



Countryside Act 1968

1968 CHAPTER 41

Nature conservation, National Parks and access to open country

11 Conservation of natural beauty

In the exercise of their functions relating to land under any enactment every Minister, government department and public body shall have regard to the desirability of conserving the natural beauty and amenity of the countryside.

12 Facilities in or near National Parks

- (1) A local planning authority whose area consists of or includes the whole or any part of a National Park may, at the request of, and in accordance with terms laid down by, the Commission, make arrangements for securing the provision in the area of the local planning authority (whether by the authority or by other persons) of study centres and other facilities for learning about the history, natural features, flora and fauna of the National Park and the objects of architectural, archaeological or historical interest therein; and section 12 of the Act of 1949 (provision of facilities in National Parks) shall have effect as if the functions of local planning authorities under this subsection were functions conferred by subsection (1) of that section.

Expenses incurred by a local planning authority under this subsection shall be expenses towards which the Commission may make contributions under section 86 of the Act of 1949 (information services) and no grant shall be payable under paragraph (a) or paragraph (e) of section 97(1) of the Act of 1949 in respect of expenses incurred by the local planning authority under this subsection, or expenses in or in connection with the acquisition of land for the purposes of this subsection.

- (2) The functions conferred by subsection (1) of the said section 12 of the Act of 1949 shall include the making of arrangements for securing the provision in their area (whether by the authority or by other persons)—
- (a) of public sanitary conveniences in proper and convenient situations, and
 - (b) of receptacles for refuse or litter, and services for the regular emptying and cleansing of those receptacles.

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- (3) A local planning authority whose area consists of or includes any part of a National Park which is bounded by the sea, or by any waterway which is not part of the sea, may, on land which is in or in the neighbourhood of the National Park, carry out such work and do such other things as may appear to them necessary or expedient for facilitating the use of the waters so adjoining the National Park by the public for sailing, boating, bathing and fishing and other forms of recreation:

Provided that a local planning authority shall not under this subsection provide facilities of any description except in cases where it appears to them that the facilities of that description are inadequate or unsatisfactory.

- (4) The works which a local planning authority may carry out under subsection (3) above include the construction of jetties and other works wholly or partly in the sea or in other waters.

The local planning authority, before acting under this subsection, shall consult with and seek the consent of, any river authority having functions relating to the sea or other waters in question and of such other authorities, being authorities which under any enactment have functions relating to the part of the sea or other waters in question, as the Minister may either generally or in any particular case direct, and Schedule 1 to this Act shall have effect where any authority so consulted withhold their consent.

- (5) A local planning authority may make byelaws regulating the use of works carried out by them under subsection (3) above in the waters bounding a National Park and of any facilities or services provided in connection with the works, but before making any such byelaws the local planning authority shall consult the Commission:

Provided that byelaws made under this subsection shall not interfere with the exercise of any functions relating to the waters or land to which the byelaws apply which are exercisable by any authority under any enactment.

Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this subsection were byelaws under that Act.

- (6) The Act of 1949 shall have effect as if subsections (3) and (4) above formed part of section 13(1) of that Act, and section 75 of that Act (which relates to the exercise of powers under the said section 13 as respects land comprised in access orders) shall have effect accordingly, and in the said section 13(1) for the words " or fishing" there shall be substituted the words " or fishing or other forms of recreation ".
- (7) Subsections (2), (3) and (4) of section 13 of the Act of 1949 (carrying out of work on behalf of local planning authority by some other authority) shall apply to any part of the sea bounding a National Park as they apply to a waterway.
- (8) Nothing in the said section 13 as extended by this section shall authorise the carrying out of any operation in contravention of section 34 of the Coast Protection Act 1949 or section 9 of the Harbours Act 1964.

13 Lakes in National Parks: control of boats etc.

- (1) A local planning authority whose area consists of or includes the whole or any part of a National Park shall have power to make byelaws for the prohibition or restriction of traffic of any description on any lake in the National Park.
- (2) The power shall be exercisable for the purpose of—

- (a) ensuring the safety of persons resorting to any such lake,
 - (b) regulating all forms of sport or recreation involving the use of boats or vessels,
 - (c) conserving the amenity and natural beauty of any such lake and the surrounding area, and
 - (d) preventing nuisance or damage, and in particular nuisance from excessive noise.
- (3) Without prejudice to the generality of the foregoing provisions of this section, byelaws under this section may—
 - (a) prescribe rules of navigation and impose speed limits,
 - (b) require the use of effectual silencers on boats or vessels propelled by internal combustion engines, and prescribe rules with a view to imposing limits on the noise or vibration which may be caused by any such boat or vessel,
 - (c) prohibit the use of boats or vessels which are not for the time being registered with the local planning authority in such manner as the byelaws may provide,
 - (d) authorise the making of reasonable charges in respect of the registration of boats or vessels in pursuance of the byelaws,
 - (e) make different provision for different circumstances, and in particular may impose different restrictions in different parts of the lake and at different times or seasons.
- (4) In acting under this section the local planning authority shall have regard to the fulfilment of the objects set out as respects National Parks in sections 1 and 5 of the Act of 1949, and, before making any byelaws, shall consult the Commission.
- (5) Byelaws under this section shall not be made so as to extinguish any public right of way over any waters, but, except as otherwise expressly provided, any byelaws under this section shall apply to persons exercising any such public right of way as they apply to other persons.
- (6) Byelaws under this section—
 - (a) shall be of no effect if and in so far as inconsistent with any rules under the Merchant Shipping Act 1894 which are in force as respects the water to which the byelaws apply,
 - (b) shall not interfere with any functions relating to the water or land to which the byelaws apply which are exercisable by any authority under any enactment.
- (7) This section shall not apply to any lake owned or managed by a river authority or by any statutory undertakers.
- (8) Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this section were byelaws under that Act.
- (9) Subsections (1) and (2), and subject to the next following subsection subsection (4), of section 92 of the Act of 1949 (appointment of wardens of land for which byelaws may be made under section 90 of that Act) shall have effect as if the power of making byelaws conferred by this section was contained in the said section 90.
- (10) For the purpose of securing compliance with any byelaws made under this section, a warden appointed under the said section 92 as applied by this section may enter upon any land, or go on any water, whether or not within the area where the byelaws are in force.

- (11) Where two or more local planning authorities' areas consist of or include part of a National Park, the powers conferred by this section may be exercised by them, or any of them, jointly, or may by agreement between them be exercised by one local planning authority in the part of the National Park in the area of another.
- (12) Byelaws made by a local planning authority under this section may be enforced by any local authority in the area of that other local authority.
- (13) In this section " lake " includes any expanse of water other than a river or canal.

14 Conversion of moor and heath in National Parks to agricultural land

- (1) The Minister may, if satisfied that it is expedient, by order apply this section to any land in a National Park appearing to him to be predominantly moor or heath.
- (2) The occupier of any land to which this section for the time being applies, and which is moor or heath which has not been agricultural land at any time within the preceding twenty years, shall not, by ploughing or otherwise, convert any of the land into agricultural land unless he has given six months written notice of his intention to the local planning authority.
- (3) If, without the consent in writing of the local planning authority, any person fails to comply with subsection (2) above, whether by failing to give a notice, or by taking some action within the six months, he shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction to a fine of not more than £200, or
 - (b) on conviction on indictment to a fine.
- (5) An order made under subsection (1) above—
 - (a) may be varied or revoked by a subsequent order so made,
 - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section " agricultural land " does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land.
- (7) In considering for the purposes of subsection (2) above whether land has been agricultural land within the preceding twenty years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section.

15 Areas of special scientific interest

- (1) This section has effect as respects land which is not for the time being managed as a nature reserve but which is or forms part of an area which in the opinion of the Natural Environment Research Council (in this section referred to as " the Council") is of special interest by reason of its flora, fauna, or geological or physiographical features.
- (2) Where, for the purpose of conserving those flora, fauna or geological or physiographical features, it appears to the Council expedient in the national interest to do so, the Council may enter into an agreement with the owners, lessees and occupiers of any such land which imposes restrictions on the exercise of rights over land by the persons who can be bound by the agreement.

- (3) Any such agreement—
- (a) may provide for the carrying out on the land of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement,
 - (b) may provide for any of the matters mentioned in paragraph (a) above being carried out, or for the cost thereof being defrayed, either by the owners or other persons, or by the Council, or partly in one way and partly in another, and
 - (c) may contain such other provisions as to the making of payments by the Council as may be specified in the agreement.
- (4) Where section 79 of the Law of Property Act 1925 (burden of covenant running with the land) applies to any such restrictions as are mentioned in subsection (2) of this section, the Council shall have the like rights as respects the enforcement of the restrictions as if the Council had at all material times been the absolute owner in possession of ascertained land adjacent to the land in respect of which the restriction is sought to be enforced, and capable of being benefited by the restriction, and the restriction had been expressed to be for the benefit of that adjacent land.
- Section 84 of the Law of Property Act 1925 (discharge or modification of restrictive covenants) shall not apply to such a restriction.
- (5) Schedule 2 to the Forestry Act 1967 (powers of tenants for life and other limited owners to enter into forestry dedication covenants or agreements) shall apply to any agreement made in pursuance of this section as it applies to such a covenant or agreement.
- (6) This section shall apply to Scotland but there shall be substituted for subsection (4) the following subsection—
- “(4) An agreement under this section may be recorded in the Register of Sasines, and if so recorded shall be enforceable at the instance of the Council against any person having an interest in the land and against any person deriving title from him:
- Provided that such an agreement shall not be enforceable against any third party who shall have in good faith and for value acquired right (whether completed by infestment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.”
- (7) The Act of 1949 shall have effect as if this section were included in Part III of that Act.

16 Access to open country: rivers, canals and woodlands

- (1) The definition of " open country " in section 59(2) of the Act of 1949 shall include, if in the countryside, any woodlands.
- (2) Subject to subsection (6) below, the said definition shall include, if in the countryside—
- (a) any river or canal, and
 - (b) any expanse of water through which a river, or some part of the flow of a river, runs, and
 - (c) a strip of the adjacent land on both sides of any river or canal, or of any such expanse of water, of reasonable width, and where a highway crosses or comes

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close to the river, canal or other water, so much of any land connecting the highway with the strip of land as would, if included together with the strip in an access agreement or order, afford access from the highway to some convenient launching place for small boats.

- (3) The strip of adjacent land comprised in any access order shall be wide enough to allow passage on foot along the water and wide enough to allow the public to picnic at convenient places and, where practicable, to embark or disembark, and shall include—
 - (a) the banks, walls or embankments along the water, and
 - (b) any towpath or other way or track beside the water.
- (4) Local planning authorities shall exercise their powers under Part V of the Act of 1949 over any such strip of land with special regard to the interests of persons using small boats who must circumvent obstacles or obstructions on the water by passing round on foot with their boats, and in the interests of persons who wish to obtain access from a highway to convenient launching places for small boats.
- (5) In section 60 of the Act of 1949 (rights of public over land subject to an access agreement or order, other than excepted land) subsection (5)(a) (certain agricultural land to be excepted land) shall not apply to any land within subsection (2)(c) above.
- (6) Subsections (2) and (3) above shall not apply as respects, or as respects land held with—
 - (a) a reservoir owned or managed by statutory undertakers,
 - (b) a reservoir owned or managed by a river authority, or
 - (c) a canal, or a part of a canal, owned or managed by the British Waterways Board.
- (7) The local planning authority, before making an access agreement or an access order under Part V of the Act of 1949 in respect of land outside a National Park which comprises all or any part of, or of land adjacent to, any river (including any expanse of water through which a river, or some part of the flow of a river runs) or any canal, shall consult with and seek the consent of, any river authority having functions relating to the river or canal in question and of such authorities, being authorities which under any enactment have functions relating to the river or canal in question, as the Minister may either generally or in any particular case direct.

Schedule 1 to this Act shall have effect where any authority so consulted withhold their consent.
- (8) Subsection (7) above shall apply with the necessary modifications in relation to an access order to be made by the Minister as it applies in relation to an access order to be made by a local planning authority.
- (9) In this section " river " includes a stream and the tidal part of a river or stream.
- (10) The provisions of this section shall not be construed as restricting in any way the definition of " open country " in the said section 59(2) as originally enacted.
- (11) This and the four next following sections shall be construed as one with Part V of the Act of 1949.

17 Access orders: agricultural land

- (1) This section applies to land comprised in an access order under Part V of the Act of 1949 (access to open country) confirmed or made by the Minister after the coming into force of this section.
- (2) In section 60 of the Act of 1949 (rights of public over land subject to an access order, other than excepted land) subsection (5)(a) (certain agricultural land to be excepted land) shall not at any time apply to land to which this section applies unless—
 - (a) the said subsection (5)(a) applied to that land on the relevant date, or
 - (b) a direction given by the Minister under this section is for the time being in force as respects that land.
- (3) Where as respects land to which this section applies, not being land to which the said section 60(5)(a) applied on the relevant date, it is represented to the Minister, and the Minister is satisfied—
 - (a) that the land is used, or about to be brought into use, as agricultural land, and that that use or proposed use as agricultural land is not, or is not solely, use as rough grazing for livestock, and
 - (b) that the use or proposed use will be substantially prejudiced by the application of the provisions of the said section 60 of the Act of 1949, and
 - (c) that the prejudicial effect outweighs the benefit arising from the facilities for access to open country conferred on the public by the said section 60,then, subject to the provisions of this section, the Minister shall give a direction under this section as respects the land.
- (4) Before coming to a conclusion on any representation under this section the Minister—
 - (a) shall consult the Commission, and
 - (b) shall either cause a local inquiry to be held or afford to the person by whom the representation was made, and to the local planning authority concerned, an opportunity of being heard by a person appointed by the Minister for the purpose,and shall consider the report of the person by whom the inquiry was held or the person appointed as aforesaid, as the case may be.
- (5) In determining whether the conditions specified in paragraphs (a), (b) and (c) of subsection (3) above are fulfilled the Minister shall have regard to any restrictions on the rights of the public imposed by the access order by virtue of section 60(3) of the Act of 1949 ; and the Minister may, if he thinks fit, instead of giving a direction under subsection (3) above, by order vary the access order so as to impose as respects the land any such restrictions or further restrictions authorised by the said section 60(3) as appear to him appropriate.
- (6) All land within paragraph (a) of subsection (2) above shall be defined in the prescribed manner in the map to be contained, in pursuance of section 65(3) of the Act of 1949, in the access order, and in the map to be kept under section 78 of the Act of 1949, and those maps shall from time to time be altered so as to take account of any direction given by the Minister under this section and so as to correct any errors or omissions made in defining that land.
- (7) In subsection (2) above " the relevant date " means—
 - (a) in relation to an access order made by a local planning authority, the date of the making of the order,

- (b) in relation to an access order made by the Minister, the date on which the Minister under paragraph 1(2) of Schedule 1 to the Act of 1949 gave notice or the first notice of his proposal to make the order.

18 Access agreements: undertakings by landowners and others not to convert land into excepted land

For the purpose of preventing or restricting the conversion of land which is open country into excepted land within the meaning of section 60(5) of the Act of 1949, an access agreement under section 64 of the Act of 1949 may impose such restrictions on the exercise of rights over the land by the persons who can be bound by the agreement as appear to the local planning authority and the other parties to the agreement to be expedient.

19 Access to open country: protection for woodlands

- (1) Section 79 of the Act of 1949 (exclusion of woodlands from access orders and access agreements) shall be amended in accordance with this section.
- (2) It shall be one of the conditions in paragraph (a), and one of the conditions in paragraph (b), of section 79(1) of the Act of 1949 (conditions to be satisfied where woodland is to be excluded from an excess order) that the prejudicial effect there mentioned (that is to say the prejudicial effect of the application of the provisions of section 60 of the Act of 1949 to the land) outweighs the benefit arising from the facilities for access to open country conferred on the public by the said section 60, and references to the said conditions in subsections (2), (3) and (5) of the said section 79 shall be construed accordingly.
- (3) Before exercising any of his functions under the said section 79 the Minister shall consult the Commission.
- (4) If under subsection (4) of the said section 79 the Minister affords to a person who has made a representation an opportunity of being heard by a person appointed by the Minister for the purpose, he shall afford the same opportunity to the local planning authority concerned.
- (5) The amendments made by this section have effect in relation to any representation or objection made after the coming into force of this section.

20 Access to open country: contributions by local planning authorities to persons displaying maps and notices

A local planning authority shall have power, as respects any land in their area which is subject to an access agreement or order, to defray or contribute towards, or to undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person interested therein in displaying, at places where the public obtain access to any such land—

- (a) any reproduction of the relevant map prepared by the local planning authority under section 78 of the Act of 1949, or
- (b) any notice specifying restrictions on access to the land or any part thereof.

21 Amendments of Act of 1949

- (1) Section 11(3) of the Act of 1949 (general powers of local planning authorities in National Parks: exclusion of powers under other Acts) shall cease to have effect.
- (2) In section 51(1) of the Act of 1949 (general provisions as to long distance routes) after the word " horseback " there shall be inserted the words " or on a bicycle not being a motor vehicle ".
- (3) In section 73(1) of the Act of 1949 (access orders: compensation payable earlier on the ground of special circumstances whereby the postponement of compensation will cause undue hardship) the words from " whereby " to " undue hardship " shall cease to have effect.
- (4) In section 86(1)(b) of the Act of 1949 (information services to be provided by Commission) after the word " architectural" there shall be inserted the word " archaeological ".
- (5) There shall be repealed so much of section 89(4) of the Act of 1949 as provides that the power under subsection (1) of that section (power to plant trees for preserving or enhancing natural beauty) does not include power to do anything which the council of a county, county borough or county district are or can be authorised to do by any other enactment.
- (6) The definition of the expression " open-air recreation" in section 114(1) of the Act of 1949 (which excludes organised games from that expression) shall apply only for the purposes of Part V of that Act.
- (7) In subsection (2) of the said section 114 (definition of preservation of natural beauty) for the words " the characteristic natural features, flora and fauna thereof " there shall be substituted the words " its flora, fauna and geological and physiographical features ", and (with a view to facilitating the consolidation of the appropriate parts of this Act and the Act of 1949) references in the Act of 1949 to the preservation of the natural beauty of an area shall be construed in the same way as references in this Act to the conservation of the natural beauty of an area.