



# Countryside and Rights of Way Act 2000

## 2000 CHAPTER 37

### PART I **E+W**

#### ACCESS TO THE COUNTRYSIDE

### CHAPTER I **E+W**

#### RIGHT OF ACCESS

##### *General*

### 1 Principal definitions for Part I. **E+W**

- (1) In this Part “access land” means any land which—
- (a) is shown as open country on a map in conclusive form issued by the appropriate countryside body for the purposes of this Part,
  - (b) is shown on such a map as registered common land,
  - (c) is registered common land in any area outside Inner London for which no such map relating to registered common land has been issued,
  - (d) is situated more than 600 metres above sea level in any area for which no such map relating to open country has been issued, or
  - (e) is dedicated for the purposes of this Part under section 16,
- but does not (in any of those cases) include excepted land or land which is treated by section 15(1) as being accessible to the public apart from this Act.
- (2) In this Part—
- “access authority”—
- (a) in relation to land in a National Park, means the National Park authority, and
  - (b) in relation to any other land, means the local highway authority in whose area the land is situated;

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“the appropriate countryside body” means—

- (a) in relation to England, the Countryside Agency, and
- (b) in relation to Wales, the Countryside Council for Wales;

“excepted land” means land which is for the time being of any of the descriptions specified in Part I of Schedule 1, those descriptions having effect subject to Part II of that Schedule;

“mountain” includes, subject to the following definition, any land situated more than 600 metres above sea level;

“mountain, moor, heath or down” does not include land which appears to the appropriate countryside body to consist of improved or semi-improved grassland;

“open country” means land which—

- (a) appears to the appropriate countryside body to consist wholly or predominantly of mountain, moor, heath or down, and
- (b) is not registered common land.

(3) In this Part “registered common land” means—

- (a) land which is registered as common land under the <sup>M1</sup>Commons Registration Act 1965 (in this section referred to as “the 1965 Act”) and whose registration under that Act has become final, or
- (b) subject to subsection (4), land which fell within paragraph (a) on the day on which this Act is passed or at any time after that day but has subsequently ceased to be registered as common land under the 1965 Act on the register of common land in which it was included being amended by reason of the land having ceased to be common land within the meaning of that Act.

(4) Subsection (3)(b) does not apply where—

- (a) the amendment of the register of common land was made in pursuance of an application made before the day on which this Act is passed, or
- (b) the land ceased to be common land by reason of the exercise of—
  - (i) any power of compulsory purchase, of appropriation or of sale which is conferred by an enactment,
  - (ii) any power so conferred under which land may be made common land within the meaning of the 1965 Act in substitution for other land.

#### Marginal Citations

**M1** 1965 c. 64.

VALID FROM 28/08/2005

## 2 Rights of public in relation to access land. **E+W**

(1) Any person is entitled by virtue of this subsection to enter and remain on any access land for the purposes of open-air recreation, if and so long as—

- (a) he does so without breaking or damaging any wall, fence, hedge, stile or gate, and
- (b) he observes the general restrictions in Schedule 2 and any other restrictions imposed in relation to the land under Chapter II.

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- (2) Subsection (1) has effect subject to subsections (3) and (4) and to the provisions of Chapter II.
- (3) Subsection (1) does not entitle a person to enter or be on any land, or do anything on any land, in contravention of any prohibition contained in or having effect under any enactment, other than an enactment contained in a local or private Act.
- (4) If a person becomes a trespasser on any access land by failing to comply with—
- (a) subsection (1)(a),
  - (b) the general restrictions in Schedule 2, or
  - (c) any other restrictions imposed in relation to the land under Chapter II,
- he may not, within 72 hours after leaving that land, exercise his right under subsection (1) to enter that land again or to enter other land in the same ownership.
- (5) In this section “owner”, in relation to any land which is subject to a farm business tenancy within the meaning of the <sup>M2</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M3</sup>Agricultural Holdings Act 1986 applies, means the tenant under that tenancy, and “ownership” shall be construed accordingly.

#### Marginal Citations

**M2** 1995 c. 8.

**M3** 1986 c. 5.

### 3 Power to extend to coastal land. **E+W**

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order amend the definition of “open country” in section 1(2) so as to include a reference to coastal land or to coastal land of any description.
- (2) An order under this section may—
- (a) make consequential amendments of other provisions of this Part, and
  - (b) modify the provisions of this Part in their application to land which is open country merely because it is coastal land.
- (3) In this section “coastal land” means—
- (a) the foreshore, and
  - (b) land adjacent to the foreshore (including in particular any cliff, bank, barrier, dune, beach or flat which is adjacent to the foreshore).

#### Maps

### 4 Duty to prepare maps. **E+W**

- (1) It shall be the duty of the Countryside Agency to prepare, in respect of England outside Inner London, maps which together show—
- (a) all registered common land, and
  - (b) all open country.

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- (2) It shall be the duty of the Countryside Council for Wales to prepare, in respect of Wales, maps which together show—
  - (a) all registered common land, and
  - (b) all open country.
- (3) Subsections (1) and (2) have effect subject to the following provisions of this section and to the provisions of sections 5 to 9.
- (4) A map prepared under this section must distinguish between open country and registered common land, but need not distinguish between different categories of open country.
- (5) In preparing a map under this section, the appropriate countryside body—
  - (a) may determine not to show as open country areas of open country which are so small that the body consider that their inclusion would serve no useful purpose, and
  - (b) may determine that any boundary of an area of open country is to be treated as coinciding with a particular physical feature (whether the effect is to include other land as open country or to exclude part of an area of open country).

## 5 Publication of draft maps. **E+W**

The appropriate countryside body shall—

- (a) issue in draft form any map prepared by them under section 4,
- (b) consider any representations received by them within the prescribed period with respect to the showing of, or the failure to show, any area of land on the map as registered common land or as open country,
- (c) confirm the map with or without modifications,
- (d) if the map has been confirmed without modifications, issue it in provisional form, and
- (e) if the map has been confirmed with modifications, prepare a map incorporating the modifications, and issue that map in provisional form.

## 6 Appeal against map after confirmation. **E+W**

- (1) Any person having an interest in any land may appeal—
  - (a) in the case of land in England, to the Secretary of State, or
  - (b) in the case of land in Wales, to the National Assembly for Wales,
 against the showing of that land on a map in provisional form as registered common land or as open country.
- (2) An appeal relating to the showing of any land as registered common land may be brought only on the ground that the land is not registered common land.
- (3) An appeal relating to the showing of any land as open country may be brought only on the ground that—
  - (a) the land does not consist wholly or predominantly of mountain, moor, heath or down, and
  - (b) to the extent that the appropriate countryside body have exercised their discretion under section 4(5)(b) to treat land which is not open country as forming part of an area of open country, the body ought not to have done so.

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- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
- (a) approve the whole or part of the map which is the subject of the appeal, with or without modifications, or
  - (b) require the appropriate countryside body to prepare under section 4 a new map relating to all or part of the area covered by the map which is the subject of the appeal.

## 7 Appeal procedure. **E+W**

- (1) Before determining an appeal under section 6, the Secretary of State or the National Assembly for Wales may, if he or it thinks fit—
- (a) cause the appeal to take, or continue in, the form of a hearing, or
  - (b) cause a local inquiry to be held;
- and the appeal authority shall act as mentioned in paragraph (a) or (b) if a request is made by either party to the appeal to be heard with respect to the appeal.
- (2) Subsections (2) to (5) of section 250 of the <sup>M4</sup>Local Government Act 1972 (local inquiries: evidence and costs) apply to a hearing or local inquiry held under this section as they apply to a local inquiry held under that section, but as if—
- (a) references in that section to the person appointed to hold the inquiry were references to the Secretary of State or the National Assembly for Wales, and
  - (b) references in that section to the Minister causing an inquiry to be held were references to the Secretary of State or the Assembly.
- (3) Where—
- (a) for the purposes of an appeal under section 6, the Secretary of State or the National Assembly for Wales is required by subsection (1)—
    - (i) to cause the appeal to take, or continue in, the form of a hearing, or
    - (ii) to cause a local inquiry to be held, and
  - (b) the inquiry or hearing does not take place, and
  - (c) if it had taken place, the Secretary of State or the Assembly or a person appointed by the Secretary of State or the Assembly would have had power to make an order under section 250(5) of the <sup>M5</sup>Local Government Act 1972 requiring any party to pay the costs of the other party,
- the power to make such an order may be exercised, in relation to costs incurred for the purposes of the inquiry or hearing, as if it had taken place.
- (4) This section has effect subject to section 8.

### Marginal Citations

**M4** 1972 c. 70.

**M5** 1972 c. 70.

## 8 Power of Secretary of State or Assembly to delegate functions relating to appeals. **E+W**

- (1) The Secretary of State or the National Assembly for Wales may—

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- (a) appoint any person to exercise on his or its behalf, with or without payment, the function of determining—
    - (i) an appeal under section 6, or
    - (ii) any matter involved in such an appeal, or
  - (b) refer any matter involved in such an appeal to such person as the Secretary of State or the Assembly may appoint for the purpose, with or without payment.
- (2) Schedule 3 has effect with respect to appointments under subsection (1)(a).

## 9 Maps in conclusive form. **E+W**

- (1) Where—
- (a) the time within which any appeal under section 6 may be brought in relation to a map in provisional form has expired and no appeal has been brought, or
  - (b) every appeal brought under that section in relation to a map has—
    - (i) been determined by the map or part of it being approved without modifications, or
    - (ii) been withdrawn,
 the appropriate countryside body shall issue the map (or the part or parts of it that have been approved without modifications) as a map in conclusive form.
- (2) Where—
- (a) every appeal brought under section 6 in relation to a map in provisional form has been determined or withdrawn, and
  - (b) on one or more appeals, the map or any part of it has been approved with modifications,
- the appropriate countryside body shall prepare a map which covers the area covered by the map in provisional form (or the part or parts of the map in provisional form that have been approved with or without modifications) and incorporates the modifications, and shall issue it as a map in conclusive form.
- (3) Where either of the conditions in subsection (1)(a) and (b) is satisfied in relation to any part of a map in provisional form, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct the relevant countryside body to issue that part of the map as a map in conclusive form.
- (4) Where on an appeal under section 6 part of a map in provisional form has been approved with modifications but the condition in subsection (2)(a) is not yet satisfied, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct the relevant countryside body to issue a map which covers the area covered by that part of the map in provisional form and incorporates the modifications, and to issue it as a map in conclusive form.
- (5) Where a map in conclusive form has been issued in compliance with a direction under subsection (3) or (4), subsections (1) and (2) shall have effect as if any reference to the map in provisional form were a reference to the part not affected by the direction.
- (6) A document purporting to be certified on behalf of the appropriate countryside body to be a copy of or of any part of a map in conclusive form issued by that body for the purposes of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

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## 10 Review of maps. **E+W**

- (1) Where the appropriate countryside body have issued a map in conclusive form in respect of any area, it shall be the duty of the body from time to time, on a review under this section, to consider—
  - (a) whether any land shown on that map as open country or registered common land is open country or registered common land at the time of the review, and
  - (b) whether any land in that area which is not so shown ought to be so shown.
- (2) A review under this section must be undertaken—
  - (a) in the case of the first review, not more than ten years after the issue of the map in conclusive form, and
  - (b) in the case of subsequent reviews, not more than ten years after the previous review.
- (3) Regulations may amend paragraphs (a) and (b) of subsection (2) by substituting for the period for the time being specified in either of those paragraphs such other period as may be specified in the regulations.

## 11 Regulations relating to maps. **E+W**

- (1) Regulations may make provision supplementing the provisions of sections 4 to 10.
- (2) Regulations under this section may in particular make provision with respect to—
  - (a) the scale on which maps are to be prepared,
  - (b) the manner and form in which they are to be prepared and issued,
  - (c) consultation with access authorities, local access forums and other persons on maps in draft form,
  - (d) the steps to be taken for informing the public of the issue of maps in draft form, provisional form or conclusive form,
  - (e) the manner in which maps in draft form, provisional form or conclusive form are to be published or to be made available for inspection,
  - (f) the period within which and the manner in which representations on a map in draft form may be made to the appropriate countryside body,
  - (g) the confirmation of a map under section 5(c),
  - (h) the period within which and manner in which appeals under section 6 are to be brought,
  - (i) the advertising of such an appeal,
  - (j) the manner in which such appeals are to be considered,
  - (k) the procedure to be followed on a review under section 10, including the issue of maps in draft form, provisional form and conclusive form on a review, and
  - (l) the correction by the appropriate countryside body of minor errors or omissions in maps.
- (3) Regulations made by virtue of subsection (2)(b) or (e) may authorise or require a map to be prepared, issued, published or made available for inspection in electronic form, but must require any map in electronic form to be capable of being reproduced in printed form.
- (4) Regulations made by virtue of subsection (2)(k) may provide for any of the provisions of this Chapter relating to appeals to apply (with or without modifications) in relation to an appeal against a map issued in provisional form on a review.



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## PROSPECTIVE

*Rights and liabilities of owners and occupiers***12 Effect of right of access on rights and liabilities of owners. E+W**

- (1) The operation of section 2(1) in relation to any access land does not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in the access land or any adjoining land in respect of the state of the land or of things done or omitted to be done on the land.
- (2) Any restriction arising under a covenant or otherwise as to the use of any access land shall have effect subject to the provisions of this Part, and any liability of a person interested in any access land in respect of such a restriction is limited accordingly.
- (3) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across land in the exercise of the right conferred by section 2(1) is to be disregarded.
- (4) The use of any land by the inhabitants of any locality for the purposes of open-air recreation in the exercise of the right conferred by section 2(1) is to be disregarded in determining whether the land has become a town or village green.

**13 Occupiers' liability. E+W**

- (1) In section 1 of the <sup>M6</sup>Occupiers' Liability Act 1957 (liability in tort: preliminary), for subsection (4) there is substituted—

“(4) A person entering any premises in exercise of rights conferred by virtue of—

- (a) section 2(1) of the Countryside and Rights of Way Act 2000, or
- (b) an access agreement or order under the National Parks and Access to the <sup>M7</sup>Countryside Act 1949,

is not, for the purposes of this Act, a visitor of the occupier of the premises.”

- (2) In section 1 of the <sup>M8</sup>Occupiers' Liability Act 1984 (duty of occupier to persons other than his visitors), after subsection (6) there is inserted—

“(6A) At any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to land which is access land for the purposes of Part I of that Act, an occupier of the land owes (subject to subsection (6C) below) no duty by virtue of this section to any person in respect of—

- (a) a risk resulting from the existence of any natural feature of the landscape, or any river, stream, ditch or pond whether or not a natural feature, or
- (b) a risk of that person suffering injury when passing over, under or through any wall, fence or gate, except by proper use of the gate or of a stile.

- (6B) For the purposes of subsection (6A) above, any plant, shrub or tree, of whatever origin, is to be regarded as a natural feature of the landscape.



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(6C) Subsection (6A) does not prevent an occupier from owing a duty by virtue of this section in respect of any risk where the danger concerned is due to anything done by the occupier—

- (a) with the intention of creating that risk, or
- (b) being reckless as to whether that risk is created.”

(3) After section 1 of that Act there is inserted—

**“1A Special considerations relating to access land.**

In determining whether any, and if so what, duty is owed by virtue of section 1 by an occupier of land at any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to the land, regard is to be had, in particular, to—

- (a) the fact that the existence of that right ought not to place an undue burden (whether financial or otherwise) on the occupier,
- (b) the importance of maintaining the character of the countryside, including features of historic, traditional or archaeological interest, and
- (c) any relevant guidance given under section 20 of that Act.”

**Marginal Citations**

**M6** 1957 c. 31.

**M7** 1949 c. 97.

**M8** 1984 c. 3.

**14 Offence of displaying on access land notices deterring public use. E+W**

(1) If any person places or maintains—

- (a) on or near any access land, or
- (b) on or near a way leading to any access land,

a notice containing any false or misleading information likely to deter the public from exercising the right conferred by section 2(1), he is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(2) The court before whom a person is convicted of an offence under subsection (1) may, in addition to or in substitution for the imposition of a fine, order him to remove the notice in respect of which he is convicted within such period, not being less than four days, as may be specified in the order.

(3) A person who fails to comply with an order under subsection (2) is guilty of a further offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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### Access under other enactments or by dedication

## 15 Rights of access under other enactments. **E+W**

- (1) For the purposes of section 1(1), land is to be treated as being accessible to the public apart from this Act at any time if, but only if, at that time—
- section 193 of the <sup>M9</sup>Law of Property Act 1925 (rights of the public over commons and waste lands) applies to it,
  - by virtue of a local or private Act or a scheme made under Part I of the <sup>M10</sup>Commons Act 1899 (as read with subsection (2)), members of the public have a right of access to it at all times for the purposes of open-air recreation (however described),
  - an access agreement or access order under Part V of the National Parks and Access to the <sup>M11</sup>Countryside Act 1949 is in force with respect to it, or
  - the public have access to it under subsection (1) of section 19 of the <sup>M12</sup>Ancient Monuments and Archaeological Areas Act 1979 (public access to monuments under public control) or would have access to it under that subsection but for any provision of subsections (2) to (9) of that section.
- (2) Where a local or private Act or a scheme made under Part I of the <sup>M13</sup>Commons Act 1899 confers on the inhabitants of a particular district or neighbourhood (however described) a right of access to any land for the purposes of open-air recreation (however described), the right of access exercisable by those inhabitants in relation to that land is by virtue of this subsection exercisable by members of the public generally.

#### Marginal Citations

**M9** 1925 c. 20.

**M10** 1899 c. 30.

**M11** 1949 c. 97.

**M12** 1979 c. 46.

**M13** 1899 c. 30.

## 16 Dedication of land as access land. **E+W**

- (1) Subject to the provisions of this section, a person who, in respect of any land, holds—
- the fee simple absolute in possession, or
  - a legal term of years absolute of which not less than 90 years remain unexpired,
- may, by taking such steps as may be prescribed, dedicate the land for the purposes of this Part, whether or not it would be access land apart from this section.
- (2) Where any person other than the person making the dedication holds—
- any leasehold interest in any of the land to be dedicated, or
  - such other interest in any of that land as may be prescribed,
- the dedication must be made jointly with that other person, in such manner as may be prescribed, or with his consent, given in such manner as may be prescribed.
- (3) In relation to a dedication under this section by virtue of subsection (1)(b), the reference in subsection (2)(a) to a leasehold interest does not include a reference to a leasehold interest superior to that of the person making the dedication.

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- (4) A dedication made under this section by virtue of subsection (1)(b) shall have effect only for the remainder of the term held by the person making the dedication.
- (5) Schedule 2 to the<sup>M14</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) applies to dedications under this section as it applies to forestry dedication covenants.
- (6) Regulations may—
  - (a) prescribe the form of any instrument to be used for the purposes of this section,
  - (b) enable a dedication under this section to include provision removing or relaxing any of the general restrictions in Schedule 2 in relation to any of the land to which the dedication relates,
  - (c) enable a dedication previously made under this section to be amended by the persons by whom a dedication could be made, so as to remove or relax any of those restrictions in relation to any of the land to which the dedication relates, and
  - (d) require any dedication under this section, or any amendment of such a dedication by virtue of paragraph (c), to be notified to the appropriate countryside body and to the access authority.
- (7) A dedication under this section is irrevocable and, subject to subsection (4), binds successive owners and occupiers of, and other persons interested in, the land to which it relates, but nothing in this section prevents any land from becoming excepted land.
- (8) A dedication under this section is a local land charge.

#### Marginal Citations

M14 1967 c. 10.

#### *Miscellaneous provisions relating to right of access*

### 17 Byelaws. **E+W**

- (1) An access authority may, as respects access land in their area, make byelaws—
  - (a) for the preservation of order,
  - (b) for the prevention of damage to the land or anything on or in it, and
  - (c) for securing that persons exercising the right conferred by section 2(1) so behave themselves as to avoid undue interference with the enjoyment of the land by other persons.
- (2) Byelaws under this section may relate to all the access land in the area of the access authority or only to particular land.
- (3) Before making byelaws under this section, the access authority shall consult—
  - (a) the appropriate countryside body, and
  - (b) any local access forum established for an area to which the byelaws relate.
- (4) Byelaws under this section shall not interfere—
  - (a) with the exercise of any public right of way,

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- (b) with any authority having under any enactment functions relating to the land to which the byelaws apply, or
  - (c) with the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the running of any such system.
- (5) Sections 236 to 238 of the <sup>M15</sup>Local Government Act 1972 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding level 2 on the standard scale, and provide for the proof of byelaws in legal proceedings) apply to all byelaws under this section whether or not the authority making them is a local authority within the meaning of that Act.
- (6) The confirming authority in relation to byelaws made under this section is—
- (a) as respects England, the Secretary of State, and
  - (b) as respects Wales, the National Assembly for Wales.
- (7) Byelaws under this section relating to any land—
- (a) may not be made unless the land is access land or the access authority are satisfied that it is likely to become access land, and
  - (b) may not be confirmed unless the land is access land.
- (8) Any access authority having power under this section to make byelaws also have power to enforce byelaws made by them; and any county council or district or parish council may enforce byelaws made under this section by another authority as respects land in the area of the council.

#### Marginal Citations

M15 1972 c. 70.

PROSPECTIVE

## 18 Wardens. **E+W**

- (1) An access authority or a district council may appoint such number of persons as may appear to the authority making the appointment to be necessary or expedient, to act as wardens as respects access land in their area.
- (2) As respects access land in an area for which there is a local access forum, an access authority shall, before they first exercise the power under subsection (1) and thereafter from time to time, consult the local access forum about the exercise of that power.
- (3) Wardens may be appointed under subsection (1) for the following purposes—
  - (a) to secure compliance with byelaws under section 17 and with the general restrictions in Schedule 2 and any other restrictions imposed under Chapter II,
  - (b) to enforce any exclusion imposed under Chapter II,
  - (c) in relation to the right conferred by section 2(1), to advise and assist the public and persons interested in access land,
  - (d) to perform such other duties (if any) in relation to access land as the authority appointing them may determine.

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- (4) For the purpose of exercising any function conferred on him by or under this section, a warden appointed under subsection (1) may enter upon any access land.
- (5) A warden appointed under subsection (1) shall, if so required, produce evidence of his authority before entering any access land in the exercise of the power conferred by subsection (4), and shall also produce evidence of his authority while he remains on the access land, if so required by any person.
- (6) Except as provided by subsection (4), this section does not authorise a warden appointed under subsection (1), on land in which any person other than the authority who appointed him has an interest, to do anything which apart from this section would be actionable at that person's suit by virtue of that interest.

## 19 Notices indicating boundaries, etc. **E+W**

- (1) An access authority may erect and maintain—
  - (a) notices indicating the boundaries of access land and excepted land, and
  - (b) notices informing the public of—
    - (i) the effect of the general restrictions in Schedule 2,
    - (ii) the exclusion or restriction under Chapter II of access by virtue of section 2(1) to any land, and
    - (iii) any other matters relating to access land or to access by virtue of section 2(1) which the access authority consider appropriate.
- (2) In subsection (1)(b)(ii), the reference to the exclusion or restriction of access by virtue of section 2(1) is to be interpreted in accordance with section 21(2) and (3).
- (3) Before erecting a notice on any land under subsection (1) the access authority shall, if reasonably practicable, consult the owner or occupier of the land.
- (4) An access authority may also, as respects any access land in their area, defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person in displaying such notices as are mentioned in subsection (1)(a) and (b).

VALID FROM 01/10/2006

## 20 Codes of conduct and other information. **E+W**

- (1) In relation to England, it shall be the duty of the Countryside Agency to issue, and from time to time revise, a code of conduct for the guidance of persons exercising the right conferred by section 2(1) and of persons interested in access land, and to take such other steps as appear to them expedient for securing—
  - (a) that the public are informed of the situation and extent of, and means of access to, access land, and
  - (b) that the public and persons interested in access land are informed of their respective rights and obligations—
    - (i) under this Part, and
    - (ii) with regard to public rights of way on, and nature conservation in relation to, access land.

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- (2) In relation to Wales, it shall be the duty of the Countryside Council for Wales to issue, and from time to time revise, a code of conduct for the guidance of persons exercising the right conferred by section 2(1) and of persons interested in access land, and to take such other steps as appear to them expedient for securing the results mentioned in paragraphs (a) and (b) of subsection (1).
- (3) A code of conduct issued by the Countryside Agency or the Countryside Council for Wales may include provisions in pursuance of subsection (1) or (2) and in pursuance of section 86(1) of the National Parks and Access to the <sup>M16</sup>Countryside Act 1949.
- (4) The powers conferred by subsections (1) and (2) include power to contribute towards expenses incurred by other persons.

#### Marginal Citations

M16 1949 c. 97.

## CHAPTER II **E+W**

### EXCLUSION OR RESTRICTION OF ACCESS

#### 21 Interpretation of Chapter II. **E+W**

- (1) References in this Chapter to the exclusion or restriction of access to any land by virtue of section 2(1) are to be interpreted in accordance with subsections (2) and (3).
- (2) A person excludes access by virtue of subsection (1) of section 2 to any land where he excludes the application of that subsection in relation to that land.
- (3) A person restricts access by virtue of subsection (1) of section 2 to any land where he provides that the right conferred by that subsection—
  - (a) is exercisable only along specified routes or ways,
  - (b) is exercisable only after entering the land at a specified place or places,
  - (c) is exercisable only by persons who do not take dogs on the land, or
  - (d) is exercisable only by persons who satisfy any other specified conditions.
- (4) In this Chapter, except section 23(1), “owner”, in relation to land which is subject to a farm business tenancy within the meaning of the <sup>M17</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M18</sup>Agricultural Holdings Act 1986 applies, means the tenant under that tenancy.
- (5) Subject to subsection (6), in this Chapter “the relevant authority”—
  - (a) in relation to any land in a National Park, means the National Park authority, and
  - (b) in relation to any other land, means the appropriate countryside body.
- (6) Where—
  - (a) it appears to the Forestry Commissioners that any land which is dedicated for the purposes of this Part under section 16 consists wholly or predominantly of woodland, and

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- (b) the Forestry Commissioners give to the body who are apart from this subsection the relevant authority for the purposes of this Chapter in relation to the land a notice stating that the Forestry Commissioners are to be the relevant authority for those purposes as from a date specified in the notice, the Forestry Commissioners shall as from that date become the relevant authority in relation to that land for those purposes, but subject to subsection (7).
- (7) Where it appears to the Forestry Commissioners that any land in relation to which they are by virtue of subsection (6) the relevant authority for the purposes of this Chapter has ceased to consist wholly or predominantly of woodland, the Forestry Commissioners may, by giving notice to the body who would apart from subsection (6) be the relevant authority, revoke the notice under subsection (6) as from a date specified in the notice under this subsection.

#### Marginal Citations

M17 1995 c. 8.

M18 1986 c. 5.

## 22 Exclusion or restriction at discretion of owner and others. **E+W**

- (1) Subject to subsections (2) and (6), an entitled person may, by giving notice to the relevant authority in accordance with regulations under section 32(1)(a), exclude or restrict access by virtue of section 2(1) to any land on one or more days specified in the notice.
- (2) The number of days on which any entitled person excludes or restricts under this section access by virtue of section 2(1) to any land must not in any calendar year exceed the relevant maximum.
- (3) In this section “entitled person”, in relation to any land, means—
- the owner of the land, and
  - any other person having an interest in the land and falling within a prescribed description.
- (4) Subject to subsection (5), in this section “the relevant maximum” means twenty-eight.
- (5) If regulations are made under subsection (3)(b), the regulations must provide that, in cases where there are two or more entitled persons having different interests in the land, the relevant maximum in relation to each of them is to be determined in accordance with the regulations, but so that the number of days on which access by virtue of section 2(1) to any land may be excluded or restricted under this section in any calendar year does not exceed twenty-eight.
- (6) An entitled person may not under this section exclude or restrict access by virtue of section 2(1) to any land on—
- Christmas Day or Good Friday, or
  - any day which is a bank holiday under the <sup>M19</sup>Banking and Financial Dealings Act 1971 in England and Wales.
- (7) An entitled person may not under this section exclude or restrict access by virtue of section 2(1) to any land—



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- (a) on more than four days in any calendar year which are either Saturday or Sunday,
  - (b) on any Saturday in the period beginning with 1st June and ending with 11th August in any year,
  - (c) on any Sunday in the period beginning with 1st June and ending with 30th September in any year.
- (8) Regulations may provide that any exclusion or restriction under subsection (1) of access by virtue of section 2(1) to any land must relate to an area of land the boundaries of which are determined in accordance with the regulations.

#### Marginal Citations

M19 1971 c. 80.

### 23 Restrictions on dogs at discretion of owner. **E+W**

- (1) The owner of any land consisting of moor managed for the breeding and shooting of grouse may, so far as appears to him to be necessary in connection with the management of the land for that purpose, by taking such steps as may be prescribed, provide that, during a specified period, the right conferred by section 2(1) is exercisable only by persons who do not take dogs on the land.
- (2) The owner of any land may, so far as appears to him to be necessary in connection with lambing, by taking such steps as may be prescribed, provide that during a specified period the right conferred by section 2(1) is exercisable only by persons who do not take dogs into any field or enclosure on the land in which there are sheep.
- (3) In subsection (2) “field or enclosure” means a field or enclosure of not more than 15 hectares.
- (4) As respects any land—
  - (a) any period specified under subsection (1) may not be more than five years,
  - (b) not more than one period may be specified under subsection (2) in any calendar year, and that period may not be more than six weeks.
- (5) A restriction imposed under subsection (1) or (2) does not prevent a blind person from taking with him a trained guide dog, or a deaf person from taking with him a trained hearing dog.

### 24 Land management. **E+W**

- (1) The relevant authority may by direction, on an application made by a person interested in any land, exclude or restrict access to that land by virtue of section 2(1) during a specified period, if the authority are satisfied that the exclusion or restriction under this section of access by virtue of section 2(1) to the extent provided by the direction is necessary for the purposes of the management of the land by the applicant.
- (2) The reference in subsection (1) to a specified period includes a reference to—
  - (a) a specified period in every calendar year, or
  - (b) a period which is to be—
    - (i) determined by the applicant in accordance with the direction, and

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- (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d).
- (3) In determining whether to any extent the exclusion or restriction under this section of access by virtue of section 2(1) during any period is necessary for the purposes of land management, the relevant authority shall have regard to—
  - (a) the existence of the right conferred by section 22,
  - (b) the extent to which the applicant has exercised or proposes to exercise that right, and
  - (c) the purposes for which he has exercised or proposes to exercise it.
- (4) Where an application under this section relates to land which is not access land at the time when the application is made, the relevant authority shall not give a direction under this section unless they are satisfied that it is likely that the land will be access land during all or part of the period to which the application relates.

## 25 Avoidance of risk of fire or of danger to the public. E+W

- (1) The relevant authority may by direction exclude or restrict access by virtue of section 2(1) in relation to any land during a specified period if the authority are satisfied—
  - (a) that, by reason of any exceptional conditions of weather or any exceptional change in the condition of the land, the exclusion or restriction under this section of access to the land by virtue of section 2(1) to the extent provided by the direction is necessary for the purpose of fire prevention, or
  - (b) that, by reason of anything done, or proposed to be done, on the land or on adjacent land, the exclusion or restriction under this section of access to the land by virtue of section 2(1) to the extent provided by the direction is necessary for the purpose of avoiding danger to the public.
- (2) The reference in subsection (1) to a specified period includes a reference to—
  - (a) a specified period in every calendar year, and
  - (b) a period which is to be—
    - (i) determined by a specified person in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d).
- (3) The relevant authority may exercise their powers under subsection (1) on the application of any person interested in the land, or without any such application having been made.
- (4) In determining on an application made by a person interested in the land whether the condition in subsection (1)(a) or (b) is satisfied, the relevant authority shall have regard to—
  - (a) the existence of the right conferred by section 22,
  - (b) the extent to which the applicant has exercised or proposes to exercise that right, and
  - (c) the purposes for which he has exercised or proposes to exercise it.
- (5) Where an application under this section relates to land which is not access land at the time when the application is made, the relevant authority shall not give a direction

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under this section unless they are satisfied that it is likely that the land will be access land during all or part of the period to which the application relates.

## 26 Nature conservation and heritage preservation. **E+W**

- (1) The relevant authority may by direction exclude or restrict access by virtue of section 2(1) to any land during any period if they are satisfied that the exclusion or restriction of access by virtue of section 2(1) to the extent provided by the direction is necessary for either of the purposes specified in subsection (3).
- (2) A direction under subsection (1) may be expressed to have effect—
  - (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year, or
  - (c) during a period which is to be—
    - (i) determined by a specified person in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d), or
  - (d) indefinitely.
- (3) The purposes referred to in subsection (1) are—
  - (a) the purpose of conserving flora, fauna or geological or physiographical features of the land in question;
  - (b) the purpose of preserving—
    - (i) any scheduled monument as defined by section 1(11) of the <sup>M20</sup>Ancient Monuments and Archaeological Areas Act 1979, or
    - (ii) any other structure, work, site, garden or area which is of historic, architectural, traditional, artistic or archaeological interest.
- (4) In considering whether to give a direction under this section, the relevant authority shall have regard to any advice given to them by the relevant advisory body.
- (5) Subsection (4) does not apply where the direction is given by the Countryside Council for Wales for the purpose specified in subsection (3)(a) or revokes a direction given by them for that purpose.
- (6) In this section “the relevant advisory body”—
  - (a) in relation to a direction which is to be given for the purpose specified in subsection (3)(a) or which revokes a direction given for that purpose, means—
    - (i) in the case of land in England, English Nature, and
    - (ii) in the case of land in Wales in respect of which the Countryside Council for Wales are not the relevant authority, the Countryside Council for Wales, and
  - (b) in relation to a direction which is to be given for the purpose specified in subsection (3)(b) or which revokes a direction given for that purpose, means—
    - (i) in the case of land in England, the Historic Buildings and Monuments Commission for England, and
    - (ii) in the case of land in Wales, the National Assembly for Wales.

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### Marginal Citations

M20 1979 c. 46.

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## 27 Directions by relevant authority: general. **E+W**

- (1) Before giving a direction under section 24, 25 or 26 in relation to land in an area for which there is a local access forum so as to exclude or restrict access to the land—
  - (a) indefinitely, or
  - (b) during a period which exceeds, or may exceed, six months,
 the relevant authority shall consult the local access forum.
- (2) Any direction under section 24, 25 or 26 may be revoked or varied by a subsequent direction under that provision.
- (3) Where a direction given under section 24, 25 or 26 in relation to any land by the relevant authority excludes or restricts access to the land—
  - (a) indefinitely,
  - (b) for part of every year or of each of six or more consecutive calendar years, or
  - (c) for a specified period of more than five years,
 the authority shall review the direction not later than the fifth anniversary of the relevant date.
- (4) In subsection (3) “the relevant date”, in relation to a direction, means—
  - (a) the day on which the direction was given, or
  - (b) where it has already been reviewed, the day on which it was last reviewed.
- (5) Before revoking or varying a direction under section 24 or 25 which was given on the application of a person interested in the land to which the direction relates (“the original applicant”), the relevant authority shall—
  - (a) where the original applicant still holds the interest in the land which he held when he applied for the direction and it is reasonably practicable to consult him, consult the original applicant, and
  - (b) where the original applicant does not hold that interest, consult any person who holds that interest and with whom consultation is reasonably practicable.
- (6) Before revoking or varying a direction under section 26, the relevant authority shall consult the relevant advisory body as defined by section 26(6), unless the direction falls within section 26(5).

## 28 Defence or national security. **E+W**

- (1) The Secretary of State may by direction exclude or restrict access by virtue of section 2(1) to any land during any period if he is satisfied that the exclusion or restriction of such access to the extent provided by the direction is necessary for the purposes of defence or national security.
- (2) A direction under subsection (1) may be expressed to have effect—
  - (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year,
  - (c) during a period which is to be—
    - (i) determined in accordance with the direction by a person authorised by the Secretary of State, and
    - (ii) notified by that person to the relevant authority in accordance with regulations under section 32(1)(c), or
  - (d) indefinitely.

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- (3) Any direction given by the Secretary of State under this section may be revoked or varied by a subsequent direction.
- (4) Where a direction given under this section in relation to any land excludes or restricts access to the land—
- (a) indefinitely,
  - (b) for part of every year or of each of six or more consecutive calendar years, or
  - (c) for a specified period of more than five years,
- the Secretary of State shall review the direction not later than the fifth anniversary of the relevant date.
- (5) In subsection (4) “the relevant date”, in relation to a direction, means—
- (a) the day on which the direction was given, or
  - (b) where it has previously been reviewed, the day on which it was last reviewed.
- (6) If in any calendar year the Secretary of State reviews a defence direction, he shall—
- (a) prepare a report on all reviews of defence directions which he has undertaken during that year, and
  - (b) lay a copy of the report before each House of Parliament.
- (7) In subsection (6) “defence direction” means a direction given under this section for the purposes of defence.

## 29 Reference by relevant advisory body. **E+W**

- (1) Subsections (2) and (3) apply where—
- (a) the relevant advisory body has given advice under section 26(4) or on being consulted under section 27(6), but
  - (b) in any respect, the relevant authority decide not to act in accordance with that advice.
- (2) The relevant advisory body may refer the decision—
- (a) in the case of land in England, to the [<sup>F1</sup>Secretary of State], or
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (3) On a reference under this section the [<sup>F2</sup>Secretary of State] or the National Assembly for Wales may, if he or it thinks fit—
- (a) cancel any direction given by the relevant authority, or
  - (b) require the relevant authority to give such direction under section 26 as the [<sup>F2</sup>Secretary of State] or, as the case may be, the Assembly, think fit.
- (4) Sections 7 and 8 (and Schedule 3) have effect in relation to a reference under this section as they have effect in relation to an appeal under section 6 <sup>F3</sup>. . . .
- (5) In this section—
- <sup>F4</sup>. . . .
- “the relevant advisory body” has the same meaning as in section 26, except that it does not include the National Assembly for Wales.

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#### Textual Amendments

- F1** Words in s. 29(2)(a) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 43(2)** (with arts. 5(3), 6)
- F2** Words in s. 29(3) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 43(3)** (with arts. 5(3), 6)
- F3** Words in s. 29(4) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)
- F4** S. 29(5): Definition of “the appropriate Minister” repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)

### 30 Appeal by person interested in land. **E+W**

- (1) Subsections (2) and (3) apply where—
  - (a) a person interested in any land (in this section referred to as “the applicant”)—
    - (i) has applied for a direction under section 24 or 25, or
    - (ii) has made representations on being consulted under section 27(5), but
  - (b) in any respect, the relevant authority decide not to act in accordance with the application or the representations.
- (2) The relevant authority shall inform the applicant of their reasons for not acting in accordance with the application or representations.
- (3) The applicant may appeal against the decision—
  - (a) in the case of land in England, to the [<sup>F5</sup>Secretary of State], or
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (4) On appeal under this section the [<sup>F6</sup>Secretary of State] or the National Assembly for Wales may, if he or it thinks fit—
  - (a) cancel any direction given by the relevant authority, or
  - (b) require the relevant authority to give such direction under section 24 or 25 as the [<sup>F6</sup>Secretary of State] or, as the case may be, the Assembly, think fit.
- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6<sup>F7</sup> . . . .
- (6)<sup>F8</sup> . . . . .

#### Textual Amendments

- F5** Words in s. 30(3)(a) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 44(2)** (with arts. 5(3), 6)
- F6** Words in s. 30(4) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 44(3)** (with arts. 5(3), 6)
- F7** Words in s. 30(5) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)
- F8** S. 30(6) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)

### 31 Exclusion or restriction of access in case of emergency. **E+W**

- (1) Regulations may make provision enabling the relevant authority, where the authority are satisfied that an emergency has arisen which makes the exclusion or restriction of access by virtue of section 2(1) necessary for any of the purposes specified in



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section 24(1), 25(1) or 26(3), by direction to exclude or restrict such access in respect of any land for a period not exceeding three months.

- (2) Regulations under this section may provide for any of the preceding provisions of this Chapter to apply in relation to a direction given under the regulations with such modifications as may be prescribed.

### 32 Regulations relating to exclusion or restriction of access. **E+W**

- (1) Regulations may make provision—
- (a) as to the giving of notice under section 22(1),
  - (b) as to the steps to be taken under section 23(1) and (2),
  - (c) as to the procedure on any application to the relevant authority under section 24 or 25, including the period within which any such application must be made,
  - (d) as to the giving of notice for the purposes of section 24(2)(b)(ii), 25(2)(b)(ii), 26(2)(c)(ii) or 28(2)(c)(ii),
  - (e) prescribing the form of any notice or application referred to in paragraphs (a) to (d),
  - (f) restricting the cases in which a person who is interested in any land only as the holder of rights of common may make an application under section 24 or 25 in respect of the land,
  - (g) as to requirements to be met by relevant authorities or the Secretary of State in relation to consultation (whether or not required by the preceding provisions of this Chapter),
  - (h) as to the giving of directions by relevant authorities or the Secretary of State,
  - (i) as to notification by relevant authorities or the Secretary of State of decisions under this Chapter,
  - (j) as to steps to be taken by persons interested in land, by relevant authorities, by the bodies specified in section 26(6) or by the Secretary of State for informing the public about the exclusion or restriction under this Chapter of access by virtue of section 2(1), including the display of notices on or near the land to which the exclusion or restriction relates,
  - (k) as to the carrying out of reviews by relevant authorities under section 27(3) or by the Secretary of State under section 28(4),
  - (l) as to the period within which and manner in which appeals under section 30 are to be brought,
  - (m) as to the advertising of such an appeal, and
  - (n) as to the manner in which such appeals are to be considered.
- (2) Regulations made under subsection (1)(k) may provide for any of the provisions of this Chapter relating to appeals to apply (with or without modifications) on a review under section 27.

### 33 Guidance by countryside bodies to National Park authorities. **E+W**

- (1) Subject to subsection (3), the Countryside Agency may issue guidance—
- (a) to National Park authorities in England with respect to the discharge by National Park authorities of their functions under this Chapter, and



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- (b) to the Forestry Commissioners with respect to the discharge by the Forestry Commissioners of any functions conferred on them by virtue of section 21(6) in relation to land in England.
- (2) Subject to subsection (3), the Countryside Council for Wales may issue guidance—
- (a) to National Park authorities in Wales with respect to the discharge by National Park authorities of their functions under this Chapter, and
  - (b) to the Forestry Commissioners with respect to the discharge by the Forestry Commissioners of any functions conferred on them by virtue of section 21(6) in relation to land in Wales.
- (3) The Countryside Agency or the Countryside Council for Wales may not issue any guidance under this section unless the guidance has been approved—
- (a) in the case of the Countryside Agency, by the Secretary of State, and
  - (b) in the case of the Countryside Council for Wales, by the National Assembly for Wales.
- (4) Where the Countryside Agency or the Countryside Council for Wales issue any guidance under this section, they shall arrange for the guidance to be published in such manner as they consider appropriate.
- (5) A National Park authority or the Forestry Commissioners shall have regard to any guidance issued to them under this section.

### CHAPTER III E+W

#### MEANS OF ACCESS

#### 34 Interpretation of Chapter III. E+W

In this Chapter—

“access land” does not include any land in relation to which the application of section 2(1) has been excluded under any provision of Chapter II either indefinitely or for a specified period of which at least six months remain unexpired;

“means of access”, in relation to land, means—

- (a) any opening in a wall, fence or hedge bounding the land (or part of the land), with or without a gate, stile or other works for regulating passage through the opening,
- (b) any stairs or steps for enabling persons to enter on the land (or part of the land), or
- (c) any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary of the land.

#### 35 Agreements with respect to means of access. E+W

- (1) Where, in respect of any access land, it appears to the access authority that—
- (a) the opening-up, improvement or repair of any means of access to the land,
  - (b) the construction of any new means of access to the land,
  - (c) the maintenance of any means of access to the land, or

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- (d) the imposition of restrictions—
  - (i) on the destruction, removal, alteration or stopping-up of any means of access to the land, or
  - (ii) on the doing of any thing whereby the use of any such means of access to the land by the public would be impeded,

is necessary for giving the public reasonable access to that land in exercise of the right conferred by section 2(1), the access authority may enter into an agreement with the owner or occupier of the land as to the carrying out of the works or the imposition of the restrictions.

- (2) An agreement under this section may provide—
  - (a) for the carrying out of works by the owner or occupier or by the access authority, and
  - (b) for the making of payments by the access authority—
    - (i) as a contribution towards, or for the purpose of defraying, costs incurred by the owner or occupier in carrying out any works for which the agreement provides, or
    - (ii) in consideration of the imposition of any restriction.

### 36 Failure to comply with agreement. **E+W**

- (1) If the owner or occupier of any access land fails to carry out within the required time any works which he is required by an agreement under section 35 to carry out, the access authority, after giving not less than twenty-one days' notice of their intention to do so, may take all necessary steps for carrying out those works.
- (2) In subsection (1) “the required time” means the time specified in, or determined in accordance with, the agreement as that within which the works must be carried out or, if there is no such time, means a reasonable time.
- (3) If the owner or occupier of any access land fails to observe any restriction which he is required by an agreement under section 35 to observe, the access authority may give him a notice requiring him within a specified period of not less than twenty-one days to carry out such works as may be specified in the notice, for the purpose of remedying the failure to observe the restriction.
- (4) A notice under subsection (3) must contain particulars of the right of appeal conferred by section 38.
- (5) If the person to whom a notice under subsection (3) is given fails to comply with the notice, the access authority may take all necessary steps for carrying out any works specified in the notice.
- (6) Where the access authority carry out any works by virtue of subsection (1), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the works would fall to be borne.
- (7) Where the access authority carry out any works by virtue of subsection (5), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works from the person to whom the notice under subsection (3) was given.

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### 37 Provision of access by access authority in absence of agreement. **E+W**

- (1) Where, in respect of any access land—
  - (a) it appears to the access authority that—
    - (i) the opening-up, improvement or repair of any means of access to the land,
    - (ii) the construction of any new means of access to the land, or
    - (iii) the maintenance of any means of access to the land,
 is necessary for giving the public reasonable access to that land, or to other access land, in pursuance of the right conferred by section 2(1), and
  - (b) the access authority are satisfied that they are unable to conclude on reasonable terms an agreement under section 35 with the owner or occupier of the land for the carrying out of the works,
 the access authority may, subject to subsection (3), give the owner or occupier a notice stating that, after the end of a specified period of not less than twenty-one days, the authority intend to take all necessary steps for carrying out the works specified in the notice for the opening-up, improvement, repair, construction or maintenance of the means of access.
- (2) A notice under subsection (1) must contain particulars of the right of appeal conferred by section 38.
- (3) Where a notice under subsection (1) is given to any person as the owner or occupier of any land, the access authority shall give a copy of the notice to every other owner or occupier of the land.
- (4) An access authority exercising the power conferred by subsection (1) in relation to the provision of a means of access shall have regard to the requirements of efficient management of the land in deciding where the means of access is to be provided.
- (5) If, at the end of the period specified in a notice under subsection (1), any of the works specified in the notice have not been carried out, the access authority may take all necessary steps for carrying out those works.

### 38 Appeals relating to notices. **E+W**

- (1) Where a notice under section 36(3) or 37(1) has been given to a person in respect of any land, he or any other owner or occupier of the land may appeal against the notice—
  - (a) in the case of land in England, to the Secretary of State, and
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (2) An appeal against a notice under section 36(3) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which are not necessary for remedying a breach of the agreement,
  - (b) that any of the works have already been carried out, and
  - (c) that the period specified in the notice as that before the end of which the works must be carried out is too short.
- (3) An appeal against a notice under section 37(1) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which are not necessary for giving the public reasonable access to the access land in question,

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- (b) in the case of works to provide a means of access, that the means of access should be provided elsewhere, or that a different means of access should be provided, and
  - (c) that any of the works have already been carried out.
- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
- (a) confirm the notice with or without modifications, or
  - (b) cancel the notice.
- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6.
- (6) Regulations may make provision as to—
- (a) the period within which and manner in which appeals under this section are to be brought,
  - (b) the advertising of such an appeal, and
  - (c) the manner in which such appeals are to be considered.
- (7) Where an appeal has been brought under this section against a notice under section 36(3) or 37(1), the access authority may not exercise their powers under section 36(5) or section 37(5) (as the case may be) pending the determination or withdrawal of the appeal.

### 39 Order to remove obstruction. **E+W**

- (1) Where at any time two or more access notices relating to a means of access have been given to any person within the preceding thirty-six months, a magistrates' court may, on the application of the access authority, order that person—
- (a) within such time as may be specified in the order, to take such steps as may be so specified to remove any obstruction of that means of access, and
  - (b) not to obstruct that means of access at any time when the right conferred by section 2(1) is exercisable.
- (2) If a person (“the person in default”) fails to comply with an order under this section—
- (a) he is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and
  - (b) the access authority may remove any obstruction of the means of access and recover from the person in default the costs reasonably incurred by them in doing so.
- (3) In this section “access notice” means a notice under section 36(3) or 37(1) in respect of which the period specified in the notice has expired, other than a notice in respect of which an appeal is pending or which has been cancelled on appeal.

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## CHAPTER IV **E+W**

### GENERAL

#### 40 Powers of entry for purposes of Part I. **E+W**

- (1) A person who is authorised by the appropriate countryside body to do so may enter any land—
  - (a) for the purpose of surveying it in connection with the preparation of any map under this Part or the review of any map issued under this Part,
  - (b) for the purpose of determining whether any power conferred on the appropriate countryside body by Chapter II should be exercised in relation to the land,
  - (c) for the purpose of ascertaining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (d) in connection with an appeal under any provision of this Part, or
  - (e) for the purpose of determining whether to apply to the Secretary of State or the National Assembly for Wales under section 58.
- (2) A person who is authorised by a local highway authority to do so may enter any land—
  - (a) for the purpose of determining whether the local highway authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
  - (b) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (c) for the purposes of erecting or maintaining notices under section 19(1).
- (3) A person who is authorised by a National Park authority to do so may enter any land—
  - (a) for the purpose of enabling the authority to determine whether to exercise any power under Chapter II of this Act in relation to the land,
  - (b) for the purpose of determining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (c) in connection with an appeal under any provision of this Part,
  - (d) for the purpose of determining whether the authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
  - (e) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (f) for the purposes of erecting or maintaining notices under section 19(1).
- (4) A person who is authorised by the Forestry Commissioners to do so may enter any land—
  - (a) for the purpose of determining whether any power conferred on the Forestry Commissioners by Chapter II should be exercised in relation to the land, or
  - (b) in connection with an appeal under any provision of this Part.
- (5) A person acting in the exercise of a power conferred by this section may—
  - (a) use a vehicle to enter the land;

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- (b) take a constable with him if he reasonably believes he is likely to be obstructed;
  - (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - (d) take samples of the land and of anything on it.
- (6) If in the exercise of a power conferred by this section a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.
- (7) A person authorised under this section to enter upon any land—
- (a) shall, if so required, produce evidence of his authority before entering, and
  - (b) shall produce such evidence if required to do so at any time while he remains on the land.
- (8) A person shall not under this section demand admission as of right to any occupied land, other than access land, unless—
- (a) at least twenty-four hours' notice of the intended entry has been given to the occupier, or
  - (b) it is not reasonably practicable to give such notice, or
  - (c) the entry is for the purpose specified in subsection (2)(b) and (3)(e).
- (9) The rights conferred by this section are not exercisable in relation to a dwelling.
- (10) A person who intentionally obstructs a person acting in the exercise of his powers under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **41 Compensation relating to powers under s. 40. E+W**

- (1) It is the duty of a body by which an authorisation may be given under section 40 to compensate any person who has sustained damage as a result of—
- (a) the exercise of a power conferred by that section by a person authorised by that body to do so, or
  - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (6) of that section,
- except where the damage is attributable to the fault of the person who sustained it.
- (2) Any dispute as to a person's entitlement to compensation under this section or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement—
- (a) as respects entry on land in England, by the Secretary of State, and
  - (b) as respects entry on land in Wales, by the National Assembly for Wales.

#### **42 References to public places in existing enactments. E+W**

- (1) This section applies to any enactment which—
- (a) is contained in an Act passed before or in the same Session as this Act, and
  - (b) relates to things done, or omitted to be done, in public places or places to which the public have access.
- (2) Regulations may provide that, in determining for the purposes of any specified enactment to which this section applies whether a place is a public place or a place to



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which the public have access, the right conferred by section 2(1), or access by virtue of that right, is to be disregarded, either generally or in prescribed cases.

#### 43 Crown application of Part I. **E+W**

- (1) This Part binds the Crown.
- (2) No contravention by the Crown of any provision of this Part shall make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) The provisions of this Part apply to persons in the public service of the Crown as they apply to other persons.

#### 44 Orders and regulations under Part I. **E+W**

- (1) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales is exercisable by statutory instrument.
- (2) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales includes power—
  - (a) to make different provision for different cases, and
  - (b) to make such incidental, supplementary, consequential or transitional provision as the person making the order or regulations considers necessary or expedient.
- (3) No order under section 3 or regulations under paragraph 3 of Schedule 2 shall be made by the Secretary of State unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument containing regulations made by the Secretary of State under any other provision of this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### 45 Interpretation of Part I. **E+W**

- (1) In this Part, unless a contrary intention appears—
  - “access authority” has the meaning given by section 1(2);
  - “access land” has the meaning given by section 1(1);
  - “the appropriate countryside body” has the meaning given by section 1(2);
  - “excepted land” has the meaning given by section 1(2);
  - “Inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;
  - “interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an estate or interest in land or by virtue of a licence or agreement, and in particular includes rights of common and sporting rights, and references to a person interested in land shall be construed accordingly;
  - “livestock” means cattle, sheep, goats, swine, horses or poultry, and for the purposes of this definition “cattle” means bulls, cows, oxen, heifers or



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calves, “horses” include asses and mules, and “poultry” means domestic fowls, turkeys, geese or ducks;

“local highway authority” has the same meaning as in the <sup>M21</sup>Highways Act 1980;

“local or private Act” includes an Act confirming a provisional order;

“mountain” has the meaning given by section 1(2);

“open country” has the meaning given by section 1(2);

“owner”, in relation to any land, means, subject to subsection (2), any person, other than a mortgagee not in possession, who, whether in his own right or as trustee for another person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

“prescribed” means prescribed by regulations;

“registered common land” has the meaning given by section 1(3);

“regulations” means regulations made by the Secretary of State (as respects England) or by the National Assembly for Wales (as respects Wales);

“rights of common” has the same meaning as in the <sup>M22</sup>Commons Registration Act 1965;

“telecommunications code” and “telecommunications code system” have the same meaning as in Schedule 4 to the <sup>M23</sup>Telecommunications Act 1984.

- (2) In relation to any land which is subject to a farm business tenancy within the meaning of the <sup>M24</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M25</sup>Agricultural Holdings Act 1986 applies, the definition of “owner” in subsection (1) does not apply where it is excluded by section 2(5) or 21(4) or by paragraph 7(4) of Schedule 2.
- (3) For the purposes of this Part, the Broads are to be treated as a National Park and the Broads Authority as a National Park authority.
- (4) In subsection (3) “the Broads” has the same meaning as in the <sup>M26</sup>Norfolk and Suffolk Broads Act 1988.

#### Marginal Citations

**M21** 1980 c. 66.

**M22** 1965 c. 64.

**M23** 1984 c. 12.

**M24** 1995 c. 8.

**M25** 1986 c. 5.

**M26** 1988 c. 4.

## 46 Repeal of previous legislation, and amendments relating to Part I. **E+W**

- (1) The following provisions (which are superseded by the provisions of this Part) shall cease to have effect—
  - (a) in section 193 of the <sup>M27</sup>Law of Property Act 1925, subsection (2) (power by deed to declare land subject to that section), and
  - (b) sections 61 to 63 of the National Parks and Access to the <sup>M28</sup>Countryside Act 1949 (which relate to reviews of access requirements and the preparation of maps).

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- (2) No access agreement or access order under Part V of the National Parks and Access to the <sup>M29</sup>Countryside Act 1949 (access to open country) may be made after the commencement of this section in relation to land which is open country or registered common land for the purposes of this Part.
- (3) Schedule 4 (which contains minor and consequential amendments relating to access to the countryside) has effect.

#### Commencement Information

- II** S. 46 partly in force; s. 46 not in force at Royal Assent see s. 103(3); s. 46(1)(b) in force for E. and s. 46(3) in force for certain purposes for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(a\)\(b\)](#); s. 46(1)(b) in force for W. and s. 46(3) in force for certain purposes for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(a\)\(b\)](#)

#### Marginal Citations

- M27** 1925 c. 20.  
**M28** 1949 c. 97.  
**M29** 1949 c. 97.

## PART II **E+W+S**

### PUBLIC RIGHTS OF WAY AND ROAD TRAFFIC

#### *Public rights of way and definitive maps and statements*

VALID FROM 02/05/2006

#### **47 Redesignation of roads used as public paths. **E+W****

- (1) In the <sup>M30</sup>Wildlife and Countryside Act 1981 (in this Act referred to as “the 1981 Act”), section 54 (duty to reclassify roads used as public paths) shall cease to have effect.
- (2) Every way which, immediately before the commencement of this section, is shown in any definitive map and statement as a road used as a public path shall be treated instead as shown as a restricted byway; and the expression “road used as a public path” shall not be used in any definitive map and statement to describe any way.

#### Marginal Citations

- M30** 1981 c. 69.

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VALID FROM 02/05/2006

#### 48 Restricted byway rights. **E+W**

- (1) Subject to subsections (2) and (3), the public shall have restricted byway rights over any way which, immediately before the commencement of section 47, is shown in a definitive map and statement as a road used as a public path.
- (2) Subsection (1) has effect subject to the operation of any enactment or instrument (whether coming into operation before or after the commencement of section 47), and to the effect of any event otherwise within section 53(3)(a) of the 1981 Act, whereby a highway—
  - (a) is authorised to be stopped up, diverted, widened or extended, or
  - (b) becomes a public path;
 and subsection (1) applies accordingly to any way as so diverted, widened or extended.
- (3) Subsection (1) does not apply to any way, or part of a way, over which immediately before the commencement of section 47 there was no public right of way.
- (4) In this Part—
 

“restricted byway rights” means—

  - (a) a right of way on foot,
  - (b) a right of way on horseback or leading a horse, and
  - (c) a right of way for vehicles other than mechanically propelled vehicles;
 and
 

“restricted byway” means a highway over which the public have restricted byway rights, with or without a right to drive animals of any description along the highway, but no other rights of way.
- (5) A highway at the side of a river, canal or other inland navigation is not excluded from the definition of “restricted byway” in subsection (4) merely because the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right over it.
- (6) Subsection (1) is without prejudice to any question whether the public have over any way, in addition to restricted byway rights, a right of way for mechanically propelled vehicles or any other right.
- (7) In subsections (4) and (6) “mechanically propelled vehicle” does not include a vehicle falling within paragraph (c) of section 189(1) of the <sup>M31</sup>Road Traffic Act 1988.
- (8) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the effect of section 47(2) and this section.
- (9) The powers conferred by section 103(5) must be so exercised as to secure that nothing in section 47 or this section affects the operation of section 53 or 54 of, or Schedule 14 or 15 to, the 1981 Act in relation to—
  - (a) a relevant order made before the commencement of section 47, or
  - (b) an application made before that commencement for a relevant order.
- (10) In subsection (9) “relevant order” means an order which relates to a way shown in a definitive map and statement as a road used as a public path and which—

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- (a) is made under section 53 of the 1981 Act and contains modifications relating to that way by virtue of subsection (3)(c)(ii) of that section, or
- (b) is made under section 54 of the 1981 Act.

(11) Where—

- (a) by virtue of an order under subsection (3) of section 103 (“the commencement order”) containing such provision as is mentioned in subsection (5) of that section, an order under Part III of the 1981 Act (“the Part III order”) takes effect, after the commencement of section 47, in relation to any way which, immediately before that commencement, was shown in a definitive map and statement as a road used as a public path,
- (b) the commencement order does not prevent subsection (1) from having effect on that commencement in relation to that way, and
- (c) if the Part III order had taken effect before that commencement, that way would not have fallen within subsection (1),

all rights over that way which exist only by virtue of subsection (1) shall be extinguished when the Part III order takes effect.

#### Marginal Citations

M31 1988 c. 52.

VALID FROM 02/05/2006

#### 49 Provisions supplementary to ss. 47 and 48. **E+W**

- (1) Every way over which the public have restricted byway rights by virtue of subsection (1) of section 48 (whether or not they also have a right of way for mechanically propelled vehicles or any other right) shall, as from the commencement of that section, be a highway maintainable at the public expense.
- (2) As from the commencement of that section, any liability, under a special enactment (within the meaning of the <sup>M32</sup>Highways Act 1980) or by reason of tenure, enclosure or prescription, to maintain, otherwise than as a highway maintainable at the public expense, a restricted byway to which subsection (1) applies is extinguished.
- (3) Every way which, in pursuance of—
  - (a) paragraph 9 of Part III of Schedule 3 to the <sup>M33</sup>Countryside Act 1968, or
  - (b) any order made under section 54(1) of the 1981 Act before the coming into force of section 47,
 is shown in any definitive map and statement as a byway open to all traffic, a bridleway or a footpath, shall continue to be maintainable at the public expense.
- (4) Nothing in subsections (1) and (3) or in section 48(1) obliges a highway authority to provide on any way a metalled carriage-way or a carriage-way which is by any other means provided with a surface suitable for cycles or other vehicles.
- (5) Nothing in section 48, or in section 53 of the 1981 Act, limits the operation of orders under the <sup>M34</sup>Road Traffic Regulation Act 1984 or the operation of any byelaws.

**Status:** Point in time view as at 01/11/2002. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Countryside and Rights of Way Act 2000 is up to date with all changes known to be in force on or before 12 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) Section 67 of the 1981 Act (application to the Crown) has effect as if this section and sections 47, 48 and 50 were contained in Part III of that Act.

#### Marginal Citations

**M32** 1980 c. 66.

**M33** 1968 c. 41.

**M34** 1984 c. 27.

VALID FROM 02/05/2006

#### 50 Private rights over restricted byways. **E+W**

- (1) Restricted byway rights over any way by virtue of subsection (1) of section 48 are subject to any condition or limitation to which public rights of way over that way were subject immediately before the commencement of that section.
- (2) Any owner or lessee of premises adjoining or adjacent to a relevant highway shall, so far as is necessary for the reasonable enjoyment and occupation of the premises, have a right of way for vehicular and all other kinds of traffic over the relevant highway.
- (3) In subsection (2), in its application to the owner of any premises, “relevant highway” means so much of any highway maintainable at the public expense by virtue of section 49(1) as was, immediately before it became so maintainable, owned by the person who then owned the premises.
- (4) In subsection (2), in its application to the lessee of any premises, “relevant highway” means so much of any highway maintainable at the public expense by virtue of section 49(1) as was, immediately before it became so maintainable, included in the lease on which the premises are held.
- (5) In this section—
  - “lease” and “lessee” have the same meaning as in the 1980 Act;
  - “owner”, in relation to any premises, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the premises, whether in possession or in reversion, and “owned” shall be construed accordingly; and
  - “premises” has the same meaning as in the 1980 Act.

VALID FROM 27/09/2005

#### 51 Amendments relating to definitive maps and statements and restricted byways. **E+W**

Schedule 5 to this Act (which contains amendments relating to definitive maps and statements and restricted byways) has effect.

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## 52 Restricted byways: power to amend existing legislation. **E+W**

- (1) The Secretary of State may by regulations—
- (a) provide for any relevant provision which relates—
    - (i) to highways or highways of a particular description,
    - (ii) to things done on or in connection with highways or highways of a particular description, or
    - (iii) to the creation, stopping up or diversion of highways or highways of a particular description,not to apply, or to apply with or without modification, in relation to restricted byways or to ways shown in a definitive map and statement as restricted byways, and
  - (b) make in any relevant provision such amendments, repeals or revocations as appear to him appropriate in consequence of the coming into force of sections 47 to 50 or provision made by virtue of paragraph (a) or subsection (6)(a).
- (2) In this section—
- “relevant provision” means a provision contained—
- (a) in an Act passed before or in the same Session as this Act, or
  - (b) in any subordinate legislation made before the passing of this Act;
- “relevant Welsh provision” means a provision contained—
- (a) in a local or private Act passed before or in the same Session as this Act and relating only to areas in Wales, or
  - (b) in any subordinate legislation which was made before the passing of this Act and which the National Assembly for Wales has power to amend or revoke as respects Wales.
- (3) In exercising the power to make regulations under subsection (1), the Secretary of State—
- (a) may not make provision which has effect in relation to Wales unless he has consulted the National Assembly for Wales, and
  - (b) may not without the consent of the National Assembly for Wales make any provision which (otherwise than merely by virtue of the amendment or repeal of a provision contained in an Act) amends or revokes subordinate legislation made by the Assembly.
- (4) The National Assembly for Wales may submit to the Secretary of State proposals for the exercise by the Secretary of State of the power conferred by subsection (1).
- (5) The powers conferred by subsection (1) may be exercised in relation to a relevant provision even though the provision is amended or inserted by this Act.
- (6) As respects Wales, the National Assembly for Wales may by regulations—
- (a) provide for any relevant Welsh provision which relates—
    - (i) to highways or highways of a particular description,
    - (ii) to things done on or in connection with highways or highways of a particular description, or
    - (iii) to the creation, stopping up or diversion of highways or highways of a particular description,



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- not to apply, or to apply with or without modification, in relation to restricted byways or to ways shown in a definitive map and statement as restricted byways, and
- (b) make in any relevant Welsh provision such amendments, repeals or revocations as appear to the Assembly appropriate in consequence of the coming into force of sections 47 to 50 or provision made by virtue of subsection (1)(a) or paragraph (a).
- (7) Regulations under this section shall be made by statutory instrument, but no such regulations shall be made by the Secretary of State unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Where the Secretary of State lays before Parliament the draft of an instrument containing regulations under subsection (1) in respect of which consultation with the National Assembly for Wales is required by subsection (3)(a), he shall also lay before each House of Parliament a document giving details of the consultation and setting out any representations received from the Assembly.

VALID FROM 25/10/2023

### 53 Extinguishment of unrecorded rights of way. **E+W**

- (1) Subsection (2) applies to a highway if—
- it was on 1st January 1949 a footpath or a bridleway, is on the cut-off date (in either case) a footpath or a bridleway, and between those dates has not been a highway of any other description,
  - it is not on the cut-off date shown in a definitive map and statement as a highway of any description, and
  - it is not on the cut-off date an excepted highway, as defined by section 54(1).
- (2) All public rights of way over a highway to which this subsection applies shall be extinguished immediately after the cut-off date.
- (3) Where a public right of way created before 1949—
- falls within subsection (4) on the cut-off date, and
  - is not on that date an excepted right of way, as defined by section 54(5), that right of way shall be extinguished immediately after the cut-off date.
- (4) A public right of way falls within this subsection if it is—
- a public right of way on horseback, leading a horse or for vehicles over a bridleway, restricted byway or byway open to all traffic which is shown in a definitive map and statement as a footpath;
  - a right for the public to drive animals of any description along a bridleway, restricted byway or byway open to all traffic which is shown in a definitive map and statement as a footpath;
  - a public right of way for vehicles over a restricted byway or byway open to all traffic which is shown in a definitive map and statement as a bridleway; or
  - a public right of way for mechanically propelled vehicles over a byway open to all traffic which is shown in a definitive map and statement as a restricted byway.



**Status:** Point in time view as at 01/11/2002. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Countryside and Rights of Way Act 2000 is up to date with all changes known to be in force on or before 12 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)

- (5) Where by virtue of subsection (3) a highway ceases to be a bridleway, the right of way created over it by section 30 of the <sup>M35</sup>Countryside Act 1968 (riding of pedal cycles on bridleways) is also extinguished.
- (6) In determining—
- (a) for the purposes of subsection (1) whether any part of a highway was on 1st January 1949 a footpath or bridleway, or
  - (b) for the purposes of subsection (3) whether a public right of way over any part of a highway was created before 1st January 1949,
- any diversion, widening or extension of the highway on or after that date (and not later than the cut-off date) is to be treated as having occurred before 1st January 1949.
- (7) Where a way shown on the cut-off date in a definitive map and statement has at any time been diverted, widened or extended, it is to be treated for the purposes of subsections (1) to (5) as shown as so diverted, widened or extended, whether or not it is so shown.
- (8) In this section—
- “cut-off date” has the meaning given in section 56, and
- “mechanically propelled vehicle” does not include a vehicle falling within paragraph (c) of section 189(1) of the <sup>M36</sup>Road Traffic Act 1988.

#### Marginal Citations

**M35** 1968 c. 41.

**M36** 1988 c. 52.

VALID FROM 25/10/2023

#### 54 Excepted highways and rights of way. **E+W**

- (1) A footpath or bridleway is an excepted highway for the purposes of section 53(1) if—
- (a) it is a footpath or bridleway which satisfies either of the conditions in subsections (2) and (3),
  - (b) it is, or is part of, a footpath or bridleway any part of which is in an area which, immediately before 1st April 1965, formed part of the administrative county of London,
  - (c) it is a footpath or bridleway—
    - (i) at the side of (whether or not contiguous with) a carriageway constituting or comprised in another highway, or
    - (ii) between two carriageways comprised in the same highway (whether or not the footpath or bridleway is contiguous with either carriageway),
  - (d) it is a footpath or bridleway of such other description as may be specified in regulations made (as respects England) by the Secretary of State or (as respects Wales) by the National Assembly for Wales, or
  - (e) it is a footpath or bridleway so specified.
- (2) A footpath or bridleway (“the relevant highway”) satisfies the first condition if—

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- (a) it became a footpath or bridleway on or after 1st January 1949 by the diversion, widening or extension of a footpath or, as the case may be, of a bridleway by virtue of an event within section 53(3)(a) of the 1981 Act,
- (b) it became a footpath on or after 1st January 1949 by the stopping up of a bridleway,
- (c) it was on 1st January 1949 a footpath and is on the cut-off date a bridleway,
- (d) it is so much of a footpath or bridleway as on or after 1st January 1949 has been stopped up as respects part only of its width, or
- (e) it is so much of a footpath or bridleway as passes over a bridge or through a tunnel,

and it communicates with a retained highway, either directly or by means of one or more footpaths or bridleways each of which forms part of the same highway as the relevant highway and each of which either falls within any of paragraphs (a) to (e) or satisfies the condition in subsection (3).

- (3) A footpath or bridleway satisfies the second condition if—
  - (a) it extends from a footpath or bridleway (“the relevant highway”) which—
    - (i) falls within any of paragraphs (a) to (e) of subsection (2), or
    - (ii) is an excepted highway by virtue of subsection (1)(c),
 to, but not beyond, a retained highway, and
  - (b) it forms part of the same highway as the relevant highway.
- (4) A retained highway for the purposes of subsections (2) and (3) is any highway over which, otherwise than by virtue of subsection (1)(a), section 53(2) does not extinguish rights of way.
- (5) A public right of way is an excepted right of way for the purposes of section 53(3) if—
  - (a) it subsists over land over which there subsists on the cut-off date any public right of way created on or after 1st January 1949 otherwise than by virtue of section 30 of the <sup>M37</sup>Countryside Act 1968 (riding of pedal cycles on bridleways),
  - (b) it subsists over the whole or part of a way any part of which is in an area which, immediately before 1st April 1965, formed part of the administrative county of London,
  - (c) it is a public right of way of such other description as may be specified in regulations made (as respects England) by the Secretary of State or (as respects Wales) by the National Assembly for Wales, or
  - (d) it subsists over land so specified.
- (6) Regulations under subsection (1)(d) or (e) or (5)(c) or (d) shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M37 1980 c. 66.

**Status:** Point in time view as at 01/11/2002. This version of this Act contains provisions that are not valid for this point in time.  
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VALID FROM 25/10/2023

**55 Bridleway rights over ways shown as bridleways. E+W**

- (1) Subject to subsections (2) and (3), the public shall, as from the day after the cut-off date, have a right of way on horseback or leading a horse over any way which—
  - (a) was immediately before 1st January 1949 either a footpath or a bridleway, and
  - (b) is, throughout the period beginning with the commencement of this section and ending with the cut-off date,  
a footpath which is shown in a definitive map and statement as a bridleway.
- (2) Subsection (1) has effect subject to the operation of any enactment or instrument (whether coming into operation before or after the cut-off date), and to the effect of any event otherwise within section 53(3)(a) of the 1981 Act, whereby a highway is authorised to be stopped up, diverted, widened or extended; and subsection (1) applies accordingly to any way as so diverted, widened or extended.
- (3) Subsection (1) does not apply in relation to any way which is, or is part of, a footpath any part of which is in an area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (4) Any right of way over a way by virtue of subsection (1) is subject to any condition or limitation to which the public right of way on foot over that way was subject on the cut-off date.
- (5) Where—
  - (a) by virtue of regulations under section 56(2) an order under Part III of the 1981 Act takes effect after the cut-off date in relation to any footpath which, at the cut-off date was shown in a definitive map and statement as a bridleway,
  - (b) the regulations do not prevent subsection (1) from having effect after the cut-off date in relation to that footpath, and
  - (c) if the order had taken effect before that date, that footpath would not have fallen within subsection (1),all rights over that way which exist only by virtue of subsection (1) shall be extinguished when the order takes effect.
- (6) In this section “cut-off date” has the meaning given in section 56.

VALID FROM 25/10/2023

**56 Cut-off date for extinguishment etc. E+W**

- (1) The cut-off date for the purposes of sections 53 and 55 is, subject to regulations under subsection (2), 1st January 2026.
- (2) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may make regulations—

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- (a) substituting as the cut-off date for the purposes of those sections a date later than the date specified in subsection (1) or for the time being substituted under this paragraph;
  - (b) containing such transitional provisions or savings as appear to the Secretary of State or the National Assembly for Wales (as the case may be) to be necessary or expedient in connection with the operation of those sections, including in particular their operation in relation to any way as respects which—
    - (i) on the cut-off date an application for an order under section 53(2) of the 1981 Act is pending,
    - (ii) on that date an order under Part III of that Act has been made but not confirmed, or
    - (iii) after that date such an order or any provision of such an order is to any extent quashed.
- (3) Regulations under subsection (2)(a)—
- (a) may specify different dates for different areas; but
  - (b) may not specify a date later than 1st January 2031, except as respects an area within subsection (4).
- (4) An area is within this subsection if it is in—
- (a) the Isles of Scilly, or
  - (b) an area which, at any time before the repeal by section 73 of the 1981 Act of sections 27 to 34 of the National Parks and Access to the <sup>M38</sup>Countryside Act 1949—
    - (i) was excluded from the operation of those sections by virtue of any provision of the 1949 Act, or
    - (ii) would have been so excluded but for a resolution having effect under section 35(2) of that Act.
- (5) Where by virtue of regulations under subsection (2) there are different cut-off dates for areas into which different parts of any highway extend, the cut-off date in relation to that highway is the later or latest of those dates.
- (6) Regulations under this section shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M38 1949 c. 97.

### *Creation, stopping up and diversion of highways*

#### 57 **Creation, stopping up and diversion of highways.** E+W

The <sup>M39</sup>Highways Act 1980 (in this Act referred to as “the 1980 Act”) has effect subject to the amendments in Part I of Schedule 6 (which relate to the creation, stopping up and diversion of highways); and Part II of that Schedule (which contains consequential amendments of other Acts) has effect.

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#### Commencement Information

- I2** S. 57 partly in force; s. 57 not in force at Royal Assent see s. 103(3); s. 57 in force for certain purposes for E. at 30.1.2001 by S.I. 2001/114, art. 2(1)(a); s. 57 in force for certain purposes for W. at 1.5.2001 by S.I. 2001/1410, art. 2(c)

#### Marginal Citations

- M39** 1980 c. 66.

### 58 Application for path creation order for purposes of Part I. **E+W**

- (1) An application for the making of a public path creation order under section 26(2) of the 1980 Act for the purpose of enabling the public to obtain access to any access land (within the meaning of Part I) or of facilitating such access, may be made—
- by the Countryside Agency to the Secretary of State, or
  - by the Countryside Council for Wales to the National Assembly for Wales.
- (2) Before making a request under subsection (1), the body making the request shall have regard to any rights of way improvement plan prepared by any local highway authority whose area includes land over which the proposed footpath or bridleway would be created.

### 59 Effect of Part I on powers to stop up or divert highways. **E+W**

- (1) This section applies to any power to stop up or divert a highway of any description or to make or confirm an order authorising the stopping up or diversion of a highway of any description; and in the following provisions of this section—
- “the relevant authority” means the person exercising the power, and
  - “the existing highway” means the highway to be stopped up or diverted.
- (2) Where the relevant authority is required (expressly or by implication) to consider—
- whether the existing highway is unnecessary, or is needed for public use,
  - whether an alternative highway should be provided, or
  - whether any public right of way should be reserved,
- the relevant authority, in considering that question, is not to regard the fact that any land is access land in respect of which the right conferred by section 2(1) is exercisable as reducing the need for the existing highway, for the provision of an alternative highway or for the reservation of a public right of way.
- (3) Where—
- the existing highway is situated on, or in the vicinity of, any access land, and
  - the relevant authority is required (expressly or by implication) to consider the extent (if any) to which the existing highway would, apart from the exercise of the power, be likely to be used by the public,
- the relevant authority, in considering that question, is to have regard, in particular, to the extent to which the highway would be likely to be used by the public at any time when the right conferred by section 2(1) is not exercisable in relation to the access land.
- (4) In this section “access land” has the same meaning as in Part I.

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### *Rights of way improvement plans*

## 60 Rights of way improvement plans. **E+W**

- (1) Every local highway authority other than an inner London authority shall, within five years after the commencement of this section, prepare and publish a plan, to be known as a rights of way improvement plan, containing—
  - (a) the authority’s assessment of the matters specified in subsection (2),
  - (b) a statement of the action they propose to take for the management of local rights of way, and for securing an improved network of local rights of way, with particular regard to the matters dealt with in the assessment, and
  - (c) such other material as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct.
- (2) The matters referred to in subsection (1)(a) are—
  - (a) the extent to which local rights of way meet the present and likely future needs of the public,
  - (b) the opportunities provided by local rights of way (and in particular by those within paragraph (a) of the definition in subsection (5)) for exercise and other forms of open-air recreation and the enjoyment of the authority’s area,
  - (c) the accessibility of local rights of way to blind or partially sighted persons and others with mobility problems, and
  - (d) such other matters relating to local rights of way as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct.
- (3) An authority by whom a rights of way improvement plan is published shall, not more than ten years after first publishing it and subsequently at intervals of not more than ten years—
  - (a) make a new assessment of the matters specified in subsection (2), and
  - (b) review the plan and decide whether to amend it.
- (4) On such a review the authority shall—
  - (a) if they decide to amend the plan, publish it as amended, and
  - (b) if they decide to make no amendments to it, publish a report of their decision and of their reasons for it.
- (5) In this section—
 

“cycle track”—

  - (a) means a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the <sup>M40</sup>Road Traffic Act 1988) with or without a right of way on foot; but
  - (b) does not include a way in or by the side of a highway consisting of or comprising a made-up carriageway (within the meaning of the 1980 Act);

“inner London authority” means Transport for London, the council of an inner London borough or the Common Council of the City of London;

“local highway authority” has the same meaning as in the 1980 Act;

“local rights of way” in relation to a local highway authority, means—



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- (a) the footpaths, cycle tracks, bridleways and restricted byways within the authority's area, and
  - (b) the ways within the authority's area which are shown in a definitive map and statement as restricted byways or byways open to all traffic.
- (6) In subsection (5) the definition of “local rights of way” has effect until the commencement of section 47 with the substitution for the references to restricted byways and to ways shown in a definitive map and statement as restricted byways of a reference to ways shown in a definitive map and statement as roads used as public paths.

#### Commencement Information

**I3** S. 60 wholly in force at 21.11.2002; s. 60 not in force at Royal Assent see s. 103(3)(4); s. 60 in force for W. at 1.11.2002 by S.I. 2002/2615, art. 2; s. 60 in force for E. at 21.11.2002 by S.I. 2002/2833, art. 2

#### Marginal Citations

**M40** 1988 c. 52.

## 61 Rights of way improvement plans: supplemental. **E+W**

- (1) Before preparing or reviewing a rights of way improvement plan, and in particular in making any assessment under section 60(1)(a) or (3)(a), a local highway authority shall consult—
- (a) each local highway authority whose area adjoins their area;
  - (b) each district council, and each parish or community council, whose area is within their area;
  - (c) the National Park authority for a National Park any part of which is within their area;
  - (d) where any part of the Broads is within their area, the Broads Authority;
  - (e) any local access forum established for their area or any part of it;
  - (f) the Countryside Agency or the Countryside Council for Wales (as appropriate);
  - (g) such persons as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by regulations prescribe in relation to the local highway authority's area; and
  - (h) such other persons as the local highway authority may consider appropriate.
- (2) In preparing or amending a rights of way improvement plan, a local highway authority shall—
- (a) publish a draft of the plan or of the plan as amended,
  - (b) publish, in two or more local newspapers circulating in their area, notice of how a copy of the draft can be inspected or obtained and how representations on it can be made to them, and
  - (c) consider any representations made in accordance with the notice.
- (3) As regards their rights of way improvement plan, any draft plan on which representations may be made and any report under section 60(4)(b), a local highway authority shall—

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- (a) keep a copy available for inspection free of charge at all reasonable times at their principal offices, and
  - (b) supply a copy to any person who requests one, either free of charge or on payment of a reasonable charge determined by the authority.
- (4) Local highway authorities shall, in carrying out their functions under section 60 and this section, have regard to such guidance as may from time to time be given to them by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).
- (5) A local highway authority may make arrangements with—
- (a) any district council whose area is within their area, or
  - (b) the National Park authority for a National Park any part of which is within their area,
- for the functions of the local highway authority under section 60 and this section so far as relating to the area of that council or to the part of the Park within the local highway authority's area, to be discharged jointly by the local highway authority and by that council or National Park authority.
- (6) Regulations under subsection (1)(g) shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
- “local highway authority” has the same meaning as in the 1980 Act;
  - “the Broads” has the same meaning as in the <sup>M41</sup>Norfolk and Suffolk Broads Act 1988.

#### Commencement Information

**I4** S. 61 wholly in force at 21.11.2002; s. 61 not in force at Royal Assent see s. 103(3)(4); s. 61 in force for W. at 1.11.2002 by [S.I. 2002/2615, art. 2](#); s. 61 in force for E. at 21.11.2002 by [S.I. 2002/2833, art. 2](#)

#### Marginal Citations

**M41** 1988 c. 4.

VALID FROM 21/11/2002

#### **62** Application of ss. 60 and 61 to inner London. **E+W**

- (1) The council of an inner London borough or the Common Council of the City of London may by resolution adopt sections 60 and 61 as respects their area or any part of it which is specified in the resolution.
- (2) On the passing by any authority of a resolution under subsection (1), sections 60 and 61 shall, as respects their area or the part of it specified in the resolution, apply in relation to that authority—
  - (a) as they apply in relation to a local highway authority other than an inner London authority, but

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**Changes to legislation:** Countryside and Rights of Way Act 2000 is up to date with all changes known to be in force on or before 12 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)

- (b) with the substitution for the reference in subsection (1) of section 60 to the commencement of that section of a reference to the date on which the resolution comes into operation.

#### Commencement Information

- I5** S. 62 partly in force; s. 62 not in force at Royal Assent see s. 103(3)(4); s. 62 in force for E. at 21.11.2002 by S.I. 2002/2833, art. 2

### Removal of obstructions from highways

PROSPECTIVE

#### 63 Enforcement of duty to prevent obstructions. **E+W**

- (1) After section 130 of the 1980 Act there is inserted—

##### “130A Notices to enforce duty regarding public paths.

- (1) Any person who alleges, as respects any highway for which a local highway authority other than an inner London authority are the highway authority—
- that the highway falls within subsection (2) below, and
  - that it is obstructed by an obstruction to which this section applies, may serve on the highway authority notice requesting them to secure the removal of the obstruction from the highway.
- (2) A highway is within this subsection if it is—
- a footpath, bridleway, or restricted byway, or
  - a way shown in a definitive map and statement as a restricted byway or a byway open to all traffic.
- (3) Subject to subsection (4) below, this section applies to an obstruction of the highway if the obstruction is without lawful authority and either—
- the powers conferred by section 143, 149 or 154 below are exercisable in respect of it, or
  - it is of a description prescribed by regulations made by the Secretary of State and the authority have power (otherwise than under any of those sections) to secure its removal.
- (4) This section does not apply to an obstruction if—
- it is or forms part of—
    - a building (whether temporary or permanent) or works for the construction of a building, or
    - any other structure (including a tent, caravan, vehicle or other temporary or movable structure) which is designed, adapted or used for human habitation,
  - an order may be made in respect of it under section 56 above, or
  - the presence of any person constitutes the obstruction.

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- (5) A person serving a notice under subsection (1) above must include in the notice the name and address, if known to him, of any person who it appears to him may be for the time being responsible for the obstruction.
- (6) A highway authority on whom a notice under subsection (1) above is served shall, within one month from the date of service of the notice, serve—
  - (a) on every person whose name and address is, pursuant to subsection (5) above, included in the notice and, so far as reasonably practicable, on every other person who it appears to them may be for the time being responsible for the obstruction, a notice informing that person that a notice under subsection (1) above has been served in relation to the obstruction and stating what, if any, action the authority propose to take, and
  - (b) on the person who served the notice under subsection (1) above, a notice containing the name and address of each person on whom notice is served under paragraph (a) above and stating what, if any, action the authority propose to take in relation to the obstruction.
- (7) For the purposes of this section the persons for the time being responsible for an obstruction include the owner and any other person who for the time being—
  - (a) has possession or control of it, or
  - (b) may be required to remove it.
- (8) A notice under subsection (1) or (6) above shall be in such form and contain such information as may be prescribed by regulations made by the Secretary of State.
- (9) In this section “inner London authority” means Transport for London, the council of an inner London borough or the Common Council of the City of London.
- (10) Subsection (2) above has effect until the commencement of section 47 of the Countryside and Rights of Way Act 2000 with the substitution for the references to a restricted byway and to a way shown in a definitive map and statement as a restricted byway of a reference to a way shown in a definitive map and statement as a road used as a public path.

### **130B Orders following notice under section 130A.**

- (1) Where a notice under section 130A(1) above has been served on a highway authority in relation to any obstruction, the person who served it, if not satisfied that the obstruction has been removed, may apply to a magistrates’ court in accordance with section 130C below for an order under this section.
- (2) An order under this section is an order requiring the highway authority to take, within such reasonable period as may be fixed by the order, such steps as may be specified in the order for securing the removal of the obstruction.
- (3) An order under this section shall not take effect—
  - (a) until the end of the period of twenty-one days from the day on which the order is made; or

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- (b) if an appeal is brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the final determination or withdrawal of the appeal.
- (4) Subject to subsection (5) below, the court may make an order under this section if it is satisfied—
- (a) that the obstruction is one to which section 130A above applies or, in a case falling within subsection (4)(a)(ii) of that section, is one to which that section would apply but for the obstruction having become used for human habitation since service of the notice relating to it under subsection (1) of that section,
  - (b) that the way obstructed is a highway within subsection (2) of that section, and
  - (c) that the obstruction significantly interferes with the exercise of public rights of way over that way.
- (5) No order shall be made under this section if the highway authority satisfy the court—
- (a) that the fact that the way obstructed is a highway within section 130A(2) above is seriously disputed,
  - (b) on any other grounds, that they have no duty under section 130(3) above to secure the removal of the obstruction, or
  - (c) that, under arrangements which have been made by the authority, its removal will be secured within a reasonable time, having regard to the number and seriousness of obstructions in respect of which they have such a duty.
- (6) A highway authority against whom an order is made under this section shall, as soon as practicable after the making of the order, cause notice of the order and of the right to appeal against it to be displayed in such manner and at such places on the highway concerned as may be prescribed by regulations made by the Secretary of State, and the notice shall be in such form and contain such information as may be so prescribed.
- (7) An order under this section may be varied on the application of the highway authority to whom it relates.

### **130C Section 130B: procedure.**

- (1) A person proposing to make an application under section 130B above shall before making the application serve notice of his intention to do so on the highway authority concerned.
- (2) A notice under subsection (1) above shall be in such form and contain such information as may be prescribed by regulations made by the Secretary of State.
- (3) The notice may not be served before the end of two months beginning with the date of service on the highway authority of the notice under section 130A(1) above (“the request notice”).
- (4) An application in respect of which notice has been served under subsection (1) above may be made at any time—

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- (a) after the end of five days beginning with the date of service of that notice, and
  - (b) before the end of six months beginning with the date of service on the highway authority of the request notice.
- (5) On making the application the applicant must give notice to the court of the names and addresses of which notice was given to the applicant under section 130A(6)(b) above.
- (6) On the hearing of the application any person who is, within the meaning of section 130A above, a person for the time being responsible for the obstruction to which the application relates has a right to be heard as respects the matters mentioned in section 130B(4) above.
- (7) Notice of the hearing, of the right to be heard under subsection (6) above and of the right to appeal against a decision on the application shall be given by the court to each person whose name and address is notified to the court under subsection (5) above.

#### **130D Section 130B: costs.**

Where an application under section 130B above is dismissed by virtue of paragraph (a), (b) or (c) of subsection (5) of that section, the court, in determining whether and if so how to exercise its power under section 64(1) of the <sup>M42</sup>Magistrates' Courts Act 1980 (costs), shall have particular regard to any failure by the highway authority to give the applicant appropriate notice of, and information about, the grounds relied on by the authority under that paragraph."

- (2) In section 317 of the 1980 Act (appeals to the Crown Court from decisions of magistrates' courts) after subsection (2) there is inserted—

“(3) Any person who, in relation to the decision of a magistrates' court on an application under section 130B above, does not fall within subsection (1) above but—

- (a) is, within the meaning of section 130A above, a person for the time being responsible for the obstruction to which the application related, or
- (b) when the application was heard, was such a person and was, or claimed to be, heard on the application,

may appeal to the Crown Court against the decision on any ground relating to the matters mentioned in section 130B(4) above.”

#### **Marginal Citations**

M42 1980 c. 43.

#### **64 Power to order offender to remove obstruction. E+W**

- (1) After section 137 of the 1980 Act (penalty for wilful obstruction) there is inserted—



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**“137ZA Power to order offender to remove obstruction.**

- (1) Where a person is convicted of an offence under section 137 above in respect of the obstruction of a highway and it appears to the court that—
    - (a) the obstruction is continuing, and
    - (b) it is in that person’s power to remove the cause of the obstruction,the court may, in addition to or instead of imposing any punishment, order him to take, within such reasonable period as may be fixed by the order, such steps as may be specified in the order for removing the cause of the obstruction.
  - (2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or as extended under this subsection, as the case may be.
  - (3) If a person fails without reasonable excuse to comply with an order under subsection (1) above, he is guilty of an offence and liable to a fine not exceeding level 5 on the standard scale; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding one-twentieth of that level for each day on which the offence is so continued.
  - (4) Where, after a person is convicted of an offence under subsection (3) above, the highway authority for the highway concerned exercise any power to remove the cause of the obstruction, they may recover from that person the amount of any expenses reasonably incurred by them in, or in connection with, doing so.
  - (5) A person against whom an order is made under subsection (1) above is not liable under section 137 above in respect of the obstruction concerned—
    - (a) during the period fixed under that subsection or any extension under subsection (2) above, or
    - (b) during any period fixed under section 311(1) below by a court before whom he is convicted of an offence under subsection (3) above in respect of the order.”
- (2) Subsection (1) does not have effect in relation to any offence under section 137 of the 1980 Act committed before the commencement of this section.

**65 Overhanging vegetation obstructing horse-riders. E+W**

In section 154 of the 1980 Act (cutting or felling etc. trees etc. that overhang or are a danger to roads or footpaths) in subsection (1) after “public lamp,” there is inserted “or overhangs a highway so as to endanger or obstruct the passage of horse-riders, ”.

*Miscellaneous*

**66 Making of traffic regulation orders for purposes of conserving natural beauty, etc. E+W**

- (1) In section 22 of the <sup>M43</sup>Road Traffic Regulation Act 1984 (traffic regulation for special areas in the countryside), in subsection (1)(a)—

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- (a) the words “(other than Greater London)” are omitted,
- (b) at the end of paragraph (vi), the word “or” is omitted, and
- (c) before the word “and” at the end of paragraph (vii) there is inserted—

“or

(viii) a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981);”.

(2) In subsection (2) of that section, for “the paragraphs of subsection (1) of that section” there is substituted “ paragraphs (a) to (g) of subsection (1) of that section and referred to in section 6(1)(b) of this Act ”.

(3) After subsection (4) of that section there is inserted—

“(5) In subsection (2) above the reference to conserving the natural beauty of an area shall be construed as including a reference to conserving its flora, fauna and geological and physiographical features.”.

(4) After that section there is inserted—

**“22A Traffic regulation on certain roads for purpose of conserving natural beauty.**

(1) This section applies to roads other than—

- (a) roads to which section 22 of this Act applies,
- (b) special roads, or
- (c) any road which is a trunk road, a classified road, a GLA road, a cycle track, a bridleway or a footpath, as those expressions are defined by section 329 of the <sup>M44</sup>Highways Act 1980.

(2) This Act shall have effect as respects roads to which this section applies as if, in relation to the making of provision with respect to vehicular traffic, the list of purposes for which a traffic regulation order under section 1 of this Act may be made, as set out in paragraphs (a) to (g) of subsection (1) of that section and referred to in section 6(1)(b) of this Act, included the purpose of conserving or enhancing the natural beauty of the area.

(3) In subsection (2) above the reference to conserving the natural beauty of an area shall be construed as including a reference to conserving its flora, fauna and geological and physiographical features.”

**Marginal Citations**

**M43** 1984 c. 27.

**M44** 1980 c. 66.

**67 Prohibition on driving mechanically propelled vehicles elsewhere than on roads. E+W+S**

Schedule 7 (which makes amendments relating to the driving of mechanically propelled vehicles elsewhere than on roads) has effect.

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## 68 Vehicular access across common land etc. **E+W**

- (1) This section applies to a way which the owner or occupier (from time to time) of any premises has used as a means of access for vehicles to the premises, if that use of the way—
  - (a) was an offence under an enactment applying to the land crossed by the way, but
  - (b) would otherwise have been sufficient to create on or after the prescribed date, and to keep in existence, an easement giving a right of way for vehicles.
- (2) Regulations may provide, as respects a way to which this section applies, for the creation in accordance with the regulations, on the application of the owner of the premises concerned and on compliance by him with prescribed requirements, of an easement subsisting at law for the benefit of the premises and giving a right of way for vehicles over that way.
- (3) An easement created in accordance with the regulations is subject to any enactment or rule of law which would apply to such an easement granted by the owner of the land.
- (4) The regulations may in particular—
  - (a) require that, where an application is made after the relevant use of the way has ceased, it is to be made within a specified time,
  - (b) specify grounds on which objections may be made and the procedure to apply to the making of objections,
  - (c) require any matter to be referred to and determined by the Lands Tribunal, and make provision as to procedure and costs,
  - (d) make provision as to the payment of any amount by the owner of the premises concerned to any person or into court and as to the time when any payment is to be made,
  - (e) provide for the determination of any such amount,
  - (f) make provision as to the date on which any easement is created,
  - (g) specify any limitation to which the easement is subject,
  - (h) provide for the easement to include any specified right incidental to the right of way,
  - (i) make different provision for different circumstances.
- (5) In this section—

“enactment” includes an enactment in a local or private Act and a byelaw, regulation or other provision having effect under an enactment;

“owner”, in relation to any premises, means—

  - (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the premises, whether in possession or in reversion, or
  - (b) a tenant under a long lease, within the meaning of the <sup>M45</sup>Landlord and Tenant Act 1987;

“prescribed” means prescribed by regulations;

“regulations” means regulations made, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales.
- (6) Regulations under this section shall be made by statutory instrument, and no such regulations shall be made by the Secretary of State unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

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### Commencement Information

**I6** S. 68 wholly in force at 1.5.2001; s. 68 not in force at Royal Assent see s. 103(3); s. 68 in force for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(c\)](#); s. 68 in force for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(d\)](#)

### Marginal Citations

**M45** 1987 c. 31.

VALID FROM 27/09/2005

## 69 Erection or improvement of stiles, etc. **E+W**

(1) In section 147 of the 1980 Act (power to authorise erection of stiles etc on footpath or bridleway) after subsection (2) there is inserted—

“(2A) In exercising their powers under subsection (2) above a competent authority shall have regard to the needs of persons with mobility problems.

(2B) The Secretary of State may issue guidance to competent authorities as to matters to be taken into account for the purposes of subsection (2) above; and in exercising their powers under subsection (2) above competent authorities shall have regard to any such guidance issued to them.”

(2) In subsection (5) of that section, at the end there is inserted “ or for the breeding or keeping of horses. ”

(3) After that section there is inserted—

### “147ZA Agreements relating to improvements for benefit of persons with mobility problems.

(1) With respect to any relevant structure, a competent authority may enter into an agreement with the owner, lessee or occupier of the land on which the structure is situated which provides—

(a) for the carrying out by the owner, lessee or occupier of any qualifying works and the payment by the competent authority of the whole or any part of the costs incurred by him in carrying out those works, or

(b) for the carrying out by the competent authority of any qualifying works at their own expense or subject to the payment by the owner, lessee or occupier of the whole or any part of the costs incurred in carrying out those works.

(2) In this section—

(a) “competent authority” has the same meaning as in section 147 above,

(b) “relevant structure” means a stile, gate or other structure which—  
(i) is authorised by a condition or limitation subject to which the public right of way over the footpath or bridleway was created, or

(ii) is authorised under section 147 above,

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- but does not include a structure to which an agreement falling within section 146(5)(b) above relates, and
- (c) “qualifying works”, in relation to a relevant structure, means works for replacing or improving the structure which will result in a structure that is safer or more convenient for persons with mobility problems.
- (3) An agreement under this section may include such conditions as the competent authority think fit.
- (4) Those conditions may in particular include conditions expressed to have enduring effect—
- (a) for the maintenance of the structure as replaced or improved, and
- (b) for enabling the public right of way to be exercised without undue inconvenience to the public.
- (5) Where an agreement under this section has been entered into in relation to any structure—
- (a) the public right of way is to be deemed to be subject to a condition that the structure as replaced or improved may be erected and maintained in accordance with the agreement so long as any conditions included by virtue of subsection (4) above are complied with,
- (b) in a case falling within subsection (2)(b)(i) above, as from the effective date the previous condition or limitation relating to the relevant structure shall cease to have effect, and
- (c) in a case falling within subsection (2)(b)(ii) above, as from the effective date the previous authorisation under section 147 above shall cease to have effect in relation to the relevant structure.
- (6) In subsection (5) above “the effective date” means—
- (a) the first anniversary of the day on which the agreement was entered into, or
- (b) such earlier date as may be specified for the purposes of this subsection in the agreement.
- (7) For the purposes of section 143 above, any stile, gate or other structure replaced or improved in pursuance of an agreement under this section is to be deemed to be erected under this section only if any conditions included by virtue of subsection (4) above are complied with.
- (8) A competent authority may not enter into an agreement under this section except with the consent of every owner, lessee or occupier of the land on which the relevant structure is situated who is not a party to the agreement.
- (9) The Secretary of State may issue guidance to competent authorities as to matters to be taken into account for the purposes of this section; and in exercising their powers under this section competent authorities shall have regard to any such guidance issued to them.”
- (4) In section 146 of the 1980 Act (duty to maintain stiles etc. on footpaths and bridleways) in subsection (5), before the word “or” at the end of paragraph (a) there is inserted—

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“(aa) if any conditions for the maintenance of the structure imposed by virtue of subsection (4) of section 147ZA below are for the time being in force under that section,”.

(5) In section 344 of the 1980 Act (application to Isles of Scilly) in subsection (2)(a) after “147,” there is inserted “ 147ZA, ”.

## 70 Minor amendments. **E+W**

- (1) In section 66(3) of the 1980 Act (works for safeguarding persons using footpaths)—
  - (a) after “footpath” there is inserted “ or bridleway ”, and
  - (b) after “barriers,” there is inserted “ posts, ”.
- (2) In section 134 of that Act, subsection (5) (which limits the persons who may bring proceedings for failure to restore a public path disturbed by ploughing etc.) is omitted.
- (3) In section 300 of that Act (right of local authorities to use vehicles and appliances on footways and bridleways), in subsection (1) after “verges,” there is inserted “ for preventing or removing obstructions to them or otherwise preventing or abating nuisances or other interferences with them, ”.
- (4) In section 21(2)(b) of the <sup>M46</sup>Road Traffic Act 1988 (defence to charge of driving or parking on cycle track for highway authority vehicles), after “verges” there is inserted “ , or the preventing or removing of obstructions to the cycle track or the preventing or abating in any other way of nuisances or other interferences with the cycle track, ”.

### Commencement Information

**I7** S. 70 partly in force; s. 70 not in force at Royal Assent see s. 103(3); s. 70(2)(4) in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(d) (with art. 3); s. 70(2)(4) in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(e) (with art. 3)

### Marginal Citations

**M46** 1988 c. 52.

PROSPECTIVE

## 71 Reports on functions relating to rights of way. **E+W**

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may make regulations requiring local highway authorities of a description specified in the regulations to publish reports on the performance of any of their functions so far as relating to local rights of way (whether or not those functions are conferred on them as highway authorities).
- (2) Subsection (1) is without prejudice to section 230 of the <sup>M47</sup>Local Government Act 1972 (reports and returns).
- (3) Regulations under subsection (1) may prescribe the information to be given in such reports and how and when reports are to be published.



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(4) Regulations under subsection (1) shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

“local highway authority” has the same meaning as in the 1980 Act, except that it does not include Transport for London; and

“local rights of way” has the same meaning as in section 60.

#### Marginal Citations

M47 1972 c. 70.

## 72 Interpretation of Part II. **E+W**

(1) In this Part, unless a contrary intention appears—

- (a) “restricted byway” and “restricted byway rights” have the meaning given by section 48(4);
- (b) expressions which are defined for the purposes of Part III of the 1981 Act by section 66(1) of that Act have the same meaning as in that Part.

(2) In this Part any reference to a highway includes a reference to part of a highway.

#### Commencement Information

**I8** S. 72 wholly in force at 1.5.2001; s. 72 not in force at Royal Assent see s. 103(3); s. 72 in force for E. at 30.1.2001 by S.I. 2001/114, art. 2(1)(b); s. 72 in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(f)

## PART III **E+W+S**

### NATURE CONSERVATION AND WILDLIFE PROTECTION

#### *The Nature Conservancy Council for England*

## 73 The Nature Conservancy Council for England: change of name. **E+W**

(1) The Nature Conservancy Council for England shall be known instead as English Nature.

(2) For any reference to the Nature Conservancy Council for England—

- (a) in any provision of a local Act or subordinate legislation, or
- (b) in any other instrument or document,

there is substituted, as respects any time after the commencement of subsection (1), a reference to English Nature.

(3) Any reference to English Nature in this Act (apart from this section), or in any instrument under this Act, shall be construed, in relation to any time before the

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**Status:** Point in time view as at 01/11/2002. This version of this Act contains provisions that are not valid for this point in time.

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commencement of subsection (1), as a reference to the Nature Conservancy Council for England.

(4) Schedule 8 (which makes amendments consequential on subsection (1)) has effect.

### *Biological diversity*

## 74 Conservation of biological diversity. E+W

(1) It is the duty of—

- (a) any Minister of the Crown (within the meaning of the Ministers of the <sup>M48</sup>Crown Act 1975),
- (b) any Government department, and
- (c) the National Assembly for Wales,

in carrying out his or its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biological diversity in accordance with the Convention.

(2) The Secretary of State, as respects England, and the National Assembly for Wales, as respects Wales, shall each publish a list of, or lists which together comprise, the living organisms and types of habitat which in the opinion of the Secretary of State or the Assembly (as the case may be) are of principal importance for the purpose mentioned in subsection (1).

(3) Without prejudice to subsection (1), it is the duty of a listing authority to take, or to promote the taking by others of, such steps as appear to the authority to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published by the authority under this section.

(4) Before publishing the list or lists required by subsection (2) the listing authority shall consult the appropriate conservation body as to the living organisms or types of habitat to be included in the list or lists.

(5) Each listing authority shall, in consultation with the appropriate conservation body—

- (a) keep under review any list published by the authority under this section,
- (b) make such revisions of any such list as appear to the authority to be appropriate, and
- (c) publish any list so revised.

(6) A duty under this section to publish a list is a duty to publish it in such manner as the listing authority thinks fit.

(7) In this section—

“appropriate conservation body” means—

- (a) as respects England, English Nature,
- (b) as respects Wales, the Countryside Council for Wales;

“biological diversity” has the same meaning as in the Convention;

“conservation” in relation to a living organism or type of habitat, includes the restoration or enhancement of a population or habitat;

“the Convention” means the United Nations Environmental Programme Convention on Biological Diversity of 1992;

“habitat” has the same meaning as in the Convention;

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- “listing authority”—
- (a) in relation to a list which the Secretary of State is required to publish under this section, means the Secretary of State;
  - (b) in relation to a list which the National Assembly for Wales is required to publish under this section, means the National Assembly for Wales.

**Marginal Citations**

M48 1975 c. 26.

*Sites of special scientific interest*

**75 Sites of special scientific interest. E+W**

- (1) Schedule 9 (which makes amendments of the 1981 Act to change the law relating to sites of special scientific interest, including provision as to offences) has effect.
- (2) A notification under section 23 of the National Parks and Access to the <sup>M49</sup>Countryside Act 1949 (notification to local planning authorities of areas of special scientific interest) which by virtue of section 28(13) of the 1981 Act as originally enacted had effect as if given under section 28(1)(a) of that Act, shall cease to have effect.
- (3) In section 15(2) of the <sup>M50</sup>Countryside Act 1968 (which provides for agreements between the Nature Conservancy Council and those with interests in land which is included in an area of special scientific interest, or is adjacent to such land), for “adjacent” there is substituted “ other ”.
- (4) After section 15 of the Countryside Act 1968 there is inserted—

**“15A Compulsory purchase.**

- (1) The Nature Conservancy Council may in circumstances set out in subsection (2) acquire compulsorily all or any part of the land referred to in section 15(2).
- (2) The circumstances are—
  - (a) that the Nature Conservancy Council are satisfied that they are unable to conclude, on reasonable terms, such an agreement as is referred to in section 15(2), or
  - (b) that they have entered into such an agreement, but they are satisfied it has been breached in such a way that the flora, fauna or geological or physiographical features referred to there are not being conserved satisfactorily.
- (3) A dispute about whether or not there has been a breach of the agreement for the purposes of subsection (2)(b) shall be determined by an arbitrator appointed by the Lord Chancellor.
- (4) Where the Nature Conservancy Council have acquired land compulsorily under this section, they may—
  - (a) themselves take steps to conserve the flora, fauna or geological or physiographical features in question, or

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- (b) dispose of the land on terms designed to secure that those flora, fauna or features are satisfactorily conserved.

(5) In this section, “Nature Conservancy Council” means English Nature as respects land in England, and the Council as respects land in Wales.”

#### Marginal Citations

**M49** 1949 c. 97.

**M50** 1968 c. 41.

## 76 Consequential amendments, transitional provisions and savings relating to s.

### 75. **E+W+S**

- (1) Schedule 10 (which makes amendments of the 1981 Act consequential upon the substitution or repeal as respects England and Wales of certain sections in that Act, and also makes other consequential amendments) has effect.
- (2) Schedule 11 (which makes transitional provisions and savings relating to the coming into force of section 75) has effect.

### *Ramsar sites*

## 77 Ramsar sites. **E+W**

After section 37 of the 1981 Act there is inserted—

### “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>M51</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M52</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.

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- (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).”

**Marginal Citations**

**M51** 1991 c. 56.

**M52** 1991 c. 59.

*Limestone pavement orders*

**78 Limestone pavement orders: offence. E+W**

- (1) In section 34(4) of the 1981 Act (which provides for an offence in connection with land designated by a limestone pavement order), for “the statutory maximum” there is substituted “£20,000”.
- (2) Subsection (1) does not have effect in relation to any offence committed before the commencement of this section.

*Payments under certain agreements*

**79 Payments under agreements under s.16 of 1949 Act or s.15 of 1968 Act. E+W**

In section 50 of the 1981 Act (which makes provision relating to payments under section 16 of the National Parks and Access to the <sup>M53</sup>Countryside Act 1949 or section 15 of the <sup>M54</sup>Countryside Act 1968), in subsection (1)(a), for sub-paragraphs (i) and (ii) and the preceding word “to” there is substituted “to any person; or”.

**Marginal Citations**

**M53** 1949 c. 97.

**M54** 1968 c. 41.

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### *Powers of entry*

#### **80 Powers of entry. E+W**

(1) Section 51 of the 1981 Act (powers of entry) is amended as follows.

(2) In subsection (1), for paragraphs (a) to (d) there is substituted—

- “(a) to determine whether the land should be notified under section 28(1);
- (b) to assess the condition of the flora, fauna, or geological or physiographical features by reason of which land which has been notified under section 28(1) is of special interest;
- (c) to determine whether or not to offer to enter into an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land;
- (d) to ascertain whether a condition to which a consent referred to in section 28E(3)(a) was subject has been complied with in relation to the land;
- (e) to ascertain whether an offence under section 28P or under byelaws made by virtue of section 28R is being, or has been, committed on or in relation to the land;
- (f) to formulate a management scheme for the land or determine whether a management scheme (or a proposed management scheme) for the land should be modified;
- (g) to prepare a management notice for the land;
- (h) to ascertain whether the terms of an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land, or the terms of a management scheme or the requirements of a management notice in relation to the land, have been complied with;
- (i) to determine whether or not to offer to make a payment under section 28M in relation to the land;
- (j) to determine any question in relation to the acquisition of the land by agreement or compulsorily;
- (k) to determine any question in relation to compensation under section 20(3) of the 1949 Act as applied by section 28R of this Act;
- (l) to ascertain whether an order should be made in relation to the land under section 34 or if an offence under that section is being, or has been, committed on the land;
- (m) to ascertain whether an order should be made in relation to the land under section 42 or if an offence under that section is being, or has been, committed on the land;”.

(3) After subsection (1) there is inserted—

“(1A) The power conferred by subsection (1) to enter land for any purpose includes power to enter for the same purpose any land other than that referred to in subsection (1).

(1B) More than one person may be authorised for the time being under subsection (1) to enter any land.”

(4) In subsection (2)—



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- (a) in paragraph (a), for “paragraphs (a) and (b)” there is substituted “ paragraphs (a) to (k) ”;
  - (b) in paragraph (b), for “paragraph (c)” there is substituted “ paragraph (l) ”; and
  - (c) in paragraph (c), for “paragraph (d)” there is substituted “ paragraph (m) ”.
- (5) For subsection (3)(b) there is substituted—
- “(b) the purpose of the entry is to ascertain if an offence under section 28P, 34 or 42 is being, or has been, committed on or (as the case may be) in relation to that land.”
- (6) After subsection (3) there is inserted—
- “(3A) A person acting in the exercise of a power conferred by subsection (1) may—
- (a) use a vehicle or a boat to enter the land;
  - (b) take a constable with him if he reasonably believes he is likely to be obstructed;
  - (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - (d) take samples of the land and of anything on it.
- (3B) If in the exercise of a power conferred by subsection (1) a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.”
- (7) After subsection (4) there is inserted—
- “(5) It is the duty of a relevant authority to compensate any person who has sustained damage as a result of—
- (a) the exercise of a power conferred by subsection (1) by a person authorised to do so by that relevant authority, or
  - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (3B),
- except where the damage is attributable to the fault of the person who sustained it; and any dispute as to a person’s entitlement to compensation under this subsection or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement, by the Secretary of State”.

### *Enforcement of wildlife legislation*

## **81 Enforcement of wildlife legislation. E+W**

- (1) Schedule 12 to this Act (which contains amendments relating to offences and enforcement powers under Part I of the 1981 Act) has effect.
- (2) In relation to England and Wales, regulations under section 2(2) of the <sup>M55</sup>European Communities Act 1972 (“the 1972 Act”) for the purpose of implementing any of the instruments mentioned in subsection (3) may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.
- (3) Those instruments are—

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- (a) Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive [97/62/EC](#);
- (b) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating the trade therein; and
- (c) Commission Regulation 939/97/EC on the implementation of the Council Regulation mentioned in paragraph (b).

#### Commencement Information

**I9** [S.81](#) wholly in force; [S. 81](#) partly in force at Royal Assent, see [s. 103\(1\)](#); 81(2)(3) in force at 30.11.2000, [S. 81](#) fully in force at 30.1.2001, see [S.103\(2\)](#).

#### Marginal Citations

**M55** [1972 c. 68](#).

## PART IV **E+W**

### AREAS OF OUTSTANDING NATURAL BEAUTY

#### 82 Designation of areas. **E+W**

- (1) Where it appears to the Countryside Agency (in this Part referred to as “the Agency”) that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, the Agency may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.
- (2) Where it appears to the Countryside Council for Wales (in this Part referred to as “the Council”) that an area which is in Wales but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, the Council may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.
- (3) In this Part “area of outstanding natural beauty” means an area designated under this section as an area of outstanding natural beauty.

#### Commencement Information

**I10** [Pt. IV](#) (ss. 82-93) wholly in force at 1.5.2001; [Pt. IV](#) not in force at Royal Assent see [s. 103\(3\)](#); [Pt. IV](#) in force for E. at 1.4.2001 by [S.I. 2000/114](#), [art. 2\(2\)\(e\)](#); [Pt. IV](#) in force for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(g\)](#)

#### 83 Procedure for designation orders. **E+W**

- (1) Where the Agency or the Council propose to make an order under section 82, the Agency or the Council shall consult every local authority whose area includes any part of the area to which the proposed order is to relate.

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- (2) Before making the order, the Agency or the Council shall then publish, in the London Gazette and in one or more newspapers circulating in the area of every such local authority, notice that they propose to make the order, indicating the effect of the order and stating the time within which and manner in which representations with respect to the proposed order may be made to the Agency or the Council (as the case may be), and shall consider any representations duly made.
- (3) An order under section 82 shall not come into operation unless and until confirmed—
  - (a) in the case of an order made by the Agency, by the Secretary of State, or
  - (b) in the case of an order made by the Council, by the National Assembly for Wales,and, in submitting any such order to the Secretary of State or the Assembly, the Agency or Council shall forward to the Secretary of State or the Assembly any representations made by a local authority consulted under subsection (1) or made by any other person under subsection (2), other than representations to which effect is given by the order as submitted to the Secretary of State or the Assembly.
- (4) The Secretary of State or the National Assembly for Wales may confirm an order submitted to him or it under this section either as submitted or with such modifications as the Secretary of State or the Assembly thinks expedient.
- (5) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the Secretary of State shall consult the Agency and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (6) Before refusing to confirm an order under section 82, or determining to confirm it with modifications, the National Assembly for Wales shall consult the Council and every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.
- (7) An order under section 82 may be revoked or varied by a subsequent order under that section.
- (8) Without prejudice to the powers of the Agency or the Council to vary an order under section 82, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order vary any order under that section made by the Agency or the Council; and subsection (1) applies to any order under section 82 made by the Secretary of State or the Assembly by virtue of this subsection with the substitution for references to the Agency of references to the Secretary of State and for references to the Council of references to the Assembly.
- (9) It is the duty of the Agency and the Council to secure that copies of any order under section 82 relating to England or, as the case may be, to Wales, are available for inspection by the public at all reasonable times—
  - (a) at the office of the Agency or, as the case may be, the Council,
  - (b) at the offices of each local authority whose area includes any part of the area to which the order relates, and
  - (c) at such other place or places in or near that area as the Agency or, as the case may be, the Council may determine.

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#### Commencement Information

- III** Pt IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, **art. 2(2)(e)**; Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, **art. 2(g)**

## 84 **Functions of certain bodies in relation to areas of outstanding natural beauty.** **E** **+W**

- (1) The following provisions of the National Parks and Access to the <sup>M56</sup>Countryside Act 1949 (in this Part referred to as “the 1949 Act”)—
  - (a) section 6(4)(e) (duty of Agency or Council to give advice in connection with development matters),
  - (b) section 9 (consultation in connection with development plan),
  - (c) section 64(5) (consultation in connection with access agreements), and
  - (d) section 65(5) and (5A) (consultation in connection with access orders),
 apply in relation to areas of outstanding natural beauty as they apply in relation to National Parks.
- (2) In section 6(4)(e) of the 1949 Act as it applies by virtue of subsection (1), “appropriate planning authority” means a local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty and includes a local authority, not being a local planning authority, by whom any powers of a local planning authority as respects an area of outstanding natural beauty are exercisable, whether under the 1949 Act or otherwise.
- (3) Section 4A of the 1949 Act (which confers on the Council functions under Part II of that Act corresponding to those exercisable as respects England by the Agency) applies to the provisions mentioned in subsection (1)(a) and (b) for the purposes of their application to areas of outstanding natural beauty as that section applies for the purposes of Part II of the 1949 Act.
- (4) A local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty has power, subject to subsections (5) and (6), to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty or so much of it as is included in their area.
- (5) Nothing in this Part is to be taken to limit the generality of subsection (4); but in so far as the provisions of this Part or of the 1949 Act confer specific powers falling within that subsection those powers are to be exercised in accordance with those provisions and subject to any limitations expressed or implied in them.
- (6) Without prejudice to the powers conferred by this Part, subsection (4) has effect only for the purpose of removing any limitation imposed by law on the capacity of a local planning authority by virtue of its constitution, and does not authorise any act or omission on the part of such an authority which apart from that subsection would be actionable at the suit of any person on any ground other than such a limitation.
- (7) In this section “local planning authority” has the same meaning as in the <sup>M57</sup>Town and Country Planning Act 1990.

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### Commencement Information

**I12** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, **art. 2(2)(e)**; Pt. IV in force at 1.5.2001 by S.I. 2001/1410, **art. 2(g)**

### Marginal Citations

**M56** 1949 c. 97.

**M57** 1990 c. 8.

## 85 General duty of public bodies etc. **E+W**

- (1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.
- (2) The following are relevant authorities for the purposes of this section—
  - (a) any Minister of the Crown,
  - (b) any public body,
  - (c) any statutory undertaker,
  - (d) any person holding public office.
- (3) In subsection (2)—
 

“public body” includes

  - (a) a county council, county borough council, district council, parish council or community council;
  - (b) a joint planning board within the meaning of section 2 of the <sup>M58</sup>Town and Country Planning Act 1990;
  - (c) a joint committee appointed under section 102(1)(b) of the <sup>M59</sup>Local Government Act 1972;

“public office” means—

  - (a) an office under Her Majesty;
  - (b) an office created or continued in existence by a public general Act; or
  - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.

### Commencement Information

**I13** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, **art. 2(2)(e)**; Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, **art. 2(g)**

### Marginal Citations

**M58** 1990 c. 8.

**M59** 1972 c. 70.

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**Status:** Point in time view as at 01/11/2002. This version of this Act contains provisions that are not valid for this point in time.

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## 86 Establishment of conservation boards. **E+W**

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may—
- (a) in the case of any existing area of outstanding natural beauty, or
  - (b) in connection with the designation of any area as an area of outstanding natural beauty,
- by order establish a board (in this Part referred to as “a conservation board”) to carry out in relation to that area the functions conferred on such a board by or under this Part.
- (2) Schedule 13 (which relates to the constitution of conservation boards) has effect.
- (3) Where the Secretary of State or the National Assembly for Wales considers it expedient for either of the purposes mentioned in section 87(1), an order under subsection (1) may—
- (a) provide for the transfer to the conservation board to which the order relates of any of the functions of local authorities, so far as relating to the area of outstanding natural beauty in question, or
  - (b) provide for any function of a local authority, so far as relating to the area of outstanding natural beauty in question, to be exercisable concurrently by the local authority and by the conservation board.
- (4) Subsection (3) does not apply to functions of a local authority under Part II, III, VII or XIII of the <sup>M60</sup>Town and Country Planning Act 1990.
- (5) An order under subsection (1) may make further provision as to the constitution and administration of the conservation board to which it relates, including provision with respect to—
- (a) the appointment of members,
  - (b) the removal and disqualification of members,
  - (c) the conduct of members,
  - (d) proceedings of the board,
  - (e) the appointment of staff,
  - (f) consultation with other public bodies,
  - (g) records and documents of the board,
  - (h) the provision of information by the board, and
  - (i) complaints of maladministration.
- (6) Before making an order under subsection (1) in relation to an area of outstanding natural beauty in England, the Secretary of State shall consult—
- (a) the Agency, and
  - (b) every local authority whose area consists of or includes the whole or part of the area of outstanding natural beauty,
- and shall not make the order unless satisfied that the majority of those local authorities consent.
- (7) Before making an order under subsection (1) in relation to an area of outstanding natural beauty in Wales, the National Assembly for Wales shall consult—
- (a) the Council, and
  - (b) every local authority whose area consists of or includes the whole or part of the area of outstanding natural beauty,



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and shall not make the order unless satisfied that the majority of those local authorities consent.

- (8) An order under subsection (1) which amends or revokes a previous order under that subsection establishing a conservation board—
- (a) may be made only after consultation with the conservation board to which it relates (as well as the consultation required by subsection (6) or (7)), and
  - (b) in the case of an order revoking a previous order, may provide for the winding up of the board.
- (9) Subject to any order under subsection (10), where there is a variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the area of outstanding natural beauty for which that board is or is to be the conservation board shall be taken, as from the time when the variation takes effect, to be that area as varied.
- (10) Where provision is made for the variation of the area of an area of outstanding natural beauty for which there is or is to be a conservation board, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order make such transitional provision as he or it thinks fit with respect to—
- (a) any functions which, in relation to any area that becomes part of the area of outstanding natural beauty, are by virtue of the variation to become functions of that conservation board; and
  - (b) any functions which, in relation to any area that ceases to be part of the area of outstanding natural beauty, are by virtue of the variation to become functions of a person other than that conservation board.

#### Commencement Information

**I14** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(e\)](#); Pt. IV in force for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(g\)](#)

#### Marginal Citations

**M60** 1990 c. 8.

## 87 General purposes and powers. **E+W**

- (1) It is the duty of a conservation board, in the exercise of their functions, to have regard to—
- (a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and
  - (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty,
- but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).
- (2) A conservation board, while having regard to the purposes mentioned in subsection (1), shall seek to foster the economic and social well-being of local communities within the area of outstanding natural beauty, but without incurring significant expenditure in doing so, and shall for that purpose co-operate with local

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authorities and public bodies whose functions include the promotion of economic or social development within the area of outstanding natural beauty.

- (3) Sections 37 and 38 of the <sup>M61</sup>Countryside Act 1968 (general duties as to the protection of interests of the countryside and the avoidance of pollution) apply to conservation boards as they apply to local authorities.
- (4) The powers of a conservation board include power to do anything which, in the opinion of the board, is calculated to facilitate, or is conducive or incidental to—
- (a) the accomplishment of the purposes mentioned in subsection (1), or
  - (b) the carrying out of any functions conferred on it by virtue of any other provision of this Part or by virtue of any enactment not contained in this Part.
- (5) The powers conferred on a conservation board by subsection (4) do not include—
- (a) power to do anything in contravention of any restriction imposed by virtue of this Part in relation to any express power of the board, or
  - (b) 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 are not to 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.
- (6) Schedule 14 (which relates to the supplemental and incidental powers of conservation boards) has effect.
- (7) An order under section 86(1) may—
- (a) make further provision with respect to the supplemental and incidental powers of the conservation board to which it relates or the limits on those powers, including provision relating to the borrowing of money, and
  - (b) provide for any enactment which relates to or limits the supplemental or incidental powers or duties of local authorities or relates to the conduct of, or transactions by, local authorities to apply in relation to the conservation board with such modifications as may be specified in the order.

#### Commencement Information

**I15** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(e); Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(g)

#### Marginal Citations

**M61** 1968 c. 41.

## 88 Orders establishing conservation boards. **E+W**

- (1) Any power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) is exercisable by statutory instrument.
- (2) No order shall be made under section 86(1) by the Secretary of State unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

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- (3) A statutory instrument containing an order made under section 86(10) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) If a draft of an order made under section 86(1) by the Secretary of State would, apart from this section, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- (5) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make such incidental, supplemental, consequential and transitional provision as the person making the order thinks necessary or expedient.
- (6) The power of the Secretary of State or the National Assembly for Wales by an order under section 86(1) or (10) to make incidental, supplemental, consequential or transitional provision includes 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.
- (7) The provision that may be made for incidental, supplemental, consequential or transitional purposes in the case of any order under section 86(1) or (10) which—
  - (a) establishes a conservation board or provides for the winding up of such a board, 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,includes provision for the transfer of property, rights and liabilities from one person to another.
- (8) The power of the Secretary of State or the National Assembly for Wales under section 86(1) or (10) 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 conservation board, includes, in particular, power to provide—
  - (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 board or other 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.

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- (9) The power of the Secretary of State or the National Assembly for Wales to make an order under section 86(1) or (10) includes power to make different provision for different cases, including different provision for different areas or localities and for different boards.
- (10) In this section “enactment” includes an enactment contained in an Act passed after this Act.

#### Commencement Information

**I16** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(e); Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(g)

### 89 Management plans. **E+W**

- (1) Every conservation board shall, within two years after the date on which they are established, prepare and publish a plan which formulates their policy for the management of their area of outstanding natural beauty and for the carrying out of their functions in relation to it.
- (2) Subject to subsection (3), the relevant local authority in respect of an area of outstanding natural beauty shall, before the end of the period of three years beginning with whichever is the later of—
- (a) the commencement of this section, or
  - (b) the date on which the area is designated as an area of outstanding natural beauty,
- prepare and publish a plan which formulates their policy for the management of the area of outstanding natural beauty and for the carrying out of their functions in relation to it.
- (3) Subsection (2) does not apply where, before the end of the period mentioned in that subsection, a conservation board has been established for the area of outstanding natural beauty.
- (4) A plan prepared under subsection (1) or (2) is to be known as an area of outstanding natural beauty management plan.
- (5) A conservation board or relevant local authority may, instead of preparing a plan under subsection (1) or (2),—
- (a) review any plan for the management of the area of outstanding natural beauty which has been prepared before the commencement of this section—
    - (i) by a local authority, or
    - (ii) by a joint committee established by two or more local authorities, and
  - (b) adopt the plan as reviewed as their area of outstanding natural beauty management plan, and
  - (c) publish it under subsection (1) or (2) within the time required by that subsection.
- (6) A conservation board may, within six months of the date on which they are established, adopt an area of outstanding natural beauty management plan prepared for their area of

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- outstanding natural beauty by the relevant local authority as their area of outstanding natural beauty management plan, and publish it under subsection (1).
- (7) Subject to subsection (8), a conservation board shall review their area of outstanding natural beauty management plan before the end of the period of five years beginning with the date on which it was published and, after the first review, at intervals of not more than five years.
- (8) Where a conservation board have adopted a plan under subsection (6), the first review must take place before the end of the period of three years beginning with the date on which the plan was published.
- (9) Where an area of outstanding natural beauty management plan has been prepared under subsection (2), the relevant local authority shall review the plan before the end of the period of five years beginning with the date on which it was published and, after the first review, at intervals of not more than five years, but this subsection does not apply where a conservation board has been established for the area of outstanding natural beauty.
- (10) Where a conservation board or relevant local authority review any plan under this section, they shall—
- (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 they consider appropriate, and
  - (c) publish a report on the review specifying any amendments made.
- (11) In this section “relevant local authority” means—
- (a) in the case of an area of outstanding natural beauty which is wholly comprised in one principal area, the local authority for that area, and
  - (b) in any other case, the local authorities for all the principal areas wholly or partly comprised in the area of outstanding natural beauty, acting jointly.

#### Commencement Information

**I17** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(e); Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(g)

## 90 Supplementary provisions relating to management plans. **E+W**

- (1) A conservation board or relevant local authority which is proposing to publish, adopt or review any plan under section 89 shall—
- (a) give notice of the proposal—
    - (i) if the area of outstanding natural beauty is in England, to the Agency and English Nature,
    - (ii) if the area of outstanding natural beauty is in Wales, to the Council, and
    - (iii) in the case of a conservation board, to every local authority whose area is wholly or partly comprised in the area of outstanding natural beauty,

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- (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), and
  - (c) take into consideration any observations made by any such body.
- (2) A conservation board or relevant local authority shall send to the Secretary of State or the National Assembly for Wales a copy of every plan, notice or report which they are required to publish under section 89.
- (3) In this section “relevant local authority” has the same meaning as in section 89.

#### Commencement Information

**I18** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(e\)](#); Pt. IV in force for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(g\)](#)

## 91 Grants to conservation boards. **E+W**

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may make grants to a conservation board, of such amounts and on such terms and conditions as the Secretary of State or the Assembly thinks fit.
- (2) Before determining the amount of any grant which he proposes to make to a conservation board under this section, or the purpose for which the grant is to be made, the Secretary of State shall consult the Agency.
- (3) Before determining the amount of any grant which it proposes to make to a conservation board under this section, or the purpose for which the grant is to be made, the National Assembly for Wales shall consult the Council.

#### Commencement Information

**I19** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(e\)](#); Pt. IV in force for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(g\)](#)

## 92 Interpretation of Part IV and supplementary provision. **E+W**

- (1) In this Part, unless a contrary intention appears—
  - “the 1949 Act” means the National Parks and Access to the <sup>M62</sup>Countryside Act 1949;
  - “the Agency” means the Countryside Agency;
  - “area of outstanding natural beauty” has the meaning given by section 82(3);
  - “conservation board” has the meaning given by section 86(1);
  - “the Council” means the Countryside Council for Wales;
  - “liability”, in relation to the transfer of liabilities from one person to another, does not include criminal liability;
  - “local authority” means a principal council within the meaning of the <sup>M63</sup>Local Government Act 1972;



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“principal area” has the same meaning as in the <sup>M64</sup>Local Government Act 1972.

- (2) Any reference in this Part to the conservation of the natural beauty of an area includes a reference to the conservation of its flora, fauna and geological and physiographical features.
- (3) This Part does not apply in relation to any of the lands mentioned in section 112(1) of the 1949 Act (Epping Forest and Burnham Beeches).

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**Commencement Information**

**I20** Pt. IV (ss. 82-93) wholly in force at 1.5.2001; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, **art. 2(2)(e)**; Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, **art. 2(g)**

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**Marginal Citations**

**M62** 1949 c. 97.  
**M63** 1972 c. 70.  
**M64** 1972 c. 70.

**93 Consequential amendments and transitional provisions. E+W**

Schedule 15 (which contains consequential amendments and transitional provisions relating to areas of outstanding natural beauty) has effect.

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**Commencement Information**

**I21** Pt. IV (ss. 82-93) wholly in force; Pt. IV not in force at Royal Assent see s. 103(3); Pt. IV in force for E. at 1.4.2001 by S.I. 2001/114, **art. 2(2)(e)**; Pt. IV in force for W. at 1.5.2001 by S.I. 2001/1410, **art. 2(g)**

**PART V E+W**

MISCELLANEOUS AND SUPPLEMENTARY

*Local access forums*

**94 Local access forums. E+W**

- (1) The appointing authority for any area shall in accordance with regulations establish for that area, or for each part of it, an advisory body to be known as a local access forum.
- (2) For the purposes of this section—
  - (a) the local highway authority is the appointing authority for their area, except any part of it in a National Park, and
  - (b) the National Park authority for a National Park is the appointing authority for the National Park.

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- (3) A local access forum consists of members appointed by the appointing authority in accordance with regulations.
- (4) It is the function of a local access forum, as respects the area for which it is established, to advise—
- (a) the appointing authority,
  - (b) any body exercising functions under Part I in relation to land in that area,
  - (c) if the appointing authority is a National Park authority, the local highway authority for any part of that area, and
  - (d) such other bodies as may be prescribed,
- as to the improvement of public access to land in that area for the purposes of open-air recreation and the enjoyment of the area, and as to such other matters as may be prescribed.
- (5) The bodies mentioned in paragraphs (a) to (d) of subsection (4) shall have regard, in carrying out their functions, to any relevant advice given to them by a local access forum under that subsection or any other provision of this Act.
- (6) In carrying out its functions, a local access forum shall have regard to—
- (a) the needs of land management,
  - (b) the desirability of conserving the natural beauty of the area for which it is established, including the flora, fauna and geological and physiographical features of the area, and
  - (c) guidance given from time to time by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).
- (7) Subsection (1) does not apply to the council of a London borough or to any part of their area unless the council so resolve.
- (8) The Secretary of State, as respects England, or the National Assembly for Wales, as respects Wales, if satisfied that no local access forum is required for any area or part of any area, may direct that subsection (1) is not to apply in relation to that area or part.
- (9) Before giving a direction under subsection (8) as respects an area or part of an area, the Secretary of State or the National Assembly for Wales must consult the appointing authority for the area and the appropriate countryside body.
- (10) In this section—
- “appropriate countryside body” has the same meaning as in Part I;
  - “local highway authority” has the same meaning as in the 1980 Act;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made, as respects England, by the Secretary of State, and, as respects Wales, by the National Assembly for Wales.

## 95 Local access forums: supplementary. **E+W**

- (1) Regulations under section 94 may in particular include provision—
- (a) as to the appointment as members of a local access forum of persons appearing to the appointing authority to be representative of persons of any specified description or of any specified body;
  - (b) as to the establishment by appointing authorities of joint local access forums.

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- (2) The regulations must provide for the appointment of persons appearing to the appointing authority to be representative of—
  - (a) users of local rights of way or the right conferred by section 2(1);
  - (b) owners and occupiers of access land or land over which local rights of way subsist;
  - (c) any other interests especially relevant to the authority’s area.
- (3) In subsection (2)—
  - “access land” has the same meaning as in Part I;
  - “local rights of way” has the meaning given by section 60(5), but as if the references there to a local highway authority and their area were references to an appointing authority and their area.
- (4) The Secretary of State and the National Assembly for Wales, in making regulations under section 94 containing such provision as is mentioned in subsection (2), must have regard to the desirability of maintaining a reasonable balance between the number of members of any local access forum appointed in accordance with paragraph (a) and in accordance with paragraph (b) of subsection (2).
- (5) Regulations under section 94 may include such supplementary or incidental provision as appears to the Secretary of State or National Assembly for Wales (as the case may be) to be necessary or expedient.
- (6) For the purposes of section 94, the Broads are to be treated as a National Park and the Broads Authority as a National Park authority.
- (7) In subsection (6) “the Broads” has the same meaning as in the <sup>M65</sup>Norfolk and Suffolk Broads Act 1988.
- (8) Regulations under section 94 shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M65** 1988 c. 4.

*Management agreements*

**96 Management agreements. E+W**

In section 39 of the 1981 Act (management agreements with owners and occupiers of land)—

- (a) in subsection (1) the words “both in the countryside and” are omitted, and
- (b) at the end of subsection (5) (authorities which may enter into management agreements) there is inserted—
  - “(d) as respects any land in England, the Countryside Agency;
  - (e) as respects any land in Wales, the Countryside Council for Wales;
  - (f) as respects land in any area of outstanding natural beauty designated under section 82 of the Countryside and Rights

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of Way Act 2000 for which a conservation board has been established under section 86 of that Act, that board.”

#### Commencement Information

**I22** S. 96 wholly in force at 1.5.2001; s. 96 not in force at Royal Assent see s. 103(3); s. 96 in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(f); s. 96 in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(h)

### Norfolk and Suffolk Broads

#### 97 Duty of public bodies etc. regarding the Broads. **E+W**

In Part IV of the <sup>M66</sup>Norfolk and Suffolk Broads Act 1988, before section 18 there is inserted—

##### “17A General duty of public bodies etc.

- (1) In exercising or performing any functions in relation to, or so as to affect, land in the Broads, a relevant authority shall have regard to the purposes of—
  - (a) conserving and enhancing the natural beauty of the Broads;
  - (b) promoting the enjoyment of the Broads by the public; and
  - (c) protecting the interests of navigation.
- (2) The following are relevant authorities for the purposes of this section—
  - (a) any Minister of the Crown,
  - (b) any public body,
  - (c) any statutory undertaker,
  - (d) any person holding public office.
- (3) In subsection (2)—
 

“public body” includes

  - (a) a county council, district council or parish council;
  - (b) a joint planning board within the meaning of section 2 of the <sup>M67</sup>Town and Country Planning Act 1990;
  - (c) a joint committee appointed under section 102(1)(b) of the <sup>M68</sup>Local Government Act 1972;

“public office” means—

  - (a) an office under Her Majesty;
  - (b) an office created or continued in existence by a public general Act; or
  - (c) an office the remuneration in respect of which is paid out of money provided by Parliament.”

#### Commencement Information

**I23** S. 97 partly in force; s. 97 not in force at Royal Assent see s. 103(3); s. 97 in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(g)

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### Marginal Citations

**M66** 1988 c. 4.

**M67** 1990 c. 8.

**M68** 1972 c. 70.

## Town and village greens

### 98 Registration of town and village greens. **E+W**

(1) Section 22 of the <sup>M69</sup>Commons Registration Act 1965 (interpretation) is amended as follows.

(2) In subsection (1), in the definition of “town or village green” for the words after “lawful sports and pastimes” there is substituted “ or which falls within subsection (1A) of this section. ”

(3) After that subsection there is inserted—

“(1A) Land falls within this subsection if it is land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and either—

(a) continue to do so, or

(b) have ceased to do so for not more than such period as may be prescribed, or determined in accordance with prescribed provisions.

(1B) If regulations made for the purposes of paragraph (b) of subsection (1A) of this section provide for the period mentioned in that paragraph to come to an end unless prescribed steps are taken, the regulations may also require registration authorities to make available in accordance with the regulations, on payment of any prescribed fee, information relating to the taking of any such steps.”.

### Marginal Citations

**M69** 1965 c. 64.

## Supplementary

### 99 Wales. **E+W**

(1) In Schedule 1 to the <sup>M70</sup>National Assembly for Wales (Transfer of Functions) Order 1999—

(a) the reference to the 1980 Act is to be treated as referring to that Act as amended by this Act, and

(b) the reference to the 1981 Act is to be treated as referring to that Act as amended by this Act.

(2) In that Schedule, at the end of the list of Public General Acts there is inserted—

“Countryside and Rights of Way Act 2000 (c. 37) Schedule 11.

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”

- (3) Subsection (1), and the amendment made by subsection (2), do not affect the power to make further Orders varying or omitting the references mentioned in subsection (1) or the provision inserted by subsection (2).

#### Commencement Information

**I24** S. 99 partly in force; s. 99 not in force at Royal Assent see s. 103(3); s. 99 in force for W. at 30.1.2001 by S.I. 2001/203, art. 2

#### Marginal Citations

**M70** S.I. 1999/672.

### 100 Isles of Scilly. **E+W**

- (1) Subject to the provisions of any order under this section, the following provisions of this Act do not apply in relation to the Isles of Scilly—
- (a) Part I; and
  - (b) sections 58 to 61 and 71.
- (2) The Secretary of State may by order made by statutory instrument provide for the application of any of the provisions mentioned in subsection (1) in relation to the Isles of Scilly, subject to such modifications as may be specified in the order.
- (3) Part IV applies in relation to the Isles of Scilly subject to such modifications as may be specified in an order made by the Secretary of State by statutory instrument.
- (4) Before making an order under subsection (2) or (3), the Secretary of State shall consult the Council of the Isles of Scilly.
- (5) In section 344 of the 1980 Act (application to the Isles of Scilly)—
- (a) in subsection (2)(a) for “121” there is substituted “ 121E, 130A to 130D ”, and
  - (b) before “146” there is inserted “ 137ZA(4) ”.

#### Commencement Information

**I25** S. 100 partly in force; s. 100 not in force at Royal Assent see s. 103(3); s. 100 (except s. 100(3)(5)(a)) in force for E. at 30.1.2001 and s. 100(3) in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(1)(c)(2)(h)

PROSPECTIVE

### 101 Expenses. **E+W**

There shall be paid out of money provided by Parliament—

- <sup>F9</sup>(a) .....
- (b) any administrative expenses of a Minister of the Crown which are attributable to this Act,



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- (c) any other expenditure of a Minister of the Crown or government department which is attributable to this Act,
- (d) any increase attributable to this Act in the sums which under any other enactment are payable out of money so provided.

#### Textual Amendments

- F9** S. 101(a) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, Sch. 11 para. 169, **12**; S.I. 2006/2541, art. 2 (with Sch.)

## 102 Repeals. **E+W**

The enactments mentioned in Schedule 16 are repealed to the extent specified.

#### Commencement Information

- I26** S. 102 partly in force; s. 102 not in force at Royal Assent see s. 103(3); s. 102 in force for certain purposes for E. at 30.1.2001 and s. 102 in force for certain further purposes at 1.4.2001 by S.I. 2001/114, art. 2(1)(d)(2)(i); s. 102 in force for certain purposes for W. at 1.5.2001 by S.I. 2001/1410, art. 2(i)

## 103 Commencement. **E+W**

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
  - section 81(2) and (3),
  - this section, and
  - section 104.
- (2) The following provisions of this Act come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - section 1 and Schedule 1,
  - sections 3 to 11 and Schedule 3,
  - sections 15 to 17,
  - section 19,
  - Chapters II and III of Part I,
  - sections 40 to 45,
  - section 52,
  - sections 58 and 59,
  - sections 64 to 67 and Schedule 7 (apart from paragraphs 6 and 7 of that Schedule),
  - Part III (apart from section 81(2) and (3)), and Schedules 8, 9, 10, 11 and 12 and Parts III and IV of Schedule 16,
  - sections 94 and 95, and
  - section 98.

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- (3) The remaining provisions of this Act come into force on such day as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order made by statutory instrument appoint.
- (4) Different days may be appointed under subsection (3) for different purposes or different areas.
- (5) An order under subsection (3) may contain such transitional provisions or savings (including provisions modifying the effect of any enactment) as appear to the Secretary of State or the National Assembly for Wales (as the case may be) to be necessary or expedient in connection with any provision brought into force by the order.

#### Subordinate Legislation Made

- P1** S. 103(3)(4) power partly exercised: 1.11.2002 appointed for specified provisions by [S.I. 2002/2615, art. 2](#)  
 S. 103(3)(4) power partly exercised: 21.11.2002 appointed for specified provisions by [S.I. 2002/2833, art. 2](#)
- P2** S. 103(3) power partly exercised: 30.1.2001 appointed for specified provision by [S.I. 2001/203, art. 2](#)  
 S. 103(3) power partly exercised: different days appointed for specified provisions and purposes by [S.I. 2001/114, arts. 2, 3](#)  
 S. 103(3) power partly exercised: 1.5.2001 appointed for specified provisions and purposes by [S.I. 2001/1410, arts. 2, 3](#)

## 104 Interpretation, short title and extent. E+W

- (1) In this Act—
  - “the 1980 Act” means the <sup>M71</sup>Highways Act 1980;
  - “the 1981 Act” means the <sup>M72</sup>Wildlife and Countryside Act 1981;
  - “local access forum” means a local access forum established under section 94.
- (2) Any reference in this Act, or in any enactment amended by this Act, to the commencement of any provision of this Act is, in relation to any area, a reference to the commencement of that provision in relation to that area.
- (3) This Act may be cited as the Countryside and Rights of Way Act 2000.
- (4) Subject to the following provisions of this section, this Act extends to England and Wales only.
- (5) The following provisions extend also to Scotland—
  - sections 67 and 76;
  - in Schedule 7, paragraphs 3 and 5 to 7;
  - in Schedule 10, paragraph 2.
- (6) Paragraph 1 of Schedule 10 extends to Scotland only.
- (7) The provisions of Schedule 8 and of so much of Part III of Schedule 16 as relates to the enactments referred to in paragraphs 2 and 3 of Schedule 8 have the same extent as the enactments which they amend or repeal.

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**Marginal Citations**

**M71** 1980 c. 66.

**M72** 1981 c. 69.

**Status:**

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**Changes to legislation:**

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