 87 allows the Secretary of State and the National Assembly for Wales to set up separate boards in relation to agriculture and related industries, and section 101(b) abolishes a defunct Welsh agricultural sub-committee.

245. The National Assembly for Wales has a role in determining commencement dates of the Act's provisions. By virtue of section 107(4), the Assembly determines the commencement date of Part 6 (rights of way) in relation to Wales, and the Secretary of State must consult the Assembly before commencing various other provisions.

COMMENCEMENT DATE

246. Most substantive provisions of the Act are to come into force by commencement orders. The only exceptions are for sections 59 (criteria for designating national parks) and 99 (natural beauty in the countryside), which both come into force on a date two months after Royal Assent.

247. These commencement orders will be made by the Secretary of State, except that the National Assembly for Wales will make the order for the commencement of Part 6 (rights of way) in relation to Wales. An order may make different provision for different purposes or different areas.

248. Part 2 (nature conservation in the UK), Chapter 2 of Part 8 (flexible administrative arrangements: power to dissolve existing levy bodies and boards) and section 101 (abolition of certain agricultural etc. committees) extend to Scotland and Northern Ireland, so the Secretary of State must consult with the Scottish Ministers and the relevant Northern Ireland Department before commencing their provisions.

249. Part 7 (inland waterways) also extends to Scotland, so the Secretary of State must consult the Scottish Ministers before commencing its provisions. The same is true of section 105 and Schedules 11 and 12 (minor and consequential amendments etc.) so far as they relate to an Act of the Scottish Parliament.

250. So far as section 105 and Schedules 11 and 12 relate to a provision which extends to Northern Ireland only, the Secretary of State must consult with the relevant Northern Ireland Department before commencing their provisions.

HANSARD REFERENCES

251. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament:

| Stage | Date | Hansard Reference |
|---|--------------------------------------|--------------------------------|
| <i>House of Commons</i> | | |
| Introduction | 19 May 2005 | Vol. 434 Col. 282 |
| Second Reading | 6 June 2005 | Vol. 434 Cols. 1006–92 |
| Committee | 21, 23, 28, 30 June, and 5 July 2005 | Hansard Standing Committee A |
| Report | 11 October 2005 | Vol. 437 Cols.173–256 |
| Third Reading | 11 October 2005 | Vol. 437 Cols. 256–262 |
| Commons Consideration of Lords Amendments | 29 March 2006 | Vol. 444 Cols. 935–965 |
| <i>House of Lords</i> | | |
| Introduction | 12 October 2005 | Vol. 674 Col. 356 |
| Second Reading | 7 November 2005 | Vol. 675 Cols. 396–407, 419–73 |

| Stage | Date | Hansard Reference |
|------------------------------|------------------|--|
| Committee of the Whole House | 24 January 2006 | Vol. 677 Cols. 1093–142 |
| | 30 January 2006 | Vol. 678 Cols. 102–22 |
| | 1 February 2006 | Vol. 678 Cols. 243–94 |
| | 8 February 2006 | Vol. 678 Cols. 658–766 |
| | 27 February 2006 | Vol. 679 Cols. 13–89 Vol. 679 Cols. 107–24 |
| | 28 February 2006 | Vol. 679 Cols. 177–248 |
| Report | 15 March 2006 | Vol. 679 Cols. 1253–83 Vol. 679 Cols. 1301–42 |
| | 20 March 2006 | Vol. 680 Cols. 45–80 Vol. 680 Cols. 94–128 |
| Third reading | 27 March 2006 | Vol. 680 Cols. 544–575 |

Royal Assent

30 March 2006

House of Lords Hansard Vol. 680 Col. 861

House of Commons Hansard Vol. 444 Col. 1062

Modifications

| Provision | Modification | Notes | Further Information |
|------------------|--|--------------|----------------------------|
| Sch. 3 | Natural Environment and Rural Communities Act 2006 c. 16, Sch. 3 para. 7 | | |

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