



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART II

#### NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

##### *Nature conservation*

#### [<sup>F1</sup>27A Construction of references to Nature Conservancy Council.

In this Part references to “the Nature Conservancy Council” are, unless the contrary intention appears, references—

- (a) in relation to land in, or land covered by waters adjacent to, England, to the Nature Conservancy Council for England;
- (b) in relation to land in, or land covered by waters adjacent to, Scotland, to the Nature Conservancy Council for Scotland; and
- (c) in relation to land in, or land covered by waters adjacent to, Wales, to the Countryside Council for Wales;

and references to “the Council” shall be construed accordingly.]

#### Textual Amendments

- F1** S. 27A inserted (1.4.1991) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 132(1)(a), [Sch. 9 para. 11\(8\)](#); S.I. 1991/685, [art.3](#).

*Status: Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.*

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VALID FROM 01/10/2006

**[<sup>F2</sup>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.]

**Textual Amendments**

**F2** S. 27AA and preceding heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 78](#); S.I. 2006/2541, [art. 2](#)

**28 Areas of special scientific interest.**

- (1) Where the Nature Conservancy Council are of the opinion that any area of land is of special interest by reason of any of its flora, fauna, or geological or physiographical features, it shall be the duty of the Council to notify that fact—
- (a) to the local planning authority in whose area the land is situated;
  - (b) to every owner and occupier of any of that land; and
  - (c) to the Secretary of State.

[<sup>F3</sup>(2) A notification under subsection (1) shall specify the time (not being less than three months from the date of the giving of the notification) within which, and the manner in which, representations or objections with respect thereto may be made; and the Council shall consider any representation or objection duly made.]

(3)

- [<sup>F4</sup>(4) A notification under subsection (1)(b) shall specify—
- (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
  - (b) any operations appearing to the Council to be likely to damage that flora or fauna or those features.

[<sup>F5</sup>(4A) Where a notification under subsection (1) has been given, the Council may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—

- (a) give notice to the persons mentioned in subsection (1) withdrawing the notification; or
- (b) give notice to those persons confirming the notification (with or without modifications);

and the notification shall cease to have effect—

- (i) on the giving of notice of its withdrawal under paragraph (a) of this subsection to any of the persons mentioned in subsection (1), or
- (ii) if not withdrawn or confirmed by notice under paragraph (a) or (b) of this subsection within the said period of nine months, at the end of that period.

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- (4B) The Council’s power under subsection (4A)(b) to confirm a notification under subsection (1) with modifications shall not be exercised so as to add to the operations specified in the notification or extend the area to which it applies.
- (4C) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (1)(b) a notice under subsection (4A) confirming the notification with modifications, the notification shall have effect in its modified form in relation to so much (if any) of that land as remains subject to it.]
- (5) The owner or occupier of any land which has been notified under subsection (1)(b) shall not [<sup>F6</sup>while the notification remains in force] carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—
- (a) one of them has, [<sup>F7</sup>after service on him of the notification], given the Council written notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (6) is fulfilled.
- (6) The said conditions are—
- (a) that the operation is carried out with the Council’s written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act; and
  - (c) that [<sup>F8</sup>four months] have expired from the giving of the notice under subsection (5).
- [<sup>F9</sup>(6A) If before the expiry of the four months referred to in subsection (6)(c) the relevant person agrees with the Council in writing that, subject to subsection (6B), the condition specified in paragraph (c) of subsection (6) shall not apply in relation to the operation mentioned in subsection (5)(a), then, subject to subsection (6B), subsection (5) shall as from the date of the agreement have effect in relation to the operation in question (as regards both the owner and the occupier of land) as if paragraph (c) of subsection (6) were omitted.
- (6B) If after an agreement has been made with the Council under subsection (6A) the relevant person (whether a party to the agreement or not) gives the Council written notice that he wishes to terminate the agreement, then as from the giving of the notice subsection (5) shall have effect in relation to the operation in question (as regards both the owner and the occupier of the land) as if paragraph (c) of subsection (6) specified the condition that one month or, if the notice under this subsection specified a longer period, that longer period has expired from the giving of the notice under this subsection.
- (6C) In subsection (6A) and (6B) “the relevant person”—
- (a) in a case where the notice under subsection (5) was given by the owner of the land in question, means the owner of that land;
  - (b) in a case where that notice was given by the occupier of that land, means the occupier of that land.]

(7) A person who, without reasonable excuse, contravenes subsection (5) shall be liable on summary conviction to a fine not exceeding [<sup>F10</sup>level 4 on the standard scale].

(8) It is a reasonable excuse in any event for a person to carry out an operation if—

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- (a) the operation was authorised by a planning permission granted on an application under [<sup>F11</sup>Part III of the Town and Country Planning Act 1990] or Part III of the <sup>M1</sup>Town and Country Planning (Scotland) Act 1972; or
  - (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Council as soon as practicable after the commencement of the operation.
- (9) The Council shall have power to enforce the provisions of this section; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (10) Proceedings in England and Wales for an offence under subsection (7) shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (11) A notification under subsection (1)(b) of land in England and Wales shall be a local land charge.
- [<sup>F12</sup>(12) The Council shall compile and maintain a register of notifications in respect of each local planning authority in Scotland.
- (12A) There shall be included in any such register as is mentioned in subsection (12)—
- (a) copies of all notifications given under subsection (1) which relate wholly or partly to land situated within the district of the authority;
  - (b) copies of all plans referred to in any such notification; and
  - (c) copies of all notices served under subsection (4A) which relate to any such notification.
- (12B) Each local planning authority in Scotland shall keep a copy of the register relating to their district available at their principal office for free public inspection, and may similarly keep, at such of their other offices as they think fit, a copy of such part of the register as appears to them to relate to the area in which the office is situated.]
- (13) Section 23 of the 1949 Act (which is superseded by this section) shall cease to have effect; but any notification given under that section shall have effect as if given under subsection (1)(a).
- (14<sup>F13</sup>

#### Textual Amendments

- F3** S. 28(2) substituted (with saving) by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 2\(2\)\(10\)](#)
- F4** S. 28(3) repealed by [Wildlife and Countryside \(Service of Notices\) Act 1985 \(c. 59, SIF 4:5\)](#), [s. 1\(2\)](#)
- F5** S. 28(4A)–(4C) inserted (with saving) by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 2\(4\)\(10\)](#)
- F6** Words inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 2\(5\)\(a\)\(11\)](#)
- F7** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 2\(5\)\(b\)\(11\)](#)
- F8** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 2\(6\)\(11\)](#)
- F9** S. 28(6A)–(6C) inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 2\(7\)\(ii\)](#)
- F10** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

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- F11** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 54\(1\)](#)
- F12** [S. 28\(12\)–\(12B\)](#) substituted for subsection (12) by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\), s. 2\(8\)](#)
- F13** [S. 28\(14\)](#) repealed (with saving) by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\), s. 2\(9\)\(10\)](#)

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

- C1** [S. 28\(5\)](#) excluded by [Channel Tunnel Act 1987 \(c. 53, SIF 102\), ss. 9\(7\), 45, Sch. 7 Pt. VI para. 2 S. 28\(5\)](#) excluded (18.12.1996) by [1996 c. 61, s. 38, Sch. 10 para. 6](#)
- C2** [S. 28\(11\)](#) applied (with modifications) (30.10.1994) by [S.I. 1994/2716, reg. 18\(4\)\(a\)](#)
- C3** [S. 28\(12\)–\(12B\)](#) applied (with modifications) (30.10.1994) by [S.I. 1994/2716, reg. 18\(4\)\(b\)](#)

**Marginal Citations**

- M1** [1972 c. 52.](#)

VALID FROM 30/01/2001

**[<sup>F14</sup>28A Variation of notification under section 28.**

- (1) At any time after notice has been given under section 28(5)(b) confirming a notification (with or without modifications), the Nature Conservancy Council may by notice vary the matters specified or stated in the confirmed notification (whether by adding to them, changing them, or removing matter from them).
- (2) The area of land cannot be varied under this section.
- (3) The Council shall give notice setting out the variation to—
  - (a) the local planning authority in whose area the land is situated,
  - (b) every owner and occupier of any of the land who in the opinion of the Council may be affected by the variation, and
  - (c) the Secretary of State,and after service of a notice under paragraph (b) the notification under section 28(1)(b) shall have effect in its varied form.
- (4) Section 28(3) shall apply to such a notice as it applies to a notification under section 28(1).
- (5) Where a notice under subsection (3) has been given, the Council may within the period of nine months beginning with the date the last of the owners and occupiers referred to in subsection (3)(b) was served with the notice either—
  - (a) give notice to the persons mentioned in subsection (3) withdrawing the notice; or
  - (b) give notice to them confirming the notice (with or without modifications).
- (6) A notice under subsection (3) shall cease to have effect—
  - (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (3); or
  - (b) if not withdrawn or confirmed by notice under subsection (5) within the period of nine months referred to in that subsection, at the end of that period.

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- (7) As from the time when there is served on the owner or occupier of any land a notice under subsection (5)(b) confirming a notice of variation with modifications, the notification under section 28(1)(b) shall have effect as so varied.
- (8) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notice under subsection (3) or (5)(b).]

#### Textual Amendments

**F14** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### **[<sup>F15</sup>28B Notification of additional land.**

- (1) Where the Nature Conservancy Council are of the opinion that if land adjacent to a site of special scientific interest (“the extra land”) were combined with the site of special scientific interest (“the SSSI”), the combined area of land would be of special interest by reason of any of its flora, fauna, or geological or physiographical features, the Council may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority in whose area the extra land is situated;
  - (b) every owner and occupier of any of that extra land; and
  - (c) the Secretary of State.
- (3) No such notification may be given until after notice has been given under section 28(5)(b) confirming (with or without modifications) the notification under section 28(1) relating to the SSSI.
- (4) Subsections (2) and (3) of section 28 shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) A notification under subsection (2)(b) shall also specify—
  - (a) the area of land constituting the SSSI;
  - (b) what (as at the date of the notification under subsection (2)(b)) is specified or contained in the notification under section 28(1)(b) relating to the SSSI by virtue of section 28(4); and
  - (c) the reasons why the Council is of the opinion referred to in subsection (1).
- (6) In addition, the notification under subsection (2)(b) shall include a statement—
  - (a) saying whether or not anything among the matters specified in the notification by virtue of subsection (5)(c) is particularly relevant to the extra land; and
  - (b) if any such thing is of particular relevance, specifying which.
- (7) Subsections (5) to (7) of section 28 apply in relation to a notification under subsection (2) of this section as they apply in relation to a notification under

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subsection (1) of that section, as if references to “subsection (1)” in section 28(5) to (7) were references to subsection (2) of this section.

- (8) As from the time when a notification under subsection (2)(b) is served on the owner or occupier of any land, the notification under section 28(1)(b) shall have effect as if it included the notification under subsection (2)(b).
- (9) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (2)(b) a notice under section 28(5)(b) (as applied by subsection (7) of this section) confirming the notification under subsection (2)(b) with modifications, the notification under section 28(1)(b) (as extended by virtue of subsection (8) of this section) shall have effect in its modified form.
- (10) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notification under subsection (2) or under section 28(5)(b) as applied by subsection (7) of this section.]

#### Textual Amendments

- F15** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))

VALID FROM 30/01/2001

#### [<sup>F16</sup>28C Enlargement of SSSI.

- (1) Where the Nature Conservancy Council are of the opinion that any area of land which includes, but also extends beyond, a site of special scientific interest (“the SSSI”) is of special interest by reason of any of its flora, fauna, or geological or physiological features, the Council may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority in whose area the land (including the SSSI) is situated;
  - (b) every owner and occupier of any of that land (including the SSSI); and
  - (c) the Secretary of State.
- (3) Subsections (2) to (8) of section 28 apply to a notification under subsection (2) of this section as they apply to a notification under subsection (1) of that section, as if references to “subsection (1)” and “subsection (1)(b)” in section 28(2) to (8) were references to subsection (2) and subsection (2)(b) of this section respectively.
- (4) No notification may be given under subsection (2) until after notice has been given under section 28(5)(b) (or section 28(5)(b) as applied by subsection (3)) confirming (with or without modifications) the notification under section 28(1) (or subsection (2)) relating to the SSSI.
- (5) As from the time when a notification under subsection (2) is served on the owner or occupier of any land included in the SSSI, the notification in relation to that land which had effect immediately before the service of the notification under subsection (2) shall cease to have effect.

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- (6) A notification under subsection (2)(b) of land in England and Wales shall be a local land charge; and, to the extent that any such land was the subject of a local land charge by virtue of section 28(9), that local land charge shall be discharged.
- (7) A notice under section 28E(1)(a) and a consent under section 28E(3)(a) given before a notification under subsection (2)(b) continue to have effect.
- (8) The enlargement of a site of special scientific interest under this section does not affect anything done under section 28J to 28L.
- (9) Any reference to—
- (a) a notification under section 28(1) (or any of its paragraphs) shall be construed as including the corresponding notification under subsection (2);
  - (b) a notification under section 28(5)(b) shall be construed as including a notification under that provision as applied by subsection (3); and
  - (c) a local land charge existing by virtue of section 28(9) shall be treated as including one existing by virtue of subsection (6).]

#### Textual Amendments

**F16** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))

VALID FROM 12/01/2010

#### <sup>F17</sup> 28CA Guidance in relation to subtidal notifications of SSSIs

- (1) The ministerial authority may issue guidance to Natural England about the exercise of the power conferred by section 28(1B), 28B(2B) or 28C(2B) to give a notification under section 28(1), 28B(2) or 28C(2) (as the case may be) in relation to land lying below mean low water mark.
- (2) In this section and section 28CB “the ministerial authority” means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]

#### Textual Amendments

**F17** S. 28CA inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 148, 324\(2\)\(b\)\(ii\), Sch. 13 para. 7; S.I. 2014/3088, art. 2\(b\)](#)



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VALID FROM 12/11/2009

## **[<sup>F18</sup>28CB] Power to call in subtidal notifications**

- (1) This section applies where a notification under section 28(1), 28B(2) or 28C(2) has been given in relation to land lying below mean low water mark (“the subtidal land”) by virtue of section 28(1B), 28B(2B) or 28C(2B) (as the case may be).
- (2) Natural England may not give notice under section 28(5)(b) confirming the notification unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.  
  
(For the meaning of “the ministerial authority”, see section 28CA.)
- (3) At any time before the notification is confirmed the ministerial authority may give notice to Natural England that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), Natural England may not give notice under section 28(5) until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
  - (a) that the notification (if confirmed) must include all of the subtidal land;
  - (b) that the notification (if confirmed) must not include any of the subtidal land;
  - (c) that the notification (if confirmed) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the notification (if confirmed) should include the subtidal land is to be taken by Natural England.
- (6) If the ministerial authority gives a direction under subsection (5), Natural England must give notice under section 28(5)(a) or (b), in accordance with that direction, within the period of three months beginning with the date on which the direction is received by them.
- (7) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (8) A person appointed under subsection (7) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (9) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (7).
- (10) The power to make regulations under subsection (9) is exercisable by statutory instrument.
- (11) A statutory instrument containing regulations made under subsection (9) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (12) A statutory instrument containing regulations made under subsection (9) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

- F18** S. 28CB inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 for specified purposes, 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(1\)\(c\)\(d\)\(2\)\(b\)\(ii\)](#), [Sch. 13 para. 8](#); S.I. 2014/3088, art. 2(b)

VALID FROM 30/01/2001

#### **[<sup>F19</sup>28D Denotification.**

- (1) Where the Nature Conservancy Council are of the opinion that all or part of a site of special scientific interest is no longer of special interest by reason of any of the matters mentioned in section 28(1), they may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority in whose area the land which the Council no longer consider to be of special interest is situated;
  - (b) every owner and occupier of any of that land;
  - (c) the Secretary of State;
  - (d) the Environment Agency; and
  - (e) every relevant undertaker (within the meaning of section 4(1) of the <sup>M2</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M3</sup>Land Drainage Act 1991) whose works, operations or activities may affect the land.
- (3) The Council shall also publish a notification of that fact in at least one local newspaper circulating in the area in which the land referred to in subsection (2)(a) is situated.
- (4) Section 28(3) shall apply to a notification under subsection (2) or (3) as it applies to a notification under section 28(1).
- (5) Where a notification under subsection (2) has been given, the Council may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—
  - (a) give notice to the persons mentioned in subsection (2) withdrawing the notification, or
  - (b) give notice to those persons confirming the notification, or confirming it in relation to an area of land specified in the notice which is smaller than that specified in the notification under subsection (2),
 but if they do neither the notification shall cease to have effect.
- (6) A notification under subsection (2) shall have effect in relation to any land as from the time a notice under subsection (5)(b) is served on its owner or occupier, and from that time a notification under section 28(1)(b) in relation to that land shall cease to have effect.

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(7) A local land charge existing by virtue of section 28(9) shall be discharged in relation to land which is the subject of a notice under subsection (5)(b).]

#### Textual Amendments

**F19** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M2** 1991 c. 56.

**M3** 1991 c. 59.

VALID FROM 30/01/2001

### <sup>F20</sup>**28E Duties in relation to sites of special scientific interest.**

- (1) The owner or occupier of any land included in a site of special scientific interest shall not while the notification under section 28(1)(b) remains in force carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—
  - (a) one of them has, after service of the notification, given the Nature Conservancy Council notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (3) is fulfilled.
- (2) Subsection (1) does not apply to an owner or occupier being an authority to which section 28G applies acting in the exercise of its functions.
- (3) The conditions are—
  - (a) that the operation is carried out with the Council's written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act;
  - (c) that the operation is carried out in accordance with a management scheme under section 28J or a management notice under section 28K.
- (4) A consent under subsection (3)(a) may be given—
  - (a) subject to conditions, and
  - (b) for a limited period,as specified in the consent.
- (5) If the Council do not consent, they shall give notice saying so to the person who gave the notice under subsection (1).
- (6) The Council may, by notice given to every owner and occupier of any of the land included in the site of special scientific interest, or the part of it to which the consent relates—
  - (a) withdraw the consent; or
  - (b) modify it (or further modify it) in any way.
- (7) The following—

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- (a) a consent under subsection (3)(a) granting consent subject to conditions or for a limited period, and
  - (b) a notice under subsection (5) or (6),
- must include a notice of the Council's reasons for imposing the conditions, for the limitation of the period, for refusing consent, or for withdrawing or modifying the consent, and also a notice of the matters set out in subsection (8).
- (8) The matters referred to in subsection (7) are—
    - (a) the rights of appeal under section 28F;
    - (b) the effect of subsection (9); and
    - (c) in the case of a notice under subsection (6), the effect of section 28M.
  - (9) A withdrawal or modification of a consent is not to take effect until—
    - (a) the expiry of the period for appealing against it; or
    - (b) if an appeal is brought, its withdrawal or final determination.
  - (10) The Council shall have power to enforce the provisions of this section.]

#### Textual Amendments

**F20** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

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

**C4** S. 28E(1) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(a) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)  
S. 28E(1) excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6(a)** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

VALID FROM 30/01/2001

#### [<sup>F21</sup> 28F Appeals in connection with consents.

- (1) The following persons—
  - (a) an owner or occupier who has been refused a consent under section 28E(3)(a),
  - (b) an owner or occupier who has been granted such a consent but who is aggrieved by conditions attached to it, or by the fact that it is for a limited period, or by the length of that period,
  - (c) an owner or occupier who is aggrieved by the modification of a consent;
  - (d) an owner or occupier who is aggrieved by the withdrawal of a consent,
 may by notice appeal to the Secretary of State against the relevant decision.
- (2) If the Nature Conservancy Council neither give consent nor refuse it within the period of four months beginning with the date on which the notice referred to in section 28E(1)(a) was sent, the person who gave that notice may for the purposes of subsection (1) treat the Council as having refused consent (and his appeal is to be determined on that basis).

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- (3) Notice of an appeal must reach the Secretary of State—
- (a) except in a case falling within subsection (2), within the period of two months beginning with the date of the notice giving consent or the notice under section 28E(5) or (6), or
  - (b) in a case falling within subsection (2), within the period of two months beginning immediately after the expiry of the four-month period referred to there,
- or, in either case, within such longer period as is agreed in writing between the Council and the appellant.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
- (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,
- and he must act as mentioned in paragraph (a) or (b) if either party to the appeal asks to be heard in connection with the appeal.
- (5) On determining an appeal against a decision, the Secretary of State may—
- (a) affirm the decision,
  - (b) where the decision was a refusal of consent, direct the Council to give consent,
  - (c) where the decision was as to the terms of a consent (whether the original or a modified one), quash all or any of those terms,
  - (d) where the decision was a withdrawal or modification of consent, quash the decision,
- and where he exercises any of the powers in paragraphs (b), (c) or (d) he may give directions to the Council as to the terms on which they are to give consent.
- (6) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
- (a) notices of appeal and supporting documentation required, and
  - (b) how appeals are to be brought and considered,
- and any such regulations may make different provision for different cases and circumstances.
- (7) A statutory instrument containing regulations under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (9) Schedule 10A shall have effect with respect to appointments under subsection (8).
- (10) Subsections (2) to (5) of section 250 of the <sup>M4</sup>Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
- (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and

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(b) to the Minister causing an inquiry to be held were to the Secretary of State.

(11) Section 322A of the <sup>M5</sup>Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.]

#### Textual Amendments

**F21** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

#### Marginal Citations

**M4** 1972 c. 70.

**M5** 1990 c. 8.

VALID FROM 30/01/2001

#### [<sup>F22</sup>28G Statutory undertakers, etc.: general duty.

- (1) An authority to which this section applies (referred to in this section and in sections 28H and 28I as “a section 28G authority”) shall have the duty set out in subsection (2) in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.
- (2) The duty is to take reasonable steps, consistent with the proper exercise of the authority’s functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
- (3) The following are section 28G authorities—
  - (a) a Minister of the Crown (within the meaning of the Ministers of the <sup>M6</sup>Crown Act 1975) or a Government department;
  - (b) the National Assembly for Wales;
  - (c) a local authority;
  - (d) a person holding an office—
    - (i) under the Crown,
    - (ii) created or continued in existence by a public general Act of Parliament, or
    - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
  - (e) a statutory undertaker (meaning the persons referred to in section 262(1), (3) and (6) of the <sup>M7</sup>Town and Country Planning Act 1990); and
  - (f) any other public body of any description.]

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### Textual Amendments

**F22** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

### Modifications etc. (not altering text)

**C5** S. 28G(2) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(b) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)

S. 28G(2) excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6(b)** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

### Marginal Citations

**M6** 1975 c. 26.

**M7** 1990 c. 8.

VALID FROM 30/01/2001

## **[<sup>F23</sup>28H Statutory undertakers, etc.: duty in relation to carrying out operations.**

- (1) A section 28G authority shall give notice to the Nature Conservancy Council before carrying out, in the exercise of its functions, operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.
- (2) Subsection (1) applies even if the operations would not take place on land included in a site of special scientific interest.
- (3) In response to the notice referred to in subsection (1), the Council may send a notice—
  - (a) saying that they do not assent to the proposed operations, or
  - (b) assenting to them (with or without conditions),but if they do not send a notice under paragraph (b) within the period of 28 days beginning with the date of the notice under subsection (1) they shall be treated as having declined to assent.
- (4) If the Council do not assent, or if the authority proposes to carry out the operations otherwise than in accordance with the terms of the Council's assent, the authority—
  - (a) shall not carry out the operations unless the condition set out in subsection (5) is satisfied, and
  - (b) shall comply with the requirements set out in subsection (6) when carrying them out.
- (5) The condition is that the authority has, after the expiry of the period of 28 days beginning with the date of the notice under subsection (1), notified the Council of—
  - (a) the date on which it proposes to start the operations (which must be after the expiry of the period of 28 days beginning with the date of the notification under this paragraph), and
  - (b) how (if at all) it has taken account of any written advice it received from the Council, before the date of the notification under this paragraph, in response to the notice under subsection (1).

**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** *Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The requirements are—

- (a) that the authority carry out the operations in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological or physiographical features by reason of which the site is of special interest (taking account, in particular, of any such advice as is referred to in subsection (5)(b)); and
- (b) that the authority restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur.]

#### Textual Amendments

**F23** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### [<sup>F24</sup>28I Statutory undertakers, etc.: duty in relation to authorising operations.

- (1) This section applies where the permission of a section 28G authority is needed before operations may be carried out.
- (2) Before permitting the carrying out of operations likely to damage 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 section 28G authority shall give notice of the proposed operations to the Nature Conservancy Council.
- (3) Subsection (2) applies even if the operations would not take place on land included in a site of special scientific interest.
- (4) The authority shall wait until the expiry of the period of 28 days beginning with the date of the notice under subsection (2) before deciding whether to give its permission, unless the Nature Conservancy Council have notified the authority that it need not wait until then.
- (5) The authority shall take any advice received from the Council into account—
  - (a) in deciding whether or not to permit the proposed operations, and
  - (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to the permission.
- (6) If the Council advise against permitting the operations, or advise that certain conditions should be attached, but the section 28G authority does not follow that advice, the authority—
  - (a) shall give notice of the permission, and of its terms, to the Council, the notice to include a statement of how (if at all) the authority has taken account of the Council's advice, and
  - (b) shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice.



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(7) In this section “permission”, in relation to any operations, includes authorisation, consent, and any other type of permission (and “permit” and “permitting” are to be construed accordingly).]

#### Textual Amendments

**F24** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

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

**C6** S. 28I excluded (30.1.2001) by 1987 c. 53, s. 9(7) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)  
S. 28I excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

VALID FROM 30/01/2001

#### [<sup>F25</sup>**28J** Management schemes.

- (1) The Nature Conservancy Council may formulate a management scheme for all or part of a site of special scientific interest.
- (2) A management scheme is a scheme for—
  - (a) conserving the flora, fauna, or geological or physiographical features by reason of which the land (or the part of it to which the scheme relates) is of special interest; or
  - (b) restoring them; or
  - (c) both.
- (3) The Council shall serve notice of a proposed management scheme on every owner and occupier of any of the land (or the part of it to which the scheme would relate); but it may be served on them only after they have been consulted about the proposed management scheme.
- (4) The notice may be served with the notification referred to in section 28(1)(b) or afterwards.
- (5) The owners and occupiers upon whom the notice must be served (referred to in this section as “the relevant owners and occupiers”) are—
  - (a) if it is served with the notification under section 28(1)(b), or later but before the notification referred to in section 28(5)(b), the owners and occupiers referred to in section 28(1)(b);
  - (b) if it is served with the notification under section 28(5)(b) or later, the owners and occupiers of such of the land as remains subject to the notification.
- (6) The notice of a proposed management scheme must include a copy of the proposed scheme.
- (7) The notice must specify the time (not being less than three months from the date of the giving of the notice) within which, and the manner in which, representations or

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objections with respect to the proposed management scheme may be made; and the Council shall consider any representation or objection duly made.

(8) Where a notice under subsection (3) has been given, the Council may within the period of nine months beginning with the date on which the notice was served on the last of the relevant owners and occupiers either—

- (a) give notice to the relevant owners and occupiers withdrawing the notice, or
- (b) give notice to them confirming the management scheme (with or without modifications),

and if notice under paragraph (b) is given, the management scheme shall have effect from the time the notice is served on all of the relevant owners or occupiers.

(9) A notice under subsection (3) shall cease to have effect—

- (a) on the giving of a notice of withdrawal under subsection (8)(a) to any of the relevant owners and occupiers; or
- (b) if not withdrawn or confirmed by notice under subsection (8) within the period of nine months referred to there, at the end of that period.

(10) The Council's power under subsection (8)(b) to confirm a management scheme with modifications shall not be exercised so as to make complying with it more onerous.

(11) The Council may at any time cancel or propose the modification of a management scheme.

(12) In relation to—

- (a) the cancellation of a management scheme, subsections (3) to (5) apply, and
- (b) a proposal to modify a management scheme, subsections (3) to (10) apply, as they apply in relation to a proposal for a management scheme.

(13) An agreement under section 16 of the 1949 Act or section 15 of the 1968 Act relating to a site of special scientific interest may provide for any matter for which a management scheme relating to that site provides (or could provide).]

#### Textual Amendments

**F25** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### [<sup>F26</sup>28K Management notices.

(1) Where it appears to the Nature Conservancy Council that—

- (a) an owner or occupier of land is not giving effect to a provision of a management scheme, and
- (b) as a result any flora, fauna or geological or physiographical features by reason of which the land is of special interest are being inadequately conserved or restored,

they may if they think fit serve a notice on him (a “management notice”).

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- (2) They may not serve a management notice unless they are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land in accordance with the management scheme.
- (3) A management notice is a notice requiring the owner or occupier to—
  - (a) carry out such work on the land, and
  - (b) do such other things with respect to it,as are specified in the notice, and to do so before the dates or within the periods so specified.
- (4) The work and other things specified in the notice must appear to the Council to be measures which it is reasonable to require in order to ensure that the land is managed in accordance with the management scheme.
- (5) The management notice must explain the effect of subsection (7) and (8) and of sections 28L and 28M(2) to (4).
- (6) A copy of the management notice must be served on every other owner and occupier of the land.
- (7) If any of the work or other things required by a management notice have not been done within the period or by the date specified in it, the Council may—
  - (a) enter the land, and any other land, and carry out the work, or do the other things; and
  - (b) recover from the owner or occupier upon whom the notice was served any expenses reasonably incurred by them in carrying out the work or doing the other things.
- (8) If an appeal is brought against the management notice, and upon the final determination of the appeal the notice is affirmed (with or without modifications), subsection (7) applies as if the references there to the management notice were to the notice as affirmed.]

#### Textual Amendments

- F26** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

VALID FROM 30/01/2001

#### [<sup>F27</sup>28L Appeals against management notices.

- (1) A person who is served with a management notice may appeal against its requirements to the Secretary of State; and a management notice does not take effect until—
  - (a) the expiry of the period for appealing against it; or
  - (b) if an appeal is brought, its withdrawal or final determination.
- (2) An appeal may be on the ground that some other owner or occupier of the land should take all or any of the measures specified in the management notice, or should pay all or part of their cost.

*Status: Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.*

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- (3) Where the grounds of appeal are, or include, that mentioned in subsection (2), the appellant must serve a copy of his notice of appeal on each other person referred to.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,and he must act as mentioned in paragraph (a) or (b) if either party to the appeal (or, in a case falling within subsection (2), any of the other persons mentioned there) asks to be heard in connection with the appeal.
- (5) On determining the appeal, the Secretary of State may quash or affirm the management notice; and if he affirms it, he may do so either in its original form or with such modifications as he thinks fit.
- (6) In particular, on determining an appeal whose grounds are, or include, those mentioned in subsection (2), the Secretary of State may—
  - (a) vary the management notice so as to impose its requirements (or some of them) upon any such other person as is referred to in the grounds; or
  - (b) determine that a payment is to be made by any such other person to the appellant.
- (7) In exercising his powers under subsection (6), the Secretary of State must take into account, as between the appellant and any of the other people referred to in subsection (2)—
  - (a) their relative interests in the land (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
  - (b) their relative responsibility for the state of the land which gives rise to the requirements of the management notice; and
  - (c) the relative degree of benefit to be derived from carrying out the requirements of the management notice.
- (8) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
  - (a) the period within which and the manner in which appeals are to be brought, and
  - (b) the manner in which they are to be considered,and any such regulations may make different provision for different cases or circumstances.
- (9) A statutory instrument containing regulations under subsection (8) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (11) Schedule 10A shall have effect with respect to appointments under subsection (10).
- (12) Subsections (2) to (5) of section 250 of the <sup>M8</sup>Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under

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this section as they apply in relation to local inquiries under that section, but as if the reference there—

- (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
  - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
- (13) Section 322A of the <sup>M9</sup>Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.]

#### Textual Amendments

**F27** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M8** 1972 c. 70.

**M9** 1990 c. 8.

VALID FROM 30/01/2001

#### **[<sup>F28</sup>28M Payments.**

- (1) Where the Council, under section 28E(6), modify or withdraw a consent, they shall make a payment to any owner or occupier of the land who suffers loss because of the modification or withdrawal.
- (2) The Council may, if they think fit, make one or more payments to any owner or occupier of land in relation to which a management scheme under section 28J is in force.
- (3) The amount of a payment under this section is to be determined by the Council in accordance with guidance given and published by the Ministers.
- (4) Section 50(3) applies to the determination of the amount of payments under this section as it applies to the determination of the amount of payments under that section.]

#### Textual Amendments

**F28** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 30/01/2001

**[<sup>F29</sup>28N Compulsory purchase.**

- (1) The Nature Conservancy Council may in circumstances set out in subsection (2) acquire compulsorily all or any part of a site of special scientific interest.
- (2) The circumstances are—
  - (a) that the Council are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land; or
  - (b) that the Council have entered into such an agreement, but they are satisfied that it has been breached in such a way that the land is not being managed satisfactorily.
- (3) A dispute about whether or not there has been a breach of the agreement for the purposes of subsection (2)(b) is to be determined by an arbitrator appointed by the Lord Chancellor.
- (4) Where the Council have acquired land compulsorily under this section, they may—
  - (a) manage it themselves; or
  - (b) dispose of it, or of any interest in it, on terms designed to secure that the land is managed satisfactorily.
- (5) Section 103 of the 1949 Act (general provisions as to acquisition of land) applies for the purposes of this section as it applies for the purposes of that Act.]

**Textual Amendments**

**F29** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 1 (with Sch. 11 paras. 1-17, 20)

VALID FROM 30/01/2001

**[<sup>F30</sup>28P Offences.**

- (1) A person who, without reasonable excuse, contravenes section 28E(1) is 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.
- (2) A section 28G authority which, in the exercise of its functions, carries out 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 28H(1), or
  - (b) (if it has complied with section 28H(1)) without first complying with section 28H(4)(a),
 is, unless there was a reasonable excuse for carrying out 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.

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- (3) A section 28G authority acting in the exercise of its functions which, having complied with section 28H(1), fails without reasonable excuse to comply with section 28H(4) (b) is 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.
- (4) For the purposes of subsections (1), (2) and (3), it is a reasonable excuse in any event for a person to carry out an operation (or to fail to comply with a requirement to send a notice about it) if—
  - (a) subject to subsection (5), the operation in question was authorised by a planning permission granted on an application under Part III of the<sup>M10</sup>Town and Country Planning Act 1990 or permitted by a section 28G authority which has acted in accordance with section 28I; or
  - (b) the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to the Nature Conservancy Council as soon as practicable after the commencement of the operation.
- (5) If an operation needs both a planning permission and the permission of a section 28G authority, subsection (4)(a) does not provide reasonable excuse unless both have been obtained.
- (6) 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 land is of special interest, or intentionally or recklessly disturbs any of those fauna, and
  - (b) knew that what he destroyed, damaged or disturbed was within a site of special scientific interest,is 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.
- (7) It is a reasonable excuse in any event for a person to do what is mentioned in subsection (6) if—
  - (a) paragraph (a) or (b) of subsection (4) is satisfied in relation to what was done (reading references there to an operation as references to the destruction, damage or disturbance referred to in subsection (6)), and
  - (b) where appropriate, subsection (5) is also satisfied, reading the reference there to an operation in the same way.
- (8) A person who without reasonable excuse fails to comply with a requirement of a management notice is guilty of an offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- (10) Proceedings in England and Wales for an offence under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (11) In this section, “a section 28G authority” means an authority to which section 28G applies.]

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#### Textual Amendments

**F30** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M10** 1990 c. 8.

VALID FROM 30/01/2001

#### [<sup>F31</sup>28Q Change of owner or occupier.

- (1) This section applies where the owner of land included in a site of special scientific interest—
  - (a) disposes of any interest of his in the land; or
  - (b) becomes aware that it is occupied by an additional or a different occupier.
- (2) If this section applies, the owner shall send a notice to the Nature Conservancy Council before the end of the period of 28 days beginning with the date on which he disposed of the interest or became aware of the change in occupation.
- (3) The notice is to specify the land concerned and—
  - (a) in a subsection (1)(a) case, the date on which the owner disposed of the interest in the land, and the name and address of the person to whom he disposed of the interest; or
  - (b) in a subsection (1)(b) case, the date on which the change of occupation took place (or, if the owner does not know the exact date, an indication of when to the best of the owner’s knowledge it took place), and, as far as the owner knows them, the name and address of the additional or different occupier.
- (4) A person who fails without reasonable excuse to comply with the requirements of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) For the purposes of subsection (1), an owner “disposes of” an interest in land if he disposes of it by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.]

#### Textual Amendments

**F31** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)



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VALID FROM 30/01/2001

**[<sup>F32</sup>28R Byelaws.**

- (1) The Nature Conservancy Council may make byelaws for the protection of a site of special scientific interest.
- (2) The following provisions of the 1949 Act apply in relation to byelaws under this section as they apply in relation to byelaws under section 20 of that Act—
  - (a) subsections (2) and (3) of section 20 (reading references there to nature reserves as references to sites of special scientific interest); and
  - (b) sections 106 and 107.]

**Textual Amendments**

**F32** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 1](#) (with [Sch. 11 paras. 1-17, 20](#))

VALID FROM 01/10/2006

**[<sup>F33</sup>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.]

**Textual Amendments**

**F33** S. 28S inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 58\(1\), 107; S.I. 2006/2541, art. 2](#)

**29 Special protection for certain areas of special scientific interest.**

- (1) Where it appears to the Secretary of State expedient to do so—
  - (a) in the case of any land to which this paragraph applies, for the purpose of securing the survival in Great Britain of any kind of animal or plant or of complying with an international obligation; or
  - (b) in the case of any land to which this paragraph applies, for the purpose of conserving any of its flora, fauna, or geological or physiological features,

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he may, after consultation with the Nature Conservancy Council, by order apply subsection (3) to that land; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of orders under this section.

An order made under this section may be amended or revoked by a subsequent order so made.

- (2) Paragraphs (a) and (b) of subsection (1) apply to any land which in the opinion of the Secretary of State is—
  - (a) of special interest; and
  - (b) in the case of paragraph (b) of that subsection, of national importance, by reason of any of its flora, fauna, or geological or physiographical features.
- (3) Subject to subsection (4), no person shall carry out on any land to which this subsection applies any operation which—
  - (a) appears to the Secretary of State to be likely to destroy or damage the flora, fauna, or geological or physiographical features by reason of which the land is land to which paragraph (a) or, as the case may be, paragraph (b) of subsection (1) applies; and
  - (b) is specified in the order applying this subsection to the land.
- (4) Subsection (3) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
  - (a) one of them has, after the [<sup>F34</sup>making of the order], given the Council [<sup>F35</sup>written] notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (5) is fulfilled.
- (5) The said conditions are—
  - (a) that the operation is carried out with the Council's written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act; and
  - (c) subject to subsections (6) and (7), that three months have expired from the giving of the notice under subsection (4).
- (6) If before the expiration of the period mentioned in paragraph (c) of subsection (5) the Council offer to enter into an agreement for the acquisition of the interest of the person who gave the notice under subsection (4) or an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments to that person, that paragraph shall have effect as if for the said period there were substituted—
  - (a) where the agreement is entered into before the expiration of twelve months from the giving of the notice, the period expiring on the day on which it is entered into;
  - (b) in any other case, twelve months from the giving of the notice or three months from rejection or withdrawal of the offer to enter into the agreement, whichever period last expires.
- (7) If before the expiration of the period mentioned in paragraph (c) of subsection (5), or that paragraph as it has effect by virtue of subsection (6), an order is made for the compulsory acquisition by the Council of the interest of the person who gave the notice under subsection (4), that paragraph shall have effect as if for the said period there were substituted the period expiring—

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- (a) in the case of an order which is confirmed, on the day on which the Council enter on the land;
  - (b) in any other case, on the day on which the order is withdrawn or the Secretary of State decides not to confirm it.
- (8) A person who, without reasonable excuse, contravenes subsection (3) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (9) It is a reasonable excuse in any event for a person to carry out an operation if—
- (a) the operation was authorised by a planning permission granted on an application under [<sup>F36</sup>Part III of the Town and Country Planning Act 1990] or Part III of the <sup>M11</sup>Town and Country Planning (Scotland) Act 1972; or
  - (b) the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Council as soon as practicable after the commencement of the operation.
- (10) An order made under this section in relation to land in Scotland shall be registered either—
- (a) in a case where the land affected by the order is registered in that Register, in the Land Register of Scotland; or
  - (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (11) A report submitted by the Council to the Secretary of State under [<sup>F37</sup>paragraph 20 of Schedule 6 to the Environmental Protection Act 1990] for any year shall set out particulars of any areas of land as respects which orders under this section have come into operation during that year.

#### Textual Amendments

- F34** Words in s. 29(4)(a) substituted ( *I.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46: 4), s. 132(1)(a), **Sch. 9 para. 11(9)**; S.I. 1991/685, **art.3**.
- F35** Word in s. 29(4)(a) inserted ( *I.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(10)**; S.I. 1991/685, **art.3**.
- F36** Words in s. 29(9) substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 54(1)**
- F37** Words in s. 29(11) substituted ( *I.4.1991*.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(11)**; S.I. 1991/685, **art.3**.

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

- C7** S. 29(3) excluded by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 9(7), 45, **Sch. 7 Pt. VI para. 2**

#### Marginal Citations

- M11** 1972 c. 52.

### 30 Compensation where order is made under s. 29.

- (1) Subsection (2) applies where an order is made under section 29 and subsection (3) applies where—
- (a) notice of a proposal to carry out an operation is duly given to the Nature Conservancy Council under subsection (4) of that section; and

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- (b) paragraph (c) of subsection (5) of that section has effect as modified by subsection (6) or (7) of that section.
- (2) The Council shall pay compensation to any person having at the time of the making of the order an interest in land comprised in an agricultural unit comprising land to which the order relates who, on a claim made to the Council within the time and in the manner prescribed by regulations under this section, shows that the value of his interest is less than what it would have been if the order had not been made; and the amount of the compensation shall be equal to the difference between the two values.
- (3) The Council shall pay compensation to any person having at the time of the giving of the notice an interest in land to which the notice relates who, on a claim made to the Council within the time and in the manner prescribed by regulations under this section, shows that—
- (a) he has reasonably incurred expenditure which has been rendered abortive, or expenditure in carrying out work which has been rendered abortive, by reason of paragraph (c) of subsection (5) of section 29 having effect as modified by subsection (6) or (7) of that section; or
  - (b) he has incurred loss or damage which is directly attributable to that paragraph having effect as so modified;
- but nothing in this subsection shall entitle any such person to compensation in respect of any reduction in the value of his interest in the land.
- (4) For the purposes of subsection (2)—
- (a) an interest in land shall be valued as at the time when the order is made;
  - (b) where a person, by reason of his having more than one interest in land, makes more than one claim under that subsection in respect of the same order, his various interests shall be valued together;
  - (c) section 10 of the <sup>M12</sup>Land Compensation Act 1973 (mortgages, trusts for sale and settlements) or section 10 of the <sup>M13</sup>Land Compensation (Scotland) Act 1973 (restricted interests in land) shall apply in relation to compensation under that subsection as it applies in relation to compensation under Part I of that Act.
- (5) For the purposes of assessing any compensation payable under subsection (2), the rules set out in section 5 of the <sup>M14</sup>Land Compensation Act 1961 or section 12 of the <sup>M15</sup>Land Compensation (Scotland) Act 1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (6) No claim shall be made under subsection (2) in respect of any order under section 29 unless the Secretary of State has given notice under paragraph 6(1) or (2) of Schedule 11 of his decision in respect of the order; and, without prejudice to subsection (4)(a), that decision will be taken into account in assessing the compensation payable in respect of the order.
- (7) Compensation under this section shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 or section 40 of the Land Compensation (Scotland) Act 1963, from the date of the claim until payment.
- (8) Except in so far as may be provided by regulations under this section, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal or the Lands Tribunal for Scotland.

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- (9) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 or sections 9 and 11 of the Land Compensation (Scotland) Act 1963 (procedure and costs) shall apply, subject to any necessary modifications and to the provisions of any regulations under this section.
- (10) Regulations under this section shall be made by the Secretary of State and shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “agricultural unit” means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land.

#### Marginal Citations

M12 1973 c. 26.

M13 1973 c. 56.

M14 1961 c. 33.

M15 1963 c. 51.

### 31 Restoration where order under s. 29 is contravened.

- (1) Where the operation in respect of which a person is convicted of an offence under section 29 has destroyed or damaged any of the flora, fauna, or geological or physiographical features by reason of which the land on which it was carried out is of special interest, the court by which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations for the purpose of restoring the land to its former condition as may be so specified.
- (2) An order under this section made on conviction on indictment shall be treated for the purposes of sections 30 and 42(1) and (2) of the <sup>M16</sup>Criminal Appeal Act 1968 (effect of appeals on orders for the restitution of property) as an order for the restitution of property; and where by reason of the quashing by the Court of Appeal of a person’s conviction any such order does not take effect, and on appeal to the House of Lords the conviction is restored by that House, the House may make any order under this section which could be made on his conviction by the court which convicted him.
- (3) In the case of an order under this section made by a magistrates’ court the period specified in the order shall not begin to run—
  - (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates’ court;
  - (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.
- (4) At any time before an order under this section has been complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.

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- (5) If, within the period specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction—
- (a) to a fine not exceeding [<sup>F38</sup>level 5 on the standard scale]; and
  - (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.
- (6) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, the Nature Conservancy Council may enter the land and carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.
- (7) In the application of this section to Scotland—
- (a) subsections (2) and (3) shall not apply; and
  - (b) for the purposes of any appeal or review, an order under this section is a sentence.

#### Textual Amendments

**F38** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

#### Marginal Citations

**M16** 1968 c. 19.

## 32 Duties of agriculture Ministers with respect to areas of special scientific interest.

- (1) Where an application for [<sup>F39</sup>a farm capital grant] is made as respects expenditure incurred or to be incurred for the purpose of activities on land notified under section 28(1) or land to which section 29(3) applies, the appropriate Minister—
- (a) shall, so far as may be consistent with the purposes of [<sup>F40</sup>the grant provisions], so exercise his functions thereunder as to further the conservation of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
  - (b) where the Nature Conservancy Council have objected to the making of the grant on the ground that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State.
- (2) Where, in consequence of an objection by the Council, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (1)(b), the Council shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act—
- (a) imposing restrictions as respects those activities; and
  - (b) providing for the making by them of payments to the applicant.

[<sup>F41</sup>(3) In this section—

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“the appropriate Minister” means the Minister responsible for determining the application;

“farm capital grant” means—

- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970; or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972 to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;

“grant provisions” means—

- (i) in the case of such a grant as is mentioned in paragraph (a) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970; and
- (ii) in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the Community instrument in pursuance of which the regulations were made.]

#### Textual Amendments

- F39** Words substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), **s. 20(2)(a)**
- F40** Words substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), **s. 20(2)(b)**
- F41** [S. 32\(3\)](#) substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), **s. 20(3)**

### 33 Ministerial guidance as respects areas of special scientific interest.

- (1) The Ministers shall from time to time, after consultation with the Nature Conservancy [<sup>F42</sup>Councils] and such persons appearing to them to represent other interests concerned as they consider appropriate—
  - (a) prepare codes containing such recommendations, advice and information as they consider proper for the guidance of—
    - (i) persons exercising functions under sections 28 to 32; and
    - (ii) persons affected or likely to be affected by the exercise of any of those functions; and
  - (b) revise any such code by revoking, varying, amending or adding to the provisions of the code in such manner as the Ministers think fit.
- (2) A code prepared in pursuance of subsection (1) and any alterations proposed to be made on a revision of such a code shall be laid before both Houses of Parliament forthwith after being prepared; and the code or revised code, as the case may be, shall not be issued until the code or the proposed alterations have been approved by both Houses.
- (3) Subject to subsection (2), the Ministers shall cause every code prepared or revised in pursuance of subsection (1) to be printed, and may cause copies of it to be put on sale to the public at such price as the Ministers may determine.

#### Textual Amendments

- F42** Word in [s. 33\(1\)](#) substituted ( *1.4.1991.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **s. 132(1)(a)**, **Sch. 9 para. 12**; [S.I. 1991/685](#), **art.3**.

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### 34 Limestone pavement orders.

- (1) Where the Nature Conservancy Council or the Commission are of the opinion that any land in the countryside which comprises a limestone pavement is of special interest by reason of its flora, fauna or geological or physiographical features, it shall be the duty of the Council or the Commission to notify that fact to the local planning authority in whose area the land is situated.
- (2) Where it appears to the Secretary of State or the relevant authority that the character or appearance of any land notified under subsection (1) would be likely to be adversely affected by the removal of the limestone or by its disturbance in any way whatever, the Secretary of State or that authority may make an order (in this section referred to as a “limestone pavement order”) designating the land and prohibiting the removal or disturbance of limestone on or in it; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of limestone pavement orders.
- (3) The relevant authority may, after consultation with the Council and the Commission, amend or revoke a limestone pavement order made by the authority; and the Secretary of State may, after such consultation as aforesaid, amend or revoke any such order made by him or that authority but, in the case of an order made by that authority, only after consultation with that authority.
- (4) If any person without reasonable excuse removes or disturbs limestone on or in any land designated by a limestone pavement order he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (5) It is a reasonable excuse in any event for a person to remove or disturb limestone or cause or permit its removal or disturbance, if the removal or disturbance was authorised by a planning permission granted on an application under <sup>F43</sup>Part III of the Town and Country Planning Act 1990] or Part III of the <sup>M17</sup>Town and Country Planning (Scotland) Act 1972.
- (6) In this section—
 

“the Commission” means the Countryside Commission in relation to England <sup>F44</sup> . . . and the Countryside Commission for Scotland in relation to Scotland;

“limestone pavement” means an area of limestone which lies wholly or partly exposed on the surface of the ground and has been fissured by natural erosion;

<sup>F45</sup> “the relevant authority” means—

  - (a) in relation to a non-metropolitan county, the county planning authority and, in relation to any other area in England, the local planning authority;
  - (b) in relation to Scotland, the authority exercising district planning functions.]

#### Textual Amendments

**F43** Words in s. 34(5) substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 54(1)

**F44** Words in s. 34(6) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43 SIF 46:4), s. 162(2), Sch. 16 Pt. VI; S.I.1991/685, art. 3



**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F45** Definition in s. 34(6) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(2\)](#)

**Marginal Citations**

**M17** [1972 c. 52](#).

**<sup>X1</sup>35 National nature reserves.**

- (1) Where the Nature Conservancy Council are satisfied that any land which—
  - (a) is being managed as a nature reserve under an agreement entered into with the Council;
  - (b) is held by the Council and is being managed by them as a nature reserve; or
  - (c) is held by an approved body and is being managed by that body as a nature reserve,is of national importance, they may declare that land to be a national nature reserve.
- (2) A declaration by the Council that any land is a national nature reserve shall be conclusive of the matters declared; and subsections (4) and (5) of section 19 of the 1949 Act shall apply in relation to any such declaration as they apply in relation to a declaration under that section.
- (3) On the application of the approved body concerned, the Council may, as respects any land which is declared to be a national nature reserve under subsection (1)(c), make byelaws for the protection of the reserve.
- (4) Subsections (2) and (3) of section 20 and section 106 of the 1949 Act shall apply in relation to byelaws under this section as they apply in relation to byelaws under the said section 20.
- (5) In this section—
  - “approved body” means a body approved by the Council for the purposes of this section;
  - “nature reserve” has the same meaning as in Part III of the 1949 Act.

**Editorial Information**

**X1** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

**36 Marine nature reserves.**

- (1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea [<sup>F46</sup>which are landward of the baselines from which the breadth of the territorial sea adjacent to Great Britain is measured or are seaward of those baselines up to a distance of three nautical miles], it appears to the Secretary of State expedient, on an application made by the Nature Conservancy Council, that the land and waters covering it should be managed by the Council for the purpose of—
  - (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area; or

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- (b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,
- he may by order designate the area comprising that land and those waters as a marine nature reserve; and the Council shall manage any area so designated for either or both of those purposes.
- (2) An application for an order under this section shall be accompanied by—
- (a) a copy of the byelaws which, if an order is made, the Council propose making under section 37 for the protection of the area specified in the application; and
- (b) a copy of any byelaws made or proposed to be made for the protection of that area by a relevant authority;
- and an order made on the application shall authorise the making under that section of such of the byelaws proposed to be made by the Council as may be set out in the order with or without modifications.
- (3) Byelaws the making of which is so authorised—
- (a) shall not require the Secretary of State’s consent under subsection (1) of section 37; and
- (b) notwithstanding anything in the provisions applied by subsection (4) of that section, shall take effect on their being made.
- (4) The provisions of Schedule 12 shall have effect as to the making, validity and date of coming into operation of orders under this section; and an order made under this section may be amended or revoked by a subsequent order so made.
- (5) The powers exercisable by the Council for the purpose of managing an area designated as a marine nature reserve under this section shall include power to install markers indicating the existence and extent of the reserve.
- (6) Nothing in this section or in byelaws made under section 37 shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).
- (7) In this section—
- “enactment” includes an enactment contained in a local Act;
- “local authority” means—
- (a) in relation to England and Wales, a county council, a district council,<sup>F47</sup> . . . or a London borough council;
- (b) in relation to Scotland, a regional council, an islands council or a district council;
- [<sup>F48</sup> “nautical miles” means international nautical miles of 1,852 metres;]
- “relevant authority” means a local authority, [<sup>F49</sup>a water authority or any other statutory water undertakers,]<sup>F49</sup> the National Rivers Authority, a water undertaker, a sewerage undertaker,]<sup>F49</sup> an internal drainage board, a navigation authority, a harbour authority,<sup>F50</sup> . . . , a lighthouse authority, a conservancy authority, a river purification board, a district board for a fishery district within the meaning of the<sup>M18</sup>Salmon Fisheries (Scotland) Act 1862, or a local fisheries committee constituted under the<sup>M19</sup>Sea Fisheries Regulation Act 1966.

**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

- F46** Words substituted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), ss. 1(5), 3(1)(2), [Sch. 1 para. 6\(a\)](#)
- F47** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)
- F48** Definition inserted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), ss. 1(5), 3(1), [Sch. 1 para. 6\(b\)](#)
- F49** Words commencing “the National Rivers Authority” substituted (E.W.) for words commencing “a water authority” by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 66\(2\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)
- F50** Words repealed by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(5), [Sch. 3](#)

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

- C8** [S. 36\(1\)](#): power to extend conferred by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), ss. 1(5), 3(2)(b)

#### Marginal Citations

- M18** [1862 c. 97](#).
- M19** [1966 c. 38](#).

### <sup>x2</sup>37 **Byelaws for protection of marine nature reserves.**

- (1) The Nature Conservancy Council may, with the consent of the Secretary of State make byelaws for the protection of any area designated as a marine nature reserve under section 36.
- (2) Without prejudice to the generality of subsection (1), byelaws made under this section as respects a marine nature reserve—
- (a) may provide for prohibiting or restricting, either absolutely or subject to any exceptions—
- (i) the entry into, or movement within, the reserve of persons and vessels;
- (ii) the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the reserve, or the doing of anything therein which will interfere with the sea bed or damage or disturb any object in the reserve; or
- (iii) the depositing of rubbish in the reserve;
- (b) may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising entry into the reserve or the doing of anything which would otherwise be unlawful under the byelaws; and
- (c) may be so made as to apply either generally or with respect to particular parts of the reserve or particular times of the year.
- (3) Nothing in byelaws made under this section shall—
- (a) prohibit or restrict the exercise of any right of passage by a vessel other than a pleasure boat; or
- (b) prohibit, except with respect to particular parts of the reserve at particular times of the year, the exercise of any such right by a pleasure boat.
- (4) Nothing in byelaws so made shall make unlawful—
- (a) anything done for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
- (b) the discharge of any substance from a vessel; or
- (c) anything done more than 30 metres below the sea bed.

*Status: Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.*

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- (5) Sections 236 to 238 of the <sup>M20</sup>Local Government Act 1972 or sections 202 to 204 of the <sup>M21</sup>Local Government (Scotland) Act 1973 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding the amount there specified and provide for the proof of byelaws in legal proceedings) shall apply to byelaws under this section as if the Council were a local authority within the meaning of the said Act of 1972 or the said Act of 1973, so however that in relation to such byelaws the said sections shall apply subject to such modifications (including modifications increasing the maximum fines which the byelaws may impose) as may be prescribed by regulations made by the Secretary of State.

Regulations under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (6) In relation to byelaws under this section the confirming authority for the purposes of the said section 236 or the said section 202 shall be the Secretary of State.
- (7) The Secretary of State may, after consultation with the Council, direct them—
- (a) to revoke any byelaws previously made under this section; or
  - (b) to make any such amendments of any byelaws so made as may be specified in the direction.
- (8) The Council shall have power to enforce byelaws made under this section; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (9) Proceedings in England and Wales for an offence under byelaws made under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than the Council.
- (10) In this section “vessel” includes a hovercraft and any aircraft capable of landing on water and “pleasure boat” shall be construed accordingly.
- (11) References in this section to animals or plants of any description include references to eggs, seeds, spores, larvae or other immature stages of animals or plants of that description.

#### **Editorial Information**

- X2** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Marginal Citations**

- M20** 1972 c. 70.  
**M21** 1973 c. 65.

**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 30/01/2001

**[<sup>F51X3</sup>37A Ramsar sites.**

- (1) Where a wetland in Great Britain has been designated under paragraph 1 of article 2 of the Ramsar Convention for inclusion in the list of wetlands of international importance referred to in that article, the Secretary of State shall—
  - (a) notify English Nature if all or part of the wetland is in England;
  - (b) notify the Countryside Council for Wales if it is in Wales; or
  - (c) notify both of them if it is partly in England and partly in Wales.
- (2) Subject to subsection (3), upon receipt of a notification under subsection (1), each body notified shall, in turn, notify—
  - (a) the local planning authority in whose area the wetland is situated;
  - (b) every owner and occupier of any of that wetland;
  - (c) the Environment Agency; and
  - (d) every relevant undertaker (within the meaning of section 4(1) of the <sup>M22</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M23</sup>Land Drainage Act 1991) whose works, operations or activities may affect the wetland.
- (3) English Nature and the Countryside Council for Wales may agree that in a case where the Secretary of State notifies both of them under subsection (1)(c), any notice under subsection (2) is to be sent by one or the other of them (and not both), so as to avoid duplicate notices under that subsection.
- (4) Subject to subsection (5), the “Ramsar Convention” is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by—
  - (a) the Protocol known as the Paris Protocol done at Paris on 3rd December 1982; and
  - (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting Parties held at Regina, Saskatchewan, Canada, between 28th May and 3rd June 1987.
- (5) If the Ramsar Convention is further amended after the passing of the Countryside and Rights of Way Act 2000, the reference to the Ramsar Convention in subsection (1) is to be taken after the entry into force of the further amendments as referring to that Convention as further amended (and the reference to paragraph 1 of article 2 is, if necessary, to be taken as referring to the appropriate successor provision).]

**Editorial Information**

- X3** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

**Textual Amendments**

- F51** S. 37A inserted (30.1.2001) by 2000 c. 37, ss. 77, 103(2)

**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.  
**Changes to legislation:** Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Marginal Citations**  
M22 1991 c. 56.  
M23 1991 c. 59.

X4F52 38 .....

**Editorial Information**  
X4 The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

**Textual Amendments**  
F52 S. 38 repealed (1.4.1991) by [Environmental Protection Act 1990 \(c.43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VI](#); [S.I. 1991/685](#), [art. 3](#)

VALID FROM 01/10/2006

*Nature reserves, marine nature reserves and Ramsar sites*

[<sup>F53</sup>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.

**Textual Amendments**  
F53 S. 34A and preceding cross-heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 84](#); [S.I. 2006/2541](#), [art. 2](#)

VALID FROM 12/11/2009

[<sup>F54</sup>35A **Power to call in subtidal declarations**

(1) This section applies where—

- (a) the appropriate conservation body propose to declare land to be a national nature reserve under section 35(1), and
- (b) the land to which the proposed declaration relates includes, by virtue of section 35(1B), land lying below mean low water mark (“the subtidal land”).

*Status:* Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The appropriate conservation body may not declare the reserve unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.
- (3) At any time before the reserve is declared the ministerial authority may give notice to the appropriate conservation body that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), the appropriate conservation body may not declare the reserve until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
  - (a) that the reserve (if declared) must include all of the subtidal land;
  - (b) that the reserve (if declared) must not include any of the subtidal land;
  - (c) that the reserve (if declared) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the reserve (if declared) should include the subtidal land is to be taken by the appropriate conservation body.
- (6) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (7) A person appointed under subsection (6) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (8) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (6).
- (9) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (10) A statutory instrument containing regulations made under subsection (8) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) A statutory instrument containing regulations made under subsection (8) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this section “the ministerial authority” means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]]

#### Textual Amendments

- F53** S. 34A and preceding cross-heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 84](#); S.I. 2006/2541, [art. 2](#)

**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F54** S. 35A inserted (E.W.) (12.11.2009 for certain purposes, 12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(1)(c)(2)(b)(ii), [Sch. 13 para. 11](#); S.I. 2014/3088, art. 2(b)

## *Countryside*

### **39 Management agreements with owners and occupiers of land.**

- (1) A relevant authority may, for the purpose of conserving or enhancing the natural beauty or amenity of any land which is both in the countryside and within their area or promoting its enjoyment by the public, make an agreement (in this section referred to as a “management agreement”) with any person having an interest in the land with respect to the management of the land during a specified term or without limitation of the duration of the agreement.
- (2) Without prejudice to the generality of subsection (1), a management agreement—
  - (a) may impose on the person having an interest in the land restrictions as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person to carry out works or agricultural or forestry operations or do other things on the land;
  - (b) may confer on the relevant authority power to carry out works for the purpose of performing their functions under the 1949 Act and the 1968 Act; and
  - (c) may contain such incidental and consequential provisions (including provisions for the making of payments by either party to the other) as appear to the relevant authority to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of a management agreement with any person interested in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the relevant authority against those persons accordingly.
- (4) Schedule 2 to the <sup>M24</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) shall apply to management agreements as it applies to forestry dedication covenants.
- (5) In this section “the relevant authority” means—
  - (a) as respects land in a National Park [<sup>F55</sup>and outside a metropolitan county], the county planning authority;
  - [<sup>F56</sup>(aa) as respects land within the Broads, the Broads Authority;]
  - (b)
  - <sup>F57</sup>(c) as respects any other land, the local planning authority.
- (6) The powers conferred by this section on a relevant authority shall be in addition to and not in derogation of any powers conferred on such an authority by or under any enactment.

#### **Textual Amendments**

**F55** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(3\)](#)



**Status:** Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

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**F56** S. 39(5)(aa) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 para. 31(2)**

**F57** S. 39(5)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

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

**C9** S. 39 modified (19.9.1995) by 1995 c. 25, **ss. 69(2)(a)**, 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

**Marginal Citations**

**M24** 1967 c. 10.

<sup>X5</sup>**40** **Experimental schemes.**

For subsections (1) and (2) of section 4 of the 1968 Act (under which the Countryside Commission may submit for the Secretary of State's approval proposals for experimental schemes in relation to particular areas and are required to carry out proposals approved by him) there shall be substituted the following subsection—

“(1) The Commission, after consultation with such local authorities and other bodies as appear to the Commission to have an interest, may from time to time make and carry out or promote the carrying out of any experimental scheme designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity which—

- (a) in relation to the countryside generally or to any particular area involves the development or application of new methods, concepts or techniques, or the application or further development of existing methods, concepts or techniques ; and
- (b) is designed to illustrate the appropriateness of the scheme in question for the countryside generally or for any particular area.”

**Editorial Information**

**X5** The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**41** **Duties of agriculture Ministers with respect to the countryside.**

(1)

<sup>F58</sup>(2) In the exercise of his general duty under section 4(2) of the <sup>M25</sup>Small Landholders (Scotland) Act 1911 of promoting the interests of agriculture and other rural industries, and without prejudice to the generality of that duty, the Secretary of State shall make provision, through such organisation as he considers appropriate, for the giving of

- [<sup>F59</sup>(a) advice to persons carrying on agricultural businesses on the conservation and enhancement of the natural beauty and amenity of the countryside;
- (b) advice to such persons on diversification into other enterprises of benefit to the rural economy; and
- (c) advice to government departments and other bodies exercising statutory functions on the promotion and furtherance of such diversification as is mentioned in paragraph (b).]

*Status: Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.*

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(3) Where an application for [<sup>F60</sup>a farm capital grant] is made as respects expenditure incurred or to be incurred for the purposes of activities on land which is in a National Park or an area specified for the purposes of this subsection by the Ministers, the appropriate Minister—

(a) shall, so far as may be consistent with the purposes of the [<sup>F61</sup>the grant provisions], so exercise his functions thereunder as to further the conservation and enhancement of the natural beauty and amenity of the countryside and to promote its enjoyment by the public; and

(b) where the relevant authority have objected to the making of the grant on the ground that the activities in question have had or will have an adverse effect on the natural beauty or amenity of the countryside or its enjoyment by the public, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State;

and this subsection shall have effect, in its application to Scotland, as if references to the amenity of the countryside were omitted.

(4) Where, in consequence of an objection by the relevant authority, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (3)(b), the relevant authority shall, within three months of their receiving notice of the appropriate Minister’s decision, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—

(a) imposing restrictions as respects those activities; and

(b) providing for the making by them of payments to the applicant.

(5) In this section—

[<sup>F62</sup> “agricultural business” has the same meaning as in section 29 of the Agriculture Act 1970;][<sup>F62c</sup> “the appropriate Minister”, “farm capital grant” and “grant provisions” have the same meanings as in section 32;]

“management agreement”—

(a) in relation to England and Wales, means an agreement under section 39;

(b) in relation to Scotland, means an agreement under section 49A of the <sup>M26</sup>Countryside (Scotland) Act 1967;

“the relevant authority”—

(a) in relation to England and Wales, has the same meaning as in section 39;

(b) in relation to Scotland, means the authority exercising district planning functions.

[<sup>F63</sup>(5A) For the purposes of this section the Broads shall be treated as a National Park.]

(6) <sup>F64</sup> subsection (2) extends only to Scotland.

#### Textual Amendments

**F58** S. 41(1) repealed by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(5), Sch. 4

**F59** S. 41(2)(a)–(c) substituted for words by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(4), Sch. 3 para. 4

**F60** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(4)(a)

**F61** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(4)(b)

**F62** Definition substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(5)

**F63** S. 41(5A) inserted (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), Sch. 3 Pt. 1 para. 31(3)

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**Changes to legislation:** Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F64** Words repealed by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), s. 24(5), [Sch. 4](#)

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

**C10** [S. 41](#) modified (E.W.) (19.9.1995) by [1995 c. 25, ss. 69\(2\)\(a\), 125\(2\)](#) (with ss. 7(6), 115, [Sch. 8 para. 7](#))

**Marginal Citations**

**M25** [1911 c. 49](#).

**M26** [1967 c. 86](#).

*National Parks*

VALID FROM 01/10/2006

**[<sup>F65</sup>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.]

**Textual Amendments**

**F65** [S. 41A](#) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 89](#); S.I. 2006/2541, [art. 2](#)

**42 Notification of agricultural operations on moor and heath in National Parks.**

- (1) The Ministers may, if satisfied that it is expedient to do so, by order apply subsection (2) to any land which is comprised in a National Park and which appears to them to consist of or include moor or heath.
- (2) Subject to subsection (3), no person shall—
  - (a) by ploughing or otherwise convert into agricultural land any land to which this subsection applies and which is moor or heath which has not been agricultural land at any time within the preceding 20 years; or
  - (b) carry out on any such land any other agricultural operation or any forestry operation which (in either case) appears to the Ministers to be likely to affect its character or appearance and is specified in the order applying this subsection to that land.
- (3) Subsection (2) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
  - (a) one of them has, after the coming into force of the order, given the [<sup>F66</sup>local planning authority] written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (4) is satisfied.
- (4) The said conditions are—
  - (a) that the [<sup>F66</sup>local planning authority] have given their consent to the carrying out of the operation;

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- (b) where that authority have neither given nor refused their consent, that three months have expired from the giving of the notice; and
  - (c) where that authority have refused their consent, that twelve months have expired from the giving of the notice.
- (5) A person who, without reasonable excuse, contravenes subsection (2) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) Where the [<sup>F66</sup>local planning authority] are given notice under this section in respect of any land, the authority shall forthwith send copies of the notice to the Ministers, the Nature Conservancy Council and the Countryside Commission.
- (7) In considering for the purposes of this section whether land has been agricultural land within the preceding 20 years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section or section 14 of the 1968 Act.
- (8) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The said section 14 (which is superseded by this section) shall cease to have effect; but this section shall have effect as if any order under that section in force immediately before the coming into force of this section had been made under this section.

#### Textual Amendments

**F66** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(4\)](#)

### 43 Maps of National Parks showing certain areas of moor or heath.

- (1) Every [<sup>F67</sup>local planning authority] whose area comprises the whole or any part of a National Park shall—
- (a) before the expiration of the period of two years beginning with [<sup>F68</sup>the relevant date], prepare a map of the Park or the part thereof showing any areas [<sup>F69</sup>to which this section applies whose natural beauty] it is, in the opinion of the authority, particularly important to conserve; and
  - (b) [<sup>F70</sup>at intervals of not more than five years] review the particulars contained in the map and make such revisions thereof (if any) as may be requisite.
- [<sup>F71</sup>(1A) In considering under subsection (1) whether any area to which this section applies is one whose natural beauty it is particularly important to conserve, a [<sup>F72</sup>local planning authority] shall act in accordance with the guidelines from time to time issued <sup>F73</sup> . . . under subsection (1B).
- (1B) The Countryside Commission [<sup>F74</sup>and the Countryside Council for Wales shall each] issue guidelines for the guidance of county planning authorities in considering as mentioned in subsection (1A), and [<sup>F75</sup>the Commission and the Council may each] from time to time revise any guidelines so issued.
- (1C) Before issuing or revising any guidelines under subsection (1B) the Commission [<sup>F76</sup>or, as the case may be, the Council] shall consult such bodies as appear to them to represent interests concerned; and before preparing or revising any map under

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- subsection (1) a [<sup>F72</sup>local planning authority] shall consult such bodies as appear to the authority to represent interests concerned with matters affecting the Park or part of the Park in question.]
- (2) The authority shall cause a map prepared or revised in pursuance of subsection (1) to be printed, and shall cause copies thereof to be put on sale to the public at such price as the authority may determine.
- [<sup>F77</sup>(3) This section applies to any area of mountain, moor, heath, woodland, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore); and in this section “the relevant date” means the date of issue of the first guidelines under subsection (1B).]

#### Textual Amendments

- F67** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(4\)](#)
- F68** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(2\)\(a\)](#)
- F69** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(2\)\(b\)](#)
- F70** Words substituted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(3\)](#)
- F71** [S. 43\(1A\)–\(1C\)](#) inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(4\)](#)
- F72** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(4\)](#)
- F73** Words in [s. 43\(1A\)](#) repealed (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VI](#); [S.I. 1991/685](#), [art. 3](#)
- F74** Words in [s. 43\(1B\)](#) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130, [Sch. 8 para. 6\(3\)\(a\)](#); [S.I. 1991/685](#), [art.3](#)
- F75** Words in [s. 43\(1B\)](#) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130, [Sch. 8 para. 6\(3\)\(a\)](#); [S.I. 1991/685](#), [art.3](#)
- F76** Words inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130, [Sch. 8 para. 6\(3\)\(b\)](#); [S.I. 1991/685](#), [art.3](#)
- F77** [S. 43\(3\)](#) added by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), [s. 3\(5\)](#)

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

- C11** [S. 43](#) modified (19.9.1995) by [1995 c. 25, ss. 69\(3\), 125\(2\)](#) (with [ss. 7\(6\), 115, Sch. 8 para. 7](#))

## 44 Grants and loans for purposes of National Parks.

- (1) Without prejudice to section 11 of the 1949 Act (general powers of local planning authorities in relation to National Parks), a [<sup>F78</sup>local planning authority] may give financial assistance by way of grant or loan, or partly in one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which in the opinion of the authority is conducive to the attainment, in any National Park the whole or part of which is comprised in that authority’s area, of any of the following purposes, that is to say, the conservation and enhancement of the natural beauty of that Park and the promotion of its enjoyment by the public.
- (2) On making a grant or loan under this section a [<sup>F78</sup>local planning authority] may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.
- (3) A [<sup>F78</sup>local planning authority] shall so exercise their powers under subsection (2) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking

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facilities and sanitary conveniences to be available (if any), make provision, insofar as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.

[<sup>F79</sup>(4) For the purposes of this section the Broads Authority shall be treated as a county planning authority and the Broads as a National Park.]

#### Textual Amendments

- F78** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(4)**  
**F79** S. 44(4) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 Pt. I para. 31(4)**

#### 45 Power to vary order designating National Park.

[<sup>F80</sup>(1) The Countryside Commission (as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park [<sup>F81</sup>in England], and—

- (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they apply to an order under section 7(4) of that Act with the substitution for the reference in section 7(5) to the Secretary of State of a reference to the Countryside Commission; and
- (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to an order designating a National Park.]

[<sup>F82</sup>(2) Subsection (1) shall apply to the Countryside Council for Wales, in relation to any National Park in Wales, as it applies to the Countryside Commission in relation to any National Park in England.]

#### Textual Amendments

- F80** S. 45(1) renumbered from s. 45 ( *I.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, **Sch. 8 para. 6(4)**; S.I. 1991/685, **art.3**.  
**F81** Word inserted ( *I.4.1991*.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, **Sch. 8 para. 6(4)**; S.I. 1991/685, **art.3**.  
**F82** S. 45(2) inserted ( *I.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, **Sch. 8 para. 6(4)**; S.I. 1991/685, **art.3**.

#### 46 Membership of National Park authorities.

<sup>X6</sup>(1) In Part I of Schedule 17 to the <sup>M27</sup>Local Government Act 1972 (discharge of planning and countryside functions in National Parks) in paragraph 11 after the words “one third” there shall be inserted the words “(to the nearest whole number)”.

<sup>X6</sup>(2) After paragraph 12 of that Schedule there shall be inserted the following paragraph—

“12A (1) The members of a joint planning board, special planning board or National Park Committee established for an area being or comprising the whole

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or any part of a National Park shall include members (in this paragraph referred to as “district council members”) who are appointed by district councils whose districts comprise any part of that Park (in this paragraph referred to as “relevant district councils”).

- (2) The number of district council members of such a board or Committee shall be equal to—
  - (a) the number of relevant district councils ; or
  - (b) one seventh (to the nearest whole number) of the members of the board or Committee,whichever is the less ; and for the purposes of this sub-paragraph any casual vacancy in the membership of the board or Committee shall be disregarded.
- (3) The district council members shall be appointed by such of the relevant district councils as may be agreed between those councils or as in default of agreement may be determined by the Secretary of State.
- (4) The district council members shall hold office for a period of one year and shall be eligible for reappointment ; and section 102(5) above shall apply in relation to a district council member appointed under this paragraph as it applies in relation to a member of a committee appointed under that section.”

<sup>X6</sup>(3) In paragraph 14 of that Schedule for the words “subject to paragraph 11 above” there shall be substituted the words “subject to paragraphs 11 and 12A above”.

- (4) In the case of a joint planning board, special planning board or National Park Committee established for an area being or comprising the whole or any part of a National Park, members who are members of relevant district councils (within the meaning of the said paragraph 12A) and are neither members of a county council nor persons appointed in pursuance of the said paragraph 11 shall cease to be members of the board or Committee as from the coming into force of this section.

#### Editorial Information

**X6** The text of ss. 15(1), 38(6), 40, 46(1)-(3) and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M27** 1972 c. 70.

### *Miscellaneous and supplemental*

#### **47 Provisions with respect to the Countryside Commission.**

- (1) Schedule 13 shall have effect as respects the Countryside Commission.
- (2) The Secretary of State may, with the approval of the Treasury, make to the Countryside Commission [<sup>F83</sup>or to the Countryside Council for Wales] out of moneys provided by Parliament grants of such amount and subject to such conditions (if any) as he may, with the approval of the Treasury, think fit.

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(3) Sections 2, 4 and 95 of the 1949 Act and section 3 of the 1968 Act (which are superseded by this section) shall cease to have effect.

**Textual Amendments**  
**F83** Words in s. 47(2) inserted ( 1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, Sch. 8 para. 6(5); S.I. 1991/685, art.3.  
**Modifications etc. (not altering text)**  
**C12** The text of ss. 15(1), 38(6), 40, 46(1)–(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

48 ..... F84

**Textual Amendments**  
**F84** S. 48 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I

**49 Extension of power to appoint wardens.**

- (1) This section applies to any land in a National Park or in the countryside if—
  - (a) the public are allowed access to the land; and
  - (b) there is no power under any of the provisions of the 1949 Act and the 1968 Act for a local authority, a local planning authority [F85, the Countryside Council for Wales.] or the Countryside Commission to appoint wardens as respects that land.
- (2) Subject to subsections (3) and (4) the power conferred on a local authority by section 92(1) of the 1949 Act (appointment of wardens) shall include a power, exercisable only with the agreement of the owner and of the occupier of any land to which this section applies, to appoint persons to act as wardens as respects that land.
- (3) The only purpose for which wardens may be appointed by virtue of subsection (2) is to advise and assist the public.
- (4) Notwithstanding the provisions of section 41(8) of the 1968 Act (Countryside Commission [F85 or the Countryside Council for Wales] to be local authority for purposes of section 92 of the 1949 Act), nothing in this section shall be construed as conferring on the Countryside Commission [F85 or the Countryside Council for Wales] any additional power to appoint wardens.

**Textual Amendments**  
**F85** Words inserted ( 1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, Sch. 8 para. 6(6); S.I. 1991/685, art.3.



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## 50 Payments under certain agreements offered by authorities.

- (1) This section applies where—
  - (a) the Nature Conservancy Council offer to enter into an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments to—
    - (i) a person who has given notice under section 28(5) or 29(4); or
    - (ii) a person whose application for farm capital grant has been refused in consequence of an objection by the Council; or
  - (b) the relevant authority offer to enter into a management agreement providing for the making by them of payments to a person whose application for a farm capital grant has been refused in consequence of an objection by the authority.
- (2) Subject to subsection (3), the said payments shall be of such amounts as may be determined by the offeror in accordance with guidance given by the Ministers.
- (3) If the offeree so requires within one month of receiving the offer, the determination of those amounts shall be referred to an arbitrator (or, in Scotland, an arbiter) to be appointed, in default of agreement, by the Secretary of State; and where the amounts determined by the arbitrator exceed those determined by the offeror, the offeror shall—
  - (a) amend the offer so as to give effect to the arbitrator's (or, in Scotland, the arbiter's) determination; or
  - (b) except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the offeror, withdraw the offer.
- (4) In this section—

[<sup>F86</sup> “farm capital grant” has the same meaning as in section 32;]  
“management agreement” and “the relevant authority” have the same meanings as in section 41.

### Textual Amendments

**F86** Definition substituted by [Agriculture Act 1986 \(c. 49, SIF 2:1\), s. 20\(6\)](#)

### Modifications etc. (not altering text)

**C13** [S. 50](#) modified (E.W.) (19.9.1995) by [1995 c. 25, ss. 69\(2\)\(a\), 125\(2\)](#) (with [ss. 7\(6\), 115, Sch. 8 para. 7](#))

## 51 Powers of entry.

- (1) Any person authorised in writing by the relevant authority may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for any of the following purposes—
  - (a) to ascertain whether an order should be made in relation to that land under section 29 or if an offence under that section is being, or has been, committed on that land;
  - (b) to ascertain the amount of any compensation payable under section 30 in respect of an interest in that land;

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- (c) to ascertain whether an order should be made in relation to that land under section 34 or if an offence under that section is being, or has been, committed on that land;
- (d) to ascertain whether an order should be made in relation to that land under section 42 or if an offence under that section is being, or has been, committed on that land;

but nothing in this subsection shall authorise any person to enter a dwelling.

- (2) In subsection (1) “the relevant authority” means—
  - (a) for the purposes of paragraphs (a) and (b) of that subsection, the Nature Conservancy Council;
  - (b) for the purposes of paragraph (c) of that subsection, the Secretary of State or the relevant authority within the meaning of section 34;
  - (c) for the purposes of paragraph (d) of that subsection, the Ministers or the [<sup>F87</sup>local planning authority].
- (3) A person shall not demand admission as of right to any land which is occupied unless either—
  - (a) 24 hours notice of the intended entry has been given to the occupier; or
  - (b) the purpose of the entry is to ascertain if an offence under section 29, 34 or 42 is being, or has been, committed on that land.
- (4) Any person who intentionally obstructs a person acting in the exercise of any power conferred by subsection (1) shall be liable on summary conviction to a fine not exceeding [<sup>F88</sup>level 3 on the standard scale].

#### Textual Amendments

**F87** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(4\)](#)

**F88** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

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#### [<sup>F89</sup>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.]

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### Textual Amendments

- F89** S. 51A inserted (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 53, 107, [Sch. 6 para. 4](#); [S.I. 2006/1382](#), [art. 2](#)

## 52 Interpretation of Part II.

- (1) In this Part, unless the context otherwise requires,—
- “agricultural land” does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land;
- “the Ministers”, in the application of this Part to England, means the Secretary of State and the Minister of Agriculture, Fisheries and Food, and, in the application of this Part to Scotland or Wales, means the Secretary of State.
- [<sup>F90</sup> “the Nature Conservancy Councils” means the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland and the Countryside Council for Wales; and references to “the Nature Conservancy Council” shall be construed in accordance with section 27A.]
- (2) [<sup>F91</sup>In the application of this Part to England (except as respects a metropolitan county or Greater London) and to Wales references to a local planning authority shall be construed—
- (a) in sections 42, 43, 44 and 51(2)(c) as references to a county planning authority; and
- (b) in any other provision, as references to a county planning authority and a district planning authority;]
- and in the application of this Part to Scotland references to a local planning authority shall be construed as references to a regional planning authority, a general planning authority and a district planning authority.
- (3) References in this Part to the conservation of the natural beauty of any land shall be construed as including references to the conservation of its flora, fauna and geological and physiographical features.
- (4) Section 114 of the 1949 Act shall apply for the construction of this Part.
- (5) Any power or duty which under this Part (except sections 41 and 42(1)) falls to be exercised or performed by or in relation to the Ministers may, in England, be exercised or performed by or in relation to either of them.

### Textual Amendments

- F90** Definition inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), [Sch. 9 para. 11\(13\)](#); [S.I. 1991/685](#), [art.3](#)
- F91** Words and s. 52(2)(a)(b) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(5\)](#)

**Status:**

Point in time view as at 01/04/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Wildlife and Countryside Act 1981, Part II is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.