

# **Natural Environment and Rural Communities Act 2006**

## **2006 CHAPTER 16**

*An Act to make provision about bodies concerned with the natural environment and rural communities; to make provision in connection with wildlife, sites of special scientific interest, National Parks and the Broads; to amend the law relating to rights of way; to make provision as to the Inland Waterways Amenity Advisory Council; to provide for flexible administrative arrangements in connection with functions relating to the environment and rural affairs and certain other functions; and for connected purposes.*

[30th March 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **Part 1 Natural England and the Commission for Rural Communities**

#### **Chapter 1 Natural England**

##### *Constitution and general purpose*

###### **1 Constitution**

- (1) There is to be a body known as Natural England.
- (2) Natural England is to have the functions conferred on it by or under this Act or any other enactment.
- (3) Except where otherwise expressly provided, Natural England's functions are exercisable in relation to England [(including, where the context requires, the territorial sea adjacent to England)] only.

[(3A) An order or Order in Council made—

- (a) under section 158(3) of the Government of Wales Act 2006 for the purposes of determining which waters are treated as being adjacent to Wales, or
- (b) under section 126(2) of the Scotland Act 1998 for the purposes of determining which waters are treated as being adjacent to Scotland,

applies for the purposes of this section as it applies for the purposes of the Act under which it is made.]

(4) English Nature and the Countryside Agency are dissolved and their functions are (subject to the provisions of this Act) transferred to Natural England.

(5) Schedule 1 contains provisions about the constitution of Natural England and related matters.

## **NOTES**

### **Initial Commencement**

#### *To be appointed*

To be appointed: see s 107(1).

### **Appointment**

Sub-ss (1)–(3), (5): Appointment: 2 May 2006: see SI 2006/1176, art 4.

Sub-s (4): Appointment: 1 October 2006: see SI 2006/2541, art 2.

### **Amendment**

Sub-s (3): words “(including, where the context requires, the territorial sea adjacent to England)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 311(1), (2).

Date in force: 12 January 2010: see SI 2009/3345, art 2, Schedule, para 25.

Sub-s (3A): inserted by the Marine and Coastal Access Act 2009, s 311(1), (3).

Date in force: 12 January 2010: see SI 2009/3345, art 2, Schedule, para 25.

## **2 General purpose**

(1) Natural England's general purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.

(2) Natural England's general purpose includes—

- (a) promoting nature conservation and protecting biodiversity,
- (b) conserving and enhancing the landscape,
- (c) securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment,
- (d) promoting access to the countryside and open spaces and encouraging open-air recreation, and
- (e) contributing in other ways to social and economic well-being through management of the natural environment.

(3) The purpose in subsection (2)(e) may, in particular, be carried out by working with local communities.

## **NOTES**

### **Initial Commencement**

#### *To be appointed*

To be appointed: see s 107(1).

### **Appointment**

Appointment: 2 May 2006: see SI 2006/1176, art 4.

#### *Advisory functions*

## **3 Review and research**

(1) Natural England must keep under review all matters relating to its general purpose.

(2) When reviewing any matter, Natural England must consult such bodies as appear to it to have an interest in the matter.

- (3) Natural England may—
- (a) undertake research into any matter relating to its general purpose, or
  - (b) commission or support (by financial means or otherwise) research into any such matter.
- (4) In discharging its functions in monitoring nature conservation, carrying out research or analysing the resultant information, Natural England must have regard to common standards established under section 34(2)(c).

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 4 Advice

- (1) Natural England must, at the request of a public authority, give advice to that authority on any matter relating to Natural England's general purpose.
- (2) Subsection (3) applies if Natural England has reason to believe that advice given under subsection (1) has been rejected.
- (3) At the request of Natural England, the public authority must inform Natural England in writing whether the advice has been rejected and, if so, why.
- (4) Natural England may give advice to any person on any matter relating to its general purpose—
- (a) at the request of that person, or
  - (b) if Natural England thinks it appropriate to do so, on its own initiative.
- (5) The advice that may be given under this section includes, in relation to any power to make byelaws, recommendations as to the matters in respect of which byelaws should be made.

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

#### *General implementation powers*

## 5 Carrying out proposals etc

Natural England may—

- (a) carry out proposals which appear to it to further its general purpose, or
- (b) assist in, coordinate or promote the carrying out of such proposals by others.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(1).

### **Appointment**

Appointment: 2 May 2006: see SI 2006/1176, art 4.

## **6 Financial and other assistance**

(1) Natural England may give financial assistance to any person, if doing so appears to it to further its general purpose.

(2) Financial assistance under this section may be given in any form, and may in particular be given by way of a grant, a loan or a guarantee.

(3) Financial assistance under this section may be given subject to conditions, including (in the case of a grant) conditions for repayment in specified circumstances.

(4) Natural England may, if doing so appears to it to further its general purpose, provide assistance to any person by making available goods or equipment free of charge or at a reduced cost.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(1).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **7 Management agreements**

(1) Natural England may make an agreement (a “management agreement”) with a person who has an interest in land about the management or use of the land, if doing so appears to it to further its general purpose.

(2) A management agreement may, in particular—

- (a) impose on the person who has an interest in the land obligations in respect of the use of the land;
- (b) impose on the person who has an interest in the land restrictions on the exercise of rights over the land;
- (c) provide for the carrying out of such work as may be expedient for the purposes of the agreement by any person or persons;
- (d) provide for any matter for which a management scheme relating to a site of special scientific interest provides (or could provide);
- (e) provide for the making of payments by either party to the other party or to any other person;
- (f) contain incidental and consequential provision.

(3) A management agreement is, unless the agreement otherwise provides—

- (a) binding on persons deriving title under or from the person with whom Natural England makes the agreement, and
  - (b) enforceable by Natural England against those persons.
- (4) Schedule 2 to the Forestry Act 1967 (c 10) (power for tenant for life and others to enter into forestry dedication covenants) applies to management agreements as it applies to forestry dedication covenants.
- (5) 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 at any time while it is the subject of a management agreement is to be disregarded.
- (6) “Interest in land” has the same meaning as in the National Parks and Access to the Countryside Act 1949 (c 97).
- (7) “Management scheme” and “site of special scientific interest” have the same meaning as in Part 2 of the Wildlife and Countryside Act 1981 (c 69).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 8 Experimental schemes

- (1) Natural England may—
  - (a) make and carry out experimental schemes designed to establish ways in which its general purpose might be furthered, or
  - (b) promote the making and carrying out of such schemes.
- (2) A scheme is experimental if it involves—
  - (a) the development or application of new methods, concepts or techniques, or
  - (b) the testing or further development of existing methods, concepts or techniques.
- (3) Before making an experimental scheme, Natural England must consult such persons as appear to it to have an interest in the subject matter of the scheme.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

#### *Other functions*

## 9 Information services etc

- (1) Natural England may—
- (a) publish documents or provide information about any matter relating to its general purpose, or
  - (b) assist in the provision of such publications or information.
- (2) Nothing in any other enactment imposing a duty or conferring a power on Natural England—
- (a) to publish or assist in the publication of documents of a particular kind, or
  - (b) to provide or assist in the provision of information of a particular kind,

is to be read as limiting the power conferred by subsection (1).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 2 May 2006: see SI 2006/1176, art 4.

## 10 Consultancy services and training

- (1) Natural England may, if the conditions in subsection (2) are met, place the services of its officers or employees, or of any consultants it has engaged, at the disposal of any person.
- (2) The conditions are that—
- (a) the person has requested Natural England to act under subsection (1), and
  - (b) Natural England thinks that the request concerns a matter relating to its general purpose and presents special problems or requires special professional or technical skill.
- (3) Natural England may provide training in relation to any matters in respect of which it has functions.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 11 Power to charge for services and licences

- (1) Natural England may, with the consent of the Secretary of State, make such charges for its services as appear to it to be reasonable.
- (2) “Services” includes, in particular, anything done under—
- (a) section 4(1) or (4)(a) (advice);
  - (b) section 9 (information services etc);

(c) section 10 (consultancy services).

(3) The Secretary of State may by order make provision requiring charges to be paid in respect of, and for the purpose of meeting the cost of, issuing licences to which this subsection applies.

(4) Subsection (3) applies to licences issued by Natural England under or by virtue of any enactment, other than licences for which charges are payable apart from this section.

(5) An order under subsection (3) may make provision as to—

- (a) exemptions from or reductions in charges;
- (b) remission of charges in whole or in part.

(6) The power to make an order under subsection (3) is exercisable by statutory instrument.

(7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Sub-ss (1), (2)(b): Appointment: 2 May 2006: see SI 2006/1176, art 4.

Sub-ss (2)(a), (c), (3)–(7): Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

## 12 Power to bring criminal proceedings

(1) Natural England may institute criminal proceedings.

(2) A person who is authorised by Natural England to prosecute on its behalf in proceedings before a magistrates' court is entitled to prosecute in such proceedings . . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Amendment

Sub-s (2): words omitted repealed by the Legal Services Act 2007, ss 208(1), 210, Sch 21, para 153, Sch 23.

Date in force: 1 January 2010: see SI 2009/3250, art 2(h).

## 13 Incidental powers

(1) Natural England may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular, Natural England may—

- (a) enter into agreements;
- (b) acquire or dispose of property;
- (c) borrow money;
- (d) subject to the approval of the Secretary of State, form bodies corporate or acquire or dispose of interests in bodies corporate;
- (e) accept gifts;
- (f) invest money.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 2 May 2006: see SI 2006/1176, art 4.

#### *Powers of Secretary of State*

## 14 Grants

- (1) The Secretary of State may make grants to Natural England of such amounts as the Secretary of State thinks fit.
- (2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 2 May 2006: see SI 2006/1176, art 4.

## 15 Guidance

- (1) The Secretary of State must give Natural England guidance as to the exercise of any functions of Natural England that relate to or affect regional planning and associated matters.
- (2) The Secretary of State may give Natural England guidance as to the exercise of its other functions.
- (3) Before giving guidance under this section the Secretary of State must consult—
  - (a) Natural England,
  - (b) the Environment Agency, and
  - (c) such other persons as the Secretary of State thinks appropriate.
- (4) The Secretary of State must publish any guidance given under this section as soon as is reasonably practicable after giving the guidance.

- (5) The power to give guidance under this section includes power to vary or revoke it.
- (6) In discharging its functions, Natural England must have regard to guidance given under this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Sub-s (1): Appointment: 1 October 2006: see SI 2006/2541, art 2.

Sub-ss (2)–(6): Appointment: 2 May 2006: see SI 2006/1176, art 4.

## 16 Directions

- (1) The Secretary of State may give Natural England general or specific directions as to the exercise of its functions.
- (2) Subsection (1) does not apply to functions of Natural England that are exercisable through the Joint Nature Conservation Committee.
- (3) The Secretary of State must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (4) The power to give directions under this section includes power to vary or revoke the directions.
- (5) Natural England must comply with any directions given under this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 2 May 2006: see SI 2006/1176, art 4.

## Chapter 2 Commission for Rural Communities

### *The Commission and its general purpose*

## 17 Commission for Rural Communities

- (1) There is to be a body known as the Commission for Rural Communities.
- (2) Schedule 2 contains provisions about the constitution of the Commission and related matters.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **18 Commission's general purpose**

- (1) The Commission's general purpose is to promote—
  - (a) awareness among relevant persons and the public of rural needs, and
  - (b) meeting rural needs in ways that contribute to sustainable development.
- (2) For the purposes of this Chapter "relevant person" means—
  - (a) a public authority, or
  - (b) a body which appears to the Commission to be concerned with any aspect of rural needs.
- (3) For the purposes of this Chapter "rural needs" means the social and economic needs of persons in rural areas in England.
- (4) In determining the social and economic needs of persons in those areas, particular regard is to be had to the needs of—
  - (a) persons suffering from social disadvantage, and
  - (b) areas suffering from economic under-performance.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 107(1).

#### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

##### *Functions*

## **19 Representation, advice and monitoring**

The Commission must take such steps as appear to it to be appropriate for—

- (a) representing rural needs to relevant persons,
- (b) providing relevant persons with information and advice about issues connected with rural needs or ways of meeting them, and
- (c) monitoring, and making reports about, the way in which relevant persons' policies are developed, adopted and implemented (by rural proofing or otherwise) and the extent to which those policies are meeting rural needs.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 107(1).

#### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **20 Research**

The Commission may—

- (a) undertake research into any matter relating to its general purpose, or
- (b) commission or support (by financial means or otherwise) research into any such matter.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 107(1).

#### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **21 Information services etc**

The Commission may—

- (a) publish documents or provide information about any matter relating to its general purpose, or
- (b) assist in the provision of such publications or information.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 107(1).

#### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **22 Power to charge for services**

- (1) The Commission may, with the consent of the Secretary of State, make such charges for its services as appear to it to be reasonable.
- (2) “Services” includes, in particular, anything done under section 21.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 107(1).

#### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **23 Incidental powers**

- (1) The Commission may do anything that appears to it to be conducive or incidental to the discharge of its functions.
- (2) In particular, the Commission may—
  - (a) enter into agreements;

- (b) acquire or dispose of property;
- (c) borrow money;
- (d) accept gifts;
- (e) invest money.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

#### *Powers of Secretary of State*

## 24 Grants

- (1) The Secretary of State may make grants to the Commission of such amounts as the Secretary of State thinks fit.
- (2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 25 Directions

- (1) The Secretary of State may give the Commission general or specific directions as to the exercise of its functions.
- (2) The Secretary of State must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (3) The power to give directions under this section includes power to vary or revoke the directions.
- (4) The Commission must comply with any directions given under this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

## Chapter 3

## Supplementary

### *Transfer schemes etc*

#### **26 Transfers on dissolution of English Nature and Countryside Agency**

(1) The power conferred by subsection (2) is exercisable in connection with the dissolution of English Nature and the Countryside Agency.

(2) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities of English Nature or the Countryside Agency to—

- (a) Natural England,
- (b) the Commission,
- (c) a regional development agency, or
- (d) a Minister of the Crown.

(3) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

(4) A regional development agency is an agency established under section 1 of the Regional Development Agencies Act 1998 (c 45).

#### **NOTES**

##### **Initial Commencement**

###### ***To be appointed***

To be appointed: see s 107(1).

##### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

#### **27 Continuing powers to make transfer schemes**

(1) The powers conferred by this section are exercisable in connection with the efficient management for public purposes of any property, rights or liabilities.

(2) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a Minister of the Crown to—

- (a) Natural England,
- (b) the Commission, or
- (c) a person acting on behalf of Natural England and the Commission.

(3) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of—

- (a) Natural England, or
- (b) the Commission,

to a Minister of the Crown.

(4) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

## 28 Transfer schemes: supplementary

(1) Schedule 3 contains further provisions relating to the making of schemes under sections 26 and 27.

(2) In sections 26 and 27 and Schedule 3—

“designated” in relation to a scheme, means specified in or determined in accordance with the scheme;

“the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

## 29 Interim arrangements

The Secretary of State may by written notice require English Nature or the Countryside Agency to provide staff, premises and other facilities on a temporary basis to—

- (a) Natural England, or
- (b) the Commission.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 2 May 2006: see SI 2006/1176, art 4.

### *Interpretation*

## 30 Interpretation

(1) In this Part—

“the Commission” means the Commission for Rural Communities;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c 26);

“nature conservation” means the conservation of flora, fauna or geological or physiographical features;

“research” includes inquiries and investigations.

(2) For the purposes of this Part, a public authority is any of the following—

- (a) a Minister of the Crown;
- (b) a public body (including a government department, a local authority and a local planning authority);
- (c) a person holding an office—
  - (i) under the Crown,
  - (ii) created or continued in existence by a public general Act, or
  - (iii) the remuneration in respect of which is paid out of money provided by Parliament;

(d) a statutory undertaker.

(3) In subsection (2)—

“local authority” means a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

“local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (c 8);

“statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(1).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## Part 2 Nature Conservation in the UK

*Joint Nature Conservation Committee etc*

### 31 Joint Nature Conservation Committee

The Joint Nature Conservation Committee—

- (a) is to continue in existence, but
- (b) is to be re-constituted in accordance with Schedule 4.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(2).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **32 UK conservation bodies**

(1) In this Part “the UK conservation bodies” means—

- (a) for England, Natural England;
- (b) for Wales, the Countryside Council for Wales;
- (c) for Scotland, Scottish Natural Heritage;
- (d) for Northern Ireland, the Council for Nature Conservation and the Countryside.

(2) In this Part “the GB conservation bodies” means the bodies mentioned in subsection (1)(a) to (c).

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(2).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## **33 Purpose of functions under this Part**

(1) The UK conservation bodies and the joint committee have the functions conferred on them by this Part for the purposes of—

- (a) nature conservation, and
- (b) fostering the understanding of nature conservation.

(2) Each of them must, in discharging their functions under this Part, have regard to—

- (a) actual or possible ecological changes, and
- (b) the desirability of contributing to sustainable development.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(2).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

#### *Coordinated functions*

## **34 Functions of national or international significance**

(1) The UK conservation bodies have the functions described in subsection (2), but those functions may be discharged only through the joint committee.

(2) The functions are—

- (a) providing advice to the appropriate authorities on the development and implementation of policies for or affecting any nature conservation matter which—
  - (i) arises throughout the United Kingdom and raises issues common to England, Wales, Scotland and Northern Ireland,
  - (ii) arises in one or more (but not all) of those places and affects the interests of the United Kingdom as a whole, or
  - (iii) arises outside the United Kingdom;
- (b) providing advice to any persons and disseminating knowledge about any matter falling within paragraph (a)(i), (ii) or (iii);
- (c) establishing common standards throughout the United Kingdom for the monitoring of nature conservation and for research into nature conservation and the analysis of the resulting information;
- (d) commissioning or supporting (whether by financial means or otherwise) research which the joint committee thinks is relevant to any matter mentioned in paragraphs (a) to (c).

(3) “The appropriate authorities” means—

- (a) the Secretary of State (or any other Minister of the Crown),
- (b) the National Assembly for Wales,
- (c) the Scottish Ministers, and
- (d) the relevant Northern Ireland department.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 35 Advice from joint committee to UK conservation body

(1) The joint committee may give advice or information to any of the UK conservation bodies on any matter which—

- (a) is connected with the functions of that UK conservation body, and
- (b) in the opinion of the joint committee—
  - (i) arises throughout the United Kingdom and raises issues common to England, Wales, Scotland and Northern Ireland,
  - (ii) arises in one or more (but not all) of those places and affects the

interests of the United Kingdom as a whole, or  
(iii) arises outside the United Kingdom.

(2) In discharging their functions relating to nature conservation, the UK conservation bodies must have regard to any advice given to them under subsection (1).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 36 GB functions with respect to wildlife

(1) The GB conservation bodies have the functions described in subsection (2), but those functions may be discharged only through the joint committee.

(2) The functions are—

- (a) those under sections 22(3) and 24(1) of the 1981 Act (listing of protected animals and plants);
- (b) commissioning or supporting (whether by financial means or otherwise) research which the joint committee thinks is relevant to those functions.

(3) “The 1981 Act” means the Wildlife and Countryside Act 1981 (c 69).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 37 UK conservation bodies: incidental powers for UK purposes, etc

(1) Each of the UK conservation bodies may do anything that appears to it to be conducive or incidental to its functions under this Part.

(2) In particular each of them may for the purposes of its functions under this Part—

- (a) acquire or dispose of property;
- (b) accept gifts;
- (c) undertake research directly related to those functions if it appears appropriate to do so.

(3) Nothing in any of the enactments concerning the functions of the UK conservation bodies prevents any of them—

- (a) if requested to do so by any of the others, from giving advice or information to the other, or

- (b) from giving advice or information to the joint committee.
- (4) “Enactment” includes an Act of the Scottish Parliament and Northern Ireland legislation.

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

#### *Directions*

### 38 Directions

- (1) The Secretary of State may give the joint committee general or specific directions as to the discharge of any function under section 34 or 35 (but not as to the discharge of a function under section 36).
- (2) Before giving any directions under this section, the Secretary of State must consult the National Assembly for Wales, the Scottish Ministers and the relevant Northern Ireland department.
- (3) The Secretary of State must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (4) The power to give directions under this section includes power to vary or revoke the directions.
- (5) The joint committee must comply with any directions given under this section.

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

#### *Interpretation*

### 39 Interpretation

In this Part—

- “the joint committee” means the Joint Nature Conservation Committee;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c 26);
- “nature conservation” means the conservation of flora, fauna or geological or physiographical features;
- “the relevant Northern Ireland department” means the Department of the Environment in Northern Ireland;

“research” includes inquiries and investigations.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## Part 3 Wildlife etc

### *Biodiversity*

#### **40 Duty to conserve biodiversity**

(1) Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

(2) In complying with subsection (1), a Minister of the Crown, government department or the National Assembly for Wales must in particular have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.

(3) Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

(4) “Public authority” means any of the following—

- (a) a Minister of the Crown;
- (b) the National Assembly for Wales;
- (c) a public body (including a government department, a local authority and a local planning authority);
- (d) a person holding an office—
  - (i) under the Crown,
  - (ii) created or continued in existence by a public general Act, or
  - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
- (e) a statutory undertaker.

(5) In this section—

“local authority” means—

- (a) in relation to England, a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council, a county borough council or a community council;

“local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (c 8);

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c 26);

“statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 41 Biodiversity lists and action (England)

(1) The Secretary of State must, as respects England, publish a list of the living organisms and types of habitat which in the Secretary of State’s opinion are of principal importance for the purpose of conserving biodiversity.

(2) Before publishing any list the Secretary of State must consult Natural England as to the living organisms or types of habitat to be included in the list.

(3) Without prejudice to section 40(1) and (2), the Secretary of State must—

- (a) take such steps as appear to the Secretary of State to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published under this section, or
- (b) promote the taking by others of such steps.

(4) The Secretary of State must, in consultation with Natural England—

- (a) keep under review any list published under this section,
- (b) make such revisions of any such list as appear to the Secretary of State appropriate, and
- (c) publish any list so revised as soon as is reasonably practicable after revising it.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 42 Biodiversity lists and action (Wales)

(1) The National Assembly for Wales must, as respects Wales, publish a list of the living organisms and types of habitat which in the Assembly’s opinion are of principal importance for the

purpose of conserving biodiversity.

(2) Before publishing any list the Assembly must consult the Countryside Council for Wales as to the living organisms or types of habitat to be included in the list.

(3) Without prejudice to section 40(1) and (2), the Assembly must—

- (a) take such steps as appear to the Assembly to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published under this section, or
- (b) promote the taking by others of such steps.

(4) The Assembly must, in consultation with the Countryside Council for Wales—

- (a) keep under review any list published under this section,
- (b) make such revisions of any such list as appear to the Assembly appropriate, and
- (c) publish any list so revised as soon as is reasonably practicable after revising it.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

#### *Pesticides harmful to wildlife*

### 43 Possession of pesticides harmful to wildlife

(1) A person is guilty of an offence if he has in his possession a pesticide containing an ingredient that is prescribed for the purposes of this section by an order made by the Secretary of State.

(2) The Secretary of State may not make an order under subsection (1) unless he is satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm.

(3) It is a defence for a person charged with an offence under this section to prove that his possession of the pesticide was for the purposes of doing anything in accordance with—

- (a) provision made by or under the Poisons Act 1972 (c 66);
- (b) regulations made under section 16(2) of the Food and Environment Protection Act 1985 (c 48);
- (c) the Biocidal Products Regulations 2001 (SI 2001/880) or any regulations replacing those regulations;
- (d) the Plant Protection Products Regulations 2005 (SI 2005/1435) or any regulations replacing those regulations.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the

standard scale (or both).

(5) The court by which a person is convicted of an offence under this section may order the forfeiture of the pesticide in respect of which the offence was committed.

(6) The power to make an order under subsection (1) is exercisable by statutory instrument.

(7) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) The Secretary of State must take such steps as are reasonably practicable to bring information about the effect of an order under subsection (1) to the attention of persons likely to be affected by the order.

(9) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c 44), the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Extent

This section applies to England and Wales only: see s 108(1).

## 44 Enforcement powers in connection with pesticides

(1) An inspector may—

- (a) enter any premises if he has reasonable grounds to suspect that he may find there evidence that an offence is being committed under section 43,
- (b) require any person whom he reasonably believes has information about the formulation, effects or use of any substance found on the premises to give him that information, and
- (c) seize any substance found on the premises, if he has reasonable grounds for believing that it is evidence of an offence under section 43.

(2) “Inspector” means—

- (a) a person authorised in writing by the Secretary of State to exercise the powers under this section in relation to England;
- (b) a person authorised in writing by the National Assembly for Wales to exercise the powers under this section in relation to Wales.

(3) An authorisation under subsection (2) is subject to any conditions or limitations specified in it.

(4) Schedule 2 to the Food and Environment Protection Act 1985 (officers and their powers), other than paragraph 2A(1)(b) of that Schedule, has effect with respect to inspectors as it has

effect with respect to persons authorised to enforce Part 3 of that Act.

(5) Subsections (6) and (7) apply where an inspector seizes a substance under subsection (1)(c).

(6) The inspector must give to a person on the premises, or affix conspicuously to some object on the premises, a notice stating—

- (a) what he has seized and the ground for seizing it, and
- (b) the address for service for any claim for the return of the substance.

(7) The inspector—

- (a) may retain the substance for so long as is reasonably necessary for the purposes of any investigation or proceedings in respect of an offence under section 43;
- (b) subject to any order for forfeiture under section 43(5) or any claim made within the relevant period by a person entitled to the return of the substance, may retain the substance or, after the relevant period, destroy or otherwise dispose of it.

(8) “The relevant period” means the period ending 28 days after—

- (a) any proceedings in respect of an offence under section 43 are finally determined, or
- (b) if no such proceedings are brought, the time for bringing such proceedings expires.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 45 Codes of practice

(1) The Secretary of State may—

- (a) issue a code of practice in connection with any of the provisions of section 44 or Schedule 2 to the Food and Environment Protection Act 1985 (c 48) as applied by section 44(4), and
- (b) revise or replace such a code.

(2) An inspector must have regard to any relevant provision of a code when discharging any function under any provision mentioned in subsection (1)(a).

(3) But an inspector’s failure to have regard to any provision of a code does not make him liable to criminal or civil proceedings.

(4) A code—

- (a) is admissible in evidence in any proceedings, and

- (b) must be taken into account by a court in any case in which it appears to the court to be relevant.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 46 Interpretation

- (1) This section has effect for the interpretation of sections 43 and 44.
- (2) “Pesticide” means—
  - (a) a pesticide as defined by section 16(15) of the Food and Environment Protection Act 1985;
  - (b) anything to which Part 3 of the 1985 Act applies (by virtue of section 16(16) of the Act) as if it were a pesticide.
- (3) “Wild bird” and “wild animal” have the same meaning as in Part 1 of the Wildlife and Countryside Act 1981 (c 69).
- (4) “Premises” includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

### *Protection of birds*

## 47 Protection for nests of certain birds which re-use their nests

- (1) Amend the Wildlife and Countryside Act 1981 (c 69) as follows.
- (2) In section 1 (protection of wild birds, their nests and eggs), in subsection (1), after paragraph (a) insert—

“(aa) takes, damages or destroys the nest of a wild bird included in Schedule ZA1;”.
- (3) At the beginning of the Schedules insert—

## “SCHEDULE ZA1 BIRDS WHICH RE-USE THEIR NESTS

[FTB

<i>Common name</i>	<i>Scientific name</i>
Eagle, Golden	Aquila chrysaetos
Eagle, White-tailed	Haliaetus albicilla
Osprey	Pandion haliaetus

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.”.

(4) In—

- (a) section 4 (exceptions to sections 1 and 3), in subsection (1)(c), and
- (b) section 7 (registration etc of certain captive birds), in subsection (3A)(a)(i) and (c)(i),

after “Schedule” insert “ZA1 or”.

(5) In section 22 (power to vary Schedules), in subsection (1), for “Schedules 1 to 4” substitute “Schedules ZA1 to 4”.

#### NOTES

##### Initial Commencement

**To be appointed**

To be appointed: see s 107(3)(b).

##### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

##### Extent

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

#### 48 Birds released into the wild as part of re-population programme

(1) In section 1 of the 1981 Act (protection of wild birds, their nests and eggs), for subsection (6) substitute—

“(6) For the purposes of this section the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless it has been lawfully released into the wild as part of a re-population or re-introduction programme.

(6A) “Re-population” and “re-introduction” have the same meaning as in the Directive of the Council of the European Communities dated 2nd April 1979 (No 1979/409/EEC) on the conservation of wild birds.”.

(2) In section 6 of the 1981 Act (sale etc of live or dead wild birds, eggs etc), for subsection (5) substitute—

“(5) Any reference in this section to any bird included in Part 1 of Schedule 3 is a reference to any bird included in that Part which—

- (a) was bred in captivity,
- (b) has been ringed or marked in accordance with regulations made by the Secretary of State, and
- (c) has not been lawfully released into the wild as part of a re-population or re-introduction programme.

(5A) “Re-population” and “re-introduction” have the same meaning as in the Directive of the Council of the European Communities dated 2nd April 1979 (No 1979/409/EEC) on the conservation of wild birds.

(5B) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.”.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(3)(b).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### **Extent**

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

## **49 Registration etc of certain captive birds**

In section 7 of the 1981 Act (registration etc of certain captive birds), in subsection (3A), after paragraph (c) insert—

“(ca) any offence under subsection (1);”.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(3)(b).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### **Extent**

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

### *Invasive non-native species*

## **50 Sale etc of invasive non-native species**

After section 14 of the 1981 Act insert—

### **“14ZA Sale etc of invasive non-native species**

(1) Subject to the provisions of this Part, a person is guilty of an offence if he sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale—

- (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (2) Subject to the provisions of this Part, a person is guilty of an offence if he publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell—
- (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (3) This section applies to an animal or plant which—
- (a) is within section 14(1) or (2) (animals and plants which must not be released etc into the wild),
  - (b) is of a description prescribed for the purposes of this section by an order made by the Secretary of State, and
  - (c) is a live animal or live plant.
- (4) An order under subsection (3) may be made in relation to a particular area or a particular time of the year.
- (5) Subsections (3) and (4) of section 14 (defence of due diligence etc) apply to an offence under this section as they apply to an offence under that section.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Extent

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

## 51 Codes of practice in connection with invasive non-native species

After section 14ZA of the 1981 Act insert—

## “14ZB Codes of practice in connection with invasive non-native species

- (1) The Secretary of State may issue or approve a code of practice relating to—
- (a) animals which are not ordinarily resident in and are not regular visitors to Great Britain in a wild state,
  - (b) animals or plants included in Schedule 9, or
  - (c) any description of animals or plants mentioned in paragraph (a) or (b).
- (2) The Secretary of State may revise or replace a code or approve its revision or replacement.

(3) The Secretary of State must ensure that a code is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it.

(4) A person's failure to comply with a provision of a code does not make him liable to criminal or civil proceedings.

(5) A code—

(a) is admissible in evidence in any proceedings, and

(b) must be taken into account by a court in any case in which it appears to the court to be relevant.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

*Enforcement etc of provisions relating to wildlife*

## 52 Enforcement powers in connection with wildlife

Schedule 5 contains amendments relating to enforcement powers in connection with wildlife.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

## 53 Wildlife offences: time limits for proceedings

Schedule 6 contains provisions extending the time limit for summary proceedings for certain offences relating to wildlife.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

## 54 Application of Part 1 of 1981 Act to Crown

(1) In the 1981 Act, before section 67 insert—

## **“66A Application of Part 1 to Crown**

- (1) Subject to subsections (2) to (5), Part 1 and regulations and orders made under it bind the Crown.
- (2) No contravention by the Crown of any provision of Part 1 makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), Part 1 applies to persons in the public service of the Crown as it applies to other persons.
- (4) But the powers conferred by sections 18A to 19XA are not exercisable in relation to premises occupied by the Crown.
- (5) Nothing in this Part affects Her Majesty in her private capacity.
- (6) Subsection (5) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (c 44) (meaning of Her Majesty in her private capacity) were contained in this Act.”.
- (2) For the heading to section 67, substitute “Application of Parts 2 and 3 to Crown land”.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(3)(b).

### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### **Extent**

This section applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

## **Part 4** **Sites of Special Scientific Interest**

### **55 Offences in connection with SSSIs**

- (1) Amend section 28P of the Wildlife and Countryside Act 1981 (c 69) (offences) as follows.
- (2) After subsection (5) insert—
- “(5A) A section 28G authority which, in the exercise of its functions, permits the carrying out of an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest—
- (a) without first complying with section 28I(2), or
- (b) where relevant, without first complying with section 28I(4) or (6),

is, unless there was a reasonable excuse for permitting the carrying out of the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(5B) For the purposes of subsection (5A), it is a reasonable excuse in any event for a section 28G authority to permit the carrying out of an operation without first complying with section 28I(2), (4) or (6) if the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to Natural England as soon as practicable after the permission was given.”.

(3) After subsection (6) insert—

“(6A) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse—

- (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or
- (b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

(4) In subsection (7), after “(6)” (in both places) insert “or (6A)”.

(5) In section 31 of the 1981 Act (restoration following offence under section 28P), in subsection (1)(b), after “28P(6)” insert “or (6A)”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 56 Denotification

In section 28D of the 1981 Act (denotification), in subsection (1), for “no longer” substitute “not”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 57 Effect of failure to serve certain notices in connection with SSSIs

After section 70A of the 1981 Act insert—

### “70B Effect of failure to serve certain notices

(1) This section applies where the relevant conservation body—

- (a) has (whether before or after the commencement of this section) taken all reasonable steps to ensure that, under any provision listed in subsection (2), notice is served on every owner and occupier of any land to which the notice relates, but
  - (b) has failed to do so.
- (2) The provisions are—
  - (a) section 28(1) (notification of SSSI);
  - (b) section 28(5) (confirmation or withdrawal of notification of SSSI);
  - (c) section 28A(3) (notice varying notification under section 28);
  - (d) section 28A(5) (notice confirming or withdrawing variation of notification);
  - (e) section 28B(2) (notification of additional land to be included in SSSI);
  - (f) section 28B(7) (confirmation or withdrawal of notification);
  - (g) section 28C(2) (notification of enlargement of SSSI);
  - (h) section 28C(3) (confirmation or withdrawal of notification of enlargement);
  - (i) section 28D(2) (denotification);
  - (j) section 28D(5) (withdrawal or confirmation of denotification);
  - (k) section 28J(3) (notice of proposed management scheme);
  - (l) section 28J(8) (withdrawal or confirmation of management scheme).
- (3) The validity of the notice is not affected by the failure to serve it on every owner and occupier of the land.
- (4) For the purposes of sections 28 to 28Q, the time when the notice is to be treated as having been served is the time when the relevant conservation body took the last of the steps referred to in subsection (1)(a).
- (5) If the relevant conservation body becomes aware of its failure to serve a notice on an owner or occupier, it must serve a copy of the notice on that owner or occupier.
- (6) Nothing in subsection (3) or (4) renders the owner or occupier liable—
  - (a) in relation to anything done or omitted to be done before the commencement of this section, or
  - (b) under section 28P(1) or 28Q(4) in relation to anything done or omitted to be done before the copy of the notice is served under subsection (5).
- (7) “The relevant conservation body” means—
  - (a) in relation to land in an area in England—
    - (i) subject to sub-paragraph (ii), Natural England;
    - (ii) in relation to any time before the commencement of section 27AA, English Nature;

(b) in relation to land in an area in Wales, the Countryside Council for Wales.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 58 Notices and signs relating to SSSIs

(1) After section 28R of the 1981 Act insert—

### “28S Notices and signs relating to SSSIs

(1) Natural England may, on any land included in a site of special scientific interest, put up and maintain notices or signs relating to the site.

(2) Natural England may remove any notice or sign put up under subsection (1).

(3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under subsection (1) is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

(2) In section 51 of the 1981 Act (powers of entry), in subsection (1), after paragraph (k) insert—

“(ka) for the purposes of putting up, maintaining or removing notices or signs under section 28S;”.

(3) In subsection (2) of that section, for “paragraphs (a) to (k)” substitute “paragraphs (a) to (ka)”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## Part 5 National Parks and the Broads

## 59 Criteria for designating National Parks

(1) In section 5 of the National Parks and Access to the Countryside Act 1949 (c 97) (criteria for designating National Parks), after subsection (2) insert—

“(2A) Natural England may—

- (a) when applying subsection (2)(a) in relation to an area, take into account its wildlife and cultural heritage, and
- (b) when applying subsection (2)(b) in relation to that area, take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of its special qualities by the public.”.

(2) The amendment made by subsection (1) applies for the purposes of the confirmation or variation on or after the day on which this section comes into force of orders made before that day as it applies for the purposes of the confirmation or variation of orders made on or after that day.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 30 May 2006: see s 107(3)(a).

### Extent

This section applies to England and Wales only: see s 108(1).

## 60 Procedure for orders designating National Parks

(1) Amend the 1949 Act as follows.

(2) In section 7 (designation and variation of National Parks), in subsection (1), for “county council, county borough council and county district council” substitute “and local authority”.

(3) After subsection (6) of that section insert—

“(7) In this section and Schedule 1 “local authority” means—

- (a) in relation to England, a county council, district council or parish council;
- (b) in relation to Wales, a county council, county borough council or community council.”.

(4) In section 9 (development plans relating to National Parks), omit subsection (2).

(5) In Schedule 1, in paragraph 2, after sub-paragraph (2) (local inquiries to be held where objection by local authority not withdrawn) insert—

“(2A) In sub-paragraph (2) “local authority” does not include—

- (a) in relation to an order designating a National Park in England, a parish council, or
- (b) in relation to an order designating a National Park in Wales, a community council.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Extent

This section applies to England and Wales only: see s 108(1).

## **61 Members of National Park authorities**

(1) Amend Schedule 7 to the Environment Act 1995 (c 25) (National Park authorities) as follows.

(2) In paragraph 1, for sub-paragraphs (2) to (6) (constitution of National Park authorities) substitute—

“(2) A National Park authority shall consist of—

- (a) a specified number of local authority members,
- (b) in the case of a National Park in England, a specified number of parish members to be appointed by the Secretary of State, and
- (c) a specified number of other members to be appointed by the Secretary of State;

and “specified” means specified in the relevant order.

(3) The total number of—

- (a) local authority members, and
- (b) parish members,

must exceed the number of other members.”.

(3) In paragraph 2 (local authority members), for sub-paragraph (6) substitute—

“(5A) Sub-paragraph (5B) applies to a person who retires from being a member of a council by virtue of an election.

(5B) Sub-paragraph (5)(a) does not terminate his office as member of a National Park authority until—

- (a) three months after he retires from being a member of the council, or
- (b) if earlier, the day on which the National Park authority receives notice of a proposed replacement appointment;

but if he is re-elected he is eligible for re-appointment to the National Park authority.”.

(4) In paragraph 3 (parish members of English National Park authorities), for sub-paragraph (4) substitute—

“(4A) Sub-paragraph (4B) applies to a person who retires from being a member of a parish council by virtue of an election.

(4B) Sub-paragraph (3) does not terminate his office as member of a National Park authority until—

- (a) three months after he ceases to be a member of the parish council, or
- (b) if earlier, the day on which the National Park authority receives notice of a proposed replacement appointment;

but if he is re-elected he is eligible for re-appointment to the National Park authority.”.

(5) For sub-paragraph (6) of that paragraph substitute—

“(5A) Sub-paragraph (5B) applies to a person who retires from being chairman of a parish meeting by virtue of an election.

(5B) Sub-paragraph (5) does not terminate his office as member of a National Park authority until—

- (a) three months after he retires from being chairman, or
- (b) if earlier, the day on which the National Park authority receives notice of a proposed replacement appointment;

but if he is re-elected as chairman he is eligible for re-appointment to the National Park authority.”.

(6) In paragraph 4 (members, other than parish members, appointed by the Secretary of State), in sub-paragraph (2)(a) for “three years” substitute “four years”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Sub-s (1): Appointment (in so far as relating to sub-s (6)): 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): Appointment (for remaining purposes): 10 May 2007: see SI 2007/816, art 3.

Sub-ss (2)–(5): Appointment: 10 May 2007: see SI 2007/816, art 3.

Sub-s (6): Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 62 Expenditure by National Parks authorities

In section 11A of the National Parks and Access to the Countryside Act 1949 (c 97), in subsection (1) (duty of National Park authority to foster economic and social well-being of local communities in National Park), omit “, but without incurring significant expenditure in doing so.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 63 Notification of agricultural operations on moor and heath in National Parks

(1) Amend section 42 of the Wildlife and Countryside Act 1981 (c 69) (notification of agricultural operations on moor and heath in National Parks) as follows.

- (2) In subsection (1)—
- (a) for “The Ministers” substitute “A National Park authority”, and
  - (b) for “a National Park” substitute “the relevant Park”.
- (3) In subsection (2)(b), for “the Ministers” substitute “the National Park authority”.
- (4) In subsection (6), for “the Ministers, the Nature Conservancy Council and the Countryside Agency” substitute “Natural England”.
- (5) For subsection (8) substitute—
- “(8) An order under this section shall be made by statutory instrument and the Statutory Instruments Act 1946 shall apply to such an instrument as if the order had been made by a Minister of the Crown.”.
- (6) In section 51 (powers of entry), in subsection (2)(c), omit “the Ministers or”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Extent

This section applies to England and Wales only: see s 108(1).

## 64 Functions of Broads Authority and others in relation to the Broads

- (1) Amend the Norfolk and Suffolk Broads Act 1988 (c 4) as follows.
- (2) In section 2 (functions of the Authority: general), in subsection (1), for paragraphs (a) and (b) substitute—
- “(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
  - (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and”.
- (3) In section 17A (general duty of public bodies etc), in subsection (1), for paragraphs (a) and (b) substitute—
- “(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
  - (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and”.
- (4) Any increase in the expenses of the Broads Authority attributable to subsection (2) and not related to protecting the interests of navigation is to be met otherwise than by means of—
- (a) charges of a kind mentioned in section 13(1) of the 1988 Act, or

- (b) levies under section 14(1) of the 1988 Act.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## 65 Emergency financial assistance

(1) Amend section 155(4) of the Local Government and Housing Act 1989 (c 42) (authorities eligible for emergency financial assistance) as follows.

(2) After paragraph (h) insert—

- “(i) a National Park authority; or
- “(j) the Broads Authority.”.

(3) Omit “or” preceding paragraph (h).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Extent

This section applies to England and Wales only: see s 108(1).

## Part 6 Rights of Way

### *Rights of way and mechanically propelled vehicles*

## 66 Restriction on creation of new public rights of way

(1) No public right of way for mechanically propelled vehicles is created after commencement unless it is—

- (a) created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for such vehicles, or
- (b) created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.

(2) For the purposes of the creation after commencement of any other public right of way, use (whenever occurring) of a way by mechanically propelled vehicles is to be disregarded.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(4).

**Appointment**

Appointment (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

**Extent**

This section applies to England and Wales only: see s 108(1).

**67 Ending of certain existing unrecorded public rights of way**

(1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—

- (a) was not shown in a definitive map and statement, or
- (b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

But this is subject to subsections (2) to (8).

(2) Subsection (1) does not apply to an existing public right of way if—

- (a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,
- (b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c 66) (list of highways maintainable at public expense),
- (c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,
- (d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or
- (e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way over a way if—

- (a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,
- (b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or
- (c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles—
  - (i) was reasonably necessary to enable that person to obtain access to the land, or
  - (ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only.

(4) “The relevant date” means—

- (a) in relation to England, 20th January 2005;
- (b) in relation to Wales, 19th May 2005.

(5) Where, immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies—

- (a) was reasonably necessary to enable a person with an interest in land to obtain access to the land, or
- (b) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only,

the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.

(6) For the purposes of subsection (3), an application under section 53(5) of the 1981 Act is made when it is made in accordance with paragraph 1 of Schedule 14 to that Act.

(7) For the purposes of subsections (3)(c)(i) and (5)(a), it is irrelevant whether the person was, immediately before commencement, in fact—

- (a) exercising the existing public right of way, or
- (b) able to exercise it.

(8) Nothing in this section applies in relation to an area in London to which Part 3 of the Wildlife and Countryside Act 1981 (c 69) does not apply.

(9) Any provision made by virtue of section 48(9) of the Countryside and Rights of Way Act 2000 (c 37) has effect subject to this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(4).

### Appointment

Appointment (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 68 Presumed dedication of restricted byways and use by pedal cycles etc

(1) Amend section 31 of the Highways Act 1980 (c 66) (dedication of highway presumed after public use for 20 years) as follows.

(2) After subsection (1) insert—

“(1A) Subsection (1)—

- (a) is subject to section 66 of the Natural Environment and Rural Communities Act 2006 (dedication by virtue of use for mechanically propelled vehicles no longer possible), but

(b) applies in relation to the dedication of a restricted byway by virtue of use for non-mechanically propelled vehicles as it applies in relation to the dedication of any other description of highway which does not include a public right of way for mechanically propelled vehicles.”.

(3) After subsection (10) insert—

“(10A) Nothing in subsection (1A) affects the obligations of the highway authority, or of any other person, as respects the maintenance of a way.”.

(4) After subsection (11) insert—

“(12) For the purposes of subsection (1A) “mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (electrically assisted pedal cycle).”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(4).

### Appointment

Appointment (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

## 69 Presumed dedication and applications under section 53(5) of the 1981 Act

(1) In section 31 of the 1980 Act, after subsection (7) insert—

“(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.

(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.”.

(2) The applications in relation to which the amendments made by subsection (1) apply include any application under section 53(5) of the Wildlife and Countryside Act 1981 (c 69) which falls within section 67(3)(a), (b) or (c).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(4).

### Appointment

Appointment (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

## 70 Supplementary

(1) In section 53(3) of the Wildlife and Countryside Act 1981 (modification of definitive map and statement in consequence of certain events)—

(a) in paragraph (b) (expiration of period raising a presumption of dedication), after “public path” insert “or restricted byway”, and

- (b) in paragraph (c)(i) (discovery of evidence of right of way), after “public path” insert “, a restricted byway”.
- (2) Amend section 34 of the Road Traffic Act 1988 (c 52) (prohibition of driving mechanically propelled vehicles elsewhere than on roads) as follows.
- (3) In subsection (2), omit “(subject to section 34A of this Act)”.
- (4) After subsection (2) insert—
- “(2A) It is not an offence under this section for a person with an interest in land, or a visitor to any land, to drive a mechanically propelled vehicle on a road if, immediately before the commencement of section 47(2) of the Countryside and Rights of Way Act 2000, the road was—
- (a) shown in a definitive map and statement as a road used as a public path, and
- (b) in use for obtaining access to the land by the driving of mechanically propelled vehicles by a person with an interest in the land or by visitors to the land.”.
- (5) In subsection (6), for “and section 34A of this Act do” substitute “does”.
- (6) In subsection (7), insert at the appropriate place in the alphabetical order—
- ““interest”, in relation to land, includes any estate in land and any right over land (whether exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights.”.
- (7) After subsection (7) insert—
- “(8) A person—
- (a) entering any land in exercise of rights conferred by virtue of section 2(1) of the Countryside and Rights of Way Act 2000, or
- (b) entering any land which is treated by section 15(1) of that Act as being accessible to the public apart from that Act,
- is not for the purposes of subsection (2A) a visitor to the land.”.
- (8) In Schedule 7 to the Countryside and Rights of Way Act 2000 (c 37), omit paragraphs 6 and 7.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(4).

### Appointment

Appointment (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 71 Interpretation

(1) In sections 66 and 67—

“interest”, in relation to land, includes any estate in land and any right over land (whether exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights,

“mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (c 52) (electrically assisted pedal cycle), and

expressions defined for the purposes of Part 3 of the Wildlife and Countryside Act 1981 (c 69) by section 66(1) of that Act have the same meaning as in that Part.

(2) In each of sections 66 and 67 “commencement” means the commencement of that section; and in section 67 “existing” means in existence immediately before commencement.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(4).

### Appointment

Appointment (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

#### *Traffic regulation in National Parks*

## 72 Traffic regulation on byways etc in National Parks

After section 22B of the Road Traffic Regulation Act 1984 (c 27) insert—

### “22BB Traffic regulation on byways etc in National Parks in England and Wales

(1) This section applies to a road—

(a) which is in a National Park in England or Wales,

(b) which is—

(i) shown in a definitive map and statement as a byway open to all traffic, a restricted byway, a bridleway or a footpath, or

(ii) a carriageway whose surface, or most of whose surface, does not consist of concrete, tarmacadam, coated roadstone or other prescribed material, and

(c) in respect of which no relevant order is in force.

(2) The National Park authority may—

(a) for a purpose mentioned in section 1(1)(a) to (g) or 22(2), by order make in respect of the road any such provision as is mentioned in section 2(1), (2) or (3) or 4(1);

- (b) for the purpose of carrying out an experimental scheme of traffic control, by order make in respect of the road any such provision as is mentioned in section 2(1), (2) or (3) or 4(1);
- (c) for a reason given in section 14(1)(a) or (b) or for a purpose mentioned in section 14(1)(c) or 22(2), by order make in respect of the road—
  - (i) any such provision as is mentioned in section 2(1), (2) or (3) or 4(1), or
  - (ii) any provision restricting the speed of vehicles.

(3) This Act has effect, subject to subsection (4) and any prescribed modifications, in relation to an order by a National Park authority under subsection (2)(a), (b) or (c) as it has effect in relation to an order by a local traffic authority under section 1, 9 or 14(1).

(4) Before making any order under subsection (2), the National Park authority must consult any authority which is a highway authority for the road.

## **22BC Section 22BB: supplementary**

(1) Expressions used in section 22BB(1)(b) that are defined for the purposes of Part 3 of the Wildlife and Countryside Act 1981 by section 66(1) of that Act have the same meaning as in that Part.

(2) In section 22BB(1)(c) “relevant order” means—

- (a) a traffic regulation order,
- (b) an experimental traffic order,
- (c) an order under section 14(1),
- (d) an order under section 22(4), or
- (e) an order under section 22B,

but does not include an order made under section 22BB(2).

(3) In section 22BB “prescribed” means prescribed by regulations made—

- (a) in relation to England, by the Secretary of State;
- (b) in relation to Wales, by the National Assembly for Wales.

(4) Any functions exercisable by the National Assembly for Wales by virtue of this section are to be treated for the purposes of section 44 of the Government of Wales Act 1998 (parliamentary procedures for subordinate legislation) as if made exercisable by the Assembly by an Order in Council under section 22 of that Act.”.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(4).

### **Appointment**

Appointment (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

Appointment (in relation to England): 1 October 2007: see SI 2007/2540, art 2.

## Part 7

### Inland Waterways

#### **73 Inland Waterways Advisory Council**

The body established by section 110 of the Transport Act 1968 (c 73) and known as the Inland Waterways Amenity Advisory Council is to be known instead as the Inland Waterways Advisory Council.

#### **NOTES**

##### **Initial Commencement**

###### *To be appointed*

To be appointed: see s 107(5).

##### **Appointment**

Appointment: 1 April 2007: see SI 2007/816, art 2(a).

#### **74 Constitution of Council**

For section 110 of the 1968 Act substitute—

#### **“110 The Inland Waterways Advisory Council**

- (1) There is to be a body known as the Inland Waterways Advisory Council (“the Council”).
- (2) The Council is to consist of a chairman and not less than 12 other members.
- (3) The chairman is to be appointed by the Secretary of State after consulting the Scottish Ministers.
- (4) Two of the members are to be appointed by the Scottish Ministers after consulting the Secretary of State.
- (5) In making those appointments, the Scottish Ministers must have regard to the desirability of appointing persons who appear to them to have specialist knowledge of Scotland.
- (6) The other members of the Council are to be appointed by the Secretary of State.
- (7) The members must include persons who appear to the person making the appointment to have wide knowledge of, and interest in, inland waterways.”.

#### **NOTES**

##### **Initial Commencement**

###### *To be appointed*

To be appointed: see s 107(5).

##### **Appointment**

Appointment: 1 April 2007: see SI 2007/816, art 2(a).

#### **75 Term of office, procedure etc**

After section 110 of the 1968 Act insert—

#### **“110A Term of office, procedure etc**

- (1) The members of the Council—

- (a) hold and vacate office in accordance with their terms of appointment, and
- (b) on ceasing to hold office, are eligible for reappointment;

but a member may at any time resign his office by notice in writing to the Secretary of State or (as the case may be) the Scottish Ministers.

(2) The Council—

- (a) may, with the approval of the Secretary of State and after consulting the Scottish Ministers, appoint such regional committees as they think fit, and
- (b) may appoint such other committees as they think fit.

(3) The Council may determine the procedure (including quorum) of the Council or any committee.

(4) The Secretary of State or the Scottish Ministers may pay the members of the Council—

- (a) travelling and other expenses;
- (b) allowances for loss of remunerative time.

(5) The Secretary of State may pay the chairman such remuneration as the Secretary of State may determine.

(6) If the chairman receives such remuneration he is not to be paid any allowance under subsection (4) for loss of remunerative time.

(7) The Secretary of State and the Scottish Ministers must provide the Council with such staff, accommodation, services and other facilities as appear to the Secretary of State and the Scottish Ministers to be necessary or expedient for the proper performance of the Council's functions.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(5).

### Appointment

Appointment: 1 April 2007: see SI 2007/816, art 2(a).

## 76 Functions of Council: England and Wales

After section 110A of the 1968 Act insert—

## “110B Functions of Council: England and Wales

(1) The Council—

- (a) shall provide the Secretary of State and navigation authorities with such advice as appears to the Council appropriate about matters relevant to inland waterways in England and Wales, and
- (b) may provide any other interested person with such advice.

(2) “Navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock.

(3) “Interested person”, in relation to any matter, means a person appearing to the Council to have a sufficient interest in the matter.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(5).

### Appointment

Appointment: 1 April 2007: see SI 2007/816, art 2(a).

## 77 Functions of Council: Scotland

After section 110B of the 1968 Act insert—

## “110C Functions of Council: Scotland

(1) The Council—

(a) shall provide the Scottish Ministers and the Waterways Board with such advice as appears to the Council appropriate about matters relevant to inland waterways in Scotland—

(i) which are owned or managed by the Waterways Board, or

(ii) in respect of which the Waterways Board is providing technical advice or assistance, and

(b) may provide any other interested person with such advice.

(2) “Interested person”, in relation to any matter, means a person appearing to the Council to have a sufficient interest in the matter.”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(5).

### Appointment

Appointment: 1 April 2007: see SI 2007/816, art 2(a).

## Part 8 Flexible Administrative Arrangements

### Chapter 1 Agreements with Designated Bodies

#### *Powers to enter into agreements*

## 78 Agreement between Secretary of State and designated body

(1) The Secretary of State may enter into an agreement with a designated body authorising that body to perform a DEFRA [or DECC] function—

- (a) either in relation to the whole of England or in relation to specified areas in England;
- (b) subject to paragraph (a), either generally or in specified cases.

“Specified” means specified in the agreement.

(2) An agreement under this section—

- (a) may be cancelled by the Secretary of State at any time, and
- (b) does not prevent the Secretary of State from performing a function to which the agreement relates.

(3) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(a).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

### Amendment

Sub-s (1): words “or DECC” in square brackets inserted by SI 2009/229, art 9, Sch 2, Pt 1, para 4(1).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

## 79 Agreement between designated bodies

(1) A designated body (“A”) may, with the approval of the Secretary of State, enter into an agreement with another designated body (“B”) authorising B to perform a function of A that is related to or connected with a DEFRA [or DECC] function—

- (a) either in relation to the whole of England or in relation to specified areas in England;
- (b) subject to paragraph (a), either generally or in specified cases.

“Specified” means specified in the agreement.

(2) The Secretary of State’s approval may be given—

- (a) in relation to a particular agreement or in relation to a description of agreements;
- (b) unconditionally or subject to conditions specified in the approval.

(3) Subject to subsection (5), the Secretary of State—

- (a) must review an agreement under this section no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and

- (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (4) Subject to subsection (5), an agreement under this section may not be varied except—
- by agreement between A and B, and
  - with the approval of the Secretary of State.
- (5) An approval given under subsection (1) may provide that subsection (3) or (4) does not apply (or that both of them do not apply).
- (6) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(a).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

### Amendment

Sub-s (1): words “or DECC” in square brackets inserted by SI 2009/229, art 9, Sch 2, Pt 1, para 4(1).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

## 80 Designated bodies

- (1) In this Chapter “designated body” means a body listed in Schedule 7.
- (2) The Secretary of State may by order amend Schedule 7 so as to—
- add a body to the list, or
  - remove a body from it.
- (3) But the Secretary of State may not exercise the power conferred by subsection (2)(a) unless satisfied that at least one of the purposes or functions of the body to be added to the list is related to or connected with a DEFRA [or DECC] function.
- (4) A body to be added to the list need not be a public body.
- (5) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(a).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**Extent**

This section applies to England and Wales only: see s 108(1).

**Amendment**

Sub-s (3): words “or DECC” in square brackets inserted by SI 2009/229, art 9, Sch 2, Pt 1, para 4(1).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

**81 Reserved functions**

- (1) An agreement may not authorise a designated body to perform a reserved function.
- (2) The reserved functions are—
  - (a) any function whose performance by the designated body would be incompatible with the purposes for which the body was established;
  - (b) any power of a Minister of the Crown to make or terminate appointments or lay reports or accounts;
  - (c) any power to make subordinate legislation, give directions or guidance or issue codes of practice (or to vary or revoke any of those things);
  - (d) any power to fix fees or charges other than a power prescribed for the purposes of this section by an order made by the Secretary of State;
  - (e) any function of an accounting officer in his capacity as such;
  - (f) except in relation to an agreement authorising a public body to perform functions—
    - (i) any power to enter, inspect, take samples or seize anything, and
    - (ii) any other power exercisable in connection with suspected offences;
  - (g) any function of the Secretary of State under the Water Industry Act 1991 or under any subordinate legislation made under that Act;
  - [(h) any function as principal regulator of an exempt charity (within the meaning of section 13 of the Charities Act 2006)].
- (3) The power to make an order under subsection (2)(d) is exercisable by statutory instrument.
- (4) A statutory instrument containing an order under subsection (2)(d) is subject to annulment in pursuance of a resolution of either House of Parliament.

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 107(6)(a).

**Appointment**

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**Extent**

This section applies to England and Wales only: see s 108(1).

**Amendment**

Sub-s (2): para (h) inserted by SI 2010/501, reg 5, Schedule, Pt 2, para 6.

Date in force: 1 June 2010 (being the date on which the Charities Act 2006, s 11(3) comes into force): see SI 2010/501, reg 1(1) and SI 2010/503, art 2, Sch 1.

## 82 Maximum duration of agreement

The maximum period for which an agreement may authorise a designated body to perform—

- (a) a DEFRA [or DECC] function, or
- (b) a function that is related to or connected with a DEFRA [or DECC] function,

is 20 years.

### NOTES

#### Initial Commencement

##### *To be appointed*

To be appointed: see s 107(6)(a).

#### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

#### Extent

This section applies to England and Wales only: see s 108(1).

#### Amendment

In paras (a), (b) words “or DECC” in square brackets inserted by SI 2009/229, art 9, Sch 2, Pt 1, para 4(1).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

### *Supplementary*

## 83 Particular powers

(1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.

(2) The Secretary of State or a designated body (“A”) may, under an agreement, authorise a designated body (“B”) to perform a function even though under the relevant enactments or subordinate legislation—

- (a) the function is conferred on A by reference to specified circumstances or cases and the same type of function is conferred on B in different specified circumstances or cases,
- (b) the function is exercisable by A and B jointly,
- (c) B is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or
- (d) B is required to consent to the exercise of the function (whether generally or in specified circumstances).

(3) An agreement may provide—

- (a) for the performance of a function to be subject to the fulfilment of conditions;
- (b) for payments to be made in respect of the performance of the function.

- (4) A designated body which is authorised under an agreement to perform a function—
- (a) is to be treated as having power to do so;
  - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply—
    - (i) authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf;
    - (ii) form a body corporate and authorise that body to perform the function on its behalf.

- (5) However, where the designated body is a local authority—
- (a) subsection (4)(a) is subject to section 84(5)(a), and
  - (b) section 84 applies in place of subsection (4)(b).

(6) Subject to subsection (4)(b) and section 84, a designated body which is authorised under an agreement to perform a function may not authorise any other body or other person to perform that function.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(a).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 84 Agreements with local authorities

(1) This section applies where a local authority is authorised under an agreement to perform a function.

(2) Subject to subsection (5), the function that the local authority is authorised to perform is to be treated as a function of the local authority for the purposes of—

- (a) any power of a local authority to arrange for the discharge of the function by any person mentioned in subsection (3), and
- (b) any power of a person mentioned in subsection (3) to arrange for the discharge of a function by any other person mentioned there.

(3) The persons are any committee, sub-committee, member, officer or employee of the local authority.

(4) “Committee” does not include a joint committee of two or more local authorities.

(5) If the local authority is operating executive arrangements—

- (a) the function is to be treated as a function of the local authority for the purposes of section 13 of the Local Government Act 2000 (c 22), and

- (b) if (or to the extent that) the function is the responsibility of the executive of the local authority—
- (i) subsection (2) does not apply, and
  - (ii) sections 14 to 16 of the 2000 Act, and any regulations made under sections 17 and 18 of the 2000 Act, apply.

(6) “Executive arrangements” and “executive” have the same meaning as in Part 2 of the 2000 Act.

(7) An agreement may provide that the provisions of subsection (2) or those mentioned in subsection (5)(b)(ii) do not apply (or do not apply to a specified extent).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(a).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This section applies to England and Wales only: see s 108(1).

## 85 Supplementary provisions with respect to agreements

(1) An agreement, and any approval given by the Secretary of State under section 79, must be in writing.

(2) The Secretary of State must arrange for a copy of an agreement to be published in a way that the Secretary of State thinks is suitable for bringing it to the attention of persons likely to be affected by it.

(3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—

- (a) requiring it to enter into an agreement;
- (b) prohibiting it from entering into an agreement;
- (c) requiring it to include, or prohibiting it from including, particular terms;
- (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of an agreement.

(4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c 40) (restrictions on disclosure of information) applies in relation to an authorisation by a designated body under this Chapter as it applies in relation to an authorisation under section 69 of that Act by an office-holder.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(a).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**Extent**

This section applies to England and Wales only: see s 108(1).

**86 Interpretation**

- (1) In sections 81 to 85 “agreement” means an agreement under section 78 or 79.
- [(2) In this Chapter “DEFRA or DECC function” means—
  - (a) a function which at the material time falls to be performed by or through the Department for Environment, Food and Rural Affairs, or
  - (b) a former DEFRA function which at the material time falls to be performed by or through the Department of Energy and Climate Change.
- (2A) In subsection (2) “former DEFRA function” has the meaning given by article 2(3) of the Secretary of State for Energy and Climate Change Order 2009.]
- (3) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (2) is conclusive evidence of that fact.
- (4) In this Chapter—
  - “designated body” has the meaning given by section 80;
  - “local authority” means—
    - (a) a local authority as defined in section 1(a) of the Local Government Act 2000 (c 22), and
    - (b) the Greater London Authority;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c 26);
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c 30).

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 107(6)(a).

**Appointment**

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**Extent**

This section applies to England and Wales only: see s 108(1).

**Amendment**

Sub-ss (2), (2A): substituted, for sub-s (2) as originally enacted, by SI 2009/229, art 9, Sch 2, Pt 1, para 4(2).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

## Chapter 2 Powers to Reform Agricultural etc Bodies

### *Power to create boards*

## **87 Power to establish boards**

- (1) The appropriate authority may by order—
- (a) establish a body for a purpose or purposes falling within section 88, and
  - (b) assign to it a function or functions falling within section 89.
- (2) The order must specify the area or areas in relation to which assigned functions are exercisable.
- (3) The areas which may be specified under subsection (2) are—
- (a) England or an area in England;
  - (b) Wales or an area in Wales;
  - (c) Scotland or an area in Scotland;
  - (d) Northern Ireland or an area in Northern Ireland;
  - (e) any combination of any of the areas mentioned in paragraphs (a) to (d).
- (4) In this Chapter—
- “the appropriate authority” has the meaning given by section 96;
- “board” means a body established by an order under this section;
- “section 87 order” means an order under this section.
- (5) A board is to be known by a name specified in the order.
- (6) Schedule 8 contains provisions about the constitution of boards and related matters.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 107(6)(b).

#### **Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

#### **Subordinate Legislation**

##### ***UK***

Welsh Levy Board Order 2008, SI 2008/420.

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

##### ***Scotland***

Quality Meat Scotland Order 2008, SSI 2008/77.

## **88 Permissible purposes of boards**

- (1) The purposes referred to in section 87(1)(a) are—
- (a) increasing efficiency or productivity in an agricultural or related industry;
  - (b) improving marketing in an agricultural or related industry;

- (c) improving or developing services that an agricultural or related industry provides or could provide to the community;
  - (d) improving the ways in which an agricultural or related industry contributes to sustainable development.
- (2) A section 87 order must specify—
- (a) the purpose or purposes for which the board is established, and
  - (b) the industry to which the order relates.
- (3) For the purposes of subsection (2)(b), it does not matter whether the specified industry is regarded for any other purpose as—
- (a) an industry,
  - (b) a group of industries, or
  - (c) a sector or sectors of an industry.
- (4) “Agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.
- (5) “Related industry” means an industry which is concerned with the production, processing, manufacture, marketing or distribution of—
- (a) anything (including any creature alive or dead) produced in the course of agriculture, and
  - (b) any product which is derived to any substantial extent from anything so produced.
- (6) “Services” includes environmental and educational services.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Subordinate Legislation

#### *UK*

Welsh Levy Board Order 2008, SI 2008/420.

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

#### *Scotland*

Quality Meat Scotland Order 2008, SSI 2008/77.

## 89 Permissible functions of boards

- (1) The functions referred to in section 87(1)(b) are—
- (a) a function specified in Schedule 9 (a “Schedule 9 function”);

- (b) a function which, immediately before the commencement of the section 87 order, is a function of an existing levy body ("an existing function");
  - (c) a function which is a more limited version of a Schedule 9 function or an existing function;
  - (d) a function which is a combination of two or more Schedule 9 functions or existing functions;
  - (e) any additional function, if it appears to the appropriate authority—
    - (i) to be related or similar to, or connected with, any function being assigned by virtue of any of paragraphs (a) to (d), or
    - (ii) to be capable of being conveniently exercised in association with any function being so assigned.
- (2) In this Chapter "existing levy body" means—
- (a) the British Potato Council;
  - (b) the Home-Grown Cereals Authority;
  - (c) the Horticultural Development Council;
  - (d) the Meat and Livestock Commission;
  - (e) the Milk Development Council.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Subordinate Legislation

#### *UK*

Welsh Levy Board Order 2008, SI 2008/420.

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

#### *Scotland*

Quality Meat Scotland Order 2008, SSI 2008/77.

## 90 Ancillary provisions

Schedule 10 makes further provision about the contents of a section 87 order.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Subordinate Legislation

Welsh Levy Board Order 2008, SI 2008/420.

*Power to dissolve existing levy bodies and boards*

**91 Power to dissolve existing levy bodies**

- (1) The appropriate authority may by order provide for the dissolution of any or all of the existing levy bodies.
- (2) If an order is made providing for the dissolution of the Home-Grown Cereals Authority, the order must provide for the Cereals Marketing Act 1965 (c 14) to cease to have effect.
- (3) If an order is made providing for the dissolution of the Meat and Livestock Commission, the order must provide for the relevant provisions of the Agriculture Act 1967 (c 22) to cease to have effect.
- (4) The relevant provisions of the 1967 Act are—  
Part 1 (livestock and meat marketing);  
Schedule 1 (the Meat and Livestock Commission);  
Schedule 2 (supplementary provisions with respect to development schemes).
- (5) If an order is made providing for the dissolution of—  
(a) the British Potato Council,  
(b) the Horticultural Development Council, or  
(c) the Milk Development Council,

the order must provide for the revocation of the development council order establishing the Council.

- (6) “Development council order” has the meaning given by section 1(2) of the Industrial Organisation and Development Act 1947 (c 40) (power to establish development councils etc).

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**Subordinate Legislation**

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

**92 Power to dissolve board**

- (1) The appropriate authority may by order provide for the dissolution of a board.
- (2) An order under this section must provide for the revocation of the section 87 order.

**NOTES**

**Initial Commencement*****To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**93 Dissolution: supplementary**

(1) Subsection (2) applies if an order is made providing for—

- (a) the dissolution of an existing levy body, or
- (b) the dissolution of a board.

(2) The order may provide for the transfer of any property, rights or liabilities of the existing levy body or board.

(3) Subsection (4) applies if an order is made providing for—

- (a) the dissolution of an existing levy body, or
- (b) the dissolution of a board in relation to which provision has been made by virtue of paragraph 5 of Schedule 10 (levies).

(4) The order must provide for the application of any surplus—

- (a) for the purposes for which the existing levy body or board was established, or
- (b) for connected purposes.

(5) “Surplus” means an amount by which the assets of the existing levy body or board exceeds its liabilities and expenses.

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**Subordinate Legislation**

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

*Powers of appropriate authority***94 Grants**

(1) The appropriate authority may make grants to a board of such amounts as the appropriate authority thinks fit.

(2) A grant under this section may be made subject to such conditions as the appropriate authority thinks fit.

**NOTES**

**Initial Commencement*****To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2.

**95 Directions**

- (1) The appropriate authority may give a board general or specific directions as to the exercise of its functions.
- (2) The appropriate authority must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (3) The power to give directions under this section includes power to vary or revoke the directions.
- (4) A board must comply with any directions given under this section.

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

*Supplementary***96 “The appropriate authority”**

- (1) In this Chapter “the appropriate authority” means—
  - (a) in relation to matters concerning England only, the Secretary of State;
  - (b) in relation to matters concerning Wales only, the National Assembly for Wales;
  - (c) in relation to matters concerning Scotland only, the Scottish Ministers;
  - (d) in relation to matters concerning Northern Ireland only, the relevant Northern Ireland department;
  - (e) in relation to the matters mentioned in subsection (2), the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers or (as the case may be) the relevant Northern Ireland department.
- (2) The matters referred to are—
  - (a) making a section 87 order establishing a board which has cross-border functions;
  - (b) making an order under section 91 or 92 dissolving an existing levy body or such a board;
  - (c) making appointments to such a board or exercising other powers in relation to a cross-border function of a board.

- (3) “Cross-border functions” means functions relating to—
- (a) England, and
  - (b) Wales, Scotland or Northern Ireland.
- (4) The Scottish Ministers may not give their approval for the purposes of subsection (1)(e) to the making of—
- (a) an order establishing a board whose cross-border functions include functions relating to Scotland, or
  - (b) an order dissolving an existing levy body or a board whose cross-border functions include functions relating to Scotland,

unless a draft of the order has been laid before, and approved by a resolution of, the Scottish Parliament.

- (5) In this Chapter “the relevant Northern Ireland department” means the Department of Agriculture and Rural Development in Northern Ireland.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Subordinate Legislation

#### *UK*

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

#### *Scotland*

Quality Meat Scotland Order 2008, SSI 2008/77.

## 97 Orders: procedure etc

- (1) An order under this Chapter may include supplementary, incidental, consequential, transitory, transitional or saving provision.
- (2) An order under this Chapter making provision of a description referred to in subsection (1) may—
- (a) amend or repeal any enactment, or
  - (b) amend or revoke any subordinate legislation,

whenever passed or made.

- (3) “Enactment” includes Acts of the Scottish Parliament and Northern Ireland legislation.
- (4) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c 30), except that it includes any instrument made under an Act of the Scottish Parliament and any instrument within the meaning of section 1(c) of the Interpretation Act (Northern Ireland) 1954 (c 33 NI).

(5) Before making any order under this Chapter the appropriate authority must consult such organisations as appear to it to be representative of interests substantially affected by the proposed order.

(6) Subject to subsection (7), any power to make an order under this Chapter is exercisable by statutory instrument.

(7) Any power of the relevant Northern Ireland department to make an order under this Chapter is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)).

(8) An order under this Chapter may not be made—

- (a) by the Secretary of State, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament;
- (b) by the Scottish Ministers, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament;
- (c) by the relevant Northern Ireland department, unless a draft of the statutory rule containing the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

### Subordinate Legislation

Quality Meat Scotland Order 2008, SSI 2008/77.

## Chapter 3 Financial Assistance

### 98 Financial assistance

(1) The Secretary of State may give or arrange for the giving of financial assistance in respect of expenditure incurred or to be incurred in any matter related to or connected with a DEFRA [or DECC] function.

(2) Financial assistance under this section may be given in any form, and may in particular be given by way of a grant, a loan or a guarantee.

(3) Financial assistance under this section may be given subject to such conditions as may be determined by, or in accordance with arrangements made by, the Secretary of State.

(4) The conditions may, in particular, include (in the case of a grant) conditions for repayment in specified circumstances.

[(5) “DEFRA or DECC function” means—

- (a) a function which falls to be performed by or through the Department for Environment, Food and Rural Affairs, or
- (b) a former DEFRA function which falls to be performed by or through the Department of Energy and Climate Change.

(5A) In subsection (5) “former DEFRA function” has the meaning given by article 2(3) of the Secretary of State for Energy and Climate Change Order 2009.]

(6) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (5) is conclusive evidence of that fact.

(7) The power to give financial assistance under this section may be exercised even though a more specific power to give financial assistance exists.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(6)(c).

### Appointment

Appointment: 2 May 2006: see SI 2006/1176, art 5.

### Extent

This section does not extend to Scotland: see s 108(1), (5)(b).

### Amendment

Sub-s (1): words “or DECC” in square brackets inserted by SI 2009/229, art 9, Sch 2, Pt 1, para 4(1).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

Sub-ss (5), (5A): substituted, for sub-s (5) as originally enacted, by SI 2009/229, art 9, Sch 2, Pt 1, para 4(3).

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

## Part 9 Miscellaneous

### 99 Natural beauty in the countryside

The fact that an area in England or Wales consists of or includes—

- (a) land used for agriculture or woodlands,
- (b) land used as a park, or
- (c) any other area whose flora, fauna or physiographical features are partly the product of human intervention in the landscape,

does not prevent it from being treated, for the purposes of any enactment (whenever passed), as being an area of natural beauty (or of outstanding natural beauty).

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 30 May 2006: see s 107(7)(a).

### 100 Byelaws relating to land drainage

(1) In the Water Resources Act 1991 (c 57), in Schedule 25, in paragraph 5(1) (power of Environment Agency to make byelaws for securing efficient working of drainage system), for the words from “necessary for securing” to the end of paragraph 5(1) substitute

“necessary—

- (a) for securing the efficient working of any drainage system, or
- (b) for regulating the effects of any drainage system on the environment.”.

(2) In paragraph 5(5) of that Schedule, after “banks” insert “, drainage”.

(3) In the Land Drainage Act 1991 (c 59), in section 66(1) (power of land drainage authorities etc to make byelaws for securing efficient working of drainage system), for the words from “necessary for securing” to the end of section 66(1) substitute

“necessary—

- (a) for securing the efficient working of any drainage system in their district or area, or
- (b) for regulating the effects in their district or area of any drainage system on the environment.”.

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 30 March 2006: (no specific commencement provision).

### Miscellaneous

The Natural Environment and Rural Communities Act 2006 (Commencement No 3 and Transitional Provisions) Order 2006, SI 2006/2541, art 2 states that this section came into force on 1 October 2006. This section came into force on 30 March 2006 in the absence of any specific commencement provision contained in this Act.

## 101 Abolition of certain agricultural etc committees

The following are abolished—

- (a) the advisory committee for England, Wales and Northern Ireland established under section 32 of the Hill Farming Act 1946 (c 73),
- (b) the sub-committee for Wales and Monmouthshire established under that section,
- (c) the advisory committee for Scotland established under that section,
- (d) the consumers’ committees and committees of investigation established under section 19 of the Agricultural Marketing Act 1958 (c 47), and
- (e) the committee of investigation established under Article 21 of the Agricultural Marketing (Northern Ireland) Order 1982 (SI 1982/1080 (NI 12)).

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(7)(b).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## Part 10

### Final Provisions

#### **102 Crown land**

- (1) The appropriate authority may enter into an agreement under section 7 as respects an interest in Crown land held by or on behalf of the Crown.
- (2) An agreement under section 7 as respects any other interest in Crown land is of no effect unless approved by the appropriate authority.
- (3) “Crown land” means land an interest in which—
- (a) belongs to Her Majesty in right of the Crown,
  - (b) belongs to Her Majesty in right of the Duchy of Lancaster,
  - (c) belongs to the Duchy of Cornwall, or
  - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (4) “The appropriate authority”, in relation to any land, means—
- (a) if the land belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question;
  - (b) if the lands belongs to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (c) if the land belongs to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (d) if the land belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department.
- (5) If any question arises under this section as to what authority is the appropriate authority in relation to any land, that question is to be referred to the Treasury, whose decision is final.

#### **NOTES**

##### **Initial Commencement**

###### ***Royal Assent***

Royal Assent: 30 March 2006: (no specific commencement provision).

##### **Extent**

This section applies to England and Wales only: see s 108(1).

#### **103 Wales**

In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672), the reference to the Wildlife and Countryside Act 1981 (c 69) is to be read as a reference to the 1981 Act as amended by this Act.

#### **NOTES**

##### **Initial Commencement**

###### ***Royal Assent***

Royal Assent: 30 March 2006: (no specific commencement provision).

#### **104 Power to make further provision**

- (1) The Secretary of State may by order make such supplementary, incidental, consequential, transitory, transitional or saving provision as the Secretary of State considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) An order under subsection (1) may—
  - (a) amend or repeal any enactment contained in an Act passed on or before the last day of the Session in which this Act is passed;
  - (b) amend or revoke any subordinate legislation made before the passing of this Act.
- (3) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c 30)).
- (4) The power to make an order under subsection (1) is exercisable by statutory instrument.
- (5) An order under subsection (1) which contains any provision (whether alone or with other provisions) made by virtue of subsection (2)(a) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing any other order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **NOTES**

##### **Initial Commencement**

###### ***Royal Assent***

Royal Assent: 30 March 2006: (no specific commencement provision).

##### **Extent**

This section applies to England and Wales only: see s 108(1).

#### **105 Minor and consequential amendments etc**

- (1) Schedule 11 contains minor and consequential amendments.
- (2) Schedule 12 contains repeals and revocations.

#### **NOTES**

##### **Initial Commencement**

###### ***To be appointed***

To be appointed: see s 107(8).

##### **Appointment**

Sub-s (1): Appointment (in relation to England and Wales for certain purposes): 2 May 2006: see SI 2006/1176, art 4.

Sub-s (1): Appointment (for certain purposes): 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule thereto.

Sub-s (2): Appointment (in relation to England for certain purposes): 2 May 2006: see SI 2006/1176, art 6.

Sub-s (2): Appointment (for certain purposes): 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule thereto.

Sub-s (2): Appointment (for remaining purposes): 1 April 2007: by virtue of SI 2007/816, art 2(c).

## 106 Financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown in consequence of this Act, and
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 30 March 2006: (no specific commencement provision).

### Extent

This section applies to England and Wales only: see s 108(1).

## 107 Commencement

(1) Part 1 (Natural England and the Commission for Rural Communities) comes into force in accordance with provision made by order by the Secretary of State.

(2) Part 2 (nature conservation in the UK) comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers and the Department of Agriculture and Rural Development in Northern Ireland.

(3) In Parts 3 to 5 (wildlife etc, SSSIs, National Parks and the Broads)—

- (a) section 59 comes into force at the end of the period of two months beginning with the day on which this Act is passed, and
- (b) the other provisions come into force in accordance with provision made by order by the Secretary of State.

(4) Part 6 (rights of way) comes into force in accordance with provision made by order by—

- (a) the Secretary of State (in relation to England), or
- (b) the National Assembly for Wales (in relation to Wales).

(5) Part 7 (inland waterways) comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers.

(6) In Part 8 (flexible administrative arrangements)—

- (a) Chapter 1 comes into force in accordance with provision made by order by the Secretary of State,
- (b) Chapter 2 comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers and the Department of Agriculture and Rural Development in Northern Ireland, and
- (c) Chapter 3 comes into force in accordance with provision made by order by the Secretary of State.

- (7) In Part 9 (miscellaneous)—
- (a) section 99 (natural beauty in the countryside) comes into force at the end of the period of two months beginning with the day on which this Act is passed, and
  - (b) section 101 (abolition of certain agricultural etc committees) comes into force in accordance with provision made by order by the Secretary of State, after consulting the Scottish Ministers and the Department of Agriculture and Rural Development in Northern Ireland.
- (8) In this Part—
- (a) section 105 and Schedules 11 and 12, except so far as relating to an Act of the Scottish Parliament or a provision which extends to Northern Ireland only, comes into force in accordance with provision made by order by the Secretary of State,
  - (b) section 105 and Schedules 11 and 12, so far as relating to an Act of the Scottish Parliament, comes into force in accordance with provision made by order by the Secretary of State after consulting the Scottish Ministers, and
  - (c) section 105 and Schedules 11 and 12, so far as relating to a provision which extends to Northern Ireland only, comes into force in accordance with provision made by order by the Secretary of State, after consulting the Department of Agriculture and Rural Development and the Department of the Environment in Northern Ireland.
- (9) The power to make an order under this section is exercisable by statutory instrument.
- (10) An order under this section may make different provision for different purposes or different areas.
- (11) An order under this section may make such transitional, transitory or saving provision as the person making the order considers expedient.
- NOTES**
- Initial Commencement**
- Royal Assent**  
Royal Assent: 30 March 2006: (no specific commencement provision).
- Subordinate Legislation**
- Natural Environment and Rural Communities Act 2006 (Commencement No 1) Order 2006, SI 2006/1176.  
Natural Environment and Rural Communities Act 2006 (Commencement No 2) Order 2006, SI 2006/1382.  
Natural Environment and Rural Communities Act 2006 (Commencement No 3 and Transitional Provisions) Order 2006, SI 2006/2541 (made under sub-ss (2), (6)(b), (7)(b), (8)(b), (c)).  
Natural Environment and Rural Communities Act 2006 (Commencement) (Wales) Order, SI 2006/2992 (made under sub-s (4)(b)).  
Natural Environment and Rural Communities Act 2006 (Commencement No 4) Order 2007, SI 2007/816.  
Natural Environment and Rural Communities Act 2006 (Commencement No 1) (England) Order 2007, SI 2007/2540.

## **108 Extent**

- (1) Except as provided by this section, this Act extends to England and Wales only.

- (2) Part 2 (nature conservation in the UK) extends also to Scotland and Northern Ireland.
- (3) In Part 3—
  - (a) amendments affecting any provisions of the Wildlife and Countryside Act 1981 (c 69) that extend to the territorial waters adjacent to England and Wales extend also to those waters, and
  - (b) paragraphs 1, 2, 5 and 6 of Schedule 6 (wildlife offences: time limits for proceedings), and section 53 so far as necessary, extend to any place to which the enactments amended by Schedule 6 extend.
- (4) Part 7 (inland waterways) extends also to Scotland.
- (5) In Part 8 (flexible administrative arrangements)—
  - (a) Chapter 2 (powers to reform agricultural etc bodies) extends also to Scotland and Northern Ireland, and
  - (b) Chapter 3 (financial assistance) extends also to Northern Ireland.
- (6) In Part 9 (miscellaneous), section 101 (abolition of certain agricultural etc committees) extends also to Scotland and Northern Ireland.
- (7) In this Part—
  - (a) sections 105, 107 and 109 and this section extend also to Scotland and Northern Ireland so far as necessary, and
  - (b) the amendments, repeals and revocations in Schedules 11 and 12 have the same extent as the provisions to which they relate (except where otherwise provided).

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 30 March 2006: (no specific commencement provision).

### 109 Short title

This Act may be cited as the Natural Environment and Rural Communities Act 2006.

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 30 March 2006: (no specific commencement provision).

## SCHEDULE 1 NATURAL ENGLAND

Section 1

### *Status*

1

Natural England is to be a body corporate.

## **2**

Subject to paragraph 22 (nature reserves), Natural England is not to be regarded—

- (a) as a servant or agent of the Crown, or
- (b) as enjoying any status, privilege or immunity of the Crown,

and Natural England's property is not to be regarded as property of, or held on behalf of, the Crown.

### *Membership*

## **3**

(1) Natural England is to consist of—

- (a) a chairman appointed by the Secretary of State, and
- (b) not less than 8 nor more than 15 other members appointed by the Secretary of State.

(2) The Secretary of State must consult the chairman before appointing the other members.

(3) In appointing a person to be a member, the Secretary of State must have regard to the desirability of appointing a person who has experience of, and has shown some capacity in, some matter relevant to the exercise of Natural England's functions.

(4) The Secretary of State may by order amend sub-paragraph (1)(b) so as to substitute a different number for a number specified there.

(5) The power to make an order under sub-paragraph (4) is exercisable by statutory instrument.

(6) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.

## **4**

The Secretary of State may appoint one of the members to be deputy chairman.

### *Term of office*

## **5**

Subject to paragraphs 6 to 8, a member holds and vacates office in accordance with the terms of his appointment.

## **6**

A member may resign by giving written notice to the Secretary of State.

## **7**

The Secretary of State may remove a member who—

- (a) has been absent from meetings of Natural England for a period longer than 6 months without the permission of Natural England,

- (b) has become bankrupt or has made an arrangement with his creditors or has had his estate sequestrated in Scotland, or
- (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.

**8**

A person ceases to be chairman or deputy chairman if he—

- (a) resigns that office by giving written notice to the Secretary of State, or
- (b) ceases to be a member.

**9**

A person who—

- (a) ceases to be a member, or
- (b) ceases to be chairman or deputy chairman,

is eligible for reappointment to that office.

*Remuneration and pensions etc*

**10**

Natural England may pay to the members such remuneration and allowances as the Secretary of State may determine.

**11**

If required to do so by the Secretary of State, Natural England must—

- (a) pay such pensions, gratuities or allowances to or in respect of any member as the Secretary of State may determine;
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any member.

**12**

(1) This paragraph applies if—

- (a) a person ceases to be a member, and
- (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.

(2) The Secretary of State may require Natural England to pay the person such amount as the Secretary of State may determine.

*Staff*

**13**

(1) Natural England must appoint a person to be chief executive, but may only appoint a person who has been approved by the Secretary of State.

(2) The chief executive is an employee of Natural England.

(3) The Secretary of State may appoint the first chief executive.

**14**

Natural England may appoint other employees.

**15**

If required to do so by the Secretary of State, Natural England must—

- (a) pay such pensions, gratuities or allowances to or in respect of any employee as the Secretary of State may determine;
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any employee.

**16**

(1) Employment with Natural England is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c 11) can apply.

(2) Natural England must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

*Procedure*

**17**

Natural England may determine its own procedure (including quorum).

**18**

No proceeding is invalidated by—

- (a) a vacancy in the office of chairman, or
- (b) any defect in the appointment of any member.

*Discharge of functions*

**19**

(1) Natural England may authorise a committee, sub-committee, member or employee of Natural England to exercise any of Natural England's functions.

(2) Sub-paragraph (1) does not prevent Natural England from exercising the function itself or affect the power of Natural England to authorise an employee to carry out functions of Natural England.

*Membership of committees and sub-committees*

**20**

- (1) A committee or sub-committee may include persons who are not members of Natural England.
- (2) Natural England may pay such remuneration and allowances as the Secretary of State may determine to any person who—
- (a) is a member of a committee or sub-committee, but
  - (b) is not a member or employee of Natural England.

*Application of seal and proof of documents*

**21**

- (1) The application of Natural England's seal must be authenticated by the signature of—
- (a) a member of Natural England who is authorised (generally or specially) for that purpose, or
  - (b) an employee who is so authorised.
- (2) A document purporting to be duly executed under the seal of Natural England—
- (a) is to be received in evidence, and
  - (b) is to be treated as so executed unless the contrary is shown.

*Nature reserves*

**22**

- (1) This paragraph applies to land in which Natural England has an interest and which is managed as a nature reserve.
- (2) For the purposes of the application of any enactment or rule of law to the land Natural England is to be treated as a government department.
- (3) An interest in land includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement.

*Reports, accounts etc*

**23**

- (1) For each financial year, Natural England must—
- (a) prepare an annual report on how it has discharged its functions during the year, and
  - (b) send a copy of the report to the Secretary of State within such period as the Secretary of State directs.
- (2) In this paragraph and paragraph 24, “financial year” means—
- (a) the period beginning with the day on which Natural England is established and ending with the next 31st March, and

- (b) each subsequent period of 12 months ending with 31st March.

**24**

- (1) Natural England must keep proper accounts and proper records in relation to the accounts.
- (2) For each financial year, Natural England must—
- (a) prepare a statement of accounts in respect of that financial year, and
  - (b) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period as the Secretary of State directs.
- (3) The statement must be in such form as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement, and
  - (b) send a copy of the certified statement and of his report to the Secretary of State as soon as possible.

**25**

The Secretary of State must lay before each House of Parliament a document consisting of—

- (a) a copy of the report sent under paragraph 23(1), and
- (b) a copy of the statement and report sent under paragraph 24(4).

**26**

- (1) Natural England must provide the Secretary of State with such information as he may require relating to Natural England's property or to the discharge or proposed discharge of its functions.
- (2) Natural England must also—
- (a) permit any person authorised by the Secretary of State to inspect and make copies of any accounts or other documents of Natural England, and
  - (b) provide such explanation of them as that person or the Secretary of State may require.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(1).

**Appointment**

Appointment: 2 May 2006: see SI 2006/1176, art 4.

**SCHEDEULE 2**  
**COMMISSION FOR RURAL COMMUNITIES**

Section 17

*Status*

**1**

The Commission is to be a body corporate.

**2**

The Commission is not to be regarded—

- (a) as a servant or agent of the Crown, or
- (b) as enjoying any status, privilege or immunity of the Crown,

and the Commission's property is not to be regarded as property of, or held on behalf of, the Crown.

*Membership*

**3**

(1) The Commission is to consist of—

- (a) a chairman appointed by the Secretary of State, and
- (b) not less than 8 nor more than 15 other members appointed by the Secretary of State.

(2) The Secretary of State must consult the chairman before appointing the other members.

(3) In appointing a person to be a member, the Secretary of State must have regard to the desirability of appointing a person who has experience of, and has shown some capacity in, some matter relevant to the exercise of the Commission's functions.

(4) The Secretary of State may by order amend sub-paragraph (1)(b) so as to substitute a different number for a number specified there.

(5) The power to make an order under sub-paragraph (4) is exercisable by statutory instrument.

(6) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.

**4**

The Secretary of State may appoint one of the members to be deputy chairman.

*Term of office*

**5**

Subject to paragraphs 6 to 8, a member holds and vacates office in accordance with the terms of his appointment.

**6**

A member may resign by giving written notice to the Secretary of State.

**7**

The Secretary of State may remove a member who—

- (a) has been absent from meetings of the Commission for a period longer than 6 months without the permission of the Commission,
- (b) has become bankrupt or has made an arrangement with his creditors or has had his estate sequestrated in Scotland, or
- (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.

**8**

A person ceases to be chairman or deputy chairman if he—

- (a) resigns that office by giving written notice to the Secretary of State, or
- (b) ceases to be a member.

**9**

A person who—

- (a) ceases to be a member, or
- (b) ceases to be chairman or deputy chairman,

is eligible for reappointment to that office.

*Remuneration and pensions etc*

**10**

The Commission may pay to the members such remuneration and allowances as the Secretary of State may determine.

**11**

If required to do so by the Secretary of State, the Commission must—

- (a) pay such pensions, gratuities or allowances to or in respect of any member as the Secretary of State may determine;
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any member.

**12**

(1) This paragraph applies if—

- (a) a person ceases to be a member, and
- (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.

(2) The Secretary of State may require the Commission to pay the person such amount as the Secretary of State may determine.

*Staff*

**13**

(1) The Commission must appoint a person to be chief executive, but may only appoint a person who has been approved by the Secretary of State.

(2) The chief executive is an employee of the Commission.

(3) The Secretary of State may appoint the first chief executive.

**14**

The Commission may appoint other employees.

**15**

If required to do so by the Secretary of State, the Commission must—

- (a) pay such pensions, gratuities or allowances to or in respect of any employee as the Secretary of State may determine;
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any employee.

**16**

(1) Employment with the Commission is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c 11) can apply.

(2) The Commission must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

*Procedure*

**17**

The Commission may determine its own procedure (including quorum).

**18**

No proceeding is invalidated by—

- (a) a vacancy in the office of chairman, or
- (b) any defect in the appointment of any member.

*Discharge of functions*

**19**

(1) The Commission may authorise a committee, sub-committee, member or employee of the Commission to exercise any of the Commission's functions.

(2) Sub-paragraph (1) does not prevent the Commission from exercising the function itself or affect the power of the Commission to authorise an employee to carry out functions of the Commission.

*Membership of committees and sub-committees*

**20**

(1) A committee or sub-committee may include persons who are not members of the Commission.

(2) The Commission may pay such remuneration and allowances as the Secretary of State may determine to any person who—

- (a) is a member of a committee or sub-committee, but
- (b) is not a member or employee of the Commission.

*Application of seal and proof of documents*

**21**

(1) The application of the Commission's seal must be authenticated by the signature of—

- (a) a member of the Commission who is authorised (generally or specially) for that purpose, or
- (b) an employee who is so authorised.

(2) A document purporting to be duly executed under the seal of the Commission—

- (a) is to be received in evidence, and
- (b) is to be treated as so executed unless the contrary is shown.

*Reports, accounts etc*

**22**

(1) For each financial year, the Commission must—

- (a) prepare an annual report on how it has discharged its functions during the year, and
- (b) send a copy of the report to the Secretary of State within such period as the Secretary of State directs.

(2) In this paragraph and paragraph 23, "financial year" means—

- (a) the period beginning with the day on which the Commission is established and ending with the next 31st March, and
- (b) each subsequent period of 12 months ending with 31st March.

**23**

(1) The Commission must keep proper accounts and proper records in relation to the accounts 54

- (2) For each financial year, the Commission must—
- (a) prepare a statement of accounts in respect of that financial year, and
  - (b) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period as the Secretary of State directs.
- (3) The statement must be in such form as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement, and
  - (b) send a copy of the certified statement and of his report to the Secretary of State as soon as possible.

**24**

The Secretary of State must lay before each House of Parliament a document consisting of—

- (a) a copy of the report sent under paragraph 22(1), and
- (b) a copy of the statement and report sent under paragraph 23(4).

**25**

(1) The Commission must provide the Secretary of State with such information as he may require relating to the Commission's property or to the discharge or proposed discharge of its functions.

(2) The Commission must also—

- (a) permit any person authorised by the Secretary of State to inspect and make copies of any accounts or other documents of the Commission, and
- (b) provide such explanation of them as that person or the Secretary of State may require.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(1).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**SCHEDULE 3**  
**TRANSFER SCHEMES**

Section 28

*Creation and apportionment of property, rights and liabilities etc*

**1**

A scheme may—

- (a) create for the transferor interests in or rights over property transferred by virtue of the scheme;
- (b) create for the transferee interests in or rights over property retained by the transferor;
- (c) create rights or liabilities between the transferor and the transferee.

## 2

- (1) A scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.
- (2) In particular, it may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
- (3) It does not matter whether the provision referred to in sub-paragraph (2) has effect under an enactment or an agreement or in any other way.

## 3

A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.

### *Employment contracts*

## 4

- (1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.
- (2) The contract of employment—
  - (a) is not terminated by the transfer, and
  - (b) has effect from the transfer date as if made between the employee and the transferee.
- (3) The rights, powers, duties and liabilities of the transferor under or in connection with the contract are transferred to the transferee on the transfer date.
- (4) Anything done before the transfer date by or in relation to the transferor in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the transferee.
- (5) This paragraph is subject to paragraph 5.

## 5

- (1) Rights and liabilities under a contract of employment are not transferred under this Schedule if the employee informs the transferor or transferee that he objects to the transfer.
- (2) If the employee informs the transferor or transferee that he objects—
  - (a) his contract of employment is terminated immediately before the transfer date, but

- (b) he is not to be treated, for any purpose, as having been dismissed by the transferor.

**6**

Nothing in this Schedule affects any right a person has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

*Civil servants treated as employed under a contract of employment etc*

**7**

(1) This Schedule applies with the following modifications in relation to employment in the civil service of the State on terms which do not constitute a contract of employment.

(2) In the case of an individual who holds employment in the civil service of the State immediately before the transfer date—

- (a) he is to be treated as employed by virtue of a contract of employment,
- (b) the terms of that employment are to be regarded as constituting the terms of that contract, and
- (c) the reference in paragraph 5 to dismissal by the transferor is to termination of that employment.

(3) In the case of an individual who is to hold employment in the civil service of the State on and after the transfer date, the terms and conditions of his contract of employment immediately before that date have effect on and after that date as if they were terms and conditions of his employment in the civil service of the State.

*Compensation*

**8**

A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

*Continuity*

**9**

A transfer under this Schedule does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

**10**

Anything which—

- (a) is done by the transferor for the purposes of or otherwise in connection with anything transferred by virtue of a scheme, and
- (b) is in effect immediately before the transfer date,

is to be treated as done by the transferee.

**11**

There may be continued by or in relation to the transferee anything (including legal proceedings)—

- (a) which relates to anything transferred by virtue of a scheme, and
- (b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.

## 12

- (1) This paragraph applies to any document—
  - (a) which relates to anything transferred by virtue of a scheme, and
  - (b) which is in effect immediately before the transfer date.
- (2) Any references in the document to the transferor are to be read as references to the transferee.

### *Incidental provision*

## 13

A scheme may include supplementary, incidental, transitional and consequential provision.

### NOTES

#### Initial Commencement

##### *To be appointed*

To be appointed: see s 107(1).

#### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

## SCHEDULE 4 JOINT NATURE CONSERVATION COMMITTEE

Section 31

### *Membership*

## 1

- (1) The joint committee is to consist of 14 members—
  - (a) a chairman appointed by the Secretary of State;
  - (b) 5 members appointed by the Secretary of State;
  - (c) the chairman or deputy chairman of each of the GB conservation bodies and one other member of each of those bodies appointed by the body in question;
  - (d) the chairman of the Council for Nature Conservation and the Countryside and one other member of the Council appointed by the relevant Northern Ireland department.
- (2) The joint committee may appoint a member to be deputy chairman.

## **2**

The members appointed by the Secretary of State must not be members of the UK conservation bodies.

## **3**

- (1) The members appointed by the Secretary of State must be persons appearing to the Secretary of State to have experience in or scientific knowledge of nature conservation.
- (2) Before appointing any members under paragraph 1(1), the Secretary of State must consult the National Assembly for Wales, the Scottish Ministers and the relevant Northern Ireland department.
- (3) Before appointing members under paragraph 1(1)(b), the Secretary of State must consult—
  - (a) the chairman, and
  - (b) such persons having scientific knowledge of nature conservation as the Secretary of State thinks appropriate.

*Term of office of members appointed by Secretary of State*

## **4**

Subject to paragraphs 5 and 6, a member appointed by the Secretary of State holds and vacates office in accordance with the terms of his appointment.

## **5**

A member appointed by the Secretary of State may resign by giving him written notice.

## **6**

The Secretary of State may remove a member appointed by him who—

- (a) has been absent from meetings of the joint committee for a period longer than 6 months without the permission of the joint committee,
- (b) has become bankrupt or made an arrangement with his creditors, or has had his estate sequestrated in Scotland, or
- (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.

*Remuneration and allowances etc*

## **7**

The joint committee must pay to the members appointed by the Secretary of State such remuneration and allowances as the Secretary of State may determine.

## **8**

If required to do so by the Secretary of State, the joint committee must—

- (a) pay such pensions, gratuities or allowances to or in respect of the chairman as the Secretary of State may determine, or
- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of the chairman.

**9**

- (1) This paragraph applies if—
  - (a) a person ceases to be chairman, and
  - (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.
- (2) The Secretary of State may require the joint committee to pay the person such sum as the Secretary of State may determine.

*Staff: general*

**10**

The joint committee may, with the approval of the Secretary of State, appoint employees.

**11**

The joint committee must pay to its employees such remuneration and allowances as the joint committee may, with the approval of the Secretary of State, determine.

**12**

The joint committee may—

- (a) pay such pensions, gratuities or allowances to or in respect of any employee or former employee,
- (b) pay such sums towards provision for the payment of such pensions, allowances or gratuities, or
- (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as it may, with the approval of the Secretary of State, determine.

*Formation of company*

**13**

- (1) With the consent of the Secretary of State, and subject to any conditions he may impose, the joint committee may form a company limited by guarantee the main objects of which fall within sub-paragraph (2).
- (2) The objects are—
  - (a) providing administrative and corporate support services to the joint committee, including the employment of staff, for the purposes of its functions,

- (b) making charges and holding land or any interest in or right over land for those purposes, and
- (c) doing such other things as are conducive or incidental to the discharge of those functions.

(3) The constitution of any company formed under this paragraph must include provision to ensure that only members of the joint committee are members of the company.

(4) The members of any company formed under this paragraph must ensure that no-one is appointed, or continues to serve, as a director of the company who is not a member of the joint committee, or an employee of the joint committee or of the company.

(5) Sub-paragraphs (2) and (4) do not affect the power of the UK conservation bodies acting through the joint committee to undertake anything mentioned in sub-paragraph (2) by virtue of Part 2.

(6) Where a company is formed under this paragraph the requirements as to the approval of the Secretary of State apply in respect of appointment, payment and pension matters for employees and former employees of the company as they do in respect of employees or former employees of the joint committee under paragraphs 10 to 12.

#### *Funding*

### **14**

(1) The funding bodies must provide the joint committee with such financial resources as the appropriate authorities consider are needed for the proper discharge of the functions conferred by Part 2.

(2) When determining what financial resources should be provided, the appropriate authorities must take into account—

- (a) any grant being made under paragraph 15, and
- (b) the views of the joint committee and the funding bodies.

(3) The contributions of each of the funding bodies are to be such as are agreed by the appropriate authorities, having taken into account the views of those bodies.

(4) “The funding bodies” means—

- (a) the GB conservation bodies, and
- (b) the relevant Northern Ireland department.

### **15**

(1) The Secretary of State may make grants to the joint committee of such amounts as the Secretary of State thinks fit.

(2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.

#### *Procedure*

**16**

- (1) The joint committee may determine its own procedure (including quorum).
- (2) No proceeding of the joint committee is invalidated by—
  - (a) a vacancy among the members, or
  - (b) any defect in the appointment of any member.

*Discharge of functions*

**17**

- (1) The joint committee may authorise any of their functions to be exercised by—
  - (a) any member of the joint committee,
  - (b) a company formed under paragraph 13,
  - (c) any of the UK conservation bodies, or
  - (d) any employee of the joint committee, of such a company, or of any of those bodies.
- (2) Sub-paragraph (1) does not prevent the joint committee from doing anything that another person has been authorised to do.

*Annual reports*

**18**

- (1) As soon as possible after the end of each financial year, the joint committee must—
  - (a) prepare an annual report on how it has discharged their functions during the year, and
  - (b) send a copy of the report to the appropriate authorities and the UK conservation bodies.
- (2) The Secretary of State must lay a copy of the report before each House of Parliament.
- (3) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.

*Interpretation*

**19**

- (1) In this Schedule “the appropriate authorities” means—
  - (a) the Secretary of State,
  - (b) the National Assembly for Wales,
  - (c) the Scottish Ministers, and
  - (d) the relevant Northern Ireland department.

(2) In this Schedule “financial year” means the period of 12 months ending with 31st March.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(2).

### Appointment

Appointment: 1 October 2006: see SI 2006/2541, art 2.

## SCHEDULE 5 ENFORCEMENT POWERS IN CONNECTION WITH WILDLIFE

Section 52

### Part 1

#### Amendments of the Wildlife and Countryside Act 1981

**1**

After section 18 insert—

### “18A Wildlife inspectors

(1) In this Part, “wildlife inspector” means a person authorised in writing under this section by—

- (a) the Secretary of State (in relation to England), or
- (b) the National Assembly for Wales (in relation to Wales).

(2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.

(3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.

(4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.

### 18B Group 1 offences and licences: power to enter premises

(1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—

- (a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;

- (b) for the purpose of—

- (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or

- (ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.

(2) In this Part—

“Group 1 offence” means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and

“Group 1 licence” means a licence authorising anything which would otherwise be a Group 1 offence.

(3) Nothing in this section confers power to enter a dwelling.

#### **18C Group 1 offences and licences: examining specimens and taking samples**

(1) The powers conferred by this section are exercisable where a wildlife inspector has entered any premises for a purpose mentioned in section 18B(1)(a) or (b).

(2) The inspector, or a veterinary surgeon accompanying him, may—

- (a) for any such purpose, examine any specimen, and
- (b) subject to subsection (5) and section 18F, take a sample from it.

(3) “Specimen” means—

- (a) any bird, other animal or plant, or
- (b) any part of, or anything derived from, a bird, other animal or plant.

(4) “Sample” means a sample of blood, tissue or other biological material.

(5) No sample may be taken under subsection (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.

(6) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of—

- (a) making an examination under subsection (2)(a), or
- (b) taking a sample under subsection (2)(b).

(7) The inspector may take and remove from the premises a specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence.

#### **18D Group 2 offences and licences etc: power to enter premises**

(1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—

- (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
- (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
- (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;

(d) for the purpose of—

- (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
- (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.

(2) In this Part—

“Group 2 offence” means an offence under section 6, 7, 9(5), 13(2) or 14,

“Group 2 licence” means a licence authorising anything which would otherwise be a Group 2 offence, and

“relevant registration” means a registration in accordance with regulations under section 7(1).

(3) In subsection (1)—

(a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—

- (i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or
- (ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and

(b) paragraph (c) does not confer any power to enter a dwelling.

#### **18E Group 2 offences: examining specimens and taking samples**

(1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector or a veterinary surgeon.

(2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by him in the exercise of powers conferred by section 18D in order to determine its identity or ancestry.

(3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person’s possession or control which—

- (a) is alleged to be, or
- (b) which the wildlife inspector suspects with reasonable cause to be,

a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

(4) Where, pursuant to a requirement under this section—

- (a) a bird or other animal is to be examined, or
- (b) a sample is to be taken from a bird or other animal,

a person who has the bird or animal in his possession or control must give the person making the examination or taking the sample such assistance as he may reasonably require for that purpose.

- (5) "Specimen" and "sample" have the same meaning as in section 18C.
- (6) This section is subject to section 18F.

#### **18F Restrictions on taking of samples from live specimens**

- (1) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird or other animal except by a veterinary surgeon.
- (2) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird, other animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.".

## **2**

- (1) Amend section 19 (powers of constables to stop, search, enter etc) as follows.
- (2) In subsection (2)—
  - (a) after "is committing" insert "or has committed", and
  - (b) for "enter any land other than a dwelling-house" substitute "enter any premises other than a dwelling".
- (3) After subsection (2) insert—

"(2A) A constable may, for the purpose of assisting him in exercising the powers conferred by subsection (1)(b) and (d) when he has entered any premises under subsection (2), take with him—

  - (a) any other person, and
  - (b) any equipment or materials.".
- (4) In subsection (3), omit "(with or without other persons)".

## **3**

After section 19 insert—

#### **"19XA Constables' powers in connection with samples**

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred by this section is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen ("the relevant specimen") may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—

- (a) is alleged to be, or
- (b) the constable suspects with reasonable cause to be,

a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

(3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must give the person taking the sample such assistance as he may reasonably require for that purpose.

(4) "Specimen" and "sample" have the same meaning as in section 18C.

(5) This section is subject to section 18F (restrictions on taking samples).

## **19XB Offences in connection with enforcement powers**

(1) A person is guilty of an offence if he—

- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or
- (b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).

(2) A person is guilty of an offence if he—

- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or
- (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or
- (c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).

(3) A person is guilty of an offence if he—

- (a) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 19XA(2), or
- (b) fails without reasonable excuse to give any assistance reasonably required under section 19XA(3).

(4) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector is guilty of an offence.”.

## **4**

Omit sections 19ZA (enforcement: wildlife inspectors) and 19ZB (power to take samples).

## **5**

(1) Amend section 21 (penalties etc) as follows.

(2) Omit subsections (4A) and (4D) (penalties in connection with power of entry and powers in connection with examination of specimens and taking samples).

(3) Before subsection (4B) insert—

“(4AA) Except in a case falling within subsection (4B) a person guilty of an offence under section 19XB(1), (2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(4) In subsection (4B) (penalty for obstructing wildlife inspector to ascertain whether section 14 offence is being or has been committed)—

- (a) for “subsection (7) of section 19ZA” substitute “section 19XB(1)(a) or (2)(a)”, and
- (b) for “acting in the exercise of the power conferred by subsection (3)(c) of that section” substitute “entering premises to ascertain whether an offence under section 14 or 14ZA is being or has been committed”.

(5) In subsection (4C) (penalty for pretending to be wildlife inspector), for “19ZA(8)” substitute “19XB(4)”.

## 6

In section 27 (interpretation of Part 1), in subsection (1), in the definition of “wildlife inspector”, for “section 19ZA(1)” substitute “section 18A(1)”.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This Part of this Schedule applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

## Part 2 Powers of Wildlife Inspectors Extended to Certain other Acts

### *Introduction*

## 7

In this Part “the enforcement provisions of the 1981 Act relating to Group 1 offences and Group 1 licences” means the following provisions of the Wildlife and Countryside Act 1981 (c 69)—

- (a) section 18A (power to authorise persons to act as wildlife inspectors);
- (b) section 18B (power of wildlife inspector to enter premises);
- (c) section 18C (power to examine specimens and take samples);
- (d) section 18F (restrictions on taking samples from live specimens);
- [ (da) section 19XB(1) and (4) (offences in connection with enforcement powers); ]
- (e) section 21(4AA) to (4C) (penalties for obstructing etc wildlife inspectors).

*Destructive Imported Animals Act 1932 (c 12)*

**8**

- (1) The enforcement provisions of the 1981 Act relating to Group 1 offences and Group 1 licences apply for the purposes of the 1932 Act as if—
- (a) any reference to a Group 1 offence were a reference to any offence under the 1932 Act,
  - (b) any reference to a Group 1 licence were a reference to a licence under the 1932 Act, and
  - (c) as if the power to take a sample included power to take a sample from a destructive animal (whether live or dead) for the purpose of testing for disease.
- (2) “Destructive animal” means a musk rat or other animal to which the 1932 Act applies.

*Conservation of Seals Act 1970 (c 30)*

**9**

The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1970 Act as if—

- (a) the Natural Environment Research Council were required to be consulted about any authorisation of a person to exercise the powers of a wildlife inspector for the purposes of the 1970 Act,
- (b) any reference to a Group 1 offence were a reference to any offence under the 1970 Act,
- (c) any reference to a Group 1 licence were a reference to a licence under section 10 of the 1970 Act, and
- (d) the power to take a sample from a specimen did not include any power to take a sample from a live seal.

*Deer Act 1991 (c 54)*

**10**

The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1991 Act as if—

- (a) any reference to a Group 1 offence were a reference to any offence under the 1991 Act,
- (b) any reference to a Group 1 licence were a reference to a licence under section 8 of the 1991 Act, and
- (c) as if the power to take a sample included power to take a sample from a deer (whether live or dead) for the purpose of testing for disease.

*Protection of Badgers Act 1992 (c 51)*

**11**

The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1992 Act as if—

- (a) any reference to a Group 1 offence were a reference to any offence under the 1992 Act,
- (b) any reference to a Group 1 licence were a reference to a licence under section 10 of the 1992 Act, and
- (c) as if the power to take a sample included power to take a sample from a badger (whether live or dead) for the purpose of testing for disease.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

### Appointment

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### Extent

This Part of this Schedule applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

### Amendment

Para 7: sub-para (da) inserted by the Criminal Justice and Immigration Act 2008, s 148(1), Sch 26, Pt 2, para 80.

Date in force: 14 July 2008: see SI 2008/1586, art 2(1), Sch 1, para 48(t).

## Part 3 Codes of Practice

### 12

(1) The Secretary of State may—

- (a) issue a code of practice in connection with any of the provisions of sections 18A to 18F of the 1981 Act (including any of those provisions as applied by Part 2 of this Schedule), and
- (b) revise or replace such a code.

(2) An inspector must have regard to any relevant provision of a code when discharging any function under any of the provisions mentioned in sub-paragraph (1)(a).

(3) But an inspector's failure to have regard to any provision of a code does not make him liable to criminal or civil proceedings.

(4) A code—

- (a) is admissible in evidence in any proceedings, and
- (b) must be taken into account by a court in any case in which it appears to the court to be relevant.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 107(3)(b).

**Appointment**

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**Extent**

This Part of this Schedule applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

**Part 4**

**Constable's Search Warrant Power Extended to Certain other Acts**

**13**

(1) Section 19(3) of the 1981 Act (issue of search warrants for purpose of obtaining evidence of offence) applies in relation to an offence under each of the Acts mentioned in sub-paragraph (2) as it applies in relation to an offence under Part 1 of the 1981 Act.

(2) The Acts are—

- (a) the Destructive Imported Animals Act 1932 (c 12);
- (b) the Conservation of Seals Act 1970 (c 30);
- (c) the Deer Act 1991 (c 54);
- (d) the Protection of Badgers Act 1992 (c 51).

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(3)(b).

**Appointment**

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**Extent**

This Part of this Schedule applies to England and Wales (including their adjacent territorial waters) only: see s 108(3)(a).

**SCHEDULE 6**  
**WILDLIFE OFFENCES: TIME LIMITS FOR PROCEEDINGS**

Section 53

*Destructive Imported Animals Act 1932 (c 12)*

**1**

In section 6 (offences relating to importation etc of musk rats without licence etc), after subsection (2) insert—

“(3) Proceedings in England and Wales for an offence under this section may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”.

*Conservation of Seals Act 1970 (c 30)*

**2**

In section 5 (penalties for offences), after subsection (2) insert—

“(3) Proceedings in England and Wales for an offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”.

*Wildlife and Countryside Act 1981 (c 69)*

**3**

(1) Amend section 20 (summary prosecutions) as follows.

(2) In subsection (2), for “Summary proceedings for an offence under this Part” substitute “Proceedings for a summary offence under this Part”.

(3) In the heading, for “Summary prosecutions” substitute “Proceedings for summary offences”.

**4**

After section 51 insert—

**“51A Summary prosecutions**

(1) Proceedings in England and Wales for a summary offence under this Part may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”.

*Deer Act 1991 (c 54)*

**5**

In section 9 (penalties for offences relating to deer), after subsection (2) insert—

“(3) Proceedings for an offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”.

*Protection of Badgers Act 1992 (c 51)*

**6**

After section 12 insert—

**“12ZA Time limit for bringing summary proceedings (England and Wales)**

(1) Proceedings in England and Wales for a summary offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(3)(b).

**Appointment**

Appointment: 31 May 2006: see SI 2006/1382, art 2.

**SCHEDULE 7  
DESIGNATED BODIES**

## Section 80

**1**

A conservation board for an area of outstanding natural beauty in England.

**[1A]**

An inshore fisheries and conservation authority for a district established under section 149 of the Marine and Coastal Access Act 2009.]

**2**

A joint committee of two or more local authorities which is discharging, in relation to an area of outstanding natural beauty, functions of those authorities under sections 89 and 90 of the Countryside and Rights of Way Act 2000 (c 37).

**3**

A local authority (as defined by section 86).

**4**

A National Park authority established for a National Park in England.

**5**

The Board of Trustees of the Royal Botanic Gardens, Kew.

**6**

The British Potato Council.

**7**

The British Waterways Board.

**8**

The Broads Authority.

**9**

The Commission for Rural Communities.

**10**

The Environment Agency.

**11**

Food From Britain.

**12**

The Forestry Commissioners.

**13**

The Gangmasters' Licensing Authority.

**14**

The Historic Buildings and Monuments Commission for England.

**15**

The Home-Grown Cereals Authority.

**16**

The Horticultural Development Council.

**17**

The Meat and Livestock Commission.

**18**

The Milk Development Council.

**19**

The National Forest Company.

**20**

Natural England.

**21**

The Seafish Industry Authority.

**22**

The Wine Standards Board.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(6)(a).

### **Appointment**

Appointment: 31 May 2006: see SI 2006/1382, art 2.

### **Extent**

This Schedule applies to England and Wales only: see s 108(1).

### **Amendment**

Para 1A: inserted by the Marine and Coastal Access Act 2009, s 184, Sch 14, para 20.

Date in force: to be appointed: see the Marine and Coastal Access Act 2009, s 324(3), (5).

## **SCHEDULE 8**

## **AGRICULTURAL ETC BOARDS**

## Section 87

### *Status*

**1**

A board is (by virtue of this Schedule) a body corporate.

**2**

A board is not to be regarded—

- (a) as a servant or agent of the Crown, or
- (b) as enjoying any status, privilege or immunity of the Crown,

and the board's property is not to be regarded as property of, or held on behalf of, the Crown.

### *Membership*

**3**

A board is to consist of—

- (a) a chairman appointed by the appropriate authority, and
- (b) such other number of members as the appropriate authority may appoint.

**4**

The appropriate authority may appoint one of the members to be deputy chairman.

**5**

A section 87 order may include provision as to qualification or disqualification for membership.

### *Term of office*

**6**

A section 87 order may include provision as to—

- (a) the members' term of office, and
- (b) their removal from office.

### *Remuneration and pensions*

**7**

A section 87 order may include provision—

- (a) as to the payment to the members of remuneration and allowances, and
- (b) as to the payment of pensions, gratuities or allowances to or in respect of the members.

*Staff*

**8**

A section 87 order may include provision as to the appointment of employees, their remuneration and other terms of employment.

*Reports, accounts etc*

**9**

A section 87 order may include provision requiring the board to prepare and submit reports to persons specified in the order.

**10**

A section 87 order must include provision—

- (a) requiring the board to prepare and submit accounts to persons specified in the order;
- (b) requiring a statement of the accounts to be examined, certified and reported on by the Comptroller and Auditor General.

**11**

A section 87 order may include provision requiring any documents of a description specified in the order to be laid before—

- (a) each House of Parliament;
- (b) the National Assembly for Wales;
- (c) the Scottish Parliament;
- (d) the Northern Ireland Assembly.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**Subordinate Legislation**

***UK***

Welsh Levy Board Order 2008, SI 2008/420 (made under paras 5–11).

Agriculture and Horticulture Development Board Order 2008, SI 2008/576 (made under paras 5–11)

***Scotland***

Quality Meat Scotland Order 2008, SSI 2008/77 (made under paras 5–11).

**SCHEDULE 9**  
**FUNCTIONS WHICH MAY BE ASSIGNED TO BOARDS**

Section 89

**1**

Promoting or undertaking scientific research.

**2**

(1) Promoting or undertaking inquiry—

- (a) as to materials and equipment, and
- (b) as to methods of production, management and labour utilisation.

(2) Promoting or undertaking inquiry under sub-paragraph (1) includes promoting or undertaking—

- (a) the discovery and development of—
  - (i) new materials, equipment and methods, and
  - (ii) improvements in those already in use,
- (b) the assessment of the advantages of different alternatives, and
- (c) the conduct of experimental establishments and of tests on a commercial scale.

**3**

Promoting the production and marketing of standard products.

**4**

Promoting the better definition of trade descriptions and consistency in the use of trade descriptions.

**5**

Developing, promoting, marketing or operating—

- (a) standards relating to the quality of products, or
- (b) systems for the classification of products.

**6**

Developing, reviewing or operating schemes for the certification of products or of operations connected with production or supply of products.

**7**

Undertaking the certification of products, the registration of certification trade marks, and the functions of proprietors of such marks.

**8**

Providing or promoting the provision of—

- (a) training for persons engaged in or proposing to be engaged in the industry, and

(b) their education in subjects relevant to the industry.

**9**

(1) Promoting—

- (a) the adoption of measures for securing safer and better working conditions, and
- (b) the provision and improvement of amenities for persons employed.

(2) Promoting or undertaking inquiry as to measures for securing safer and better working conditions.

**10**

Promoting or undertaking research into the incidence, prevention and cure of industrial diseases.

**11**

Promoting or undertaking arrangements for encouraging the entry of persons into the industry.

**12**

Promoting or undertaking research for improving arrangements for marketing and distributing products.

**13**

Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.

**14**

Promoting arrangements—

- (a) for co-operative organisations,
- (b) for supplying materials and equipment, and
- (c) for marketing and distributing products.

**15**

Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.

**16**

Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.

**17**

Promoting or undertaking the collection and formulation of statistics.

**18**

Advising on any matters relating to the industry (other than remuneration or conditions of employment) as to which the appropriate authority may request the board to advise, and undertaking inquiry for the purpose of enabling the board to advise on such matters.

**19**

Undertaking arrangements for making available information obtained, and for advising, on matters with which the board is concerned in the exercise of any of its functions.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**Subordinate Legislation**

***UK***

Welsh Levy Board Order 2008, SI 2008/420.

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

***Scotland***

Quality Meat Scotland Order 2008, SSI 2008/77.

**SCHEDULE 10**  
**ANCILLARY PROVISIONS RELATING TO BOARDS**

Section 90

*Acting through subsidiaries*

**1**

- (1) A section 87 order may include provision—
  - (a) enabling the board to establish subsidiaries, and
  - (b) enabling or requiring the board to carry out specified functions through subsidiaries.
- (2) “Subsidiary” means a subsidiary as defined by [section 1159 of the Companies Act 2006].

*Registers, returns and other information*

**2**

- (1) A section 87 order may include provision—
  - (a) with respect to registration in a register kept by the board of persons carrying on business in a specified industry;
  - (b) requiring the register to be made available (in accordance with the order) for inspection by the public;
  - (c) under which any right to inspect the register is subject to the payment of a reasonable fee.

(2) A section 87 order may include provision conferring power on the board to require persons carrying on business in a specified industry to supply to the board returns and other information.

*Investigative powers*

**3**

(1) A section 87 order may include provision conferring a power of entry on authorised officers for the purpose of enabling them to carry out functions of the board.

(2) But a section 87 order may not include provision by virtue of sub-paragraph (1) conferring power to enter a dwelling.

(3) A section 87 order may include provision conferring power on authorised officers to require persons of a description specified in the order—

- (a) to provide information of a description so specified, or
- (b) to produce documents of a description so specified.

(4) “Authorised officer”, in relation to a power, means a person authorised to exercise the power by, or on behalf of, the board to which the section 87 order relates.

(5) A section 87 order may include provision—

- (a) enabling a board to hold inquiries;
- (b) enabling a board to require a person to attend to give evidence;
- (c) as to appeals against a requirement imposed by virtue of paragraph (b).

*Reserve funds etc*

**4**

(1) A section 87 order may include provision for enabling the board to establish and maintain a reserve fund for the purposes of its functions.

(2) A section 87 order may also make provision with respect to powers of investment over a reserve fund or any other money of the board which is not immediately required for any other purpose.

(3) A section 87 order may confer on the board—

- (a) power to borrow money;
- (b) power to charge property.

*Levies*

**5**

(1) A section 87 order may include provision—

- (a) for the imposition by the board of charges (“levies”) on such persons as may be specified in the order;

- (b) as to limits on the amounts of levies;
  - (c) for the recovery of levies in such ways and through such channels as may be specified in the order.
- (2) But a section 87 order may not include provision by virtue of sub-paragraph (1) except for the purpose of enabling a board—
- (a) to meet its expenses in the exercise of its functions;
  - (b) to meet its administrative expenses;
  - (c) to further a purpose or the purposes for which it is established;
  - (d) to establish a reserve fund.
- (3) The purpose or purposes for which any levies are imposed must be specified in the section 87 order.

*Power to charge for services*

**6**

A section 87 order may provide that the board (or a subsidiary of the board) may make such charges for any services as appear to the board (or subsidiary) to be reasonable.

*Incidental powers*

**7**

- (1) A section 87 order may include provision enabling the board to do anything that appears to it to be conducive or incidental to the discharge of its functions.
- (2) The order may, in particular, provide that the board may—
- (a) enter into agreements;
  - (b) acquire or dispose of property;
  - (c) raise funds by means of voluntary contributions;
  - (d) accept gifts.
- (3) The power to make provision falling within sub-paragraph (2)(c) applies whether or not the order also makes provision under paragraph 5 (levies).

*Approval of appropriate authority, consultation etc*

**8**

- (1) A section 87 order may include provision making the exercise of a specified function or description of functions conferred on the board—
- (a) subject to the approval of the appropriate authority, or
  - (b) subject to any other conditions.

(2) The provision that may be made by virtue of sub-paragraph (1)(b) includes, in particular—

(a) provision requiring the board to be satisfied, before a levy is—

- (i) imposed, or
- (ii) terminated,

that the imposition or termination of the levy is desired by a substantial number of the persons who would be or are affected by the levy;

- (b) provision requiring ballots to be conducted, in such circumstances as may be specified in the order, for the purpose of ascertaining the views of persons who would be or are affected by a levy;
- (c) provision requiring the board to consult a specified person or a description of persons before exercising a specified function or description of functions.

(3) A section 87 order may include provision for the appointment of a Consumers' Committee which the board is required to consult in relation to specified matters.

#### *Offences*

#### **9**

(1) A section 87 order may create offences in relation to—

- (a) failing to comply with a requirement relating to registration;
- (b) obstructing an authorised officer exercising a power of entry;
- (c) failing to comply with a requirement to provide information or produce documents;
- (d) neglecting or failing to comply with a requirement to attend to give evidence;
- (e) providing false or misleading information to a board or an authorised officer.

(2) If a section 87 order creates an offence by virtue of sub-paragraph (1), the order—

- (a) must provide for the offence to be triable only summarily, and
- (b) may not provide for the offence to be punishable with imprisonment.

(3) A section 87 order—

- (a) may make provision enabling proceedings for an offence under the order to be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge, but
- (b) may not authorise the commencement of proceedings for such an offence more than 2 years after the date on which the offence was committed.

#### **NOTES**

##### **Initial Commencement**

***To be appointed***

To be appointed: see s 107(6)(b).

**Appointment**

Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

**Amendment**

Para 1: words “section 1159 of the Companies Act 2006” in square brackets substituted by SI 2009/1941, art 2(1), Sch 1, para 255.

Date in force: 1 October 2009: see SI 2009/1941, art 1(2).

**Subordinate Legislation**

**UK**

Welsh Levy Board Order 2008, SI 2008/420.

Agriculture and Horticulture Development Board Order 2008, SI 2008/576.

**Scotland**

Quality Meat Scotland Order 2008, SSI 2008/77.

**SCHEDULE 11**  
**MINOR AND CONSEQUENTIAL AMENDMENTS**

Section 105(1)

**Part 1**  
**General**

*Destructive Imported Animals Act 1932 (c 12)*

**1**

- (1) Amend section 5 (provisions as to musk rats found at large) as follows.
  - (2) In subsection (3) for “any persons employed by, or on behalf of, the department for that purpose” substitute “any authorised persons”.
  - (3) After subsection (3) insert—
    - (3A) “Authorised person” means—
      - (a) in relation to England and Wales, a person authorised in writing by the appropriate department to exercise powers under subsection (3);
      - (b) in relation to Scotland, a person employed by or on behalf of the appropriate department for the purposes of subsection (3).”.

*Hill Farming Act 1946 (c 73)*

**2**

Omit section 32 (advisory committees).

**3**

In section 34 (power to enter on and inspect land), after subsection (2) insert—

- (3) This section applies in relation to land in England as if, for the purposes of an agreement under Chapter 1 of Part 8 of the Natural Environment and Rural Communities Act 2006

(agreements with designated bodies), references to an officer of the appropriate Minister authorised by general or special directions given by him were references to a person authorised by the appropriate Minister by general or special directions given by him.”.

*Industrial Organisation and Development Act 1947 (c 40)*

**4**

In section 5 (restriction on disclosure of information), after subsection (3) insert—

“(3A) Subsections (2) and (3) do not apply to disclosure—

- (a) by a development council established in relation to an industry whose activities include an agricultural activity;
- (b) to, or to an officer of, Natural England;
- (c) to, or to an officer of, the Commission for Rural Communities;
- (d) to, or to an officer of, the Joint Nature Conservation Committee;
- (e) to, or to an officer of, a body specified in Schedule 7 to the Natural Environment and Rural Communities Act 2006;
- (f) to, or to an officer of, a board established under Chapter 2 of Part 8 of the 2006Act.”.

**5**

(1) Amend section 9 (levies for certain purposes for industries for which there is no development council) as follows.

(2) In subsection (1), for “not a development council” substitute “neither a development council nor a relevant board”.

(3) After subsection (1) insert—

“(1A) “Relevant board” means a board established under Chapter 2 of Part 8 of the Natural Environment and Rural Communities Act 2006.”.

*National Parks and Access to the Countryside Act 1949 (c 97)*

**6**

For the title of Part 1, substitute “The Countryside Council for Wales”.

**7**

(1) Amend section 1 (the Countryside Agency and the Countryside Council for Wales) as follows.

(2) In subsection (1), omit—

- (a) “There shall be a Countryside Agency which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and”, and
- (b) “corresponding” (in both places).

- (3) Omit subsection (2).
- (4) In the heading, omit “Countryside Agency and the”.

**8**

- (1) Amend section 3 (power of Minister to give directions to Agency or Council) as follows.
- (2) In subsection (1)—
  - (a) for “the Agency or to the Council”, and
  - (b) for “the Agency or Council”,

substitute “the Council”.

- (3) In the heading, for “Commission” substitute “the Council”.

**9**

In section 4A (application of Part 2 in Wales), in subsection (2), for “the Countryside Agency” substitute “Natural England”.

**10**

In each of the following provisions for “the Agency” substitute “Natural England”—

- (a) section 5(2) and (3);
- (b) section 6(1), (3), (4) and (5);
- (c) section 7(1), (2), (4) and (6);
- (d) section 9(1);
- (e) section 51(1), (2), (3) and (4);
- (f) section 52(1) and (2);
- (g) section 55(1) and (2);
- (h) section 65(5) and (5A);
- (i) section 85;
- (j) section 86(1) and (2);
- (k) section 86A;
- (l) section 90(4);
- (m) section 91(1).

**11**

- (1) Amend section 6 (general duties of Agency in relation to National Parks) as follows.

(2) In subsection (1), omit “as soon as may be after the commencement of this Act, and thereafter”.

(3) In subsection (4), omit paragraphs (a) and (c).

(4) In the heading, for “Commission” substitute “Natural England”.

## 12

For section 15 (meaning of “nature reserve”) substitute—

### **“15 Meaning of “nature reserve”**

(1) In this Part, “nature reserve” means—

(a) land managed solely for a conservation purpose, or

(b) land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose.

(2) Land is managed for a conservation purpose if it is managed for the purpose of—

(a) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or

(b) preserving flora, fauna or geological or physiographical features of special interest in the area,

or for both those purposes.

(3) Land is managed for a recreational purpose if it is managed for the purpose of providing opportunities for the enjoyment of nature or for open-air recreation.”.

## 13

(1) Amend section 15A (meaning of “Nature Conservancy Council”) as follows.

(2) Number the provisions of section 15A as subsection (1).

(3) In subsection (1)—

(a) for “references to “the Nature Conservancy Council” are references” substitute “references to the appropriate conservation body are references”, and

(b) in paragraph (a), for “English Nature” substitute “Natural England”.

(4) After subsection (1) insert—

“(2) In this Part of this Act—

(a) “nature reserve agreement” means an agreement under section 7 of the 2006 Act for securing that land which it appears expedient in the national interest should be managed as a nature reserve shall be so managed, and

(b) “the 2006 Act” means the Natural Environment and Rural Communities Act 2006.”.

(5) In the heading for ““Nature Conservancy Council”” substitute “appropriate conservation body”.

#### **14**

(1) Amend section 16 (agreements for management of nature reserves) as follows.

(2) In subsection (1), for “the Nature Conservancy Council”—

(a) in the first place where it occurs, substitute “The Council or Scottish Natural Heritage”, and

(b) in the second place where it occurs, substitute “the Council or (as the case may be) Scottish Natural Heritage”.

(3) In subsection (3)(b) and (c), for “the Nature Conservancy Council” substitute “the Council or (as the case may be) Scottish Natural Heritage”.

(4) In subsection (4), for “the Nature Conservancy Council”, substitute “the Council”.

(5) For the heading substitute “Agreements for management of nature reserves in Scotland and Wales”.

#### **15**

In each of the following provisions for “the Nature Conservancy Council” substitute “the appropriate conservation body”—

(a) section 17(1) and (2);

(b) section 18(1) and (2);

(c) section 19(1), (2), (3), (4) and (5);

(d) section 20(1), (2)(c) and (3);

(e) section 21(1) and (6);

(f) section 22;

(g) section 103(1);

(h) section 106(1).

#### **16**

In section 17 (compulsory acquisition of land for establishment of nature reserves)—

(a) in subsection (2), for “agreement under the last foregoing section” substitute “nature reserve agreement or an agreement under section 16”, and

(b) in the heading, for “Conservancy” substitute “conservation body”.

#### **17**

In section 18 (compulsory acquisition of land for maintenance of nature reserves)—

- (a) in subsection (1), for “an agreement under the last but one foregoing section” substitute “a nature reserve agreement or an agreement under section 16”, and
- (b) in the heading, for “Conservancy” substitute “conservation body”.

**18**

In section 19 (declarations as to what are nature reserves), in subsection (1), for “an agreement entered into with them under the foregoing provisions of this Part of this Act” substitute “a nature reserve agreement or an agreement under section 16”.

**19**

In section 21 (establishment of nature reserves by local authorities), in subsection (4), for “the Nature Conservancy Council” substitute “the appropriate conservation body, the Council or Scottish Natural Heritage”.

**20**

In section 50A (application of Part 4 in Wales), in subsection (2), for “the Countryside Agency” substitute “Natural England”.

**21**

In section 64 (access agreements), omit subsection (5).

**22**

In the heading to section 85 (general duty of Commission to advise on questions relating to natural beauty), for “Commission” substitute “Natural England and the Council”.

**23**

In the heading to section 86 (information services to be provided by Commission), for “Commission” substitute “Natural England”.

**24**

In section 114 (interpretation), in subsection (1), omit the definition of “the Agency”.

**25**

In Schedule 1 (provisions as to making, confirmation, coming into operation and validity of certain instruments), in paragraph 2(5)—

- (a) for “the Agency,” in the first place where it occurs, substitute “Natural England,”, and
- (b) for “the Agency,” in the second place where it occurs, substitute “Natural England, the”.

*Manoeuvres Act 1958 (7 & 8 Eliz 2 c 7*

**26**

In—

- (a) section 1 (power to authorise execution of manoeuvres), in subsection (3)(a)(iii), and

(b) section 4 (manoeuvres commissions), in subsection (1)(d),  
for “the Countryside Agency” substitute “Natural England”.

*Agricultural Marketing Act 1958 (c 47)*

**27**

In section 19 (consumers' committees and committees' of investigation), omit subsections (1) to (5) and (9).

**28**

- (1) Amend section 20 (directions by Ministers to boards as respects certain matters) as follows.
  - (2) In subsection (3), omit the words from “, and if, within” to the end.
  - (3) Omit subsections (4) and (7).

**29**

- (1) Amend section 21 (temporary directions by Ministers) as follows.
  - (2) In subsection (1), omit—
    - (a) paragraph (b) and “or” preceding it,
    - (b) “or, as the case may be, of the report or complaint”, and
    - (c) “or direction”.
  - (3) In subsection (2), omit the proviso.
  - (4) Omit subsection (3).
  - (5) In subsection (4), for “periods prescribed by subsections (2) and (3)” substitute “period prescribed by subsection (2)”.

**30**

- (1) Amend section 32 (general provisions as to commissions and committees) as follows.
  - (2) In subsection (1), omit—
    - (a) “or committee” (in both places), and
    - (b) “or appointed”.
  - (3) In subsections (2) and (3), omit “or committee” (in each place).
  - (4) Omit subsection (4).

**31**

In section 47 (restrictions on disclosing certain information obtained under Act), in subsection (2), omit “, consumers' committee, committee of investigation”.

**32**

In section 53 (provisions as to Northern Ireland), in subsection (5)—

- (a) omit “consumers’ committee and committees of investigation shall operate, and the”,
- (b) for “operate and are applicable respectively” substitute “are applicable”, and
- (c) omit the words from “, but when any such committee” to the end of the subsection.

**33**

In Schedule 3 (matters referred to in the definition of “the Minister”), in Parts 2, 5 and 6, omit paragraphs 2 and 3.

*Public Records Act 1958 (c 51)*

**34**

(1) In Schedule 1 (definition of public records), amend Part 2 of the table at the end of paragraph 3 as follows.

(2) Insert at the appropriate places—

“Commission for Rural Communities.”, and

“Natural England.”.

(3) Omit the entries relating to English Nature and the Countryside Agency.

*Cereals Marketing Act 1965 (c 14)*

**35**

In section 6 (further non-trading functions of Authority), in subsection (2), omit “(subject to section 17(2) of this Act)”.

**36**

In section 17 (offences in relation to scheme under section 16), omit—

- (a) subsection (2), and
- (b) in subsection (3), paragraph (c) and “or” preceding it.

*Superannuation Act 1965 (c 74)*

**37**

In section 39 (meaning of “public office” etc), in subsection (1), in paragraph 7, omit the entry relating to English Nature.

*Sea Fisheries Regulation Act 1966 (c 38)*

**38**

*In section 5A (byelaws under section 5 for marine environmental purposes), in subsection (3)(a), for “English Nature” substitute “Natural England”.*

*Parliamentary Commissioner Act 1967 (c 13)*

**39**

- (1) Amend Schedule 2 (departments and authorities subject to investigation) as follows.
- (2) Insert at the appropriate places—

“Commission for Rural Communities.”, and

“Natural England.”.

- (3) Omit the entries relating to the Countryside Agency and English Nature.

*Agriculture Act 1967 (c 22)*

**40**

Omit section 24 (disclosure of information).

*Countryside Act 1968 (c 41)*

**41**

In the heading preceding section 1, for “Agency” substitute “Council for Wales”.

**42**

For section 1 (general functions of the Countryside Agency and the Countryside Council for Wales) substitute—

**“1 General functions of the Countryside Council for Wales**

- (1) The purposes for which the Countryside Council for Wales is to exercise the functions conferred on them by this Act are those specified in section 130(2) of the Environmental Protection Act 1990.
- (2) The Council may—
  - (a) make such charges for any of their services as they think fit,
  - (b) accept any gift or contribution made to them for the purposes of any of their functions, and, subject to the terms of the gift or contribution and to the provisions of the National Parks and Access to the Countryside Act 1949 (in this Act referred to as “the Act of 1949”) and this Act, to apply it for those purposes, and
  - (c) do all such things as are incidental to, or conducive to the attainment of the purposes of, any of their functions.”.

**43**

- (1) Amend section 2 (new functions of the Agency) as follows.

- (2) In subsection (1)—
- for “Agency and the Council shall each” substitute “Council shall”, and
  - for “Agency or Council” (in both places) substitute “Council”.
- (3) In subsections (2) to (4)—
- for “Agency and the Council” (in each place) substitute “Council”, and
  - for “Agency or Council” (in each place) substitute “Council”.
- (4) In subsection (5)—
- for “Agency or to the Council” substitute “Council”,
  - for “Agency or, as the case may be, the Council” substitute “Council”, and
  - in paragraph (b)—
    - for “Agency or Council” (in each place) substitute “Council”, and
    - for “provisions of section 1(2)” substitute “purposes mentioned in section 1(1)”.
- (5) In subsections (6) to (8)—
- for “Agency and the Council” (in each place) substitute “Council”, and
  - for “Agency or Council” (in each place) substitute “Council”.
- (6) In subsection (9)—
- omit “Agency and the” and “Agency or”, and
  - for “Exchequer grants under the Act of 1949” substitute “grants under section 16 of the Welsh Development Agency Act 1975”.
- (7) In the heading, for “Agency” substitute “Council”.
- 44**
- (1) Amend section 4 (experimental projects or schemes) as follows.
- (2) In subsection (1)—
- for “Agency and the Council” substitute “Council”, and
  - for “Agency or Council” substitute “Council”.
- (3) In subsection (3) for “Agency or, as the case may be, the Council” substitute “Council”.
- (4) In subsections (4) to (6) for “Agency or Council” (in each place) substitute “Council”.
- (5) In subsection (5) for “Agency or by the Council” substitute “Council”.
- (6) In subsection (6) for “Agency or of the Council” substitute “Council”.

**45**

In section 8 (country park: sailing, boating, bathing and fishing), in subsection (5), for “the Agency” substitute “Natural England”.

**46**

- (1) Amend section 12 (facilities in or near National Parks) as follows.
  - (2) In subsection (1)—
    - (a) in the first sentence, omit “, at the request of, and in accordance with terms laid down by, the Agency or, as the case may be, the Council,”, and
    - (b) omit the second sentence.
  - (3) In subsection (5), in the first sentence, for “the Agency” substitute “Natural England”.

**47**

In section 13 (lakes in national parks: control of boats etc), in subsection (4)—

- (a) for “sections 1 and” substitute “section”, and
- (b) for “the Agency” substitute “Natural England”.

**48**

- (1) Amend section 15 (agreements in respect of areas of special scientific interest) as follows.
  - (2) In—
    - (a) subsection (1), for “the Nature Conservancy Council (in this section referred to as “the Council”)” substitute “the Council or Scottish Natural Heritage”, and
    - (b) in subsections (2) and (3), after “the Council” insert “or (as the case may be) Scottish Natural Heritage”.
  - (3) In subsection (6), in the substituted subsection (4), for “the Council” substitute “Scottish Natural Heritage”.
  - (4) Omit subsection (6A).

**49**

- (1) Amend section 15A (compulsory purchase) as follows.
  - (2) For subsection (1) substitute—
    - “(1) Natural England or the Council may, in the circumstances set out in subsection (2), acquire compulsorily all or part of the land which it appears to that body expedient to acquire for the purpose of conserving flora, fauna, or geological or physiographical features of special interest.”.
  - (3) In subsection (2)—

(a) in paragraph (a)—

(i) for “the Nature Conservancy Council” substitute “Natural England or (as the case may be) the Council”, and

(ii) for “such an agreement as is referred to in section 15(2)” substitute “an SSSI agreement”, and

(b) in paragraph (b), for “such an agreement” substitute “an SSSI agreement”.

(4) In subsection (4), for “the Nature Conservancy Council” substitute “Natural England or the Council”.

(5) Omit subsection (5).

(6) After subsection (4) insert—

“(6) In this section “SSSI agreement” means—

(a) in relation to Natural England, an agreement under section 7 of the 2006 Act imposing, for the purpose of conserving flora, fauna, or geological or physiographical features of special interest, restrictions on the exercise of rights over land by persons having an interest in the land, or

(b) in relation to the Council, such an agreement as is referred to in section 15(2).”.

## 50

In section 23 (provision of facilities by Forestry Commissioners), in subsection (5) omit “Countryside Agency and the” and “each”.

## 51

In section 37 (protection for interests in countryside) for “the Agency, the Council, English Nature” substitute “Natural England, the Council”.

## 52

In section 38 (avoidance of pollution), for “the Agency” substitute “Natural England”.

## 53

(1) Amend section 41 (power to make byelaws and related provisions about wardens) as follows.

(2) For subsection (2) substitute—

“(2) Natural England and the Council may make byelaws for the preservation of order and other purposes mentioned in subsection (1)—

(a) in the case of Natural England, as respects land—

(i) to which the public have rights of access under a management agreement under section 7 of the Natural Environment and Rural Communities Act 2006, or

- (ii) held by them for the purposes of an experimental scheme under section 8 of that Act, and
- (b) in the case of the Council, as respects land—
- (i) held by them for the purposes of section 4, or
  - (ii) to which the public have access under an agreement under section 4(5)(b).".

(3) In subsections (5), (8) and (9), for “the Agency” substitute “Natural England”.

**54**

In section 45 (agreements with landowners), in subsection (1), omit “the Agency,”.

**55**

- (1) Amend section 46 (application of general provisions of 1949 Act) as follows.
- (2) In subsection (2), for “references to the Nature Conservancy Council shall include references to the Agency and any reference to the Nature Conservancy Council,” substitute “the reference to the appropriate conservation body”.
- (3) In subsection (4), omit “experimental projects or schemes.”.

**56**

In section 49 (interpretation), in subsection (2), omit the definition of “the Agency”.

*Conservation of Seals Act 1970 (c 30)*

**57**

- (1) Amend section 10 (power to grant licences) as follows.
- (2) In subsection (3), in paragraph (b), for “the Nature Conservancy Council” substitute “the appropriate nature conservation body”.
- (3) In subsection (5) for “a reference to “the Nature Conservancy Council” is a reference to English Nature,”, substitute ““the appropriate nature conservation body” means Natural England.”.

*Superannuation Act 1972 (c 11)*

**58**

- (1) Amend Schedule 1 (kinds of employment to which that Act applies) as follows.
- (2) Insert at the appropriate places—
- “Commission for Rural Communities.”, and
- “Natural England.”.
- (3) Omit the entries relating to the Countryside Agency and English Nature.

*Local Government Act 1974 (c 7)*

**59**

For section 9 (grants and loans by the Countryside Agency and the Countryside Council for Wales) substitute—

**“9 Grants and loans by the Countryside Council for Wales**

(1) In accordance with arrangements approved by the National Assembly for Wales, the Countryside Council for Wales may give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which, in the opinion of the Council, is conducive to the attainment of any of the purposes of—

- (a) the National Parks and Access to the Countryside Act 1949,
- (b) the Countryside Act 1968, or
- (c) the Countryside and Rights of Way Act 2000.

(2) On making a grant or loan under this section the Countryside Council for Wales may impose such conditions as they think fit including (in the case of a grant) conditions for repayment in specified circumstances.

(3) The exercise of the power of the Countryside Council for Wales under this section is subject to any directions given to the Council by the National Assembly for Wales.”.

*House of Commons Disqualification Act 1975 (c 24)*

**60**

(1) Amend Schedule 1 (offices disqualifying for membership) as follows.

(2) In Part 2 (bodies of which all members are disqualified), insert at the appropriate places—

“Commission for Rural Communities.”, and

“Natural England.”.

(3) In Part 3 omit the entries relating to the Countryside Agency and English Nature.

*Race Relations Act 1976 (c 74)*

**61**

(1) Amend Schedule 1A (bodies and other persons subject to general statutory duty) as follows.

(2) In Part 2, after the entry relating to the Commission for Racial Equality insert—

“Commission for Rural Communities.”.

(3) In that Part, after the entry relating to the Insolvency Rules Committee insert—

“Natural England.”.

(4) In that Part, omit the entries relating to English Nature, the Hill Farming Advisory Committee for Scotland and the Hill Farming Advisory Sub-Committee for Wales.

(5) In Part 3, omit the entry relating to the Countryside Agency.

*Import of Live Fish (England and Wales) Act 1980 (c 27)*

**62**

In section 1 (power to limit the import etc of fish and fish eggs), in subsection (2) for “English Nature” substitute “Natural England”.

*Highways Act 1980 (c 66)*

**63**

In section 105B (procedure), in subsection (8), in paragraph (b) of the definition of “the consultation bodies”, for “the Countryside Agency, English Heritage and English Nature” substitute “Natural England and English Heritage”.

**64**

In section 119D (diversion of certain highways for protection of sites of special scientific interest), in subsection (12), in paragraph (a) of the definition of “the appropriate conservation body”, for “English Nature” substitute “Natural England”.

**65**

In section 119E (provisions supplementary to section 119D), in subsection (2), at the end of paragraph (a) insert “and” and omit paragraph (c) and “and” preceding it.

**66**

In section 120 (exercise of powers of making public path extinguishment and diversion orders), in subsection (2)(c), for “the Countryside Agency” substitute “Natural England”.

**67**

In section 135A (temporary diversion for dangerous works), in subsection (6)(b), for “the Countryside Agency” substitute “Natural England”.

*Animal Health Act 1981 (c 22)*

**68**

(1) Amend section 21 (destruction of wild life on infection other than rabies) as follows.

(2) In subsection (3), for “Nature Conservancy Council” substitute “appropriate conservation body”.

(3) In subsection (9), in the definition of “Nature Conservancy Council”, for ““Nature Conservancy Council” means English Nature,” substitute ““appropriate conservation body” means Natural England.”.

**69**

In section 22 (powers of entry for section 21), in subsection (7)—

- (a) in paragraph (a), for “a Nature Conservancy Council under section 132 of the Environmental Protection Act 1990 or by Scottish Natural Heritage under section 4(7) of the Natural Heritage (Scotland) Act 1991” substitute “the appropriate conservation body”, and
- (b) for “the Council” (in both places) substitute “the body”.

*Wildlife and Countryside Act 1981 (c 69)*

**70**

In section 10 (exceptions to section 9), in subsection (5), for “Nature Conservancy Council” substitute “conservation body”.

**71**

In section 15 (endangered species (import and export)), in subsection (2), for “Nature Conservancy Councils” substitute “GB conservation bodies”.

**72**

- (1) Amend section 16 (power to grant licences) as follows.
- (2) In subsection (4), for “section 14” substitute “sections 14 and 14ZA”.
- (3) In subsections (9)(a) and (c), (10)(b) and (11), for “Nature Conservancy Council” substitute “conservation body”.
- (4) In subsection (10)(a)—
  - (a) for “Nature Conservancy Councils” substitute “GB conservation bodies”, and
  - (b) for “Council” substitute “body”.
- (5) Sub-paragraph (2) extends to England and Wales (including their adjacent territorial waters) only.

**73**

- (1) In section 21 (penalties, forfeitures, etc), in subsections (4) and (6)(b), after “section 14” insert “or 14ZA”.
- (2) This paragraph extends to England and Wales (including their adjacent territorial waters) only.

**74**

- (1) Amend section 22 (power to vary Schedules) as follows.
- (2) In subsection (3)—

- (a) for “jointly to him by the Nature Conservancy Councils” substitute “to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act”; and
  - (b) omit the words following paragraph (b).
- (3) After subsection (3) insert—
- “(3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.”.

## 75

- (1) Amend section 24 (functions of Nature Conservancy Council) as follows.
  - (2) In subsection (1)—
    - (a) for “Nature Conservancy Councils, acting jointly,” substitute “GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act”, and
    - (b) omit the words following paragraph (b).
  - (3) After subsection (1) insert—
- “(1A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.”.
- (4) In subsection (4), for “Nature Conservancy Councils” substitute “GB conservation bodies”.
- (5) For the heading substitute “Functions of GB conservation bodies”.

## 76

- (1) Amend section 27 (interpretation of Part 1) as follows.
- (2) In subsection (1), in paragraph (c) of the definition of “authorised person”, for “Nature Conservancy Councils” substitute “GB conservation bodies”.
- (3) In that subsection, after the definition of “poultry”, insert—

““premises” includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport;”.
- (4) For subsection (3A) substitute—

“(3A) In this Part “the GB conservation bodies” means—

  - (a) Natural England,
  - (b) the Countryside Council for Wales, and
  - (c) Scottish Natural Heritage,

and references to a conservation body are to be read accordingly.”.
- (5) Sub-paragraph (3) extends to England and Wales (including their adjacent territorial waters) only.

**77**

Omit section 27A (construction of references to Nature Conservancy Council) and the heading preceding it.

**78**

Before section 28 insert—

*“Sites of special scientific interest and limestone pavements”*

**27AA Application of sections 28 to 34 in Wales**

In relation to land in Wales, sections 28 to 34 (which relate to sites of special scientific interest and limestone pavements) have effect as if references to Natural England were references to the Countryside Council for Wales.”.

**79**

In sections 28 to 32 (which relate to sites of special scientific interest), for “the Nature Conservancy Council” and “the Council” (or “the Council’s”) substitute “Natural England” (or “Natural England’s”).

**80**

In section 28E (duties in relation to sites of special scientific interest), in subsection (3)(b), for “or section 15 of the 1968 Act” substitute “, section 15 of the 1968 Act or section 7 of the Natural Environment and Rural Communities Act 2006”.

**81**

(1) Amend section 28G (statutory undertakers, etc: general duty) as follows.

(2) In subsection (3)(e), omit “(meaning the persons referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990)”.

(3) After subsection (3) insert—

“(4) “Statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.”

**82**

In section 33 (ministerial guidance as respects areas of special scientific interest), in subsection (1), for “Nature Conservancy Councils” substitute “Natural England”.

**83**

(1) Amend section 34 (limestone pavement orders) as follows.

(2) For subsection (1) substitute—

“(1) Natural England must notify any local planning authority of any limestone pavement in that authority’s area.”.

(3) In subsection (3), for “the Council and the Agency” substitute “Natural England”.

- (4) In subsection (5), omit from “or Part” to the end.
- (5) In subsection (6), omit—
  - (a) the definition of “the Agency”, and
  - (b) paragraph (b) of the definition of “the relevant authority”.

**84**

Before section 35 insert—

*“Nature reserves, marine nature reserves and Ramsar sites”*

**34A Meaning of “appropriate conservation body”**

In the following provisions of this Part “the appropriate conservation body” means—

- (a) in relation to England, Natural England;
- (b) in relation to Wales, the Countryside Council for Wales;
- (c) in relation to Scotland, Scottish Natural Heritage.”.

**85**

In sections 35 to 37, for “the Nature Conservancy Council” and “the Council” substitute “the appropriate conservation body”.

**86**

In section 37A (Ramsar sites—wetlands of international importance), in subsections (1)(a) and (3) for “English Nature” substitute “Natural England”.

**87**

In section 39 (management agreements with owners and occupiers of land), omit subsection (5)(d).

**88**

(1) Amend section 41 (duties of agriculture Ministers with respect to the countryside) as follows.

(2) In subsection (3), omit the words after paragraph (b).

(3) In subsection (5), for the definitions of “management agreement” and “the relevant authority” substitute—

““management agreement” means—

(a) in relation to England, an agreement under section 39 or under

section 7 of the Natural Environment and Rural Communities Act 2006, and

(b) in relation to Wales, an agreement under section 39;

“the relevant authority” has the same meaning as in section 39 except that in relation to England it also includes Natural England.”.

- (4) Omit subsection (6).

**89**

Before section 42 insert—

**“41A Application of sections 42 to 45 in Wales**

In relation to land in Wales, sections 42 to 45 (which relate to National Parks) have effect as if references to Natural England were references to the Countryside Council for Wales.”.

**90**

- (1) Amend section 43 (maps of National Parks showing certain areas of moor or heath) as follows.

- (2) In subsection (1B)—

- (a) for “The Countryside Agency and the Countryside Council for Wales shall each” substitute “Natural England shall”, and  
(b) for “the Agency and the Council may each” substitute “Natural England may”.

- (3) In subsection (1C), for “the Agency or, as the case may be, the Council” substitute “Natural England”.

**91**

- (1) Amend section 45 (power to vary orders designating National Park) as follows.

- (2) In subsection (1)—

- (a) for “the Countryside Agency” (in both places) substitute “Natural England”, and  
(b) omit “in England”.

- (3) Omit subsection (2).

**92**

- (1) Amend section 47 (provisions with respect to the Countryside Agency) as follows.

- (2) Omit subsection (1).

- (3) In subsection (2), omit “to the Countryside Agency or”.

- (4) For the heading substitute “Grants to the Countryside Council for Wales”.

**93**

In section 49 (extension of power to appoint wardens)—

- (a) in subsection (1) for “the Countryside Agency”, and

(b) in subsection (4) for “Countryside Agency” and “the Countryside Agency”, substitute “Natural England”.

**94**

(1) Amend section 50 (payments under certain agreements offered by authorities) as follows.

(2) In subsection (1), in paragraph (a), for “the Nature Conservancy Council offer to enter into an agreement under” substitute “Natural England or the Countryside Council for Wales offer to enter into a nature reserve agreement or an SSSI agreement or an agreement under”.

(3) In subsection (3), omit “(or, in Scotland, an arbiter)” and “(or, in Scotland, the arbiter’s)”.

(4) In subsection (4), at the end insert—

“nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act;

“SSSI agreement” has the same meaning as in section 15A of the 1968 Act.”.

**95**

(1) Amend section 51 (powers of entry) as follows.

(2) In subsection (1)—

(a) in paragraph (c), after “enter into”, and

(b) in paragraph (h), after “terms of” in the first place where it occurs,

insert “a nature reserve agreement or an SSSI agreement or”.

(3) In subsection (2)(a), for “the Nature Conservancy Council” substitute “Natural England or the Countryside Council for Wales”.

(4) After subsection (2) insert—

“(2A) In subsection (1)—

“nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act;

“SSSI agreement” has the same meaning as in section 15A of the 1968 Act.”.

**96**

In section 52 (interpretation of Part 2), in subsection (1), omit the definition of “the Nature Conservancy Councils” and the words concerning the construction of references to “the Nature Conservancy Council”.

**97**

(1) Amend section 71 (general interpretation) as follows.

(2) Re-number the existing provision subsection (1).

(3) After that subsection insert—

“(2) For the avoidance of doubt it is hereby declared that in this Act “plants” include fungi and algae.”.

(4) This paragraph extends only to England and Wales and to the territorial waters adjacent to England and Wales.

**98**

Omit Schedule 13 (provisions with respect to the Countryside Agency).

*Derelict Land Act 1982 (c 42)*

**99**

In section 1 (power of Secretary of State to give grants), after subsection (6) insert—

“(6A) Before making any grant under this section where the land to which subsection (1) applies is in a National Park or an area of outstanding natural beauty, the Secretary of State must consult Natural England.”.

*Agricultural Marketing (Northern Ireland) Order 1982 (SI 1982/1080 (NI 12))*

**100**

Omit—

- (a) Article 21 (committee of investigation), and
- (b) Article 22 (action following report by a committee of investigation).

**101**

(1) Amend Article 29 (restrictions on disclosing certain information obtained under Part 2) as follows.

(2) In paragraph (2), for the words from “this Part” to the end of the paragraph substitute “this Part on any board”.

(3) In paragraph (3), omit “or by the General Consumer Council (Northern Ireland) Order 1984”.

*Miscellaneous Financial Provisions Act 1983 (c 29)*

**102**

Omit section 1 (functions of Countryside Agency in relation to economic and social development of rural areas in England).

*National Heritage Act 1983 (c 47)*

**103**

In section 24 (general functions of the Board), omit subsections (7) and (8) (fixing of opening hours and fees subject to Treasury consent).

*Road Traffic Regulation Act 1984 (c 27)*

**104**

- (1) Amend section 22 (traffic regulation for special areas in the countryside) as follows.
- (2) In subsection (1)(a), for sub-paragraphs (iv) and (v) substitute—
- (iv) an area in which Natural England is conducting an experimental scheme under section 8 of the Natural Environment and Rural Communities Act 2006 or the Countryside Council for Wales are conducting a scheme under section 4 of the 1968 Act,
- (v) a nature reserve or an area subject to an SSSI agreement or an agreement under section 15 of the 1968 Act.”.

(3) In subsection (3), for “The Countryside Agency” substitute “Natural England”.

(4) After subsection (4) insert—

“(4A) In subsection (1)(a)(v) above, “SSSI agreement” has the same meaning as in section 15A of the Countryside Act 1968.”.

*Inheritance Tax Act 1984 (c 51)*

**105**

In Schedule 3 (gifts for national purposes, etc), for “English Nature” substitute—

“Commission for Rural Communities.

Natural England.”.

*General Consumer Council (Northern Ireland) Order 1984 (SI 1984/1822 (NI 12))*

**106**

Omit Article 7 (functions of the General Consumer Council in relation to agricultural marketing schemes).

*Agriculture Act 1986 (c 49)*

**107**

In section 18 (designation and management of environmentally sensitive areas), in subsection (2)(a) for “the Countryside Agency and English Nature” substitute “Natural England”.

*Channel Tunnel Act 1987 (c 53)*

**108**

In Schedule 2 (supplementary provisions as to the scheduled works and other authorised works), in paragraph 5(3), for “English Nature” substitute “Natural England”.

**109**

In Schedule 3 (planning permission), in paragraph 17(4), for paragraphs (a) and (b) substitute—

- “(a) where the authority consider that nature conservation or the conservation of the natural beauty and amenity of the countryside may be affected, Natural England;”.

*Norfolk and Suffolk Broads Act 1988 (c 4)*

**110**

- (1) Amend section 4 (conservation of areas of natural beauty) as follows.
- (2) In subsection (3)(a), for “English Nature” substitute “Natural England”.
- (3) In subsection (4), for “Countryside Commission” substitute “Agency”.
- (4) In subsection (5), for the words from “the Countryside Commission” to the end substitute “the Agency must consult such bodies appearing to it to represent interests concerned as it considers appropriate.”.

**111**

In section 5 (notification of certain operations within the Broads), in subsection (4), for “, English Nature and the Countryside Commission” substitute “and Natural England”.

**112**

In—

- (a) section 6 (byelaws: general), in subsection (4),
- (b) section 15 (grants from Secretary of State), in subsection (2), and
- (c) Schedule 1 (the Broads Authority), in paragraph 6,

for “the Countryside Commission” substitute “Natural England”.

**113**

In Schedule 2 (variation of area treated as the broads)—

- (a) in paragraph 3, for “the Countryside Commission”, and
- (b) in paragraphs 4, 5, 6, 7 and 10, for “the Commission” (in each place),

substitute “Natural England”.

**114**

In Schedule 3 (functions of Authority), in paragraph 33(1), for paragraphs (b) and (c) substitute—

- “(b) Natural England;”.

*Electricity Act 1989 (c 29)*

**115**

In Schedule 9 (preservation of amenity and fisheries), in paragraph 2(2)—

- (a) omit “with the Countryside Agency, and”, and

(b) for “English Nature” substitute “Natural England”.

116

117

(1) For section 128 (creation and constitution of new Councils) substitute—

**“128 Countryside Council for Wales**

(1) There shall be a council to be called the Countryside Council for Wales (in this Part referred to as “the Council”).

(2) The Council shall have not less than 8 nor more than 12 members and those members shall be appointed by the National Assembly for Wales.

(3) The National Assembly for Wales may by order made by statutory instrument amend subsection (2) above so as to substitute for the number for the time being specified as the maximum membership of the Council such other number as the Assembly thinks appropriate.

(4) Schedule 6 has effect with respect to the constitution and proceedings of the Council.”.

118

For section 129 (grants by Secretary of State to new Councils) substitute—

**“129 Grants to the Council**

(1) The National Assembly for Wales may make to the Council grants of such amounts as the Assembly thinks fit.

(2) A grant under this section may be made subject to such conditions (including in particular conditions as to the use of the money for the purposes of the Joint Nature Conservation Committee) as the Assembly may think fit.”.

119

In section 130 (countryside functions of Welsh Council)—

- (a) in subsection (1), omit “, in place of the Commission established under section 1 of the National Parks and Access to the Countryside Act 1949 (so far as concerns Wales)”, and
- (b) in subsection (4), omit “and the Countryside Agency” and “respective”.

120

(1) Amend section 131 (nature conservation functions: preliminary) as follows.

(2) For subsection (1) substitute—

“(1) For the purpose of nature conservation and fostering the understanding of nature conservation, the Council shall have the functions conferred on them by this Part and Part 2 of the Natural Environment and Rural Communities Act 2006.”.

(3) In subsections (2) and (3), for “the Councils” substitute “the Council”.

(4) For subsection (4) substitute—

“(4) The National Assembly for Wales may give the Council general or specific directions with regard to the discharge of any of their nature conservation functions under this Part.”.

(5) Omit subsection (5).

## **121**

(1) Amend section 132 (general functions of the Councils) as follows.

(2) In subsection (1)—

(a) for “The Councils shall each” substitute “The Council shall”, and

(b) omit the words from “and the Councils shall” to the end.

(3) In subsection (2), for “The Councils shall each” substitute “The Council shall”.

(4) Omit subsection (3).

(5) In the heading, for “the Councils” substitute “the Council”.

## **122**

Omit section 133 (special functions of the Councils).

## **123**

(1) Amend section 134 (grants and loans by Councils) as follows.

(2) In subsection (1)—

(a) for “The Councils may each” substitute “The Council may”, and

(b) for “the Secretary of State” substitute “the National Assembly for Wales”.

(3) Omit subsection (2).

(4) In subsection (3), for “a Council” substitute “the Council”.

(5) In subsection (4), for “The Councils” substitute “The Council”.

(6) In the heading, for “the Councils” substitute “the Council”.

## **124**

Omit sections 135 to 138 (dissolution of Nature Conservancy Council etc).

## **125**

In section 161 (regulations, orders and directions), in subsection (4)(b), after “under section” insert “128(3)”.

**126**

- (1) Amend Schedule 6 as follows.
- (2) Omit paragraphs 1 and 15(1).
- (3) For the heading, substitute “The Countryside Council for Wales: Constitution.”.

**127**

Omit Schedules 7 (the Joint Nature Conservation Committee) and 10 (transfer schemes and staff of existing councils).

*Deer Act 1991 (c 54)*

**128**

- (1) Amend section 8 (exceptions for persons licensed by the Nature Conservancy Council for England or the Countryside Council for Wales) as follows.
- (2) In subsections (1) and (4), for “English Nature” substitute “Natural England”.
- (3) In the heading, for “the Nature Conservancy Council for England” substitute “Natural England”.

*Water Industry Act 1991 (c 56)*

**129**

- (1) Amend section 4 (environmental duties with respect to sites of special interest) as follows.
- (2) In subsection (1)—
  - (a) for “English Nature” substitute “Natural England”, and
  - (b) for “that Council” substitute “Natural England or (as the case may be) the Council”.
- (3) In subsection (4), for “English Nature” substitute “Natural England”.

**130**

In section 5 (codes of practice with respect to environmental and recreational duties), in subsection (4)(b), for “the Countryside Agency, English Nature” substitute “Natural England”.

**131**

- (1) Amend section 156 (restriction on disposals of land) as follows.
- (2) In subsection (4)(c), for sub-paragraphs (i) and (ii) substitute—

“(i) consult with Natural England (as respects land in England) or the Countryside Council for Wales (as respects land in Wales); and

(ii) enter into such management agreements or such covenants under subsection (6) below as the Secretary of State may determine;”.

(3) In subsection (4)(d)—

- (a) for “the Countryside Agency” substitute “Natural England”, and
- (b) for “that Agency or Council” substitute “Natural England or the Countryside Council for Wales”.

(4) In subsection (8), omit “and” preceding the definition of “the Broads” and after that definition insert—

“management agreement” means—

(a) in relation to land in England, an agreement under section 39 of the Wildlife and Countryside Act 1981 or section 7 of the Natural Environment and Rural Communities Act 2006;

(b) in relation to land in Wales, an agreement under section 39 of the Wildlife and Countryside Act 1981.”.

## 132

In Schedule 1A (the Water Services Regulation Authority), omit paragraph 11.

*Water Resources Act 1991 (c 57)*

## 133

In Schedule 6 (orders relating to abstraction of small quantities and compulsory registration of protected rights), in paragraph 1(4)(g), for “English Nature” substitute “Natural England”.

*Land Drainage Act 1991 (c 59)*

## 134

- (1) Amend section 61C (duties with respect to sites of special scientific interest) as follows.
- (2) In subsection (1)—
  - (a) for “English Nature” substitute “Natural England”, and
  - (b) for “that Council” substitute “Natural England or the Countryside Council for Wales”.
- (3) In subsection (4), for “English Nature” substitute “Natural England”.

## 135

In section 61E (codes of practice), in subsection (4)(b), for “the Countryside Agency, English Nature” substitute “Natural England”.

*Transport and Works Act 1992 (c 42)*

## 136

In section 6 (applications for orders relating to railways, tramways, inland waterways etc), in subsection (7)—

- (a) in paragraph (a), for “the Countryside Agency” substitute “Natural England”, and
- (b) omit paragraph (e) and “and” preceding it.

*Protection of Badgers Act 1992 (c 51)*

**137**

In section 10 (licences)—

- (a) in subsections (1), (3), (4) and (6), for “the appropriate Conservancy Council” (in each place) substitute “the appropriate conservation body”,
- (b) in subsection (4)(a), for “English Nature” substitute “Natural England”, and
- (c) in subsection (6), for “Council’s” substitute “body’s”.

*Agriculture Act 1993 (c 37)*

**138**

Omit section 20 (functions under section 19 of the Agricultural Marketing Act 1958).

*Agriculture (Northern Ireland) Order 1993 (SI 1993/2665 (NI 10))*

**139**

Omit Article 22 (functions of certain bodies in relation to agricultural marketing schemes).

*Environment Act 1995 (c 25)*

**140**

In section 4 (principal aims and objectives of the Environment Agency), in subsection (5), for the words from “after consultation with the Agency and such other bodies or persons as” substitute

“after consultation with—

- “(a) the Agency,
- (b) Natural England, and
- (c) such other persons as”.

**141**

(1) Amend section 8 (environmental duties with respect to sites of special interest) as follows.

(2) In subsection (1)—

- (a) for “English Nature” substitute “Natural England”, and
- (b) for “that Council” substitute “the Agency or (as the case may be) the Council”.

(3) In subsection (4), for “English Nature” substitute “Natural England”.

**142**

In section 9 (codes of practice with respect to environmental and recreational duties), in subsection (3)(b), for “the Countryside Agency, English Nature,” substitute “Natural England”.

**143**

In section 66 (National Park Management Plans), in subsection (7)(a), for “the Countryside Agency and English Nature” substitute “Natural England”.

**144**

In section 72 (National Park grant), in subsection (2), for “the Countryside Agency” substitute “Natural England”.

**145**

In section 99 (consultation before making or modifying certain subordinate legislation for England), in subsection (2), for paragraphs (b) and (c) substitute—

“(b) Natural England;”.

**146**

In Schedule 7 (National Park authorities), in paragraphs 4(1) and 14(3), for “the Countryside Agency” substitute “Natural England”.

*Channel Tunnel Rail Link Act 1996 (c 61)*

**147**

In Schedule 6 (planning conditions), in the table in paragraph 27(4), for the entries relating to English Nature and the Countryside Agency substitute—

**[FTB**

“Nature conservation or conservation of the natural beauty or amenity of the countryside	Natural England.”
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**148**

In Schedule 14 (overhead lines: consent), in the table in paragraph 7(4), for the entries relating to English Nature and the Countryside Agency substitute—

**[FTB**

“Nature conservation or conservation of the natural beauty or amenity of the countryside	Natural England.”
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*Government of Wales Act 1998 (c 38)*

**149**

In Schedule 4 (public bodies subject to reform by Assembly), omit paragraph 6.

**150**

In Schedule 5 (bodies and offices covered by section 74), omit paragraph 21.

*Greater London Authority Act 1999 (c 29)*

**151**

In section 352 (the Mayor's biodiversity action plan), in subsection (3), for paragraphs (a) and (b) substitute—

“(a) Natural England, and”.

**152**

In section 408 (transfer of property, rights or liabilities), in subsection (3), for paragraph (g) substitute—

“(g) Natural England;”.

*Freedom of Information Act 2000 (c 36)*

**153**

(1) In Schedule 1 (public authorities), amend Part 6 as follows.

(2) Insert at the appropriate places—

“Commission for Rural Communities.”, and

“Natural England.”.

(3) Omit the entries relating to—

- (a) the Committee of Investigation for Great Britain,
- (b) the consumers' committee for Great Britain appointed under section 19 of the Agricultural Marketing Act 1958,
- (c) the Countryside Agency, and
- (d) English Nature.

*Countryside and Rights of Way Act 2000 (c 37)*

**154**

In section 1 (principal definitions for Part 1), in subsection (2), in paragraph (a) of the definition of “the appropriate countryside body”, for “the Countryside Agency” substitute “Natural England”.

**155**

In section 4 (duty to prepare maps), in subsection (1), for “the Countryside Agency” substitute “Natural England”.

**156**

- (1) Amend section 20 (codes of conduct and other information) as follows.
- (2) In subsection (1), for “the Countryside Agency” substitute “Natural England”.
- (3) In subsection (3), for “the Countryside Agency” substitute “Natural England”.

**157**

In section 26 (nature conservation and heritage preservation), in subsection (6)(a)(i), for “, English Nature” substitute “in respect of which Natural England is not the relevant authority, Natural England”.

**158**

In section 33 (guidance by countryside bodies to National Park authorities)—

- (a) in subsections (1) and (3), for “The Countryside Agency”, and
- (b) in subsection (4), for “the Countryside Agency”,  
substitute “Natural England”.

**159**

In section 58 (application for path creation order), for subsection (1) substitute—

“(1) An application for the making of a public path creation order under section 26(2) of the 1980 Act may be made—

- (a) by Natural England to the Secretary of State, or
- (b) for the purpose of enabling the public to obtain access to any access land (within the meaning of Part 1) or of facilitating such access, by the Countryside Council for Wales to the National Assembly for Wales.”.

**160**

In section 61 (rights of way improvement plans: supplemental), in subsection (1)(f), for “the Countryside Agency” substitute “Natural England”.

**161**

Omit section 73 (Nature Conservancy Council for England: change of name).

**162**

Omit section 74 (conservation of biological diversity).

**163**

In section 82 (designation of areas of outstanding natural beauty), in subsection (1)—

- (a) for “the Countryside Agency (in this Part referred to as “the Agency”)” substitute “Natural England”, and

(b) for “the Agency may” substitute “Natural England may”.

**164**

In each of the following provisions for “the Agency” substitute “Natural England”—

- (a) section 83(1), (2), (3), (5), (8) and (9);
- (b) section 84(1)(a) and (3);
- (c) section 86(6)(a);
- (d) section 90(1)(a)(i);
- (e) section 91(2);
- (f) in Schedule 13, paragraph 6(1).

**165**

In section 85 (general duty of public bodies etc), in subsection (3), after the definition of “public office” insert—

““statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990”.

**166**

In section 87 (general purposes and powers), in subsection (2), omit “, but without incurring significant expenditure in doing so.”.

**167**

In section 90 (supplementary provisions relating to management plans for areas of outstanding natural beauty), in subsection (1)(a)(i), omit “and English Nature”.

**168**

In section 92 (interpretation of Part 4 etc), in subsection (1), omit the definition of “the Agency”.

**169**

In section 101 (expenses), omit paragraph (a).

**170**

(1) In Schedule 11 (transitional provisions and savings relating to sites of special scientific interest), in paragraph 7, after sub-paragraph (2) insert—

“(3) In relation to a site of special scientific interest which is the subject of a notification to which this paragraph applies—

- (a) section 28B (notification of additional land) shall have effect as if subsection (3) were omitted; and
- (b) section 28C (enlargement of SSSI) shall have effect as if subsection (4) were omitted.”.

(2) In the heading to paragraph 7, for “section 28A” substitute “sections 28A to 28C”.

*Scottish Public Services Ombudsman Act 2002 (asp 11)*

**171**

In Schedule 2 (listed authorities), in Part 2, omit paragraphs 62 and 65.

*Water Act 2003 (c 37)*

**172**

In Schedule 1 (the Water Services Regulation Authority), in the Schedule 1A to be inserted in the Water Industry Act 1991, omit paragraph 11.

*Public Appointments and Public Bodies etc (Scotland) Act 2003 (asp 4)*

**173**

In Schedule 2 (the specified authorities), omit the entry relating to the Hill Farming Advisory Committee for Scotland.

...

**174**

...

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 107(8).

### **Appointment**

Paras 1–33, 34(3), 35–38, 39(3), 40–57, 58(3), 59, 60(3), 61(2), (4), (5), 62–104, 106–152, 153(3), 154–173: Appointment: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule thereto.

Paras 34(1), (2), 39(1), (2), 58(1), (2), 60(1), (2), 61(1), 105, 153(1), (2): Appointment (for certain purposes): 2 May 2006: see SI 2006/1176, art 4.

Paras 34(1), (2), 39(1), (2), 58(1), (2), 60(1), (2), 61(1), 105, 153(1), (2): Appointment (for remaining purposes): 1 October 2006: see SI 2006/2541, art 2.

Para 61(3): Appointment: 2 May 2006: see SI 2006/1176, art 4.

### **Amendment**

Para 38: repealed by the Marine and Coastal Access Act 2009, s 321, Sch 22, Pt 4.

Date in force (in relation to Wales): 1 April 2010: see SI 2010/630, art 3(b); for transitional provisions see arts 8, 12 thereof.

Date in force (in relation to England): to be appointed: see the Marine and Coastal Access Act 2009, s 324(3)–(6).

Para 116: repealed by SI 2007/3538, reg 74(2), Sch 23.

Date in force: 6 April 2008: see SI 2007/3538, reg 1(1)(b); for savings see reg 72(2), (10) thereof.

Para 174: repealed by the Marine and Coastal Access Act 2009, s 321, Sch 22, Pt 8.

Date in force: 12 January 2010: see SI 2009/3345, art 2, Schedule, para 27(d).

## **Part 2** **Inland Waterways**

**175**

(1) In—

- (a) the provisions listed in sub-paragraph (2), and
- (b) subordinate legislation (within the meaning of the Interpretation Act 1978 (c 30)),

for “Inland Waterways Amenity Advisory Council” (in each place) substitute “Inland Waterways Advisory Council”.

(2) The provisions are—

- paragraph 2(2) of Schedule 13 to the Transport Act 1968 (c 73);
- in the House of Commons Disqualification Act 1975 (c 24), Part 3 of Schedule 1;
- in the Race Relations Act 1976 (c 74), Part 2 of Schedule 1A;
- in the British Waterways Act 1983 (c ii), paragraph 1(c) of Schedule 1;
- in the British Waterways Act 1995 (c i), paragraphs 6(c), 7(1), 8, 9 and 12(a) of Schedule 2;
- in the Freedom of Information Act 2000 (c 36), Part 6 of Schedule 1.

**176**

In Part 1 of Schedule 17 to the Transport Act 1968 (provisions extending to Northern Ireland), omit “and 110”.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 107(8).

**Appointment**

Appointment: 1 April 2007: see SI 2007/816, art 2(b).

**SCHEDULE 12**  
**REPEALS AND REVOCATIONS**

Section 105(2)

[FTB

Repeals

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Hill Farming Act 1946 (c 73)	Section 32.
National Parks and Access to the Countryside Act 1949 (c 97)	In section 1(1), “There shall be a Countryside Agency which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and” and “corresponding” (in both places). Section 1(2).

	In the heading to section 1, “Countryside Agency and the”.
	In section 6(1), “as soon as may be after the commencement of this Act, and thereafter”.
	Section 6(4)(a) and (c).
	Section 9(2).
	In section 11A(1), “, but without incurring significant expenditure in doing so,”.
	Section 64(5).
	In section 114(1), the definition of “the Agency”.
Agricultural Marketing Act 1958 (c 47)	In section 19, subsections (1) to (5) and (9).
	In section 20, in subsection (3), the words from “, and if, within” to the end and subsections (4) and (7).
	In section 21, in subsection (1), paragraph (b) and “or” preceding it, “or, as the case may be, of the report or complaint” and “or direction”, in subsection (2), the proviso and subsection (3).
	In section 32, in subsection (1), “or committee” (in both places) and “or appointed”, in subsections (2) and (3), “or committee” (in each place) and subsection (4).
	In section 47, in subsection (2), “, consumers’ committee, committee of investigation”.
	In section 53, in subsection (5), “consumers’ committee and committees of investigation shall operate, and the” and the words from “, but when any such committee” to the end of the subsection.
	In Schedule 3, in Parts 2, 5 and 6, paragraphs 2 and 3.
Public Records Act 1958 (c 51)	In Schedule 1, in Part 2 of the table at the end of paragraph 3, the entries relating to English Nature and the Countryside Agency.
Cereals Marketing Act 1965 (c 14)	In section 6(2), “(subject to section 17(2) of this Act)”.
	In section 17, subsection (2) and, in subsection (3), paragraph (c) and “or” preceding it.
Superannuation Act 1965 (c 74)	In section 39, in subsection (1), in paragraph 7, the entry relating to English Nature.
Parliamentary Commissioner Act 1967 (c 13)	In Schedule 2, the entries relating to the Countryside Agency and English Nature.

Agriculture Act 1967 (c 22)	Section 24.
Countryside Act 1968 (c 41)	In section 2(9), “Agency and the” and “Agency or”.  In section 12(1), in the first sentence, “, at the request of, and in accordance with terms laid down by, the Agency or, as the case may be, the Council,” and the second sentence.
	Section 15(6A).
	Section 15A(5).
	In section 23(5), “Countryside Agency and the” and “each”.
	In section 45(1), “the Agency”.
	In section 46(4), “experimental projects or schemes.”.
	In section 49(2), the definition of “the Agency”.
Transport Act 1968 (c 73)	In Schedule 17, in Part 1, “and 110”.
Superannuation Act 1972 (c 11)	In Schedule 1, the entries relating the Countryside Agency and English Nature.
Nature Conservancy Council Act 1973 (c 54)	In Schedule 1, paragraphs 1, 2(2) and 9.
House of Commons Disqualification Act 1975 (c 24)	In Schedule 1, in Part 3, the entries relating to the Countryside Agency and English Nature.
Race Relations Act 1976 (c 74)	In Schedule 1A, in Part 2, the entries relating to English Nature, the Hill Farming Advisory Committee for Scotland and the Hill Farming Advisory Sub-Committee for Wales and, in Part 3, the entry relating to the Countryside Agency.
Highways Act 1980 (c 66)	In section 119E(2), paragraph (c) and “and” preceding it.
Wildlife and Countryside Act 1981 (c 69)	In section 19(3), “(with or without other persons)”.  Sections 19ZA and 19ZB.  Section 21(4A) and (4D).
	In section 22(3), the words following paragraph (b).
	In section 24(1), the words following paragraph (b).
	Section 27A and the heading preceding it.
	In section 28G(3)(e), “(meaning the persons referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990)”.

	In section 34, in subsection (5), from “or Part” to the end and in subsection (6) the definition of “the Agency” and paragraph (b) of the definition of “the relevant authority”.
	Section 39(5)(d).
	In section 41, in subsection (3), the words after paragraph (b) and subsection (6).
	In section 45, in subsection (1), “in England” and subsection (2).
	In section 47, subsection (1) and, in subsection (2), “to the Countryside Agency or”.
	In section 50(3), “(or, in Scotland, an arbiter)” and “(or, in Scotland, the arbiter’s)”.
	In section 51(2)(c), “the Ministers or”.
	In section 52(1), the definition of “the Nature Conservancy Councils” and the words concerning the construction of references to “the Nature Conservancy Council”.
	Schedule 13.
Miscellaneous Financial Provisions Act 1983 (c 29)	Section 1.
National Heritage Act 1983 (c 47)	Section 24(7) and (8).
Road Traffic Act 1988 (c 52)	In section 34(2), “(subject to section 34A of this Act)”.
Electricity Act 1989 (c 29)	In Schedule 9, in paragraph 2(2), “with the Countryside Agency, and”.
Local Government and Housing Act 1989 (c 42)	In section 155(4), “or” preceding paragraph (h).
Environmental Protection Act 1990 (c 43)	In section 130, in subsection (1) “, in place of the Commission established under section 1 of the National Parks and Access to the Countryside Act 1949 (so far as concerns Wales),” and, in subsection (4), “and the Countryside Agency” and “respective”.
	Section 131(5).
	In section 132, in subsection (1), the words from “and the Councils shall” to the end, and subsection (3).
	Section 133.
	Section 134(2).
	Sections 135 to 138.

	In Schedule 6, paragraphs 1 and 15(1).
	Schedule 7.
	In Schedule 8, paragraphs 2(2) to (4) and (6)(a), 6(3) and (4).
	In Schedule 9, paragraphs 4(2)(b), 10(3), 11(3), (5), (6)(a), (7)(b), (8), (12) and (13).
	Schedule 10.
Natural Heritage (Scotland) Act 1991 (c 28)	In Schedule 2, paragraphs 7(3) and 8(5).
Water Industry Act 1991 (c 56)	In section 156(8), “and” preceding the definition of “the Broads”.
Transport and Works Act 1992 (c 42)	In Schedule 1A, paragraph 11.
Agriculture Act 1993 (c 37)	In section 6(7), paragraph (e) and “and” preceding it.
Government of Wales Act 1998 (c 38)	Section 20.
Freedom of Information Act 2000 (c 36)	In Schedule 4, paragraph 6.
Countryside and Rights of Way Act 2000 (c 37)	In Schedule 5, paragraph 21.  In Schedule 1, in Part 6, the entries relating to the Committee of Investigation for Great Britain, the consumers’ committee for Great Britain appointed under section 19 of the Agricultural Marketing Act 1958, the Countryside Agency and English Nature.  Sections 73 and 74.  Section 80(4)(a).  In section 87(2), “, but without incurring significant expenditure in doing so,.”.  In section 90(1)(a)(i), “and English Nature”.  In section 92(1), the definition of “the Agency”.  Section 101(a).  In Schedule 4, paragraph 5.  In Schedule 7, paragraphs 6 and 7.  In Schedule 8, paragraphs 1 and 2.  In Schedule 12, paragraph 8.

	In Schedule 15, paragraph 1.
Scottish Public Services Ombudsman Act 2002 (asp 11)	In Schedule 2, in Part 2, paragraphs 62 and 65.
Water Act 2003 (c 37)	In Schedule 1, in the Schedule 1A to be inserted in the Water Industry Act 1991, paragraph 11.
Public Appointments and Public Bodies etc (Scotland) Act 2003 (asp 4)	In Schedule 2, the entry relating to the Hill Farming Advisory Committee for Scotland.

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Revocations

<i>Title and number</i>	<i>Extent of revocation</i>
Agricultural Marketing (Northern Ireland) Order 1982 (SI 1982/1080 (NI 12))	Articles 21 and 22.  In Article 29(3), “or by the General Consumer Council (Northern Ireland) Order 1984”.
General Consumer Council (Northern Ireland) Order 1984 (SI 1984/1822 (NI 12))	Article 7.  In Schedule 2, Part 3.
Agriculture (Northern Ireland) Order 1993 (SI 1993/2665 (NI 10))	Article 22.
Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (SI 1999/416)	In Schedule 1, paragraphs 1 to 13, 14(2) and (5) and 15 to 18.
National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672)	In Schedule 1, in the entry relating to the Environmental Protection Act 1990, paragraph (d).

**NOTES**

**Initial Commencement**

**To be appointed**

To be appointed: see s 107(8).

**Appointment**

Appointment (in relation to England in part): 2 May 2006: see SI 2006/1176, art 6.

Appointment (in part): 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule thereto.

Appointment (remainder): 1 April 2007: see SI 2007/816, art 2(c).