



# Environment Act 1995

## 1995 CHAPTER 25

### PART III

#### NATIONAL PARKS

##### *Purposes of National Parks*

#### 61 Purposes of National Parks.

- (1) In section 5 of the National Parks and Access to the <sup>M1</sup>Countryside Act 1949 (National Parks) for subsection (1) (which provides that Part II of that Act has effect for the purpose of preserving and enhancing the natural beauty of the areas specified in subsection (2) of that section and for the purpose of promoting their enjoyment by the public) there shall be substituted—
  - “(1) The provisions of this Part of this Act shall have effect for the purpose—
    - (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and
    - (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.”
- (2) The amendment made by subsection (1) above is without prejudice to the continuing validity of any designation of an area as a National Park under subsection (3) of that section.
- (3) The following enactments (which refer to the purposes specified in section 5(1) of the National Parks and Access to the <sup>M2</sup>Countryside Act 1949), that is to say—
  - (a) sections 6(3) and (4)(g), 11 and 101(3) of that Act, and
  - (b) sections 2(5)(b) and 13(4) of the <sup>M3</sup>Countryside Act 1968,shall have effect in accordance with subsection (4) below.
- (4) In the application of any provision specified in subsection (3) above, any reference to the purposes specified in subsection (1) of section 5 of the National Parks and Access to the <sup>M4</sup>Countryside Act 1949—

*Status: Point in time view as at 19/11/1998.*

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- (a) in relation to any particular National Park, shall be construed as a reference to the substituted purposes as from the time when a National Park authority becomes the local planning authority for that Park; and
  - (b) in relation to National Parks generally, shall be construed as a reference—
    - (i) to the original purposes, so far as relating to National Parks in the case of which the National Park authority has not become the local planning authority since the coming into force of this section, and
    - (ii) to the substituted purposes, so far as relating to National Parks in the case of which the National Park authority has become the local planning authority since the coming into force of this section.
- (5) In subsection (4) above—
- “original purposes” means the purposes specified in subsection (1) of section 5 of that Act, as originally enacted;
- “substituted purposes” means the purposes specified in that subsection as substituted by subsection (1) above.

**Marginal Citations**

- M1** 1949 c. 97.
- M2** 1949 c. 97.
- M3** 1968 c. 41.
- M4** 1949 c. 97.

**62 Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated.**

- (1) After section 11 of the National Parks and Access to the <sup>M5</sup>Countryside Act 1949 (general powers of local planning authorities in relation to National Parks) there shall be inserted—

**“11A Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated.**

- (1) A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic and social well-being of local communities within the National Park, but without incurring significant expenditure in doing so, and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.
- (2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.
- (3) For the purposes of this section “relevant authority” means—
  - (a) any Minister of the Crown,

*Status: Point in time view as at 19/11/1998.*

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- (b) any public body,
  - (c) any statutory undertaker, or
  - (d) any person holding public office.
- (4) In subsection (3) of this section—  
“public body” includes—
- (a) any local authority, joint board or joint committee;
  - (b) any National Park authority;
- “public office” means—
- (a) an office under Her Majesty;
  - (b) an office created or continued in existence by a public general Act of Parliament; or
  - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.
- (5) In subsection (4) of this section, “joint board” and “joint committee” mean—
- (a) a joint or special planning board for a National Park reconstituted by order under paragraph 1 or 3 of Schedule 17 to the <sup>M6</sup>Local Government Act 1972, or a joint planning board within the meaning of section 2 of the <sup>M7</sup>Town and Country Planning Act 1990;
  - (b) a joint committee appointed under section 102(1)(b) of the <sup>M8</sup>Local Government Act 1972.
- (6) In this section, “local authority”—
- (a) in relation to England, means a county council, district council or parish council;
  - (b) in relation to Wales, means a county council, county borough council, district council or community council.”
- (2) The duty imposed by subsection (1) of the section 11A inserted by subsection (1) above shall take effect, in the case of any particular National Park, as from the time when a National Park authority becomes the local planning authority for that Park.

#### Marginal Citations

- M5** 1949 c. 97.
- M6** 1972 c. 70.
- M7** 1990 c. 8.
- M8** 1972 c. 70.

### *Establishment of National Park authorities*

## **63 Establishment of National Park authorities.**

- (1) The Secretary of State may—
- (a) in the case of any National Park for which there is an existing authority, or
  - (b) in connection with the designation of any area as a new such Park,
- by order establish an authority (to be known as “a National Park authority”) to carry out in relation to that Park the functions conferred on such an authority by or under this Part.

*Status: Point in time view as at 19/11/1998.*

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- (2) An order under this section may provide, in relation to any National Park for which there is an existing authority—
- (a) for the existing authority to cease to have any functions in relation to that Park as from the time when a National Park authority becomes the local planning authority for that Park;
  - (b) for such (if any) of the functions of the existing authority as, by virtue of this Part, are not as from that time to be functions of the National Park authority for that Park to become functions of the person on whom they would be conferred if the area in question were not in a National Park; and
  - (c) for the winding up of the existing authority and for that authority to cease to exist, or to be dissolved, as from such time as may be specified in the order.
- (3) Subject to any order under subsection (4) below, where there is a variation of the area of a National Park for which there is or is to be a National Park authority, the Park for which that authority is or is to be the authority shall be deemed, as from the time when the variation takes effect, to be that area as varied.
- (4) Where provision is made for the variation of the area of a National Park for which there is or is to be a National Park authority, the Secretary of State may by order make such transitional provision as he thinks fit with respect to—
- (a) any functions which, in relation to any area that becomes part of the National Park, are by virtue of the variation to become functions of that authority; and
  - (b) any functions which, in relation to any area that ceases to be part of the National Park, are by virtue of the variation to become functions of a person other than that authority.
- (5) Schedule 7 to this Act shall have effect with respect to National Park authorities.

#### **64 National Park authorities in Wales.**

- (1) Where a National Park planning board has been constituted for the area of any particular existing National Park in Wales, the Secretary of State may exercise his power under section 63 above to establish a National Park authority in relation to that National Park by making an order under that section designating for the body corporate constituted as that board a date earlier than 31st March 1997 on which that body—
- (a) shall cease to be a National Park planning board, and
  - (b) shall be constituted the National Park authority in relation to that National Park,
- without affecting its corporate status (and an order made under or by virtue of that section may make provision re-naming that body accordingly).
- (2) Any order under—
- (a) paragraph 3A of Schedule 17 to the 1972 Act (special planning boards), or
  - (b) section 2(1B) of the <sup>M9</sup>Town and Country Planning Act 1990 (joint planning boards),
- relating to the body corporate constituted as the National Park planning board in question shall have effect on and after the designated date for that body as an order under section 63 above relating to that body in its capacity as the National Park authority in relation to the National Park in question.

*Status: Point in time view as at 19/11/1998.*

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- (3) For the purposes of any order establishing a National Park authority under section 63 above by virtue of subsection (1) above, or any order which, by virtue of subsection (2) above, has effect as an order under that section—
- (a) the requirements of paragraph 2(3) of Schedule 7 to this Act with respect to consultation with councils for principal areas shall, by virtue of the establishment of the National Park planning board, be deemed to have been complied with as respects any provision of the order;
  - (b) in the case of any member of the National Park planning board immediately before the designated date who was holding that office by virtue of his appointment as such by the Secretary of State under and in accordance with paragraph 11 of Schedule 17 to the 1972 Act (which requires prior consultation), the appointment shall, on and after the designated date, have effect for the remainder of the period for which it was made as an appointment as a member of the National Park authority made by the Secretary of State in accordance with paragraph 4(1) of Schedule 7 to this Act;
  - (c) in the case of any other member of the National Park planning board immediately before the designated date who is on that date a member of a principal council for an area which includes the whole or any part of the National Park in question, his appointment as a member of that board shall, on and after the designated date, have effect for the remainder of the period for which it was made as an appointment as a local authority member of the National Park authority made in accordance with paragraph 2 of that Schedule; and
  - (d) any other requirement, whether statutory or otherwise, which must be complied with in connection with the establishment of a National Park authority shall be deemed to have been complied with by virtue of the establishment of the National Park planning board;
- and, except as provided by paragraphs (b) and (c) above, no person who is a member of the National Park planning board immediately before the designated date shall, by virtue of the order, become a member of the National Park authority.
- (4) The functions of a National Park planning board shall include the duty to take such steps as it considers necessary to enable it (that is to say, the body corporate constituted as that board) on being constituted the National Park authority in relation to the National Park in question by an order made by virtue of subsection (1) above, to perform its functions as a National Park authority on and after the designated date; and the functions conferred on such a board by this subsection—
- (a) shall be exercisable before (as well as on or after) 1st April 1996; and
  - (b) are in addition to any other functions which are exercisable by such a board before that date by virtue of paragraph 13 of Schedule 17 to the <sup>M10</sup>Local Government (Wales) Act 1994.
- (5) The functions of a principal council for an area which includes the whole or any part of the area of a National Park planning board shall include the duty to take such steps as it considers necessary to enable the body corporate constituted as that board, on being constituted the National Park authority in relation to the National Park in question by an order made by virtue of subsection (1) above, to perform those functions which would, apart from the order, be exercisable by a principal council but which will become functions of that body, as the National Park authority, on the designated date.
- (6) Where the Secretary of State—

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- (a) has taken any steps with a view to, or otherwise in connection with, the establishment of a National Park planning board for the area of an existing National Park in Wales (“the proposed board”), but
  - (b) decides not to proceed with the establishment of the proposed board and to establish instead a National Park authority in relation to that National Park (“the proposed authority”), and
  - (c) the proposed authority is, or is to be, established before 31st March 1997,
- the doing of anything by or in relation to the Secretary of State (other than the making by the Secretary of State of an instrument of a legislative character) with a view to, or otherwise in connection with, establishing the proposed board shall be treated, as respects the proposed authority, as the doing of any corresponding or reasonably similar thing falling to be done for the purposes of, or otherwise in connection with, the establishment of that authority.
- (7) Without prejudice to the generality of subsection (6) above, in any case falling within paragraphs (a) to (c) of that subsection—
- (a) any consultation with a principal council after 15th December 1994 by the Secretary of State as respects the proposed board (whether or not required by or under any enactment) shall be deemed, as respects the proposed authority, to have been carried out for the purposes of the consultation with councils for principal areas required by paragraph 2(3) of Schedule 7 to this Act;
  - (b) anything done by or in relation to the Secretary of State for the purposes of the consultation required by paragraph 11 of Schedule 17 to the 1972 Act (appointment of members by Secretary of State) preparatory to the appointment of a person as a member of the proposed board shall be deemed, as respects the proposed authority, to have been done for the purposes of the consultation required by paragraph 4(1) of Schedule 7 to this Act preparatory to the appointment of that person as a member of that authority;
  - (c) anything done by or in relation to the Secretary of State (other than the making by the Secretary of State of an instrument of a legislative character) for the purposes of, or otherwise in connection with, any other requirement, whether statutory or otherwise, of a consultative or procedural nature—
    - (i) which relates to a National Park planning board, and
    - (ii) for which there is a corresponding or reasonably similar requirement which relates to a National Park authority,
 shall be treated, as respects the proposed authority, as done for the purposes of, or otherwise in connection with, that other corresponding or reasonably similar requirement.
- (8) Section 54 of the <sup>M11</sup>Local Government (Wales) Act 1994 (powers to make incidental, consequential, transitional or supplemental provision) shall have effect as if this Part were contained in that Act, except that subsection (2)(e) of that section shall have effect as if this Part were contained in an Act passed in the same Session as that Act.
- (9) In this section—
- “the designated date”, in the case of any body corporate constituted as a National Park planning board which becomes, or is to become, a National Park authority by virtue of this section, means the date designated by virtue of subsection (1) above in the order relating to that body;
  - “existing National Park” means a National Park in respect of which there was in force on 15th December 1994 an order under section 5 of the National

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Parks and Access to the <sup>M12</sup>Countryside Act 1949 (designation of areas as National Parks);

“National Park planning board” means—

- (a) a special planning board constituted by order under paragraph 3A of Schedule 17 to the 1972 Act to discharge, as respects the area of a National Park in Wales, the functions to which Part I of that Schedule applies, or
- (b) a joint planning board constituted by order under subsection (1B) of section 2 of the <sup>M13</sup>Town and Country Planning Act 1990 for a united district comprising the area of a National Park in Wales.

#### Marginal Citations

- M9** 1990 c. 8.  
**M10** 1994 c. 19.  
**M11** 1994 c. 19.  
**M12** 1949 c. 97.  
**M13** 1990 c. 8.

### *Functions of National Park authorities*

#### **65 General purposes and powers.**

- (1) This Part so far as it relates to the establishment and functions of National Park authorities shall have effect for the purposes specified in section 5(1) of the National Parks and Access to the <sup>M14</sup>Countryside Act 1949 (purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of National Parks and of promoting opportunities for the understanding and enjoyment of the special qualities of those Parks by the public).
- (2) Sections 37 and 38 of the <sup>M15</sup>Countryside Act 1968 (general duties as to the protection of interests of the countryside and the avoidance of pollution) shall apply to National Park authorities as they apply to local authorities.
- (3) The functions of a National Park authority in the period (if any) between the time when it is established and the time when it becomes the local planning authority for the relevant Park shall be confined to the taking of such steps as the authority, after consultation with the Secretary of State and any existing authority for that Park, considers appropriate for securing that it is able properly to carry out its functions after that time.
- (4) In the application of subsection (3) above in the case of a National Park authority established in relation to a National Park in Wales, the reference to any existing authority for that Park shall have effect as respects consultation carried out during so much of that period as falls before 1st April 1996 as including a reference to any principal council whose area is wholly or partly comprised in that Park.
- (5) The powers of a National Park authority shall include power to do anything which, in the opinion of that authority, is calculated to facilitate, or is conducive or incidental to—
  - (a) the accomplishment of the purposes mentioned in subsection (1) above; or

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- (b) the carrying out of any functions conferred on it by virtue of any other enactment.
- (6) The powers conferred on a National Park authority by subsection (5) above shall not include either—
  - (a) power to do anything in contravention of any restriction imposed by virtue of this Part in relation to any express power of the authority; or
  - (b) a power to raise money (whether by borrowing or otherwise) in a manner which is not authorised apart from that subsection;
 but the things that may be done in exercise of those powers shall not be treated as excluding anything by reason only that it involves the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights.
- (7) Schedule 8 to this Act shall have effect with respect to the supplemental and incidental powers of a National Park authority.

#### **Marginal Citations**

**M14** 1949 c. 97.

**M15** 1968 c. 41.

## **66 National Park Management Plans.**

- (1) Subject to subsection (2) below, every National Park authority shall, within three years after its operational date, prepare and publish a plan, to be known as a National Park Management Plan, which formulates its policy for the management of the relevant Park and for the carrying out of its functions in relation to that Park.
- (2) A National Park authority for a Park wholly or mainly comprising any area which, immediately before the authority's operational date, was or was included in an area for which there was a National Park Plan prepared and published under paragraph 18 of Schedule 17 to the 1972 Act (National Park plans) shall not be required to prepare a Management Plan under subsection (1) above if, within six months of that date, it adopts the existing National Park Plan as its Management Plan and publishes notice that it has done so.
- (3) Where a National Park authority is proposing to adopt a plan under subsection (2) above, it may review the plan before adopting it and shall do so if the plan would have fallen to be reviewed under paragraph 18 of Schedule 17 to the 1972 Act in the period of twelve months beginning with the authority's operational date.
- (4) A National Park authority shall review its National Park Management Plan within the period of five years of its operational date and, after the first review, at intervals of not more than five years.
- (5) Where a National Park authority has adopted a plan under subsection (2) above as its National Park Management Plan and has not reviewed that Plan before adopting it, the first review of that Plan under subsection (4) above shall take place no later than the time when the adopted plan would otherwise have fallen to be reviewed under paragraph 18 of Schedule 17 to the 1972 Act.
- (6) Where a National Park authority reviews any plan under this section, it shall—



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- (a) determine on that review whether it would be expedient to amend the plan and what (if any) amendments would be appropriate;
  - (b) make any amendments that it considers appropriate; and
  - (c) publish a report on the review specifying any amendments made.
- (7) A National Park authority which is proposing to publish, adopt or review any plan under this section shall—
- (a) give notice of the proposal to every principal council whose area is wholly or partly comprised in the relevant Park and, according to whether that Park is in England or in Wales, to the Countryside Commission and the Nature Conservancy Council for England or to the Countryside Council for Wales;
  - (b) send a copy of the plan, together (where appropriate) with any proposed amendments of the plan, to every body to which notice of the proposal is required to be given by paragraph (a) above; and
  - (c) take into consideration any observations made by any such body.
- (8) A National Park authority shall send to the Secretary of State a copy of every plan, notice or report which it is required to publish under this section.
- (9) In this section “operational date”, in relation to a National Park authority, means the date on which the authority becomes the local planning authority for the relevant Park.

## **67 National Park authority to be local planning authority.**

- (1) After section 4 of the <sup>M16</sup>Town and Country Planning Act 1990 (National Parks) there shall be inserted—

### **“4A National Parks with National Park authorities.**

- (1) Where a National Park authority has been established for any area, this section, instead of section 4(1) to (4), shall apply, as from such time as may be specified for the purposes of this section in the order establishing that authority, in relation to the Park for which it is the authority.
- (2) Subject to subsections (4) and (5) below, the National Park authority for the Park shall be the sole local planning authority for the area of the Park and, accordingly—
- (a) functions conferred by or under the planning Acts on a planning authority of any description (including the functions of a mineral planning authority under those Acts and under the <sup>M17</sup>Planning and Compensation Act 1991) shall, in relation to the Park, be functions of the National Park authority, and not of any other authority; and
  - (b) so much of the area of any other authority as is included in the Park shall be treated as excluded from any area for which that other authority is a planning authority of any description.
- (3) For the purposes of subsection (2) above functions under the planning Acts which (apart from this section) are conferred—
- (a) in relation to some areas on the county or district planning authorities for those areas, and
  - (b) in relation to other areas on the councils for those areas,

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shall be treated, in relation to those other areas, as conferred on each of those councils as the local planning authority for their area.

- (4) The functions of a local planning authority by virtue of sections 198 to 201, 206 to 209 and 211 to 215, so far as they are functions of a National Park authority by virtue of this section, shall be exercisable as respects any area which is or is included in an area for which there is a district council, concurrently with the National Park authority, by that council.
- (5) For the purposes of any enactment relating to the functions of a district planning authority, the functions of a district council by virtue of subsection (4) above shall be deemed to be conferred on them as a district planning authority and as if the district were the area for which they are such an authority.”
- (2) The Secretary of State may by order make provision—
- (a) for applying Chapter I of Part II of that Act of 1990 (unitary development plans), instead of provisions of Chapter II of that Part (structure and local plans), in relation to the area of any National Park; or
- (b) for applying Chapter II of that Part in relation to the area of such a Park—
- (i) as if functions under that Chapter of a planning authority of any description were functions of such public authority as may be specified in the order (and not of the National Park authority); and
- (ii) as if that Part had effect with such other modifications as may be so specified in relation to the carrying out of those functions by an authority so specified.
- (3) Without prejudice to any power conferred by virtue of section 75 below, the Secretary of State shall have power by order, for the purposes of any provision made by virtue of this section, to modify the provisions of Part II of that Act of 1990 (development plans) in relation to any such area of a local planning authority as, but for any exclusion by virtue of section 4A of that Act, would include the whole or any part of a National Park.
- (4) References in this section to provisions of Part II of that Act of 1990 include references to any provisions for modifying those provisions which are contained in any enactment passed after this Act.
- (5) Before section 148 of that Act of 1990 (interpretation of provisions relating to purchase notices) there shall be inserted—

**“147A Application of Chapter I to National Parks.**

This Chapter shall have effect as if—

- (a) the bodies on whom a purchase notice may be served under section 137 included any National Park authority which is the local planning authority for the area in which the land is situated; and
- (b) a National Park authority were a local authority for the purposes of this Act and the National Park for which it is the local planning authority were its area;

and the references in this Chapter and in section 288(10)(a) to a council and to a local authority shall be construed accordingly.”

*Status: Point in time view as at 19/11/1998.*

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#### Marginal Citations

M16 1990 c. 8.

M17 1991 c. 34.

### 68 Planning authority functions under National Parks legislation etc.

- (1) Where a National Park authority is the local planning authority for any National Park, section 184 of the 1972 Act and paragraph 37 of Schedule 17 to that Act (functions under certain legislation relating to the National Parks and the countryside) shall not apply as respects that Park in relation to any of the functions conferred by or under—
  - (a) the <sup>M18</sup>National Parks and Access to the Countryside Act 1949 (“the 1949 Act”), or
  - (b) the <sup>M19</sup>Countryside Act 1968 (“the 1968 Act”),on a planning authority of any description.
- (2) In consequence of subsection (1) above, but subject to subsections (3) to (7) below—
  - (a) functions which are conferred on a local planning authority by or under the 1949 Act or the 1968 Act, and the functions conferred on a county planning authority (or, in relation to Wales, a local planning authority) by section 69 of the 1949 Act (suspension of access to avoid risk of fire), shall, as respects the whole or any part of a National Park for which a National Park authority is the local planning authority, be functions of that authority and not of any other authority;
  - (b) references in those Acts to a local planning authority whose area consists of or includes the whole or any part of a National Park shall be construed, in relation to any National Park for which a National Park authority is the local planning authority, as references to the National Park authority; and
  - (c) other references in those Acts to a local planning authority and the references to a local authority in section 103 of the 1949 Act and sections 10 and 43 to 45 of the 1968 Act (which contain provision applying in relation to local authorities in their capacity as local planning authorities) shall have effect accordingly.
- (3) Section 11 of the 1949 Act (which makes provision in relation to a local planning authority that corresponds to provision made by section 65 above in relation to a National Park authority) shall not apply in relation to any National Park authority.
- (4) The functions conferred by or under section 12 of the 1949 Act or section 12 of the 1968 Act (facilities for National Parks) which are exercisable by virtue of this section by a National Park authority in a National Park—
  - (a) shall be exercisable by that authority outside the relevant Park on any land in the neighbourhood of that Park; but
  - (b) shall be so exercisable only under arrangements made with the local planning authority for the area where they are exercised.
- (5) Sections 61 to 63 of the 1949 Act (survey of access requirements and action in response to the survey) shall have effect in accordance with subsection (2) above as respects the area of any National Park for which a National Park authority has become the local planning authority—

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- (a) in the case of a Park designated after the commencement of this section, as if section 61(1) applied with the substitution for the reference to the commencement of that Act of a reference to the time when that authority became the local planning authority for that Park;
  - (b) as if no area were required by virtue of subsection (3) of section 61 of that Act, or of any previous review under that section, to be excluded from any area to be reviewed by virtue of paragraph (a) above; and
  - (c) in the case of a Park designated before the commencement of this section, as if—
    - (i) the power (if any) to make a resolution for the purposes of the proviso to that subsection (3) as respects any part of the area of the Park which has not previously been reviewed under that section, and
    - (ii) the functions which, where such a resolution has been so made, are conferred on the authority which made it or on any authority which has conducted a review in pursuance of the resolution,
 were a power or, as the case may be, functions of the National Park authority, and not of any other authority.
- (6) The following functions, so far as exercisable by a National Park authority in relation to land or countryside in a National Park in England for which that authority is the local planning authority, that is to say—
- (a) those conferred by or under section 89 of the 1949 Act (planting of trees and treatment of derelict land), and
  - (b) those conferred by section 10 of the 1968 Act (camping and picnic sites),
- shall be exercisable in relation to so much of that Park as is comprised in a district for which there is a district council, concurrently with the National Park authority, by that district council.
- (7) For the purposes of any enactment relating to the functions of a district planning authority, the functions of a district council by virtue of subsection (6) above shall be deemed to be conferred on them as a district planning authority and as if the district were the area for which they are such an authority.
- (8) The following powers, that is to say—
- (a) those conferred on a local authority by or under section 92 of the 1949 Act (wardens), and
  - (b) those conferred on a local authority by or under section 41 of the 1968 Act (byelaws),
- so far as they are conferred in relation to any of the functions which by virtue of this section are functions of a National Park authority as respects the relevant Park, shall be exercisable by that authority and also, in the case of those conferred by or under section 41 of the 1968 Act, by a district council in relation to that council's functions by virtue of subsection (6)(b) above, but not by any other authority.
- (9) Section 104 of the 1949 Act (general provisions as to appropriation and disposal of land), except subsection (11), shall have effect as if references in that section to a local authority included references to a National Park authority.
- (10) For the purposes of any functions conferred on a National Park authority by virtue of this section references in any enactment to the area of the authority shall be construed as references to the relevant Park.

*Status: Point in time view as at 19/11/1998.*

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#### Marginal Citations

M18 1949 c. 97.

M19 1968 c. 41.

### 69 Planning authority functions under the Wildlife and Countryside Act 1981.

- (1) A National Park authority which is the local planning authority for any National Park, and not any other authority, shall have all the functions under the <sup>M20</sup>Wildlife and Countryside Act 1981 which are conferred as respects that Park on a planning authority of any description.
- (2) Accordingly—
  - (a) a National Park authority shall be the relevant authority for the purposes of sections 39, 41 and 50 of that Act (management agreements and duties of agriculture Ministers in relation to the countryside) as respects any land in any National Park for which that authority is the local planning authority; and
  - (b) section 52(2) of that Act (construction of references to a local planning authority) shall not apply as respects any National Park for which a National Park authority is the local planning authority.
- (3) Section 43 of that Act (maps of National Parks) shall have effect in accordance with the preceding provisions of this section—
  - (a) in the case of a National Park designated after the commencement of this section, as if the relevant date for the purposes of that section were the date on which a National Park authority becomes the local planning authority for the Park; and
  - (b) in any other case, as if the function of reviewing and revising any map of a part of the Park in question included a power, in pursuance of the review and revisions, to consolidate that map with other maps prepared under that section as respects other parts of that Park.
- (4) In section 44 of that Act (grants and loans for purposes of National Parks), after subsection (1) there shall be inserted the following subsection—

“(1A) Subsection (1) above shall not apply in relation to any National Park for which a National Park authority is the local planning authority; but the National Park authority for such a Park 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 the Park in question of any of the purposes mentioned in section 5(1) of the 1949 Act (purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of National Parks and of promoting opportunities for the understanding and enjoyment of the special qualities of those Parks by the public).”

#### Marginal Citations

M20 1981 c. 69.

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## 70 Other statutory functions.

In addition to its functions under the enactments mentioned in sections 67 to 69 above and to such of its functions under any other enactment as are conferred by virtue of its being a local planning authority within the meaning of the <sup>M21</sup>Town and Country Planning Act 1990, a National Park authority shall have the further miscellaneous functions conferred on it by virtue of Schedule 9 to this Act.

### Marginal Citations

**M21** 1990 c. 8.

### *Finances of National Park authorities*

## 71 National Park authorities to be levying bodies.

- (1) A National Park authority shall have power in respect of every financial year beginning after the establishment of that authority to issue levies to the councils by whom the local authority members of that authority fall to be appointed.
- (2) Subject to the following provisions of this section, a levy issued by virtue of this section shall be issued in accordance with regulations under section 74 of the <sup>M22</sup>Local Government Finance Act 1988 (power to make regulations authorising a levying body to issue a levy); and, accordingly, a National Park authority shall be deemed to be a levying body within the meaning of that section.
- (3) Subject to any maximum specified in or determined in accordance with any regulations under that section 74, the amount of the levies issued by a National Park authority in respect of any financial year shall be equal to the sum by which the aggregate of the amounts specified in subsection (4) below is exceeded by the aggregate of the sums which it estimates it will require in respect of that year for the following purposes, that is to say—
  - (a) meeting the expenditure of the authority which will fall to be charged for that year to any revenue account;
  - (b) making such provision as may be appropriate for meeting contingencies the expenditure on which would fall to be so charged;
  - (c) securing the availability to the authority of adequate working balances on its revenue accounts; and
  - (d) providing the authority with the funds required for covering any deficit carried forward from a previous financial year in any revenue account.
- (4) The amounts mentioned in subsection (3) above in relation to any financial year are—
  - (a) any amounts to be received by the authority in respect of that year by way of grant under section 72 below;
  - (b) the authority's estimate of the amounts which are likely for that year to be credited to any revenue account in respect of sums payable to the authority for things done in the course of, or in connection with, the carrying out of its functions; and
  - (c) the authority's estimate of the amounts not falling within paragraph (a) or (b) above which apart from this section are, or are likely to be, available to it for that year for the purposes mentioned in subsection (3) above.

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- (5) Where agreement as to the apportionment of the amount to be raised by a National Park authority in respect of any financial year by way of levies is entered into, before 1st December in the immediately preceding financial year, by all the authorities to whom the levies in respect of that year may be issued by that authority, that amount shall be apportioned between those authorities in accordance with the agreement, instead of in accordance with any provision made by virtue of that section 74.
- (6) Regulations under that section 74 may include provision for requiring an authority to anticipate a levy by virtue of this section when making any calculations which fall, for the financial year following that in which any National Park authority is established, to be made (whether originally or by way of substitute) under section 32 or 43 of the <sup>M23</sup>Local Government Finance Act 1992 (calculation of budget requirement).
- (7) A National Park authority shall not by virtue of this section be a local authority within the meaning of the <sup>M24</sup>Town and Country Planning Act 1990.

**Marginal Citations**

- M22 1988 c. 41.  
M23 1992 c. 14.  
M24 1990 c. 8.

**72 National Park grant.**

- (1) The Secretary of State may make grants to a National Park authority for such purposes, of such amounts and on such terms and conditions as he thinks fit.
- (2) Before determining the amount of any grant which he proposes to make to a National Park authority under this section, or the purpose for which it is to be made, the Secretary of State shall consult, according to whether the relevant Park is in England or in Wales, either the Countryside Commission or the Countryside Council for Wales.
- (3) The consent of the Treasury shall be required for the making of a grant under this section.

**73 Capital finances and borrowing.**

In section 39(1) of the <sup>M25</sup>Local Government and Housing Act 1989 (which specifies the authorities to which the provisions of Part IV of that Act relating to capital accounts and borrowing powers apply), after paragraph (i) there shall be inserted—  
“(ia) a National Park authority;”.

**Marginal Citations**

- M25 1989 c. 42.

**74 Validation of certain grants paid to local authorities in respect of expenditure relating to National Parks.**

- (1) No payment made for any year beginning on or after 1st April 1990 and ending on or before 31st March 1996 by the Secretary of State by way of grant to the council of a

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county or a metropolitan district in respect of the council's expenditure or estimated expenditure in connection with National Parks shall be regarded as made otherwise than under and in accordance with the relevant enactments by reason only of—

- (a) the aggregate amount of such grants for the year to such councils not having been duly prescribed;
  - (b) the method of determining the proportion of such aggregate amount payable to that council not having been duly prescribed; or
  - (c) payment of the grant being, or having been, made—
    - (i) otherwise than in accordance with an approved Rate Support Grant Report or such a Report as varied by an approved supplementary report for the year; or
    - (ii) without there being an approved Rate Support Grant Report for the year.
- (2) Any reference in this section to a payment by way of grant made under and in accordance with the relevant enactments is a reference to a payment of grant made under section 7 of the <sup>M26</sup>Local Government Act 1974 (supplementary grants towards expenditure with respect to National Parks) in accordance with the provisions of that section and those of section 60 or 61 of the <sup>M27</sup>Local Government, Planning and Land Act 1980 (rate support grant reports and supplementary reports) as they apply in relation to grants under the said section 7.
- (3) In this section—

“approved Rate Support Grant Report” means a Rate Support Grant Report which has been laid before and approved by a resolution of the House of Commons;

“approved supplementary report” means a supplementary report which has been laid before and approved by a resolution of the House of Commons;

“duly prescribed” means prescribed by a Rate Support Grant Report or a supplementary report;

“Rate Support Grant Report” means a Rate Support Grant Report made under section 60 of the Local Government, Planning and Land Act 1980;

“supplementary report” means a supplementary report made under section 61 of that Act; and

“year” means a period of 12 months beginning with 1st April.

#### **Marginal Citations**

**M26** 1974 c. 7.

**M27** 1980 c. 65.

#### *Supplemental provisions*

#### **75 Powers to make orders.**

- (1) This section applies to every power of the Secretary of State under the preceding provisions of this Part to make an order.



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- (2) The powers to which this section applies shall, in each case, be exercisable by statutory instrument; and, except in the case of a statutory instrument made by virtue of section 64 above which only—
- (a) designates a date,
  - (b) specifies a time for the purposes of section 4A of the <sup>M28</sup>Town and Country Planning Act 1990,
  - (c) renames a body,
  - (d) makes provision under paragraph 2 of Schedule 7 to this Act—
    - (i) for excluding a council from the councils by whom the local authority members of a National Park authority are to be appointed, or
    - (ii) for so increasing the number of local authority members of a National Park authority to be appointed by any council as to secure that the number of local authority members of that authority remains unchanged notwithstanding any such exclusion of a council, or
  - (e) makes provision under section 63(2) above,
- any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The powers to which this section applies shall, in each case, include power to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks necessary or expedient.
- (4) A power of the Secretary of State by an order under this Part to make incidental, supplemental, consequential or transitional provision shall include power for any incidental, supplemental, consequential or, as the case may be, transitional purpose—
- (a) to apply with or without modifications,
  - (b) to extend, exclude or modify, or
  - (c) to repeal or revoke with or without savings,
- any enactment or any instrument made under any enactment.
- (5) The provision that may be made for incidental, supplemental, consequential or transitional purposes in the case of any order under this Part which—
- (a) establishes a National Park authority or winds up the existing authority for any National Park, or
  - (b) otherwise has the effect of transferring functions from one person to another or of providing for functions to become exercisable concurrently by two or more persons or to cease to be so exercisable,
- shall include provision for the transfer of property, rights and liabilities from one person to another.
- (6) A power of the Secretary of State under this Part to provide by order for the transfer of any property, rights or liabilities, or to make transitional provision in connection with any such transfer or with any order by which functions become or cease to be exercisable by any authority, shall include power to provide, in particular—
- (a) for the management and custody of any transferred property (whether real or personal);
  - (b) for any liabilities transferred to include liabilities under any enactment;
  - (c) for legal proceedings commenced by or against any person to be continued by or against a person to whom property, rights or liabilities are transferred

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- or, as the case may be, any authority by whom any functions are to become exercisable;
- (d) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and
  - (e) for treating any person to whom a transfer of property, rights or liabilities is made or, as the case may be, by whom any functions are to become exercisable as, for some or all purposes, the same person in law as the person from whom the transfer is made or the authority by whom the functions have previously been exercisable.
- (7) The powers to which this section applies shall, in each case, include power to make different provision for different cases, including different provision for different areas or localities and for different authorities.
- (8) The powers to which this section applies shall be without prejudice to any powers conferred by Part II of the <sup>M29</sup>Local Government Act 1992 or any other enactment.
- (9) In this section “enactment” includes an enactment contained in an Act passed after this Act.

#### Marginal Citations

**M28** 1990 c. 8.

**M29** 1992 c. 19.

## 76 Agreements as to incidental matters.

- (1) Any public authorities affected by an order under this Part may from time to time make agreements with respect to—
- (a) any property, income, rights, liabilities or expenses (so far as affected by the order) of the parties to the agreement; or
  - (b) any financial relations between those parties.
- (2) Such an agreement may provide—
- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
  - (b) for the making of payments by any party to the agreement in respect of—
    - (i) property, rights and liabilities transferred or retained,
    - (ii) the joint use of any property, or
    - (iii) remuneration or compensation payable to any person;
 and
  - (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.
- (3) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator agreed on by the parties or, in default of agreement, appointed by the Secretary of State; and the award of the arbitrator may make any provision that might be contained in an agreement under this section.
- (4) In subsection (3) above “disputed matter” means any matter which—
- (a) might be the subject of provision contained in an agreement under this section; and

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- (b) is the subject of such a dispute between two or more public authorities as is not resolved by or under provision contained in any order under this Part.

## 77 Isles of Scilly.

- (1) This Part shall have effect in relation to the Isles of Scilly subject to any such modifications as may be provided for by the Secretary of State by order made by statutory instrument.
- (2) Before making an order under this section the Secretary of State shall consult with the Council of the Isles of Scilly.
- (3) The power to make an order under this section shall include power to make such incidental, supplemental, consequential or transitional provision as the Secretary of State thinks necessary or expedient.

## 78 Minor and consequential amendments relating to National Parks.

The enactments mentioned in Schedule 10 to this Act shall have effect subject to the amendments contained in that Schedule (being minor amendments and consequential amendments in connection with the provisions of this Part).

### Commencement Information

- II** S. 78 partly in force; s. 78 not in force at Royal Assent see s. 125(3); s. 78 in force for specified purposes at 23.11.1995 by S.I. 1995/2950, art. 2(1) (subject to art/ 2(2)); s. 78 in force for further specified purposes at 1.4.1996 by S.I. 1995/2950, art. 3(1) (subject to art. 3(2) which art. 3(2) was revoked (1.4.1997) by S.I. 1996/2560, art. 3); s. 78 in force for further specified purposes at 1.4.1997 by S.I. 1996/2560, art. 2

## 79 Interpretation of Part III.

- (1) In this Part, except in so far as the context otherwise requires—
- “the 1972 Act” means the <sup>M30</sup>Local Government Act 1972;
- “existing authority”, in relation to a National Park, means—
- (a) any such joint or special planning board for that Park or for any area wholly or partly comprised in that Park as was reconstituted by an order under paragraph 1 or 3 of Schedule 17 to the 1972 Act or constituted by an order under paragraph 3A of that Schedule or section 2(1B) of the <sup>M31</sup>Town and Country Planning Act 1990; or
  - (b) any National Park Committee for that Park or for any such area;
- “liability”, in relation to the transfer of liabilities from one person to another, does not include any criminal liability;
- “principal council” and “principal area” have the same meanings as in the 1972 Act;
- “public authority” means any local authority within the meaning of the 1972 Act (including any such authority in their capacity as a local planning authority), any National Park authority, any existing authority for a National Park, any joint authority or residuary body established under Part II of the <sup>M32</sup>Local Government Act 1992, any joint authority established under

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section 34 of the <sup>M33</sup>Local Government (Wales) Act 1994 or the Residuary Body for Wales established by section 39 of that Act;

“the relevant Park”, in relation to a National Park authority, means the area for which that authority is or is to be the National Park authority.

(2) Where—

(a) any enactment that is applied by virtue of this Part in relation to National Park authorities refers, or falls to be construed as referring, to any other enactment, and

(b) that other enactment is also one which is so applied,

the reference shall be construed (so far as it would not be so construed apart from this subsection) as including a reference to the other enactment as it is applied in relation to National Park authorities.

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#### **Marginal Citations**

**M30** 1972 c. 70.

**M31** 1990 c. 8.

**M32** 1992 c. 19.

**M33** 1994 c. 19.

**Status:**

Point in time view as at 19/11/1998.

**Changes to legislation:**

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