National Parks and Access to the Countryside Act, 1949

12, 13 & 14 GEO. 6. CH. 97

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CHAPTER 97

An Act to make provision for National Parks and the establishment of a National Parks Commission; to confer on the Nature Conservancy and local authorities powers for the establishment and maintenance of nature reserves; to make further provision for the recording, creation, maintenance and improvement of public paths and for securing access to open country, and to amend the law relating to rights of way; to confer further powers for preserving and enhancing natural beauty; and for matters connected with the purposes aforesaid. [16th December 1949.]

BE it enacted by the King'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 I

THE NATIONAL PARKS COMMISSION

The National Parks Commission.

1. There shall be a National Parks Commission which shall be charged with the duty of exercising the functions conferred on them by the following provisions of this Act—

(*a*) for the preservation and enhancement of natural beauty in England and Wales, and particularly in the areas designated under this Act as National Parks or as areas of outstanding natural beauty;

PART I —*cont.*

(*b*) for encouraging the provision or improvement, for persons resorting to National Parks, of facilities for the enjoyment thereof and for the enjoyment of the opportunities for open air recreation and the study of nature afforded thereby,

and of exercising such other functions as are conferred on the Commission by this Act.

Constitution of Commission

2.—(1) The National Parks Commission (hereinafter referred to as "the Commission") shall be a body corporate by that name with a common seal, and shall consist of a chairman and such number of other members as the Minister may determine, of whom one may be appointed to be deputy chairman.

(2) The members of the Commission shall be appointed by the Minister and shall hold and vacate office in accordance with such terms as may be prescribed by or under regulations made by the Minister and, on vacating office, shall be eligible for re-appointment.

(3) The Minister may pay to the chairman and deputy chairman of the Commission such remuneration (whether by way of salary or by way of fees), and to any of the members of the Commission such reasonable allowances in respect of—

(*a*) expenses properly incurred in the performance of their duties,

(*b*) loss of remunerative time, or

(*c*) additional expenses (other than as aforesaid) necessarily incurred by them for the purpose of enabling them to perform their duties, being expenses to which they would not otherwise have been subject,

as the Minister may with the consent of the Treasury determine.

(4) The Commission may, with the approval of the Minister, appoint a secretary to the Commission, and may appoint such number of other officers and of servants as the Minister may with the consent of the Treasury determine.

(5) The functions of the Commission, and of their officers and servants, shall be exercised on behalf of the Crown.

(6) The procedure (including the quorum) of the Commission shall be such as they may determine.

(7) The validity of any proceeding of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(8) A member of the Commission, other than the chairman or deputy chairman, shall not by reason of his membership be rendered incapable of being elected, or of sitting and voting as, a member of the House of Commons.

PART I —*cont.*

Power of Minister to give directions to Commission.

3.—(1) The Minister may give to the Commission such directions of a general character as appear to him expedient in relation to the exercise of their functions, and the Commission shall comply with directions given under this section.

(2) As soon as may be after giving a direction under this section the Minister shall, unless in his opinion it is against the interests of national security so to do, cause a notice setting out the direction to be published in such manner as appears to him to be requisite for informing persons and bodies of persons concerned.

Annual Report of Commission.

4.—(1) The Commission shall, as soon as possible after the thirtieth day of September in each year, make to the Minister a report on the discharge by them of their functions under this Act during the period of twelve months ending with that day.

(2) Without prejudice to the generality of subsection (1) of this section, but subject to the provisions of the next following subsection, the report of the Commission for any period shall include a record of all questions with which the Commission have been concerned during that period and which appear to the Commission to be of general public interest, indicating the purport of any representations or recommendations made by the Commission with respect thereto, and the conclusions (if any) reached thereon.

(3) The report of the Commission for any period shall set out any direction given by the Minister during that period under the last foregoing section unless the Minister has notified to the Commission his opinion that it is against the interests of national security so to do.

(4) The Minister shall lay a copy of every report of the Commission under this section before each House of Parliament.

PART II

NATIONAL PARKS

National Parks.

5.—(1) The provisions of this Part of this Act shall have effect for the purpose of preserving and enhancing the natural beauty of the areas specified in the next following subsection, and for the purpose of promoting their enjoyment by the public.

(2) The said areas are those extensive tracts of country in England and Wales as to which it appears to the Commission that by reason of—

(*a*) their natural beauty, and

(*b*) the opportunities they afford for open-air recreation, having regard both to their character and to their position in relation to centres of population,

it is especially desirable that the necessary measures shall be taken for the purposes mentioned in the last foregoing subsection.

PART II —*cont.*

(3) The said areas, as for the time being designated by order made by the Commission and submitted to and confirmed by the Minister, shall be known as, and are hereinafter referred to as, National Parks.

General duties of Commission in relation to National Parks.

6.—(1) It shall be the duty of the Commission as soon as may be after the commencement of this Act, and thereafter from time to time, to consider what areas there are in England and Wales falling within subsection (2) of the last foregoing section, to determine in what order they should be designated under subsection (3) of that section, and to proceed with their designation at such times as the Commission may determine.

(2) The power of the Minister to give directions under section three of this Act shall extend to the giving of directions as to the order and time of designation of the said areas, notwithstanding that the directions may be of a specific character.

(3) As respects areas designated as National Parks, it shall be the duty of the Commission—

(*a*) to consider, generally and in relation to particular National Parks, in what way action needs to be taken under this Act and the Act of 1947 for the purposes specified in subsection (1) of the last foregoing section, and to make such recommendations with respect thereto to the Minister and to local authorities as may appear to the Commission to be necessary or expedient, and

(*b*) to keep under review the progress made from time to time in accomplishing the said purposes and to make to the Minister or, where the Commission deem it appropriate, to any other Minister or any local authority or other persons, such representations as appear to the Commission to be necessary or expedient as to any matter affecting the accomplishment of those purposes.

(4) Without prejudice to the generality of the last foregoing subsection, it shall be the duty of the Commission, subject to and in accordance with the following provisions of this Act in that behalf,—

(*a*) as respects any area designated as a National Park, to give advice to the appropriate planning authorities as to the arrangements to be made for administering the area as a National Park;

(*b*) where it appears to the Commission, as respects any particular National Park or part thereof, that the preservation or enhancement of the natural beauty thereof presents special problems or requires special professional or technical skill, to notify their opinion to the appropriate planning authorities and, on the application of any such authority in any case where it

appears to the Commission expedient for the purposes specified in subsection (1) of the last foregoing section, to place the services of officers of the Commission at the disposal of the authority, for such period as may be agreed between the Commission and the authority and on such terms as to payment or otherwise as may be so agreed with the approval of the Minister;

(*c*) to assist such authorities in formulating proposals as to the exercise by such authorities of their powers under this Act for securing the provision of accommodation, access for open-air recreation and other facilities for persons visiting National Parks and otherwise as to the exercise of their powers under this Act as respects National Parks, and to consult with such authorities with respect to the recommendations to be made by the Commission as to the payment of grants by the Minister under this Act;

(*d*) to make to such authorities, as respects the exercise in relation to National Parks of the powers hereinafter conferred on them to make byelaws, recommendations as to the matters in respect of which such byelaws should be made, either generally or in the case of any particular Park;

(*e*) to give advice where any Minister consults the Commission as to proposals for development of land in a National Park, or the appropriate planning authority consult them (whether in compliance with a requirement imposed under this Act or the Act of 1947 or otherwise) in connection with the preparation or amendment of a development plan or in connection with an application for permission to develop any such land;

(*f*) to make recommendations to the Minister and, where the Commission deem it appropriate, to other Ministers as to any proposals for the development of land in a National Park, being proposals for development in a way which appears to the Commission to be inconsistent with the maintenance of the area as a Park;

(*g*) to notify to the Minister, or where the Commission deem it appropriate to other Ministers, the general nature of the action which will in the opinion of the Commission need to be taken as respects land in a National Park for any of the purposes specified in subsection (1) of the last foregoing section, in cases where it appears to the Commission that the Minister in question should be informed thereof before considering future proposals for the development of the land for other purposes; and

PART II —*cont.*

(*h*) if in any case the Commission are not satisfied that effect will be given to their recommendations or advice as to any matter mentioned in the foregoing paragraphs of this subsection, to refer the matter to the Minister and to advise the Minister as to the exercise of any powers of direction or enforcement (including powers of making orders) conferred on him by this Act or the Act of 1947.

(5) Nothing in this section shall be construed as modifying the effect of any provision of this Act whereby any specific power or duty is conferred or imposed on the Commission or whereby an obligation is imposed on any other person to consult with the Commission.

(6) In this section the expression "appropriate planning authority" means a local planning authority whose area consists of or includes the whole or any part of a National Park, and includes a local authority, not being a local planning authority, by whom any powers of a local planning authority as respects a National Park are exercisable, whether under the following provisions of this Act in that behalf or otherwise; and references in this section to a Minister include references to any Board in charge of a Government department.

Designation and variation of National Parks.

7.—(1) Before making an order designating a National Park the Commission shall consult with every joint planning board, county council, county borough council and county district council whose area includes any land in the area to be designated a Park.

(2) Any such order shall describe the area to be designated a Park by reference to a map and such other descriptive matter as may appear to the Commission to be requisite.

(3) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of any order designating a National Park.

(4) The Minister may by order made after consultation with the Commission vary an order designating a National Park.

(5) Before making an order under the last foregoing subsection the Minister shall consult with every such board and council as aforesaid whose area, or any part of whose area, is comprised in the National Park, whether as existing or as proposed to be varied; and the provisions in that behalf of the First Schedule to this Act shall apply to any order under the last foregoing subsection.

(6) It shall be the duty of the Commission to secure that copies of any order such as is mentioned in this section shall be available, at the office of the Commission, at the offices of each joint

PART II —*cont.*

planning board and local authority specified in subsection (1) or subsection (5) of this section, as the case may be, and at such other place or places in or near the Park in question as the Commission may determine, for inspection by the public at all reasonable times.

Arrangements for administration of functions of local planning authorities as respects National Parks.

8.—(1) Not later than three months after the coming into operation of an order designating a National Park, every local planning authority whose area includes any land comprised in the Park shall consult with the Commission on the arrangements to be made for carrying out, in relation to the Park, the following provisions of this section.

(2) Where a National Park lies partly within the area of one local planning authority and as to the rest within the area of one or more other such authorities, there shall be a joint planning board constituted under section four of the Act of 1947 for a united district consisting of the area of the Park :

Provided that where, on the representation of any of the said authorities, the Minister is satisfied after consultation with the Commission that by reason of any special circumstances it is expedient so to do for securing efficient administration in the Park, he may direct that as respects all or any of the authorities the foregoing provisions of this subsection shall not have effect unless and until the direction is revoked.

(3) Where a National Park lies wholly within the area of one local planning authority, or while a direction under the proviso to the last foregoing subsection is in force as respects any such authority, there shall be a separate planning committee, or separate sub-committee of a planning committee, appointed under Part II of the First Schedule to the Act of 1947 for so much of the area of the authority as is comprised in the Park, and there shall be delegated to the committee or sub-committee such of the authority's functions under the Act of 1947 and this Act (other than powers to borrow money or to levy or issue a precept for a rate) as may be agreed between the authority and the Commission, or as in default of agreement the Minister may determine.

(4) In relation to local planning authorities whose areas include land in a National Park, the purposes for which under Part III of the First Schedule to the Act of 1947 a joint advisory committee may be established by local planning authorities or the Minister shall include the purpose of advising as to the exercise of all functions under the Act of 1947 and this Act as respects the Park ; and where a direction under the proviso to subsection (2) of this section is for the time being in force as respects any authority, there shall be a joint advisory committee established as aforesaid for the purpose of advising that

PART II —*cont.*

authority and all other local planning authorities whose areas include land in the Park as to the exercise of their said functions as respects the Park, or for that purpose and any other purposes for which such a committee can be so established.

(5) Where the foregoing provisions of this section require the establishment of a joint board, or a planning committee or sub-committee, for any area being or comprised in a National Park, the requirement shall be deemed to be complied with, in any case where the Minister after consultation with the Commission approves, if the board, committee or sub-committee is established for that area together with other land; and where under the said provisions a local planning authority is required to establish a separate planning committee or sub-committee for each of two or more such areas, the same committee or sub-committee may be established for both or all the areas.

(6) Not less than one third of the members of—

(*a*) a joint board or joint advisory committee constituted for an area being or including the whole or any part of a National Park, or

(*b*) a planning committee, or sub-committee of a planning committee, for such an area, where no joint board is constituted for the area,

shall be persons appointed in accordance with the following provisions:—

(i) in the case of a joint board or joint advisory committee, the said persons shall be appointed by the constituent authorities jointly;

(ii) in the case of a planning committee or sub-committee of a planning committee, the said persons shall be appointed by the local planning authority;

(iii) in any case the persons appointed shall be persons nominated by the Minister, after consultation with the Commission;

(iv) the persons appointed in pursuance of this subsection shall hold office for such period, not being less than one year nor more than three years, as the persons appointing them may determine, and, if again nominated by the Minister, shall be eligible for re-appointment:

Provided that if in any particular case the Minister, with the agreement of the Commission, so determines, this subsection shall have effect as if for the words "one third" there were substituted the words "one quarter."

(7) Notwithstanding anything in section four of the Act of 1947, an order under that section constituting an area, being or including the whole or any part of a National Park, a united district for the purposes of the Act of 1947 may be made without holding a local inquiry.

PART II —*cont.*

Development plans relating to National Parks.

9.—(1) In preparing a development plan, or proposals for any alterations of or additions to a development plan, for any area being or including the whole or any part of a National Park, the local planning authority shall consult with the Commission and take into consideration any observations made by the Commission.

(2) Provision may be made by regulations under the Act of 1947 for enabling proceedings preliminary to the confirmation of orders designating a National Park and to the making of orders varying such orders to be taken concurrently with proceedings required under that Act to be taken in connection with the submission, making or amendment of development plans.

Duty of local planning authority to formulate, and carry out, proposals for the purposes of s. 5 (1)

10.—(1) As soon as may be after the coming into operation of the order designating a National Park, every local planning authority whose area consists of or includes the whole or any part of the Park shall formulate and notify to the Commission the authority's general proposals as to the action needed for the accomplishment, in relation to their area or so much thereof as is comprised in the Park, of the purposes specified in subsection (1) of section five of this Act.

(2) Without prejudice to the provisions of the last foregoing subsection, every such authority shall—

(*a*) not later than twelve months after the coming into operation of the order designating the National Park, formulate and notify to the Commission proposals as to what action needed as aforesaid should be taken in the period between the notification of the proposals and the end of the next following financial year of the authority; and

(*b*) not later than such date as the Commission may determine in the said next following financial year and in each following financial year of the authority, formulate and notify to the Commission proposals as to what action needed as aforesaid should be taken in the financial year of the authority next following the notification of the proposals:

Provided that the obligation to formulate and notify proposals under paragraph (*b*) of this subsection may at any time by agreement between the Commission and the local planning authority either be suspended or be modified by the substitution for a financial year of the authority of such longer period as may be provided by the agreement.

(3) Proposals under either of the two last foregoing subsections shall specify how far, in the opinion of the authority, the action falls to be taken by them and how far by other authorities or persons.

PART II *-cont.*

(4) If on the notification to them of any proposals under this section the Commission make any recommendations under section six of this Act—

(*a*) the local planning authority shall in the light of the recommendations reconsider the proposals and make any amendment thereof (whether by way of addition or modification) appearing to them requisite;

(*b*) if on such reconsideration it does not appear to the authority requisite to give effect to any such recommendation of the Commission, the authority shall consult with the Commission.

(5) It shall be the duty of every such authority as aforesaid so far as appears to them practicable to exercise their powers under the Act of 1947 and this Act for giving effect to proposals notified to the Commission under the foregoing provisions of this section, or to such proposals as amended in accordance with the last foregoing subsection.

(6) Nothing in the foregoing provisions of this section shall be construed as requiring that proposals shall have been formulated and notified under those provisions before any power of a local planning authority is exercised, or as otherwise limiting the exercise of any such power.

General powers of local planning authorities in relation to National Parks.

11.—(1) A local planning authority whose area consists of or includes the whole or any part of a National Park shall have power, subject to the provisions of this section, to take all such action as appears to them expedient for the accomplishment of the purposes specified in subsection (1) of section five of this Act in relation to their area or so much thereof as is comprised in the Park.

(2) Nothing in the following provisions of this Act shall be construed as limiting the generality of the last foregoing subsection; but in so far as those provisions confer specific powers falling within that subsection those powers shall be exercised in accordance with the said provisions and subject to any limitations expressed or implied therein.

(3) The powers conferred on a local planning authority by subsection (1) of this section shall not include any power conferred on that or any other authority by or under any other Act; but nothing in this subsection shall be construed as limiting the exercise of any specific power conferred by the following provisions of this Act.

(4) Without prejudice to the powers hereinafter conferred, subsection (1) of this section shall have effect only for the purpose of removing any limitation imposed by law on the capacity of a local planning authority by virtue of its constitution, and shall not authorise any act or omission on the part of such an

authority which apart from that subsection would be actionable at the suit of any person on any ground other than such a limitation.

PART II —*cont.*

Provision of accommodation, meals, refreshments, camping sites and parking places.

12.—(1) A local planning authority whose area consists of or includes the whole or any part of a National Park may make arrangements for securing the provision in their area (whether by the authority or by other persons)—

(*a*) of accommodation, meals and refreshments (including intoxicating liquor);

(*b*) of camping sites; and

(*c*) of parking places and means of access thereto and egress therefrom,

and may for the purposes of such arrangements erect such buildings and carry out such work as may appear to them to be necessary or expedient:

Provided that a local planning authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

(2) The functions of a local planning authority under the last foregoing subsection shall be exercisable either on land in the Park or on land in the neighbourhood thereof; and where the local planning authority is a joint planning board, land in the neighbourhood of the Park which is in the area of any of the constituent authorities shall be treated for the purposes of the last foregoing subsection as in the area of the joint planning board, whether or not it is in that area.

(3) The foregoing provisions of this section shall not authorise an authority, on land in which any other person has an interest, without his consent to do anything which apart from this section would be actionable at his suit by virtue of that interest.

(4) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

Improvement of waterways for purposes of open-air recreation.

13.—(1) A local planning authority whose area consists of or includes the whole or any part of a National Park may, as respects any waterway in the Park and within the area of the authority, carry out such work and do such other things as may appear to them necessary or expedient for facilitating the use of the waterway by the public for sailing, boating, bathing or fishing:

PART II —*cont.*

Provided that a local planning authority shall not under this section provide facilities of any description except in cases where it appears to them that the facilities of that description are inadequate or unsatisfactory.

(2) A local planning authority may, as respects any waterway in their area, enter into an agreement, on such terms as to payment or otherwise as may be specified in the agreement, with any other authority on whom powers of carrying out work are conferred in relation to the waterway by or under any enactment, for the exercise by the said other authority of any power of doing work conferred on the local planning authority by the last foregoing subsection.

(3) Where an agreement is made under the last foregoing subsection for the exercise of any power by any such authority, other than a local planning authority, as is therein mentioned, no limitation imposed by law on the capacity of that authority by virtue of the constitution thereof shall operate so as to prevent the authority from exercising that power.

(4) Where it appears to the Minister, as respects a waterway in the area of a local planning authority, that any power of doing work conferred on the authority by subsection (1) of this section should be exercised by any such other authority as is mentioned in subsection (2) of this section, and the local planning authority have not entered into an agreement with the said other authority under the said subsection (2), the Minister may direct that the said power shall be exercisable by the said other authority:

Provided that no direction shall be given under this subsection except after consultation with the local planning authority and the said other authority.

(5) Before exercising any power conferred by or under this section an authority shall consult with such other authorities, being authorities which under any enactment have functions relating to the waterway in question, as the Minister may either generally or in any particular case direct.

(6) Where any authority consulted under the last foregoing subsection objects to a proposed exercise of powers under this section, and the objection is not withdrawn, the proposal shall not be proceeded with unless on an application in that behalf specifying the proposal and the objection the Minister so directs, and subject to any conditions or modifications specified in the direction; and before giving a direction under this subsection the Minister shall afford to each of the authorities an opportunity of being heard by a person appointed by him for the purpose, and shall consider that person's report.

(7) The foregoing provisions of this section shall not authorise an authority to do anything on land, or as respects water over

land, in which any other person has an interest, if apart from this section the doing thereof would be actionable at his suit by virtue of that interest and he does not consent to the doing thereof: PART II —*cont.*

Provided that this subsection shall not apply in the case of land to which, or to water over which, the public have access by virtue of an access order under Part V of this Act, but the exercise of any power under the foregoing provisions of this section as respects such land shall be subject to the provisions in that behalf of the said Part V.

(8) A local planning authority may acquire land compulsorily for the purpose of enabling any power conferred by or under this section to be exercised.

Acquisition by Minister of land in National Parks.

14.—(1) Where, as respects any land in a National Park, the Minister is satisfied that it is expedient so to do, he may with the consent of the Treasury acquire the land by agreement, whether by way of purchase, lease or exchange.

(2) Unless in any particular case the Minister otherwise determines, any land acquired by the Minister under this section shall be transferred to such other persons on such trusts or subject to such conditions as may appear to him expedient for securing that the land will be managed in a suitable manner for accomplishing the purposes specified in subsection (1) of section five of this Act.

(3) Subject to the provisions of the last foregoing subsection, the transfer of land under that subsection may be on such terms as to payment or otherwise as may, with the consent of the Treasury, be provided for by the arrangements for the transfer; and where the arrangements so provide the Minister may defray or contribute to the cost of managing the land while it is managed in accordance with the trusts or conditions referred to in the last foregoing subsection.

(4) The Minister may defray the cost of managing any land acquired by him under this section and not transferred to other persons.

PART III

NATURE CONSERVATION

Meaning of "nature reserve."

15. In this Part of this Act the expression "nature reserve" means land managed for the purpose—

(*a*) of 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

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(*b*) of preserving flora, fauna or geological or physiographical features of special interest in the area,

or for both those purposes.

Agreements with Nature Conservancy for establishment of nature reserves.

16.—(1) The Nature Conservancy may enter into an agreement with every owner, lessee and occupier of any land, being land as to which it appears to the Conservancy expedient in the national interest that it should be managed as a nature reserve, for securing that it shall be so managed.

(2) Any such agreement may impose such restrictions as may be expedient for the purposes of the agreement on the exercise of rights over the land by the persons who can be bound by the agreement.

(3) Any such agreement—

(*a*) may provide for the management of the land in such manner, the carrying out thereon of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement;

(*b*) may provide for any of the matters mentioned in the last foregoing paragraph being carried out, or for the cost thereof being defrayed, either by the said owner or other persons, or by the Conservancy, or partly in one way and partly in another;

(*c*) may contain such other provisions as to the making of payments by the Conservancy, and in particular for the payment by them of compensation for the effect of the restrictions mentioned in the last foregoing subsection, as may be specified in the agreement.

(4) Section two of the Forestry Act, 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to any such agreement; and where section seventy-nine of the Law of Property Act, 1925 (which provides that unless a contrary intention is expressed the burden of a covenant runs with the land) applies, subsections (2) and (3) of section one of the said Act of 1947 (which provide for enforcement against persons other than the covenantor) shall apply to any such restrictions as are mentioned in subsection (2) of this section, but with the substitution for references to the Forestry Commissioners of references to the Nature Conservancy.

(5) The following provisions shall have effect in the application of this section to Scotland:—

(*a*) a limited owner of land shall have power to enter into agreements under this section relating to the land;

(*b*) the Trusts (Scotland) Act, 1921, shall have effect as if among the powers conferred on trustees by section four thereof (which relates to the general powers of

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trustees) there were included a power to enter into agreements under this section relating to the trust estate or any part thereof;

(*c*) subsection (2) of section three of the Forestry Act, 1947, shall apply to an agreement under this section to which an owner or limited owner of land or a trustee acting under the last foregoing paragraph is a party as it applies to a forestry dedication agreement, with the substitution for the reference to the Forestry Commissioners of a reference to the Nature Conservancy;

(*d*) the expression "owner" includes any person empowered under this subsection to enter into agreements relating to land;

(*e*) subsection (4) shall not apply.

Compulsory acquisition of land by Conservancy for establishment of nature reserves.

17.—(1) Subject to the provisions of the next following subsection, where the Nature Conservancy are satisfied as respects any land that it is expedient in the national interest that it should be managed as a nature reserve, they may acquire the land compulsorily.

(2) The Nature Conservancy shall not acquire any interest in land under the last foregoing subsection unless they are satisfied that they are unable, as respects that interest, to conclude on terms appearing to them reasonable an agreement under the last foregoing section containing such provisions as in their opinion are required for securing that the land will be satisfactorily managed as a nature reserve.

Compulsory acquisition of land by Conservancy for maintenance of nature reserves.

18.—(1) Where, as respects any interest in land, the Nature Conservancy have entered into an agreement under the last but one foregoing section and any breach of the agreement occurs which prevents or impairs the satisfactory management as a nature reserve of the land to which the agreement relates, then without prejudice to any other remedy the Nature Conservancy may acquire that interest compulsorily.

(2) Such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the Nature Conservancy requiring the remedying thereof.

(3) Any dispute arising under this section whether there has been such a breach of an agreement as aforesaid shall be determined by an arbitrator appointed by the Lord Chancellor or, in the case of a dispute relating to land in Scotland, by an arbiter appointed by the Lord President of the Court of Session.

(4) Without prejudice to the operation of the Arbitration Acts, 1889 to 1934, as respects land in England or Wales, at any stage of the proceedings in any arbitration under the last

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foregoing subsection relating to land in Scotland the arbiter may, and shall if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in the arbitration.

Declarations what areas are nature reserves.

19.—(1) A declaration by the Nature Conservancy that any land is the subject of an agreement entered into with them under the foregoing provisions of this Part of this Act, or has been acquired and is held by the Conservancy, shall be sufficient evidence, unless the contrary is proved, that the land is subject to such an agreement or has been so acquired and is so held, as the case may be.

(2) A declaration by the Nature Conservancy that any land which is subject to such an agreement as aforesaid, or is held by the Nature Conservancy, is being managed as a nature reserve shall be conclusive of the matters declared.

(3) It shall be the duty of the Nature Conservancy, where any such declaration has been made and the agreement to which it relates ceases to be in force, or the land to which it relates ceases to be held by the Conservancy or to be managed as a nature reserve, as the case may be, to make a declaration of that fact; and any such declaration shall be conclusive of the matters declared.

(4) The Nature Conservancy shall publish notice of any declaration under this section in such manner as appears to them best suited for informing persons concerned.

(5) A document purporting to be certified on behalf of the Conservancy to be a true copy of any declaration under this section shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

Byelaws for protection of nature reserves.

20.—(1) The Nature Conservancy may, as respects land which is being managed as a nature reserve under an agreement entered into with them or land held by them which is being managed as a nature reserve, make byelaws for the protection of the reserve:

Provided that byelaws under this section shall not have effect as respects any land in a reserve unless a declaration under the last foregoing section is in force declaring that the land is being managed as a nature reserve and notice of the declaration has been published in pursuance of that section.

(2) Without prejudice to the generality of the last foregoing subsection, byelaws under this section—

(*a*) may provide for prohibiting or restricting the entry into, or movement within, nature reserves of persons, vehicles, boats and animals;

(*b*) may prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description in a nature reserve, the taking, destruction or disturbance of

eggs of any such creature, the taking of, or interference with, vegetation of any description in a nature reserve, or the doing of anything therein which will interfere with the soil or damage any object in the reserve;

(*c*) may prohibit or restrict the shooting of birds or of birds of any description within such area surrounding or adjoining a nature reserve (whether the area be of land or of sea) as appears to the Nature Conservancy requisite for the protection of the reserve;

(*d*) may contain provisions prohibiting the depositing of rubbish and the leaving of litter in a nature reserve;

(*e*) may prohibit or restrict, or provide for prohibiting or restricting, the lighting of fires in a nature reserve, or the doing of anything likely to cause a fire in a nature reserve;

(*f*) may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising entry into a nature reserve or the doing of anything therein which would otherwise be unlawful, whether under the byelaws or otherwise;

(*g*) may be made so as to relate either to the whole or to any part of the reserve or, in the case of byelaws made under paragraph (*c*) of this subsection, of any such surrounding or adjoining area as is mentioned in that paragraph, and may make different provisions for different parts thereof:

Provided that byelaws under this section shall not interfere with the exercise by any person of a right vested in him as owner, lessee or occupier of land in a nature reserve, or in the case of such land in Scotland as limited owner thereof, or with the exercise of any public right of way or of any functions of statutory undertakers, of a river board or other drainage authority or a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act, 1862, or of the Commissioners appointed under the Tweed Fisheries Act, 1857.

(3) Where the exercise of any right vested in a person, whether by reason of his being entitled to any interest in land or by virtue of a licence or agreement, is prevented or hindered by the coming into operation of byelaws under this section, he shall be entitled to receive from the Nature Conservancy compensation in respect thereof.

Establishment of nature reserves by local authorities.

21.—(1) The council of a county or county borough shall have power to provide, or secure the provision of, nature reserves on any land in their area (not being land held by, or managed in accordance with an agreement entered into with, the Nature Conservancy) as to which it appears to the council expedient that it should be managed as a nature reserve.

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(2) Any power of a county council under the last foregoing subsection as respects land in a county district may, with the consent of the county council and of the Nature Conservancy, be exercised by the council of the county district.

(3) Where the Nature Conservancy have consented under the last foregoing subsection to the exercise of a power by the council of a county district, but the county council have refused their consent thereto, the Minister, on the application of the council of the county district and after consultation with the county council and the Nature Conservancy, may direct that the said power shall be exercisable by the council of the county district.

(4) The foregoing provisions of this Part of this Act shall apply to the provision of nature reserves by local authorities under this section with the substitution for references to the Nature Conservancy of references to the local authority and as if the references in subsection (1) of sections sixteen and seventeen respectively of this Act to the national interest included references to the interests of the locality.

(5) A local authority may, as respects any land which is being managed as a nature reserve by the authority, enter into an agreement with any drainage authority for the exercise by the drainage authority, on such terms as to payment or otherwise as may be specified in the agreement, of any power of doing work exercisable by the local authority under the foregoing provisions of this section.

(6) A local authority shall exercise their functions under this Part of this Act in consultation with the Nature Conservancy.

(7) The following provisions shall have effect for the application of this section to Scotland:—

(*a*) the reference to the council of a county shall, in the case of counties combined under subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, mean the joint county council;

(*b*) for the reference to a county borough there shall be substituted a reference to a large burgh;

(*c*) the expression "county" means a county inclusive of any small burgh situated therein;

(*d*) the expressions "large burgh" and "small burgh" have the same meanings as in the Local Government (Scotland) Act, 1947;

(*e*) subsections (2) and (3) shall be omitted.

Power of drainage authorities to do work in nature reserves.

22. Where the Nature Conservancy, a local authority or any other person enter into an agreement with a drainage authority for the doing by that authority of any work on land managed as a nature reserve by, or under an agreement with, the Conservancy or a local authority, no limitation imposed by law on

the capacity of the drainage authority by virtue of the constitution thereof shall operate so as to prevent the drainage authority carrying out the agreement.

Duty of Conservancy to inform local planning authorities of areas of special scientific interest.

23. Where the Nature Conservancy are of opinion that any area of land, not being land for the time being managed as a nature reserve, is of special interest by reason of its flora, fauna, or geological or physiographical features, it shall be the duty of the Conservancy to notify that fact to the local planning authority in whose area the land is situated.

Annual report of Nature Conservancy.

24.—(1) The Nature Conservancy shall, as soon as possible after the thirtieth day of September in each year, make to the Lord President of the Council a report on the discharge by them of their functions during the period of twelve months ending with that day.

(2) The Lord President of the Council shall lay a copy of every report of the Nature Conservancy under this section before each House of Parliament.

Supplementary provisions as to powers of Conservancy.

25.—(1) Nothing in this Part of this Act shall be construed as limiting the powers conferred on the Nature Conservancy by their charter, as for the time being in force.

(2) The provisions of this Part of this Act as to the acquisition and holding of land by the Nature Conservancy shall have effect subject to any limitation contained in the said charter, as for the time being in force, on the aggregate value of the land which may be acquired or held by the Conservancy.

(3) For the purposes of the application of any enactment or rule of law to land an interest in which belongs to the Nature Conservancy, the Conservancy shall be deemed to be a Government department.

Application of Part III to Scotland.

26. In the application of this Part of this Act to Scotland the expressions "owner" and "limited owner" have the same meanings as in section three of the Forestry Act, 1947.

PART IV

PUBLIC RIGHTS OF WAY

Ascertainment of footpaths, bridleways and certain other highways

Surveys of public paths, etc., and preparation of draft maps and statements.

27.—(1) Subject to the provisions of this Part of this Act, the council of every county in England or Wales shall, as soon as may be after the date of the commencement of this Act, carry out a survey of all lands in their area over which a right of way to which this Part of this Act applies is alleged to subsist, and shall, not later than the expiration of three years

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after that date or of such extended period as the Minister may in any particular case allow, prepare a draft map of their area, showing thereon a footpath or a bridleway, as may appear to the council to be appropriate, wherever in their opinion such a right of way subsisted, or is reasonably alleged to have subsisted, at the relevant date.

(2) A map prepared in accordance with the last foregoing subsection shall also show thereon any way which, in the opinion of the authority carrying out the survey (hereinafter referred to as " the surveying authority "), was at the relevant date, or was at that date reasonably alleged to be, a road used as a public path.

(3) For the purposes of this section, the relevant date shall, in relation to the preparation of a draft map, be such date, not being earlier than six months before the date on which notice of the preparation of the draft map is published in accordance with the following provisions of this Part of this Act, as the surveying authority may determine.

(4) An authority by whom a draft map is prepared as aforesaid shall annex thereto a statement specifying the relevant date and containing, as respects any public path or other way shown thereon in accordance with the foregoing provisions of this section, such particulars appearing to the authority to be reasonably alleged as to the position and width thereof, or as to any limitations or conditions affecting the public right of way thereover, as in the opinion of the authority it is expedient to record in the statement.

(5) Any duty imposed by this section to prepare a map relating to any area may be discharged by the preparation, whether at the same time or at different times, of two or more maps, each comprising part of the area but together comprising the whole thereof; and where two or more such maps are prepared all proceedings under the following provisions of this Part of this Act may, except as hereinafter expressly provided, be taken separately in relation to each map.

(6) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say,—

" footpath " means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road;

" bridleway " means a highway over which the public have the following, but no other, rights of way, that is to say. a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

" horse " includes pony, ass and mule, and " horseback " shall be construed accordingly;

" public path " means a highway being either a footpath or a bridleway;

" right of way to which this Part of this Act applies " means a right of way such that the land over which the right subsists is a public path;

" road used as a public path " means a highway, other than a public path, used by the public mainly for the purposes for which footpaths or bridleways are so used.

(7) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in the last foregoing subsection by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

Provision of information by other local authorities.

28.—(1) Before carrying out a survey under the last foregoing section the surveying authority shall consult with the councils of county districts and parishes in the area of the authority as to the arrangements to be made for the provision by such councils of information for the purposes of the survey.

(2) Where the surveying authority and any such council as aforesaid are unable to agree as to the said arrangements, they shall refer the matter to the Minister and he shall determine what arrangements are to be made.

(3) Any arrangements made under this section for the provision of information by a parish council shall require the council to cause a parish meeting to be held for the purpose of considering the information to be provided by the council; and any arrangements so made for the provision of information by the council of a rural district shall, as respects each parish in the district not having a parish council, require the representative body of the parish or a member of that body to cause a parish meeting to be held for the purpose of considering the information to be provided by the district council in relation to the parish.

Representations and objections as to draft maps and statements.

(4) It shall be the duty of any such council as aforesaid to collect and furnish to the surveying authority such information, in such manner and at such time, as may be provided for by arrangements agreed or determined under this section; and the said duty shall be enforceable by mandamus on the application of the surveying authority.

29.—(1) On completing the preparation of a draft map and statement the surveying authority shall notify the Minister and shall cause notice of the preparation thereof, and of places where copies thereof may be inspected at all reasonable hours, and of the time (not being less than four months) within which, and

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the manner in which, representations or objections with respect to the draft map and statement may be made to the authority, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority.

(2) At any time after the publication of a notice under the last foregoing subsection and before the expiration of the period specified in the notice for the making of representations and objections, the owner of any land to which the draft map and statement relate, or any other person interested in such land, may require the surveying authority to inform him what documents (if any) creating or modifying any of the rights of way shown on the draft map, being rights of way required to be shown thereon, were taken into account in preparing the draft map, so far as the said land is concerned, and—

(*a*) as respects any such documents in the possession of the surveying authority, to permit him to inspect them and take copies thereof,

(*b*) as respects any such documents not in their possession, to give him any information the authority have as to where the documents can be inspected;

and on any requirement being made under this subsection the surveying authority shall comply therewith within fourteen days of the making of the requirement:

Provided that nothing in this subsection shall be construed as limiting the documentary or other evidence which may be adduced in any proceedings under this Part of this Act in support of the existence of a right of way.

(3) If any representation or objection is duly made to the surveying authority as to anything contained in or omitted from the draft map and statement, the authority, after considering the representation or objection and affording to the person by whom it was made an opportunity of being heard by a person appointed by the authority for the purpose, shall determine what (if any) modification of the particulars contained in the draft map and statement appears to the authority to be requisite in consequence thereof, and shall serve notice of their determination on the person by whom the representation or objection was made.

(4) Where under the last foregoing subsection the surveying authority determine to modify the particulars contained in the draft map and statement by the deletion of a way shown as a public path, or as a road used as a public path, or by the addition of a way so that it will be so shown,—

(*a*) they shall cause notice of their determination, in such form as may be prescribed by regulations made by the Minister, to be published in the London Gazette and in one or more local newspapers circulating in the area

of the authority, specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the determination may be made to the authority, and

(*b*) if any representation or objection is duly made to the authority under the last foregoing paragraph, the authority shall notify the effect of the representation to the person (hereinafter referred to as " the original objector ") who made the representation or objection under subsection (3) of this section and, after considering the representation or objection under the last foregoing paragraph and affording to the person by whom it was made and to the original objector an opportunity of being heard by a person appointed by the authority for the purpose, shall decide whether to maintain or revoke the determination and serve notice of their decision on the person by whom the representation or objection under the last foregoing paragraph was made and on the original objector.

(5) Any person aggrieved—

(*a*) by a determination of the surveying authority under subsection (3) of this section not to give effect to a representation or objection as to anything omitted from the draft map and statement (other than a limitation or condition to which a right of way is alleged to be subject), or

(*b*) by a decision of the surveying authority under the last foregoing subsection to maintain a determination to modify the particulars contained in the draft map and statement by the deletion of a way shown as a public path or as a road used as a public path, or

(*c*) by a decision of the surveying authority under the last foregoing subsection to revoke a determination to modify the said particulars by the addition of a way so that it will be so shown,

may, at any time within twenty-eight days after the service upon him of notice of the determination or decision, serve notice of appeal against that determination or decision on the Minister and on the surveying authority.

(6) Where notice of appeal is duly served under the last foregoing subsection the Minister, after giving to the appellant and to the surveying authority an opportunity of being heard by a person appointed by him for the purpose, shall either dismiss the appeal or direct the authority, in preparing the provisional map and statement in accordance with the provisions of the next following section,—

(*a*) in the case of an appeal against a determination under subsection (3) of this section, to modify the particulars

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contained in the draft map and statement in such manner as may be specified in the direction;

(*b*) in the case of an appeal against a decision under subsection (4) of this section, to reverse the decision.

(7) Where a notice of appeal duly served under subsection (5) of this section relates to a decision of the surveying authority under subsection (4) of this section, the authority shall serve a copy of the notice on the original objector, and the Minister shall give to the original objector an opportunity of being heard under the last foregoing subsection at the same time as the appellant.

Preparation of provisional maps and statements.

30.—(1) As soon as may be after the expiration of the period of twenty-eight days next following the date on which notice of the determination made or decision taken on all representations and objections made under the last foregoing section as respects a draft map and statement has been served on the persons by whom the representations or objections were made, or, if no such representations or objections have been duly made, then as soon as may be after the time for making such representations or objections has expired, the surveying authority shall prepare a provisional map and statement, and shall cause notice of the preparation thereof, and of places where copies thereof may be inspected at all reasonable hours, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority.

(2) If, apart from this subsection, the period mentioned in the last foregoing subsection would expire before the determination of an appeal of which notice has been duly served under the last foregoing section, the said period shall be extended until the appeal is determined.

(3) The particulars to be contained in a provisional map and statement shall be those contained in the draft map and statement, subject to such modifications thereof (if any) as may be specified in any direction given by the Minister under paragraph (*a*) of subsection (6) of the last foregoing section or as may appear to the surveying authority to be requisite having regard to their determination of any representation or objection made under that section, being a determination as to which the Minister has not given any such direction as aforesaid.

(4) Every provisional statement prepared under this section shall include a note of the relevant date specified in the corresponding draft statement.

Determination by quarter sessions of disputes as to provisional maps and statements.

31.—(1) At any time within twenty-eight days after the publication of a notice under subsection (1) of the last foregoing section, the owner, lessee or occupier of any land shown on the map to which the notice relates, being land on which the map

shows a public path, or a road used as a public path, may apply to quarter sessions for a declaration—

(*a*) that at the relevant date mentioned in the provisional statement there was no public right of way over the land;

(*b*) that the rights conferred on the public at that date by the public right of way over the land were such rights as may be specified in the application, and not such rights as are indicated in the provisional map and statement;

(*c*) that the position or width of that part of the land over which the public right of way subsisted at the said date was as specified in the application, and not as indicated in the provisional map and statement; or

(*d*) that the public right of way over the land at the said date was not unconditional but was subject to limitations or conditions specified in the application, or, if the said right is indicated in the provisional statement as being subject to limitations or conditions, that the said right was subject to other limitations or conditions specified in the application either in addition to or in substitution for those indicated in the provisional statement.

(2) Provision may be made by or under regulations made by the Secretary of State—

(*a*) for prescribing the court of quarter sessions to which applications under this section are to be made or for requiring such applications to be made to a committee, being either an existing committee or a committee specially constituted for the purpose as may be prescribed by the regulations, of such court of quarter sessions as may be so prescribed;

(*b*) for the form and manner in which such applications are to be made, and the persons who are to be entitled to be parties to the hearing of any such application;

(*c*) as to the publication or service of notice of proposals to make such applications;

(*d*) for the awarding of costs in any proceedings under this section.

(3) If on the hearing of an application under subsection (1) of this section, being an application for a declaration under paragraph (*a*), (*b*) or (*c*) of that subsection, it is not proved to the satisfaction of the court or committee—

(*a*) in the case of an application under the said paragraph (*a*), that there was at the relevant date a public right of way over the land,

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(*b*) in the case of an application under the said paragraph (*b*), that the rights conferred on the public by the public right of way over the land at the said date were rights other than those specified in the application, or

(*c*) in the case of an application under the said paragraph (*c*), that the position or width of the part of the land therein mentioned was other than that specified in the application,

the court or committee shall make the declaration sought by the applicant.

(4) Where the court or committee make a declaration in the case of an application under the said paragraph (*a*) and it is proved to their satisfaction—

(*a*) that there was at the relevant date a right of way to which this Part of this Act applies over land other than that to which the application relates, and

(*b*) that the said right is the right of way which the surveying authority had in view when they showed on the map the disputed public path or road used as a public path,

the court or committee may, if satisfied that every owner, lessee and occupier of any of the land mentioned in paragraph (*a*) of this subsection has had an opportunity of appearing before them, make a further declaration that a public right of way as specified in the declaration subsisted over that land at that date.

(5) Where, in the case of an application under paragraph (*b*) or paragraph (*c*) of subsection (1) of this section, the court or committee do not make the declaration sought by the applicant, but the true nature of the rights conferred on the public by the public right of way in question or, as the case may be, the true position or width of the part of the land over which the public right of way subsisted at the relevant date (being different both from that specified in the application and from that indicated in the provisional map and statement) is proved to the satisfaction of the court or committee, the court or committee may make a declaration accordingly:

Provided that the court or committee shall not make a declaration under this subsection unless they are satisfied that every owner, lessee and occupier of any land which would be affected by the declaration has had an opportunity of appearing before them.

(6) A declaration under paragraph (*d*) of subsection (1) of this section shall not be made unless the matters to be stated in the declaration have been proved to the satisfaction of the court or committee hearing the application.

(7) Section twenty of the Criminal Justice Act, 1925, (which provides for appeals to the High Court by way of case stated on a point of law) shall with the necessary modifications apply in relation to applications under this section.

(8) Subject to the last foregoing subsection and to the next following section, a declaration made under this section shall be conclusive evidence of the matters stated in the declaration.

Preparation, publication and effect of definitive maps and statements.

32.—(1) As soon as may be after the determination of all applications made under the last foregoing section as respects any map and statement, or if no such applications have been duly made then as soon as may be after the time for making such applications has expired, the surveying authority shall prepare a definitive map and statement, and shall cause notice of the preparation thereof, and of places where copies thereof may be inspected at all reasonable hours, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority.

(2) The particulars to be contained in a definitive map and statement shall be those contained in the provisional map and statement, subject to such modifications thereof (if any) as may be requisite for giving effect to any declaration made under the last foregoing section; and every definitive statement shall include a note of the relevant date specified in the corresponding provisional statement.

(3) The authority by whom a definitive map and statement are prepared shall furnish to the Minister such number of copies thereof as he may require.

(4) A definitive map and statement prepared under subsection (1) of this section shall be conclusive as to the particulars contained therein in accordance with the foregoing provisions of this section to the following extent, that is to say—

(*a*) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date specified in the statement a footpath as shown on the map;

(*b*) where the map shows a bridleway, or a road used as a public path, the map shall be conclusive evidence that there was at the said date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than the rights aforesaid; and

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(*c*) where by virtue of the foregoing paragraphs of this subsection the map is conclusive evidence, as at any date, as to a public path, or road used as a public path, shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at the relevant date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.

(5) A document purporting to be certified on behalf of the surveying authority to be a copy of a definitive map or statement or of any part thereof shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

(6) The provisions in that behalf of Part III of the First Schedule to this Act shall have effect as to the validity of definitive maps and statements prepared under subsection (1) of this section.

Periodical revision of maps and statements.

33.—(1) The authority by whom a definitive map and statement have been prepared under the last foregoing section shall from time to time review the particulars contained therein having regard to events which have occurred at any time between the relevant date specified in the definitive statement and such date as may be determined by the authority for the purposes of the review (in this and the next following section referred to as " the date of review "):

Provided that in the case of a map and statement which have previously been reviewed under this subsection, the foregoing provisions of this subsection shall have effect with the substitution, for the reference to the relevant date specified in the statement, of a reference to the last preceding date of review.

(2) The events so occurring as aforesaid to which an authority shall have regard in carrying out a review under the last foregoing subsection shall include the following events, that is to say—

(*a*) the coming into operation of any enactment or instrument, or any other event, whereby a highway required to be shown, and shown, on the map has been authorised to be stopped up, diverted, widened or extended;

(*b*) the coming into operation of any enactment or instrument, or any other event, whereby a highway shown on

the map as being a highway of a particular description required to be shown thereon has ceased to be a highway of that description;

(*c*) the coming into operation of any enactment or instrument, or any other event, whereby a new right of way has been created, being a right of way to which this Part of this Act applies;

(*d*) the expiration, in relation to a way in the area of the authority, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path; and

(*e*) the discovery by the authority of new evidence such that, if the authority were then preparing a draft map under the foregoing provisions of this Part of this Act, they would be required by those provisions to show on the map, as a highway of a particular description, a way not so shown on the definitive map, or on the revised map last prepared in accordance with the following provisions of this section, as the case may be.

(3) A review under subsection (1) of this section shall be carried out at such time as the authority carrying out the review may consider appropriate, so however that the date of review shall not in any case be a date later than the expiration of five years after the relevant date, or the last preceding date of review, whichever is the later:

Provided that nothing in this subsection shall affect the validity of any review carried out under the said subsection (1) or of any document prepared or thing done in consequence of such a review.

(4) Subject to the following provisions of this section, on completing a review under subsection (1) of this section the authority shall prepare a revised map and statement, consisting of the definitive map and statement, or of the revised map and statement last prepared under this section, as the case may be, subject to such modifications (if any) of the particulars contained therein as may appear to the authority to be requisite having regard to the review, and shall include in the revised statement a note of the date of review.

(5) If after carrying out a review under subsection (1) of this section it appears to the authority as respects the whole or any part of their area that a revised map and statement prepared in accordance with the last foregoing subsection would not differ from the definitive or last revised map and statement, the authority shall cause notice of that fact, specifying the date of review and how much of their area is affected by the notice, to be published in the London Gazette and in one or more local news-

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papers circulating in the area of the authority, and shall not be required to prepare a revised map and statement in consequence of that review in respect of so much of their area as is specified in the notice:

Provided that if within such time (not being less than twenty-eight days) as may be specified in the notice any representation is made to the authority that as respects the whole or part of so much of their area as is specified in the notice a revised map and statement prepared as aforesaid would differ from the definitive or last revised map and statement—

(*a*) the authority, after considering the representation and affording to the person by whom it was made an opportunity of being heard by a person appointed by the authority for the purpose, shall determine whether the representation is well founded and shall serve notice of their determination on the person by whom the representation was made;

(*b*) any person aggrieved by a determination of the authority under the last foregoing paragraph may, at any time within fourteen days after the service upon him of the notice of determination, serve notice of appeal against that determination on the Minister and on the authority;

(*c*) where notice of appeal is duly served under the last foregoing paragraph, the Minister, after giving to the appellant and to the authority an opportunity of being heard by a person appointed by him for the purpose, shall either dismiss the appeal or direct that effect shall be given to the representation;

(*d*) if the authority determine that a representation is well founded or the Minister directs that a representation shall have effect, the authority shall be required to prepare a revised map and statement in consequence of the review, so however that where the representation relates to part only of their area they shall not by virtue of that representation be required so to prepare a revised map and statement for any other part of their area.

Supplementary provisions as to revision of maps and statements.

34.—(1) A revised map and statement prepared in accordance with the last foregoing section shall be prepared in three successive stages, that is to say in draft, provisional and definitive form respectively; and the provisions of sections twenty-eight to thirty-two of this Act shall apply in relation to a review under the last foregoing section and to the preparation as aforesaid of a revised map and statement as they apply in relation to a survey

and to maps and statements prepared in consequence of a survey, but with the following modifications, that is to say— PART IV —*cont.*

(*a*) for references to the survey, to the surveying authority and to the relevant date there shall be substituted references to the review, to the authority carrying out the review and to the date of review respectively;

(*b*) for references to the draft, provisional and definitive map and statement there shall be substituted references to the revised map and statement as prepared in draft, provisional and definitive form respectively; and

(*c*) the reference in subsection (1) of section thirty-one of this Act to land on which the map shows a public path, or a road used as a public path, shall be construed as relating only to land on which the path or road was not shown, or was differently shown, on the last preceding revised map prepared in definitive form which included that land, or, if there has been no such map, on the definitive map.

(2) An authority carrying out a review under the last foregoing section shall so determine the date of review as to be not earlier than six months before the date on which notice of the preparation of the revised map and statement in draft form is published in accordance with the provisions of subsection (1) of section twenty-nine of this Act as applied by the last foregoing subsection.

(3) Where in accordance with subsection (5) of section twenty-seven of this Act two or more definitive maps and statements relating to different parts of the area of an authority have been prepared at different times, the authority shall at one and the same time review the particulars contained in each of those maps and statements; and accordingly the provisions of the last foregoing section shall apply as if the relevant date for the purposes of each of those maps and statements were the earliest of the relevant dates specified therein or such later date as, on the application of the authority, the Minister may in any particular case determine.

Application of ss. 27 to 34 to particular areas.

35.—(1) Subject to the provisions of this section, the foregoing provisions of this Part of this Act (in this and the next following section referred to as "the survey provisions") shall not apply to the administrative county of London.

(2) The London County Council or the council of a county borough may by resolution adopt the survey provisions as respects any part of the said county or of the county borough, as the case may be, specified in the resolution, and those provisions shall thereupon apply accordingly.

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(3) If it appears to the Minister, as respects any part of the administrative county of London or of a county borough, that it is expedient that the survey provisions should apply thereto, and the London County Council or the council of the county borough, as the case may be, have not passed a resolution adopting those provisions as respects that part, the Minister may, after consultation with the council in question, make an order directing that those provisions shall apply to that part of the said county or county borough, as the case may be.

(4) The council of a county, other than the administrative county of London, may by resolution exclude from the operation of the survey provisions any part of the county which appears to the council to be so fully developed that it is inexpedient that those provisions should apply thereto:

Provided that a resolution under this subsection shall not have effect unless approved by the Minister.

(5) Where by virtue of a resolution under subsection (2) of this section, or of an order under subsection (3) thereof, the survey provisions apply to any part of the administrative county of London or of a county borough, those provisions shall have effect in relation thereto—

(*a*) in the case of a part of the administrative county of London, as if that part were a separate county and the London County Council were the council thereof, and as if, for references in those provisions to a county district, there were substituted references to a metropolitan borough;

(*b*) in the case of a part of a county borough, as if that part were a county and the county borough council were the council thereof;

(*c*) in either case, as if, for references in section twenty-seven of this Act to the date of the commencement of this Act, there were substituted references to the date on which the resolution or order in question comes into operation;

(*d*) in either case, subject to the modification that subsection (5) of section thirty-three of this Act shall not apply as respects part only of the area to which the order or resolution relates.

(6) The making or revocation of a resolution or order under this section, or the happening of any other event whereby land becomes or ceases to be comprised in an area to which the survey provisions apply, shall not, as respects any map or statement prepared before the event happened, affect the application in relation to the map or statement of subsection (4) of section thirty-two of this Act or that subsection as applied by subsection (1) of the last foregoing section.

Exercise of functions as to surveys, etc., by joint planning boards.

36.—(1) Where under the Act of 1947 a joint planning board is for the time being constituted for a united district, then, if the council of every county wholly or partly comprised in that district consents, the powers and duties under the survey provisions of each of those councils as respects any area comprised in the united district may be exercised and performed by the board; and references in this Part of this Act to the surveying authority shall be construed accordingly.

(2) Subsection (1) of section twenty-eight of this Act shall have effect in relation to a survey carried out by a joint planning board as if the reference therein to the councils of county districts and parishes included a reference to the council of every county wholly or partly comprised in the area of the board.

(3) Where by virtue of a resolution passed or order made under the last foregoing section the survey provisions apply to part of a county borough, being a part wholly or partly comprised in a united district for which a joint planning board is constituted, references in the two last foregoing subsections to a county shall be construed as including references to that county borough.

(4) If, at the date when by virtue of such a resolution or order as aforesaid the survey provisions become applicable to part of a county borough, any functions under those provisions are being exercised by a joint planning board for a united district which includes that part, and the county borough council does not consent to the exercise of those functions by the joint planning board as respects that part, the foregoing provisions of this section shall have effect as if that part were not comprised in the united district.

Power of Minister to expedite preparation of maps and statements.

37.—(1) Where it appears to the Minister that circumstances exist such as are mentioned in the next following subsection and that by reason of those circumstances the preparation of a provisional map and statement under section thirty of this Act, or the preparation of a definitive map and statement under section thirty-two thereof, has been or is likely to be unduly delayed, the Minister, after consultation with the surveying authority, may direct the authority to prepare the provisional or definitive map and statement, as the case may be, within such time (not being less than three months from the date of the direction) as may be specified in the direction.

(2) The circumstances referred to in the last foregoing subsection are the following circumstances, that is to say—

(*a*) in the case of a provisional map and statement, that the matters for the time being outstanding are so numerous, or that any such matters are of such a character, as to prevent the completion within a reasonable time of the action required to be taken under section twenty-nine of this Act, and

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(*b*) in the case of a definitive map and statement, that by reason of the congestion of business at quarter sessions, or at any committee of quarter sessions to which applications under section thirty-one of this Act are referred, or by reason of the time taken or likely to be taken to dispose of any appeal under subsection (7) of the said section thirty-one, the determination of all applications under the said section thirty-one which, apart from this section, would have to be determined before the definitive map and statement can be prepared is not likely to be completed within a reasonable time.

(3) Where the Minister gives a direction under subsection (1) of this section as respects the preparation of a provisional map and statement, subsection (3) of section thirty of this Act shall have effect in relation to the preparation thereof with the following modifications, that is to say—

(*a*) the direction may require the surveying authority to disregard representations or objections made under subsection (3) of section twenty-nine of this Act as respects any matter, or matters of any class, specified in the direction, being a matter or matters outstanding at the date of the direction ; and

(*b*) subject to the provisions of the last foregoing paragraph, the surveying authority shall give effect to any representations or objections made with respect to matters outstanding at the date of the direction, being representations or objections made under the said subsection (3) as to anything omitted from the draft map and statement (other than a limitation or condition to which a right of way is alleged to be subject), and shall disregard all other representations or objections made with respect to matters outstanding at that date.

(4) Where the Minister gives a direction under subsection (1) of this section as respects the preparation of a definitive map and statement, subsection (2) of section thirty-two of this Act shall have effect in relation to the preparation thereof subject to the following modifications, that is to say—

(*a*) any way in respect of which an application under paragraph (*a*) or paragraph (*c*) of subsection (1) of section thirty-one of this Act has been made but not finally determined at the date of the direction shall be omitted from the definitive map and statement ;

(*b*) any way in respect of which an application under paragraph (*b*) of the said subsection (1) has been made but not finally determined at the said date shall be shown on the definitive map as if the rights conferred on the

public by the public right of way thereover were the rights specified in the application, and not the rights indicated in the provisional map and statement; and

(*c*) in the case of any way in respect of which an application under paragraph (*d*) of the said subsection (1) has been made but not finally determined at the said date, the definitive statement shall include a note of the limitations or conditions specified in the application and of the fact that the application has been made and has not been finally determined;

and subsection (2) of section thirty-three of this Act shall have effect, in relation to any review of the particulars contained in the definitive map and statement, as if the events therein mentioned included the final determination of any such application as is mentioned in paragraphs (*a*) to (*c*) of this subsection.

(5) The surveying authority shall furnish the Minister with such information, and produce to him for inspection such documents, as he may require for the purposes of this section.

(6) References in this section to matters outstanding at any time shall be construed as references to matters as to which representations or objections have been made under section twenty-nine of this Act and have not been finally determined before that time.

Supplementary provisions as to maps and statements.

38.—(1) Regulations made by the Minister may prescribe the scale on which maps are to be prepared under any of the foregoing provisions of this Part of this Act, and the method of showing or recording thereon, or in any statement required by those provisions to be annexed thereto, anything required by those provisions to be so shown or recorded.

(2) The places at which copies of a draft, provisional or definitive map and statement, or of a revised map and statement prepared in draft, provisional or definitive form, are to be available for inspection in accordance with the provisions of this Part of this Act in that behalf shall include one or more places in each county district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority or the authority carrying out the review, as the case may be, a place in each parish so comprised:

Provided that the authority shall be deemed to comply with the requirement to have a copy available for inspection in a county district or parish if they have available for inspection there a copy of so much of the map and statement as relates to the county district or parish.

(3) Notwithstanding anything in subsection (1) of section thirty-two of this Act or in the last foregoing subsection, an authority shall not be required to keep available for inspection

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more than one copy of any definitive map and statement, or revised map and statement prepared in definitive form, if as respects the land to which that map and statement relate a subsequent revised map and statement so prepared have come into operation; and the said one copy may be kept at such place in the area of the authority as they may determine.

Creation of new public rights of way

Creation of rights of way by agreement.

39.—(1) The council of a county borough or county district shall have power to enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath or bridleway over land in the county borough or county district, as the case may be:

Provided that the powers conferred by this subsection shall not be exercisable—

(*a*) by the council of a rural district except with the consent of the county council and, if the county council is not the local planning authority, the consent of that authority;

(*b*) by the council of any other county district except with the consent of the local planning authority; and

(*c*) by the council of a county borough, not being the local planning authority, except with the consent of that authority.

(2) An agreement made under the last foregoing subsection (hereinafter referred to as a "public path agreement") shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for the dedication of the footpath or bridleway subject to limitations or conditions affecting the public right of way thereover.

(3) Where a public path agreement has been made it shall be the duty of the council to take all necessary steps for securing that the footpath or bridleway is dedicated in accordance therewith.

(4) References in this section to the dedication of a footpath or bridleway shall be construed as including references to the widening or extension of a footpath or bridleway.

Compulsory powers for creation of public rights of way.

40.—(1) Where it appears to the council of a county borough or county district that there is need for a public right of way on foot, or on foot and on horseback, over land in their area and they are satisfied that, having regard to—

(*a*) the extent to which the right of way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and

(*b*) the effect which the creation of the right of way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation hereinafter contained,

it is expedient that the right of way should be created, the council may by order (hereinafter referred to as a "public path order") made by them and submitted to and confirmed by the Minister create a public right of way over the land.

(2) A right of way created by a public path order may be either a right of way on foot only, or a right of way on foot and on horseback, as may be specified in the order, and may be either unconditional or subject to such limitations or conditions as may be so specified.

(3) Subject to the provisions of the next following section, the powers conferred by this section shall not be exercisable—

(*a*) by the council of a rural district except with the consent of the county council and, if the county council is not the local planning authority, the consent of that authority;

(*b*) by the council of any other county district, except with the consent of the local planning authority; and

(*c*) by the council of a county borough, not being the local planning authority, except with the consent of that authority.

(4) A public path order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, defining the land over which a public right of way is thereby created.

(5) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of public path orders.

(6) References in this section to the creation of a public right of way shall be construed as including references to the widening or extension of the area over which there is an existing public right of way; and references therein to a right of way on horseback shall be construed as including references to a right of leading a horse along the highway.

Exercise by other authorities of powers under ss. 39 and 40.

41.—(1) The Minister, on the application of the council of a county, may direct, either generally or as respects the creation of a particular right of way, that the powers conferred by the two last foregoing sections or either of them on the council of a county district specified in the direction, being a district in the county in question, shall be exercisable by the county council and shall not be exercisable by the council of the county district:

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Provided that, in relation to the creation of rights of way in a National Park, this subsection shall have effect as if—

(*a*) references to the council of a county included references to a local planning authority whose area consists of or includes any part of the Park, and

(*b*) references to a county district in the county included references to a county borough or county district any part of which is comprised in the area of such a local planning authority.

(2) A county council exercising a power by virtue of a direction under the last foregoing subsection shall consult the local planning authority, where that authority is a joint board, but shall not be required to obtain the consent of the board to the exercise of the power.

(3) Where it appears to the Minister in any particular case that there is need for a public right of way as mentioned in subsection (1) of the last foregoing section, and the Minister is satisfied as mentioned in that subsection, the Minister, after consultation with the appropriate authority, may direct the authority to make and submit to him a public path order creating the right of way or may himself make the order; and where the Minister gives a direction under this subsection, the provisions of subsection (3) of the last foregoing section shall not apply.

(4) In the last foregoing subsection the expression "the appropriate authority," in relation to the making of a public path order, means the authority upon whom power to make the order (whether the power is exercisable with the consent of any other authority or not) is conferred by the last foregoing section or by that section as modified by a direction given under subsection (1) of this section.

Diversion and Closure of Public Paths

Diversion of public paths.

42.—(1) Where an owner, lessee or occupier of land crossed by a public path satisfies the council of the county borough or county district in which the land is situated that for securing the efficient use of the land or of other land held therewith or providing a shorter or more commodious path it is expedient that the line of the path across his land, or part of that line, should be diverted (whether on to other land of his or on to land of another owner, lessee or occupier), the council may by order (hereinafter referred to as a "diversion order") made by them and submitted to and confirmed by the Minister—

(*a*) create, as from such date as may be specified in the order, any such new public right of way as appears to the council requisite for effecting the diversion, and

(*b*) extinguish, as from such date as may be so specified in accordance with the provisions of the next following

subsection, the public right of way over so much of the path as appears to the council requisite as aforesaid.

(2) Where it appears to the council that any work requires to be done to provide necessary facilities for the convenient exercise of any such new public right of way as is mentioned in paragraph (*a*) of the last foregoing subsection, the date specified under paragraph (*b*) of that subsection shall be later than the date specified under paragraph (*a*) thereof by such time as appears to the council requisite for enabling the work to be carried out.

(3) A public right of way created by a diversion order shall be either a right of way on foot only, or a right of way on foot and on horseback (including a right of leading a horse along the highway), as may be specified in the order in accordance with the nature of the right of way extinguished by the order, and may either be unconditional or may (whether or not the last-mentioned right was subject to limitations or conditions of any description) be subject to such limitations or conditions as may be so specified.

(4) Before determining to make a diversion order on the representation of any owner, lessee or occupier, the council may require him to enter into an agreement with the council to defray, or to make such contribution as may be specified in the agreement towards—

(*a*) any compensation which may become payable under the following provisions of this Part of this Act in consequence of the coming into operation of the order, or

(*b*) where the council are the highway authority as respects the path in question, any expenses which they may incur in bringing the new site of the path into a fit condition for use by the public, or

(*c*) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority in consequence of the order under the provisions of subsection (4) of section forty-eight of this Act.

(5) The Minister shall not confirm a diversion order unless he is satisfied that the diversion to be effected thereby is expedient as mentioned in subsection (1) of this section, and further that the path will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

(*a*) the diversion would have on public enjoyment of the path as a whole,

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(*b*) the coming into operation of the order would have as respects other land served by the existing public right of way, and

(*c*) any new public right of way created by the order would have as respects the land over which the right is so created and of any land held therewith,

so however that for the purposes of paragraphs (*b*) and (*c*) of this subsection the Minister shall take into account the provisions as to compensation hereinafter contained.

(6) A diversion order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, showing the existing site of so much of the line of the path as is to be diverted by the order and the new site to which it is to be diverted, and indicating whether a new right of way is created by the order over the whole of the new site or whether some part thereof is already comprised in a public path and, in the latter case, defining the part thereof so comprised.

(7) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of diversion orders.

(8) References in this section and in the said First Schedule to the diversion of the line of a path shall be construed as including, in the case of a path which terminates at a point on any public path or other highway, references to modifying the line of the path so as to terminate at another point on the same highway or on a highway connected therewith, being a point substantially as convenient to the public.

Closure of public paths.

43.—(1) Where it appears to the council of a county borough or county district as respects a public path in their area that it is expedient that the path should be stopped up, otherwise than by way of a diversion order, on the grounds that the path is not needed for public use, the council may by order (hereinafter referred to as an " extinguishment order ") made by them and submitted to and confirmed by the Minister extinguish the public right of way over the path.

(2) The Minister shall not confirm an extinguishment order unless he is satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him that the path would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path, account being taken of the provisions as to compensation hereinafter contained.

(3) An extinguishment order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.

(4) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of extinguishment orders.

(5) Where in accordance with regulations made under paragraph 4 of the said First Schedule proceedings preliminary to the confirmation of an extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path order or a diversion order, then in considering under subsection (1) of this section whether the path to which the extinguishment order relates is needed for public use, or under subsection (2) of this section to what extent (if any) that path would apart from the order be likely to be used by the public, the council or the Minister, as the case may be, may have regard to the extent to which the public path order or diversion order would provide an alternative path.

(6) References in this section to a public path shall be construed as including references to a part of such a path.

(7) For the purposes of subsections (1) and (2) of this section, any temporary circumstances preventing or diminishing the use of a path by the public shall be disregarded.

Exercise of powers of making diversion and extinguishment orders.

44.—(1) Subject to the following provisions of this section, the powers of making diversion orders and extinguishment orders conferred by the two last foregoing sections shall not be exercisable—

(*a*) by the council of a rural district except with the consent of the county council and, if the county council is not the local planning authority, the consent of that authority;

(*b*) by the council of any other county district, except with the consent of the local planning authority;

(*c*) by the council of a county borough, not being the local planning authority, except with the consent of that authority; and

(*d*) by any local authority as respects a path, or part of a path, in a National Park, except after consultation with the Commission.

(2) Where a public path lies partly within and partly outside a county borough or county district, the powers conferred by the two last foregoing sections on the council of the county

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borough or county district, as the case may be, shall extend to the whole of the path as if the path lay wholly within their area:

Provided that, in relation to so much of the path as lies outside the area of the council, the said powers shall not be exercisable—

(*a*) as respects any part of the path in a rural district, except with the consent of the council of that district and of the county council, and, if that county council is not the local planning authority, the consent of that authority;

(*b*) as respects any part of the path in any other county district, except with the consent of the council of that district and the consent of the local planning authority; and

(*c*) as respects any part of the path in a county borough, except with the consent of the council of the county borough and, if that council is not the local planning authority, the consent of that authority.

(3) The Minister, on the application of the council of a county, may direct, either generally or as respects the diversion or stopping up of a particular public path or part thereof, that the powers conferred by the two last foregoing sections or either of them (including those powers as extended by the last foregoing subsection) on the council of a county district specified in the direction, being a district in the county in question, shall be exercisable by the county council and shall not be exercisable by the council of the county district.

(4) A county council exercising a power by virtue of a direction under the last foregoing subsection shall consult the local planning authority, where that authority is a joint board, but shall not be required to obtain the consent of the board to the exercise of the power:

Provided that a county council shall not exercise any such power as aforesaid as respects so much of a public path as lies in another county except with the consent of the council of that county and, if the last mentioned council is not the local planning authority, the consent of that authority.

(5) Where an owner, lessee or occupier of land crossed by a public path satisfies the Minister that a diversion thereof is expedient as mentioned in subsection (1) of the last but one foregoing section, or where it appears to the Minister as respects a public path that it is expedient as mentioned in subsection (1) of the last foregoing section that the path or part thereof should be stopped up, then if—

(*a*) the appropriate authority have not made and submitted to him a diversion order or an extinguishment order, as the case may be, and

(*b*) the Minister is satisfied that, if such an order were made and submitted to him, he would have power to confirm the order in accordance with the provisions in that behalf of the two last foregoing sections,

the Minister, after consultation with the said authority, may direct the authority to make and submit to him a diversion order or an extinguishment order, as the case may be, or may himself make the order; and where the Minister gives a direction under this subsection, the provisions of subsection (1) of this section, of that subsection and of the proviso to subsection (2) of this section, or the proviso to the last foregoing subsection, as the case may be, shall not apply.

(6) A council proposing to make a diversion order such that the authority who will be the highway authority in respect of any part of the path after the diversion will be a different body from the existing highway authority in respect thereof shall, before making the order, notify the first-mentioned authority.

(7) In subsection (5) of this section the expression "the appropriate authority," in relation to the making of a diversion order or an extinguishment order, means the authority upon whom power to make the order (whether the power is exercisable with the consent of any other authority or not) is conferred by or under the relevant provisions of the two last foregoing sections and of subsections (2) and (3) of this section.

Supplementary provisions as to diversion and extinguishment orders.

45.—(1) The three last foregoing sections shall apply in relation to public rights of way created before as well as after the commencement of this Act.

(2) The provisions of the three last foregoing sections shall be without prejudice to the provisions of any other enactment under which highways may be stopped up or diverted or public rights of way may be extinguished.

(3) A diversion order or extinguishment order affecting in any way the area of more than one authority may contain provisions requiring one of the authorities to defray, or contribute towards, expenditure incurred in consequence of the order by another of the authorities; and a diversion order diverting any part of the line of a path from a site in the area of one highway authority to a site in the area of another may provide that the coming into operation of the order shall not discharge any liability to repair of the first mentioned authority or impose any such liability on the last mentioned authority.

(4) A diversion order or extinguishment order shall not be made so as to extinguish a right of way over land on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order,

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and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister.

Compensation Provisions

Compensation for creation, diversion and closure of public paths.

46.—(1) Subject to the following provisions of this section, if, on a claim made in accordance with this section, it is shown that the value of an interest of any person in land is depreciated, or that any person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path order, a diversion order or an extinguishment order, the authority by whom the order was made shall pay to that person compensation equal to the amount of the depreciation or damage.

(2) A claim for compensation under this section shall be made within such time and in such manner as may be prescribed by regulations made by the Minister, and shall be made to the authority by whom the order was made.

(3) For the purposes of the application of this section to an order made by the Minister under subsection (3) of section forty-one of this Act or subsection (5) of the last but one foregoing section, references in this section to the authority by whom the order was made shall be construed as references to the authority who, immediately before the making of the order, were, for the purposes of the said subsection (3) or (5), the appropriate authority in relation to the making of an order for the creation, diversion or stopping up of the public path or part of a public path to which the order relates.

(4) Nothing in this section shall confer on any person, in respect of a right of way created by a public path order or diversion order, a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, not being in either case land over which the right of way was created or land held therewith, unless the creation of the right of way would have been actionable at his suit if it had been effected otherwise than in the exercise of statutory powers.

Liability for Repair of Public Paths

Liability for repair of public paths.

47.—(1) Subject to the following provisions of this Part of this Act, the rule of law whereby a highway is repairable by the inhabitants at large shall apply to all public paths, whether coming into existence before or after the commencement of this Act, notwithstanding anything contained in any enactment

passed or made before the commencement of this Act and notwithstanding any liability to repair of any other person; and accordingly the enactments relating to highways so repairable shall have effect in relation to all such public paths.

(2) Without prejudice to the generality of the last foregoing subsection—

(*a*) no order made under section twenty-one of the Highway Act, 1864, or section twenty-four of the Highways and Locomotives (Amendment) Act, 1878 (which sections provide for the making of orders for discontinuing the maintenance of unnecessary highways) shall have effect after the commencement of this Act as respects any public path; and

(*b*) after the commencement of this Act no proceedings shall be instituted under either of the said sections for an order relating to a public path.

(3) Where apart from this section any person would be under an obligation to repair a public path, whether under any enactment, or by reason of tenure, enclosure or prescription—

(*a*) the operation of subsection (1) of this section shall not release him from the obligation, but

(*b*) if in the performance of their duty under the said subsection (1) the highway authority repair the public path, they may recover from the said person the necessary expenses of so doing, and

(*c*) where the highway authority exercise a right of recovery under the last foregoing paragraph, then, if the said person would have been entitled to recover from some other person the whole or part of the expenses of repairing the path if he had repaired it himself, he shall be entitled to recover from that other person the whole or the like part, as the case may be, of the expenses recovered from him by the highway authority:

Provided that the right of recovery conferred by paragraph (*b*) of this subsection shall not be exercisable unless, before repairing the path, the highway authority have given notice to the said person that the path is in need of repair, specifying a reasonable time within which he may repair the path, and the said person has failed to repair the path within that time.

Making up of public paths.

48.—(1) On the dedication of a public path in pursuance of a public path agreement, or on the coming into operation of a public path order, being—

(*a*) an agreement or order made by a local authority who are not the highway authority as respects the path in question, or

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(*b*) an order made by the Minister under subsection (3) of section forty-one of this Act where, in relation to the making of a public path order creating the right of way in question, the appropriate authority for the purposes of the said subsection (3) are such a local authority,

the highway authority shall survey the path and shall certify what work (if any) appears to them to be necessary to bring the path into a fit condition for use by the public as a footpath or bridleway, as the case may be, and shall serve a copy of the certificate on the local authority mentioned in paragraph (*a*) or (*b*) of this subsection, as the case may be.

(2) An authority on whom a copy of a certificate is served under the last foregoing subsection may apply to the Minister on the ground that the work specified in the certificate, or any part thereof, is unnecessary or unduly expensive or is undesirable in the interests of amenity; and where such an application is made the Minister shall either cause a local inquiry to be held or shall give to the applicants and to the highway authority an opportunity of being heard by a person appointed by him for the purpose and, after considering the report of the person appointed to hold the inquiry or the person so appointed as aforesaid, shall make such order confirming, quashing or varying the certificate as he may think fit.

(3) Where the certificate of a highway authority in respect of a public path is quashed under the last foregoing subsection, the path shall not be required to be maintained in a better condition than the condition in which it was at the date of the certificate; and where under the last foregoing subsection such a certificate is varied, the path shall not be required to be maintained in a better condition than the condition in which it is immediately after the completion of the work specified in the certificate as so varied.

(4) Subject to the provisions of subsection (2) of this section, it shall be the duty of the highway authority to carry out any work specified in a certificate under subsection (1) thereof; and where the authority have carried out the work they may recover from the authority on whom a copy of the certificate was served any expenses reasonably incurred by them in carrying out that work, including any expenses so incurred in the discharge of any liability for compensation in respect of the carrying out thereof.

(5) Where a public path order—

(*a*) is made in compliance with a direction of the Minister under subsection (3) of section forty-one of this Act and is so made by the local authority who, on the coming into operation of the order, become the highway authority as respects the path in question, or

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(*b*) is made by the Minister under the said subsection (3) in a case where, in relation to the making of a public path order creating the right of way in question, the appropriate authority for the purposes of the said subsection (3) are that local authority,

the following provisions shall have effect, that is to say—

(i) the local authority specified in paragraph (*a*) or (*b*) of this subsection, as the case may be, shall survey the path and shall certify what work (if any) appears to them to be necessary to bring the path into a fit condition for use by the public as a footpath or bridleway, as the case may be, and shall furnish the Minister with a copy of the certificate;

(ii) if the Minister is not satisfied with a certificate made under the last foregoing paragraph, he shall either cause a local inquiry to be held or shall give to the local authority an opportunity of being heard by a person appointed by him for the purpose and, after considering the report of the person appointed to hold the inquiry or the person so appointed as aforesaid, shall make such order either confirming or varying the certificate as he may think fit; and

(iii) subject to the provisions of the last foregoing paragraph, it shall be the duty of the highway authority to carry out the work specified in a certificate made by them under paragraph (i) of this subsection.

(6) The foregoing provisions of this section shall apply to any public path created by a diversion order with the substitution of references to such an order for references to a public path order and of references to subsection (5) of section forty-four of this Act for references to subsection (3) of section forty-one thereof.

Acceptance of new paths created by dedication.

49. Section twenty-three of the Highway Act, 1835 (which provides that such highways as are therein mentioned shall not become repairable by the inhabitants at large unless certain conditions are complied with on the dedication thereof) shall apply to any public path dedicated after the commencement of this Act otherwise than in pursuance of a public path agreement.

Private street works.

50. Where apart from the provisions of section forty-seven of this Act a public path in existence at the passing of this Act would, for the purposes of any of the following enactments, that is to say—

(*a*) section one hundred and fifty of the Public Health Act, 1875, or

(*b*) the Private Street Works Act, 1892, or

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(*c*) the corresponding provisions of any other Act (including a local Act),

be a street, or part of a street, not being a highway repairable by the inhabitants at large, nothing in the said section shall prevent a local authority carrying out, or requiring the carrying out of, work under any of the said enactments or recovering expenses thereof.

Long-Distance Routes

General provisions as to long-distance routes.

51.—(1) Where it appears to the Commission, as respects any part of England or Wales, that the public should be enabled to make extensive journeys on foot or on horseback along a particular route, being a route which for the whole or the greater part of its length does not pass along roads mainly used by vehicles, the Commission may prepare and submit to the Minister a report under this section.

(2) A report under this section shall contain a map showing the route, defining those parts thereof over which there exists a public right of way, and indicating in each case the nature of that right; and the report shall set out such proposals as the Commission may think fit—

(*a*) for the maintenance or improvement of any public path or road used as a public path along which the route passes;

(*b*) for the provision and maintenance of such new public paths as may be required for enabling the public to journey along the route;

(*c*) for the provision and operation of ferries where they are needed for completing the route; and

(*d*) for the provision of accommodation, meals and refreshments along the route.

(3) A report under this section may also include such recommendations as the Commission may think fit for the restriction of traffic on existing highways along which the route passes.

(4) Before preparing a report under this section the Commission shall consult every joint planning board, county council, county borough council and county district council through whose area the route passes; and it shall be the duty of every such board or council to furnish to the Commission such information as the Commission may reasonably require for the purposes of the report.

(5) A report under this section shall contain an estimate, in such form as the Minister may require, of the capital outlay likely to be incurred in carrying out any such proposals contained therein as are mentioned in subsection (2) of this section, of the annual cost of maintaining any existing public paths

or roads used as public paths along which the route passes and any new public paths provided for by the proposals, and of the annual expenditure likely to be incurred by local authorities in connection with the provision and operation of ferries, and the provision of accommodation, meals and refreshments, so far as those matters are provided for by the proposals.

Approval of proposals relating to a long-distance route.

52.—(1) On the submission to the Minister of a report under the last foregoing section, the Minister shall consider any proposals contained in the report under subsection (2) of that section and may either approve the proposals, with or without modifications, or reject the proposals:

Provided that where the Minister does not propose to approve the proposals as set out in the report he shall, before coming to a determination as to what action to take under this subsection, consult with the Commission and such other authorities and persons as he may think fit.

(2) As soon as may be after the Minister determines under the last foregoing subsection either to approve any proposals, with or without modifications, or to reject them, he shall notify his determination to the Commission and to every joint planning board, county council, county borough council and county district council whose area is traversed by the route to which the report relates.

(3) Proposals approved by the Minister under subsection (1) of this section, either as originally set out in the report or as modified by the Minister, are hereinafter referred to as "approved proposals relating to a long-distance route."

Ferries for purposes of long-distance routes.

53.—(1) Where approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, the authority who are the highway authority for either or both of the highways to be connected by the ferry—

(*a*) shall have power to provide and operate the ferry and to carry out such work and do all such things as appear to them expedient for the purpose of operating the ferry;

(*b*) may with the approval of the Minister agree with any person or body of persons for the provision and operation of the ferry by him or them and for the making by the highway authority of such contributions as may be specified in the agreement:

Provided that nothing in this subsection shall—

(i) be construed as conferring on such an authority any exclusive right to operate a ferry;

(ii) authorise the doing of anything which apart from this subsection would be actionable by any person by virtue

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of his having an exclusive right to operate a ferry, unless he consents to the doing thereof;

(iii) authorise the doing of anything on land, or as respects water over land, in which any other person has an interest, if apart from this subsection the doing thereof would be actionable at his suit by virtue of that interest and he does not consent to the doing thereof;

and before carrying out any work in the exercise of powers conferred by this subsection, being work on the bank or bed of any waterway, the highway authority shall consult with such authorities having functions relating to the waterway as the Minister may either generally or in any particular case direct.

(2) A highway authority may acquire land compulsorily for the purpose of any of their functions under paragraph (*a*) of the last foregoing subsection.

(3) The Minister, on the application of any such authority as is hereafter specified, may direct, either generally or as respects the provision and operation of a particular ferry, that all or any of the powers conferred on a highway authority by subsection (1) of this section shall be exercisable by the applicant authority and not by the highway authority.

(4) An application under the last foregoing subsection may be made, in relation to any highway authority, by any county or county district council (not being the highway authority) whose area includes or is included in the area of the highway authority.

Accommodation, meals and refreshments along long-distance routes.

54.—(1) Where approved proposals relating to a long-distance route include proposals for the provision, along any part of the route, of accommodation, meals and refreshments, any local planning authority through whose area, or in the neighbourhood of whose area, that part of the route passes shall have power to make such arrangements under this section as are requisite for giving effect to the last-mentioned proposals.

(2) The arrangements which may be made by an authority under this section are arrangements for securing, at places in their area convenient for persons using the part of the route in question, the provision, whether by the authority or other persons, of accommodation, meals and refreshments (including intoxicating liquor):

Provided that an authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

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(3) For the purposes of arrangements under this section a local planning authority may erect such buildings and carry out such work as may appear to them to be necessary or expedient.

(4) The foregoing provisions of this section shall not authorise an authority, on land in which any other person has an interest, without his consent to do anything which apart from this section would be actionable at his suit by virtue of that interest.

(5) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

Variation of approved proposals.

55.—(1) Where proposals relating to a long-distance route have been approved by the Minister under section fifty-two of this Act, the Commission may from time to time prepare and submit to the Minister a report proposing any such variation of the approved proposals as the Commission may think fit.

(2) Where, as respects any proposals approved as aforesaid, it appears to the Minister, after consultation with the Commission, expedient that the proposals should be varied in any respect and the Commission have not submitted to the Minister a report proposing that variation, the Minister may direct that the proposals shall be so varied.

(3) Subsection (4) of section fifty-one of this Act, and subsections (1) and (2) of section fifty-two thereof, shall with the necessary modifications apply to a report or direction under this section; and subsection (5) of the said section fifty-one shall with the necessary modifications apply to any such report.

(4) Where the Minister approves, with or without modifications, any proposals contained in a report under subsection (1) of this section, or gives a direction under subsection (2) of this section, the proposals for the variation of which the report was made or direction given shall thereafter have effect subject to the provisions of the report or direction; and references in this Act to approved proposals relating to a long-distance route shall be construed accordingly.

Minor Amendments of Law relating to Rights of Way

Rights of way subject to conditions for securing efficient use of agricultural land.

56.—(1) Where a public path crosses agricultural land or land which is being brought into use for agriculture, then if—

(*a*) it is proposed in accordance with the rules of good husbandry to plough the land, and

(*b*) it is convenient, in so ploughing the land, to plough the path together with the rest of the land,

the public right of way shall be subject to the condition that the occupier shall have the right, subject to the following provisions of this section, to plough the path as well as the rest of the land.

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(2) Before ploughing a public path in the exercise of the right conferred by the last foregoing subsection the occupier shall give to the highway authority not less than seven days' notice of his intention to plough the path; and any person who fails to comply with the provisions of this subsection shall be liable on summary conviction to a fine not exceeding two pounds.

(3) Where a public path is ploughed in the exercise of the said right, the occupier of the land shall as soon as may be after the ploughing is completed make good the surface of the path so as to make it reasonably convenient for the exercise of the public right of way; and any person who fails to comply with the provisions of this subsection shall be liable on summary conviction to a fine not exceeding ten pounds, and to a further fine not exceeding one pound for every day after conviction on which the failure continues.

(4) Where the owner, lessee or occupier of agricultural land, or land which is being brought into use for agriculture, represents to the highway authority that, for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on a public path crossing the land, the highway authority may, subject to such conditions as they may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.

(5) If, on a representation duly made under the last foregoing subsection, the highway authority refuse to grant an authorisation thereunder, or grant such an authorisation subject to conditions, the person who made the representation may appeal to the Minister against the refusal or against the imposition of the conditions, as the case may be; and if the Minister, after giving to the appellant and to the highway authority an opportunity of being heard by a person appointed by him for the purpose and considering the report of that person, determines to allow the appeal, he shall—

(*a*) if the appeal was against a refusal, authorise the erection of the stiles, gates or other works in question, subject to such conditions as he may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public;

(*b*) if the appeal was against the imposition of conditions, direct that the authorisation granted by the highway authority shall, as may be specified in the direction, have effect either unconditionally or subject to such modified conditions as may be so specified.

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(6) Where in the case of a public path an authorisation is granted by the highway authority under subsection (4) of this section or by the Minister under the last foregoing subsection, the public right of way shall be deemed to be subject to a condition that the stiles, gates or works may be erected and maintained in accordance with the authorisation and so long as the conditions attached thereto are complied with.

(7) It shall be the duty of a highway authority to enforce the provisions of subsections (2) and (3) of this section as respects any public path for which they are the highway authority; and no proceedings in respect of an offence under those provisions shall be brought except by the authority required by this subsection to enforce those provisions as respects the public path in question.

(8) For the purposes of section fifty-six of the Road Traffic Act, 1930 (which empowers a highway authority to secure the removal from a highway of structures erected thereon otherwise than under or in pursuance of any enactment), any stile, gate or works erected in pursuance of an authorisation under subsection (4) or (5) of this section shall be deemed to be erected under or in pursuance of this section only if the provisions of the authorisation and any conditions attached thereto are complied with.

(9) The foregoing provisions of this section shall apply in relation to rights of way created before as well as after the commencement of this Act.

(10) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

Penalty for displaying on footpaths notices deterring public use.

57.—(1) If any person places or maintains, on or near any way shown on a definitive map, or on a revised map prepared in definitive form, as a public path or road used as a public path, a notice containing any false or misleading statement likely to deter the public from using the way, he shall be liable on summary conviction to a fine not exceeding five pounds.

(2) The court before whom a person is convicted of an offence under the last foregoing subsection may, in addition to or in substitution for the imposition of a fine, order him to remove the notice in respect of which he is convicted within such period, not being less than four days, as may be specified in the order; and if he fails to comply with the order he shall be liable on summary conviction to a fine not exceeding two pounds for each day on which the failure continues.

(3) It shall be the duty of a highway authority to enforce the provisions of this section as respects any public path, or road used as a public path, for which they are the highway authority;

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and no proceedings in respect of an offence under those provisions shall be brought except by the authority required by this subsection to enforce those provisions as respects the path or road in question.

Amendment of 22 & 23 Geo. 5. c. 45. s. 1.

58.—(1) In section one of the Rights of Way Act, 1932 (which by subsection (1) of that section raises a presumption of dedication of a highway after twenty years' enjoyment by the public unless there is sufficient evidence of absence of intention to dedicate or unless during such period of twenty years there was no person in possession capable of dedicating, and by subsection (2) of that section raises a presumption of dedication after forty years' enjoyment unless there is sufficient evidence of absence of intention to dedicate) the words from " or unless during such period of twenty years " to the end in the said subsection (1), and the said subsection (2), shall cease to have effect.

(2) Nothing in this section shall affect any proceedings pending at the commencement of this Act, and where in respect of any way a court of competent jurisdiction decides in any proceedings so pending, or has before the commencement of this Act decided, that the way is not a highway, this section shall not apply except as respects enjoyment of the way after the date of the decision.

PART V

ACCESS TO OPEN COUNTRY

Provision for public access to open country.

59.—(1) The provisions of this Part of this Act shall have effect for enabling the public to have access for open-air recreation to open country—

(*a*) to which the provisions of the next following section are applied by an agreement under this Part of this Act (hereinafter referred to as an " access agreement ") or by an order under this Part of this Act (hereinafter referred to as an " access order "),

(*b*) acquired under this Part of this Act for the purpose of giving to the public access thereto.

(2) In this Part of this Act the expression " open country " means any area appearing to the authority with whom an access agreement is made or to the authority by whom an access order is made or by whom the area is acquired, as the case may be, to consist wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore).

Rights of public where access agreement or order in force.

60.—(1) Subject to the following provisions of this Part of this Act, where an access agreement or order is in force as respects any land a person who enters upon land comprised in the agreement or order for the purpose of open-air recreation without breaking or damaging any wall, fence, hedge or

gate, or who is on such land for that purpose after having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land:

Provided that this subsection shall not apply to land which for the time being is excepted land as hereinafter defined.

(2) Nothing in the provisions of the last foregoing subsection shall entitle a person to enter or be on any land, or to do anything thereon, in contravention of any prohibition contained in or having effect under any enactment.

(3) An access agreement or order may specify or provide for imposing restrictions subject to which persons may enter or be upon land by virtue of subsection (1) of this section, including in particular, but without prejudice to the generality of this subsection, restrictions excluding the land or any part thereof at particular times from the operation of the said subsection (1); and that subsection shall not apply to any person entering or being on the land in contravention of any such restriction or failing to comply therewith while he is on the land.

(4) Without prejudice to the provisions of the last foregoing subsection, subsection (1) of this section shall have effect subject to the provisions of the Second Schedule to this Act as to the general restrictions to be observed by persons having access to land by virtue of the said subsection (1).

(5) For the purposes of this Part of this Act, the expression " excepted land " means land which for the time being is of any of the following descriptions, that is to say—

(*a*) agricultural land, other than such land which is agricultural land by reason only that it affords rough grazing for livestock;

(*b*) land comprised in a declaration for the time being in force under subsection (2) of section nineteen of this Act or that subsection as applied by section twenty-one of this Act;

(*c*) land covered by buildings or the curtilage of such land;

(*d*) land used for the purpose of a park, garden or pleasure ground, being land which was so used at the date when the relevant access agreement or order was made;

(*e*) land used for the getting of minerals by surface working (including quarrying), land used for the purposes of a railway (including a light railway) or tramway, or land used for the purposes of a golf course, racecourse or aerodrome;

(*f*) land (not falling within the foregoing paragraphs of this subsection) covered by works used for the purposes of a statutory undertaking or the curtilage of such land;

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(*g*) land as respects which development is in course of being carried out which will result in the land becoming such land as is specified in paragraph (*c*), (*e*) or (*f*) of this subsection;

(*h*) land to which section one hundred and ninety-three of the Law of Property Act, 1925, for the time being applies:

Provided that land which is for the time being comprised in an access agreement or order shall not become excepted land by reason of any development carried out thereon, or any change of use made thereof, if the development or change of use is one for which under the Act of 1947 planning permission is required and either that permission has not been granted or any condition subject to which it was granted has been contravened or has not been complied with.

General survey of access requirements of local planning authority areas.

61.—(1) Every local planning authority, except as hereinafter provided, shall within two years from the commencement of this Act review their area for the purpose of ascertaining what land there is in their area of the descriptions specified in subsection (2) of section fifty-nine of this Act, and of considering what action should be taken as respects their area, whether by the making of access agreements or orders or by the acquisition of land, for securing access by the public for open-air recreation.

(2) In considering what action should be taken as aforesaid, a local planning authority shall have regard to all relevant circumstances, including—

(*a*) in the case of particular land, the extent to which such access as aforesaid is likely to be available without such action being taken, and

(*b*) generally, the extent to which there is a need for greater facilities in their area for such access, whether for persons living in their area or for other persons.

(3) The foregoing provisions of this section shall not apply in relation to the London County Council, the council of a county borough or, where the area of a joint planning board falls partly within one or more counties and partly within one or more county boroughs, to the joint planning board as respects so much of their area as falls within a county borough:

Provided that—

(*a*) the council of a county borough, being a local planning authority, or any such joint planning board as aforesaid may by resolution adopt the foregoing provisions of this section as respects any part of a county borough within their area and specified in the resolution;

(*b*) if it appears to the Minister, as respects any such council or board, that it is expedient that the said provisions

should apply to any part of a county borough within their area and the council or board have not passed a resolution adopting the said provisions as respects that part, the Minister may, after consultation with the council or board, make an order directing that the said provisions shall apply as aforesaid;

and where a resolution or order under this proviso takes effect the said provisions shall apply accordingly, but with the substitution for references to the commencement of this Act of references to the coming into operation of the resolution or order.

Proceedings consequent on review under last foregoing section.

62.—(1) As soon as may be after the completion by a local planning authority of their review under the last foregoing section, the authority shall proceed with the taking as respects their area of such action as they consider should be taken by them under the following provisions of this Part of this Act:

Provided that before determining what action they should take as aforesaid as respects land in a National Park the local planning authority shall consult with the Commission and consider any recommendations made by them.

(2) If in consequence of their review under the last foregoing section the local planning authority are of opinion—

(*a*) that there is in their area no land of the descriptions specified in subsection (2) of section fifty-nine of this Act, or no appreciable area of such land, or

(*b*) that as respects their area no such action needs to be taken as is mentioned in subsection (1) of the last foregoing section,

the local planning authority shall as soon as may be after the completion of the review forward to the Minister a statement of their opinion, and publish a notice setting out the contents of the statement.

(3) A notice under the last foregoing subsection shall be published in the London Gazette and in at least one local newspaper circulating in the area of the local planning authority, and shall specify the time (not being less than three months) within which, and the manner in which, representations may be made to the Minister as respects their area that action needs to be taken as mentioned in subsection (1) of the last foregoing section.

(4) The Minister shall consider any statement forwarded to him under the foregoing provisions of this section and any representations duly made with respect thereto, and shall furnish the local planning authority with a copy of any representations so made, and where any representations are so made and not withdrawn shall either—

(*a*) cause a local inquiry to be held, or

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(*b*) afford to the persons by whom the representations were made and to the local planning authority an opportunity of being heard by a person appointed by the Minister for the purpose;

and after considering the report of the person appointed to hold the inquiry or to hear representations the Minister shall then determine whether, and if so to what extent, it is expedient that he should exercise the powers conferred on him by this Act for securing, as respects land in the area of the authority, access by the public for open-air recreation.

(5) Nothing in this or the last foregoing section shall be taken as requiring that a local planning authority shall have completed their review under the last foregoing section before exercising their powers under this Part of this Act of making access agreements or orders or of acquiring land.

Notification to Minister of action taken for securing public access.

63.—(1) Within one year from the completion of their review under the last but one foregoing section or within such longer period as the Minister may in any particular case allow, a local planning authority shall, unless they have forwarded to the Minister a statement under subsection (2) of the last foregoing section, prepare and forward to the Minister a map on such scale as may be prescribed by regulations made by the Minister showing as respects the area of the authority, in such manner as may be so prescribed—

(*a*) the approximate extent of land in the area of any of the descriptions specified in subsection (2) of section fifty-nine of this Act, and

(*b*) what action has been taken under this Part of this Act for enabling the public to have access to such land,

and shall publish notice that the map has been prepared, specifying places where a copy of the map may be seen at all reasonable hours.

(2) A notice under the last foregoing subsection shall be published in the London Gazette and in at least one local newspaper circulating in the area of the local planning authority, and shall specify the time (not being less than three months) within which, and the manner in which, representations may be made to the Minister as respects their area that further action, beyond that shown on the map prepared by the local planning authority, needs to be taken as mentioned in subsection (1) of the last but one foregoing section; and subsection (4) of the last foregoing section shall apply in relation to a map forwarded to the Minister under this section as it applies to a statement forwarded to him under that section.

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Access agreements.

64.—(1) A local planning authority may with the approval of the Minister make an access agreement with any person having an interest in land, being open country, in the area of the authority whereby the provisions in that behalf of this Part of this Act shall apply to the land.

(2) An access agreement may provide for the making of payments by the local planning authority of either or both of the following descriptions, that is to say in consideration of the making of the agreement and by way of contribution towards expenditure incurred by the person making the agreement in consequence thereof.

(3) An access agreement may be made either irrevocably or subject to such provisions for revocation or variation as may be specified in the agreement.

(4) Section two of the Forestry Act, 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to an access agreement as it applies to such a covenant.

(5) Before entering into an access agreement as respects land in a National Park, the local planning authority shall consult with the Commission.

(6) Where an access agreement is made with one or some, but not all, of the persons having interests in the land to which the agreement relates, the provisions of this Part of this Act shall apply as respects the interests of the persons with whom the agreement is made, and shall continue so to apply notwithstanding any change in the persons entitled thereto, but shall not, as against the person for the time being entitled to any other interest in the land, operate so as to prejudice his rights as owner of that interest, or impose any restriction on him or confer any right against him.

Access orders.

65.—(1) Subject to the provisions of this section, the authority by whom an access order may be made shall be the local planning authority in whose area the land in question is situated; and an order made by such an authority shall be submitted to the Minister and shall not have effect unless confirmed by him.

(2) An access order shall not be made as respects any land—

(*a*) if an access agreement or access agreements are in force with respect thereto which in the opinion of the authority having power to make such an order adequately secure to the public access to the land for open-air recreation;

(*b*) where such an agreement or agreements are not in force with respect to the land, unless it appears to the said authority impracticable to secure the making of such an agreement or agreements.

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(3) An access order shall contain a map, on such scale as may be prescribed by regulations made by the Minister, defining in such manner as may be so prescribed—

(*a*) the land comprised in the order, and

(*b*) so far as appears practicable to the authority making the order, any of the said land which, in the opinion of that authority, is at that time excepted land otherwise than by reason of being agricultural land;

and the order shall also include such descriptive matter, if any, as may be so prescribed or as may appear to the said authority to be requisite for the purposes of the order.

(4) The provisions in that behalf of the First Schedule to this Act shall apply to the making, confirmation, coming into operation and validity of access orders.

(5) Before making an access order in respect of land in a National Park, the local planning authority shall consult with the Commission; and where it appears to the Commission desirable that such an order should be made in respect of land in a National Park, and the local planning authority have not made an order in respect thereof, the Commission may request the authority to make an order accordingly.

(6) If—

(*a*) in the case of land in the area of a local planning authority, not being land in a National Park, it appears to the Minister that an access order should be made in respect thereof, or

(*b*) in the case of land in a National Park it is represented to the Minister by the Commission that a local planning authority have not complied with a request made under the last foregoing subsection,

the Minister, after consultation with the local planning authority, may direct the authority to make the order or may himself make the order.

Effect of access agreement or order on rights and liabilities of owners.

66.—(1) A person interested in any land comprised in an access agreement or order, not being excepted land, shall not carry out any work thereon whereby the area to which the public are able to have access by virtue of the agreement or order is substantially reduced:

Provided that nothing in this subsection shall affect the doing of anything whereby any land becomes excepted land.

(2) The operation of subsection (1) of section sixty of this Act in relation to any land shall not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in that land or adjoining land in respect of the state thereof or of things done or omitted thereon.

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(3) Any restriction arising under a covenant or otherwise as to the use of any land comprised in an access agreement or order shall have effect subject to the provisions of this Part of this Act, and any liability of a person interested in such land in respect of such a restriction shall be limited accordingly.

(4) 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 comprised in an access agreement or order shall be disregarded.

Provision of means of access.

67.—(1) An access agreement or order may make such provision as appears expedient for the purposes of the agreement or order for securing that sufficient means of access to the land comprised in the agreement or order will be available for the public while the land is so comprised.

(2) Provision made by an access agreement or order by virtue of this section may be provision for any one or more of the following matters, that is to say—

(*a*) the improvement or repair of any means of access to the land in existence at the time when the agreement or order is made;

(*b*) the construction of new means of access to the land;

(*c*) the imposition of restrictions on the destruction, removal, alteration or stopping-up of any means of access to the land, or the doing of any thing whereby the use of any such means of access by the public would be impeded; and

(*d*) the maintenance of any such means of access to the land as are mentioned in paragraphs (*a*) and (*b*) of this subsection.

(3) No provision made by an access order by virtue of this section shall—

(*a*) apply to land which is for the time being excepted land, or authorise or require any thing to be done in relation to such land or any means of access thereto;

(*b*) affect the doing of any thing whereby any land becomes excepted land; or

(*c*) require, or authorise any person to require, any work to be carried out at the expense of any person interested in the land except as hereafter in this section expressly provided.

(4) Where it appears to the local planning authority in whose area the land is situated that any work is required for giving effect to any such provision of an access agreement or order

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as is specified in paragraphs (*a*), (*b*) and (*d*) of subsection (2) of this section, the authority may agree with the owner and occupier of the land as to the carrying out of the work, and where it is agreed that it shall be carried out otherwise than by the authority may defray the cost of the carrying out thereof, or may contribute such part of that cost as may be specified in the agreement.

(5) If, in a case falling within the last foregoing subsection—

(*a*) the local planning authority are unable to make an agreement, or

(*b*) the owner or occupier fails to carry out within a reasonable period any work which he has agreed to carry out,

the local planning authority, after giving to the owner and the occupier not less than fourteen days' notice of their intention so to do, may take all necessary steps for carrying out the work; and where, in a case to which paragraph (*b*) of this subsection applies, the agreement provided that the authority should contribute part of the cost of carrying out the work, the authority may recover the amount of any expenses reasonably incurred by them in carrying out the work, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the work would fall to be borne.

(6) In this section the expression " means of access," in relation to land, means any opening in a wall, fence or hedge bounding the land or any part thereof, with or without a gate, stile or other works for regulating passage through the opening, any stairs or steps for enabling persons to enter on the land or any part thereof, or any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary thereof.

Power of local planning authority to enforce access.

68.—(1) If any person contravenes the provisions of subsection (1) of the last but one foregoing section, or any such restriction as is specified in paragraph (*c*) of subsection (2) of the last foregoing section, the local planning authority whose area comprises the land in respect of which the contravention occurred may serve on that person a notice requiring him, within such period as may be specified in the notice, to carry out such work so specified as may appear to the authority to be requisite for remedying the contravention, being work for restoring or re-opening any means of access to the land or for providing new means of access thereto.

(2) If within the period specified in a notice under the last foregoing subsection the person on whom the notice is served fails to comply therewith, the local planning authority may take all necessary steps for carrying out the work specified in

the notice and may recover from that person any expenses reasonably incurred by them in carrying it out.

(3) Any person on whom a notice is served under subsection (1) of this section may, at any time within the period specified in the notice for carrying out the work so specified, complain to a court of summary jurisdiction for the petty sessional division or place within which the land to which the notice relates is situated—

(*a*) that the period specified as aforesaid is too short;

(*b*) that the work specified in the notice, or some of that work, is not requisite for remedying the contravention;

(*c*) that he has not contravened the provisions or restriction in question; or

(*d*) that the work specified in the notice, or so much of the work as is requisite for remedying the contravention, has been carried out.

(4) Any summons issued on a complaint under the last foregoing subsection shall be served on the local planning authority.

(5) On any such complaint the court, if satisfied of the grounds of the complaint, may—

(*a*) extend the period within which the work was required to be carried out by the notice, or

(*b*) quash the notice as respects the whole or any part of the work specified therein,

as the nature of the complaint may require; but if not so satisfied shall dismiss the complaint.

(6) The Summary Jurisdiction Acts shall apply to the proceedings on any complaint under this section; and any person aggrieved by the decision of the court on any such complaint may appeal to a court of quarter sessions.

(7) Where a complaint is made to the court under this section, the time between the making of the complaint and the determination thereof, and of any appeal from that determination, shall be disregarded in determining the period within which, in accordance with the notice, the work specified therein is to be carried out.

Suspension of public access to avoid exceptional risk of fire.

69. If, upon application made to the Minister of Agriculture and Fisheries by any person interested in land comprised in an access agreement or order, or by any other person appearing to the said Minister to have a sufficient interest in the matter, the said Minister is satisfied that, by reason of any exceptional conditions of weather for the time being prevailing, access by the public to the land or any part thereof is likely to result in fires occurring thereon, the said Minister may direct that subsection

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(1) of section sixty of this Act shall not have effect in relation to the land during such period as may be specified in the direction.

Compensation for access orders.

70. Where the value of the interest of any person in land is depreciated in consequence of the coming into operation of an access order, then subject to the following provisions of this Part of this Act the local planning authority in whose area the land comprised in the order is situated shall pay to that person compensation equal to the amount of the depreciation:

Provided that nothing in this section shall confer on a person a right to compensation for depreciation of an interest in land, being land which is not comprised in the order or if so comprised is excepted land, except if and in so far as either—

(*a*) it is held with land comprised in the order which is not excepted land, or

(*b*) the omission of any other person to exclude the public from the land comprised in the order or any part thereof would have been actionable at the suit of the first-mentioned person if the access order had not come into operation.

Compensation to be assessed with regard to effect of first five years of access.

71.—(1) For the purpose of enabling compensation under the last foregoing section to be assessed in the light of experience gained of the actual effect on land of the coming into operation of access orders, any such compensation shall not, save as hereinafter provided, be claimed or payable before the expiration of a period of five years from the coming into operation of the order giving rise to the compensation (in this and the next following section referred to as "the relevant order").

(2) Nothing in the last foregoing subsection shall be construed as requiring such compensation to be assessed as at a date later than the date of the coming into operation of the relevant order; but in calculating the compensation it shall be assumed that, on a sale at that date of the interest in respect of which the compensation is claimed, the purchaser would have had knowledge—

(*a*) of the actual effect during the said period, on the land in which the said interest subsists and the use of that land, of the coming into operation of the relevant order;

(*b*) of the fact and date of any revocation or variation during that period of the relevant order;

(*c*) of the fact and date of any changes during that period, as respects land comprised in the relevant order, from or to excepted land.

(3) If during the said period of five years the relevant order is revoked, or varied so as to exclude from the operation thereof any land not being excepted land, the foregoing provisions of

this section shall thereupon have effect, so far as concerns any claim for compensation in respect of the operation of the relevant order as respects the said land, as if for any reference to the said period of five years there were substituted a reference to the period beginning with the coming into operation of the relevant order and ending with the said revocation or variation.

(4) Where at different times within a period of five years two or more parcels of land become comprised in access orders, and any person has an interest in each of those parcels, then, with the consent of every person having an interest in each of the parcels other than the one first so comprised, the foregoing provisions of this section shall apply in relation to each of the last mentioned parcels with the substitution for any reference to the period of five years from the coming into operation of the order by virtue of which that parcel became so comprised as aforesaid of a reference to a period of five years from the coming into operation of the order by virtue of which the first of the parcels became so comprised.

Claims for compensation, and interest.

72.—(1) Any person claiming to be entitled to an interest in land in respect of the depreciation of which compensation will become payable under the last but one foregoing section may apply to the local planning authority by whom the compensation will be payable to record his claim; and where an application is duly made under this subsection the authority shall record the claim accordingly in such manner as may be prescribed by regulations made by the Minister.

(2) An application under the last foregoing subsection shall be made in such manner and within such period (not being less than three months) after the date when the relevant order came into operation as may be prescribed by regulations made by the Minister, and shall be accompanied by such particulars of the interest in land in respect of which it is made as may be so prescribed:

Provided that nothing in this subsection shall authorise the imposition of any requirement that an applicant under subsection (1) of this section shall state the amount of the compensation.

(3) Within such period as may be prescribed by regulations made by the Minister (not being less than three months) after the end of the period after which under the last foregoing section compensation may be claimed, any person who has applied under subsection (1) of this section for the recording of a claim to compensation, or any person claiming under him in respect of that compensation, may apply to the local planning authority, in such manner as may be so prescribed, for the payment of the compensation.

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(4) An application under the last foregoing subsection shall state the amount of compensation claimed by the applicant; and regulations of the Minister made for the purposes of this subsection may require the application to be accompanied by such evidence of the title of the applicant to the compensation as may be prescribed by the regulations.

(5) Any compensation payable under the last but one foregoing section shall become due when, on an application for the payment thereof duly made under subsection (3) of this section, the amount of the compensation has been agreed or, in default of agreement, has been determined in manner hereinafter provided; and any such compensation shall be payable with interest, at such rate as may be so prescribed as aforesaid, from the date on which the relevant order came into operation to the date at which the compensation is paid.

Payments on account in cases of special hardship.

73.—(1) At any time during the period after which, under the last but one foregoing section, compensation may be claimed in respect of the coming into operation of an order, a person claiming to be entitled to such compensation may apply to the local planning authority for a payment on account of the compensation on the ground of special circumstances whereby the postponement of compensation until after the end of the said period will cause him undue hardship; and if the authority are satisfied that such circumstances exist they shall make to him a payment on account of the compensation of such amount as they may determine.

(2) Any person aggrieved by the refusal of a local planning authority to make a payment on account under the last foregoing subsection, or by their determination thereunder of the amount of the payment to be made to him, may appeal to the Minister; and the Minister, after affording to the said person and to the authority an opportunity of being heard by a person appointed by the Minister for the purpose, may either confirm the decision of the authority or direct that they shall make a payment on account of such amount as appears to the Minister to be just.

Application to waterways in National Parks.

74. The foregoing provisions of this Part of this Act shall apply to waterways in a National Park as those provisions apply to open country.

Exercise of powers under s. 13 as respects open country and waterways comprised in access orders.

75.—(1) An access order, whether made in respect of open country or in respect of a waterway, may specify work to be carried out (either at one time or from time to time) on land comprised in the order in the exercise of the powers conferred by section thirteen of this Act.

(2) An authority proposing, in the exercise of the said powers, to carry out any work on land comprised in an access order, whether the work is specified in the order or not, shall give to

the owner and occupier of the land not less than fourteen days' notice of their intention so to do, specifying the work to be carried out.

(3) Where the work specified in a notice given under the last foregoing subsection is not work specified in the access order, then if before the expiration of the notice the owner or occupier of the land serves notice of objection on the authority, the authority shall not carry out the work except in accordance with the provisions of the two next following subsections.

(4) An authority on whom notice of objection has been served under the last foregoing subsection shall afford to the objector an opportunity of being heard by a person appointed by them for the purpose and shall then determine either—

(*a*) not to carry out the work to which the objection relates, or

(*b*) to carry out the work, either as originally proposed or with such modifications as the authority may determine,

and shall serve notice of their determination on the objector; and where the authority determine as mentioned in paragraph (*b*) of this subsection, they may proceed with the work in accordance with the determination at any time after the expiration of fourteen days from the date on which notice of the determination is served on the objector:

Provided that if the objector serves notice of appeal under the next following subsection the authority shall not proceed with the work except in accordance with the provisions of that subsection.

(5) Any person aggrieved by a determination of an authority under the last foregoing subsection may within the period of fourteen days therein mentioned serve notice of appeal against the determination on the Minister and on the authority; and where notice of appeal is served under this subsection the Minister, after affording to the appellant and to the authority an opportunity of being heard by a person appointed by him for the purpose, shall either direct that the authority shall be at liberty to carry out the work (whether as specified in the notice given under subsection (2) of this section or subject to such modifications or conditions as the Minister may think fit) or shall direct the authority not to carry out the work.

(6) Any power conferred by paragraph (*b*) of subsection (4) of this section or by the last foregoing subsection to modify the work specified in a notice given under subsection (2) of this section shall not be exercised so as to affect land not affected by the notice.

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Acquisition by local authorities of land for public access.

76.—(1) Where it appears to a local planning authority, as respects any open country in their area, other than excepted land,—

(*a*) that it is requisite that the public should have access thereto for open-air recreation; and

(*b*) that in the circumstances it is expedient that such access thereto should be secured by the acquisition of the land by the local planning authority,

the authority may acquire the land compulsorily.

In this subsection the expression " excepted land " includes, in relation to any compulsory purchase, land such that if an access agreement or order had been made at the time when the compulsory purchase order was confirmed the land would by virtue of paragraph (*d*) of subsection (5) of section sixty of this Act have been excepted land for the purposes of the access agreement or order.

(2) Where, in connection with the acquisition of any land under the last foregoing subsection it appears to the local planning authority that the proper exercise of their functions under this section will be substantially prejudiced unless other land surrounded by the first-mentioned land, or contiguous or adjacent thereto, is acquired therewith, the powers conferred by the last foregoing subsection shall extend to the acquisition of that other land.

(3) A local planning authority may carry out on land acquired by them for the purposes of this section, and for the time being held by them for those purposes, such work as they may consider requisite for providing convenient means of access to the land or otherwise for the said purposes.

(4) While land acquired by a local planning authority under this section is held by them for the purposes thereof, it shall be the duty of the authority so to manage the land as to give to the public access for open-air recreation to so much thereof as appears to the authority to be practicable, having regard to the nature of the different parts of the land, to anything done thereon which may result in danger to the public or to persons employed thereon unless public access to the land or to adjoining land is restricted, and to all other relevant circumstances.

Acquisition by Ministers of land for public access.

77.—(1) Where it appears to the Minister, as respects any open country in a National Park, not being excepted land,—

(*a*) that it is requisite that the public should have access thereto for open-air recreation; and

(*b*) that in the circumstances it is expedient that such access thereto should be secured by the acquisition of the land by him,

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the Minister may, with the consent of the Treasury, acquire the land by agreement, whether by way of purchase, lease or exchange, or acquire the land compulsorily.

In this subsection the expression "excepted land" includes, in relation to any compulsory purchase, land such that if an access agreement or order had been made at the time when the compulsory purchase order was confirmed the land would by virtue of paragraph (*d*) of subsection (5) of section sixty of this Act have been excepted land for the purposes of the access agreement or order.

(2) Subsection (2) of the last foregoing section shall apply, in relation to the acquisition of land under the last foregoing subsection, but with the substitution for references to the local planning authority of references to the Minister.

(3) The provisions of subsections (2) to (4) of section fourteen of this Act shall apply to land acquired by the Minister under this section, with the substitution, for the reference in the said subsection (2) to the accomplishment of the purposes therein mentioned, of a reference to the securing of public access for open-air recreation to so much of the land as appears to the Minister to be practicable, having regard to the matters mentioned in subsection (4) of the last foregoing section.

(4) Where in accordance with subsection (1) of this section, or that subsection as extended by subsection (2) of this section, the Minister would have power, with the consent of the Treasury, to acquire any land, but it appears to him and to the Minister of Agriculture and Fisheries, having regard to the character of the land, that the land is more suitable for acquisition by the last mentioned Minister, the said power shall be exercisable by the last mentioned Minister.

(5) The Minister or the Minister of Agriculture and Fisheries, as the case may be, may carry out on land acquired by him for the purposes of this section, and for the time being held by him for those purposes, such work as he may consider requisite for providing convenient means of access to the land or otherwise for the said purposes, or may arrange for any such work to be carried out by persons to whom the land is transferred.

Maps of land subject to public access.

78.—(1) A local planning authority whose area comprises any land—

(*a*) which is subject to an access agreement or order, or

(*b*) has been acquired under either of the two last foregoing sections and is for the time being held for the purpose for which it was acquired,

shall prepare and keep up to date a map, on such scale as may

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be prescribed by regulations made by the Minister, defining in such manner as may be so prescribed—

(i) the land subject to the agreement or order or the land acquired and held as aforesaid, as the case may be;

(ii) in the case of land subject to such an agreement or order, any land comprised therein which, in the opinion of the authority, is for the time being excepted land, otherwise than by reason of being agricultural land, and which in their opinion it is practicable to define on the map;

(iii) in the case of land acquired and held as aforesaid, any land comprised therein from which, for the purpose of avoiding danger to the public or to persons employed thereon, or because it is excepted land, or for any other reason, the public are excluded, and which in their opinion it is practicable so to define.

(2) An authority who are required by the last foregoing subsection to prepare and keep up to date any map shall, so long as they are required so to do, have copies of the map available for inspection by the public at such places as the authority may determine; and the authority may, if they think fit, display, at places where the public obtain access to the land to which the map relates—

(*a*) reproductions of the map on an appropriate scale,

(*b*) notices specifying any restrictions on access to the land or any part thereof, whether the restrictions have effect by virtue of any of the provisions of this Part of this Act or otherwise.

Provisions as to woodlands.

79.—(1) If, on the submission of an access order to the Minister for confirmation, a representation or objection is duly made as respects any land—

(*a*) that the land is used, or about to be brought into use, for the growing of timber for commercial purposes, and that the use or proposed use of the land as aforesaid will be substantially prejudiced by the application of the provisions of section sixty of this Act to the land, or

(*b*) that the land is used for the growing of timber so as to be of value for the amenity of the neighbourhood and that the growth or regeneration of the timber will be substantially prejudiced as aforesaid,

then, subject to the provisions of this section, if the Minister is satisfied that the conditions specified in paragraph (*a*) or (*b*) of this subsection are fulfilled he shall not confirm the order so as to apply the said provisions to the land.

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(2) Where, as respects land comprised in an access agreement, it is represented to the Minister, and the Minister is satisfied, that the conditions specified in paragraph (*a*) or (*b*) of the last foregoing subsection are fulfilled, then subject to the provisions of this section—

(*a*) the Minister shall notify to the authority by whom the agreement was made the fact that he is satisfied as aforesaid, and thereupon the authority shall vary the agreement so as to exclude the land;

(*b*) the fact that the agreement is expressed to be irrevocable shall not prevent its variation so as to exclude the land; and

(*c*) if the concurrence of any party to the agreement other than the said authority, or of the successor in title to his interest, cannot be obtained to the variation of the agreement as aforesaid, the authority may by order made with the approval of the Minister vary the agreement.

(3) Where, as respects land comprised in an access order (whether made by the Minister or by a local authority), it is represented to the Minister, and the Minister is satisfied, that the conditions specified in paragraph (*a*) or (*b*) of subsection (1) of this section are fulfilled, then subject to the provisions of this section the Minister shall make an order varying the access order so as to exclude the land.

(4) Before coming to a conclusion on any such representation as is mentioned in the two last foregoing subsections, the Minister shall either cause a local inquiry to be held or afford to the person by whom the representation was made an opportunity of being heard by a person appointed by the Minister for the purpose, and shall consider the report of the person by whom the inquiry was held or the person appointed as aforesaid, as the case may be.

(5) In determining whether the conditions specified in paragraph (*a*) or (*b*) of subsection (1) of this section are fulfilled in the case of any proposed access order, the Minister shall have regard to the provisions of subsection (3) of section sixty of this Act; and references in this section to varying an agreement or order so as to exclude land shall include references to varying an agreement or order by the imposition of such restrictions under the said subsection (3) as may be specified by the Minister as requisite for the purposes of this section.

(6) In this section the expression "timber" includes trees of every description, and also saleable underwood; but notwithstanding anything in the foregoing provisions of this section those provisions shall not apply where the use or proposed use mentioned in subsection (1) of this section is such that the land is or will become agricultural land.

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Provisions as to danger areas.

80.—(1) The authority making an access agreement or order shall so delimit the land to which the agreement or order applies as to exclude all land which, by reason of anything done on other land contiguous or adjacent thereto, it appears to the authority expedient to exclude for the purpose of avoiding danger to the public or to persons employed on any of the said land.

(2) Where, while an access agreement or order is in force, the authority by whom the agreement or order was made are satisfied, as respects any land to which the agreement or order applies, that by reason of anything done or proposed to be done on that land or on other land contiguous or adjacent thereto it is expedient for the purpose aforesaid that the first-mentioned land should be excluded from the operation of the agreement or order, the authority shall vary the agreement or order so as to exclude that land.

(3) The fact that an access agreement is expressed to be irrevocable shall not prevent its variation in pursuance of the last foregoing subsection; and where the concurrence of any party to an access agreement other than the said authority, or of the successor in title to his interest, cannot be obtained to the variation of the agreement in pursuance of that subsection, the said authority may by order made with the approval of the Minister vary the agreement.

(4) A local planning authority shall have power, as respects any land to which paragraph (*a*) of subsection (1) of section seventy-eight of this Act applies, or as respects land held by the authority to which paragraph (*b*) of that subsection applies, to take such steps and carry out such work (including the erection and maintenance of fences or notices) as appear to them requisite for protecting the public from any source of danger on the land or on adjoining land.

(5) Without prejudice to the generality of the provisions of subsection (2) of section sixty-six of this Act, the application of section sixty thereof to any land shall not, in relation to any factory, magazine, store or premises already established, constitute the land an open place of resort for the public, or a public place, for the purposes of the Explosives Acts, 1875 and 1923, or any order made or licence granted thereunder.

(6) Notwithstanding anything in the said subsection (2) of section sixty-six of this Act, the application of the said section sixty to any land shall, in relation to any factory, magazine, store or premises subsequently established, constitute the land such a place as aforesaid for the purposes of the said Acts or any such order or licence.

Boundary notices.

81. A local planning authority shall have power to erect and maintain notices indicating the boundaries of land comprised in an access agreement or order and of excepted land.

PART V —*cont.*

Power of local planning authority to contribute to work carried out by other persons.

82. A local planning authority shall have power, as respects any land in their area which is subject to an access agreement or order, to defray or contribute towards, or to undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person interested therein in taking such steps or carrying out such work as is mentioned in subsection (4) of the last but one foregoing section, or in erecting and maintaining such notices as are mentioned in the last foregoing section.

Repeal of 2 & 3 Geo. 6. c. 30.

83. The Access to Mountains Act, 1939, is hereby repealed.

PART VI

GENERAL, FINANCIAL AND SUPPLEMENTARY

Protection for Agriculture and Forestry

Duty of authorities as respects agriculture and forestry.

84. In the exercise of their functions under this Act it shall be the duty of the Commission, the Nature Conservancy and local authorities to have due regard to the needs of agriculture and forestry.

General powers and duties of Commission

General duty of Commission to advise on questions relating to natural beauty.

85. Without prejudice to the duties of the Commission relating to National Parks, it shall be the duty of the Commission—

(*a*) to inquire into and report on such questions as may from time to time be referred to them by any Government department, being questions affecting the natural beauty of areas of outstanding natural beauty or other areas or places;

(*b*) in circumstances where it appears to the Minister and to the Commission desirable that their assistance should be generally available, to inquire into and report on such questions referred to them by any other body of persons or person;

(*c*) to bring to the attention of the Minister or of local planning authorities the effect on the natural beauty of such areas or places as aforesaid of developments, or developments of any class, which appear to the Commission to be likely to be prejudicial thereto.

Information services to be provided by Commission.

86.—(1) It shall be the duty of the Commission to take such steps as appear to them expedient for securing that persons interested—

(*a*) will be informed of the situation and extent of, and means of access to, National Parks, other areas, being areas of outstanding natural beauty, and long-distance routes for which proposals under section fifty-one of this Act have been approved, and the accommodation and facilities available for persons wishing to visit National Parks and such other areas or persons wishing to use such routes;

PART VI —*cont.*

(*b*) will be able to learn about the history, natural features, flora and fauna of National Parks and the objects of architectural or historical interest therein and the opportunities for recreation available therein,

and that suitable methods of publicity are used for the prevention of damage in National Parks and such other areas as aforesaid and otherwise for encouraging a proper standard of behaviour on the part of persons visiting National Parks and such other areas; and the said methods shall include the preparation and publication of a code of conduct for the guidance of persons visiting the countryside.

(2) Without prejudice to the provisions of the last foregoing subsection, the Commission may for the purposes thereof procure the production and sale to the public of books, guides and maps, the exhibition of posters and other advertisements, the giving of lectures and the provision and exhibition of cinematograph films.

(3) For the avoidance of doubt it is hereby declared that the steps mentioned in subsection (1) of this section include the making of contributions towards expenses incurred by other bodies of persons.

Areas of outstanding natural beauty

Designation of areas of outstanding natural beauty.

87.—(1) The Commission may, by order made as respects any area in England or Wales, not being in a National Park, which appears to them to be of such outstanding natural beauty that it is desirable that the provisions of this Act relating to such areas should apply thereto, designate the area for the purposes of this Act as an area of outstanding natural beauty; and references in this Act to such an area shall be construed as references to an area designated under this section.

(2) Where the Commission propose to make an order under this section they shall consult with every local authority whose area includes any part of the area to which the proposed order is to relate, and shall then, before making the order, publish, in the London Gazette and in one or more local newspapers circulating in the area of every such authority as aforesaid, notice that they propose to make the order, indicating the effect of the order and stating the time within which and manner in which representations with respect thereto may be made to the Commission, and shall consider any representations duly made.

(3) An order under the last foregoing subsection shall not come into operation unless and until submitted to and confirmed by the Minister, and in submitting any such order to the Minister the Commission shall forward to him any observations made by a local authority consulted in pursuance of the last foregoing subsection and any representations duly made thereunder, other than observations or representations to which effect is given by the order as submitted to the Minister.

PART VI —*cont.*

(4) The Minister may confirm an order submitted to him under this section either as submitted or with such modifications as he thinks expedient.

(5) Before refusing to confirm an order under this section, or determining to confirm it with modifications, the Minister shall consult with the Commission and with every local authority whose area includes any land to which the order as submitted, or as proposed to be modified, relates.

(6) In this section the expression " local authority " means a joint planning board, county council, county borough council or county district council.

(7) Without prejudice to the power of the Commission to vary an order under this section, the Minister may by order vary any such order of the Commission ; and subsection (2) of this section shall apply to any order of the Minister under this subsection, with the substitution for references to the Commission of references to the Minister.

(8) It shall be the duty of the Commission to secure that copies of any order such as is mentioned in this section shall be available, at the office of the Commission, at the offices of each local authority whose area includes any part of the area to which the order relates, and at such other place or places in or near that area as the Commission may determine, for inspection by the public at all reasonable times.

Application to areas of outstanding natural beauty of provisions relating to National Parks.

88.—(1) Paragraphs (*d*) and (*e*) of subsection (4) of section six, section nine, subsection (1) of section sixty-two, subsection (5) of section sixty-four and subsections (5) and (6) of section sixty-five of this Act shall apply in relation to areas of outstanding natural beauty as they apply in relation to National Parks.

(2) Section eleven of this Act, so far as it confers powers for preserving and enhancing natural beauty, shall apply as aforesaid.

General Powers of Local Planning Authorities

Planting of trees and treatment of derelict land.

89.—(1) A local planning authority may plant trees on land in their area for the purpose of preserving or enhancing the natural beauty thereof.

(2) For the purpose of restoring or improving the appearance of derelict land in their area which in the opinion of the authority is in any way unsightly, a local planning authority may—

(*a*) plant trees, or

(*b*) carry out such work or do such other things as appear to them expedient for that purpose.

PART VI —*cont.*

(3) The powers conferred by this section may be exercised by an authority either on land belonging to them or with the consent of all persons interested therein on other land; and in relation to such other land the said powers shall include power to make arrangements whereby the planting or work is carried out, on such terms as may be provided under the arrangements, by a person other than the authority.

(4) The powers conferred by the foregoing provisions of this section do not, as respects any land, include power to do anything which the council of any county, county borough or county district are or can be authorised to do as respects that land by any enactment not contained in this Act; and nothing in the said provisions shall authorise the doing of anything in contravention of any prohibition or restriction having effect under any enactment or rule of law.

(5) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

(6) Where a local planning authority exercise their powers under the foregoing provisions of this section on land not belonging to the authority, the management of the land, so far as relates to anything done by the authority, may be undertaken either by the authority or by a person interested in the land, as may be agreed between the authority and the persons so interested, and on such terms as may be so agreed.

Local authority byelaws.

90.—(1) A local planning authority may, as respects land in their area belonging to them and comprised either in a National Park or area of outstanding natural beauty, or as respects land or a waterway to which the public are given access by an agreement or order, or in consequence of acquisition, under Part V of this Act, make byelaws for the preservation of order, for the prevention of damage to the land or waterway or anything thereon or therein, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land or waterway by other persons.

(2) Where a local authority, not being the local planning authority but being the council of a county, county borough or county district, represent to the Minister that it is expedient as respects any particular proposal to make byelaws relating to land or a waterway in their area that the powers of the local planning authority under this section should be exercised by the said council, the Minister if he thinks fit may after consultation with the local planning authority authorise the powers to be so exercised by the said council.

(3) Without prejudice to the generality of subsection (1) of this section, byelaws under that subsection—

(*a*) may prohibit or restrict the use of the land or waterway, either generally or in any manner specified in the byelaws, by traffic of any description so specified;

PART VI —*cont.*

(*b*) may contain provisions prohibiting the depositing of rubbish and the leaving of litter;

(*c*) may regulate or prohibit the lighting of fires;

(*d*) may be made so as to relate either to the whole or to any part of the land or waterway, and may make different provisions for different parts thereof:

Provided that byelaws made under paragraph (*a*) of this subsection shall not interfere with the exercise of any public right of way or of any functions of statutory undertakers or of a river board or other drainage authority.

(4) Before making byelaws under the foregoing provisions of this section as respects a National Park or area of outstanding natural beauty, the local authority shall consult with the Commission.

(5) A local planning authority may, as respects parking places provided in pursuance of arrangements made by them under Part II of this Act, make byelaws as to the conditions of use, and charges to be made for the use, of such parking places, and for prohibiting or restricting persons from plying for hire with vehicles at such parking places.

Nothing in this subsection shall be construed as limiting the general power of a local planning authority to make charges for any services or facilities provided by them under this Act.

(6) A county council or county district council shall have power to enforce byelaws made under this section by another authority as respects land in the area of the council.

Default powers of Secretary of State as to certain byelaws.

91.—(1) If a local planning authority, when required by the Secretary of State to make, as respects land or a waterway to which the public are given access by an agreement or order, or in consequence of acquisition, under Part V of this Act, byelaws with respect to any of the matters with respect to which they are empowered by the last foregoing section to make byelaws, do not within three months after being so required comply with the requirement to the satisfaction of the Secretary of State, he may himself make byelaws in relation to the matters, and as respects the land or waterway, in question:

Provided that before making byelaws under this section as respects a National Park or area of outstanding natural beauty the Secretary of State shall consult with the Commission.

(2) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by the local planning authority and confirmed by the Secretary of State, and the provisions of this Act and of any enactment thereby applied shall have effect in relation to the byelaws accordingly.

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Wardens.

92.—(1) A local authority may appoint such number of persons as may appear to the authority to be necessary or expedient to act as wardens as respects any land or waterway in relation to which byelaws made by the authority are in force under the last but one foregoing section, or in relation to which the authority have power to make such byelaws.

(2) The purposes for which wardens may be appointed by an authority under this section as respects any land or waterway are—

(*a*) to secure compliance with any byelaws made under the last but one foregoing section;

(*b*) to advise and assist the public as to any matter for which byelaws can be made under that section; and

(*c*) to perform such other duties (if any) in relation to the land or waterway as the authority may determine.

(3) For the purpose of exercising any function conferred on him by or under this section a warden appointed thereunder may enter upon any land, or go on any waterway, comprised in an access agreement or order in force under Part V of this Act:

Provided that this subsection shall not confer any power of entry on land which is excepted land for the purposes of the said Part V.

(4) Subject to the provisions of the last foregoing subsection, the foregoing provisions of this section shall not authorise a warden appointed by an authority thereunder, on land or a waterway in which any person other than that authority has an interest, without the consent of that person to do anything which apart from this section would be actionable at his suit by virtue of that interest.

Restriction of traffic on certain roads.

93.—(1) Where it appears to the council of a county or county borough, as respects a road in their area, being a road in a National Park or in an area of outstanding natural beauty or a road forming part of a long-distance route, that it is expedient that the use of the road by traffic of any particular description should be restricted on the grounds—

(*a*) in the case of a road in a National Park or area of outstanding natural beauty, that the use of the road by traffic of that description would detract from the natural beauty of the Park or area or from the enjoyment thereof by the community as a whole, and

(*b*) in the case of a road forming part of a long-distance route, that the use of the road by such traffic would prejudice the use thereof by persons journeying on foot or on horseback,

the following provisions of this section shall have effect.

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(2) The council shall consider what restrictions appear to them to be requisite on the grounds mentioned in the last foregoing subsection and shall also consider the extent (if any) to which any such restrictions would interfere with—

(*a*) the reasonable requirements of members of the public as users of traffic of the description proposed to be restricted;

(*b*) any reasonable requirements for such traffic to have access to premises situated on or near the road; and

(*c*) any other special or local requirements as to the use of the road by traffic of that description.

(3) If after such consideration as aforesaid the council are of the opinion that it is expedient so to do, the council may make and submit to the Minister of Transport an order imposing, either generally or in such cases or subject to such exceptions as may be specified in the order, such restrictions as may be so specified on the use of the road by traffic of any such description as may be so specified.

(4) Where, as respects a road in respect of which the council of a county propose to make an order under this section, an authority other than that council are the highway authority, the said council shall consult with the highway authority before making the order.

(5) Where, as respects a road in a National Park or area of outstanding natural beauty or a road forming part of a long-distance route, it appears to the Commission desirable that an order under this section should be made in respect of the road, and the council of the county or county borough, as the case may be, have not made the order, the Commission may apply to the Minister of Transport for an order such as is mentioned in subsection (3) of this section, and the said Minister, after considering the matters specified in subsection (2) of this section, may if he thinks fit make such an order.

(6) Any person who contravenes an order under this section shall be liable on summary conviction, in the case of a first offence under this section, to a fine not exceeding twenty pounds and, in the case of a second or any subsequent offence thereunder, to a fine not exceeding fifty pounds.

(7) Where an order under this section has been made by the Minister of Transport as respects any road, he may give to the highway authority directions as to the exercise by them in relation to the road of their powers under section forty-eight of the Road Traffic Act, 1930 (which provides for the erection of traffic signs); and any directions under this subsection—

(*a*) may require the traffic signs to be placed in pursuance thereof to be of such size, colour and type as may be

PART VI —*cont.*

specified in the directions, notwithstanding that the size, colour or type may not be one prescribed for the purposes of the said section forty-eight;

(*b*) shall be enforceable, on the application of the Minister of Transport, by mandamus.

(8) In this section the expression "road" means a highway other than a public path (as defined in Part IV of this Act); and for the purposes of this section a road shall be deemed to form part of a long-distance route if it is certified by the Minister that the road is comprised in a route as to which proposals have been approved by the Minister under the provisions in that behalf of the said Part IV.

Supplementary provisions as to orders under s. 93.

94.—(1) An order under subsection (3) of the last foregoing section shall be in such form as may be prescribed by regulations made by the Minister of Transport or as the said Minister may in any particular case direct.

(2) An order under subsection (3) of the last foregoing section shall not have effect unless confirmed by the Minister of Transport.

(3) Before confirming an order under the said subsection (3) the Minister of Transport shall take into consideration the extent to which the restrictions imposed by the order would interfere with the requirements mentioned in paragraphs (*a*) to (*c*) of subsection (2) of that section.

(4) Notwithstanding anything in the last foregoing section, the Minister of Transport shall not confirm or make an order restricting the use by traffic of any description of a trunk road or a road classified under the Ministry of Transport Act, 1919, in Class I unless he is satisfied that, having regard to any alternative routes available and to all other circumstances, the imposition of the restriction will not interfere with the reasonable requirements of traffic of the description in question.

(5) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of orders under the last foregoing section.

Financial Provisions

Expenses of Commission.

95.—(1) The expenses of the Commission incurred in accordance with proposals approved by the Minister shall be defrayed by the Minister.

(2) The Minister may pay to the officers and servants of the Commission such salaries, wages and allowances as he may with the approval of the Treasury determine.

Expenses and accounts of Nature Conservancy.

96.—(1) The Treasury may make grants to the Nature Conservancy in respect of their expenditure, whether incurred under this Act or otherwise.

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(2) As respects each financial year the Nature Conservancy shall prepare accounts of their expenditure in such form as may be directed by the Treasury, and shall submit the accounts to the Treasury at such time as may be so directed.

(3) The Treasury shall, on or before the thirtieth day of November in any year, transmit to the Comptroller and Auditor General the accounts prepared by the Nature Conservancy under this section for the financial year last ended.

(4) The Comptroller and Auditor General shall examine and certify the accounts of the Nature Conservancy transmitted to him under this section and lay before Parliament copies of the accounts, together with his report thereon.

Exchequer grants for National Parks and areas of outstanding natural beauty.

97.—(1) Provision may be made by regulations made by the Minister with the consent of the Treasury for the payment by the Minister to local authorities of grants of such amounts, and payable in such cases and subject to such conditions, as may be determined by or under the regulations in respect of expenditure incurred by such authorities in the exercise,—

(*a*) of their powers of erecting buildings or carrying out work under section twelve or section thirteen of this Act;

(*b*) of their powers under section twenty-six of the Act of 1947 (which enables a local planning authority, subject to the payment of compensation in accordance with section twenty-seven of that Act, to secure the discontinuance or modification of uses of land and the alteration or removal of buildings) as respects land in National Parks or areas of outstanding natural beauty;

(*c*) of their powers as respects such land under subsections (1) and (2) of section eighty-nine of this Act and under section twenty-eight of the Act of 1947 (which relates to tree preservation);

(*d*) of the powers conferred on them by this Act, as respects such land, for the purposes of Part V thereof, other than powers of acquiring land;

(*e*) of their powers of acquiring such land, whether by agreement or compulsorily, under any of the provisions of this Act, and of their powers of so acquiring land in the neighbourhood of a National Park for the purposes of section twelve of this Act;

(*f*) of their powers under section ninety-two of this Act as respects National Parks or areas of outstanding natural beauty.

(2) Grants payable under regulations made for the purposes of this section shall not exceed seventy-five per cent. of the amount of the expenditure in respect of which the grants are made:

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Provided that where expenditure has been incurred in carrying out work under section thirteen of this Act in any particular case where the Minister with the consent of the Treasury determines that this provision shall apply, a grant under this section in respect thereof may be of any amount not exceeding the amount of the expenditure.

(3) Regulations under this section shall provide for the making of recommendations by the Commission as to the making of grants thereunder, and for consultation of the Commission by the Minister where he proposes to make a grant not recommended by the Commission or not to make a grant recommended by them.

(4) Regulations under this section may provide for the payment of grants at different rates to different local authorities according to the general financial position of those authorities respectively.

(5) Where apart from this subsection a grant would be payable both under this section and under section ninety-four of the Act of 1947, no grant shall be payable under that section.

(6) Where, under an agreement made under subsection (2) of section thirteen of this Act, a local planning authority incur expenditure in respect of the erection of buildings or the carrying out of work by another authority, the expenditure shall be treated for the purpose of this section as if it had been incurred in the exercise of the powers mentioned in paragraph (*a*) of subsection (1) of this section.

(7) Where, in consequence of an order made under section twenty-six of the Act of 1947, a purchase notice is served under section nineteen of that Act, then if the interest in respect of which the notice is served is purchased in accordance with the said section nineteen or compensation is payable in respect thereof under subsection (3) of section twenty of that Act, expenditure incurred in the purchase of the interest or the payment of the compensation shall be treated for the purposes of this section as if it were expenditure incurred in the exercise of powers under the said section twenty-six.

Power of Minister to defray expenditure on long-distance routes.

98.—(1) Subject to such conditions as the Treasury may determine, the Minister may defray expenditure incurred by a local authority in the payment of compensation or the construction, maintenance or improvement of a way, being expenditure incurred for the purposes of approved proposals relating to a long-distance route.

(2) Subject as aforesaid, the Minister may defray or contribute towards expenditure of a local authority incurred under section fifty-three of this Act or incurred in the exercise of their powers of acquiring land, erecting buildings or carrying out work for the purposes of section fifty-four of this Act.

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Contributions by local authorities.

99.—(1) A local authority may defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred for the purposes of this Act by any other local authority.

(2) In this section the expression "local authority" means a local planning authority, the council of a county or a county borough not being a local planning authority, or the council of a county district.

(3) Where, under subsection (4) of section thirteen of this Act, the Minister directs that any power of a local planning authority under that section shall be exercisable by another authority, subsection (1) of this section shall apply as if that other authority were a local authority; and if the direction so provides the local planning authority shall be under a duty to exercise their powers under subsection (1) of this section to such extent as may be specified in the direction.

(4) Where, under subsection (1) of section forty-one of this Act, the Minister directs that any power of one local authority shall be exercisable by another, then if the direction so provides the first-mentioned authority shall be under a duty to exercise their powers under subsection (1) of this section to such extent as may be specified in the direction.

(5) Any expenditure incurred under this section by a local planning authority in respect of the erection of buildings or the carrying out of work by any such other authority as is mentioned in subsection (3) of this section shall be treated for the purposes of section ninety-seven of this Act as if it were expenditure incurred in the exercise of the powers of the local planning authority mentioned in paragraph (*a*) of subsection (1) of the said section ninety-seven.

(6) The council of a county or county borough may defray or contribute towards any expenditure incurred by a river board or other drainage authority, being expenditure incurred for the benefit of a nature reserve managed by or under an agreement with the council or in consequence of anything done in the management of such a reserve.

Payments out of moneys provided by Parliament.

100. There shall be defrayed out of moneys provided by Parliament—

(*a*) the expenses under this Act of the Minister of Town and Country Planning, the Treasury, and the Minister of Agriculture and Fisheries;

(*b*) any increase attributable to the provisions of this Act in the sums payable out of such moneys under Part I or Part II of the Local Government Act, 1948.

Supplementary Provisions

Crown land.

101.—(1) The following provisions of this section shall have effect for applying certain provisions of this Act to Crown land, that is to say land an interest in which belongs to His Majesty in

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right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a Government department or is held in trust for His Majesty for the purposes of a Government department.

(2) A National Park may include Crown land, and with the consent of the appropriate authority the powers conferred by Part II of this Act may be exercised as respects any interest in Crown land.

(3) Where a National Park includes any Crown land, the appropriate authority and the local planning authority in whose area the land is situated may enter into an agreement for securing that, so far as any interest held by or on behalf of the Crown is concerned and so far as may be provided by the agreement, the land will be managed in a manner consistent with the accomplishment of either or both of the purposes specified in subsection (1) of section five of this Act.

(4) The appropriate authority may enter into an agreement under Part III of this Act as respects an interest in Crown land held by or on behalf of the Crown, and an agreement thereunder as respects any other interest in Crown land shall not have effect unless approved by the appropriate authority.

(5) An interest in Crown land, other than one held by or on behalf of the Crown, may be acquired under the said Part III, but only with the consent of the appropriate authority.

(6) Parts IV and V of this Act shall apply to Crown land, but subject to the following modifications, that is to say,—

(*a*) no public path order, diversion order, extinguishment order or access order shall be made as respects such land except with the consent of the appropriate authority;

(*b*) no such land shall be acquired under the said Part IV or V except with such consent; and

(*c*) if any land comprised in an access agreement or order, not being excepted land as defined for the purposes of the said Part V, becomes Crown land while it is so comprised, the access agreement or order shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the agreement or order.

(7) Section eighty-nine of this Act shall apply to Crown land if the appropriate authority consents to its application thereto, but subject to the following modifications, that is to say—

(*a*) an interest in Crown land may be acquired for the purposes of the said section eighty-nine only with the consent of the appropriate authority;

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(*b*) if any land affected by arrangements under subsection (3) of that section or an agreement under subsection (6) thereof becomes Crown land, the arrangements or agreement shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the arrangements or agreement.

(8) Byelaws made under this Act shall apply to Crown land if the appropriate authority consents to their application thereto.

(9) An order under this Part of this Act restricting traffic on highways shall, save as expressly provided by the order, apply to vehicles and persons in the public service of the Crown.

(10) Notwithstanding anything in subsection (3) or subsection (6) of this section—

(*a*) an agreement authorised by the said subsection (3) and made by the Commissioners of Crown Lands or by any Government department, or an access agreement so made, shall be of no effect unless it is approved by the Treasury; and

(*b*) in considering whether to make or approve an agreement authorised by the said subsection (3), or an access agreement, relating to land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

(11) In this section the expression "the appropriate authority", in relation to any land, means—

(*a*) in the case of land belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other Government department having the management of the land in question;

(*b*) in the case of land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(*c*) in the case of land belonging 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*) in the case of land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, that department;

and if any question arises under this section as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Power to authorise other local authorities to act in place of local planning authority.

102.—(1) Where it is represented to a local planning authority by any other local authority that it is expedient in any particular case that any of the powers of the local planning authority under the provisions of this Act relating to National Parks or areas of outstanding natural beauty or under the provisions of

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Part V or of section eighty-nine of this Act should be exercised by the said other local authority, and the local planning authority agree, the power shall be exercisable in that case by the said other local authority:

Provided that before agreeing as aforesaid to the exercise by the said other local authority of any of the said powers in relation to a National Park, or to land in a National Park, the local planning authority shall consult with the Commission.

(2) Where under the last foregoing subsection a local planning authority and any such other local authority as aforesaid are unable to agree as to the exercise of any power, the other local authority may refer the difference to the Minister; and the Minister, after consultation with the local planning authority, may if he thinks fit direct that in the case in question the said power shall be exercisable by the other local authority.

(3) So far as is necessary for giving effect to any agreement or direction under this section, references in this Act to a local planning authority shall be construed as references to the said other local authority.

(4) Without prejudice to the generality of the last foregoing subsection, where in pursuance of an agreement or direction under this section a local authority have acquired any land in a National Park or area of outstanding natural beauty, or have made an access agreement or order as respects any land or acquired any land under Part V of this Act, subsections (1) and (2) of section ninety of this Act shall apply as if the said other local authority were the local planning authority.

(5) Section thirty-four of the Act of 1947 (which provides for the delegation of functions under Part III of that Act) shall apply to functions under this Act relating to the matters specified in subsection (1) of this section; and, without prejudice to any power of variation or revocation, the coming into operation of this Act shall not affect any delegation under the said section thirty-four in force at the commencement of this Act:

Provided that this subsection shall not authorise a local planning authority to delegate any of their functions under this Act, being functions relating to a National Park or to land in a National Park, except after consultation with the Commission.

(6) In this section the expression "local authority" means a local planning authority, the council of a county or county borough, not being a local planning authority, or the council of a county district.

General provisions as to acquisition of land.

103.—(1) Any power conferred by this Act on the Nature Conservancy or a local authority to acquire land compulsorily shall be exercisable in any particular case on their being authorised so to do by the Minister.

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(2) In relation to the compulsory acquisition of land under this Act by the Nature Conservancy or a local authority, the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply as if this Act had been in force immediately before the commencement of that Act and as if in paragraph (*a*) of subsection (1) of section one thereof, in Part I of the First Schedule thereto and in the Second Schedule thereto references to a local authority included references to the Nature Conservancy:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to any such compulsory acquisition as is mentioned in this subsection.

(3) The Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply to the Nature Conservancy as it applies to a Government department.

(4) In relation to the compulsory acquisition of land under this Act by the Minister or the Minister of Agriculture and Fisheries, the said Act of 1946 shall apply as if this Act had been in force immediately before the commencement of that Act and as if paragraph (*b*) of subsection (1) of section one thereof included a reference to any compulsory purchase by either of the said Ministers under this Act.

(5) The following provision shall have effect, in relation to the acquisition of land under this Act, in substitution for section one hundred and fifty-seven of the Local Government Act, 1933 (which provides for the acquisition of land by local authorities by agreement for the purposes of their functions), that is to say, a local authority may with the consent of the Minister by agreement acquire, whether by way of purchase, lease or exchange, any land, whether within or without the area of the local authority, which they require for the purpose of any of their functions under this Act or any other land which they may be authorised under this Act to acquire compulsorily.

(6) In this section, and in any enactment in this Act which confers a power to acquire land compulsorily, the expression "land" includes any interest in land; and the provisions of the Lands Clauses Acts incorporated with this Act by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, as applied by subsections (2) and (4) of this section, shall apply with the necessary modifications in relation to the compulsory acquisition of any interest in land, being an interest not falling within the definition of "lands" contained in the Lands Clauses Acts.

(7) In the application of this section to Scotland there shall be substituted, for references to the Acquisition of Land (Authorisation Procedure) Act, 1946, and to section one hundred

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and fifty-seven of the Local Government Act, 1933, respectively, references to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, and to section one hundred and fifty-six of the Local Government (Scotland) Act, 1947, and in subsection (5) there shall be substituted for the words " whether by way of purchase, lease or exchange " the words " whether by way of purchase, feu, lease or excambion "; and subsection (4) shall not apply.

General provisions as to appropriation and disposal of land.

104.—(1) The following provisions of this section shall have effect with respect to the disposal or appropriation by any local authority of land which has been acquired by them under this Act or appropriated by them for purposes for which land can be acquired under this Act, and is for the time being held by the authority for the purposes for which it was acquired or appropriated.

(2) Subject to the provisions of subsections (5) and (6) of this section,—

(*a*) where any such land was acquired or appropriated by the authority for a purpose involving the disposal thereof by the authority or for a purpose which in the opinion of the authority can best be achieved by the disposal thereof, or which can be achieved consistently with the disposal thereof, they may dispose of the land to such person, in such manner and subject to such conditions as may appear to the authority to be expedient in order to secure that the land will be best dealt with having regard to the purpose for which it was acquired;

(*b*) where any such land is no longer required for the purpose for which it is held, the authority may dispose thereof to such person, in such manner and subject to such conditions as may appear to the authority to be expedient, having regard to the nature and situation of the land, in order to secure the best use of the land.

(3) Subject to the provisions of subsection (5) of this section, the authority may appropriate any such land, where the land is no longer required for the purpose for which it is held, for any other purpose for which the authority are or may be authorised in any capacity to acquire land under this Act or by or under any other enactment.

(4) In relation to an appropriation under the last foregoing subsection, subsections (2) and (3) of section one hundred and sixty-three of the Local Government Act, 1933, and subsections (2) and (3) of section one hundred and six of the London Government Act, 1939 (which relate to the operation of section sixty-eight of the Lands Clauses Consolidation Act, 1845, and to adjustments in accounts) shall have effect as they have effect in relation to appropriations under those sections respectively.

(5) The consent of the Minister shall be requisite to any disposal or appropriation of land by a local authority under this section, and may be given as respects either a particular disposal or appropriation or disposals or appropriations of any class, and either subject to or free from any conditions or limitations.

(6) The consent of the Minister to a sale by a local authority under this section of the freehold in any land, or to a lease by them thereunder of any land for a term of more than ninety-nine years, shall not be given unless he is satisfied that there are exceptional circumstances which render the disposal of the land in that manner expedient as mentioned in subsection (2) of this section.

(7) If it appears to the Minister that it is expedient as mentioned in subsection (2) of this section that a local authority should dispose of land under this section to any person and the authority have refused to dispose of it to him or are unable to reach agreement with him as to the manner in which or the terms or conditions on or subject to which it is to be disposed of to him, the Minister may, after consultation with the authority and that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him:

Provided that the authority shall not be required by any such directions to offer to dispose of land for a money consideration less than the best that can reasonably be obtained, having regard to the other terms and conditions on and subject to which the offer is to be made, so, however, that in estimating the best consideration any amount which only a particular purchaser might be prepared to offer by reason of special needs of his shall be disregarded.

(8) Any difference arising under the proviso to the last foregoing subsection as to what is the best consideration shall be determined in such manner as the Minister may by order provide.

(9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation) whether by way of sale, exchange or lease, by the creation of any easement, right or privilege, or in any other manner, except disposal by way of gift, mortgage or charge.

(10) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of subsection (1) of section one hundred and sixty-three and sections one hundred and sixty-four and one hundred and sixty-five of the Local Government

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Act, 1933, or of subsection (1) of section one hundred and six and sections one hundred and seven and one hundred and eight of the London Government Act, 1939, or of sections one hundred and sixty-three, one hundred and sixty-five, one hundred and sixty-six and one hundred and sixty-seven of the Local Government (Scotland) Act, 1947.

(11) Section one hundred and sixty-six of the Local Government Act, 1933, and section one hundred and nine of the London Government Act, 1939 (which relate to the application of capital money received from the disposal of land), and section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (so far as it relates to the application of such money), shall have effect as respects capital money received in respect of transactions under the provisions of this section relating to the disposal of land as they have effect as respects capital money received in respect of such transactions as are mentioned in those sections respectively.

(12) In the application of this section to Scotland, the following provision shall be substituted for subsection (4) of this section, that is to say—

"(4) On any appropriation being made under the last foregoing subsection proper adjustments in respect thereof shall be made in the accounts of the authority",

and the following provision shall be substituted for subsection (9) of this section, that is to say—

"(9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation), whether by way of sale, feu, excambion or lease, by the creation of any servitude, right or privilege, or in any other manner except disposal by way of gift or in security";

and subsections (6), (7) and (8) shall be omitted.

Default powers of Minister as respects National Parks, areas of outstanding natural beauty and long-distance routes.

105.—(1) If the Minister is satisfied, after holding a local inquiry,—

(*a*) that a local planning authority have failed to exercise any of their powers under the provisions of this Act relating to National Parks or to areas of outstanding natural beauty, or

(*b*) that any authority have failed to exercise any of their powers under the enactments relating to highways or under Part IV of this Act, being powers for giving effect to approved proposals relating to a long-distance route,

and the Minister is of opinion, after consultation with the Commission, that the authority ought to have exercised the powers in question, the Minister may by order require the authority—

(i) to exercise the said powers;

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(ii) if it is necessary for the exercise thereof that the authority should acquire any land, to acquire the land necessary for the purpose or the land specified in the order, as may be provided by the order, and on the acquisition thereof to exercise the power in question.

(2) Any order under the last foregoing subsection shall be enforceable, on the application of the Minister, by mandamus.

Supplementary provisions as to byelaws.

106.—(1) Sections two hundred and fifty to two hundred and fifty-two of the Local Government Act, 1933 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding five pounds, and provide for the proof of byelaws in legal proceedings) shall apply to all byelaws under this Act as if any authority having power to make them were a local authority within the meaning of the said Act of 1933, so, however, that in relation to byelaws made by the Nature Conservancy the said sections shall apply subject to such adaptations as may be prescribed by regulations made by the Secretary of State.

(2) In relation to byelaws made under this Act the confirming authority for the purposes of the said section two hundred and fifty shall be the Secretary of State.

(3) Any authority having power under this Act to make byelaws shall have power to enforce byelaws made by them.

(4) The following provisions shall have effect in the application of this section to Scotland:—

(*a*) for references to the Local Government Act, 1933, and to sections two hundred and fifty to two hundred and fifty-two thereof there shall be substituted references to the Local Government (Scotland) Act, 1947, and to sections three hundred and one to three hundred and three thereof; and

(*b*) nothing in the last foregoing subsection shall be construed as authorising any such authority as is mentioned therein to institute proceedings in Scotland for an offence.

Supplementary provisions as to compensation under ss. 20, 46 and 70.

107.—(1) The following provisions shall have effect as to compensation under section twenty of this Act, under that section as applied by section twenty-one thereof, under section forty-six thereof, and under section seventy thereof.

(2) Any dispute arising on a claim for any such compensation shall be determined by the Lands Tribunal.

(3) For the purposes of any reference to the Lands Tribunal under the last foregoing subsection, section five of the Acquisition of Land (Assessment of Compensation) Act, 1919 (which relates

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to costs) shall have effect with the substitution, for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.

(4) Rules 2 to 4 of the Rules set out in section two of the said Act of 1919 (which provides rules for valuation on a compulsory acquisition) shall apply to the calculation of any such compensation, in so far as it is calculated by reference to the depreciation of the value of an interest in land.

(5) In the case of an interest in land subject to a mortgage—

(*a*) any such compensation in respect of the depreciation of that interest shall be calculated as if the interest were not subject to the mortgage;

(*b*) a claim or application for the payment of any such compensation, or an application for the recording of a claim in respect of the interest under subsection (1) of section seventy-two of this Act, may be made by any person who when the byelaws or order giving rise to the compensation were or was made was the mortgagee of the interest, or by any person claiming under such a person, but without prejudice to the making of a claim or application by any other person;

(*c*) a mortgagee shall not be entitled to any such compensation in respect of his interest as such; and

(*d*) any compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(6) This section shall apply to Scotland—

(*a*) with the substitution for any reference to the Lands Tribunal of a reference to the Lands Tribunal for Scotland; and

(*b*) with the substitution respectively for any reference to a mortgage, to a mortgagee, and to the first mortgagee, of a reference to a heritable security, to the creditor in a heritable security, and to the creditor whose heritable security has priority over any other heritable securities secured on the land:

Provided that until sections one to three of the Lands Tribunal Act, 1949, come into force as respects Scotland the expression "the Lands Tribunal for Scotland" in subsection (2) of this section shall be construed as meaning an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the following provisions of the said Act of 1919, that is to say, section three thereof (which relates to procedure), section five thereof (which relates to costs) as modified by sections

five and ten of the said Act of 1949, but with the substitution for references to the acquiring authority of references to the authority from whom the compensation in question is claimed, and section six thereof (which relates to the statement of special cases) as modified by section ten of the said Act of 1949, shall apply for the purposes of the arbitration.

Powers of entry.

108.—(1) For the purpose of surveying land in connection with—

(*a*) the acquisition thereof or of any interest therein, whether by agreement or compulsorily,

(*b*) the making of a public path order, diversion order or extinguishment order with respect thereto, or

(*c*) the making of an access order with respect thereto,

in the exercise of any power conferred by this Act, any person duly authorised in writing by the Minister or other authority having power so to acquire the land or to make the order, as the case may be, may enter upon the land.

(2) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable under this Act by a Minister or other authority in respect of that or any other land, any person being an officer of the Valuation Office or a person duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.

(3) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least seven days' notice in writing of the intended entry has been given to the occupier.

(4) Any person who wilfully obstructs a person in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

Application of provisions of Act of 1947 as to inquiries and service of notices.

109.—(1) Section one hundred and four of the Act of 1947 (which provides for the holding by the Minister of local inquiries for the purposes of that Act) shall apply for the purposes of this Act.

(2) Section one hundred and five of the Act of 1947 and section one hundred and one of the Town and Country Planning (Scotland) Act, 1947 (which provide for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act :

Provided that this subsection shall not apply to the service of any notice required or authorised to be served under the First

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Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, or the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, as applied by this Act.

(3) Subsection (1) of this section shall not apply to Scotland.

Regulations and orders.

110.—(1) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

(2) Any order under Part IV, V or VI of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like provisions:

Provided that, without prejudice to the making of a new access order under Part V of this Act, an access order under the said Part V shall not be varied so as to comprise land not comprised in the original order.

(3) Any regulations made under this Act shall be subject to annulment by a resolution of either House of Parliament.

Application to Isles of Scilly.

111.—(1) The Minister may, after consultation with the Council of the Isles of Scilly, by order provide for the application of this Act to the Isles of Scilly as if those Isles were a separate county; and any such order may provide for the application of this Act to those Isles subject to such modifications, or to the exception of such Parts or provisions thereof, as may be specified in the order.

(2) The power to make orders conferred by this section shall be exercisable by statutory instrument.

Epping Forest and Burnham Beeches.

112.—(1) The provisions of this Act mentioned in the next following subsection shall not apply to any of the lands under the regulation and management of the Corporation of London as Conservators of Epping Forest, or acquired by, and vested in, that Corporation under the Corporation of London (Open Spaces) Act, 1878, in the area known as Burnham Beeches.

(2) The said provisions are Part II of this Act, Part V thereof, and sections eighty-seven to ninety-four thereof.

National Trust land.

113. No power conferred by Part V or Part VI of this Act to acquire land compulsorily shall be exercisable in respect of land belonging to the National Trust which is held by the Trust inalienably.

Interpretation.

114.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

"Act of 1947" means the Town and Country Planning Act, 1947;

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"area of outstanding natural beauty" has the meaning assigned to it by subsection (1) of section eighty-seven of this Act;

"drainage authority" has the same meaning as in the Land Drainage Act, 1930;

"interest", in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights;

"land" includes land covered by water and as respects Scotland includes salmon fishings;

"the Minister" as respects England and Wales means the Minister of Town and Country Planning, and as respects Scotland means the Secretary of State;

"National Park" has the meaning assigned to it by subsection (3) of section five of this Act;

"open-air recreation" does not include organized games;

"owner", in relation to any land, means, except in Part III of this Act, a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, and, in Part III of this Act, as respects England and Wales means any person being either entitled to the fee simple or being a mortgagee in possession of the land and as respects Scotland has the meaning assigned to it by section twenty-six of this Act;

"river board" has the same meaning as in the River Boards Act, 1948;

"vehicle" does not include a vessel, except any vessel adapted for use on land while it is being so used;

"waterway" means any lake, river, canal or other waters, being (in any case) waters suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing or fishing;

and, except where the context otherwise requires, other expressions have the same meanings respectively as in the Act of 1947 or, in their application to Scotland, as in the Town and Country Planning (Scotland) Act, 1947.

(2) References in this Act to the preservation of the natural beauty of an area shall be construed as including references to the preservation of the characteristic natural features, flora and fauna thereof.

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(3) References in this Act to the planting of trees shall be construed as including references to the planting of bushes, the planting or sowing of flowers and the sowing of grass and the laying of turf.

(4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

Short title and extent.

115.—(1) This Act may be cited as the National Parks and Access to the Countryside Act, 1949.

(2) This Act, except Part III thereof and so much of this Part thereof as relates to the said Part III, shall not extend to Scotland; and this Act shall not extend to Northern Ireland.

SCHEDULES

FIRST SCHEDULE

PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN INSTRUMENTS

PART I

Orders designating National Parks, Public Path Orders, Diversion Orders and Extinguishment Orders, and Access Orders

1.—(1) Before—

(*a*) an order designating a National Park,

(*b*) a public path order, diversion order or extinguishment order, or

(*c*) an access order,

is submitted to the Minister for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Before the Minister makes an order varying an order designating a National Park, or makes a public path order, diversion order or extinguishment order or an access order, he shall prepare a draft of the order and shall give notice stating that he proposes to make the order and the effect thereof, naming places in the locality to which the draft relates where a copy of the draft and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft may be made.

(3) The notice to be given under either of the two foregoing sub-paragraphs shall be given—

(*a*) in the case of an order designating a National Park or an order varying such an order, by publication in the London Gazette, in two newspapers circulating in the country generally and in at least one local newspaper circulating in the area of every local planning authority whose area includes any of the land to which the order relates;

(*b*) in the case of a public path order or an access order, by publication in the London Gazette and in at least one local newspaper circulating in the locality in which the land to which the order relates is situated, and by serving a like notice on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any of that land, so however that—

(i) except in the case of an owner, lessee or occupier being a local authority or statutory undertakers, the Minister may in any particular case direct that it shall not be necessary to serve notice as aforesaid; but

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(ii) if the Minister so directs in the case of any land, then in addition to publication the notice shall be addressed to " the owners and any occupiers " of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land;

(*c*) in the case of a diversion order or an extinguishment order, by publication and the service of notices as mentioned in head (*b*) of this sub-paragraph and also—

(i) by serving such a notice as is therein mentioned on the council of every county, county borough, county district or parish, and the parish meeting of every rural parish not having a separate parish council, being a county, borough, district or parish which includes any of the land to which the order relates; and

(ii) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any public path as is to be diverted or stopped up by virtue of the order.

(4) Where under this paragraph any notice is required to be served on an owner of land and the land belongs to an ecclesiastical benefice, a like notice shall be served on the Church Commissioners.

2.—(1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.

(2) If any representation or objection duly made is not withdrawn, the Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held and in any other case either—

(*a*) cause a local inquiry to be held, or

(*b*) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:

Provided that in the case of a public path order or diversion order, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—

(*a*) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days) within which and manner in which representations or objections with respect to the proposal may be made;

(*b*) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and

(*c*) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

and, in the case of a public path order or diversion order, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(4) Where, in the case of an access order, it is represented by the persons carrying on a statutory undertaking, being a water undertaking, that any land comprised in the order as submitted to the Minister or in the draft order prepared by him, as the case may be (or, where notice of a proposed modification has been given under head (*a*) of the last foregoing sub-paragraph, any land to which the proposed modification relates), should be excluded from the operation of the order on the ground that by reason of—

(*a*) the proximity of the land to any reservoir used for the purposes of the undertaking, or

(*b*) any other physical factor affecting the flow of water from the land into any such reservoir,

the operation of section sixty of this Act as respects that land would be likely to involve danger to the purity of the water supply which could not be prevented by the taking of any reasonable measures, sub-paragraph (2) of this paragraph, or head (*c*) of the last foregoing sub-paragraph, as the case may be, shall have effect in relation to that representation as if it provided for the consideration of the report therein referred to by the Minister and the Minister of Health acting jointly.

(5) If, as the result of any representations or objections considered, or inquiry or other hearing held, in connection with the confirmation of an order designating a National Park or the making of an order varying such an order, the Minister is of opinion that the Commission, a local planning authority or any other person ought to be consulted before he decides whether to confirm or make the order either with or without modifications, he shall consult the Commission, authority or other person but, subject to the provisions of sub-paragraph (3) of this paragraph, shall not be under any obligation to consult any other person, or to afford any opportunity for further representations or objections or to cause any further inquiry or other hearing to be held.

3. As soon as may be after any such order as is mentioned in paragraph 1 of this Schedule has been confirmed or made by the Minister, the authority by whom the order was made, or, in the case of an order made by the Minister, the Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the effect of the order, stating that it has been confirmed

1ST SCH. —*cont.*

or made, and naming a place where a copy thereof as confirmed or made may be inspected at all reasonable hours, and—

(*a*) where under the said sub-paragraph (3) notice was required to be served, shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph or under sub-paragraph (4) of paragraph 1 of this Schedule; and

(*b*) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph:

Provided that no such notice or copy need be served on a person unless he has sent to the authority or Minister (according as the notice or copy would require to be served by an authority or by the Minister) a request in writing in that behalf specifying an address for service.

4.—(1) The Minister may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.

(2) Provision may be made by regulations of the Minister for enabling proceedings preliminary to the confirmation of an extinguishment order to be taken concurrently with proceedings preliminary to the confirmation of a public path order or diversion order.

(3) In this Part of this Schedule the expression " prescribed " means prescribed by regulations made by the Minister.

PART II

Orders Restricting Traffic on certain Roads

5.—(1) Before an order under subsection (3) of section ninety-three of this Act is submitted to the Minister of Transport for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) The notice to be given under the last foregoing sub-paragraph shall be given by publication in the London Gazette and in at least one local newspaper circulating in the locality in which the highway to which the order relates is situated.

(3) If no representations or objections are duly made under the foregoing provisions of this paragraph, or if all representations or objections so made are withdrawn, the Minister of Transport may, if he thinks fit, confirm the order with or without modifications.

(4) If any representation or objection duly made is not withdrawn, the said Minister may, and if the objection or representation was

made by the highway authority shall, cause a local inquiry to be held, and after considering the representation or objection and, if such an inquiry is held, the report of the person appointed to hold it, may confirm the order with or without modifications.

(5) Notwithstanding anything in the foregoing provisions of this paragraph, the said Minister shall not confirm an order under subsection (3) of section ninety-three of this Act with such modifications as to make the restrictions thereby imposed less stringent than those imposed by the order as submitted except after consultation with the authority by whom the order was made; and the said Minister shall not confirm such an order with such modifications as to make the said restrictions more stringent than those imposed as aforesaid except after—

(*a*) giving such notice as appears to him requisite of his proposal so to modify the order;

(*b*) if he thinks fit, holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and

(*c*) considering the report of any person appointed under this sub-paragraph to hold an inquiry or to hear representations or objections, as the case may be.

(6) As soon as may be after any such order as aforesaid has been confirmed, the authority by whom the order was made shall publish, in such manner as may be prescribed, notice of the fact that the order has been confirmed and of its effect, and naming a place where a copy thereof as confirmed may be inspected at all reasonable hours.

6.—(1) Before the Minister of Transport makes an order under subsection (5) of section ninety-three of this Act he shall prepare a draft of the order and shall give notice, in the manner specified in sub-paragraph (2) of the last foregoing paragraph, stating that he proposes to make the order and the effect thereof, naming places in the locality to which the order relates where copies of the draft order may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft order may be made.

(2) Sub-paragraphs (3), (4) and (6) of the last foregoing paragraph shall apply in relation to the making of an order under subsection (5) of section ninety-three of this Act, but subject to the following modifications:—

(*a*) for references to the last foregoing paragraph and to the confirming of an order there shall be substituted respectively references to this paragraph and to the making of an order;

(*b*) the reference in the said sub-paragraph (4) to the highway authority shall include a reference to the county or county borough council where that council is not the highway authority; and

(*c*) if any representation or objection duly made by the highway authority or the county or county borough council is not withdrawn, the order shall be subject to special parliamentary procedure.

1ST SCH. —*cont.*

7.—(1) The Minister of Transport may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.

(2) In this Part of this Schedule the expression " prescribed " means prescribed by regulations made by the Minister of Transport.

PART III

Provisions as to validity of orders, and of certain maps and statements prepared under Part IV of this Act

8. If any person desires to question the validity of an order to which Part I or Part II of this Schedule applies on the ground that it is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the making or confirmation of the order, he may, within six weeks after the date of publication of notice of the confirmation or making of the order in accordance with the foregoing provisions of this Schedule in that behalf, make an application to the High Court; and on any such application the court—

(*a*) may by interim order suspend the operation of the order, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and

(*b*) if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the order either generally or in so far as it affects the applicant.

9.—(1) If any person desires to question the validity of a definitive map prepared under Part IV of this Act on the ground that the map is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the preparation of the map, or of any draft or provisional map on which that map is based, he may, within six weeks after the date of publication of notice of the preparation of the map in accordance with the provisions of the said Part IV in that behalf, make an application to the High Court; and on any such application the court, if satisfied that the map is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may make an order declaring that, notwithstanding anything contained in the said Part IV, the definitive map shall not be conclusive evidence of any such matter as may be specified in the order.

(2) References in this paragraph to a definitive map, or to a draft or provisional map, shall be construed as including references to a revised map prepared in definitive form, or to a revised map prepared in draft or provisional form, as the case may be; references therein to a map shall be construed as including references to any statement required by the provisions of Part IV of this Act to be annexed to the map; and

for the purposes of this paragraph a map shall be deemed to be based on another map if the particulars contained in the former map are required by the said provisions to be the particulars contained in the latter map as modified in accordance with those provisions.

10. Subject to the provisions of the two last foregoing paragraphs, an order, map, or statement to which either of those paragraphs applies shall not, either before or after it has been confirmed, made or prepared, be questioned in any legal proceedings whatsoever, and any such order map or statement shall become operative on the date on which notice of the confirmation, making or preparation thereof is published as mentioned in those paragraphs respectively.

11. Paragraphs 8 and 10 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of paragraph 2 or 6 of this Schedule as if for the reference in the said paragraph 10 to the date therein mentioned there were substituted a reference to the date on which the order becomes operative under the said Act.

SECOND SCHEDULE

Section 60.

GENERAL RESTRICTIONS TO BE OBSERVED BY PERSONS HAVING ACCESS TO OPEN COUNTRY OR WATERWAYS BY VIRTUE OF PART V OF ACT

1. Subsection (1) of section sixty of this Act shall not apply to a person who, in or upon the land in question,—

(*a*) drives or rides any vehicle;

(*b*) lights any fire or does any act which is likely to cause a fire;

(*c*) takes, or allows to enter or remain, any dog not under proper control;

(*d*) wilfully kills, takes, molests or disturbs any animal, bird or fish or takes or injures any eggs or nests;

(*e*) bathes in any non-tidal water in contravention of a notice displayed near the water prohibiting bathing, being a notice displayed, and purporting to be displayed, with the approval of the local planning authority;

(*f*) engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish;

(*g*) wilfully damages the land or anything thereon or therein;

(*h*) wilfully injures, removes or destroys any plant, shrub, tree or root or any part thereof;

2ND SCH. —*cont.*

(*i*) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, breaks through any hedge, fence or wall, or neglects to shut any gate or to fasten it if any means of so doing is provided;

(*j*) affixes or writes any advertisement, bill, placard or notice;

(*k*) deposits any rubbish or leaves any litter;

(*l*) engages in riotous, disorderly or indecent conduct;

(*m*) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation;

(*n*) holds any political meeting or delivers any political address; or

(*o*) hinders or obstructs any person interested in the land, or any person acting under his authority, in the exercise of any right or power vested in him.

2. In the application of the foregoing provisions of this Schedule to waterways,—

(*a*) for references to land there shall be substituted references to a waterway;

(*b*) sub-paragraphs (*a*) and (*b*) of paragraph 1 of this Schedule shall not apply; and

(*c*) sub-paragraph (*f*) of the said paragraph 1 shall have effect as if the words from "or brings" to the end of the sub-paragraph were omitted.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Highway Act, 1835	5 & 6 Will. 4. c. 50.
Lands Clauses Consolidation Act, 1845	8 & 9 Vict. c. 18.
Tweed Fisheries Act, 1857	20 & 21 Vict. c. cxlviii.
Salmon Fisheries (Scotland) Act, 1862	25 & 26 Vict. c. 97.
Highway Act, 1864	27 & 28 Vict. c. 101.
Public Health Act, 1875	38 & 39 Vict. c. 55.
Highways and Locomotives (Amendment) Act, 1878	41 & 42 Vict. c. 77.
Corporation of London (Open Spaces) Act, 1878 ...	41 & 42 Vict. c. cxxvii.
Private Street Works Act, 1892	55 & 56 Vict. c. 57.
Ministry of Transport Act, 1919	9 & 10 Geo. 5. c. 50.
Acquisition of Land (Assessment of Compensation) Act, 1919	9 & 10 Geo. 5. c. 57.
Trusts (Scotland) Act, 1921	11 & 12 Geo. 5. c. 58.
Law of Property Act, 1925	15 & 16 Geo. 5. c. 20.
Criminal Justice Act, 1925	15 & 16 Geo. 5. c. 86.
Road Traffic Act, 1930	20 & 21 Geo. 5. c. 43.
Land Drainage Act, 1930	20 & 21 Geo. 5. c. 44.
Rights of Way Act, 1932	22 & 23 Geo. 5. c. 45.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
Access to Mountains Act, 1939	2 & 3 Geo. 6. c. 30.
London Government Act, 1939	2 & 3 Geo. 6. c. 40.
Statutory Orders (Special Procedure) Act, 1945 ...	9 & 10 Geo. 6. c. 18.

Short Title	Session and Chapter
Acquisition of Land (Authorisation Procedure) Act, 1946.	9 & 10 Geo. 6. c. 49.
Forestry Act, 1947	10 & 11 Geo. 6. c. 21.
Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947	10 & 11 Geo. 6. c. 42.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
Town and Country Planning (Scotland) Act, 1947 ...	10 & 11 Geo. 6. c. 53.
Local Government Act, 1948	11 & 12 Geo. 6. c. 26.
River Boards Act, 1948	11 & 12 Geo. 6. c. 32.
Lands Tribunal Act, 1949	12 & 13 Geo. 6. c. 42.

Printed in the UK for and published by The Stationery Office Limited under the authority and superintendence of Peter Macdonald,Controller of Her Majesty's Stationery Office and Queen's Printer ofActs of Parliament.

1st Impression January 1950
18th Impression January 1997

Dd 5065222 1/97 1731 56219 ON 341616

ISBN 0-10-850235-X

LONDON: PUBLISHED BY THE STATIONERY OFFICE
£10.70

9 780108 502354