



Environment Act 1995

1995 CHAPTER 25

PART III

NATIONAL PARKS

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.
- (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 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.

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- (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 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 Local Government Act 1992 or any other enactment.
- (9) In this section “enactment” includes an enactment contained in an Act passed after this Act.

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
 - (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).

79 Interpretation of Part III

- (1) In this Part, except in so far as the context otherwise requires—
 - “the 1972 Act” means the 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

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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 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 Local Government Act 1992, any joint authority established under section 34 of the 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.