



# Countryside (Scotland) Act 1967

## 1967 CHAPTER 86

An Act to make provision for the better enjoyment of the Scottish countryside, for the establishment of a Countryside Commission for Scotland and for the improvement of recreational and other facilities; to extend the powers of local planning authorities as respects land in their districts; to make financial provision with respect to the matters aforesaid; and for connected purposes. [27th October 1967]

### Modifications etc. (not altering text)

- C1 Certain functions of planning authorities transferred by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 9, Sch. 1 Pt. I
- C2 Act amended (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 14(3); [S.I. 1991/2633, art.4](#).

### Commencement Information

- I1 Act wholly in force at Royal Assent

## <sup>F1</sup>PART I

### THE COUNTRYSIDE COMMISSION FOR SCOTLAND

### Textual Amendments

- F1 Part I repealed (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\), s. 27, Sch.11; S.I. 1991/2633, art.4](#)

<sup>F2</sup><sub>1</sub> .....

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**Textual Amendments**

**F2** S. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F3**<sub>2</sub> .....

**Textual Amendments**

**F3** S. 2 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F4**<sub>3</sub> .....

**Textual Amendments**

**F4** S. 3 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F5**<sub>4</sub> .....

**Textual Amendments**

**F5** S. 4 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F6**<sub>5</sub> .....

**Textual Amendments**

**F6** S. 5 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F7**<sub>6</sub> .....

**Textual Amendments**

**F7** S. 6 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F8**<sub>7</sub> .....

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**Textual Amendments**

**F8** S. 7 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art. 4**.

**F9** 8 .....

**Textual Amendments**

**F9** S. 8 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art.4**.

9 ..... **F10**

**Textual Amendments**

**F10** Ss. 5(2)(3), 9, 14(7), 32(1)(3), 33(2)–(4), 36(2)(3), 37(3), and 45(2) repealed by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), **Sch. 2**

**F11** **PART II**

**ACCESS TO OPEN COUNTRY**

**Textual Amendments**

**F11** Pt. 2 repealed (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), s. 100(3), **Sch. 2 para. 4(a)** (with s. 100(2) and subject to **Sch. 2 para. 6**); S.S.I. 2005/17, art. 2(b)

**10** **Provision for public access to open country.**  
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**11** **Rights of public where access agreement or order in force.**  
.....

**12** **Commission to consult with local planning authorities and other bodies on access requirements.**  
.....

**13** **Access agreements.**  
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**14 Access orders.**

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**15 Provisions as to land used for agricultural purposes or as woodlands.**

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**16 Effect of access agreement or order on rights and liabilities of persons interested in land.**

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**17 Provisions for securing safe and sufficient access.**

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**20 Compensation for access orders.**

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**22 Claims for compensation and interest.**

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**24 Acquisition by local planning authorities of land for public access.**

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**26 Maps of land subject to public access.**

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**27 Provisions as to danger areas.**

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**28 Boundary notices.**

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

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**PART III**

**PUBLIC PATHS AND LONG-DISTANCE ROUTES**

*Creation of public paths*

**[<sup>F12</sup>30 Creation of public paths by agreement.**

- (1) [<sup>F13</sup>A general or district planning] authority shall have power to enter into an agreement with any person having the necessary power in that behalf for the creation by that person of a public path over land in their area.
- (2) An agreement made under the foregoing subsection (in this Act referred to as a “public path creation 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 creation of the public path subject to limitations or conditions affecting any public right of way thereover.
- (3) In this Part of this Act “public path” means a way which is a footpath or bridleway or a combination of those.]

**Textual Amendments**

**F12** S. 30 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), [Sch. 2 para. 4\(b\)](#) (with [s. 100\(2\)](#) and subject to savings in [Sch. 2 para. 7](#)); S.S.I. 2005/17, art. 2(b)

**F13** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43, SIF 81;2\)](#), s. 9, [Sch. 1 Pt. II para 10](#)

**[<sup>F14</sup>31 Compulsory powers for creation of public paths.**

- (1) Where it appears to [<sup>F15</sup>a general or district planning] authority that there is need for a public path over land in their area and they are satisfied that, having regard to—

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- (a) the extent to which the path 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 path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 37 below,

it is expedient that the path should be created, the authority, if it appears to them impracticable to create the path by means of a public path creation agreement, may by order (in this Act referred to as a “public path creation order”) made by them and <sup>[F16]</sup>, subject to paragraph 2(1A) of Schedule 3 of this Act,] submitted to and confirmed by the Secretary of State create a public path.

- (2) A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order, and the Secretary of State may <sup>[F17]</sup>, in a case where his confirmation of the order is required, confirm it] subject to such modifications or conditions as he thinks fit.
- (3) A public path creation order shall be in such form as may be prescribed and shall contain a map, on such scale as may be prescribed, defining the land over which a public path is thereby created.
- (4) The provisions in that behalf of Schedule 3 to this Act shall apply to the making, confirmation, validity and date of operation of public path creation orders.]

**Textual Amendments**

- F14** S. 31 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(b)** (with s. 100(2) and subject to savings in Sch. 2 para. 7); S.S.I. 2005/17, art. 2(b)
- F15** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 11**
- F16** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 8(a)**
- F17** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 8(b)**

**[F18]32 Exercise of powers under ss. 30 and 31.**

<sup>F19</sup>(1) . . . . .

- (2) Where a proposed public path lies partly within and partly outside the area of <sup>[F20]</sup>a general or district planning] authority, the powers conferred by the two last foregoing sections on the authority shall extend to the whole of the path as if it lay wholly within their area:  
Provided that, in relation to so much of the path as lies outside the area of the authority, the said powers shall not be exercisable as respects any part thereof in the area of any <sup>[F21]</sup>other general or district planning] authority, except with the consent of that authority.

<sup>F19</sup>(3) . . . . .]

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#### Textual Amendments

- F18** S. 32 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(b)** (with s. 100(2) and subject to savings in Sch. 2 para. 7); S.S.I. 2005/17, art. 2(b)
- F19** Ss. 5(2)(3), 9, 14(7), 32(1)(3), 33(2)–(4), 36(2)(3), 37(3), and 45(2) repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **Sch. 2**
- F20** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 12(a)**
- F21** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 12(b)**

### [<sup>F22</sup>33 Making up and maintenance of public paths.

- (1) On the creation of a public path in pursuance of a public path creation agreement, or on the coming into operation of a public path creation order or public path diversion order, [<sup>F23</sup>the general or district planning] authority shall carry out such work as appears to them to be necessary to bring it into a fit condition for use by the public as a public path in conformity with the terms and conditions of the said agreement or order, as the case may be, and shall maintain it in such condition.

<sup>F24</sup>(2) . . . . . ]

#### Textual Amendments

- F22** S. 33 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(b)** (with s. 100(2) and subject to savings in Sch. 2 para. 7); S.S.I. 2005/17, **art. 2(b)**
- F23** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 13**
- F24** Ss. 5(2)(3), 9, 14(7), 32(1)(3), 33(2)–(4), 36(2)(3), 37(3), and 45(2) repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **Sch. 2**

### [<sup>F25</sup>34 Closure of public paths.

- (1) Where it appears to [<sup>F26</sup>a general or district planning] authority as respects a public path in their area that it is expedient that the path should be closed on the ground that the path is not needed for public use, the authority may by order (in this Act referred to as a “public path extinguishment order”) made by them and [<sup>F27</sup>, subject to paragraph 2(1A) of Schedule 3 to this Act,] submitted to and confirmed by the Secretary of State extinguish the right of way over the path.
- (2) The Secretary of State shall not confirm a public path extinguishment order unless he is satisfied that it is expedient so to do having regard to the extent 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 contained in section 37 below.
- (3) A public path extinguishment order shall be in such form as may be prescribed and shall contain a map, on such scale as may be prescribed, defining the land over which the right of way is thereby extinguished.

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- (4) Schedule 3 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.
- (5) Where in accordance with regulations made under paragraph 3 of the said Schedule proceedings preliminary to the [<sup>F28</sup>making or] confirmation of a public path extinguishment order are taken concurrently with proceedings preliminary to the [<sup>F28</sup>making or] confirmation of a public path creation order or of a public path diversion order <sup>F29</sup> ... then, in considering—
- (a) under subsection (1) above whether the path to which the public path extinguishment order relates is needed for public use, or
  - (b) under subsection (2) above to what extent that path would apart from the order be likely to be used by the public,
- the local planning authority or the Secretary of State, as the case may be, may have regard to the extent to which the public path creation order or the public path diversion order would provide an alternative path.
- (6) For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of a path by the public shall be disregarded.]

#### Textual Amendments

- F25** S. 34 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(b)** (with s. 100(2) and subject to savings in Sch. 2 para. 7); S.S.I. 2005/17, art. 2(b)
- F26** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 14**
- F27** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 9(a)**
- F28** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 9(b)(i)**
- F29** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 4 Pt. I**

#### [<sup>F30</sup>35 Diversion of public paths.

- (1) Where an owner, tenant or occupier of land crossed by a public path satisfies [<sup>F31</sup>the general or district planning] authority in whose area 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 convenient path across his land, 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 or his or on to land of another owner, tenant or occupier), the authority may by order (in this Act referred to as a “public path diversion order”) made by them and [<sup>F32</sup>, subject to paragraph 2(1A) of Schedule 3 to this Act, ]submitted to and confirmed by the Secretary of State
- (a) create, as from such date as may be specified in the order, any such new public path as appears to the authority 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 right of way over so much of the path as appears to the authority requisite as aforesaid.
- (2) Where it appears to the authority that work requires to be done to provide necessary facilities for the convenient use of any such new public path as is mentioned in subsection (1)(a) above, the date specified under subsection (1)(b) above shall be later



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than the date specified under subsection (1)(a) above by such time as appears to the authority requisite for enabling the work to be carried out.

- (3) A right of way created by a public path diversion order may either be unconditional or may (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) be subject to such limitations or conditions as may be specified in the order, and the Secretary of State may <sup>F33</sup>, in a case where his confirmation of the order is required, confirm it ]subject to such modifications or conditions as he thinks fit.
- (4) Before determining to make a public path diversion order on the representation of an owner, tenant or occupier, the authority may require him to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards
- (a) any compensation which may become payable under section 37 below;
  - (b) any expenses which <sup>F34</sup>any general or district planning] authority may incur in bringing the new site of the path into a fit conditions for use by the public.
- (5) The Secretary of State shall not confirm a public path diversion order unless he is satisfied that the diversion to be effected thereby is expedient as mentioned in subsection (1) above, 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,
  - (b) the coming into operation of the order would have as respects other land served by the existing right of way, and
  - (c) any new right of way created by the order would have as respects the land over which the right is so created and any land held therewith,
- so, however, that for the purposes of paragraphs (b) and (c) of this subsection the Secretary of State shall take into account the provisions as to compensation of section 37 below.
- (6) A public path diversion order shall be in such form as may be prescribed and shall contain a map, on such scale as may be 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) Schedule 3 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path diversion orders.]

#### Textual Amendments

- F30** S. 35 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), [Sch. 2 para. 4\(b\)](#) (with s. 100(2) and subject to savings in [Sch. 2 para. 7](#)); S.S.I. 2005/17, art. 2(b)
- F31** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, [Sch. 1 Pt. I, Pt. II para. 15\(a\)](#)
- F32** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 10\(a\)](#)
- F33** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 10\(b\)](#)

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**F34** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, [Sch. 1 Pt. I, Pt. II para. 15\(b\)](#)

**[<sup>F35</sup>36 Exercise of powers under sections 34 and 35.**

(1) Subject to the provisions of this section, section 32 <sup>F36</sup>... (2) above shall apply in the exercise of the powers conferred by the two last foregoing sections in relation to any public path as [<sup>F37</sup>it applies] in the exercise of the powers referred to in the said [<sup>F38</sup>subsection].

<sup>F39</sup>(2) .....

(4) An authority proposing to make a public path diversion order such that the authority who will be responsible for a part of the path after the diversion will be a different body from the authority who before the diversion are so responsible shall, before making the order, consult the authority who will be responsible for that part.]

**Textual Amendments**  
**F35** S. 36 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), [Sch. 2 para. 4\(b\)](#) (with s. 100(2) and subject to savings in Sch. 2 para. 7); S.S.I. 2005/17, art. 2(b)  
**F36** Words repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), [Sch. 2](#)  
**F37** Words substituted by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), [Sch. 1 para. 2\(a\)](#)  
**F38** Words substituted by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), [Sch. 1 para. 2\(b\)](#)  
**F39** Ss. 5(2)(3), 9, 14(7), 32(1)(3), 33(2)–(4), 36(2)(3), 37(3), and 45(2) repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), [Sch. 2](#)

**[<sup>F40</sup>37 Compensation for creation, diversion and closure of public paths.**

(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 creation order, a public path diversion order or a public path 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 and shall be made to the authority by whom the order was made.

<sup>F41</sup>(3) .....

(4) Nothing in this section shall confer on any person, in respect of a right of way created by a public path creation order or a public path 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 instance if it had been effected otherwise than in the exercise of statutory powers.]

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#### Textual Amendments

- F40** S. 37 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), [Sch. 2 para. 4\(b\)](#) (with s. 100(2) and subject to savings in [Sch. 2 para. 7](#)); S.S.I. 2005/17, art. 2(b)
- F41** Ss. 5(2)(3), 9, 14(7), 32(1)(3), 33(2)–(4), 36(2)(3), 37(3), and 45(2) repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), [Sch. 2](#)

### [<sup>F42</sup>38] Supplementary provisions as to creation, closure and diversion of public paths.

- (1) Sections 34 to 36 above shall apply in relation to all public rights of way, whether created before or after the commencement of this Act.
- (2) The provisions of sections 34 to 36 above shall not prejudice any power conferred by any other enactment to close or divert a road, and shall not otherwise affect the operation of any enactment relating to the extinguishment, suspension, diversion or variation of rights of way.
- (3) A public path creation order, a public path extinguishment order or a public path diversion order affecting in any way the area of more than [<sup>F43</sup>one general or district planning] authority may contain provisions requiring one of the authorities to defray, or contribute towards, expenses incurred in consequence of the order by another of the authorities; and a public path diversion order diverting a part of the line of a path from a site in the area of one [<sup>F44</sup>such] local planning authority to a site in the area of another may provide that the first mentioned authority shall continue to be responsible for the maintenance of that part of the path after the diversion.
- (4) Every public path creation agreement, public path creation order, public path extinguishment order and public path diversion order shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the <sup>M1</sup>Conveyancing (Scotland) Act 1874.
- (5) As soon as may be after any such agreement as is referred to in the last foregoing subsection is made, or after any such order is confirmed, the local planning authority shall cause it to be recorded in the Register of Sasines, and when so recorded, it shall be enforceable at the instance of the local planning authority against persons deriving title to the land from the person so entitled when the agreement or order was made: Provided that any such agreement or order shall not be so enforceable against a third party who shall have in good faith and for value acquired right (whether [<sup>F45</sup>title has been completed] or not) to the land prior to the agreement or order being recorded as aforesaid, or against any person deriving title from such third party.
- (6) The Secretary of State shall not make or confirm a public path creation order, a public path extinguishment order or a public path diversion order relating to a right of way over land under, in, upon, over, along or across which there is any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking unless the undertakers have consented to the making or confirmation of the order, as the case may be; 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 reasonably withheld, and any question arising under this subsection whether the withholding of a

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consent is unreasonable or whether any requirement is reasonable shall be determined by the [<sup>F46</sup>Scottish Ministers].

- (7) Where in pursuance of a public path extinguishment order or a public path diversion order a public path is closed or diverted and, immediately before the date on which the order comes into force, there was under, in, upon, over, along or across the path [<sup>F47</sup>any [<sup>F48</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F49</sup>an electronic communications code network], the operator of [<sup>F50</sup>that network] shall have the same powers in respect of the [<sup>F48</sup>electronic communications apparatus] as if the order had not come into force; but any person entitled to land over which the path subsisted shall be entitled to require the alteration of the apparatus].
- [<sup>F51</sup>(8) Paragraph 1(2) of [<sup>F52</sup>the electronic communications code] (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (9) Paragraph 21 of [<sup>F52</sup>the electronic communications code] (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any [<sup>F48</sup>electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.]]

#### Textual Amendments

- F42** S. 38 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(b)** (with s. 100(2) and subject to savings in Sch. 2 para. 7); S.S.I. 2005/17, art. 2(b)
- F43** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 16(a)**
- F44** Word inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 16(b)**
- F45** Words in s. 38(5) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 28(5)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F46** Words in s. 38(6) substituted (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, **Sch. 2 Pt. 1 para. 44**; [S.I. 1998/3178](#), **art. 3**
- F47** Word substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), **Sch. 4 para. 46(2)(3)**
- F48** Words in s. 38(7)(8)(9) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(3)(a)**
- F49** Words in s. 38(7)(8)(9) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(3)(c)**
- F50** Words in s. 38(7)(8)(9) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(3)(d)**
- F51** S. 38(8)(9) inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), **Sch. 4 para. 46(2)**
- F52** Words in s. 38(7)(8)(9) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(3)(b)**

#### Modifications etc. (not altering text)

- C3** S. 38 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(1)(xx), **Sch. 8 para. 33**
- C4** S. 38 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 1(1)(xix), Sch. 17 paras. 33, **35(1)**
- C5** S. 38 extended (1.3.1996) by [1995 c. 45](#), s. 16(1), **Sch. 4 para. 2(1)(xv)**; [S.I. 1996/218](#), **art. 2**

#### Marginal Citations

- M1** 1874 c. 94.

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## Long-Distance Routes

### 39 General provisions as to long-distance routes.

- (1) Where it appears to [<sup>F53</sup>Scottish Natural Heritage] that the public should be enabled to make extensive journeys on foot, on pedal cycles 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, [<sup>F53</sup>Scottish Natural Heritage] may prepare and submit to the Secretary of State 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 [<sup>F53</sup>Scottish Natural Heritage] may think fit for the provision, maintenance and enjoyment of the route, and without prejudice to that generality—
  - (a) for the maintenance or improvement of any public path or road 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, toilet facilities, meals and refreshments along the route.
- (3) A report under this section may also include such recommendations as [<sup>F53</sup>Scottish Natural Heritage] may think fit for the restriction of traffic on existing roads along which the route passes.
- (4) Before submitting a report under this section [<sup>F53</sup>Scottish Natural Heritage] shall consult with every local planning authority through whose area the route passes; and it shall be the duty of every such authority to furnish to [<sup>F53</sup>Scottish Natural Heritage] such information as [<sup>F53</sup>Scottish Natural Heritage] may reasonably require for the purposes of the report.
- (5) A report under this section shall contain an estimate, in such form as the Secretary of State may require, of the capital outlay and annual expenditure likely to be incurred by any authority in carrying out any such proposals contained therein as are mentioned in subsection (2) above; the report shall also contain any representations made by any authority consulted under subsection (4) above.

#### Textual Amendments

**F53** Words in s. 39 substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#) , s. 14(3); S.I. 1991/2633, art.4.

### 40 Approval of proposals relating to a long-distance route.

- (1) On the submission to the Secretary of State of a report under the last foregoing section, he shall consider any proposals contained in the report under subsection (2) of that section, any recommendations made under subsection (3) thereof and any representations referred to in subsection (5) thereof, and may either approve the

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proposals, with or without modifications or subject to such conditions as he thinks fit, or reject the proposals:

Provided that where the Secretary of State 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 [<sup>F54</sup>Scottish Natural Heritage] and such other authorities and persons as he may think fit.

- (2) As soon as may be after the Secretary of State determines under the last foregoing subsection either to approve any proposals, with or without modifications or conditions, or to reject them, he shall notify his determination to [<sup>F54</sup>Scottish Natural Heritage] and to every local planning authority whose area is traversed by the route to which the report relates.
- (3) Proposals approved by the Secretary of State under subsection (1) above, either as originally set out in the report or as modified by the Secretary of State, are hereinafter referred to as “approved proposals relating to a long-distance route”, and such proposals shall be implemented by the local planning and other authorities concerned as soon as may be after their approval as aforesaid.

#### Textual Amendments

**F54** Words in s. 40 substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 14(3); S.I. 1991/2633, art.4.

#### 41 Ferries for purposes of long-distance routes.

- (1) Where approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, the authority who are responsible for the maintenance of the roads or public paths to be connected by the ferry or, where there is more than one such authority, those authorities acting jointly or any such authority as may mutually be agreed—
  - (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 . . . <sup>F55</sup> 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 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 of his having an exclusive right to operate a ferry, unless he consents to the doing thereof;
- (iii) authorise the doing of anything in relation to land in which any other person has an interest, if apart from this subsection the doing thereof would be actionable at his instance 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 authority shall

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consult with every authority which under any enactment has functions relating to the waterway.

- (2) An authority may acquire land compulsorily for the purpose of any of their functions under paragraph (a) of the foregoing subsection.

**Textual Amendments**

**F55** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

**42 Variation of approved proposals.**

- (1) Where proposals relating to a long-distance route have been approved by the Secretary of State under section 40 above, [<sup>F56</sup>Scottish Natural Heritage] may from time to time prepare and submit to the Secretary of State a report proposing any such variation of the approved proposals as [<sup>F56</sup>Scottish Natural Heritage] may think fit.
- (2) Where, as respects any proposals approved as aforesaid, it appears to the Secretary of State, after consultation with [<sup>F56</sup>Scottish Natural Heritage], expedient that the proposals should be varied in any respect and [<sup>F56</sup>Scottish Natural Heritage] have not submitted to the Secretary of State a report proposing that variation, the Secretary of State may direct that the proposals shall be so varied.
- (3) Where an authority have found it impracticable to implement any part of any proposals approved as aforesaid, they shall so inform [<sup>F56</sup>Scottish Natural Heritage] and shall submit to [<sup>F56</sup>Scottish Natural Heritage] a report proposing such variations of the approved proposals as they may think fit.
- (4) Section 39(4) and 40 above shall with the necessary modifications apply to a report or direction under this section; and section 39(5) above shall with the necessary modifications apply to any such report.
- (5) Where the Secretary of State approves, with or without modifications, any proposals contained in a report under subsection (1) above, or gives a direction under subsection (2) above, 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.

**Textual Amendments**

**F56** Words in s. 42 substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), **s. 14(3)**; S.I. 1991/2633, **art.4**.

*Miscellaneous Provisions relating to Rights of Way*

<sup>F57</sup>**43 Ploughing of public rights of way.**

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#### Textual Amendments

**F57** S. 43 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\), s. 100\(3\), Sch. 2 para. 4\(c\)](#) (with s. 100(2), Sch. 2 paras. 6, 7); S.S.I. 2005/17, art. 2(b)

#### 44 Pasturing of bulls.

- (1) No person shall, being the occupier of any field or enclosure through which there is a public right of way, permit any bull to be at large in such field or enclosure: Provided that this section shall not apply to any bull which—
- (a) does not exceed the age of 10 months; or
  - (b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.
- (2) A person who fails to comply with the foregoing subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F58</sup>level 3 on the standard scale].

#### Textual Amendments

**F58** Words substituted by virtue of [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\), s. 6\(d\)](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 54](#))

#### 45 Power to authorise erection of stiles, etc., on public rights of way.

- (1) Where the owner, tenant or occupier of land which is used or being brought into use for agriculture or forestry represents to the authority responsible under section 46(1) below for the protection of a public right of way which crosses the land that, for securing that the use, or any particular use, of the land for agriculture or forestry 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 the way, the 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.
- (2) . . . . . <sup>F59</sup>
- (3) Where an authorisation is granted by an authority under subsection (1) above . . . <sup>F60</sup>, the 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.
- (4) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

#### Textual Amendments

**F59** Ss. 5(2)(3), 9, 14(7), 32(1)(3), 33(2)–(4), 36(2)(3), 37(3), and 45(2) repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\), Sch. 2](#)

**F60** Words repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\), Sch. 2](#)



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## 46 Protection and maintenance of rights of way.

- (1) It shall be the duty of a local planning authority to assert, protect and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area, and they may for these purposes institute and defend legal proceedings and generally take such steps as they may deem expedient.
- (2) [<sup>F61</sup>A] local planning authority may repair and maintain any public right of way (not being a [<sup>F62</sup>public] road or a [<sup>F63</sup>footway]) within their area, but this power shall not relieve any other authority or person from any liability with respect to such repair or maintenance.
- (3) Any person may with the consent of the local planning authority erect and maintain guide posts and direction notices on any public right of way other than a [<sup>F64</sup>public] road.
- (4) Section 42 of the <sup>M2</sup> Local Government (Scotland) Act 1894 is hereby repealed
- [<sup>F65</sup>(5) The references in subsections (1) to (3) above to planning authorities shall be construed as references to planning authorities which carry out district planning functions; and in this subsection “district planning functions” has the same meaning as in Part IX of the <sup>M3</sup>Local Government (Scotland) Act 1973.]

### Textual Amendments

- F61** Word substituted by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\), s. 7\(a\)](#)
- F62** Word inserted in s. 46(2) (1.4.1995) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 72\(2\)](#); [S.I. 1995/702, art. 3\(d\)\(i\)](#)
- F63** Word substituted by [Roads \(Scotland\) Act 1981 \(c. 44, SIF 108\), Sch. 9 para. 60\(2\)\(a\)](#)
- F64** Word inserted by [Roads \(Scotland\) Act 1981 \(c. 44, SIF 108\), Sch. 9 para. 60\(2\)\(b\)](#)
- F65** [S. 46\(5\)](#) added by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 108\), s. 7\(b\)](#)

### Modifications etc. (not altering text)

- C6** [S. 46](#) extended (with modifications) (8.9.2000) by [2000 asp 10, s. 36, Sch. 5 para. 2\(1\)\(2\)](#) (with [s. 32](#)); [S.S.I. 2000/312, art. 2](#)
- C7** The text of [s. 46\(4\), 52\(1\), 58\(5\)\(6\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

- M2** [1894 c. 58.](#)
- M3** [1973 c. 65\(81:27\).](#)

## 47 Interpretation of Part III.

In this Part of this Act, unless the context otherwise requires—

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

“footpath” means a way over which the public have the following, but no other, rights of way, that is to say, a right of way on foot with or without a right of way on pedal cycles;

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

“public path” has the meaning assigned to it in section 30 of this Act [<sup>F66</sup>; and  
 “public road” has the same meaning as in the <sup>M4</sup> Roads (Scotland) Act 1984.

]

[<sup>F67</sup> and references to a right of way do not include references to access rights within the meaning of section 1 of the Land Reform (Scotland) Act 2003 (asp 2)]

#### Textual Amendments

**F66** Definition added by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 60(3)**

**F67** Words in [s. 47](#) inserted (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), [s. 100\(3\)](#), **Sch. 2 para. 5** (with [s. 100\(2\)](#)); [S.S.I. 2005/17](#), [art. 2\(b\)](#)

#### Marginal Citations

**M4** [1984 c. 54\(108\)](#).

## PART IV

### FURTHER POWERS OF CERTAIN AUTHORITIES

#### [<sup>F68</sup>48 Country Parks.

- (1) A country park is a park or pleasure ground in the countryside which by reason of its position in relation to major concentrations of population affords convenient opportunities to the public for enjoyment of the countryside or open-air recreation.
- (2) Each local planning authority shall assess the need for a country park whether within or outwith their area or partly within and partly outwith their area and shall from time to time review that need; for the purposes of this subsection each local planning authority, or where a joint advisory committee has been established under subsection (8) below, that committee, shall from time to time consult with [<sup>F69</sup>Scottish Natural Heritage] and with such other local planning authorities as appear to them to be concerned.
- (3) In assessing and reviewing the need for a country park under subsection (2) above, the local planning authority shall have regard to the existing availability and adequacy of such opportunities as are described in subsection (1) above.
- (4) Any local planning authority may, whether within or outwith their area or partly within and partly outwith their area, provide, lay out, improve, maintain and manage a country park including any buildings, equipment, facilities, services or works ancillary thereto or which appear to them to be requisite for the enjoyment or convenience of the public, and the authority shall have power to make such charges as they think fit in connection with the use of the park by the public.
- (5) Any two or more local planning authorities may combine together for the purpose of exercising the powers conferred by subsection (4) above and the expenditure incurred in the exercise of those powers shall be shared between the authorities on terms agreed by them having regard to the prospective use of the country park by the inhabitants of

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the areas of the respective authorities concerned or failing such agreement on terms determined by the Secretary of State having regard to the aforesaid consideration.

- (6) Any local planning authority or authorities shall have power to act as agent for any other local planning authority or authorities in the exercise of their powers under subsection (4) above and may receive from the authority or authorities on whose behalf they act contributions towards the expenditure incurred in the exercise of those powers on terms agreed or determined as mentioned in subsection (5) above.
- (7) The powers conferred by subsection (4) above may be exercised by a local planning authority either on land belonging to them, or, with the consent of all persons having an interest therein, on other land and they shall include power to make arrangements by agreement for the exercise of any of those powers on behalf of the authority by some other person on such terms as may be specified in the agreement.
- (8) Any two or more local planning authorities may, . . . <sup>F70</sup> concur in establishing a joint advisory committee for the purpose of making recommendations to those authorities as to the need mentioned in subsection (2) above, as to the provision of the country parks by those authorities, and for the purpose of consulting with [<sup>F69</sup>Scottish Natural Heritage] as to those matters; and any such committee shall be constituted in such manner as may be determined by the authorities by whom it is established: Provided that a majority of the members of any such committee shall be members of those authorities.
- (9) . . . . . <sup>F71</sup>
- (10) For the purpose of any of their functions under this section a local planning authority may acquire land compulsorily,]

**Textual Amendments**

- F68** S. 48 ceases to have effect for specified purposes (8.9.2000) by virtue of 2000 asp 10, s. 36, **Sch. 5 para. 2(3)(4)** (with s. 32); S.S.I. 2000/312, **art. 2**
- F69** Words in s. 48 substituted (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1 ), **s. 14(3)**; S.I. 1991/2633, **art. 4.**
- F70** Words repealed by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), **Sch. 2**
- F71** S. 48(9) repealed by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), **Sch. 2**

<sup>F72</sup>[ **Regional parks.**  
<sup>F73</sup>48A

- (1) A regional park is an extensive area of land, part of which is devoted to the recreational needs of the public.
- (2) [<sup>F74</sup>Local authorities] shall have power—
  - (a) by order to designate lands within their [<sup>F74</sup>area] as regional parks, and
  - (b) to manage as a single administrative unit any parts of any such park which are under the control of the [<sup>F74</sup>authority],and where it is appropriate that lands extending into [<sup>F75</sup>the area of] more than one [<sup>F74</sup>local authority] should be designated as a regional park the [<sup>F74</sup>authorities] concerned may jointly exercise the powers conferred by this subsection.
- (3) Subject to subsection (4)(c) below, an order under subsection (2)(a) above shall not take effect until it is confirmed by the Secretary of State, who may confirm such order either without modification or subject to such modifications as he considers expedient.

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- (4) The Secretary of State shall by regulations made by statutory instrument prescribe the procedure for making orders under subsection (2)(a) above and the form of such orders; and (without prejudice to the generality of this subsection) the regulations shall make provision as follows:—
- (a) that before an order under subsection (2)(a) above is submitted to the Secretary of State for confirmation, notice of the terms of the order shall be given to the owners, lessees and occupiers of land within the area designated in the order, and to such other persons, if any, as may be specified in the regulations;
  - (b) the objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered by the Secretary of State before he confirms the order;
  - (c) that if no objections or representations are made in respect of any order, or if any objections or representations made are withdrawn, the order shall not be submitted to the Secretary of State for confirmation, but shall be confirmed without modification as an unopposed order by the [F76local authority or authorities] who made it; and
  - (d) that copies of confirmed orders shall be served on such persons as may be specified in the regulations.
- (5) Any statutory instrument made in terms of subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Where a planning application is made in relation to lands which fall within an area designated as a regional park, the planning authority shall have regard to the fact that the area has been so designated in considering the application.]]

#### Textual Amendments

- F72** S. 48A inserted by *Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), s. 8*
- F73** S. 48A ceases to have effect for specified purposes (8.9.2000) by virtue of *2000 asp 10, s. 36, Sch. 5 para. 2(3)(4)* (with s. 32); *S.S.I. 2000/312, art. 2*
- F74** Words in s. 48A(2) substituted (1.4.1996) by *1994 c. 39, s. 180(1), Sch. 13 para. 72(3)(a); S.I. 1996/323, art. 4(1)(c)*
- F75** Words inserted in s. 48A(2) (1.4.1996) by *1994 c. 39, s. 180(1), Sch. 13 para. 72(3)(a); S.I. 1996/323, art. 4(1)(c)*
- F76** Words inserted (1.4.1996) in s. 48A(4)(c) by *1994 c. 39, s. 180(1), Sch. 13 para. 72(3)(b); S.I. 1996/323, art. 4(1)(c)*

## 49 Camping and caravan sites.

- (1) A local authority shall have power to provide camping sites for holiday or recreational purposes whether for the benefit of the inhabitants of their own area or otherwise, and to manage the sites or lease them to some other person.
- (2) A local authority shall have power to do anything appearing to them desirable in connection with the provision of such sites, and in particular—
  - (a) to acquire land which is in use as a camping site or which has been laid out as a camping site, or
  - (b) to provide for the use of those occupying camping sites any services or facilities for their health or convenience.

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- (3) A local authority may make in respect of the use of sites managed by them, and of any services or facilities provided or made available under this section, such reasonable charges as they may determine.
- (4) A local authority shall, in the performance of their functions under this section, have power to acquire land compulsorily where it appears to them that a camping site or an additional camping site is needed in their area, or that land which is in use as a camping site should in the interests of the general public be taken over by the local authority.

<sup>F77</sup>(5) .....

(6) ..... <sup>F78</sup>

**Textual Amendments**

**F77** S. 49(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 72(4) Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**

**F78** S. 49(6)(7) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

**Modifications etc. (not altering text)**

**C8** S. 49 modified (8.9.2000) by 2000 asp 10, s. 9, **Sch. 3 para. 5(1)** (with s. 32); S.S.I. 2000/312, **art. 2**

<sup>F79</sup>**49A**

[ Scottish Natural Heritage may enter into an agreement with any person having an <sup>F80</sup>(1) interest in land to do, or to secure the doing of, whatever in the opinion of the parties to the agreement may be necessary to secure the conservation and enhancement or to foster the understanding and enjoyment of the natural heritage of Scotland.

- (2) A planning authority may enter into an agreement with any person having an interest in land to do or to secure the doing of whatever in the opinion of the parties to the agreement may be necessary to preserve or enhance the natural beauty of the countryside or to promote the enjoyment of the countryside by the public.
- (3) An agreement under subsection (1) or (2) above shall be known as a “ management agreement ” ]
- (4) A planning authority or [<sup>F81</sup>Scottish Natural Heritage] may make such payments in respect of such agreements as are specified in the agreement.
- (5) Any [<sup>F82</sup>liferenter ] in possession of any land shall have power to enter into management agreements relating to the land or any part thereof.
- (6) The <sup>M5</sup> Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general power of trustees) there were included a power to enter into management agreements relating to the trusts estate or any part thereof.
- (7) Subsections (8) to (10) of section 13 of this Act shall apply to management agreements as they apply to access agreements.
- (8) Where any person having such an interest in any land as enables him to bind the land enters into any such agreement as aforesaid, the agreement may be registered either—
  - (a) in a case where the land affected by the agreement is registered in that Register, in the Land Register of Scotland, or

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- (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (9) Any agreement registered in terms of subsection (8) above shall be enforceable at the instance of the planning authority or of [<sup>F81</sup>Scottish Natural Heritage], as the case may be, against persons deriving title to the land from the person who entered into the agreement; provided that any such agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether [<sup>F83</sup> title has been completed ] or not) to the land prior to the agreement being registered as aforesaid, of against any person deriving title from such third party.
- (10) Notwithstanding the terms of any management agreement, it shall be open at any time to the parties, as the case may be, to agree to terminate it; and where any management agreement has been registered in terms of subsection (8) above, the subsection agreement to terminate it shall be registered in the like manner.]

#### Textual Amendments

- F79** S. 49A inserted by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **s. 9**
- F80** S. 49A(1)-(3) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), **Sch. 10**, para. 4(3); S.I. 1991/2633, **art.4**.
- F81** Words in s. 49A substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#) , **s. 14(3)**; S.I. 1991/2633, **art.4**.
- F82** Word in s. 49A(5) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 28(6)(a)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F83** Words in s. 49A(9) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 28(6)(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

#### Marginal Citations

- M5** [1921 c. 58\(128\)](#).

## 50 Provision of accommodation, meals and refreshments.

- (1) A local authority may make arrangements for securing the provision in the countryside in their area (whether by the authority or by other persons) of accommodation, meals and refreshments and may for the purposes of such arrangements erect such buildings and carry out such work as may appear to them to be expedient:  
 Provided that a local authority shall not under this subsection 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) A local authority may acquire land compulsorily for the purposes of any of their functions under the foregoing subsection.

[<sup>F84</sup>(3) In this section “local authority” [<sup>F85</sup>includes a planning authority].]

#### Textual Amendments

- F84** S. 50(3) substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **s. 9 Sch. 1 Pt. I, Pt. II para. 18**
- F85** Words in s.50(3) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\) Sch. 13 para. 72\(5\)](#); S.I. 1996/323, **art. 4(1)(c)**

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**Modifications etc. (not altering text)**

C9 S. 50 modified (8.9.2000) by 2000 asp 10, s. 9, **Sch. 3 para. 5(1)** (with s. 32); S.S.I. 2000/312, **art. 2**

**51 Parking Places.**

- (1) The powers to provide parking places conferred on [<sup>F86</sup>local [<sup>F87</sup>roads] authorities in Scotland by section 32 of the Road Traffic Regulation Act 1984] shall include a power to provide parking places where it appears to the authority desirable to do so to facilitate the enjoyment of the countryside by members of the public.
- [<sup>F88</sup>(2) General and district planning authorities may exercise the power conferred by the foregoing subsection and for that purpose may acquire land compulsorily; and [<sup>F89</sup>sections 32, 33, 35, 41, 101 and 102 of the Road Traffic Regulation Act 1984] shall apply for the purposes of this subsection as if for any reference therein to a local authority there were substituted a reference to a general or district planning authority.]

**Textual Amendments**

- F86** Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), **Sch. 13 para. 3(a)**
- F87** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 60(4)**
- F88** S. 51(2) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 9 Sch. 1 Pt. I, Pt. II para. 19**
- F89** Words substituted by virtue of Road Traffic Regulation Act 1984 (c. 27, SIF 107:1) s. 146, Sch. 13 para 3(b) (the previous text in this place was “sections 28 (except subsection (6), 29, 31, 32, 52, 53 and 96 of the said Act of 1967” and the words substituted above were expressed to be substituted by Sch. 13 para. 3(b) of the 1984 Act for “sections 28, 29, 31, 32, 52, 53 and 96 of the said Act of 1967”)

**52 Amendment of Local Government (Development and Finance) (Scotland) Act 1964.**

- (1) Section 2(1) of the <sup>M6</sup>Local Government (Development and Finance) (Scotland) Act 1964 (which relates to the power of local authorities to carry out work on land) shall be amended by adding after paragraph (b) the words

“or

- (c) enabling members of the public to enjoy the countryside or engage in open-air recreation there.”

[<sup>F90</sup>(2A) For the purposes of section 2(1)(a) and (c) and (2) of the said <sup>M7</sup>Act of 1964, general and district planning authorities may acquire land compulsorily.

(2B) For the purposes of section 2(1)(b) of the said Act of 1964, planning authorities may acquire land compulsorily.]

- (3) The reference in section 3(2) of the said Act of 1964 (supplementary powers) to the powers conferred by section 2 of that Act shall include a reference to any powers conferred by this Act to carry out work, or provide services or facilities.

**Textual Amendments**

- F90** S. 52(2A)(2B) substituted for s. 52(2) by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 9, **Sch. 1 Pt. I, Pt. II para. 20**

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#### **Modifications etc. (not altering text)**

**C10** The text of s. 46(4), 52(1), 58(5)(6) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M6** 1964 c. 67.

**M7** 1964 c. 67(81:2).

### **53 Contributions by or to local authorities.**

- (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, or by any other public body or person, and may receive from such a body or person contributions in respect of any expenditure so incurred or to be incurred.

In this subsection “expenditure for the purposes of this Act”, in relation to a local authority, includes expenditure in respect of which grant may be paid by virtue of section 67 of this Act.

- (2) In this section “local authority” includes a local planning authority.

### **54 Byelaws.**

[<sup>F91</sup>(1) A local authority may, as respects land in their area belonging to them and situated in the countryside, and [<sup>F92</sup>a general or district planning] authority may, as respects—

- (a) a public path created—
- (i) in accordance with a public path creation agreement to which they are party;
  - (ii) by a public path creation order made by them and confirmed where necessary by the Secretary of State; or
  - (iii) by a public path diversion order made by them and confirmed where necessary by the Secretary of State;

(b) a long-distance route which passes through their area;

(c) a public right of way in relation to which a duty is imposed on them by section 46(1) of this Act;

[ a country park provided by them under section 48 of this Act; . . . ]<sup>F94</sup>

<sup>F93</sup>(d) (e) land or a waterway—

(i) in relation to which an agreement or order has been made by them for the purpose of giving access to the public;

or

(ii) to which the public are given access in consequence of acquisition by the authority [<sup>F95</sup>; or

(f) a picnic site managed by them by virtue of section 4 of the Roads (Scotland) Act 1984,]

make byelaws for the preservation of order, for the prevention of damage to the land, path, route, right of way, park [<sup>F96</sup>, waterway or picnic site] or anything thereon,



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therein, or adjacent thereto, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land, path, route, right of way, park <sup>[F96]</sup>, waterway or picnic site] by other persons.

(1A) In subsection (1) above—

“ long-distance ” means a route in relation to which there are approved proposals under section 40 of this Act (or approved proposals having effect subject to the provisions of a report or direction under section 42 of this Act) and includes any road forming part of the route and any ferry, proposals for the provision and operation of which are included in the approved proposals; and  
“ public path ” has the meaning assigned to it in section 30 of this Act. ]

(2) Without prejudice to the generality of the foregoing subsection, byelaws under that subsection may prohibit, restrict or regulate—

- (a) the use of the land, <sup>[F97]</sup>path, route, right of way,] park <sup>[F98]</sup>, waterway or picnic site], either generally or in any manner specified in the byelaws, by traffic of any description, or for any recreational purpose, so specified;
- (b) the use of the waterway by boats which are not for the time being registered with the authority in such manner as the byelaws may provide, and may authorise the authority to make reasonable charges in respect of the registration of boats in pursuance of the byelaws;
- (c) the depositing of rubbish and the leaving of litter;
- (d) the lighting of fires;

and may be made so as to relate either to the whole or to any part of the land, <sup>[F97]</sup>path, route, right of way] park <sup>[F98]</sup>, waterway of picnic site], and may make different provisions for different parts thereof.

(3) Before making byelaws under the foregoing provisions of this section a local authority may . . . <sup>F99</sup> consult with

- <sup>[F100]</sup>(a) <sup>[F101]</sup>Scottish Natural Heritage][<sup>[F102]</sup>and
- (b) where a byelaw is to apply in any part of a National Park, the National Park authority.]

<sup>F103</sup>[( 4 ) Scottish Natural Heritage may in relation to land—

- (a) owned or managed by it; or
- (b) to which an access agreement or order made by it applies,

make byelaws with respect to any of the matters mentioned in the foregoing provisions of this section.]

<sup>F104</sup>[( 5 ) In this section “ local authority ” <sup>[F105]</sup> includes a planning authority ] . ]

<sup>F106</sup>[( 5A ) Byelaws made under this section in relation to long-distance routes shall not come into operation in relation to any part of the route until—

- (a) the Secretary of State’s approval of the route under section 40 of this Act has been notified to the local authority or planning authority as the case may be; and
- (b) access over that part of the route is available to the public.]

(6) Byelaws made under this <sup>F107</sup>... shall not interfere with the exercise of any public right of way or navigation or of any functions of statutory undertakers or any port authority <sup>[F108]</sup>or with the running of <sup>[F109]</sup>an electronic communications code network] or the exercise of any right conferred by or in accordance with <sup>[F110]</sup>the electronic communications code] on the operator of any <sup>[F111]</sup>such network].]

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### Textual Amendments

- F91** S. 54(1)(1A) substituted for s. 54(1) by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **s. 10(1)**
- F92** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **s. 9 Sch. 1 Pt. I, Pt. II para. 21(a)**
- F93** S. 54(1)(d) ceases to have effect for specified purposes (8.9.2000) by virtue of 2000 asp 10, s. 36, **Sch. 5 para. 2(5)(6)** (with s. 32); S.S.I. 2000/312, **art. 2**
- F94** Word repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), Sch. 9 para. 60(5)(a)(i), **Sch. 11**
- F95** Words inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 60(5)(a)(ii)**
- F96** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 60(5)(a)(iii)**
- F97** Words inserted by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **s. 10(2)**
- F98** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 60(5)(b)**
- F99** Words repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **Sch. 2**
- F100** Words in s. 54(3) renumbered as s. 54(3)(a) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 2(7)(a)** (with s. 32); S.S.I. 2000/312, **art. 2**
- F101** Words in s. 54(3) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), **s. 14(3)**; S.I. 1991/2633, **art. 4**
- F102** S. 54(3)(b) and word “and” immediately preceding it inserted (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 2(7)(b)** (with s. 32); S.S.I. 2000/312, **art. 2**
- F103** S. 54(4) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), **Sch. 10, para. 4(4)**; S.I. 1991/2633, **art. 4**
- F104** S. 54(5) substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 9, **Sch. 1 Pt. I, Pt. II para. 21(b)**
- F105** Words in s. 54(5) substituted (1.4.1996) by 1994 c. 39, **s. 180(1) Sch. 13 para. 72(6)**; S.I. 1996/323, **art. 4(1)(c)**
- F106** S. 54(5A) added by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **s. 10(3)**
- F107** Words in s. 54(6) repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(d)** (with s. 100(2), Sch. 2 paras. 6, 7); S.S.I. 2005/17, art. 2(b)
- F108** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), **Sch 4 para. 46(4)**
- F109** Words in s. 54(6) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(4)(a)**
- F110** Words in s. 54(6) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(4)(b)**
- F111** Words in s. 54(6) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 5(4)(c)**

### Modifications etc. (not altering text)

- C11** S. 54(6) extended by [Post Office Act 1969 \(c. 48\)](#), **Sch. 4 para. 93(1)(xxvii)** and [Civil Aviation Act 1971 \(c. 75\)](#), **Sch. 5 para. 5(x)**

## <sup>F112</sup>55 Default powers of Secretary of State as to byelaws.

.....

### Textual Amendments

- F112** S. 55 repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(e)** (with s. 100(2), Sch. 2 paras. 6, 7); S.S.I. 2005/17, art. 2(b)

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**56** ..... **F113**

**Textual Amendments**

**F113** S. 56 repealed by Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), **Sch. 4**

**[<sup>F114</sup>56A Control of noise in quiet areas.**

- (1) For the purpose of preventing disturbance by the engine noise of vehicles and aircraft to the enjoyment by the public of quiet areas of the countryside, [<sup>F115</sup>local authorities] shall, subject to the following provisions of this section, have power by byelaws to control—
  - (a) the use on land of waterways of vehicles (including hovercraft and boats); and
  - (b) the landing and taking off of aircraft.
- (2) Byelaws made under subsection (1) above shall not apply to the use of such vehicles of aircraft by—
  - (a) emergency services;
  - (b) statutory undertakers; or
  - (c) owners, occupiers or tenants of the land, or owners of an interest in the land, on which the disturbance occurs, provided that the use involved is for the exercise of sporting rights.
- (3) Subsection (1) above shall not apply to the Crown.
- (4) In this section—
  - (a) “aircraft” includes model aircraft.
  - (b) “vehicles” includes model vehicles.]

**Textual Amendments**

**F114** S. 56A added by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), **s. 11**

**F115** Words in s. 56A(1) substituted (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. I para. 3**

**57** **Supplementary provisions as to byelaws.**

- (1) Sections [<sup>F116</sup>[<sup>F117</sup>202] to 204] of the Local Government (Scotland) Act [<sup>F116M8</sup>1973] (which relate to the procedure for making byelaws, penalties and the proof of byelaws in legal proceedings) shall apply to byelaws made by [<sup>F118</sup>Scottish Natural Heritage] or a local planning authority or an Electricity Board under section 54, . . . <sup>F119</sup> or section 64 of this Act as if [<sup>F118</sup>Scottish Natural Heritage] or authority or Board were a local authority within the meaning of the said Act of [<sup>F116</sup>1973].
- (2) In relation to byelaws made under the said section 54 . . . <sup>F119</sup> or the said section 64 the confirming authority for the purposes of [<sup>F116</sup>section 202 of the said Act of 1973] shall be the Secretary of State.

**Textual Amendments**

**F116** Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 27 Pt. II para. 171**

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- F117** Words substituted by [Local Government \(Scotland\) Act 1978 \(c. 4\), Sch. para. 1](#)
- F118** Words in s. 57(1) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\), s. 14\(3\); S.I. 1991/2633, art.4.](#)
- F119** Words repealed by [Civic Government \(Scotland\) Act 1982 \(c. 45, SIF 81:2\), Sch. 4](#)

**Marginal Citations**

- M8** [1973 c. 65.](#)

**<sup>F120</sup>58 Powers of the Forestry Commissioners.**

.....

**Textual Amendments**

- F120** [S. 58](#) repealed (1.4.2019) by [Forestry and Land Management \(Scotland\) Act 2018 \(asp 8\), s. 85\(2\), sch. 2](#) (with s. 83); [S.S.I. 2019/47, reg. 2](#) (with regs. 3-22)

**<sup>F121</sup>59 Extension of powers of Secretary of State under section 39 of the Forestry Act 1967.**

.....

**Textual Amendments**

- F121** [S. 59](#) repealed (1.4.2019) by [Forestry and Land Management \(Scotland\) Act 2018 \(asp 8\), s. 85\(2\), sch. 2](#) (with s. 83); [S.S.I. 2019/47, reg. 2](#) (with regs. 3-22)

**60 Extension of powers of Secretary of State as respects certain land held by him.**

<sup>F122</sup>(1) .....

- (2) The Secretary of State may make byelaws for regulating the reasonable use by the public of land to which this section applies and facilities made available thereunder, and in relation to any such matter as is described in section 54(2) above.
- (3) Before making any byelaws under this section the Secretary of State shall cause the proposed byelaws to be made known in the locality to which they relate, shall give an opportunity for objections being made to the proposed byelaws, shall receive and consider all objections made and may if he considers it necessary or desirable cause a local inquiry to be held.
- (4) When such byelaws are made the Secretary of State shall cause them to be published in such manner as appears to him to be necessary to make them known to persons in the locality to which they relate, and shall on application furnish to any person a copy of the byelaws on payment of such [<sup>F123</sup>reasonable sum] as he may determine.
- (5) A byelaw made under this section shall be deemed to be a regulation within the meaning of the <sup>M9</sup>Documentary Evidence Act 1868 and may be proved accordingly.
- (6) If anyone fails to comply with, or acts in contravention of, any byelaw made under this section he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding [<sup>F124</sup>level 2 on the standard scale].

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(7) This section applies to land held by the Secretary of State under or for the purposes of any of the following enactments—

- (a) the <sup>M10</sup>Congested Districts (Scotland) Act 1897;
- (b) the <sup>M11</sup>Sailors and Soldiers (Gifts for Land Settlement) Act 1916;
- (c) the Small Holding Colonies Acts 1916 and 1918;
- (d) the <sup>M12</sup>Land Settlement (Scotland) Act 1919;
- (e) ..... <sup>F125</sup>
- (g) the <sup>M13</sup>Agriculture (Scotland) Act 1948;
- <sup>F126</sup>(h) .....  
<sup>F126</sup> .....

<sup>F127</sup>(8) .....

#### Textual Amendments

- F122** S. 60(1) repealed (1.4.2019) by [Forestry and Land Management \(Scotland\) Act 2018 \(asp 8\)](#), s. 85(2), [sch. 2](#) (with s. 83); S.S.I. 2019/47, [reg. 2](#) (with [regs. 3-22](#))
- F123** Words in s. 60(4) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(5); S.I. 1991/2633, [art. 4](#).
- F124** Words substituted by virtue of [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), s. 6(e) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 54)
- F125** S. 60(7)(e)(f) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. XIII](#)
- F126** S. 60(7)(h) and words repealed (1.4.2019) by [Forestry and Land Management \(Scotland\) Act 2018 \(asp 8\)](#), s. 85(2), [sch. 2](#) (with s. 83); S.S.I. 2019/47, [reg. 2](#) (with [regs. 3-22](#))
- F127** S. 60(8) repealed (1.4.2019) by [Forestry and Land Management \(Scotland\) Act 2018 \(asp 8\)](#), s. 85(2), [sch. 2](#) (with s. 83); S.S.I. 2019/47, [reg. 2](#) (with [regs. 3-22](#))

#### Marginal Citations

- M9** 1868 c. 37.
- M10** 1897 c. 53.
- M11** 1916 c. 60.
- M12** 1919 c. 97.
- M13** 1948 c. 45.

## 61 Improvement of waterways for purposes of open-air recreation.

- (1) Subject to the provisions of the next following section, a local planning authority [<sup>F128</sup>may, as respects any waterway in] their area, carry out such work and do such other things as may appear to them expedient for facilitating the use of the waterway by the public for sailing, boating, bathing, fishing or other water sport or recreation, but in doing so shall take into consideration the disturbance of any fishing rights over the waterway which may be caused thereby.
- (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 public body on whom powers are conferred in relation to the waterway by or under any enactment, for the exercise by that body of any power conferred on the local planning authority by the last foregoing subsection.

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- (3) Where an agreement is made under the last foregoing subsection for the exercise of any power by any such body as is therein mentioned, no limitation imposed by law on the capacity of that body by virtue of the constitution thereof shall operate so as to prevent the body from exercising that power.
- (4) Where it appears to the Secretary of State, as respects a waterway in the area of a local planning authority, that any power conferred on the authority by subsection (1) above should be exercised by any such body as is mentioned in subsection (2) above, and the local planning authority have not entered into an agreement with the said body under the said subsection (2), the Secretary of State may direct that the said power shall be exercisable by the said body:  
 Provided that no direction shall be given under this subsection except after consultation with the local planning authority and the said body.
- (5) Subject to the following provisions of this section, no body shall exercise any power conferred by this section without the consent of [<sup>F129</sup>Scottish Water so far as it has]<sup>F129</sup> functions relating to the waterway in question; and before exercising any such power the body shall consult with every other body which under any enactment has functions relating to that waterway.
- (6) Where [<sup>F130</sup>Scottish Water]<sup>F130</sup> referred to in the last foregoing subsection has refused its consent to a proposed exercise of powers under this section, the body proposing to exercise the power may apply to the Secretary of State who, if he is satisfied that the consent of [<sup>F131</sup>Scottish Water]<sup>F131</sup> was unreasonably withheld, may authorise the proposed exercise of powers subject to such conditions or modifications as he may think fit.
- (7) Where any body consulted under subsection (5) above objects to a proposed exercise of powers under this section, and the objection is not withdrawn, the proposal shall not be proceeded with unless the body proposing to exercise the power applies to the Secretary of State who, if he is satisfied that it is expedient so to do, may authorise the proposed exercise of powers subject to such conditions or modifications as he may think fit, and if not so satisfied may refuse to authorise the proposed exercise of powers.
- (8) Before deciding whether to authorise any proposal on an application to him under either of the last two foregoing subsections, the Secretary of State shall consult with [<sup>F132</sup>Scottish Natural Heritage] and shall afford to the body proposing to exercise the power and [<sup>F133</sup>, where it has refused its consent, to Scottish Water]<sup>F133</sup> and to every other body which has objected to the proposed exercise of powers an opportunity of being heard by a person appointed by him for the purpose, and shall consider that person's report.
- (9) Any local planning authority may acquire land compulsorily for the purpose of enabling any power conferred by this section to be exercised.

#### Textual Amendments

- F128** Words in s. 61(1) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(6); S.I. 1991/2633, [art. 4](#)
- F129** Words in s. 61(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 5\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)
- F130** Words in s. 61(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 5\(2\)\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)

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- F131** Words in s. 61(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(2)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F132** Words in s. 61(8) substituted (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), **s. 14(3)**; S.I. 1991/2633, **art. 4**
- F133** Words in s. 61(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)

**Modifications etc. (not altering text)**

- C12** S. 61 modified (8.9.2000) by 2000 asp 10, s. 9, **Sch. 3 para. 8** (with s. 32); S.S.I. 2000/312, **art. 2**

## 62 Exercise of powers under section 61.

- (1) The provisions of the last foregoing section shall not authorise a body to do anything in relation to land in which any other person has an interest, if apart from that section the doing thereof would be actionable at his instance by virtue of that interest and he does not consent to the doing thereof:  
Provided that this subsection shall not apply in the case of land to or over which the public have access by virtue of an access order, but the exercise of any power under the last foregoing section as respects such land shall be subject to the provisions of Part II of this Act and of this section relating to such orders.
- (2) Any body proposing, in the exercise of the powers conferred by the last foregoing section, 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 twenty-eight 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 foregoing subsection has not been specified in an access order as mentioned in section 14(8) above, then if before the expiration of the said notice the owner or occupier of the land serves notice of objection on the body they shall not carry out the work except in accordance with the provisions of the next following subsections.
- (4) A body 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 body may determine,
- and shall serve notice of their determination on the objector; and where the body determine as mentioned in paragraph (b) above, 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 body shall not proceed with the work except in accordance with the provisions of that subsection.
- (5) Any person aggrieved by a determination of any body under the last foregoing subsection may within the period of fourteen days therein mentioned serve notice of appeal against the determination on the Secretary of State and on that body; and where notice of appeal is served under this subsection the Secretary of State, after affording to the appellant and to the body an opportunity of being heard by a person appointed by him for the purpose, and after considering that person's report, shall either direct

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that the body may carry out the work (whether as specified in the notice given under subsection (2) above or subject to such modifications or conditions as the Secretary of State may think fit) or shall direct the body not to carry out the work.

- (6) Any power conferred by subsection (4)(b) above or by the last foregoing subsection to modify the work specified in a notice given under subsection (2) above shall not be exercised so as to affect land not affected by the notice.
- (7) Where the value of the interest of any person in land is depreciated, or any person has suffered damage by being disturbed in his enjoyment of land, in consequence of any work done under the powers conferred by the last foregoing section, on land comprised in an access order, the body who carried out the work shall pay to that person compensation equal to the amount of the depreciation or damage:
- Provided that nothing in this subsection shall confer on a person a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, of which account has already been taken or will be taken in fixing compensation under section 20 above:
- Provided also that nothing in this subsection shall confer on a person a right to such compensation in respect of land or the enjoyment thereof, not being in either case land on which the work was carried out or land held therewith, unless the carrying out of the work would have been actionable at his instance if it had been carried out otherwise than in the exercise of statutory powers.
- (8) A claim for compensation under the last foregoing subsection shall be made within such time and in such manner as may be prescribed and shall be made to the body by whom the work was carried out.
- (9) In this section “work” includes such other things as are referred to in section 61(1) above.

**Modifications etc. (not altering text)**

**C13** S. 62 modified (8.9.2000) by 2000 asp 10, s. 9, **Sch. 3 para. 8** (with s. 32); S.S.I. 2000/312, **art. 2**

**63 Provision of recreational facilities by local water authorities.**

- (1) Subject to subsection (5) of this section [<sup>F134</sup>Scottish Water]<sup>F134</sup> may, if it appears to [<sup>F135</sup>it]<sup>F135</sup> reasonable to do so—
- (a) permit the use by members of the public, for the purposes of any form of recreation, of any waterway or land in which [<sup>F136</sup>Scottish Water has]<sup>F136</sup> an interest;
  - (b) provide, or otherwise make available, facilities for use by person resorting to any such waterway or land for the purposes of any such form of recreation.
- (2) The powers of [<sup>F137</sup>Scottish Water]<sup>F137</sup> under subsection (1) above shall, in the case of a waterway or land in which [<sup>F138</sup>Scottish Water has]<sup>F138</sup> an interest but which [<sup>F139</sup>it does]<sup>F139</sup> not own, be exercisable only with the consent of the owners thereof:
- Provided that where those powers are to be exercised in relation to a particular part of a waterway the consent of the owners of that part only need be obtained if [<sup>F140</sup>Scottish Water is]<sup>F140</sup> satisfied that the exercise of those powers will not prejudice the rights or interests of other owners.



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- (3) The provisions of this section shall not authorise any authority, body or person to do or permit anything in relation to a waterway or land in which any other person has an interest if apart from this section the doing or permitting thereof would be actionable at his instance by virtue of that interest and he does not consent to the doing or permitting thereof.
- (4) [<sup>F141</sup>Scottish Water]<sup>F141</sup> may make such reasonable charges as [<sup>F142</sup>it]<sup>F142</sup> may determine in respect of the use for the purposes of recreation of any such waterway or land as is described in subsection (1) above, and of any facilities made available by [<sup>F143</sup>Scottish Water]<sup>F143</sup> under that subsection.
- (5) [<sup>F144</sup>Scottish Water]<sup>F144</sup> may let to any person, for such consideration and on such terms and conditions as [<sup>F145</sup>it thinks]<sup>F145</sup> fit, any works constructed by [<sup>F146</sup>it]<sup>F146</sup> for the purpose of providing facilities under subsection (1) above, and may authorise that person to make such reasonable charges as [<sup>F147</sup>it]<sup>F147</sup> may determine in respect of the use thereof as mentioned in that subsection.
- (6) [<sup>F148</sup>Scottish Water]<sup>F148</sup> may receive contributions from any authority, body or person in respect of the cost of the provision of the facilities mentioned in subsection (1) above, and those facilities may be provided by [<sup>F148</sup>Scottish Water]<sup>F148</sup> jointly with any other authority, body or person.
- (7) [<sup>F149</sup>Scottish Water]<sup>F149</sup> may make byelaws prohibiting such a waterway or land as is described in subsection (1) above and as may be specified in the byelaws from being used for boating (whether with mechanically propelled boats or otherwise), swimming or other recreational purposes, or regulating the way in which any such waterway or land so specified may be used for any of those purposes, and when making byelaws under this subsection [<sup>F150</sup>Scottish Water]<sup>F150</sup> shall have regard to the need to protect water from pollution and to the need to avoid conflict which might arise from the use of the water or land for various recreational purposes.
- (8) Byelaws made in respect of any waterway by virtue of subsection (7) above may include provision prohibiting the use thereof by boats which are not for the time being registered with [<sup>F151</sup>Scottish Water]<sup>F151</sup> in such manner as the byelaws may provide; and the byelaws may authorise [<sup>F152</sup>Scottish Water]<sup>F152</sup> to make reasonable charges in respect of the registration of boats in pursuance of the byelaws.
- (9) [<sup>F153</sup>Scottish Water]<sup>F153</sup> may take such action as [<sup>F154</sup>it considers]<sup>F154</sup> necessary to remedy the effect of any contravention of, or failure to comply with, byelaws made under subsection (7) above, and may recover the expenses reasonably incurred by [<sup>F155</sup>it]<sup>F155</sup> in doing so from the person in default.
- (10) Sections [<sup>F156</sup>71(6)] and [<sup>F156</sup>72] of the Water (Scotland) Act [<sup>F156</sup>1980] shall have effect in relation to byelaws made under subsection (7) above as they have effect in relation to byelaws made under the said section [<sup>F156</sup>71].
- (11) For the purposes of this section [<sup>F157</sup>Scottish Water]<sup>F157</sup> shall be deemed to have an interest in a waterway or land if [<sup>F158</sup>it has]<sup>F158</sup> power to make byelaws under the said Act of [<sup>F156</sup>1980] in relation to the waterway or land, <sup>F159</sup> . . .

#### Textual Amendments

**F134** Words in s. 63(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 5\(3\)\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)

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- F135** Word in s. 63(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F136** Words in s. 63(1)(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F137** Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F138** Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F139** Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F140** Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(b)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F141** Words in s. 63(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F142** Word in s. 63(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F143** Words in s. 63(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F144** Words in s. 63(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(d)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F145** Words in s. 63(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(d)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F146** Word in s. 63(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(d)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F147** Words in s. 63(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(d)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F148** Words in s. 63(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F149** Words in s. 63(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(f)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F150** Words in s. 63(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(f)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F151** Words in s. 63(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(g)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F152** Words in s. 63(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(g)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F153** Words in s. 63(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(h)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F154** Words in s. 63(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(h)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F155** Word in s. 63(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(h)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F156** Words substituted by Water (Scotland) Act 1980 (c. 45, SIF 130), **Sch. 10 Pt. II**
- F157** Words in s. 63(11) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(i)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F158** Words in s. 63(11) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 5(3)(i)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)
- F159** Words in s. 63(11) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13, para. 72(7)(b), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**

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**Textual Amendments**

**F160** S. 64 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3), Sch. 17 paras. 33, 35(1), Sch. 18

**65 Wardens.**

- (1) An authority to which this section applies may appoint such number of persons as may appear to the authority to be expedient to act as <sup>F161</sup>rangers] as respects any land or waterway in relation to which byelaws made by the authority are in force under or by virtue of this Act, or in relation to which the authority have power to make such byelaws.
- (2) The purposes for which <sup>F161</sup>rangers] may be appointed by an authority under this section as respects any land or waterway are—
  - (a) to advise and assist the public as to any matter relating to the use of the land or waterway;
  - (b) to secure compliance with any such byelaws as are described in the foregoing subsection; and
  - (c) to perform such other duties 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 <sup>F162</sup>ranger] appointed thereunder may enter upon any land, or go on any waterway,
  - <sup>F163</sup>(a) comprised in an access agreement or order in force under Part II of this Act; or
  - (b) in relation to which byelaws made under section 56A of this Act are in force; or
  - (c) as respects which he is otherwise appointed to act as a ranger.]
- (4) Any two or more authorities to which this section applies may agree to share the expenses of appointing <sup>F162</sup>rangers] under subsection (1) above as respects any land or waterway on such terms as may be specified in the agreement.
- (5) This section applies to the following authorities—
  - (a) the Secretary of State;
  - (b) <sup>F164</sup>Scottish Natural Heritage];
  - <sup>F165</sup>(c) <sup>F166</sup>.....
  - (d) general and district planning authorities;]
  - <sup>F167</sup>(e) .....
  - <sup>F168</sup>(f) water authorities <sup>F169</sup>...];
  - <sup>F170</sup>(g) .....
  - <sup>F171</sup>(h) .....
- <sup>F172</sup>(6) In this section “land” includes a long-distance route as defined in section 54(1A) of this Act.]

**Textual Amendments**

**F161** Word substituted by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), Sch. 1 para. 4(a)  
**F162** Word substituted by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), Sch. 1 para. 4(b)  
**F163** Words substituted by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), s. 12

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- F164** Words in s. 65(5) substituted (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 14(3); S.I. 1991/2633, art. 4.
- F165** S. 65(5)(c)(d) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 9 Sch. 2 Pt. I, Pt. II para. 24
- F166** S. 65(5)(c) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 72(8)(a), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F167** S. 65(5)(e) repealed (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), sch. 2 (with s. 83); S.S.I. 2019/47, reg. 2 (with regs. 3-22)
- F168** S. 65(5)(f) substituted by Water (Scotland) Act 1980 (c. 45, SIF 130), Sch. 10 Pt. II
- F169** Words in s. 65(5)(f) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 72(8)(b), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F170** S. 65(5)(g) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 72(8)(c), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F171** S. 65(5)(h)(i) repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 17 paras. 33, 35(1), Sch. 18
- F172** S. 65(6) inserted by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), Sch. 1 para. 4(c)

**PART V**

GENERAL, FINANCIAL AND SUPPLEMENTARY

**66 Conservation of natural beauty.**

In the exercise of their functions relating to land under any enactment every Minister, government department and public body shall have regard to the desirability of conserving [<sup>F173</sup>the natural heritage of Scotland within the meaning of the Natural Heritage (Scotland) Act 1991].

- Textual Amendments**
- F173** Words in s. 66 substituted (1.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(1), Sch. 10, para. 4(7); S.I. 1991/2633, art.4.
- Modifications etc. (not altering text)**
- C14** S. 66 extended by Gas Act 1986 (c. 44 SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xx), Sch. 8 para. 33
  - C15** S. 66 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 2(1)(9), Sch. 17 para. 33, 35(1)
  - C16** S. 66 extended (1.3.1996) by 1995 c. 45, s. 16(1) Sch. 4 para. 2(1)(XV); S.I. 1996/218, art. 2

**67, 68. ....<sup>F174</sup>**

- Textual Amendments**
- F174** Ss. 67, 68 repealed by Countryside (Scotland) Act 1981 (c. 44, SIF 46:1), Sch. 2

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**Changes to legislation:** Countryside (Scotland) Act 1967 is up to date with all changes known to be in force on or before 09 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## 69 Acquisition, appropriation, disposal, etc. of land.

- (1) The <sup>M14</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory acquisition of land under this Act as if this Act had been in force immediately before the commencement of that Act, and in relation to such acquisition of land—
  - (a) by the Secretary of State, as if section 1(1)(b) of that Act included a reference to the Secretary of State, and
  - (b) by [<sup>F175</sup>Scottish Natural Heritage] or by a local planning authority, as if [<sup>F176</sup>it or] they were a local authority within the meaning of that Act.
- (2) No land may be compulsorily acquired under this Act unless the acquisition is authorised by the Secretary of State.
- (3) For the purposes of this Act [<sup>F177</sup>a general or district planning] authority shall have the powers conferred on a local authority by [<sup>F178</sup>sections 70, 71, 73 and 74 and section 85 of the <sup>M15</sup>Local Government (Scotland) Act 1973] (acquisition, appropriation and disposal of land and gifts of land) and [<sup>F178</sup>Sections 70(3) and 211] of that Act (application of Lands Clauses Acts etc. and enforcement of duty) shall apply to [<sup>F179</sup>a general or district planning] authority as they apply to a local authority.

### Textual Amendments

- F175** Words in s. 69(1)(b) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), [s. 14\(3\)](#); [S.I. 1991/2633](#), [art.4](#).
- F176** Words in s. 69(1)(b) inserted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), [s. 27\(1\)](#), [Sch. 10](#), para. 4(8); [S.I. 1991/2633](#), [art.4](#).
- F177** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [s. 9 Sch. 1 Pt. I](#), Pt. II para. 25(a)
- F178** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 237\(2\)](#)
- F179** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 82:2\)](#), [s. 9 Sch. 1 Pt. I](#), Pt. II para. 25(b)

### Marginal Citations

- M14** 1947 c. 42.  
**M15** 1973 c. 65.

## 70 Supplementary provisions as to compensation under ss. 20, 37 and 62.

- (1) The following provisions shall have effect in respect of compensation under sections 20, 37 and 62 of this Act.
- (2) Any dispute arising on a claim for any such compensation shall be determined by the Lands Tribunal for Scotland, but until sections 1 to 3 of the <sup>M16</sup>Lands Tribunal Act 1949 come into force as regards Scotland, any such dispute shall be determined by an official arbiter appointed under Part I of the <sup>M17</sup>Land Compensation (Scotland) Act 1963.
- (3) Subject to the provisions of this section the said Act of 1963, so far as appropriate, shall apply in relation to any question of disputed compensation referred to in subsection (1) above as it applies to any such question referred to in section 2(1) of that Act, with the substitution for references to the acquiring authority of references to the [<sup>F180</sup>body] from whom the compensation in question is claimed.

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- (4) Rules 2 to 4 of the rules contained in section 12 of the said Act of 1963 (rules for assessing compensation) shall apply to the calculation of any compensation referred to in subsection (1) above, 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 heritable security—
  - (a) compensation referred to in subsection (1) above in respect of the depreciation of that interest shall be calculated as if the interest were not subject to the heritable security;
  - (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 section 22(1) of this Act, may be made by any person who when the order giving rise to the compensation was made was the heritable creditor, 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 heritable creditor 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 heritable security shall be paid to the heritable creditor or, where there is more than one heritable creditor, to the creditor whose heritable security has priority over any other heritable securities secured on the land, and shall in either case be applied by him as if it were proceeds of sale.
- (6) In this section “heritable security” has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by ex facie absolute disposition or assignment, and “heritable creditor” shall be construed accordingly.

**Textual Amendments**  
**F180** Word in s. 70(3) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(9); S.I. 1991/2633, [art.4](#).

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**Modifications etc. (not altering text)**  
**C17** S. 70 applied (27.5.1997) by [1997 c. 8](#), [ss. 166\(5\)](#), 278(2)

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**Marginal Citations**  
**M16** 1949 c. 42.  
**M17** 1963 c. 51.

**F181**~~71~~ .....

**Textual Amendments**  
**F181** S. 71 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

**F182**~~72~~ .  
 .....

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#### Textual Amendments

**F182** S. 72 repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt. IV, Group 2

### 73 Crown land.

- (1) If the appropriate authority consent thereto, the power to carry out work, provide series or facilities conferred on [<sup>F183</sup>Scottish Natural Heritage], local authorities and local planning authorities by this Act or by section 2 of the <sup>M18</sup>Local Government (Development and Finance) (Scotland) Act 1964 may be exercised on Crown land.
- (2) Parts II and III of this Act shall apply to Crown land, but subject to the following modifications—
  - (a) no access order, public path creation order, public path extinguishment order or public path diversion 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 II or III except with such consent;
  - (c) if any land comprised in an access agreement or order, not being excepted land as defined for the purposes of the said Part II, 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.
- (3) An access agreement made by any government department shall be of no effect unless it is approved by the Treasury, and in considering whether to make or approve an access agreement relating to land belonging to a government department or held in trust for Her 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.
- (4) Byelaws made under this Act shall apply to Crown land if the appropriate authority consent to their application thereto.
- (5) In this section “Crown land” and “the appropriate authority” have the same meaning as in section [<sup>F184</sup>section 242 of the Act of 1997], and the provisions of [<sup>F184</sup>subsection (3)] of that section as to the determination of questions shall apply for the purposes of this section.

#### Textual Amendments

**F183** Words in s. 73 substituted (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 14(3); S.I. 1991/2633, art. 4.

**F184** Words in s. 73(5) substituted (27.5.1997) by 1997 c. 11 ss. 4, 6(2) Sch. 2 para. 15(3)

#### Marginal Citations

**M18** 1964 c. 67.

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## 74 Expenses.

- (1) The Secretary of State may pay such sums in respect of the expenses of [<sup>F185</sup>Scottish Natural Heritage] as he may, with the consent of the Treasury, determine.
- (2) There shall be paid out of moneys provided by Parliament—
  - (a) any expenses incurred by the Secretary of State under this Act; and
  - (b) any increase in the sums payable out of moneys so provided under any enactment relating to local government in Scotland <sup>F186</sup>....

### Textual Amendments

**F185** Words in s. 74 substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. [14\(3\)](#); [S.I. 1991/2633](#), [art.4](#).

**F186** Words in s. 74(2)(b) repealed (1.4.2019) by [Forestry and Land Management \(Scotland\) Act 2018 \(asp 8\)](#), s. [85\(2\)](#), [sch. 2](#) (with s. [83](#)); [S.S.I. 2019/47](#), [reg. 2](#) (with [regs. 3-22](#))

## 75 Powers of entry.

- (1) For the purpose of surveying land in connection with—
  - <sup>F187</sup>(a) .....
  - (b) the acquisition under this Act of the land or of any interest therein whether by agreement or compulsorily,
  - (c) the making of an access order with respect thereto, or
  - (d) the making of a public path creation order, public path extinguishment order or public path diversion order,

any person duly authorised in writing by the Secretary of State, <sup>F188</sup> . . . or other authority having power so to exercise functions, or to acquire land or to make the order, as the case may be, may, at any reasonable time, enter upon the land.
- (2) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable by virtue of this Act by the Secretary of State, <sup>F188</sup> . . . 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, at any reasonable time, enter upon the land.
- (3) A person authorised under this section to enter upon any land, shall, if so required by the occupier or anyone acting on his behalf, produce evidence of his authority, and shall not demand admission as of right to any land which is occupied unless at least fourteen days' notice in writing of the intended entry has been given to the occupier.
- <sup>F189</sup>(4) .....
- (5) A person entering upon any land by virtue of this section may take with him such other persons as may be necessary, and on leaving any premises which he has so entered, being either unoccupied premises, or premises of which the occupier is temporarily absent, shall leave them as effectively secured against unauthorised entry as he found them.
- (6) A person who wilfully obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F190</sup>level 3 on the standard scale].



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#### Textual Amendments

- F187** S. 75(1)(a) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).
- F188** Words in s. 75(1)(2) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).
- F189** S. 75(4) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).
- F190** Words substituted by virtue of [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), 6(f) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 54](#))

## 76 Inquiries and service of notices.

- (1) [<sup>F191</sup>section 265 of the Town and Country Planning (Scotland) Act 1997](which provides for the holding by a Minister of local inquiries) shall apply for the purposes of this Act.
- (2) [<sup>F192</sup>Section 271 of the Act of 1997] (which provides for the services 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 Schedule 1 to the <sup>M19</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by this Act.

#### Textual Amendments

- F191** Words in s. 76(1) substituted (27.5.1997) by [1997 c. 11 ss. 4, 6\(2\)](#), [Sch. 2 para. 15\(4\)\(a\)](#)
- F192** Words in s. 76(2) substituted (27.5.1997) by [1997 c. 11 ss. 4, 6\(2\)](#) [Sch. 2 para. 15\(4\)\(b\)](#)

#### Marginal Citations

- M19** [1947 c. 42](#).

## 77 Orders.

Any order under 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 II of this Act, an access order under the said Part II shall not be varied so as to comprise land not comprised in the original order.

## 78 Interpretation

- (1) In this Act unless the context otherwise requires—  
[<sup>F193</sup> “ the Act of 1997 ” means the Town and Country Planning (Scotland) Act 1997; ]  
“agricultural land” means land used for the purposes of agriculture within the meaning of section 86(3) of the <sup>M20</sup>Agriculture (Scotland) Act 1948 and “agricultural purposes” shall be construed accordingly;

F194

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“boat” includes any hover vehicle or craft being a vehicle or craft designed to be supported on a cushion of air and which is used on or over water;

<sup>F195</sup> . . .

. . . . .<sup>F196</sup>

“enactment” has the same meaning as in [<sup>F197</sup>the Act of 1997];

[<sup>F198</sup>“footway” has the same meaning as in the Roads (Scotland) Act 1984;

]

“function” includes power and duty;

“interest”, in relation to land, includes any right over land, whether the right is exercisable by virtue of [<sup>F199</sup>ownership ] or by virtue of a licence or agreement, and in particular includes sporting and fishing rights;

“land” includes land covered by water and, in relation to the acquisition or disposal of land by virtue of this Act, any right or interest in or over land;

“livestock rearing land” has the meaning assigned to it by section 1(3) of the <sup>M21</sup>Livestock Rearing Act 1951;

“local authority” [<sup>F200</sup>means a [<sup>F201</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“local planning authority” [<sup>F202</sup>means a general, regional or district planning authority within the meaning of Part IX of the <sup>M22</sup>Local Government (Scotland) Act 1973.]

“open country” has the meaning assigned to it by section 10(2) of this Act;

“owner”, in relation to land, means the person who, for the time being, receives, or, if the land were let, would be entitled to receive the rent of the land, or who, in the case of land which is unlet, is entitled to occupy the land, and includes any trustee, tutor, curator, factor, agent or other person receiving the rent on behalf of any other person, and also a joint owner;

“prescribed” means prescribed by regulations made by statutory instrument by the Secretary of State subject to annulment in pursuance of a resolution of either House of Parliament;

“public body” includes any local authority, local planning authority or statutory undertaker, and any trustees, commissioners, board or other persons who as a public body and not for their own profit act under any enactment for the improvement of any place or the production or supply of any commodity or service;

[<sup>F203</sup>“refreshments” includes [<sup>F204</sup>alcohol within the meaning of section 2 of the Licensing (Scotland) Act 2005 (asp 16)]; ]

[<sup>F205</sup>“road” has the same meaning as in the Roads (Scotland) Act 1984; ]

“statutory undertakers” and “statutory undertaking” have the meanings assigned to them by [<sup>F206</sup>section 217 of the Act of 1997];

<sup>F207</sup> . . . . .

“waterway” means any loch, lake, river, reservoir, canal or other waters, being (in any case) water suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing, fishing or other water sport or recreation.

- (2) References in this Act to the conservation of natural beauty of an area shall be construed as including references to the conservation of features of geological or physiographical interest therein and of the flora and fauna thereof.

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- (3) References in this Act to any enactment are references to that enactment as amended by or under any subsequent enactment including this Act.

#### Textual Amendments

- F193** Definition of "the Act of 1997" in s. 78(1) substituted (27.5.1997) for "the Act of 1947" by 1997 c. 11 ss. 4, 6(2), Sch. 2 para. 15(5)(a)
- F194** Definition repealed by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), **Sch. 2**
- F195** In s. 78(1), definition of "the countryside" repealed (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), **Sch. 11**; S.I. 1991/2633, **art. 4**
- F196** Definition repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F197** Words in definition of "enactment" in s. 78(1) substituted (27.5.1997) by 1997 c. 11 ss. 4,6(2), Sch. 2 para. 15(5)(b)
- F198** Definition inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 81:2\)](#), **Sch. 9 para. 60(6)(a)**
- F199** Word in s. 78(1) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 28(7)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F200** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 172(a)**
- F201** Words substituted (1.4.1996) in the definition of "local authority" in s. 78(1) by 1994 c. 39, s. 180(1), **Sch. 13 para. 72(9)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F202** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 172(b)**
- F203** Definition substituted by [Licensing \(Scotland\) Act 1976 \(c. 66\)](#), **Sch. 7 para. 6**
- F204** Words in s. 78(1) substituted (1.9.2009 at 5.00 a.m.) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), s. 150(2), **Sch. 6 para. 2** (with s. 143); S.S.I. 2007/472, art. 3
- F205** Definition substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 81:2\)](#), **Sch. 9 para. 60(6)(b)**
- F206** Words in definition of "statutory undertakers" and "statutory undertaking" in s. 78(1) substituted (27.5.1997) by 1997 c. 11 s. 4 Sch. 2 para. 15(5)(c)
- F207** Definition of "water authority" in s. 78(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 7 para. 5(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

#### Modifications etc. (not altering text)

- C18** S. 78(2) applied by [Civic Government \(Scotland\) Act 1982 \(c. 45, SIF 81:2\)](#), **s. 121(12)**

#### Marginal Citations

- M20** 1948 c. 45.  
**M21** 1951 c. 18.  
**M22** 1973 c. 65.

## 79 Short title and extent.

- (1) This Act may be cited as the Countryside (Scotland) Act 1967.
- (2) This Act, . . . <sup>F208</sup> shall extend to Scotland only.

#### Textual Amendments

- F208** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#) Sch. 3

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## SCHEDULES

### [<sup>F209</sup> SCHEDULE 1]

**Textual Amendments**

**F209** Sch. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch.11](#); S.I. 1991/2633, [art.4](#).

F210<sub>1</sub> . . . . .

**Textual Amendments**

**F210** Sch. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S. I. 1991/2633, [art.4](#).

F211<sub>2</sub> . . . . .

**Textual Amendments**

**F211** Sch. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

F212<sub>3</sub> . . . . .

**Textual Amendments**

**F212** Sch. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

F213<sub>4</sub> . . . . .

**Textual Amendments**

**F213** Sch. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

F214<sub>5</sub> . . . . .

**Textual Amendments**

**F214** Sch. 1 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#).

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F215<sup>6</sup> .....

**Textual Amendments**

**F215** Sch. 1 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art.4**.

F216<sup>7</sup> .....

**Textual Amendments**

**F216** Sch. 1 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art.4**.

F217<sup>8</sup> .....

**Textual Amendments**

**F217** Sch. 1 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art.4**.

F218<sup>9</sup> .....

**Textual Amendments**

**F218** Sch. 1 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art.4**.

F219<sup>10</sup> .....

**Textual Amendments**

**F219** Sch. 1 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch.11**; S.I. 1991/2633, **art.4**.

SCHEDULE 2

Section 11.

GENERAL RESTRICTIONS TO BE OBSERVED BY PERSONS HAVING ACCESS BY VIRTUE OF PART II OF THIS ACT TO LAND WHICH IS OR WHICH GIVES OR FORMS PART OF ACCESS TO OPEN COUNTRY

Section 11(1) of this Act shall not apply to a person who, upon the land in question, commits any crime or offence, or who without lawful authority,—

- (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;

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- (d) wilfully kills, takes or molests 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 [<sup>F220</sup>Scottish Natural Heritage [<sup>F221</sup>, the National Park authority] or, as the case may be, the general or district 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) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, or neglects to shut any gate or to fasten it if any means of so doing is provided;
- (i) affixes or writes any advertisement, bill, placard or notice;
- (j) deposits any rubbish or leaves any litter;
- (k) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation.

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**Textual Amendments**

**F220** Words in Sch. 2 para. (e) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(10); S.I. 1991/2633, [art. 4](#).

**F221** Words in Sch. 2 para. (e) inserted (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 3 para. 7\(14\)](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

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**Textual Amendments**

**F220** Words in Sch. 2 para. (e) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(10); S.I. 1991/2633, [art. 4](#).

**F221** Words in Sch. 2 para. (e) inserted (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 3 para. 7\(14\)](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

SCHEDULE 3

Sections 14, 31, 34 and 35.

PROVISIONS AS TO MAKING CONFIRMATION, COMING  
 INTO OPERATION AND VALIDITY OF CERTAIN ORDERS

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**Modifications etc. (not altering text)**

**C19** [Sch. 3](#) extended by [Post Office Act 1969 \(c. 48\)](#), [Sch. 4 para. 93\(1\)\(xxvii\)](#) and [Civil Aviation Act 1971 \(c. 75\)](#), [Sch. 5 para. 5\(x\)](#)

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## PART I

### PROVISIONS FOR MAKING AND CONFIRMING ACCESS ORDERS AND CERTAIN ORDERS RELATING TO PUBLIC PATHS

- 1 (1) Before [<sup>F222</sup>a body makes]<sup>F223</sup> ..., a public path creation order, a public path extinguishment order or a public path diversion order [<sup>F224</sup>it] shall give notice in the prescribed form—
- <sup>F225</sup>(a) stating the general effect of the order and that it is about to be made and, subject to paragraph 2(1A) of this Schedule, submitted for confirmation,]
  - (b) naming a place in the area in which the land to which the order relates is situated where a [<sup>F226</sup>draft] of the order and of the map referred to therein may be inspected free of charge at all reasonable hours, and
  - (c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the [<sup>F227</sup>draft] order may be made.
- (2) ..... <sup>F228</sup>
- (3) The notices to be given under [<sup>F229</sup>sub-paragraph (1) above] shall be given—
- (a) in the case of <sup>F230</sup> ... a public path creation order, by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and by serving a like notice on every owner, occupier and tenant (except tenants for a month or any period less than a month and statutory tenants within the meaning of [<sup>F231</sup>the <sup>M23</sup>Rent (Scotland) Act 1971]) of any of that land, so however that—
    - (i) except in the case of an owner, occupier or tenant being a local authority, local planning authority or statutory undertaker, the Secretary of State may in any particular case direct that it shall not be necessary to serve notice as aforesaid if in his opinion it is not reasonably practicable to do so, but
    - (ii) if the Secretary of State 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;
  - (b) in the case of a public path extinguishment order or a public path diversion order, by publication and the service of notices as mentioned in head (a) of this sub-paragraph and also—
    - (i) by serving such a notice as is therein mentioned on every local authority and local planning authority whose area 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 closed or diverted by virtue of the order.

#### Textual Amendments

**F222** Words in Sch. 3 para. 1(1) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(11)(a)(i); S.I. 1991/2633, [art.4](#).

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- F223** Words in **Sch. 3 para. 1(1)** repealed (9.2.2005) by **Land Reform (Scotland) Act 2003 (asp 2)**, s. 100(3), **Sch. 2 para. 4(f)** (with s. 100(2), **Sch. 2 paras. 6, 7**); S.S.I. 2005/17, art. 2(b)
- F224** Words in **Sch. 3 para. 1(1)** substituted (01.04.1992) by **Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1)**, s. 27(1), **Sch. 10**, para. 4(11)(a)(ii); S.I. 1991/2633, **art.4**.
- F225** **Sch. 3 para. 1(1)(a)** substituted by **Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2)**, **Sch. 3 para. 11(a)(iii)**
- F226** Word substituted by **Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2)**, **Sch. 3 para. 11(a)(iv)**
- F227** Word inserted by **Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2)**, **Sch. 3 para. 11(a)(v)**
- F228** **Sch. 3 para. 1(2)** repealed by **Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2)**, **Sch. 4 Pt. I**
- F229** Words substituted by **Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2)**, **Sch. 3 para. 11(c)**
- F230** Words in **Sch. 3 para. 1(3)** repealed (9.2.2005) by **Land Reform (Scotland) Act 2003 (asp 2)**, s. 100(3), **Sch. 2 para. 4(f)** (with s. 100(2)); S.S.I. 2005/17, art. 2(b)
- F231** Words substituted by virtue of **Interpretation Act 1978 (c. 30)**, s. 17(2)(a)

#### Marginal Citations

**M23** 1971 c. 28.

2<sup>F232</sup>(1A) If an authority have given notice under paragraph 1(1) above <sup>F233</sup>..., and no representations or objections are duly made in terms of paragraph 1(1)(c) of this Schedule or if any so made are withdrawn, then, subject to the provisions of Part II of this Schedule, the order shall on being made by them have effect without their having to submit it to the Secretary of State and without his confirmation. ]

[<sup>F234</sup>(1) In the case of an order other than one which has effect under sub-paragraph (1A) above, if] no representations or objections are duly made [<sup>F235</sup>in terms of sub-paragraph (1)(c) of paragraph 1 of this Schedule], or if any so made are withdrawn, the Secretary of State may, if he thinks fit, confirm . . . <sup>F236</sup> the order . . . <sup>F236</sup> with or without modifications or conditions.

(2) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming . . . <sup>F236</sup> the order, 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 . . . <sup>F236</sup> the order . . . <sup>F236</sup> with or without modifications or conditions:

Provided that [<sup>F237</sup>, where objection is made by statutory undertakers to a public path creation order or a public path diversion order,] on the ground that the order provides for the creation of a 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 Secretary of State shall not confirm . . . <sup>F236</sup> an order so as to affect land not affected by the order as submitted to him . . . <sup>F236</sup> except after—



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- (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 from the date of the first publication of the notice) within which, and the 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 [<sup>F238</sup>, where objection is made by statutory undertakers to a public path creation order or a public path diversion order,] on the ground that the order as modified would provide for the creation of a 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.

#### Textual Amendments

- F232** Sch. 3 para. 2(1A) added by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(i\)](#)
- F233** Words in [Sch. 3 para. 2\(1A\)](#) repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), [Sch. 2 para. 4\(f\)](#) (with s. 100(2)); S.S.I. 2005/17, art. 2(b)
- F234** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(ii\)](#)
- F235** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(ii\)](#)
- F236** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 4 Pt. 1](#)
- F237** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(v\)](#)
- F238** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(v\)](#)

- 3 (1) Subject to the provisions of this Part of this Schedule, the procedure on the submission and confirmation of orders to which this Schedule applies shall be such as may be prescribed.
- (2) Provision may be prescribed for enabling proceedings preliminary to the confirmation of a public path extinguishment order to be taken concurrently with proceedings preliminary to the confirmation of a public path creation or a public path diversion order.

## PART II

### VALIDITY AND DATE OF OPERATION OF ORDERS TO WHICH THIS SCHEDULE APPLIES

- 4 As soon as may be after an order to which this Schedule applies has been confirmed . . . <sup>F239</sup> by the Secretary of State [<sup>F240</sup>or, in the case of an order which has effect under paragraph 2(1A) of this Schedule, has made by an authority], the [<sup>F241</sup>body] by whom the order was made, . . . <sup>F239</sup> shall publish, in the manner required in relation to the class of order in question by paragraph 1(3) of this Schedule, a notice in the prescribed form describing the general effect of the order, stating that it

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has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected free of charge 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; 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 [F241body] . . . F239 a request in that behalf specifying an address for service.

#### Textual Amendments

**F239** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 4 Pt. I**

**F240** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 11(e)(ii)**

**F241** Words in [Sch. 3 para. 4](#) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), **Sch. 10**, para. 4(11)(b); S.I. 1991/2633, **art.4**.

- 5 If a person aggrieved by an order to which this Schedule applies desires to question the validity thereof, or of any provision contained therein, 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 regulations made thereunder has not been complied with in relation thereto, he may, within six weeks from the date on which the notice required by the last foregoing paragraph is first published, make an application for the purpose to the Court of Session.
- 6 On any such application as aforesaid, the Court—
  - (a) may by interim order suspend the operation of the order, or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the order, or any provision contained therein, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by failure to comply with any such requirement as aforesaid, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.
- 7 Subject to the provisions of the last foregoing paragraph, an order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever, and shall become operative on the date on which the notice required by paragraph 4 above is first published, or on such later date as may be specified in the order.
- 8 In relation to any order to which this Schedule applies, being an order which is subject to special parliamentary procedure, the foregoing provisions of this Schedule shall have effect subject to the following modifications—
  - (a) if the order is confirmed by Act of Parliament under section six of the <sup>M24</sup>Statutory Orders (Special Procedure) Act 1945, paragraphs 5 to 7 shall not apply; and

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- (b) in any other case, paragraph 5 shall have effect as if, for the reference therein to the date on which the notice required by paragraph 4 is first published, there were substituted a reference to the date on which the order becomes operative under the said Act of 1945, and paragraph 7 shall have effect as if the words from “and shall become operative” to the end of the paragraph were omitted.

#### Marginal Citations

M24 1945 c. 18.

## [<sup>F242</sup>SCHEDULE 4

### PROVISIONS AS TO THE CALCULATION FOR FIXING CONSIDERATION IN RESPECT OF THE MAKING OF ACCESS AGREEMENTS.

#### Textual Amendments

**F242** Schedule 4 inserted by [Countryside \(Scotland\) Act 1981 \(c. 44, SIF 46:1\)](#), s. 3(2)

- (1) The district valuer shall value the land covered by the access agreement, as at the first day of the twelve month period to which the consideration will relate, assuming—
- (a) a sale on the open market by a willing seller; and
  - (b) that the use of the land is unfettered by the access agreement.

- (<sup>F243</sup> Before or as soon as possible after the coming into operation of an access agreement—
- (a) Scottish Natural Heritage [<sup>F244</sup>or the National Park authority], in relation to an agreement made by it; or
  - (b) the general or district planning authority, in relation to an agreement made by them,

shall agree with the owner of the interest in the land what proportion of the figure set by the district valuer should be paid by Scottish Natural Heritage [<sup>F245</sup>, the National Park authority] or, as the case may be, the general or district planning authority in respect of each twelve month period.]

#### Textual Amendments

**F243** Sch. 4 sub-para.(2) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(12); S.I. 1991/2633, [art. 4](#).

**F244** Words in Sch. 4 sub-para. (2)(a) inserted (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 3 para. 7\(15\)\(a\)](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

**F245** Words in Sch. 4 sub-para. (2) inserted (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 3 para. 7\(15\)\(b\)](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

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- (3) The first twelve month period shall begin on the day on which the public is first given access to the land under the agreement.]

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**Changes and effects yet to be applied to :**

- s. 49A(6) words substituted by [2024 asp 2 Sch. 1 para. 9\(a\)](#)
- s. 49A(6) words substituted by [2024 asp 2 Sch. 1 para. 9\(b\)](#)