



Environmental Protection Act 1990

1990 CHAPTER 43

PART VII

NATURE CONSERVATION IN GREAT BRITAIN AND COUNTRYSIDE MATTERS IN WALES

Modifications etc. (not altering text)

C1 Pt. VII (ss. 128-139) applied (S.) (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(1); S.I. 1991/2633, art.4.

New Councils for England, Scotland and Wales

128 Creation and constitution of new Councils.

- (1) There shall be [^{F1}two] councils, to be called [^{F2}English Nature], ^{F3} . . ., and the Countryside Council for Wales (in this Part referred to as “the Councils”).
- (2) The Councils shall have the following membership, that is to say—
 - (a) [^{F2}English Nature] shall have not less than 10 nor more than 14 members;
 - ^{F4}(b)
 - (c) the Countryside Council for Wales shall have not less than 8 nor more than 12 members;and those members shall be appointed by the Secretary of State.
- (3) The Secretary of State may by order amend paragraph (a), (b) or (c) of subsection (2) above so as to substitute for the number for the time being specified as the maximum membership of a Council such other number as he thinks appropriate.
- (4) The Councils shall establish a committee to be called the Joint Nature Conservation Committee (in this Part referred to as “the joint committee”).
- (5) Schedules 6 and 7 to this Act shall have effect with respect to the constitution and proceedings of the Councils and of the joint committee and related matters.

Status: Point in time view as at 01/01/2006.

Changes to legislation: Environmental Protection Act 1990, Part VII is up to date with all changes known to be in force on or before 03 July 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

- F1** Word in s. 128(1) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(10), [Sch. 2 para. 10\(4\)](#); S.I. 1991/2633, [art.4](#).
- F2** Words in s. 128(1)(2)(a) substituted (30.1.2001) by 2000 c. 37, ss. 73(4), 103(2), [Sch. 8 para. 1\(n\)\(ii\)](#)
- F3** Words in s. 128(1) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch. 11](#); S.I. 1991/2633, [art. 4](#).
- F4** S. 128(2)(b) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch. 11](#); S.I.1991/2633, [art.4](#).

Modifications etc. (not altering text)

- C2** S. 128(4)(5) amended (01.04.1992) and extension to Scotland continued (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(2); S.I. 1991/2633, [art.4](#).

Commencement Information

- I1** S. 128 wholly in force at 1.4.1991 see s. 164(3) and S.I. 1991/685, [art. 3](#)

129 Grants by Secretary of State to new Councils.

- (1) The Secretary of State may with the approval of the Treasury make to the Councils [^{F5}and to the joint committee] grants of such amounts as the Secretary of State thinks fit.
- (2) A grant under this section may be made subject to such conditions (including in particular conditions as to the use of the money for purposes of the joint committee) as the Secretary of State may with the approval of the Treasury think fit.

Textual Amendments

- F5** Words in s. 129(1) inserted (31.3.2005) by [The Regulatory Reform \(Joint Nature Conservation Committee\) Order 2005 \(S.I. 2005/634\)](#), [art. 3](#)

Countryside matters

130 Countryside functions of Welsh Council.

- (1) The Countryside Council for Wales shall, in place of the Commission established under section 1 of the National Parks and Access to the ^{M1}Countryside Act 1949 (so far as concerns Wales), have such of the functions under the Acts amended by Schedule 8 to this Act (which relates to countryside matters) as are assigned to them in accordance with the amendments effected by that Schedule.
- (2) The Countryside Council for Wales shall discharge those functions—
 - (a) for the conservation and enhancement of natural beauty in Wales and of the natural beauty and amenity of the countryside in Wales, both in the areas designated under the National Parks and Access to the Countryside Act 1949 as National Parks or [^{F6}under the Countryside and Rights of Way Act 2000] as areas of outstanding natural beauty and elsewhere;
 - (b) for encouraging the provision or improvement, for persons resorting to the countryside in Wales, of facilities for the enjoyment thereof and for the

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enjoyment of the opportunities for open-air recreation and the study of nature afforded thereby;

and shall have regard to the social and economic interests of rural areas in Wales.

- (3) The reference in subsection (2) above to the conservation of the natural beauty of the countryside includes the conservation of its flora, fauna and geological and physiographical features.
- (4) The Countryside Council for Wales and the [^{F7}Countryside Agency] shall discharge their respective functions under those Acts (as amended by Schedule 8) on and after a day to be appointed by an order made by the Secretary of State.

Subordinate Legislation Made

- P1** [S. 130\(4\)](#): s. 130(4)(with ss. 131(3) and 164(3)) power fully exercised: 1.4.1991 appointed by [S.I. 1991/685](#), [art.4](#)

Textual Amendments

- F6** Words in [s. 130\(2\)\(a\)](#) inserted (30.1.2001 for E., 1.5.2001 for W.) by [2000 c. 37](#), s. 93, [Sch. 15 Pt. I para. 11](#) (with [s. 84\(4\)-\(6\)](#)); [S.I. 2001/114](#), [art. 2\(2\)\(e\)](#); [S.I. 2001/1410](#), [art. 2\(g\)](#)
- F7** Words in [s. 130\(4\)](#) substituted (E.W.) (20.2.1999) by [S.I. 1999/416](#), [art. 3](#), [Sch. 1 para. 14\(2\)](#)

Commencement Information

- I2** [S. 130](#) in force at 1.4.1991 see [s. 164\(3\)](#) and [S.I. 1991/685](#), [art. 3](#)

Marginal Citations

- M1** [1949 c. 97](#).

Nature conservation in Great Britain

131 Nature conservation functions: preliminary.

- (1) For the purposes of nature conservation, and fostering the understanding thereof, the Councils shall, in place of the Nature Conservancy Council established under the ^{M2}Nature Conservancy Council Act 1973, have the functions conferred on them by sections 132 to 134 below (which are in this Part referred to as “nature conservation functions”).
- (2) It shall be the duty of the Councils in discharging their nature conservation functions to take appropriate account of actual or possible ecological changes.
- (3) The Councils shall discharge their nature conservation functions on and after a day to be appointed by an order made by the Secretary of State.
- (4) The Secretary of State may give the Councils, or any of them, directions of a general or specific character with regard to the discharge of any of their nature conservation functions other than those conferred on them by section 132(1)(a) below.
- (5) Any reference in this section to the Councils includes a reference to the joint committee and, accordingly, directions under subsection (4) above may be given to the joint committee as respects any of the functions dischargeable by them (other than under section 133(2)(a)).

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(6) In this Part “nature conservation” means the conservation of flora, fauna or geological or physiographical features.

Subordinate Legislation Made

P2 [S. 131\(3\)](#): [S. 130\(4\)](#)(with ss. [131\(3\)](#) and [164\(3\)](#)) power exercised: 1.4.1991 appointed by [S.I. 1991/685](#), [art. 4](#)

Modifications etc. (not altering text)

C3 [S. 131](#): extension to Scotland continued (1.4.1992) (S.) by [Natural Heritage \(Scotland\) Act 1991](#) (c. 28, SIF 46:1), [s. 4\(3\)](#); [S.I. 1991/2633](#), [art. 4](#)

Commencement Information

I3 Appointed day for specified provisions is 1.4.1991 see [S.I.1991/685](#), [art. 4\(2\)](#)

Marginal Citations

M2 [1973 c. 54](#).

132 General functions of the Councils.

- (1) The Councils shall each have the following functions, namely—
- (a) such of the functions previously discharged by the Nature Conservancy Council under the Acts amended by Schedule 9 to this Act as are assigned to them in accordance with the amendments effected by that Schedule;
 - (b) the establishment, maintenance and management of nature reserves (within the meaning of section 15 of the National Parks and Access to the ^{M3}Countryside Act 1949) in their area;
 - (c) the provision of advice for the Secretary of State or any other Minister on the development and implementation of policies for or affecting nature conservation in their area;
 - (d) the provision of advice and the dissemination of knowledge to any persons about nature conservation in their area or about matters arising from the discharge of their functions under this section or section 134 below;
 - (e) the commissioning or support (whether by financial means or otherwise) of research which in their opinion is relevant to any of their functions under this section or section 134 below;

and the Councils shall, in discharging their functions under this section, have regard to any advice given to them by the joint committee under section 133(3) below.

- (2) The Councils shall each have power—
- (a) to accept any gift or contribution made to them for the purposes of any of the functions conferred on them by subsection (1) above or section 134 below and, subject to the terms of the gift or contribution, to apply it to those purposes;
 - (b) to initiate and carry out such research directly related to those functions as it is appropriate that they should carry out instead of commissioning or supporting other persons under paragraph (e) of that subsection;

and they may do all such other things as are incidental or conducive to those functions including (without prejudice to the generality of this provision) making charges and holding land or any interest in or right over land.

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- (3) Nothing in this section [^{F8}or in the Natural Heritage (Scotland) Act 1991 (in so far as it relates to the nature conservation functions of Scottish Natural Heritage)] shall be taken as preventing any of the Councils—
- (a) if consulted by another of the Councils about a matter relating to the functions of that other Council, from giving that other Council any advice or information which they are able to give; or
 - (b) from giving advice or information to the joint committee about any matter relating to any of the functions conferred by section 133(2) and (3) below.

Textual Amendments

- F8** Words in s. 132(3) inserted (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 4(10), **Sch. 2 para. 10(5)**; S.I. 1991/2633, **art. 4**

Modifications etc. (not altering text)

- C4** S. 132 extended (E.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 (S.I. 2004/3196), **reg. 6(4)** (as amended (30.4.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005 (S.I. 2005/918), reg. 2(d)) (both S.I. 2004/3196 and S.I. 2005/918 were revoked (12.1.2006) by S.I. 2005/3459, reg. 10)
S. 132 extended (W.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004 (S.I. 2004/3280), **reg. 6(5)** (as substituted (1.11.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2006 (S.I. 2006/2831), reg. 2(5))
S. 132 extended (E.) (12.1.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (S.I. 2005/3459), **reg. 6(5)**
- C5** S. 132(2) modified (E.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 (S.I. 2004/3196), **reg. 6(4)** (as amended (30.4.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005 (S.I. 2005/918), reg. 2(d)) (both S.I. 2004/3196 and S.I. 2005/918 were revoked (12.1.2006) by S.I. 2005/3459, reg. 10)
- C6** S. 132(2) modified (W.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004 (S.I. 2004/3280), **reg. 6(5)**
- C7** S. 132(2) modified (E.) (12.1.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2006 (S.I. 2005/3459), **reg. 6(5)**
- C8** S. 132(3) amended (1.4.1992) and extension of s. 132(3) to Scotland continued (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), **s. 4(2)**; S.I. 1991/2633, **art. 4**

Commencement Information

- I4** S. 132 wholly in force at 1.4.1991 see s. 164(3) and S.I. 1991/685, **art. 3**

Marginal Citations

- M3** 1949 c. 97.

133 Special functions of Councils.

- (1) The Councils shall jointly have the following functions which may, however, be discharged only through the joint committee; and in this section the functions so dischargeable are referred to as “special functions”.
- (2) The special functions of the Councils are—

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- (a) such of the functions previously discharged by the Nature Conservancy Council under the ^{M4}Wildlife and Countryside Act 1981 as are assigned to the Councils jointly as special functions in accordance with the amendments to that Act effected by Schedule 9 to this Act;
- (b) the provision of advice for the Secretary of State or any other Minister on the development and implementation of policies for or affecting nature conservation for Great Britain as a whole or nature conservation outside Great Britain;
- (c) the provision of advice and the dissemination of knowledge to any persons about nature conservation for Great Britain as a whole or nature conservation outside Great Britain;
- (d) the establishment of common standards throughout Great Britain for the monitoring of nature conservation and for research into nature conservation and the analysis of the resulting information;
- (e) the commissioning or support (whether by financial means or otherwise) of research which in the opinion of the joint committee is relevant to any matter mentioned in paragraphs (a) to (d) above;

and section 132(2) above shall apply to the special functions as it applies to the functions conferred by subsection (1) of that section.

- (3) The joint committee may give advice or information to any of the Councils on any matter arising in connection with the functions of that Council under section 132 above [^{F9}or, as the case may be, the nature conservation functions of Scottish Natural Heritage] which, in the opinion of the committee, concerns nature conservation for Great Britain as a whole or nature conservation outside Great Britain.
- (4) For the purposes of this section, references to nature conservation for Great Britain as a whole are references to—
 - (a) any nature conservation matter of national or international importance or which otherwise affects the interests of Great Britain as a whole; or
 - (b) any nature conservation matter which arises throughout Great Britain and raises issues common to England, Scotland and Wales,
 and it is immaterial for the purposes of paragraph (a) above that a matter arises only in relation to England, to Scotland or to Wales.
- (5) The Secretary of State may, as respects any matter arising in connection with—
 - (a) any special function of the Councils, or
 - (b) the function of the joint committee under subsection (3) above,
 give directions to any of the Councils requiring that Council (instead of the joint committee) to discharge that function in relation to that matter.

Textual Amendments

F9 Words in s. 133(3) inserted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(4)(b); S.I. 1991/2633, art. 4

Modifications etc. (not altering text)

C9 S. 133 amended (1.4.1992) and extension of s. 133 to Scotland continued (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(4)(a); S.I. 1991/2633, art. 4

C10 S. 133 modified (E.) (1.1.2005) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross Compliance\) \(England\) Regulations 2004 \(S.I. 2004/3196\)](#), reg. 6(4) (as amended

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- (30.4.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005 (S.I. 2005/918), reg. 2(d)) (both S.I. 2004/3196 and S.I. 2005/918 were revoked (12.1.2006) by S.I. 2005/3459, reg. 10)
- C11** S. 133 modified (W.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004 (S.I. 2004/3280), **reg. 6(5)**
- C12** S. 133 modified (E.) (12.1.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2006 (S.I. 2005/3459), **reg. 6(5)**

Marginal Citations

M4 1981 c. 61.

134 Grants and loans by the Councils.

- (1) The Councils may each, with the consent of or in accordance with a general authorisation given by the Secretary of State, 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 or to be incurred by him in doing anything which in their opinion is conducive to nature conservation or fostering the understanding of nature conservation.
- (2) No consent or general authorisation shall be given by the Secretary of State under subsection (1) above without the approval of the Treasury.
- (3) On making a grant or loan a Council may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.
- (4) The Councils shall exercise their powers under subsection (3) above so 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 (on payment or otherwise) shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, so far as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.

Transfer of property, rights and liabilities to new Councils

135 Schemes for the transfer of property etc. of the Nature Conservancy Council.

- (1) The Nature Conservancy Council shall make one or more schemes (“transfer schemes”) for the division of all their property, rights and liabilities (other than rights and liabilities under the contracts of employment of their staff and in respect of the provision of pensions, allowances or gratuities) between the Councils.
- (2) On the date appointed by a transfer scheme, the property, rights and liabilities of the Nature Conservancy Council which are the subject of the scheme shall, by virtue of this subsection, become property, rights and liabilities of the Councils to which they are allocated by the scheme.
- (3) Part I of Schedule 10 to this Act shall have effect in relation to transfer schemes under this section.
- (4) The rights and liabilities of the Nature Conservancy Council in respect of the provision of pensions, allowances and gratuities for or in respect of their members and

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employees or their former members or employees shall, on the date appointed under section 131(3) above, by virtue of this subsection, become rights and liabilities of the Secretary of State.

136 Transfer to Welsh Council of certain property etc. of Countryside Commission.

- (1) The [^{F10}Countryside Agency] shall make one or more schemes (“transfer schemes”) for allocating to the Countryside Council for Wales so much of their property, rights and liabilities (other than rights and liabilities under the contracts of employment of their staff) as the [^{F10}Countryside Agency] consider appropriate having regard to the countryside functions conferred on the Council by section 130 above.
- (2) On the date appointed by a transfer scheme, the property, rights and liabilities of the [^{F10}Countryside Agency] which are the subject of the scheme shall, by virtue of this subsection, become property, rights and liabilities of the Countryside Council for Wales.
- (3) Part II of Schedule 10 to this Act shall have effect in relation to transfer schemes under this section.

Textual Amendments

F10 Words in s. 136 substituted (E.W.) (20.2.1999) by S.I. 1999/416, art. 3, Sch. 1 para. 14(3)

Employment by new Councils of staff of existing bodies

137 Offers of employment to employees of Nature Conservancy Council and certain employees of Countryside Commission.

- (1) Any person who immediately before the date appointed under section 131(3) above is employed by the Nature Conservancy Council shall be entitled to receive an offer of employment from one of the Councils (to be determined in accordance with proposals made by the Nature Conservancy Council).
- (2) Subsection (1) above does not apply to a person whose contract of employment with the Nature Conservancy Council terminates on the day immediately preceding the date appointed under section 131(3) above.
- (3) The Countryside Council for Wales shall also make an offer of employment to any person who—
 - (a) is, immediately before the date appointed under section 130(4) above, employed by the [^{F11}Countryside Agency]; and
 - (b) is a person [^{F11}the Agency] has proposed should receive such an offer.
- (4) Part III of Schedule 10 to this Act shall have effect with respect to offers and proposals under this section.

Textual Amendments

F11 Words in s. 137(3) substituted (E.W.) (20.2.1999) by S.I. 1999/416, art. 3, Sch. 1 para. 14(4)

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Dissolution of Nature Conservancy Council

138 Winding up and dissolution of Nature Conservancy Council.

- (1) On the date appointed under section 131(3) above the chairman and other members of the Nature Conservancy Council shall cease to hold office and after that date—
 - (a) the Council shall consist only of a chairman appointed by the Secretary of State and such one or more other persons as may be so appointed; and
 - (b) the Council shall have only the following functions, namely—
 - (i) anything which falls to be done by the Council under any transfer scheme under section 135 above;
 - (ii) the preparation of such accounts and reports as the Secretary of State may direct;and such other functions as are necessary for winding up their affairs.
- (2) The Secretary of State may, by order, after consultation with the Nature Conservancy Council and the Councils, dissolve the Nature Conservancy Council on a day specified in the order as soon as he is satisfied that nothing remains to be done by that Council.
- (3) The Secretary of State may pay to persons who cease to hold office by virtue of subsection (1) above such sums by way of compensation for loss of office, or loss or diminution of pension rights, as the Secretary of State may, with the approval of the Treasury, determine.

Subordinate Legislation Made

P3 [S. 138](#): s. 138(2) power exercised (20.12.1991) 21.12.1991 appointed by [S.I.1991/2923](#).

Transitional provisions and savings

139 Transitional provisions and savings.

Schedule 11 to this Act (which contains transitional provisions and savings relating to this Part) shall have effect.

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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