

SCHEDULE 1

FUNCTIONS OF THE NATURAL RESOURCES BODY FOR WALES

4. After article 5 insert—

“Nature conservation duties

5A.—(1) The Body must exercise its functions so as to further nature conservation and the conservation and enhancement of natural beauty and amenity.

(2) The duty in paragraph (1) does not apply to the Body’s pollution control functions or its functions under the Forestry Act 1967.

(3) In exercising its pollution control functions, the Body must have regard to the desirability of nature conservation and of conserving and enhancing natural beauty and amenity.

(4) Section 1(3A) of the Forestry Act 1967⁽¹⁾ makes provision about the balance between nature conservation and other matters which the Body must endeavour to achieve in exercising its functions under that Act.

5B In exercising any function relating to nature conservation, the Body must have regard to actual or possible ecological changes.

Access and recreation duties

5C.—(1) The Body must exercise its functions so as to promote the provision and improvement of opportunities for—

- (a) access to, and enjoyment of, the countryside and open spaces;
- (b) open-air recreation; and
- (c) the study, understanding and enjoyment of the natural environment.

(2) The duty in paragraph (1) does not apply to the Body’s pollution control functions.

(3) In exercising its pollution control functions, the Body must have regard to the desirability of maintaining the availability to the public of existing opportunities of the kinds mentioned in paragraph (1).

(4) Section 2 of the Countryside Act 1968⁽²⁾ makes further provision about the Body’s duties relating to facilities for the enjoyment of the countryside, the conservation and enhancement of the natural beauty and amenity of the countryside, and public access to the countryside for recreation.

Duties relating to historic sites

5D In exercising its functions, the Body must have regard to—

- (a) the desirability of protecting and conserving buildings, structures, sites and objects of archaeological, architectural, engineering or historic interest;
- (b) the desirability of maintaining the availability to the public of any facility for visiting or inspecting any such building, structure, site or object, so far as consistent with sub-paragraph (a) and article 5A.

⁽¹⁾ 1967 c. 10. Section 1(3A) was inserted by section 4 of the Wildlife and Countryside (Amendment) Act 1985 (c. 31).

⁽²⁾ 1968 c. 41. There have been numerous amendments to section 2, including those made by the Natural Environment and Rural Communities Act 2006 (c. 16), Schedule 11, paragraph 43. Schedule 2 to this Order makes further amendments to section 2.

Duties relating to well-being

5E In exercising its functions, the Body must have regard to—

- (a) the health and social well-being of individuals and communities;
- (b) the economic well-being of individuals, businesses and communities.

Duties of Welsh Ministers in relation to proposals relating to the Body's functions

5F.—(1) The duties in articles 5A to 5E apply to the Welsh Ministers when formulating or considering any proposals relating to the Body's functions, as they apply to the Body in exercising those functions.

(2) But the duty in article 5A(1) applies to the Welsh Ministers when formulating or considering such proposals only to the extent that the duty is consistent with—

- (a) the objective of achieving sustainable development; and
- (b) the Welsh Ministers' duties under section 2 of the Water Industry Act 1991⁽³⁾.

Recreation in relation to water and associated land

5G.—(1) This article applies where the Body has rights to the use of water or land associated with water.

(2) The Body must take appropriate steps to secure that those rights are exercised so as to ensure that the water or land—

- (a) is made available for recreational purposes; and
- (b) is made available in the best manner.

(3) In paragraph (2), “appropriate steps” (“*camau priodol*”) means steps which are—

- (a) reasonably practicable; and
- (b) consistent with the provisions of any enactment relating to the Body's functions.

(4) The Body must obtain the consent of any navigation authority, harbour authority or conservancy authority before doing anything under paragraph (1) which causes obstruction of, or other interference with, navigation which is subject to the control of that authority.

(5) Section 6 of the Environment Act 1995⁽⁴⁾ makes further general provision about the Body's functions with respect to water.

Provision of facilities for recreation and other purposes

5H.—(1) The Body may provide, or make arrangements for the provision of, facilities for the purposes specified in paragraph (2) on any land belonging to it, which it uses or manages, or which is placed at its disposal by the Welsh Ministers.

(2) The purposes referred to in paragraph (1) are—

- (a) tourism and the enjoyment of the countryside and open spaces;
- (b) recreation and sport;
- (c) the study, understanding and enjoyment of the natural environment.

(3) 1991 c. 56. There have been amendments to section 2, including in particular those made by the Water Act 2003 (c. 37), section 39.

(4) 1995 c. 25. Amendments to section 6 which are relevant to this Order have been made by the Water Act 2003 (c. 37), section 72; the Aquatic Animal Health (England and Wales) Regulations 2009 (S.I.2009/463), Schedule 2, paragraph 9(b); the Marine and Coastal Access Act 2009 (c. 23), section 230; and the Flood and Water Management Act 2010 (c. 29), Schedule 2, paragraphs 51 and 52. Schedule 2 to this Order makes further amendments to section 6.

- (3) In paragraph (1), “facilities” (“*cyfleusterau*”) includes, without limitation—
- (a) accommodation for visitors, camping sites and caravan sites;
 - (b) picnic sites and places for meals and refreshments;
 - (c) places for enjoying views and parking places;
 - (d) routes for walking, cycling or study of the natural environment;
 - (e) education centres, display centres and information;
 - (f) shops in connection with any of the facilities mentioned in paragraphs (a) to (e);
 - (g) public conveniences.

5I The power of the Welsh Ministers under section 39 of the Forestry Act 1967⁽⁵⁾ to acquire land includes power to acquire land in proximity to land placed by them at the disposal of the Body pursuant to section 3 of that Act where it appears to the Welsh Ministers that the land which it is proposed to acquire is reasonably required for the provision of the facilities mentioned in article 5H.

5J The power of the Welsh Ministers to make byelaws under section 46 of the Forestry Act 1967 includes power to make byelaws—

- (a) for regulating the reasonable use of facilities provided under article 5H, and
- (b) in relation to any matter described in section 41(3) of the Countryside Act 1968⁽⁶⁾.”

(5) 1967 c. 10. Amendments to section 39 which are relevant to this Order were made by the Scotland Act (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747), Schedule 12, paragraph 4(1) and (28) to (31).

(6) 1968 c. 41. There have been amendments to other provisions of section 41.