



Draft Natural Environment and Rural Communities Bill

**Presented to Parliament by the Secretary of State
for Environment, Food and Rural Affairs
By Command of Her Majesty**

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Draft Natural Environment and Rural Communities Bill

Policy Statement

FOREWORD

by The Rt Hon Margaret Beckett MP
Secretary of State for Environment, Food & Rural Affairs

The Rural Strategy 2004 that I announced on 21 July 2004 set out an exciting vision of a better quality of life for all, with sustainable development at its heart. By this I mean improving the quality of life for current and future generations by integrating environmental, social and economic objectives. And in particular, reaching out to those suffering social and economic disadvantage – this is one of our highest priorities.

We need strong policy and delivery bodies, working in partnership, to help us achieve economically thriving rural communities and businesses, fair access to services for all in the countryside, and rich, diverse landscapes and wildlife managed and enhanced for current and future generations. That is what this Bill is about.

It is about a radical modernisation and streamlining of delivery arrangements, based on better accountability and greater flexibility, devolution and delegation. It is about streamlining our funding and support, eliminating overlap between organisations, devolving responsibilities closer to rural people and rural businesses, and freeing up resources to make a real difference. Only by making our delivery structure fit for purpose can we expect to meet the real needs of local people and the local environment.

In the Rural Strategy I made a commitment to do that. To put rural people and businesses first and bring better management and protection of natural resources, all within a sustainable development framework which gives real meaning to the ideal of practical integration on the ground.

The Bill that we publish in draft today is the cornerstone of our plans to achieve the agenda set out in the Rural Strategy. This policy document is intended to provide some insight into Government thinking on how the legislation might deliver our priorities for rural people and the environment, as part of a broader framework of Government engagement with the countryside.

I am confident that this Bill will create a clear, effective and flexible delivery landscape that will enable us to achieve our policy priorities for many years to come, and I welcome your views as part of preparing it for introduction.



MARGARET BECKETT

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PART ONE

Context and Introduction

1. This policy document, and the Bill, should be read in the context of the major changes - both global and national - that impact significantly on rural businesses and communities, and on the natural environment. The Government's Strategy for Sustainable Farming and Food is aimed at helping the farming and food sector through this period of change, providing the best possible help and support, targeted especially at those in need. A key element is reform of the Common Agricultural Policy. As well as providing environmental benefits for the longer term, CAP reform is an opportunity for farmers to reconnect with the rest of the rural community, with their customers, and with the rest of the food chain. The importance of conserving, nurturing and enhancing our landscapes and the richness of our biodiversity is reinforced by the global challenge of climate change; our land use policy and practices can help us to reduce greenhouse gas emissions.

2. Within this wider context, now set out in more detail in Defra's Five Year Strategy, the Rural Strategy 2004 was the Government's response to twin, related challenges affecting rural England. First, to ensure that all people, communities and businesses in rural areas have access to better support, advice and services, so that those suffering deprivation and inequality are given the opportunities they need to thrive and prosper. Second, to protect and enhance the natural treasure of the countryside and outdoor spaces wherever they exist, through a more coherent approach to managing and conserving the natural environment across England for the benefit of current and future generations.

3. To help achieve both those aims, the provisions in the Bill create simpler and stronger organisational structures. In particular, by setting up two new, powerful bodies focused on people and the environment:

- a. For rural people, we will give a strong independent status to our new rural watchdog in the Commission for Rural Communities, led by the Rural Advocate. The role of the Commission will be to ensure the Government's policies do make a difference to people in rural areas, especially in tackling social disadvantage and economic exclusion. The Commission will complement the leadership and delivery functions of the Regional Development Agencies and Government Offices in relation to economic and social regeneration, and to whom Defra is already devolving decision-making and funding.
- b. For the environment, we will establish a more powerful champion of our natural environment, by bringing together the world-class strengths of English Nature, the Countryside Agency and the Rural Development Service to create an Integrated Agency. Working with partners, the new body – independent of government – will be responsible for protecting, managing and enhancing the natural environment in all its guises, especially biodiversity and landscape, while seeking to deliver social and economic benefits through its championing of the environment.

4. The creation of these two agencies allows us to rationalise existing bodies. This will make doing business easier for the customer. It will be part of the implementation of the radical streamlining of rural funding announced in the Rural Strategy 2004 - from 100 schemes to three broad and flexible funding programmes.

Delivering on Sustainable Development

5. The goal of putting sustainable development into practice by integrating environmental, social and economic objectives drives everything that Defra does.

6. The Bill will give statutory underpinning to this agenda. The provisions in the Bill are interconnected: economic prosperity has an essential role in achieving both social and environmental benefits. Spending money on careful and proactive management and enhancement of the environment can make a huge contribution to long-term social and economic well-being.

7. To help give real meaning to sustainable development, the Integrated Agency, Commission for Rural Communities and Joint Nature Conservation Committee will all be required by statute to seek to contribute to sustainable development through the functions they each perform. They will be expected to take a fresh approach to natural environment, biodiversity and rural issues and work in partnership with others to develop solutions that provide environmental, social and economic benefits. The Commission for Rural Communities will be charged with considering issues in the round in monitoring progress towards sustainable rural communities.

8. The creation of the Integrated Agency will provide a strong environmental partner at national and regional level. The Integrated Agency and its sister organisations – the Environment Agency and Forestry Commission – will work together to ensure that their collective influence is brought to bear in a coherent and unified manner to make maximum impact in the advice they give to Government and others at national, regional and local level. The Environment Agency and the Integrated Agency will work particularly closely, as equal partners in delivering the Government's environmental priorities.

9. Regionally, this will be assisted by the development of the Regional Rural Delivery Frameworks, as envisaged in the Rural Strategy. The Regional Rural Delivery Frameworks, under Government Office leadership, will bring together the main regional and local partners responsible for delivering social, economic and environmental outcomes. They will be used proactively to determine the needs and priorities of each region in an integrated way, and to help partners work together on putting sustainable development into practice.

10. The Regional Development Agencies and local authorities will be key partners at the regional level – the Regional Development Agencies with their focus on economic regeneration, within Defra's Sustainable Development PSA target, and local authorities as key community leaders and service deliverers. The Regional Development Agencies will take on the Countryside Agency's responsibilities and funding for achieving rural regeneration. At the local level, the pathfinders announced in the Rural Strategy and established in October 2004 will aim to find innovative ways of improving delivery to the customer, in a joined up way across all the pillars of sustainable development, under the leadership of Local Government.

11. Monitoring activity across all these organisations and activities, the Commission for Rural Communities will watch out for the interests of rural people, communities and businesses. Through the strong voice of the Rural Advocate, and the organisation's focus on disadvantage and inequality, government at all levels will be held to account for ensuring that policies - and the ways of delivering policies – really make a difference in providing what rural people need.

PART TWO

1. This section sets out in more detail how the new structures created through this Bill will deliver a **sustainable future for rural communities and the natural environment**.

Measuring Progress Towards Sustainable Rural Communities

COMMISSION FOR RURAL COMMUNITIES

2. The Government is already demonstrating its commitment to the countryside and to rural communities and businesses in a wide range of ways. For example, it has:

- increased Defra's rural funding to Regional Development Agencies for economic regeneration in rural areas from £46m this year to £72m in 2005/06;
- invested an additional £2m this year in the Business Link network to improve delivery of support to rural businesses, including farmers;
- pushed ahead with a programme of ruthless simplification of funding schemes to make support much more accessible for customers;
- published the first annual Rural Services Review which sets out revised and improved rural services standards;
- through DfT's Rural Bus Subsidy Grant, allocated £51m to support bus services in rural areas;
- established a Rural Policing Fund, worth £30m in 2005/06, to address the needs of the 31 forces with the most widespread populations; and
- announced additional support for affordable rural housing.

3. We want to ensure that our policies are making a real difference on the ground to rural communities. The Commission for Rural Communities will be an authoritative new national rural advisor, advocate and watchdog. Led by the Rural Advocate as the Chair of the Commission, it will provide a strong and independent voice for rural people, communities and businesses, especially those suffering disadvantage or the impacts of economic underperformance.

4. The Commission for Rural Communities will not be a delivery body. It will not have operational functions to deliver public services; the delivery responsibilities of the Countryside Agency have been or will be transferred to the Regional Development Agencies and the Integrated Agency. The Commission will therefore be able to stand aside from service provision and, as a wholly impartial watchdog, challenge government and delivery organisations at all levels to do better in focusing policy and delivery on need and disadvantage. For example, the Commission will undertake a programme of thematic studies and inquiries, led by members of the Board, to investigate particular issues affecting rural people and businesses, especially those suffering from social and/or economic disadvantage. They will analyse the results and put evidence-based advice to government and others on the nature of the problem and suggest innovative solutions for the future.

5. The Commission will draw on experience and evidence from all English regions, including the customer voice of the Regional Rural Affairs Forums. While it will need to work with a wide range of partners at national, regional and local level, its strongest links will be with the disadvantaged within local communities. To make those links easier, it will move to a location in an economically lagging rural area. The Chair and Board members will be in the forefront of generating an informed public debate about rural issues, advocating solutions to help tackle disadvantage and engaging with rural people, communities and businesses. They and Commission staff will meet regularly with rural communities and businesses and their representatives (such as parish councils and local chambers of commerce) to hear at first hand their experiences and views on what are the most important issues facing rural England. The Commission will assess the issues raised and report to Government, so that policy and delivery can take account of people's views and experience. It will report annually on the performance of Government and its delivery agents in rural proofing, identifying where improvements or different approaches are needed.

6. The ultimate aim is to ensure that policies are making a real difference on the ground so that we build sustainable rural communities.

7. The Commission will be charged in the Bill to contribute to sustainable development. The intention is to ensure that the Commission takes account of social, economic and environmental factors in formulating its advice or performing its advocacy and watchdog roles in relation to rural people, communities and businesses.

8. The Commission will be established by April 2005 as a distinctive body, initially within the legal framework of the Countryside Agency, until this Bill comes into force.

Better Management and Enhancement of the Natural Environment for the Benefit of Current and Future Generations

INTEGRATED AGENCY

9. There are currently five national agencies that contribute to environmental outcomes. English Nature, the Rural Development Service and the Countryside Agency in England, together with the Forestry Commission at GB level, and the Environment Agency in England and Wales, are all working towards protecting and improving our natural resources – soil, air and water – and the biodiversity and landscapes they support. The objectives of English Nature, the Rural Development Service and the Countryside Agency are particularly close and overlapping. For example, while English Nature is responsible for protecting Sites of Special Scientific Interest (SSSIs), many of these are contained within Environmentally Sensitive Areas, which are the responsibility of the Rural Development Service. Countryside Agency activities to enhance the beauty of and improve access to the countryside are often closely linked to Rural Development Service incentives for farmers to diversify land management activities.

10. As separate organisations, the existing bodies have made an enormous contribution towards delivering the Government's high-level objectives. English Nature's work in delivering our challenging targets on biodiversity, the Rural Development Service's work on environmentally friendly farming practices and the Countryside Agency's work on improving access to the countryside for recreation are all to be highly commended.

11. But we can and must do better. The challenges we face for the future – including the expanding agri-environment agenda and the shift in land management resulting from CAP reform – make it all the more important that we conserve, manage and enhance the natural environment in an integrated manner, and provide a better, simpler service for our customers.

12. We are therefore bringing together the strengths of three bodies¹ into one – the Integrated Agency. 'Integrated Agency' is a working title only; the confederation of partners that is to make up the Agency is taking forward work on a name, as part of its development of a cultural identity and ways of working that befit an exciting new organisation that will be more than the sum of its parts. Proposals will be put to Ministers in April, so that the organisation's name can be included in the Bill before it is introduced to Parliament.

13. The creation of the Agency will - for the first time ever - unite in a single organisation the responsibility for enhancing biodiversity and our landscapes in both rural and urban areas, promoting access, recreation and public well-being, and thereby contributing to integrated natural resource management. This will be a very powerful and independent organisation. Owning the widest possible range of levers, it will ensure that action taken has the greatest impact in enriching our green spaces. For example, it will own and deliver the environmental stewardship programmes, backed up by advice, expertise and regulatory powers. All this will help the achievement of the UK's biodiversity targets, including our PSA target on SSSIs.

14. By pooling, in the new Agency, the existing talents, skills and experience across English Nature, the Countryside Agency and Rural Development Service, we want the result to be more than the sum of its parts. The Integrated Agency's remit will cover not only the countryside but it will also address nature and people issues in urban, coastal and marine areas. It will have a wide remit to enable a more holistic view to be taken - encompassing access, recreation and other social issues such as health, alongside conservation goals. It will also have the power to conduct experiments in order to test new and innovative approaches to delivery. To ensure solutions help both people and nature the Integrated Agency will play a key role in giving advice, guidance and incentives to our land-managers and other customers to produce environmental improvements which, wherever possible, also result in social and economic benefits.

15. The Integrated Agency's wider role will make it an equal partner to, and complement, the Environment Agency's substantial expertise in environmental protection and improvement of soil, air and water and the Forestry Commission's expertise in sustainable forest management. Together, these three environmental champions will be well placed to tackle the challenges of climate change, diffuse

¹ English Nature, the landscape, access and recreation elements of the Countryside Agency and the functions of the Rural Development Service focused on improving environmental land management

water pollution and maximise the opportunities associated with reform of the Common Agricultural Policy.

16. Reducing from five to three the number of national Defra family bodies dealing with the different aspects of natural resource protection will also help simplify services for the customer by creating a more effective interface with those who help deliver environmental benefits such as land managers. For customers, it will be easier to access a single source of advice and support, providing greater clarity and consistency. For example, the Integrated Agency will be able to achieve positive benefits for wildlife by giving land-managers advice and incentives on best practice in environmentally friendly farming techniques through the England Rural Development Programme, and will be able to help land-managers generate social and economic benefits by maximising public access opportunities to the natural environment.

17. As well as being more customer friendly, the streamlining and strengthening through merger will make it easier for partners and stakeholders, such as the Regional Development Agencies, Government Offices, local authorities, and the voluntary and community sector. For example, the historic environment cannot and should not be seen as separate from the green space in which it sits. Our policies need to address both our historic buildings and landscape in an integrated manner. As a joined-up body, the Integrated Agency will be able to work much more effectively with English Heritage to deliver the Government's aim of rationalising heritage protection in England, by integrating various designation systems (such as designated landscapes, listed buildings or ancient monuments) in a single list. Better partnership working between these two major organisations will make the system much more accessible to land managers and ensure a more holistic approach to managing the natural and historic environment. Taking a practical example, in the Thames Gateway - an area that features dense urban development alongside farms and hamlets, ancient countryside and constructed landscapes - joined up work on land characterisation has already revealed a wealth of natural and historic environmental features that can form a lasting foundation on which to build sustainable communities.

18. The strength of the Integrated Agency's combined knowledge and skills will give it an authoritative voice to influence spatial planning and land use decisions. The regional planning advice and guidance function of the Countryside Agency, advisory sections of the RDS, and English Nature's expertise in the protection of nature and biodiversity, will come together to produce a strong regional presence and influence to work alongside the Environment Agency and Forestry Commission. The Integrated Agency will be able to engage in, and influence the planning process at, an early stage – particularly during regional spatial planning processes. Together, the Integrated Agency, Environment Agency and Forestry Commission will provide a strong environmental voice in this process, seeking environmental outcomes and influencing developers and planners to produce sustainable outcomes. They will also seek, through sustainable management of the natural environment, to contribute to the economic and social regeneration that is the prime responsibility of its partners at the regional and local government level. This will build on existing work. On Dartmoor, for example, prioritisation has produced a single vision for the future management of the moor in the face of pressures from climate change, providing much clearer direction for land managers. We want there to be more of this.

19. The Integrated Agency's general purpose, as set out in the draft Bill, will be to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. This purpose has been developed in consultation with the bodies involved and broader stakeholders. Within its overall purpose, the Integrated Agency will carry out the following more specific functions:

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

20. The functions of the Integrated Agency, as stated in the Bill, must be distinctive from the roles of its major partners – the Environment Agency and Forestry Commission - and must give the Integrated Agency focus and direction. But they must also be sufficiently wide to enable the Integrated Agency to operate successfully now and in the future, and must not inadvertently constrain it. For example, to allow it to deliver environmental outcomes with the Environment Agency as its leading partner. The Integrated Agency will work together with the Environment Agency to take forward solutions which maximise both biodiversity and flood prevention improvements: for instance securing environmental benefits in an SSSI could reduce the risk of downstream flooding. And through advice to farmers on farming practices the Integrated Agency will contribute to tackling the major international challenge of climate change.

21. More generally, the Integrated Agency, Environment Agency and Forestry Commission will work closely together, joining forces, or allowing others to lead where this makes sense from the customer perspective and in terms of delivering outcomes most effectively and efficiently. In some cases, the Integrated Agency will be the lead body; in others it will be the Environment Agency or Forestry Commission. We expect the Integrated Agency to use its incentive-giving powers to support the Environment Agency in tackling diffuse water and air pollution and helping to produce improvements in soil quality in order to meet our international obligations under the Water Framework Directive. On forestry, the Forestry Commission will work closely with the Integrated Agency, and others in preparing and implementing strategies for the restoration and expansion of native woodland.

22. The necessary strong and transparent partnership will be achieved through working level agreements between the three bodies (for example, including a 3-way Memorandum of Understanding between the Integrated Agency, Environment Agency and Forestry Commission), as well as through the Management Statements for each organisation, which will set out their respective roles and responsibilities and how these will be operated in practice. Establishing the relationships by and between the three bodies, rather than setting them in legal concrete, will allow flexibility to adjust them in future, learning from experience and taking account of new challenges and tasks.

23. Contributing to sustainable development will be the context for the Integrated Agency's decision-making. The Integrated Agency will primarily exist to manage and enhance the natural environment for this and future generations, and its duties and functions under individual regimes such as SSSIs or National Parks will remain. Within this context, we believe the Integrated Agency should work with best intent to ensure that, in pursuing environmental objectives, it actively seeks to generate long-term social and economic benefits alongside sustainable environmental gains, as well as avoiding unnecessary short-term social or economic disbenefits.

24. To take a practical example, English Nature has worked successfully with the East of England Development Agency and others on Canvey Wick, a brownfield site in the Thames Gateway, to ensure that employment and community needs are addressed alongside protecting and enhancing the natural environment. Once completed, two thirds of the site will become a wildlife area with interpretation facilities. The rest of the site will be developed into offices, using sustainable design and construction techniques that will provide a further habitat for invertebrates, and in total create up to 900 new jobs in an area that has the highest proportion of long-term unemployed in the Eastern region. We want such approaches to become mainstream within the Integrated Agency, with a greater focus on priority areas such as growth areas and the urban fringe.

25. To allow the Integrated Agency to be proactive and innovative, wherever possible delivering solutions that help both nature and people, we have incorporated the principle of contributing to sustainable development into the Integrated Agency's general objective and core purposes. On a case-by-case basis, the Integrated Agency will use its authority to make pragmatic decisions to suit the particular circumstances, within its overall purpose as an environmental champion.

26. The creation of the Intergrated Agency will also deliver better value for money for the taxpayer. As well as the streamlining of front-line activity such as interface with customers, we would expect its corporate (back-office) services to match the best benchmarks of cost-effectiveness, for example being provided on a shared service basis to achieve better value for money. In this way we can maximise the proportion of funding that is available to be spent on delivering outcomes. The provisions in the Bill have been drafted to allow flexibility in how such corporate support services are provided, to allow value for money decisions to be taken without legal constraints.

27. The draft Bill includes many more detailed measures relating to the Integrated Agency, including the power for the Integrated Agency to charge fees for licensing services with Ministerial approval, and for Ministers to prescribe the level of charge for such licences. Further detail and background on all these measures is provided in the Explanatory Notes.

Modernising and Devolving Delivery

28. We have sought in the proposed changes to look to the future to ensure that, both now and for years to come, policies and services are delivered by those best placed to do so, as close to the customer as possible. But our ability to adapt delivery arrangements to respond rapidly to new challenges is also an essential component of this agenda. Policy goals evolve, and organisations change over time.

We need a simple and efficient way to move functions with the minimum bureaucracy to ensure that the delivery landscape remains lean and customer-focused, with no overlap or duplication arising. The measures set out below therefore aim both to modernise delivery today, and to secure organisational flexibilities for the future.

GRANT MAKING POWERS

29. The funding powers that Defra inherited from its predecessor departments when it was created in 2001 are not broad enough to match Defra's sustainable development remit adequately or to reflect the new delivery structure.

30. In pursuing our objectives of sustainable rural communities, sustainable food and farming and natural resource protection, the Secretary of State needs broad powers to pay grants for social, economic and environmental objectives. The Bill therefore creates a broad general power for the Secretary of State to pay grants, make loans, or otherwise use funding to support any individual, corporate body, charity or other legal entity in furthering Defra objectives.

31. Core Defra will not perform delivery functions itself in future but will focus on setting strategic policy and targets, and holding deliverers to account. The powers will be vested in the Secretary of State but – crucially – underpinned by the power for her to delegate these functions to Defra delivery bodies (i.e. Defra NDPBs and the Forestry Commission). The intention is to create maximum flexibility for the future, with the Secretary of State having the ability to channel new funds or experimental activity through those bodies best placed to perform them, subject to the agreement of the bodies concerned. The aim is to add to and strengthen the statutory remits and core functions of those bodies; their statutory remit will not be altered by such delegation.

32. The use of these broad powers will be guided by Defra's recent Rural Funding Review which recommended devolving delivery of funding, and streamlining and simplifying Defra funding through the creation of three major funding programmes rather than the current plethora of funding schemes.

DELEGATION OF FUNCTIONS BY MUTUAL CONSENT

33. Under existing legislation, functions carried out by the Secretary of State, even relatively minor ones, cannot generally be delegated to public bodies without recourse to primary legislation, which inevitably introduces significant delay. At present there are limited powers to delegate or contract out functions. It is therefore difficult to maintain efficient and effective delivery of Defra's aims and objectives in a climate which requires functions to be moved nimbly. Public bodies can be similarly frustrated should they wish, in the interests of efficient delivery, to delegate any of their own statutory functions to other bodies.

34. The Bill therefore establishes a power for any Secretary of State (in practice this is most likely to be the Secretary of State EFRA) to delegate functions to any Defra family body listed in a schedule to the Bill (including the Integrated Agency, Environment Agency and Forestry Commission), subject to mutual agreement in writing and certain other conditions. It establishes a similar power for listed Defra family bodies to delegate functions to each other or to any other body (including for example local authorities and regional bodies, amongst others), by mutual

agreement. In all cases, the function being delegated would need to fit with the overall purpose and objectives of the body in question. Powers could only be delegated to bodies where it was mutually agreed they were covered by the remit of those bodies. The Bill also includes provisions for bodies to act as agents for each other, thereby removing potential obstacles to the wider adoption of the practice of nominating “**lead delivery agents**” amongst partnerships (for example, Rural Regeneration Cumbria) in order to improve clarity and effectiveness for customers. And, finally, the Bill includes a more general power for the Secretary of State EFRA to delegate her Departmental functions to non-Defra sponsored bodies. Again, this will be subject to the consent of all relevant parties, including any sponsors of the body in question (i.e. another Departmental Minister).

35. The intention is to enable Defra and its main delivery agents to be much more responsive in the future to the changing needs of customers, wider stakeholders, and evolving policies. This will bring new flexibility, better customer service, improved accountability and help to make devolution of delivery a reality, in line with the Prime Minister’s principles of public sector reform.

OTHER ORGANISATIONAL CHANGES

36. As part of our work to ensure that organisations and bodies are structured in the optimum manner, the Bill also includes other structural changes. In particular, it extends the (Great Britain) remit of the Joint Nature Conservation Committee (JNCC) to a United Kingdom one, by formally including Northern Ireland, and provides that the JNCC and the four constituent conservation bodies should exercise their functions under the Bill having regard to the desirability of contributing to sustainable development. It will also, subject to the approval of the Scottish Parliament, establish the Inland Waterways Advisory Council as an independent body reporting to Defra, and to the Scottish Executive in Scotland. Further detail and background on these measures is provided in the Explanatory Notes.

LEVY BODIES

37. There are five main statutory agriculture and horticulture levy bodies operating in England – the British Potato Council, the Home Grown Cereals Authority, the Horticultural Development Council, the Meat and Livestock Commission and the Milk Development Council. They were established to deliver sector-wide approaches to research and development, marketing and promotion, or wider sector improvement activities which individual enterprises would otherwise be unable to carry out on their own.

38. This policy objective remains the same. But the context in which the Boards operate has substantially changed. For all of the Boards, the parent **primary** legislation dates back 30 years or more (pre-CAP accession), although it was drafted in a way to allow the Boards reasonable flexibility in meeting changing demands over the last few decades. Agriculture and the food industry are changing rapidly in this country, within Europe and around the world - most particularly for our farmers in relation to the landmark CAP reform in July 2003. The Government’s Strategy for Sustainable Farming and Food set out a new strategic direction for the industry.

39. The time is therefore right for a fundamental review of the levy bodies and their operation. To that end, the Government undertook in the Rural Strategy 2004

“to commission, with the Devolved Administrations, an independent, fundamental review of the levy-funded organisations, to report in 2005”; its commencement and terms of reference will be announced shortly. The intention is to ensure that we have modern and flexible arrangements that will enable the goals of the levy boards to be fulfilled as effectively and efficiently as possible.

40. Despite their apparent similarities, the levy bodies were established under a range of different and long-standing legislation. Changes to some of the individual levy boards – including their abolition – could be made using existing powers to make secondary legislation. However, in the case of the others, primary legislation would be required. Implementing changes arising from the review through changes to each piece of relevant primary legislation would therefore be extremely time consuming. Furthermore, primary legislation would also almost certainly be required if the review recommended any significant rationalisation of the existing board structure. As the review will not report until the autumn of 2005, to attempt to draw up specific legislative proposals would inevitably pre-empt the review's findings.

41. We are nevertheless keen that this review should yield significant benefits to the industries' performance economically, socially and environmentally, including in relation to animal or plant health and welfare. We also want benefits to be able to be realised as soon as possible. The Bill will therefore put in place a general provision which would enable Ministers – subject to Parliamentary scrutiny through secondary affirmative resolution legislation – to abolish, amend or merge the existing levy boards, or to create new bodies.

PART THREE

Possible other Provisions for the Bill

1. We will also consider including in the Bill, when introduced, other measures that fit with the overall objectives of enhancing and sustaining rural communities and the natural environment. These measures are set out below; we welcome thoughts on them and their possible inclusion in the Bill.

BIODIVERSITY AND WILDLIFE PROTECTION

2. The Biodiversity Strategy for England, *Working with the Grain of Nature* (October 2002), set out the Government's vision for nurturing, treasuring and enhancing biodiversity. The Strategy set out a five-year plan for this agenda and for ensuring that biodiversity considerations become embedded in all main sectors of public policy. It was prepared with the active partnership of a broad range of stakeholders in the public, voluntary and private sectors. The Bill may provide an opportunity to give legislative effect to some of the proposals needed to achieve this vision.

3. In addition, we are looking at using the Bill to specifically strengthen wildlife and habitat protection through a range of measures, including some minor improvements to the SSSI legislative framework, and some measures that are currently subject to public consultation as part of the Government's review of Part I of the 1981 'Wildlife and Countryside Act. For example, responsibility for national nature reserves will transfer from English Nature to the Integrated Agency, and we intend to amend the definition so that management of these reserves can also more explicitly accommodate their use for enjoyment of nature and open-air recreation.

4. Details of the further measures that we may look to include in the Bill on introduction are set out in [Appendix 1](#).

5. In addition, we are in the process of developing a range of other provisions to ensure that the statutory framework for the National Parks, Areas of Outstanding Natural Beauty and the Broads Authority is sufficiently clear and flexible to enable them to operate efficiently and effectively, within a sustainable development context. Further detail on these measures, which we may wish to include in the Bill on introduction, are attached at [Appendix 2](#).

RIGHTS OF WAY

6. A central part of the Government's Rural Strategy is to improve enjoyment of an attractive and well managed countryside for all. This will be at the heart of the Integrated Agency's functions. Our Countryside and Rights of Way Act (CRoW) creates a new right of access to some of the finest countryside in England and Wales, enabling members of the public to walk across some large areas of land for the first time.

7. The rights of way network has mainly evolved as a result of historic use patterns. There are concerns, however, that this historic basis for establishing rights of way is inappropriate where rights are claimed for mechanically propelled vehicles, by virtue of historic use by non-mechanically propelled vehicles. Similarly there may be instances where a long period of illegal mechanically propelled vehicular use of a footpath or bridleway may inappropriately give rise to public vehicular rights. There is currently no provision for the environmental impact, the effect on local people or the effect on other users to be considered.

8. Having taken account of more than 14,000 responses to our consultation document, *Use of mechanically propelled vehicles on rights of way* (December 2003), we now intend to use the Natural Environment and Rural Communities Bill to clarify those vehicular rights of way that can be recorded on local authorities' definitive maps (local records of rights of way). We further propose to extend the power for public path creation orders to be made not only to provide access to open access land but to any site where the new Integrated Agency recommends that the Secretary of State should make such an order. 'Our aim is to safeguard and strengthen the future of the rights of way network for the better enjoyment of all'.

9. We are considering including these measures in the Bill on introduction to Parliament. The consultation document, and the Government's response, can be found in the wildlife and countryside section of the Defra website (<http://www.defra.gov.uk/wildlife-countryside/index.htm>).

DISSOLVING DEFUNCT DEFRA SPONSORED BODIES

10. We also want to use this Bill to repeal provisions for three Defra-sponsored statutory committees which have become defunct. These are the Hill Farming Advisory Committee and two Committees covering Food and Drink, the Consumer Committee for Great Britain and Committee for Investigation.

PART FOUR

Development of the Legislation – Background and Next Steps

1. The timetable for implementing the changes in the Rural Strategy 2004 was set out at Annex C to the Strategy. These changes are well in hand, with the Commission for Rural Communities to be set up very shortly, and the Integrated Agency Confederation of partners established on 1 April this year. A progress report will be provided one year on.

2. We are publishing this draft Bill now for pre-legislative scrutiny by parliamentarians and stakeholders, with a view to introducing the Bill to Parliament in the next parliamentary session (subject to decisions on the legislative programme). Most of the policy proposals have already been subject to review and revision in the light of stakeholder views. The Rural Delivery Review, from which many of the proposals flow, took account of contributions from around 350 organisations, authorities and groups, and views from almost 300 individual customers of rural delivery. The Government's response in the Rural Strategy 2004 was similarly subject to wide-ranging discussion with stakeholders, and was widely welcomed as a positive and ambitious step forward.

3. As the policy and structures have already been determined, the purpose of this paper is therefore **not** to conduct a full public consultation. Rather, it is to look at the precise statutory provisions needed. We want to ensure that the provisions for the Integrated Agency will create a new and exciting entity that is more than a sum of its parts and which can be an effective partner with others; that the Commission for Rural Communities will provide a strong and influential voice for rural people; and that we have been sufficiently imaginative and forward-looking in our legislative proposals to modernise delivery. In short, that the Bill will create arrangements that are suitable for delivery now, as part of the Government's overall strategy, but will remain relevant in the decades to come. We have already consulted with our 'family', but wider publication allows others to contribute. We intend to take account of all views received and consider whether we can adjust the Bill to accommodate them before it is introduced to Parliament, recognising that where a diverse range of views is received, decisions will need to be taken in context.

4. This policy statement highlights a number of issues on which additional measures may be included in the Bill when it is introduced. We will take account of all views received in reaching a final decision on what to include in the Bill. Subsequent changes to the Bill will be subject to consideration by both Houses of Parliament.

5. The paper should be read alongside the draft Bill, the accompanying Explanatory Notes and the Regulatory Impact Assessment. For policy context, it should also be read in conjunction with the Rural Strategy (July 2004). All of these documents are available in the rural affairs section of the Defra website (www.defra.gov.uk).

6. An assessment of the costs and benefits of these measures is made in the Regulatory Impact Assessment accompanying this document. Respondents are invited to consider this assessment in commenting on proposals. We would particularly welcome any input to our assessment of the practical implications of provisions. Where any provision would apply extra costs to local authorities the New Burdens Doctrine would apply.

Select Committee Contact Details

7. The House of Commons Environment, Food and Rural Affairs Committee has indicated its intention to conduct pre-legislative scrutiny of the draft Bill. The Committee is likely to invite written evidence on the draft Bill and, at this stage, expects to take oral evidence on the draft Bill in early March. Further information can be found at www.parliament.uk/efracom under 'Press Notices'.

Defra Contact Details

8. Respondents may also wish to send comments direct to Defra. Comments are requested by Friday 11th March.

To send us your views, please write to:

Patrick Erwin
NERC Bill Manager
Department for Environment, Food and Rural Affairs,
Area 3A, Ergon House,
Horseferry Road,
London, SW1P 3JR.

Alternatively, e-mail the Bill Team on nercbillenquiries@defra.gsi.gov.uk.

An electronic copy of this document, the draft Bill, Explanatory Notes and Regulatory Impact Assessment can all be found on the Defra website at:
www.defra.gov.uk/rural/ruraldelivery/bill. Hard copies can be purchased from The Stationary Office:

Online - www.tso.co.uk/bookshop
Telephone – 0870 600 5522
Fax – 0870 600 5533

BIODIVERSITY AND WILDLIFE PROTECTION

This appendix sets out the range of measures for possible inclusion in the Bill on introduction, to strengthen provisions on the protection of wildlife and habitats and to mainstream biodiversity considerations into all public policy and decision-making.

Biodiversity Duty

The Government's Biodiversity Strategy (October 2002) highlights the need to mainstream biodiversity into all policies and decisions. The forthcoming Environment Strategy for Wales is likely to contain a similar commitment. To achieve this vision, we are considering including in the Bill the provision that any public or statutory undertaker, public body or person holding public office in England and Wales must have regard to the purpose of conservation of biological diversity in the exercise of their functions and to further the conservation of the living organisms and types of habitat.

The intention is to help ensure that biodiversity becomes a natural consideration in the development of policies and decisions to ensure that public bodies work with the grain of nature and not against it. We do not anticipate that this will result in public bodies having to take specific actions in response to the duty, more that they would consider biodiversity in the formulation of their policy and the carrying out of their operations. A similar duty already exists in Scotland and in Greater London, and to certain bodies under the Countryside and Rights of Way Act 2000 (Section 74).

Wildlife and Habitat Protection

We propose to use the Bill specifically to strengthen wildlife protection through a range of measures, including:

- a. an offence of being in possession of unapproved pesticides. Amongst other things, this is intended to help combat continued abuse of pesticides to kill wild birds, especially birds of prey;
- b. an offence of importing or selling certain non-native plant species, in order to prevent the importation and sale of certain known invasive non-native plants and as a consequence, their potential subsequent release to the wild;
- c. a power for the Secretary of State to issue guidance on non-native plants and animals, in the form of codes of practice, with a view to preventing further introduction of such species to Great Britain; and,
- d. extension of the protection currently afforded to wild plants by prohibiting the collection of the seeds and spores of wild plants, in order to ensure their continued survival in the wild.

These measures are currently subject to public consultation as part of the Government's review of Part I of the 1981 'Wildlife and Countryside Act; more detail on the background and options is set out in the consultation document and any views on these measures should be submitted as part of that separate consultation exercise. Further information can be found at www.defra.gov.uk/corporate/consult/wildlifeact-part1. The measures have regard to the amendments introduced under the Nature Conservation (Scotland) Act 2004.

Protected sites play an important role in the protection of biodiversity and SSSI legislation was significantly enhanced in the Countryside and Rights of Way Act 2000. In this Bill, and without broadening the scope of those enhancements introduced in 2000, we propose to effect a small number of improvements (to be included in the Bill on introduction):

- making it an offence if a public body or statutory undertaker fails to comply with its existing duty to give notice before consenting to operations likely to damage sites;
- making it an offence to damage an SSSI or disturb its fauna (as an alternative to the existing offence which also requires proof of knowledge of the land's status);
- fixing a technicality so that the powers to add to or enlarge an SSSI are applicable to pre-1985 SSSIs; and
- providing a power for entering land to erect signs and notices to provide general information about SSSIs.

These provisions, which are further explored in the accompanying Regulatory Impact Assessment, would principally aim to secure better compliance with the existing legislation and to further deter decisions or actions likely to damage the sites.

NATIONAL PARKS, BROADS AND AREAS OF NATURAL BEAUTY

The Broads, National Parks and the Areas of Outstanding Natural Beauty (AONBs) are recognised as our finest landscapes and as leaders in sustainable land management. Subject to some further work, and views received, we may include in the Bill at a later stage a range of provisions to ensure that the statutory framework is sufficiently clear and flexible to enable them to operate efficiently and effectively.

Most of the measures we propose stem from the Review of English National Park Authorities (NPAs) carried out by Defra and published in July 2002² and the subsequent review of the Broads Authority. They are:

- to bring the first two purposes of the Broads Authority in line with NPAs;
- to allow the Broads Authority to introduce a Boat Safety Scheme;
- to allow the Broads Authority to require compulsory third party insurance for vessels using the Broads;
- to allow the Broads Authority to issue general directions to operators of vessels;
- to remove the expenditure constraint on NPAs' activities in pursuit of their socio-economic duty;
- to extend the maximum term of appointment for Secretary of State appointed members of NPAs from 3 to 4 years;
- to prevent breaks in local authority and parish councillors' service on NPAs during local elections; and
- to take powers to achieve the right balance of NPA membership (as between "local" and "national" members) given the variety of different circumstances and areas they serve.

We may further propose to use the Bill to transfer the Secretary of State's power to make an order preventing agricultural operations on moor and heath in National Parks to the NPAs. This will remove unnecessary bureaucratic hurdles and enable NPAs to take quick action when needed and speed is of the essence.

The draft Bill includes a consequential amendment to provide greater clarity to those "statutory undertakers" that must have regard to the purpose of AONBs under the CRoW Act 2000, bringing the provision in line with that for National Parks under the National Parks and Access to Countryside Act 1949 (Section 114). The intention is to provide greater certainty as to which bodies (for example, water and sewerage undertakers, and gas and electricity undertakers) are bound by the duty. For those AONBs with statutory Conservation Boards, we propose to use the Bill to remove the expenditure constraint on their socio-economic duty in line with the similar change for NPAs.

² A copy of the report, *Review of English National Park Authorities*, is available on the Defra website and from Defra Publications (Admail 6000, London. SW1A 2XX).

Natural Environment and Rural Communities Bill

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Make provision about bodies concerned with the natural environment and rural communities; to provide for flexible administrative arrangements in connection with functions relating to the environment and rural affairs and certain other functions; to make provision as to the Inland Waterways Amenity Advisory Council; and for connected purposes.

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

PART 1

THE AGENCY AND THE COMMISSION

CHAPTER 1

INTEGRATED AGENCY

The Agency and its general purpose

5

1 Integrated Agency

- (1) There is to be a body known as the Integrated Agency.
- (2) The Agency is to have the functions conferred on it by or under this Act or any other enactment.
- (3) Except where otherwise expressly provided, the Agency’s functions are exercisable in relation to England only. 10
- (4) English Nature and the Countryside Agency are dissolved and their functions are (subject to the provisions of this Act) transferred to the Agency.

- (5) Schedule 1 contains provisions about the constitution of the Agency and related matters.

2 Agency’s general purpose

- (1) The Agency’s general purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. 5
- (2) The Agency’s general purpose includes –
- (a) promoting nature conservation and protecting biodiversity,
 - (b) conserving and enhancing the English landscape,
 - (c) securing the provision and improvement of facilities for the study, understanding and enjoyment of nature, 10
 - (d) promoting access to the countryside and open spaces and encouraging open-air recreation, and
 - (e) contributing in other ways to social and economic well-being through management of the natural environment. 15

Review and research

3 Review

- (1) The Agency must keep under review all matters relating to its general purpose.
- (2) When reviewing any matter, the Agency must consult such bodies as appear to the Agency to have an interest in the matter. 20

4 Research

The Agency may –

- (a) undertake research into any matter relating to its general purpose, or
- (b) commission or support (by financial means or otherwise) research into any such matter. 25

General implementation powers

5 Carrying out proposals etc.

The Agency may –

- (a) carry out proposals which appear to it to further its general purpose, or
- (b) assist in, coordinate or promote the carrying out of such proposals by others. 30

6 Financial assistance by the Agency

- (1) The Agency may give financial assistance to any person, if doing so appears to the Agency to further its general purpose.
- (2) Financial assistance under this section may be given subject to conditions, including (in the case of a grant) conditions for repayment in specified circumstances. 35

7 Management agreements

- (1) The Agency may make an agreement (a “management agreement”) with a person who has an interest in land about the management or use of the land, if doing so appears to the Agency to further its general purpose.
- (2) A management agreement may, in particular –
 - (a) impose obligations on the person who has an interest in the land in respect of the use of the land;
 - (b) impose on the person who has an interest in the land restrictions on the exercise of rights over the land;
 - (c) provide for the carrying out of such work as may be expedient for the purposes of the agreement by any person or persons; 10
 - (d) provide for any matter for which a management scheme relating to a site of special scientific interest provides (or could provide);
 - (e) make provision for the making of payments by either party to the other party or to any other person; 15
 - (f) contain incidental and consequential provision.
- (3) A management agreement is, unless the agreement otherwise provides –
 - (a) binding on persons deriving title under or from the person with whom the Agency makes the agreement, and
 - (b) enforceable by the Agency against those persons. 20
- (4) Schedule 2 to the Forestry Act 1967 (c. 10) (power for tenant for life and others to enter into forestry dedication covenants) applies to management agreements as it applies to forestry dedication covenants.
- (5) “Interest in land” has the same meaning as in the National Parks and Access to the Countryside Act 1949 (c. 97). 25
- (6) “Management scheme” and “site of special scientific interest” have the same meaning as in Part 2 of the Wildlife and Countryside Act 1981 (c. 69).

8 Experimental schemes

- (1) The Agency may –
 - (a) make and carry out experimental schemes designed to establish ways in which its general purpose might be furthered, or 30
 - (b) promote the making and carrying out of such schemes.
- (2) A scheme is experimental if it involves –
 - (a) the development or application of new methods, concepts or techniques, or 35
 - (b) the testing or further development of existing methods, concepts or techniques.
- (3) Before making an experimental scheme, the Agency must consult such persons as appear to the Agency to have an interest in the subject matter of the scheme.
- (4) The Secretary of State may, in a particular case, authorise the Agency to acquire land compulsorily for the purposes of an experimental scheme. 40
- (5) The Acquisition of Land Act 1981 (c. 67) applies to compulsory acquisition of land under this section.

Other functions

9 Information services etc.

- (1) The Agency may –
- (a) publish documents or provide information about any matter relating to its general purpose, or 5
 - (b) assist in the provision of such publications or information.
- (2) Nothing in any other enactment imposing a duty or conferring a power on the Agency –
- (a) to publish or assist in the publication of documents of a particular kind, or 10
 - (b) to provide or assist in the provision of information of a particular kind, is to be read as limiting the power conferred by subsection (1).

10 Advisory and consultancy work

- (1) The Agency must, at the request of a public authority, give advice to that authority on any matter relating to the Agency’s general purpose. 15
- (2) Subsection (3) applies if the Agency has reason to believe that advice given under subsection (1) has been rejected.
- (3) At the request of the Agency, the public authority must inform the Agency in writing whether the advice has been rejected and, if so, why.
- (4) The Agency may give advice to any person on any matter relating to its general purpose – 20
- (a) at the request of that person, or
 - (b) if the Agency thinks it appropriate to do so, on its own initiative.
- (5) The matters in respect of which advice may be given under this section include, in relation to any power to make byelaws, recommendations as to the matters in respect of which byelaws should be made. 25
- (6) The Agency may, if the conditions in subsection (7) are met, place the services of the following persons at the disposal of a public authority –
- (a) the Agency’s officers or employees, or
 - (b) consultants engaged by it. 30
- (7) The conditions are that –
- (a) the Agency thinks that any matter relating to its general purpose presents special problems or requires special professional or technical skill, and
 - (b) the public authority has requested the Agency to act under subsection (6). 35

11 Power to charge for services and licences

- (1) The Agency may, with the consent of the Secretary of State, make such charges for its services as appear to it to be reasonable.
- (2) “Services” includes, in particular, anything done under – 40
- (a) section 9 (information services etc.);

- (b) section 10 (advisory and consultancy work).
- (3) The Secretary of State may by order make provision requiring charges to be paid in respect of, and for the purpose of meeting the cost of, issuing licences to which this subsection applies.
- (4) Subsection (3) applies to licences issued by the Agency under or by virtue of any enactment, other than licences for which charges are payable apart from this section. 5
- (5) The power to make an order under subsection (3) is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament. 10
- 12 Power to bring criminal proceedings**
- (1) The Agency may institute criminal proceedings.
- (2) A person who is authorised by the Agency to prosecute on its behalf in proceedings before a magistrates' court is entitled to prosecute in such proceedings even though he is not a barrister or solicitor. 15
- 13 Incidental powers**
- (1) The Agency may do anything that appears to it to be conducive or incidental to the discharge of its functions.
- (2) In particular, the Agency may – 20
- (a) enter into agreements;
 - (b) acquire or dispose of property;
 - (c) borrow money;
 - (d) subject to the approval of the Secretary of State, form bodies corporate or acquire or dispose of interests in bodies corporate; 25
 - (e) accept gifts;
 - (f) invest money.
- Powers of Secretary of State*
- 14 Grants**
- (1) The Secretary of State may make grants to the Agency of such amounts as the Secretary of State thinks fit. 30
- (2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.
- 15 Guidance**
- (1) The Secretary of State may give the Agency guidance as to the exercise of its functions. 35
- (2) The Secretary of State must publish any guidance given under this section in a way that the Secretary of State thinks is suitable.

16 Directions

- (1) The Secretary of State may give the Agency general or specific directions as to the exercise of its functions.
- (2) Subsection (1) does not apply to functions of the Agency that are exercisable through the Joint Nature Conservation Committee. 5
- (3) Any directions given under this section –
 - (a) must be in writing, and
 - (b) must be published by the Secretary of State in a way that the Secretary of State thinks is suitable.
- (4) The power to give directions under this section includes power to vary or revoke the directions. 10

CHAPTER 2

COMMISSION FOR RURAL COMMUNITIES

The Commission and its general purpose

17 Commission for Rural Communities 15

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

18 Commission's general purpose

- (1) The Commission's general purpose is to promote – 20
 - (a) awareness among relevant persons and the public of rural needs, and
 - (b) meeting rural needs in ways that contribute to sustainable development.
- (2) For the purposes of this Chapter – 25

“relevant person” means –

 - (a) a public authority, or
 - (b) a body which appears to the Commission to be concerned with any aspect of rural needs;

“rural needs” means the social and economic needs of persons in rural areas in England (especially the needs of those suffering from social disadvantage and economic under-performance). 30

Functions

19 Representation, advice and monitoring

- The Commission must take such steps as appear to it to be appropriate for –
- (a) representing rural needs to relevant persons, 35
 - (b) providing relevant persons with information and advice about issues connected with rural needs or ways of meeting them, and

- (c) monitoring the way in which policies adopted by relevant persons are implemented and the extent to which those policies are meeting rural needs.

20 Research

- The Commission may – 5
- (a) undertake research into any matter relating to its general purpose, or
 - (b) commission or support (by financial means or otherwise) research into any such matter.

21 Information services etc.

- The Commission may – 10
- (a) publish documents or provide information about any matter relating to its general purpose, or
 - (b) assist in the provision of such publications or information.

22 Power to charge for services

- (1) The Commission may, with the consent of the Secretary of State, make such charges for its services as appear to it to be reasonable. 15
- (2) “Services” includes, in particular, anything done under section 21.

23 Incidental powers

- (1) The Commission may do anything that appears to it to be conducive or incidental to the discharge of its functions. 20
- (2) In particular, the Commission may –
 - (a) enter into agreements;
 - (b) acquire or dispose of property;
 - (c) borrow money;
 - (d) accept gifts; 25
 - (e) invest money.

Powers of Secretary of State

24 Grants

- (1) The Secretary of State may make grants to the Commission of such amounts as the Secretary of State thinks fit. 30
- (2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit.

25 Directions

- (1) The Secretary of State may give the Commission general or specific directions as to the exercise of its functions. 35
- (2) Any directions given under this section –

- (a) must be in writing, and
 - (b) must be published by the Secretary of State in a way that the Secretary of State thinks is suitable.
- (3) The power to give directions under this section includes power to vary or revoke the directions. 5

CHAPTER 3

SUPPLEMENTARY

Transfer schemes etc.

26 Transfers on dissolution of English Nature and Countryside Agency

- (1) The power conferred by subsection (2) is exercisable in connection with the dissolution of English Nature and the Countryside Agency. 10
- (2) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities of English Nature or the Countryside Agency to – 15
 - (a) the Integrated Agency,
 - (b) the Commission,
 - (c) a regional development agency, or
 - (d) a Minister of the Crown.
- (3) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme. 20
- (4) A regional development agency is an agency established under section 1 of the Regional Development Agencies Act 1998 (c. 45).

27 Continuing powers to make transfer schemes

- (1) The powers conferred by this section are exercisable in connection with the efficient management for public purposes of any property, rights or liabilities. 25
- (2) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a Minister of the Crown to – 30
 - (a) the Agency,
 - (b) the Commission, or
 - (c) a person acting on behalf of the Agency and the Commission.
- (3) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of – 35
 - (a) the Agency, or
 - (b) the Commission,

to a Minister of the Crown.
- (4) On the transfer date, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.

28 Transfer schemes: supplementary

- (1) Schedule 3 contains further provisions relating to the making of schemes under sections 26 and 27.
- (2) In sections 26 and 27 and Schedule 3—
- “designated” in relation to a scheme, means specified in or determined in accordance with the scheme; 5
 - “the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.

29 Interim arrangements

The Secretary of State may by written notice require English Nature or the Countryside Agency to provide staff, premises and other facilities on a temporary basis to— 10

- (a) the Integrated Agency, or
- (b) the Commission.

Interpretation 15

30 Interpretation

- (1) In this Part—
- “the Agency” means the Integrated Agency;
 - “the Commission” means the Commission for Rural Communities;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26); 20
 - “nature conservation” means the conservation of flora, fauna or geological or physiographical features;
 - “research” includes inquiries and investigations.
- (2) For the purposes of this Part, a public authority is any of the following— 25
- (a) a Minister of the Crown;
 - (b) a public body (including a government department, a local authority and a local planning authority);
 - (c) a person holding an office— 30
 - (i) under the Crown,
 - (ii) created or continued in existence by a public general Act, or
 - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
 - (d) a statutory undertaker.
- (3) In subsection (2)— 35
- “local authority” means a county council, a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
 - “local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (c. 8); 40
 - “statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.

PART 2

NATURE CONSERVATION IN UK

*Joint Nature Conservation Committee etc.***31 Joint Nature Conservation Committee**

- The Joint Nature Conservation Committee – 5
- (a) is to continue in existence, but
 - (b) is to be re-constituted in accordance with Schedule 4.

32 UK conservation bodies

- (1) In this Part “the UK conservation bodies” means – 10
- (a) for England, the Integrated Agency;
 - (b) for Wales, the Countryside Council for Wales;
 - (c) for Scotland, Scottish Natural Heritage;
 - (d) for Northern Ireland, the Council for Nature Conservation and the Countryside.
- (2) In this Part “the GB conservation bodies” means the bodies mentioned in subsection (1)(a) to (c). 15

33 Purpose of functions under this Part

- (1) The UK conservation bodies and the joint committee have the functions conferred on them by this Part for the purposes of – 20
- (a) nature conservation, and
 - (b) fostering the understanding of nature conservation.
- (2) Each of them must, in discharging their functions under this Part, have regard to –
- (a) actual or possible ecological changes, and
 - (b) the desirability of contributing to sustainable development. 25

*Coordinated functions***34 Functions of national or international significance**

- (1) The UK conservation bodies have the functions described in subsection (2), but those functions may be discharged only through the joint committee.
- (2) The functions are – 30
- (a) providing advice to the appropriate authorities on the development and implementation of policies for or affecting any nature conservation matter which – 35
 - (i) arises throughout the United Kingdom and raises issues common to England, Wales, Scotland and Northern Ireland,
 - (ii) arises in one or more (but not all) of those places and affects the interests of the United Kingdom as a whole, or
 - (iii) arises outside the United Kingdom;

-
- (b) providing advice to any persons and disseminating knowledge about any matter falling within paragraph (a)(i), (ii) or (iii);
 - (c) establishing common standards throughout the United Kingdom for the monitoring of nature conservation and for research into nature conservation and the analysis of the resulting information; 5
 - (d) commissioning or supporting (whether by financial means or otherwise) research which the joint committee thinks is relevant to any matter mentioned in paragraphs (a) to (c).
- (3) “The appropriate authorities” means— 10
- (a) the Secretary of State (or any other Minister of the Crown),
 - (b) the National Assembly for Wales,
 - (c) the Scottish Ministers, and
 - (d) the relevant Northern Ireland department.
- 35 Advice from joint committee to UK conservation body**
- (1) The joint committee may give advice or information to any of the UK conservation bodies on any matter which— 15
- (a) is connected with the functions of that UK conservation body, and
 - (b) in the opinion of the joint committee— 20
 - (i) arises throughout the United Kingdom and raises issues common to England, Wales, Scotland and Northern Ireland,
 - (ii) arises in one or more (but not all) of those places and affects the interests of the United Kingdom as a whole, or
 - (iii) arises outside the United Kingdom.
- (2) In discharging their functions relating to nature conservation, the UK conservation bodies must have regard to any advice given to them under subsection (1). 25
- 36 GB functions with respect to wildlife**
- (1) The GB conservation bodies have the functions described in subsection (2), but those functions may be discharged only through the joint committee.
- (2) The functions are— 30
- (a) those under section 22(3) and 24(1) of the 1981 Act (listing of protected animals and plants);
 - (b) commissioning or supporting (whether by financial means or otherwise) research which the joint committee thinks is relevant to those functions. 35
- (3) “The 1981 Act” means the Wildlife and Countryside Act 1981 (c. 69).
- 37 UK conservation bodies: incidental powers for UK purposes, etc.**
- (1) Each of the UK conservation bodies may do anything that appears to it to be conducive or incidental to its functions under this Part.
- (2) In particular each of them may for the purposes of its functions under this Part— 40
- (a) acquire or dispose of property;
 - (b) accept gifts;

- (c) undertake research directly related to those functions if it appears appropriate to do so.
- (3) Nothing in any of the enactments concerning the functions of the UK conservation bodies prevents any of them –
 - (a) if requested to do so by any of the others, from giving advice or information to the other, or
 - (b) from giving advice or information to the joint committee.
- (4) “Enactment” includes an Act of the Scottish Parliament and Northern Ireland legislation.

Powers of Secretary of State 10

38 Grants

- (1) The Secretary of State may make grants to the joint committee of such amounts as the Secretary of State thinks fit.
- (2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit. 15

39 Directions

- (1) The Secretary of State may give the joint committee general or specific directions as to the discharge of any function under section 34 or 35 (but not as to the discharge of a function under section 36).
- (2) Any directions given under this section – 20
 - (a) must be in writing, and
 - (b) must be published by the Secretary of State in a way that the Secretary of State thinks is suitable.
- (3) The power to give directions under this section includes power to vary or revoke the directions. 25

Interpretation

40 Interpretation

In this Part –

- “the joint committee” means the Joint Nature Conservation Committee;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
- “nature conservation” means the conservation of flora, fauna or geological or physiographical features;
- “the relevant Northern Ireland department” means the Department of the Environment in Northern Ireland; 35
- “research” includes inquiries and investigations.

PART 3

FLEXIBLE ADMINISTRATIVE ARRANGEMENTS

CHAPTER 1

AGREEMENTS WITH DESIGNATED BODIES ETC.

Powers to enter into agreements 5

41 Agreement between a Minister and designated body

- (1) A Minister of the Crown may enter into an agreement with a designated body authorising that body to perform an eligible function of the Minister –
 - (a) wholly or to a specified extent;
 - (b) generally or in specified cases or areas; 10
 - (c) unconditionally or subject to specified conditions.
- (2) An agreement under this section –
 - (a) may be cancelled by the Minister at any time, and
 - (b) does not prevent the Minister from performing a function to which the agreement relates. 15
- (3) “Designated body” means a body listed in Schedule 5.
- (4) The Secretary of State may by order amend Schedule 5 so as to –
 - (a) add a body to the list, or
 - (b) remove a body from it.
- (5) The power to make an order under this section is exercisable by statutory instrument. 20
- (6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

42 Agreement between the Secretary of State and non-designated body

- (1) The Secretary of State may enter into an agreement with a non-designated body authorising that body to perform an eligible DEFRA function –
 - (a) wholly or to a specified extent;
 - (b) generally or in specified cases or areas;
 - (c) unconditionally or subject to specified conditions. 25
- (2) An agreement under this section –
 - (a) may be cancelled by the Secretary of State at any time, and
 - (b) does not prevent the Secretary of State from performing a function to which the agreement relates. 30
- (3) “Non-designated body” means a body which is not listed in Schedule 5.
- (4) “DEFRA function” means a function which, immediately before the agreement is entered into, is being performed by the Department for Environment, Food and Rural Affairs. 35

- (5) A certificate issued by the Secretary of State that a function is being performed as mentioned in subsection (4) is conclusive evidence of that fact.

43 Agreement between designated body and another body

- (1) A designated body (“A”) may, with the approval of the relevant Minister, enter into an agreement with a designated or non-designated body (“B”) authorising B to perform an eligible function of A – 5
- (a) wholly or to a specified extent;
- (b) generally or in specified cases or areas;
- (c) unconditionally or subject to specified conditions.
- (2) The Minister’s approval may be given – 10
- (a) in relation to a particular agreement or in relation to a description of agreements;
- (b) unconditionally or subject to specified conditions.
- (3) Subject to subsection (5), the relevant Minister – 15
- (a) must review an agreement under this section no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the relevant Minister, and
- (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (4) Subject to subsection (5), an agreement under this section may not be varied except – 20
- (a) by agreement between A and B, and
- (b) with the approval of the relevant Minister.
- (5) An approval given under subsection (1) may provide that subsection (3) or (4) does not apply (or that both of them do not apply). 25
- (6) “The relevant Minister” means – 30
- (a) if the agreement is between designated bodies, the Secretary of State;
- (b) if the agreement is between a designated body and a non-designated body for whom another Minister of the Crown has responsibility, the Secretary of State and that Minister acting jointly.
- (7) A Minister of the Crown has responsibility for a non-designated body if any of the members of the body are appointed by him.

44 Eligible functions

- (1) This section applies in relation to any power under this Chapter under which a person (“A”) may authorise another (“B”) to perform an eligible function (or an eligible DEFRA function) of A. 35
- (2) Any reference to a function is –
- (a) to a function that is exercisable in relation to England only, or
- (b) to so much of a function as is exercisable in relation to England.
- (3) A function is eligible if – 40
- (a) A thinks that it would be appropriate, having regard to B’s existing purposes, for B to perform the function, and
- (b) it is not a reserved function.

- (4) The reserved functions are –
 - (a) any power of a Minister of the Crown to make appointments, give guidance or directions or lay reports or accounts;
 - (b) any power to make subordinate legislation;
 - (c) any power to fix fees or charges other than a power prescribed for the purposes of this section by an order made by the Secretary of State; 5
 - (d) any function of an accounting officer in his capacity as such.
- (5) Eligible functions include powers to enter, inspect or take samples.
- (6) The power to make an order under subsection (4)(c) is exercisable by statutory instrument. 10
- (7) A statutory instrument containing an order under subsection (4)(c) is subject to annulment in pursuance of a resolution of either House of Parliament.

45 Maximum duration of agreement

The maximum period for which an agreement under this Chapter may authorise a body to perform a function of another person is 20 years. 15

Supplementary provisions

46 Powers of bodies authorised to perform functions

- (1) A designated body which is authorised under this Chapter to perform a function is to be treated as having power to carry out the function if doing so is compatible with the purposes for which the designated body was established. 20
- (2) A body which is authorised to perform a function under an agreement under this Chapter may, if the agreement provides for the powers in this subsection to apply –
 - (a) authorise a committee, sub-committee, member or employee of the body to carry out the function on its behalf; 25
 - (b) form a body corporate and authorise that body to carry out the function on its behalf.

47 Supplementary provisions with respect to agreements

- (1) In this section “agreement” means an agreement under this Chapter. 30
- (2) An agreement, and any approval given by the relevant Minister under section 43, must be in writing.
- (3) The Secretary of State must arrange for a copy of an agreement to be published in a way that the Secretary of State thinks is suitable for bringing it to the attention of persons likely to be affected by it. 35
- (4) An agreement may provide for payments to be made in respect of the performance of a function to which the agreement relates.
- (5) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction –
 - (a) requiring it to enter into an agreement; 40

-
- (b) prohibiting it from entering into an agreement;
- (c) requiring it to include, or prohibiting it from including, particular terms;
- (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of an agreement. 5
- (6) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c. 40) (restrictions on disclosure of information) applies in relation to an authorisation by a designated body under this Chapter as it applies in relation to an authorisation under section 69 of that Act by an office-holder.
- 48 Interpretation** 10
- In this Chapter –
- “designated body” has the meaning given in section 41(3);
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
- “non-designated body” has the meaning given in section 42(3); 15
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- CHAPTER 2**
- POWERS TO REFORM AGRICULTURAL ETC. BODIES
- Power to create boards* 20
- 49 Power to establish boards**
- (1) The appropriate authority may by order –
- (a) establish a body for a purpose or purposes falling within section 50, and
- (b) assign to it a function or functions falling within section 51.
- (2) The order must specify the area or areas in relation to which assigned functions are exercisable. 25
- (3) The areas which may be specified under subsection (2) are –
- (a) England or an area in England;
- (b) Wales or an area in Wales;
- (c) Scotland or an area in Scotland; 30
- (d) Northern Ireland or an area in Northern Ireland;
- (e) any combination of any of the areas mentioned in paragraphs (a) to (d).
- (4) In this Chapter –
- “the appropriate authority” has the meaning given by section 58;
- “board” means a body established by an order under this section; 35
- “section 49 order” means an order under this section.
- (5) A board is to be known by a name specified in the order.
- (6) Schedule 6 contains provisions about the constitution of boards and related matters.

50 Permissible purposes of boards

- (1) The purposes referred to in section 49(1)(a) are –
 - (a) increasing efficiency or productivity in an agricultural or related industry;
 - (b) improving marketing in an agricultural or related industry; 5
 - (c) improving or developing services that an agricultural or related industry provides or could provide to the community;
 - (d) improving the ways in which an agricultural or related industry contributes to sustainable development.
- (2) A section 49 order must specify – 10
 - (a) the purpose or purposes for which the board is established, and
 - (b) the industry to which the order relates.
- (3) For the purposes of subsection (2)(b), it does not matter whether the specified industry is regarded for any other purpose as –
 - (a) an industry, 15
 - (b) a group of industries, or
 - (c) a sector or sectors of an industry.
- (4) “Agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds. 20
- (5) “Related industry” means an industry which is concerned with the production, processing, manufacture, marketing or distribution of –
 - (a) anything (including any creature alive or dead) produced in the course of agriculture, and
 - (b) any product which is derived to any substantial extent from anything so produced. 25
- (6) “Services” includes environmental and educational services.

51 Permissible functions of boards

- (1) The functions referred to in section 49(1)(b) are –
 - (a) a function specified in Schedule 7 (a “Schedule 7 function”); 30
 - (b) a function which, immediately before the commencement of the section 49 order, is a function of an existing levy body (“an existing function”);
 - (c) a function which is a more limited version of a Schedule 7 function or an existing function;
 - (d) a function which is a combination of two or more Schedule 7 functions or existing functions; 35
 - (e) any additional function, if it appears to the appropriate authority –
 - (i) to be related or similar to, or connected with, any function being assigned by virtue of any of paragraphs (a) to (d), or
 - (ii) to be capable of being conveniently exercised in association with any function being so assigned. 40
- (2) In this Chapter “existing levy body” means –
 - (a) the British Potato Council;
 - (b) the Home-Grown Cereals Authority;
 - (c) the Horticultural Development Council; 45

- (d) the Meat and Livestock Commission;
- (e) the Milk Development Council.

52 Ancillary provisions

Schedule 8 makes further provision about the contents of a section 49 order.

Power to dissolve existing levy bodies and boards 5

53 Power to dissolve existing levy bodies

- (1) The appropriate authority may by order provide for the dissolution of any or all of the existing levy bodies.
- (2) If an order is made providing for the dissolution of the Home-Grown Cereals Authority, the order must provide for the Cereals Marketing Act 1965 (c. 14) to cease to have effect. 10
- (3) If an order is made providing for the dissolution of the Meat and Livestock Commission, the order must provide for the relevant provisions of the Agriculture Act 1967 (c. 22) to cease to have effect.
- (4) The relevant provisions of the 1967 Act are— 15
 - Part 1 (livestock and meat marketing);
 - Schedule 1 (the Meat and Livestock Commission);
 - Schedule 2 (supplementary provisions with respect to development schemes).
- (5) If an order is made providing for the dissolution of— 20
 - (a) the British Potato Council,
 - (b) the Horticultural Development Council, or
 - (c) the Milk Development Council,
 the order must provide for the revocation of the development council order establishing the Council. 25
- (6) “Development council order” has the meaning given by section 1(2) of the Industrial Organisation and Development Act 1947 (c. 40) (power to establish development councils etc.).

54 Power to dissolve board

- (1) The appropriate authority may by order provide for the dissolution of a board. 30
- (2) An order under this section must provide for the revocation of the section 49 order.

55 Dissolution: supplementary

- (1) Subsection (2) applies if an order is made providing for— 35
 - (a) the dissolution of an existing levy body, or
 - (b) the dissolution of a board.
- (2) The order may provide for the transfer of any property, rights or liabilities of the existing levy body or board.

- (3) Subsection (4) applies if an order is made providing for –
 - (a) the dissolution of an existing levy body, or
 - (b) the dissolution of a board in relation to which provision has been made by virtue of paragraph 4 of Schedule 8 (levies).
- (4) The order must provide for the application of any surplus – 5
 - (a) for the purposes for which the existing levy body or board was established, or
 - (b) for connected purposes.
- (5) “Surplus” means an amount by which the assets of the existing levy body or board exceeds its liabilities and expenses. 10

Powers of appropriate authority

56 Grants

- (1) The Secretary of State may make grants to a board of such amounts as the Secretary of State thinks fit.
- (2) A grant under this section may be made subject to such conditions as the Secretary of State thinks fit. 15

57 Directions

- (1) The appropriate authority may give a board general or specific directions as to the exercise of its functions.
- (2) Any directions given under this section – 20
 - (a) must be in writing, and
 - (b) must be published in a way that the appropriate authority thinks is suitable.
- (3) The power to give directions under this section includes power to vary or revoke the directions. 25

Supplementary

58 “The appropriate authority”

- (1) In this Chapter “the appropriate authority” means –
 - (a) in relation to matters concerning England only, the Secretary of State;
 - (b) in relation to matters concerning Wales only, the National Assembly for Wales; 30
 - (c) in relation to matters concerning Scotland only, the Scottish Ministers;
 - (d) in relation to matters concerning Northern Ireland only, the relevant Northern Ireland department;
 - (e) in relation to the matters listed in subsection (2), the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers or (as the case may be) the relevant Northern Ireland department. 35
- (2) The matters referred to are –

-
- (a) making a section 49 order establishing a board which has cross-border functions;
 - (b) dissolving such a board or an existing levy body;
 - (c) making appointments to such a board or exercising other powers in relation to a cross-border function of a board. 5
- (3) “Cross-border functions” means functions relating to –
- (a) England, and
 - (b) Wales, Scotland or Northern Ireland.
- (4) In this Chapter “the relevant Northern Ireland department” means the Department of Agriculture and Rural Development in Northern Ireland. 10
- 59 Orders: procedure etc.**
- (1) An order under this Chapter may include supplementary, incidental, consequential, transitory, transitional or saving provision.
- (2) An order under this Chapter making provision of a description referred to in subsection (1) may – 15
- (a) amend or repeal any enactment, or
 - (b) amend or revoke any subordinate legislation, whenever passed or made.
- (3) “Enactment” includes Acts of the Scottish Parliament and Northern Ireland legislation. 20
- (4) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30), except that it includes any instrument made under an Act of the Scottish Parliament and any instrument within the meaning of section 1(c) of the Interpretation Act (Northern Ireland) 1954 (c. 33 N.I.).
- (5) Subject to subsection (6), any power to make an order under this Chapter is exercisable by statutory instrument. 25
- (6) Any power of the relevant Northern Ireland department to make an order under this Chapter is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12)).
- (7) An order under this Chapter may not be made – 30
- (a) by the Secretary of State, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament;
 - (b) by the Scottish Ministers, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament; 35
 - (c) by the relevant Northern Ireland department, unless a draft of the statutory rule containing the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

CHAPTER 3

FINANCIAL ASSISTANCE

60 Financial assistance

- (1) The Secretary of State may give or arrange for the giving of financial assistance in respect of expenditure incurred or to be incurred in any matter connected with a DEFRA function. 5
- (2) Financial assistance under this section may be given subject to such conditions as may be determined by, or in accordance with arrangements made by, the Secretary of State.
- (3) The conditions may, in particular, include (in the case of a grant) conditions for repayment in specified circumstances. 10
- (4) “DEFRA function” means a function which is being performed by the Department for Environment, Food and Rural Affairs.
- (5) A certificate issued by the Secretary of State that a function is being performed as mentioned in subsection (4) is conclusive evidence of that fact. 15

PART 4

INLAND WATERWAYS

61 Inland Waterways Advisory Council

The body established by section 110 of the Transport Act 1968 (c. 73) and known as the Inland Waterways Amenity Advisory Council is to be known instead as the Inland Waterways Advisory Council. 20

62 Constitution of Council

For section 110 of the 1968 Act substitute –

“110 The Inland Waterways Advisory Council

- (1) There is to be a body known as the Inland Waterways Advisory Council (“the Council”). 25
- (2) The Council is to consist of a chairman and not less than 12 other members.
- (3) The chairman is to be appointed by the Secretary of State after consulting the Scottish Ministers. 30
- (4) Two of the members are to be appointed by the Scottish Ministers after consulting the Secretary of State.
- (5) In making those appointments, the Scottish Ministers must have regard to the desirability of appointing persons who appear to them to have specialist knowledge of Scotland. 35
- (6) The other members of the Council are to be appointed by the Secretary of State.

- (7) The members must include persons who appear to the person making the appointment to have wide knowledge of, and interest in, inland waterways.”

63 Term of office, procedure etc.

After section 110 of the 1968 Act insert –

5

“110A Term of office, procedure etc.

- (1) The members of the Council –
- (a) hold and vacate office in accordance with their terms of appointment, and
 - (b) on ceasing to hold office, are eligible for reappointment;
- but a member may at any time resign his office by notice in writing to the Secretary of State or (as the case may be) the Scottish Ministers. 10
- (2) The Council –
- (a) may, with the approval of the Secretary of State and after consulting the Scottish Ministers, appoint such regional committees as they think fit, and
 - (b) may appoint such other committees as they think fit. 15
- (3) The Council may determine the procedure (including quorum) of the Council or any committee.
- (4) The Secretary of State or the Scottish Ministers may pay the members of the Council –
- (a) travelling and other expenses;
 - (b) allowances for loss of remunerative time. 20
- (5) The Secretary of State may pay the chairman such remuneration as the Secretary of State may determine. 25
- (6) If the chairman receives such remuneration he is not to be paid any allowance under subsection (4) for loss of remunerative time.
- (7) The Secretary of State and the Scottish Ministers must pay the Council, in respect of each financial year, the amount that the Secretary of State and the Scottish Ministers agree is required for the performance during that year of the functions of the Council. 30
- (8) “Financial year” means –
- (a) the period beginning with the date on which this section comes into force and ending with the next 31st March, and
 - (b) each subsequent period of 12 months ending with 31st March.” 35

64 Functions of Council: England and Wales

After section 110A of the 1968 Act insert –

“110B Functions of Council: England and Wales

- (1) The Council –
- (a) shall provide the Secretary of State and navigation authorities with such advice as appears to the Council appropriate about 40

	matters relevant to inland waterways in England and Wales, and	
	(b) may provide any other interested person with such advice.	
	(2) “Navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock.	5
	(3) “Interested person”, in relation to any matter, means a person appearing to the Council to have a sufficient interest in the matter.”	
65	Functions of Council: Scotland	10
	After section 110B of the 1968 Act insert –	
	“110C Functions of Council: Scotland	
	(1) The Council –	
	(a) shall provide the Scottish Ministers and the Waterways Board with such advice as appears to the Council appropriate about matters relevant to inland waterways in Scotland –	15
	(i) which are owned or managed by the Waterways Board, or	
	(ii) in respect of which the Waterways Board is providing technical advice or assistance, and	20
	(b) may provide any other interested person with such advice.	
	(2) “Interested person”, in relation to any matter, means a person appearing to the Council to have a sufficient interest in the matter.”	
	PART 5	
	MISCELLANEOUS AND SUPPLEMENTARY	25
66	Time limit on proceedings for certain offences	
	Schedule 9 contains provisions extending the time limit for summary proceedings for certain offences relating to wildlife.	
67	Power to make further provision	
	(1) The Secretary of State may by order make such supplementary, incidental, consequential, transitory, transitional or saving provision as the Secretary of State considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.	30
	(2) An order under subsection (1) may –	
	(a) amend or repeal any enactment contained in an Act passed on or before the last day of the Session in which this Act is passed;	35
	(b) amend or revoke any subordinate legislation made before the passing of this Act.	
	(3) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).	40

- (4) The power to make an order under subsection (1) is exercisable by statutory instrument.
- (5) An order under subsection (1) which contains any provision (whether alone or with other provisions) made by virtue of subsection (2)(a) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament. 5
- (6) A statutory instrument containing any other order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.
- 68 Minor and consequential amendments etc.** 10
- (1) Schedule 10 contains minor and consequential amendments.
- (2) Schedule 11 contains repeals and revocations.
- 69 Commencement**
- (1) The preceding provisions of this Act come into force on such day as the Secretary of State may appoint by an order made by statutory instrument. 15
- (2) Different days may be appointed for different purposes.
- 70 Extent**
- (1) Except as provided by this section, this Act extends to England and Wales only.
- (2) Part 2 (nature conservation in UK) extends also to Scotland and Northern Ireland. 20
- (3) In Part 3 (flexible administrative arrangements) the following extend also to Scotland and Northern Ireland—
- (a) Chapter 2 (powers to reform agricultural etc. bodies);
 - (b) Chapter 3 (financial assistance).
- (4) Part 4 (inland waterways) extends also to Scotland. 25
- (5) Subject to subsection (6), this Part extends also to Scotland and Northern Ireland, so far as necessary.
- (6) The amendments, repeals and revocations in Schedules 9 to 11 have the same extent as the provisions to which they relate (except where any of those Schedules provides otherwise). 30
- 71 Short title**
- This Act may be cited as the Natural Environment and Rural Communities Act 2005.

SCHEDULES

SCHEDULE 1

Section 1

INTEGRATED AGENCY

Status

- | | | |
|---|--|----|
| 1 | The Agency is to be a body corporate. | 5 |
| 2 | Subject to paragraph 22 (nature reserves), the Agency is not to be regarded –
(a) as a servant or agent of the Crown, or
(b) as enjoying any status, privilege or immunity of the Crown,
and the Agency’s property is not to be regarded as property of, or held on behalf of, the Crown. | 10 |

Membership

- | | | |
|---|--|----|
| 3 | (1) The Agency is to consist of –
(a) a chairman appointed by the Secretary of State, and
(b) such other number of members as the Secretary of State may appoint.
(2) The Secretary of State must consult the chairman before appointing the other members. | 15 |
| 4 | The Secretary of State may appoint one of the members to be deputy chairman. | |

Term of office

- | | | |
|---|---|----|
| 5 | Subject to paragraphs 6 to 8, a member holds and vacates office in accordance with the terms of his appointment. | 20 |
| 6 | A member may resign by giving written notice to the Secretary of State. | |
| 7 | The Secretary of State may remove a member who –
(a) has been absent from meetings of the Agency for a period longer than 6 months without the permission of the Agency,
(b) has become bankrupt or has made an arrangement with his creditors or has had his estate sequestrated in Scotland, or
(c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties. | 25 |
| 8 | A person ceases to be chairman or deputy chairman if he –
(a) resigns that office by giving written notice to the Secretary of State, or
(b) ceases to be a member. | 30 |
| 9 | A person who – | |

- (a) ceases to be a member, or
 - (b) ceases to be chairman or deputy chairman,
- is eligible for reappointment to that office.

Remuneration and pensions etc.

- 10 The Agency may pay to the members such remuneration and allowances as the Secretary of State may determine. 5
- 11 If required to do so by the Secretary of State, the Agency must—
- (a) pay such pensions, gratuities or allowances to or in respect of any member as the Secretary of State may determine;
 - (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any member. 10
- 12 (1) This paragraph applies if—
- (a) a person ceases to be a member, and
 - (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation. 15
- (2) The Secretary of State may require the Agency to pay the person such amount as the Secretary of State may determine.

Staff 20

- 13 (1) The Agency must appoint a person to be chief executive, but may only appoint a person who has been approved by the Secretary of State.
- (2) The chief executive is an employee of the Agency.
- (3) The Secretary of State may appoint the first chief executive.
- 14 The Agency may appoint other employees. 25
- 15 If required to do so by the Secretary of State, the Agency must—
- (a) pay such pensions, gratuities or allowances to or in respect of any employee as the Secretary of State may determine;
 - (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any employee. 30
- 16 (1) Employment with the Agency is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) applies.
- (2) The Agency must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act. 35

Procedure

- 17 The Agency may determine its own procedure (including quorum). 40
- 18 No proceeding is invalidated by —

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

Discharge of functions

- 19 (1) The Agency may authorise a committee, sub-committee, member or employee of the Agency to exercise any of the Agency’s functions. 5
- (2) Sub-paragraph (1) does not prevent the Agency from exercising the function itself or affect the power of the Agency to authorise an employee to carry out functions of the Agency.

Membership of committees and sub-committees

- 20 (1) A committee or sub-committee may include persons who are not members of the Agency. 10
- (2) The Agency may pay such remuneration and allowances as Secretary of State may determine to any person who—
- (a) is a member of a committee or sub-committee, but
 - (b) is not a member or employee of the Agency. 15

Application of seal and proof of documents

- 21 (1) The application of the Agency’s seal must be authenticated by the signature of—
- (a) a member of the Agency who is authorised (generally or specially) for that purpose, or 20
 - (b) an employee who is so authorised.
- (2) A document purporting to be duly executed under the seal of the Agency—
- (a) is to be received in evidence, and
 - (b) is to be treated as so executed unless the contrary is shown.

Nature reserves 25

- 22 (1) This paragraph applies to land in which the Agency has an interest and which is managed as a nature reserve.
- (2) For the purposes of the application of any enactment or rule of law to the land the Agency is to be treated as a government department.
- (3) An interest in land includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement. 30

Reports, accounts etc.

- 23 (1) As soon as possible after the end of each financial year, the Agency must—
- (a) prepare an annual report on how it has discharged its functions during the year, and 35
 - (b) send a copy of the report to the Secretary of State.
- (2) The Secretary of State must lay a copy of the report before each House of Parliament.

- (3) In this paragraph and paragraph 24, “financial year” means –
- (a) the period beginning with the day on which the Agency is established and ending with the next 31st March, and
 - (b) each subsequent period of 12 months ending with 31st March.
- 24 (1) The Agency must keep proper accounts and proper records in relation to the accounts. 5
- (2) As soon as possible after the end of each financial year, the Agency must –
- (a) prepare a statement of accounts in respect of that financial year, and
 - (b) send copies of the statement to the Secretary of State and the Comptroller and Auditor General. 10
- (3) The statement must be in such form as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must –
- (a) examine, certify and report on the statement, and
 - (b) lay a copy of the statement and his report before each House of Parliament. 15
- 25 (1) The Agency must provide the Secretary of State with such information as he may require relating to the Agency’s property or to the discharge or proposed discharge of its functions.
- (2) The Agency must also –
- (a) permit any person authorised by the Secretary of State to inspect and make copies of any accounts or other documents of the Agency, and
 - (b) provide such explanation of them as that person or the Secretary of State may require. 20

SCHEDULE 2

Section 17

COMMISSION FOR RURAL COMMUNITIES 25

Status

- 1 The Commission is to be a body corporate.
- 2 The Commission is not to be regarded –
- (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, privilege or immunity of the Crown, and the Commission’s property is not to be regarded as property of, or held on behalf of, the Crown. 30

Membership

- 3 (1) The Commission is to consist of –
- (a) a chairman appointed by the Secretary of State, and
 - (b) such other number of members as the Secretary of State may appoint. 35
- (2) The Secretary of State must consult the chairman before appointing the other members.

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

Term of office

- 5 Subject to paragraphs 6 to 8, a member holds and vacates office in accordance with the terms of his appointment. 5
- 6 A member may resign by giving written notice to the Secretary of State.
- 7 The Secretary of State may remove a member who—
- (a) has been absent from meetings of the Commission for a period longer than 6 months without the permission of the Commission,
 - (b) has become bankrupt or has made an arrangement with his creditors or has had his estate sequestrated in Scotland, or 10
 - (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.
- 8 A person ceases to be chairman or deputy chairman if he—
- (a) resigns that office by giving written notice to the Secretary of State, or 15
 - (b) ceases to be a member.
- 9 A person who—
- (a) ceases to be a member, or
 - (b) ceases to be chairman or deputy chairman,
- is eligible for reappointment to that office. 20

Remuneration and pensions etc.

- 10 The Commission may pay to the members such remuneration and allowances as the Secretary of State may determine.
- 11 If required to do so by the Secretary of State, the Commission must—
- (a) pay such pensions, gratuities or allowances to or in respect of any member as the Secretary of State may determine; 25
 - (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any member.
- 12 (1) This paragraph applies if— 30
- (a) a person ceases to be a member, and
 - (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.
- (2) The Secretary of State may require the Commission to pay the person such amount as the Secretary of State may determine. 35

Staff

- 13 (1) The Commission must appoint a person to be chief executive, but may only appoint a person who has been approved by the Secretary of State.
- (2) The chief executive is an employee of the Commission. 40
- (3) The Secretary of State may appoint the first chief executive.

14	The Commission may appoint other employees.	
15	If required to do so by the Secretary of State, the Commission must—	
	(a) pay such pensions, gratuities or allowances to or in respect of any employee as the Secretary of State may determine;	
	(b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any employee.	5
16	(1) Employment with the Commission is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) applies.	10
	(2) The Commission must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.	
	<i>Procedure</i>	15
17	The Commission may determine its own procedure (including quorum).	
18	No proceeding is invalidated by—	
	(a) a vacancy in the office of chairman, or	
	(b) any defect in the appointment of any member.	
	<i>Discharge of functions</i>	20
19	(1) The Commission may authorise a committee, sub-committee, member or employee of the Commission to exercise any of the Commission's functions.	
	(2) Sub-paragraph (1) does not prevent the Commission from exercising the function itself or affect the power of the Commission to authorise an employee to carry out functions of the Commission.	25
	<i>Membership of committees and sub-committees</i>	
20	(1) A committee or sub-committee may include persons who are not members of the Commission.	
	(2) The Commission may pay such remuneration and allowances as Secretary of State may determine to any person who—	30
	(a) is a member of a committee or sub-committee, but	
	(b) is not a member or employee of the Commission.	
	<i>Application of seal and proof of documents</i>	
21	(1) The application of the Commission's seal must be authenticated by the signature of—	35
	(a) a member of the Commission who is authorised (generally or specially) for that purpose, or	
	(b) an employee who is so authorised.	
	(2) A document purporting to be duly executed under the seal of the Commission—	40
	(a) is to be received in evidence, and	

(b) is to be treated as so executed unless the contrary is shown.

Reports, accounts etc.

- 22 (1) As soon as possible after the end of each financial year, the Commission must—
- (a) prepare an annual report on how it has discharged its functions during the year, and 5
 - (b) send a copy of the report to the Secretary of State.
- (2) The Secretary of State must lay a copy of the report before each House of Parliament.
- (3) In this paragraph and paragraph 23, “financial year” means— 10
- (a) the period beginning with the day on which the Commission is established and ending with the next 31st March, and
 - (b) each subsequent period of 12 months ending with 31st March.
- 23 (1) The Commission must keep proper accounts and proper records in relation to the accounts. 15
- (2) As soon as possible after the end of each financial year, the Commission must—
- (a) prepare a statement of accounts in respect of that financial year, and
 - (b) send copies of the statement to the Secretary of State and the Comptroller and Auditor General. 20
- (3) The statement must be in such form as the Secretary of State may direct.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement, and
 - (b) lay a copy of the statement and his report before each House of Parliament. 25
- 24 (1) The Commission must provide the Secretary of State with such information as he may require relating to the Commission’s property or to the discharge or proposed discharge of its functions.
- (2) The Commission must also—
- (a) permit any person authorised by the Secretary of State to inspect and make copies of any accounts or other documents of the Commission, and 30
 - (b) provide such explanation of them as that person or the Secretary of State may require.

SCHEDULE 3

Section 28 35

TRANSFER SCHEMES

Creation and apportionment of property, rights and liabilities etc.

- 1 A scheme may—
- (a) create for the transferor interests in or rights over property transferred by virtue of the scheme; 40

- (b) create for the transferee interests in or rights over property retained by the transferor;
 - (c) create rights or liabilities between the transferor and the transferee.
- 2 (1) A scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned. 5
- (2) In particular, it may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question. 10
- (3) It does not matter whether the provision referred to in sub-paragraph (2) has effect under an enactment or an agreement or in any other way.
- 3 A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact. 15

Employment contracts

- 4 (1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.
- (2) The contract of employment –
- (a) is not terminated by the transfer, and 20
 - (b) has effect from the transfer date as if made between the employee and the transferee.
- (3) The rights, powers, duties and liabilities of the transferor under or in connection with the contract are transferred to the transferee on the transfer date. 25
- (4) Anything done before the transfer date by or in relation to the transferor in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the transferee.
- (5) This paragraph is subject to paragraph 5.
- 5 (1) Rights and liabilities under a contract of employment are not transferred under this Schedule if the employee informs the transferor or transferee that he objects to the transfer. 30
- (2) If the employee informs the transferor or transferee that he objects –
- (a) his contract of employment is terminated immediately before the transfer date, but 35
 - (b) he is not to be treated, for any purpose, as having been dismissed by the transferor.
- 6 Nothing in this Schedule affects any right a person has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions. 40

Civil servants treated as employed under a contract of employment etc.

- 7 (1) This Schedule applies with the following modifications in relation to employment in the civil service of the State on terms which do not constitute a contract of employment.
- (2) In the case of an individual who holds employment in the civil service of the State immediately before the transfer date—
- (a) he is to be treated as employed by virtue of a contract of employment,
 - (b) the terms of that employment are to be regarded as constituting the terms of that contract, and
 - (c) the reference in paragraph 5 to dismissal by the transferor is to termination of that employment.
- (3) In the case of an individual who is to hold employment in the civil service of the State on and after the transfer date, the terms and conditions of his contract of employment immediately before that date have effect on and after that date as if they were terms and conditions of his employment in the civil service of the State.

Compensation

- 8 A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

Continuity

- 9 A transfer under this Schedule does not affect the validity of anything done by or relation to the transferor before the transfer takes effect.
- 10 Anything which—
- (a) is done by the transferor for the purposes of or otherwise in connection with anything transferred by virtue of a scheme, and
 - (b) is in effect immediately before the transfer date,
- is to be treated as done by the transferee.
- 11 There may be continued by or in relation to the transferee anything (including legal proceedings)—
- (a) which relates to anything transferred by virtue of a scheme, and
 - (b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.
- 12 (1) This paragraph applies to any document—
- (a) which relates to anything transferred by virtue of a scheme, and
 - (b) which is in effect immediately before the transfer date.
- (2) Any references in the document to the transferor are to be read as references to the transferee.

Incidental provision

- 13 A scheme may include supplementary, incidental, transitional and consequential provision.

SCHEDULE 4

Section 31

JOINT NATURE CONSERVATION COMMITTEE

Membership

- 1 (1) The joint committee is to consist of 14 members—
- (a) a chairman appointed by the Secretary of State, 5
 - (b) 5 members appointed by the Secretary of State,
 - (c) the chairman of each of the UK conservation bodies, and
 - (d) one other member of each of those bodies appointed—
 - (i) in the case of the GB conservation bodies, by that body, and
 - (ii) in the case of the Council for Nature Conservation and the Countryside, by the relevant Northern Ireland department. 10
- (2) The joint committee may appoint a member to be deputy chairman.
- 2 The members appointed by the Secretary of State must not be members of the UK conservation bodies.
- 3 (1) The members appointed by the Secretary of State must be persons appearing to the Secretary of State to have experience in or scientific knowledge of nature conservation. 15
- (2) Before appointing members under paragraph 1(1)(b), the Secretary of State must consult—
- (a) the chairman, and 20
 - (b) such persons having scientific knowledge of nature conservation as the Secretary of State thinks appropriate.

Term of office of members appointed by Secretary of State

- 4 Subject to paragraphs 5 and 6, a member appointed by the Secretary of State holds and vacates office in accordance with the terms of his appointment. 25
- 5 A member appointed by the Secretary of State may resign by giving him written notice.
- 6 The Secretary of State may remove a member appointed by him who—
- (a) has been absent from meetings of the joint committee for a period longer than 6 months without the permission of the joint committee, 30
 - (b) has become bankrupt or made an arrangement with his creditors, or has had his estate sequestrated in Scotland, or
 - (c) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his duties.

Remuneration and allowances etc. 35

- 7 The joint committee must pay to the members appointed by the Secretary of State such remuneration and allowances as the Secretary of State may determine.
- 8 If required to do so by the Secretary of State, the joint committee must—
- (a) pay such pensions, gratuities or allowances to or in respect of the chairman as the Secretary of State may determine, or 40

- (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of the chairman.
- 9 (1) This paragraph applies if—
- (a) a person ceases to be chairman, and 5
 - (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.
- (2) The Secretary of State may require the joint committee to pay the person such sum as the Secretary of State may determine. 10

Staff: general

- 10 The joint committee may, with the approval of the Secretary of State, appoint employees.
- 11 The joint committee must pay to their employees such remuneration and allowances as the joint committee may, with the approval of the Secretary of State, determine. 15
- 12 The joint committee may—
- (a) pay such pensions, gratuities or allowances to or in respect of any employee or former employee,
 - (b) pay such sums towards provision for the payment of such pensions, allowances or gratuities, or 20
 - (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities, as they may, with the approval of the Secretary of State, determine.

Formation of company 25

- 13 (1) With the consent of the Secretary of State, and subject to any conditions he may impose, the joint committee may form a company limited by guarantee the main objects of which fall within sub-paragraph (2).
- (2) The objects are—
- (a) providing administrative and corporate support services to the joint committee, including the employment of staff, for the purposes of its functions; 30
 - (b) making charges and holding land or any interest in or right over land for those purposes; and
 - (c) doing such other things as are conducive or incidental to the discharge of those functions. 35
- (3) The constitution of any company formed under this paragraph must include provision to ensure that only members of the joint committee are members of the company.
- (4) The members of any company formed under this paragraph must ensure that no-one is appointed, or continues to serve, as a director of the company who is not a member of the joint committee, or an employee of the joint committee or of the company. 40

- (5) Sub-paragraphs (2) and (4) do not affect the power of the UK conservation bodies acting through the joint committee to undertake anything mentioned in sub-paragraph (2) by virtue of Part 2.
- (6) Where a company is formed under this paragraph the requirements as to the approval of the Secretary of State apply in respect of appointment, payment and pension matters for employees and former employees of the company as they do in respect of employees or former employees of the joint committee under paragraphs 10 to 12. 5

Financial resources

- 14 (1) The funding bodies must provide the joint committee with such financial resources, as those bodies, after consultation with the joint committee, think appropriate for the proper discharge of the functions conferred by Part 2. 10
- (2) The expenses of the joint committee must be defrayed by the funding bodies in such proportions as those bodies may agree.
- (3) In default of agreement between the funding bodies as to any question arising under sub-paragraph (1) or (2) the Secretary of State is to determine the question. 15
- (4) The funding bodies are –
- (a) the GB conservation bodies, and
 - (b) the relevant Northern Ireland department. 20

Procedure

- 15 (1) The joint committee may determine their own procedure (including quorum).
- (2) No proceeding of the joint committee is invalidated by –
- (a) a vacancy among the members, or
 - (b) any defect in the appointment of any member. 25

Discharge of functions

- 16 (1) The joint committee may authorise any of their functions to be exercised by –
- (a) any member of the joint committee, 30
 - (b) a company formed under paragraph 13,
 - (c) any of the UK conservation bodies, or
 - (d) any employee of the joint committee, of such a company, or of any of those bodies.
- (2) Sub-paragraph (1) does not prevent the joint committee from doing anything that another person has been authorised to do. 35

Annual reports

- 17 (1) As soon as possible after the end of each financial year, the joint committee must –
- (a) prepare an annual report on how they have discharged their functions during the year, and 40

- (b) send a copy of the report to the appropriate authorities and the UK conservation bodies.
- (2) “The appropriate authorities” means –
 - (a) the Secretary of State,
 - (b) the National Assembly for Wales, 5
 - (c) the Scottish Ministers, and
 - (d) the relevant Northern Ireland department.
- (3) The Secretary of State must lay a copy of the report before each House of Parliament.
- (4) The Scottish Ministers must lay a copy of the report before the Scottish Parliament. 10
- (5) “Financial year” means the period of 12 months ending with 31st March.

SCHEDULE 5

Section 41

DESIGNATED BODIES

- 1 The Agricultural Wages Board for England and Wales. 15
- 2 A conservation board for an area of outstanding natural beauty in England.
- 3 The Board of Trustees of the Royal Botanic Gardens, Kew.
- 4 The British Potato Council.
- 5 The British Waterways Board.
- 6 The Broads Authority. 20
- 7 The Commission for Rural Communities.
- 8 The Consumer Council for Water.
- 9 The Environment Agency.
- 10 Food From Britain.
- 11 The Forestry Commissioners. 25
- 12 The Gangmasters’ Licensing Authority.
- 13 The Horticultural Development Council.
- 14 The Home-Grown Cereals Authority.
- 15 The Integrated Agency.
- 16 The Milk Development Council. 30
- 17 The Meat and Livestock Commission.
- 18 The National Forest Company.
- 19 A National Park authority established for a National Park in England.
- 20 The Seafish Industry Authority.

21 The Wine Standards Board.

SCHEDULE 6

Section 49

AGRICULTURAL ETC. BOARDS

Status

- 1 A board is (by virtue of this Schedule) a body corporate. 5
- 2 A board is not to be regarded –
- (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, privilege of immunity of the Crown,
- and the board’s property is not to be regarded as property of, or held on behalf of, the Crown. 10

Membership

- 3 A board is to consist of –
- (a) a chairman appointed by the appropriate authority, and
 - (b) such other number of members as the appropriate authority may appoint. 15
- 4 The appropriate authority may appoint one of the members to be deputy chairman.
- 5 A section 49 order may include provision as to qualification or disqualification for membership.

Term of office 20

- 6 A section 49 order may include provision as to –
- (a) the members’ term of office, and
 - (b) their removal from office.

Remuneration and pensions

- 7 A section 49 order may include provision – 25
- (a) as to the payment to the members of remuneration and allowances, and
 - (b) as to the payment of pensions, gratuities or allowances to or in respect of the members.

Staff 30

- 8 A section 49 order may include provision as to the appointment of employees, their remuneration and other terms of employment.

Reports, accounts etc.

- 9 A section 49 order may include provision requiring the board to prepare and submit reports to persons specified in the order. 35

8	Promoting or undertaking research into the incidence, prevention and cure of industrial diseases.	
9	Promoting or undertaking arrangements for encouraging the entry of persons into the industry.	
10	Promoting or undertaking research for improving arrangements for marketing and distributing products.	5
11	Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.	
12	Promoting arrangements – (a) for co-operative organisations, (b) for supplying materials and equipment, and (c) for marketing and distributing products.	10
13	Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.	
14	Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.	15
15	Promoting the improvement of accounting and costing practice and uniformity in accounting and costing practice, including in particular the formulation of standard costings.	20
16	Promoting or undertaking the collection and formulation of statistics.	
17	Advising on any matters relating to the industry (other than remuneration or conditions of employment) as to which the appropriate authority may request the board to advise, and undertaking inquiry for the purpose of enabling the board to advise on such matters.	25
18	Undertaking arrangements for making available information obtained, and for advising, on matters with which the board is concerned in the exercise of any of its functions.	

SCHEDULE 8

Section 52

ANCILLARY PROVISIONS RELATING TO BOARDS

30

Registers, returns and other information

1	(1) A section 49 order may include provision – (a) with respect to registration in a register kept by the board of persons carrying on business in a specified industry; (b) requiring the register to be made available (in accordance with the order) for inspection by the public; (c) under which any right to inspect the register is subject to the payment of a reasonable fee.	35
	(2) A section 49 order may include provision –	

- (a) conferring power on the board to require persons carrying on business in a specified industry to supply to the board returns and other information;
- (b) making the exercise of any power so conferred subject to the approval of the appropriate authority or to other conditions. 5

Investigative powers

- 2 (1) A section 49 order may include provision conferring a power of entry on authorised officers for the purpose of enabling them to carry out functions of the board.
- (2) A section 49 order may include provision conferring power on authorised officers to require persons of a description specified in the order – 10
 - (a) to provide information of a description so specified, or
 - (b) to produce documents of a description so specified.
- (3) “Authorised officer”, in relation to a power, means a person authorised to exercise the power by the board to which the section 49 order relates. 15
- (4) A section 49 order may include provision –
 - (a) enabling a board to hold inquiries;
 - (b) enabling a board to require a person to attend to give evidence;
 - (c) as to appeals against a requirement imposed by virtue of paragraph (b). 20

Reserve funds etc.

- 3 (1) A section 49 order may include provision for enabling the board to establish and maintain a reserve fund for the purposes of its functions.
- (2) A section 49 order may also make provision with respect to powers of investment over a reserve fund or any other money of the board which is not immediately required for any other purpose. 25
- (3) A section 49 order may confer on the board –
 - (a) power to borrow money;
 - (b) power to charge property.

Levies 30

- 4 (1) A section 49 order may include provision –
 - (a) for the imposition by the board of charges (“levies”) on such persons as may be specified in the order;
 - (b) requiring the approval of the appropriate authority to the imposition of levies; 35
 - (c) as to limits on the amounts of levies;
 - (d) for the recovery of levies in such ways and through such channels as may be specified in the order.
- (2) But a section 49 order may not include provision by virtue of subsection (1) except for the purpose of enabling a board – 40
 - (a) to meet its expenses in the exercise of its functions;
 - (b) to meet its administrative expenses;
 - (c) to further a purpose or the purposes for which it is established;

- (d) to establish a reserve fund.
- (3) The purpose for which any levies are imposed must be specified in the section 49 order.

Consultation

- 5 (1) A section 49 order may include provision requiring the board to consult a specified person or a specified description of persons before exercising a specified function or description of functions. 5
- (2) A section 49 order may include provision for the appointment of a Consumers' Committee which the board is required to consult in relation to specified matters. 10

Offences

- 6 (1) A section 49 order may create offences in relation to—
- (a) failing to comply with a requirement relating to registration;
 - (b) obstructing an authorised officer exercising a power of entry;
 - (c) failing to comply with a requirement to provide information or produce documents; 15
 - (d) neglecting or failing to comply with a requirement to attend to give evidence;
 - (e) providing false or misleading information to a board.
- (2) But the order may not make a person liable— 20
- (a) on summary conviction, to imprisonment or to a fine of more than the statutory maximum, or
 - (b) on conviction on indictment, to imprisonment for a term of more than 2 years.

SCHEDULE 9

Section 66 25

WILDLIFE OFFENCES: TIME LIMITS FOR PROCEEDINGS

Destructive Imported Animals Act 1932 (c. 12)

- 1 In section 6 (offences relating to importation etc. of musk rats without licence etc.), after subsection (2) insert—
- “(3) Proceedings in England and Wales for an offence under this section may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge. 30
 - (4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed. 35
 - (5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact. 40

- (6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Conservation of Seals Act 1970 (c. 30)

2 In section 5 (penalties for offences), after subsection (2) insert –

- “(3) Proceedings in England and Wales for an offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge. 5
- (4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed. 10
- (5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact. 15
- (6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Wildlife and Countryside Act 1981 (c. 69)

3 (1) Amend section 20 (summary prosecutions) as follows.

- (2) In subsection (2), for “Summary proceedings for an offence under this Part” substitute “Proceedings for a summary offence under this Part”. 20
- (3) In the heading, for “Summary prosecutions” substitute “Proceedings for summary offences”.
- (4) This paragraph extends to England and Wales only.

4 After section 51 insert – 25

“51A Summary prosecutions

- (1) Proceedings in England and Wales for a summary offence under this Part may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge. 30
- (2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact. 35
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

Deer Act 1991 (c. 54)

- 5 In section 9 (penalties for offences relating to deer), after subsection (2) insert—
- “(3) Proceedings for an offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge. 5
- (4) But subsection (3) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed. 10
- (5) For the purposes of subsection (3), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (6) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.” 15

Protection of Badgers Act 1992 (c. 51)

- 6 After section 12 insert—
- “12ZA Time limit for bringing summary proceedings (England and Wales)**
- (1) Proceedings in England and Wales for a summary offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge. 20
- (2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed. 25
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact. 30
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”

SCHEDULE 10

Section 68(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1 35

GENERAL

Hill Farming Act 1946 (c. 73)

- 1 In section 34 (power to enter on and inspect land), after subsection (2)

insert—

- “(3) This section applies in relation to land in England as if—
- (a) the function of authorising an officer to enter and inspect were an eligible function for the purposes of Chapter 1 of Part 3 of the Natural Environment and Rural Communities Act 2005 (agreements with designated bodies etc.), and 5
 - (b) for the purposes of an agreement under that Chapter relating to that function, the references to an officer of the appropriate Minister included references to an employee of the body authorised under the agreement to perform that function.” 10

Industrial Organisation and Development Act 1947 (c. 40)

- 2 In section 5 (restriction on disclosure of information), after subsection (3) insert—
- “(3A) Subsections (2) and (3) do not apply to disclosure—
- (a) by a development council established in relation to an industry whose activities include an agricultural activity; 15
 - (b) to, or to an officer of, the Integrated Agency;
 - (c) to, or to an officer of, the Commission for Rural Communities;
 - (d) to, or to an officer of, the Joint Nature Conservation Committee; 20
 - (e) to, or to an officer of a body specified in Schedule 5 to the Natural Environment and Rural Communities Act 2005;
 - (f) to, or to an officer of, a board established under Chapter 2 of Part 3 of the 2005 Act.” 25
- 3 (1) Amend section 9 (levies for certain purposes for industries for which there is no development council) as follows.
- (2) In subsection (1), for “not a development council” substitute “neither a development council nor a relevant board”.
- (3) After subsection (1) insert— 30
- “(1A) “Relevant board” means a board established under Chapter 2 of Part 3 of the Natural Environment and Rural Communities Act 2005.”

National Parks and Access to the Countryside Act 1949 (c. 97)

- 4 For the title of Part 1, substitute “The Countryside Council for Wales”.
- 5 (1) Amend section 1 (the Countryside Agency and the Countryside Council for Wales) as follows. 35
- (2) In subsection (1), omit—
- (a) “There shall be a Countryside Agency which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and”, and 40
 - (b) “corresponding” (in both places).
- (3) Omit subsection (2).
- (4) In the heading, omit “Countryside Agency and the”.

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- 6 (1) Amend section 3 (power of Minister to give directions to Agency or Council) as follows.
- (2) In subsection (1) –
- (a) for “the Agency or to the Council”, and
- (b) for “the Agency or Council”, 5
substitute “the Council”.
- (3) In the heading, for “Commission” substitute “the Council”.
- 7 In section 4A (application of Part 2 in Wales), in subsection (2), for “the Countryside Agency” substitute “the Agency”.
- 8 (1) Amend section 6 (general duties of Agency in relation to National Parks) as follows. 10
- (2) In subsection (1) omit “as soon as may be after the commencement of this Act, and thereafter”.
- (3) In subsection (4)(c), for “under this Act” substitute “under section 1 of the Derelict Land Act 1982 or section 16 of the Welsh Development Agency Act 1975”. 15
- 9 (1) Amend section 15 (meaning of “nature reserve”) as follows.
- (2) Number the provisions of section 15 as subsection (1) of that section.
- (3) After subsection (1) insert –
- “(2) Subsection (3) applies in relation to land in respect of which the Agency has made (or proposes to make) a declaration under section 35 of the 1981 Act that the land is a national nature reserve. 20
- (3) Nothing in subsection (1) is to be read as preventing the land from being managed both for a purpose mentioned in paragraph (a) or (b) of that subsection and for the purpose of enjoyment of nature and open-air recreation. 25
- (4) “The 1981 Act” means the Wildlife and Countryside Act 1981.”
- 10 (1) Amend section 15A (meaning of “Nature Conservancy Council”) as follows.
- (2) Number the provisions of section 15A as subsection (1).
- (3) In subsection (1) – 30
- (a) for “references to “the Nature Conservancy Council” are references” substitute “references to the appropriate conservation body are references”, and
- (b) in paragraph (a), for “English Nature” substitute “the Agency”.
- (4) After subsection (1) insert – 35
- “(2) In this Part of this Act –
- (a) “nature reserve agreement” means an agreement under section 7 of the 2005 Act for securing that land which it appears expedient in the national interest should be managed as a nature reserve shall be so managed, and 40
- (b) “the 2005 Act” means the Natural Environment and Rural Communities Act 2005.”

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- (5) In the heading for ““Nature Conservancy Council”” substitute “appropriate conservation body”.
- 11 (1) Amend section 16 (agreements for management of nature reserves) as follows.
- (2) In subsection (1), for “the Nature Conservancy Council” – 5
(a) in the first place where it occurs, substitute “The Council or Scottish Natural Heritage”, and
(b) in the second place where it occurs, substitute “the Council or (as the case may be) Scottish Natural Heritage”.
- (3) In subsection (3)(b) and (c), for “the Nature Conservancy Council” substitute “the Council or (as the case may be) Scottish Natural Heritage”. 10
- (4) In subsection (4), for “the Nature Conservancy Council”, substitute “the Council”.
- (5) For the heading substitute “Agreements for management of nature reserves in Scotland and Wales”. 15
- 12 In each of the following provisions for “the Nature Conservancy Council” substitute “the appropriate conservation body” –
- (a) section 17(1) and (2);
(b) section 18(1) and (2);
(c) section 19(1), (2), (3), (4) and (5); 20
(d) section 20(1), (2)(c) and (3);
(e) section 21(1) and (6);
(f) section 22;
(g) section 103(1);
(h) section 106(1). 25
- 13 In section 17 (compulsory acquisition of land for establishment of nature reserves) –
- (a) in subsection (2), for “agreement under the last foregoing section” substitute “nature reserve agreement or an agreement under section 16”, and 30
(b) in the heading, for “Conservancy” substitute “conservation body”.
- 14 In section 18 (compulsory acquisition of land for maintenance of nature reserves) –
- (a) in subsection (1), for “an agreement under the last but one foregoing section” substitute “a nature reserve agreement or an agreement under section 16”, and 35
(b) in the heading, for “Conservancy” substitute “conservation body”.
- 15 In section 19 (declarations as to what are nature reserves), in subsection (1), for “agreement entered into with them under the foregoing provisions of this Part of this Act” substitute “nature reserve agreement or an agreement under section 16”. 40
- 16 In section 21 (establishment of nature reserves by local authorities), in subsection (4), for “the Nature Conservancy Council” substitute “the appropriate conservation body, the Council or Scottish Natural Heritage”.

17	In section 50A (application of Part 4 in Wales), in subsection (2), for “Countryside Agency” substitute “the Agency”.	
18	In section 103 (general provisions as to acquisition of land), in subsection (1), for “Nature Conservancy Council” substitute “appropriate conservation body”.	5
19	In section 106 (supplementary provisions as to byelaws), in subsection (1), for “Nature Conservancy Council” substitute “appropriate conservation body”.	
20	In section 114 (interpretation), in subsection (1), for the definition of “the Agency” substitute— ““the Agency” means the Integrated Agency;”.	10
<i>Manoeuvres Act 1958 (7 & 8 Eliz. 2 c. 7)</i>		
21	In— (a) section 1 (power to authorise execution of manoeuvres), in subsection (3)(a)(iii), and (b) section 4 (manoeuvres commissions), in subsection (1)(d), for “Countryside Agency” substitute “Integrated Agency”.	15
<i>Public Records Act 1958 (c. 51)</i>		
22	(1) In Schedule 1 (definition of public records), amend Part 2 of the table at the end of paragraph 3 as follows. (2) Insert at the appropriate places— “Commission for Rural Communities.”, and “Integrated Agency.” (3) Omit the entries relating to English Nature and the Countryside Agency.	20
<i>Cereals Marketing Act 1965 (c. 14)</i>		
23	In section 6 (further non-trading functions of Authority), in subsection (2), omit “(subject to section 17(2) of this Act)”.	
24	In section 17 (offences in relation to scheme under section 16), omit— (a) subsection (2), and (b) in subsection (3), paragraph (c) and “or” preceding it.	30
<i>Superannuation Act 1965 (c. 74)</i>		
25	In section 39 (meaning of “public office” etc.), in subsection (1), in paragraph 7, omit the entry relating to English Nature.	
<i>Sea Fisheries Regulation Act 1966 (c. 38)</i>		
26	In section 5A (byelaws under section 5 for marine environmental purposes), in subsection (3)(a), for “English Nature” substitute “the Integrated Agency”.	35

Parliamentary Commissioner Act 1967 (c. 13)

- 27 (1) Amend Schedule 2 (departments and authorities subject to investigation) as follows.
- (2) Insert at the appropriate places –
- “Commission for Rural Communities.”, and 5
- “Integrated Agency.”
- (3) Omit the entries relating to the Countryside Agency and English Nature.

Agriculture Act 1967 (c. 22)

- 28 Omit section 24 (disclosure of information).

Countryside Act 1968 (c. 41)

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- 29 In the heading preceding section 1, for “Agency” substitute “Council for Wales”.

- 30 For section 1 (general functions of the Countryside Agency and the Countryside Council for Wales) substitute –

“1 General functions of the Countryside Council for Wales

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- (1) The purposes for which the Countryside Council for Wales is to exercise the functions conferred on them by this Act are those specified in section 130(2) of the Environmental Protection Act 1990.

- (2) The Council may –

- (a) make such charges for any of their services as they think fit, 20
- (b) accept any gift or contribution made to them for the purposes of any of their functions, and, subject to the terms of the gift or contribution and to the provisions of the National Parks and Access to the Countryside Act 1949 (in this Act referred to as “the Act of 1949”) and this Act, to apply it for those purposes, and 25
- (c) do all such things as are incidental to, or conducive to the attainment of the purposes of, any of their functions.”

- 31 (1) Amend section 2 (new functions of the Agency) as follows.

- (2) In subsection (1) –

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- (a) for “Agency and the Council shall each” substitute “Council shall”,
and
- (b) for “Agency or Council” (in both places) substitute “Council”.

- (3) In subsections (2) to (4) –

- (a) for “Agency and the Council” (in each place) substitute “Council”,
and 35
- (b) for “Agency or Council” (in each place) substitute “Council”.

- (4) In subsection (5) –

- (a) for “Agency or to the Council” substitute “Council”,
(b) for “Agency or, as the case may be, the Council” substitute “Council”,
and 40

-
- (c) in paragraph (b) –
- (i) for “Agency or Council” (in each place) substitute “Council”, and
 - (ii) for “provisions of section 1(2)” substitute “purposes mentioned in section 1(1)”. 5
- (5) In subsections (6) to (8) –
- (a) for “Agency and the Council” (in each place) substitute “Council”, and
 - (b) for “Agency or Council” (in each place) substitute “Council”.
- (6) In subsection (9) – 10
- (a) omit “Agency and the” and “Agency or”, and
 - (b) for “Exchequer grants under the Act of 1949” substitute “grants under section 16 of the Welsh Development Agency Act 1975”.
- (7) In the heading, for “Agency” substitute “Council”.
- 32 (1) Amend section 4 (experimental projects or schemes) as follows. 15
- (2) In subsection (1) –
- (a) for “Agency and the Council” substitute “Council”, and
 - (b) for “Agency or Council” substitute “Council”.
- (3) In subsection (3) for “Agency or, as the case may be, the Council” substitute “Council”. 20
- (4) In subsections (4) to (6) for “Agency or Council” (in each place) substitute “Council”.
- (5) In subsection (5) for “Agency or by the Council” substitute “Council”.
- (6) In subsection (6) for “Agency or of the Council” substitute “Council”.
- 33 In section 8 (country park: sailing, boating, bathing and fishing), in subsection (5), for “the Agency” substitute “the Integrated Agency”. 25
- 34 In section 12 (facilities in or near National Parks), in subsection (1), in the second sentence omit “and no grant shall be payable under paragraph (a) or paragraph (e) of section 97(1) of the Act of 1949 in respect of expenses incurred by the local planning authority under this subsection, or expenses in or in connection with the acquisition of land for the purposes of this subsection”. 30
- 35 In section 13 (lakes in national parks: control of boats etc.), in subsection (4), for “sections 1 and” substitute “section”.
- 36 (1) Amend section 15 (agreements in respect of areas of special scientific interest) as follows. 35
- (2) In –
- (a) subsection (1), for “the Nature Conservancy Council (in this section referred to as “the Council”)” substitute “the Council or Scottish Natural Heritage”, and 40
 - (b) in subsections (2) and (3), after “the Council” insert “or (as the case may be) Scottish Natural Heritage”.

- (3) In subsection (6), in the substituted subsection (4), for “the Council” substitute “Scottish Natural Heritage”.
- (4) Omit subsection (6A).
- 37 (1) Amend section 15A (compulsory purchase) as follows.
- (2) For subsection (1) substitute – 5
- “(1) The Agency or the Council may, in the circumstances set out in subsection (2), acquire compulsorily all or part of the land which it appears to that body expedient to acquire for the purpose of conserving flora, fauna, or geological or physiographical features of special interest.” 10
- (3) In subsection (2) –
- (a) in paragraph (a) –
- (i) for “Nature Conservancy Council” substitute “Agency or (as the case may be) the Council”, and
- (ii) for “such an agreement as is referred to in section 15(2)” substitute “an SSSI agreement”, and 15
- (b) in paragraph (b), for “such an agreement” substitute “an SSSI agreement”.
- (4) In subsection (4), for “Nature Conservancy Council” substitute “Agency or the Council”. 20
- (5) Omit subsection (5).
- (6) After subsection (5) insert –
- “(6) In this section “SSSI agreement” means –
- (a) in relation to the Agency, an agreement under section 7 of the 2005 Act imposing, for the purpose of conserving flora, fauna, or geological or physiographical features of special interest, restrictions on the exercise of rights over land by persons having an interest in the land, or 25
- (b) in relation to the Council such an agreement as is referred to in section 15(2).” 30
- 38 In section 23 (provision of facilities by Forestry Commissioners), in subsection (5) omit “Countryside Agency and the” and “each”.
- 39 In section 37 (protection for interests in countryside) for “, the Council, English Nature” substitute “Council”.
- 40 In section 41 (power to make byelaws and related provisions about wardens), for subsection (2) substitute – 35
- “(2) The Agency and the Council may make byelaws for the preservation of order and other purposes mentioned in subsection (1) –
- (a) in the case of the Agency, as respects land –
- (i) to which the public have rights of access under a management agreement under section 7 of the Natural Environment and Rural Communities Act 2005, or 40
- (ii) held by them for the purposes of an experimental scheme under section 8 of that Act, and 45

- (b) in the case of the Council, as respects land –
- (i) held by them for the purposes of section 4, or
- (ii) to which the public have access under an agreement under section 4(5)(b).”
- 41 In section 45 (agreements with landowners), in subsection (1), omit “the Agency,”. 5
- 42 (1) Amend section 46 (application of general provisions of 1949 Act) as follows.
- (2) In subsection (2) omit “references to the Nature Conservancy Council shall include references to the Agency and”.
- (3) In subsection (4), omit “experimental projects or schemes,”. 10
- 43 In section 49 (interpretation) in subsection (2), for the definition of “the Agency” substitute –
- ““the Agency” means the Integrated Agency;”.
- Conservation of Seals Act 1970 (c. 30)*
- 44 (1) Amend section 10 (power to grant licences) as follows. 15
- (2) In subsection (3), in paragraph (b), for “the Nature Conservancy Council” substitute “the appropriate nature conservation body”.
- (3) In subsection (5) for “a reference to “the Nature Conservancy Council” is a reference to English Nature,” substitute ““the appropriate nature conservation body” means the Integrated Agency,”. 20
- Superannuation Act 1972 (c. 11)*
- 45 In Schedule 1 (kinds of employment to which that Act applies) omit the entries relating to the Countryside Agency and English Nature and insert at the appropriate places –
- “Commission for Rural Communities.”, and 25
- “Integrated Agency.”
- Local Government Act 1974 (c. 7)*
- 46 For section 9 (grants and loans by the Countryside Agency and the Countryside Council for Wales) substitute –
- “9 Grants and loans by the Countryside Council for Wales 30**
- (1) In accordance with arrangements approved by the National Assembly for Wales, the Countryside Council for Wales may give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which, in the opinion of the Council, is conducive to the attainment of any of the purposes of – 35
- (a) the National Parks and Access to the Countryside Act 1949,
- (b) the Countryside Act 1968, or
- (c) the Countryside and Rights of Way Act 2000.

- (2) On making a grant or loan under this section the Countryside Council for Wales may impose such conditions as they think fit including (in the case of a grant) conditions for repayment in specified circumstances.
- (3) The exercise of the power of the Countryside Council for Wales under this section is subject to any directions given to the Council by the National Assembly for Wales.”

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House of Commons Disqualification Act 1975 (c. 24)

- 47 (1) Amend Schedule 1 (offices disqualifying for membership) as follows.
- (2) In Part 2 (bodies of which all members are disqualified), insert at the appropriate places –
 - “Commission for Rural Communities.”, and
 - “Integrated Agency.”
- (3) In Part 3 omit the entries relating to the Countryside Agency and English Nature.

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Race Relations Act 1976 (c. 74)

- 48 (1) Amend Schedule 1A (bodies and other persons subject to general statutory duty) as follows.
- (2) In Part 2 –
 - (a) omit the entry relating to English Nature,
 - (b) after the entry relating to the Commission for Racial Equality insert –
 - “Commission for Rural Communities.”, and
 - (c) after the entry relating to the Insolvency Rules Committee insert –
 - “Integrated Agency.”
- (3) In Part 3, omit the entry relating to the Countryside Agency.

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Import of Live Fish (England and Wales) Act 1980 (c. 27)

- 49 In section 1 (power to limit the import etc. of fish and fish eggs), in subsection (2) for “English Nature” substitute “the Integrated Agency”.

Highways Act 1980 (c. 66)

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- 50 In section 105B (procedure), in subsection (8), in paragraph (b) of the definition of “the consultation bodies”, for “the Countryside Agency, English Heritage and English Nature” substitute “the Integrated Agency and English Heritage”.
- 51 In section 119D (diversion of certain highways for protection of sites of special scientific interest), in subsection (12), in paragraph (a) of the definition of “the appropriate conservation body”, for “English Nature” substitute “the Integrated Agency”.

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| 52 | In section 119E (provisions supplementary to section 119D), in subsection (2), at the end of paragraph (a) insert “and” and omit paragraph (c) and the word “and” preceding it. | |
| 53 | In section 120 (exercise of powers of making public path extinguishment and diversion orders), in subsection (2)(c), for “Countryside Agency” substitute “Integrated Agency”. | 5 |
| 54 | In section 135A (temporary diversion for dangerous works), in subsection (6)(b), for “Countryside Agency” substitute “Integrated Agency”. | |

Animal Health Act 1981 (c. 22)

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| 55 | (1) Amend section 21 (destruction of wild life on infection other than rabies) as follows. | 10 |
| | (2) In subsection (3), for “Nature Conservancy Council” substitute “appropriate conservation body”. | |
| | (3) In subsection (9), in the definition of “Nature Conservancy Council”, for ““Nature Conservancy Council” means English Nature,” substitute ““appropriate conservation body” means the Integrated Agency,”. | 15 |
| 56 | In section 22 (powers of entry for section 21), in subsection (7) – | |
| | (a) in paragraph (a), for “a Nature Conservancy Council under section 132 of the Environmental Protection Act 1990 or by Scottish Natural Heritage under section 4(7) of the Natural Heritage (Scotland) Act 1991” substitute “the appropriate conservation body”, and | 20 |
| | (b) for “the Council” (in both places) substitute “the body”. | |

Wildlife and Countryside Act 1981 (c. 69)

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|----|---|----|
| 57 | In section 10 (exceptions to section 9), in subsection (5), for “Nature Conservancy Council” substitute “conservation body”. | 25 |
| 58 | In section 15 (endangered species (import and export)), in subsection (2), for “Nature Conservancy Councils” substitute “GB conservation bodies”. | |
| 59 | (1) Amend section 16 (power to grant licences) as follows. | |
| | (2) In subsections (9)(a) and (c), (10)(b) and (11), for “Nature Conservancy Council” substitute “conservation body”. | 30 |
| | (3) In subsection (10)(a) – | |
| | (a) for “Nature Conservancy Councils” substitute “GB conservation bodies”, and | |
| | (b) for “council” substitute “body”. | |
| 60 | (1) Amend section 22 (power to vary Schedules) as follows. | 35 |
| | (2) In subsection (3) – | |
| | (a) for “jointly to him by the Nature Conservancy Councils” substitute “to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2005 Act”; and | 40 |
| | (b) omit the words following paragraph (b). | |

- (3) After subsection (3) insert –
“(3A) The 2005 Act means the Natural Environment and Rural Communities Act 2005.”
- 61 (1) Amend section 24 (functions of Nature Conservancy Council) as follows.
- (2) In subsection (1) – 5
(a) for “Nature Conservancy Councils, acting jointly,” substitute “GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2005 Act”, and
(b) omit the words following paragraph (b).
- (3) After subsection (3) insert – 10
“(1A) The 2005 Act means the Natural Environment and Rural Communities Act 2005.”
- (4) In subsection (4), for “Nature Conservancy Councils” substitute “GB conservation bodies”.
- (5) For the heading substitute “Functions of GB conservation bodies”. 15
- 62 (1) Amend section 27 (interpretation of Part 1) as follows.
- (2) In subsection (1), in paragraph (c) of the definition of “authorised person”, for “Nature Conservancy Councils” substitute “GB conservation bodies”.
- (3) For subsection (3A) substitute –
“(3A) In this Part “the GB conservation bodies” means – 20
(a) the Integrated Agency,
(b) the Countryside Council for Wales, and
(c) Scottish Natural Heritage,
and references to a conservation body are to be read accordingly.”
- 63 Omit section 27A (construction of references to Nature Conservancy Council) and the heading preceding it. 25
- 64 Before section 28 insert –
- “Sites of special scientific interest and limestone pavements*
- 27AA Construction of references to the Agency**
- In sections 28 to 33 (which relate to sites of special scientific interest) “the Agency” means – 30
(a) in relation to England, the Integrated Agency, and
(b) in relation to Wales, the Council for the Countryside in Wales.”
- 65 In sections 28 to 32 (which relate to SSSIs) for “Nature Conservancy Council” and “Council” (or “Council’s”) substitute “Agency” (or “Agency’s”). 35
- 66 In section 28E (duties in relation to sites of special scientific interest), in subsection (3)(b), for “or section 15 of the 1968 Act” substitute “, section 15 of the 1968 Act or section 7 of the Natural Environment and Rural Communities Act 2005”. 40

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- 67 (1) Amend section 28G (statutory undertakers, etc.: general duty) as follows.
- (2) In subsection (3)(e), omit “(meaning the persons referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990)”.
- (3) After subsection (3) insert –
- “(4) “Statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.” 5
- 68 In section 33 (ministerial guidance as respects areas of special scientific interest) for “Nature Conservancy Councils” substitute “Agency”.
- 69 (1) Amend section 34 (limestone pavement orders) as follows. 10
- (2) For subsection (1) substitute –
- “(1) The Integrated Agency must notify any local planning authority in England of any limestone pavement in that authority’s area; and if the Countryside Council for Wales is of the opinion that any land in the Welsh countryside which comprises a limestone pavement is of special interest by reason of its flora, fauna or geological or physiographical features, they must notify that fact to the local planning authority in whose area the land is situated.” 15
- (3) In subsection (5), omit from “or Part” to the end.
- (4) In subsection (6), omit – 20
- (a) the definition of “the Agency”, and
- (b) paragraph (b) of the definition of “the relevant authority”.
- 70 Before section 35 insert –
- “Nature reserves, marine nature reserves and Ramsar sites*
- 34A Meaning of “appropriate conservation body” 25**
- In the following provisions of this Part “the appropriate conservation body” means –
- (a) in relation to England, the Integrated Agency;
- (b) in relation to Wales, the Countryside Council for Wales;
- (c) in relation to Scotland, Scottish Natural Heritage.” 30
- 71 (1) In sections 35 to 37 for “Nature Conservancy Council” and “Council” substitute “appropriate conservation body”.
- 72 In section 37A (Ramsar sites – wetlands of international importance), in subsections (1)(a) and (3) for “English Nature” substitute “the Integrated Agency”. 35
- 73 In section 39 (management agreements with owners and occupiers of land), omit subsection (5)(d).
- 74 (1) Amend section 41 (duties of agriculture Ministers with respect to the countryside) as follows.
- (2) Omit subsection (2). 40
- (3) In subsection (3), omit the words after paragraph (b).

- (4) In subsection (5), for the definitions of “management agreement” and “the relevant authority” substitute –
- ““management agreement” means –
- (a) in relation to England, an agreement under section 39 or section 7 of the Natural Environment and Rural Communities Act 2005, and 5
- (b) in relation to Wales, an agreement under section 39;
- “the relevant authority” has the same meaning as in section 39 except that in relation to England it also includes the Integrated Agency.” 10
- (5) Omit subsection (6).
- 75 Before section 42 insert –
- “41A Application of sections 42 to 45 in Wales**
- In sections 42 to 45 (which relate to National Parks) “the Agency” means – 15
- (a) in relation to England, the Integrated Agency, and
- (b) in relation to Wales, the Countryside Council for Wales.”
- 76 In section 42 (notification of agricultural operations on moor and heath in National Parks), in subsection (6), for “, the Nature Conservancy Council and the Countryside Agency” substitute “and the Agency”. 20
- 77 (1) Amend section 43 (maps of National Parks showing certain areas of moor or heath) as follows.
- (2) In subsection (1B) –
- (a) for “the Countryside Agency and the Countryside Council for Wales shall each” substitute “the Agency shall”, and 25
- (b) for “the Agency and the Council may each” substitute “the Agency may”.
- (3) In subsection (1C), for “the Agency or, as the case may be, the Council” substitute “the Agency”.
- 78 (1) Amend section 45 (power to vary orders designating National Park) as follows. 30
- (2) In subsection (1) –
- (a) for “Countryside Agency” (in both places) substitute “Agency”, and
- (b) omit “in England”.
- (3) Omit subsection (2). 35
- 79 (1) Amend section 47 (provisions with respect to the Countryside Agency) as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), omit “to the Countryside Agency or”.
- (4) For the heading substitute “Grants to the Countryside Council for Wales”. 40
- 80 In section 49 (extension of power to appoint wardens) –
- (a) in subsection (1), and

	(b) in subsection (4) (in both places), for “Countryside Agency” substitute “Integrated Agency”.	
81	(1) Amend section 50 (payments under certain agreements offered by authorities) as follows.	
	(2) In subsection (1), in paragraph (a), for “the Nature Conservancy Council offer to enter into an agreement under” substitute “the Integrated Agency or the Countryside Council for Wales offer to enter into a nature reserve agreement or an SSSI agreement or an agreement under”.	5
	(3) In subsection (3), omit “(or, in Scotland, an arbiter)” and “(or, in Scotland, the arbiter’s)”.	10
	(4) In subsection (4), at the end insert – “nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act; “SSSI agreement” has the same meaning as in section 15A of the 1968 Act.”	15
82	(1) Amend section 51 (powers of entry) as follows.	
	(2) In subsection (1) – (a) in paragraph (c), after “enter into”, and (b) in paragraph (h), after “terms of” in the first place where it occurs, insert “a nature reserve agreement or an SSSI agreement or”.	20
	(3) In subsection (2)(a), for “the Nature Conservancy Council” substitute “the Integrated Agency or the Countryside Council for Wales”.	
	(4) After subsection (2) insert – “(2A) In subsection (1) – “nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act; “SSSI agreement” has the same meaning as in section 15A of the 1968 Act.”	25
83	In section 52 (interpretation of Part 2), in subsection (1), omit the definition of “the Nature Conservancy Councils” and the words concerning the construction of references to “the Nature Conservancy Council”.	30
84	Omit Schedule 13 (provisions with respect to the Countryside Agency).	
<i>Derelict Land Act 1982 (c. 42)</i>		
85	In section 1 (power of Secretary of State to give grants), after subsection (6) insert – “(6A) Before making any grant under this section where the land to which subsection (1) applies is in a National Park or an area of outstanding natural beauty, the Secretary of State must consult the Integrated Agency.”	35
<i>Miscellaneous Financial Provisions Act 1983 (c. 29)</i>		
86	Omit section 1 (functions of Countryside Agency in relation to economic and social development of rural areas in England).	

Road Traffic Regulation Act 1984 (c. 27)

- 87 (1) Amend section 22 (traffic regulation for special areas in the Countryside) as follows.
- (2) In subsection (1)(a), for sub-paragraphs (iv) and (v) substitute—
- “(iv) an area in which the Integrated Agency is conducting an experimental scheme under section 8 of the Natural Environment and Rural Communities Act 2005 or the Countryside Council for Wales are conducting a scheme under section 4 of the 1968 Act, 5
- (v) a nature reserve or an area subject to an SSSI agreement or an agreement under section 15 of the 1968 Act.” 10
- (3) In subsection (3), for “Countryside Agency” substitute “Integrated Agency”.
- (4) After subsection (4) insert—
- “(4A) In subsection (1)(a)(v) above, “SSSI agreement” has the same meaning as in section 15A of the Countryside Act 1968”. 15

Inheritance Tax Act 1984 (c. 51)

- 88 In Schedule 3 (gifts for national purposes, etc.) for “English Nature” substitute—
- “Commission for Rural Communities. 20
- Integrated Agency.”

Agriculture Act 1986 (c. 49)

- 89 In section 18 (designation and management of environmentally sensitive areas), in subsection (2)(a) for “the Countryside Agency and English Nature” substitute “the Integrated Agency”. 25

Channel Tunnel Act 1987 (c. 53)

- 90 In Schedule 2 (supplementary provisions as to the scheduled works and other authorised works), in paragraph 5(3), for “English Nature” substitute “the Integrated Agency”.
- 91 In Schedule 3 (planning permission), in paragraph 17(4), for paragraphs (a) and (b) substitute— 30
- “(a) where the authority consider that nature conservation or the conservation of the natural beauty and amenity of the countryside may be affected, the Integrated Agency;”.

Norfolk and Suffolk Broads Act 1988 (c. 4) 35

- 92 In section 1 (the Broads Authority), in subsection (3)(b) for the entries relating to the Countryside Commission and English Nature substitute—
- “three by the Integrated Agency;”.
- 93 (1) Amend section 4 (conservation of areas of natural beauty) as follows.

-
- (2) In subsection (3)(a), for “English Nature” substitute “the Integrated Agency”.
- (3) In subsection (4), for “Countryside Commission” substitute “Agency”.
- (4) In subsection (5), for the words from “the Countryside Commission” to the end substitute “the Agency must consult such bodies appearing to it to represent interests concerned as it considers appropriate.” 5
- 94 In section 5 (notification of certain operations within the Broads), in subsection (4), for “, English Nature and the Countryside Commission” substitute “and the Integrated Agency”.
- 95 In— 10
- (a) section 6 (byelaws: general), in subsection (4),
- (b) section 15 (grants from Secretary of State), in subsection (2), and
- (c) Schedule 1 (the Broads Authority), in paragraph 6,
- for “Countryside Commission” substitute “Integrated Agency”.
- 96 (1) Amend Schedule 2 (variation of area treated as the broads) as follows. 15
- (2) In paragraph 3, for “Countryside Commission” substitute “Integrated Agency”.
- (3) In paragraphs 4, 5, 6, 7 and 10, for “Commission” (in each place) substitute “Agency”.
- 97 In Schedule 3 (functions of Authority), in paragraph 33(1), for paragraphs (b) and (c) substitute— 20
- “(b) the Integrated Agency;”.
- Electricity Act 1989 (c. 29)*
- 98 In Schedule 9 (preservation of amenity and fisheries), in paragraph 2(2), omit “with the Countryside Agency, and” and for “English Nature” substitute “the Integrated Agency”. 25
- Environmental Protection Act 1990 (c. 43)*
- 99 In section 36 (grant of waste management licenses), in subsection (7) for “English Nature” substitute “the Integrated Agency”.
- 100 (1) For section 128 (creation and constitution of new Councils) substitute— 30
- “128 Countryside Council for Wales**
- (1) There shall be a council to be called the Countryside Council for Wales (in this Part referred to as “the Council”).
- (2) The Council shall have not less than 8 nor more than 12 members and those members shall be appointed by the National Assembly for Wales. 35
- (3) The National Assembly for Wales may by order amend subsection (2) above so as to substitute for the number for the time being specified as the maximum membership of the Council such other number as the Assembly thinks appropriate. 40

- (4) Schedule 6 has effect with respect to the constitution and proceedings of the Council.”
- 101 For section 129 (grants by Secretary of State to new Councils) substitute—
- “129 Grants to the Council**
- (1) The National Assembly for Wales may make to the Council grants of such amounts as the Assembly thinks fit. 5
- (2) A grant under this section may be made subject to such conditions (including in particular conditions as to the use of the money for the purposes of the Joint Nature Conservation Committee) as the Assembly may think fit.” 10
- 102 In section 130 (countryside functions of Welsh Council)—
- (a) in subsection (1), omit “, in place of the Commission established under section 1 of the National Parks and Access to the Countryside Act 1949 (so far as concerns Wales),”, and
- (b) in subsection (4), omit “and the Countryside Agency” and “respective”. 15
- 103 (1) Amend section 131 (nature conservation functions: preliminary) as follows.
- (2) For subsection (1) substitute—
- “(1) For the purpose of nature conservation and fostering the understanding of nature conservation, the Council shall have the functions conferred on them by this Part and Part 2 of the Natural Environment and Rural Communities Act 2005.” 20
- (3) In subsections (2) and (3), for “the Councils” substitute “the Council”.
- (4) For subsection (4) substitute—
- “(4) The National Assembly for Wales may give the Council general or specific directions with regard to the discharge of any of their nature conservation functions under this Part.” 25
- (5) Omit subsection (5).
- 104 (1) Amend section 132 (general functions of the Councils) as follows.
- (2) In subsection (1)— 30
- (a) for “The Councils shall each” substitute “The Council shall”, and
- (b) omit the words from “and the Councils shall” to the end.
- (3) In subsection (2), for “The Councils shall each” substitute “The Council shall”.
- (4) Omit subsection (3). 35
- (5) In the heading, for “the Councils” substitute “the Council”.
- 105 Omit section 133 (special functions of the Councils).
- 106 (1) Amend section 134 (grants and loans by Councils) as follows.
- (2) In subsection (1)—
- (a) for “The Councils may each” substitute “The Council may”, and 40

-
- (b) for “the Secretary of State” substitute “the National Assembly for Wales”.
- (3) Omit subsection (2).
- (4) In subsection (3), for “a Council” substitute “the Council”.
- (5) In subsection (4), for “The Councils” substitute “The Council”. 5
- (6) In the heading, for “the Councils” substitute “the Council”.
- 107 (1) Amend Schedule 6 as follows.
- (2) Omit paragraphs 1 and 15(1).
- (3) For the heading, substitute “The Countryside Council for Wales: Constitution.” 10
- 108 Omit Schedule 7 (the Joint Nature Conservation Committee).
- Deer Act 1991 (c. 54)*
- 109 (1) Amend section 8 (exceptions for persons licensed by the Nature Conservancy Council for England or the Countryside Council for Wales) as follows. 15
- (2) In subsection (1) for “English Nature” substitute “the Integrated Agency”.
- (3) In subsection (4) for “English Nature” substitute “the Integrated Agency”.
- (4) In the heading, for “the Nature Conservancy Council for England” substitute “the Integrated Agency”.
- Water Industry Act 1991 (c. 56)* 20
- 110 (1) Amend section 4 (environmental duties with respect to sites of special interest) as follows.
- (2) In subsection (1) –
- (a) for “English Nature” substitute “the Integrated Agency”, and
- (b) for “that Council” substitute “the Agency or (as the case may be) the Council”. 25
- (3) In subsection (4), for “English Nature” substitute “the Integrated Agency”.
- 111 In section 5 (codes of practice with respect to environmental and recreational duties), in subsection (4)(b), for “Countryside Agency, English Nature” substitute “Integrated Agency”. 30
- 112 (1) Amend section 156 (restriction on disposals of land) as follows.
- (2) In subsection (4)(c), for sub-paragraphs (i) and (ii) substitute –
- “(i) consult with the Integrated Agency (as respects land in England) or the Countryside Council for Wales (as respects land in Wales); and
- (ii) enter into such management agreements or such covenants under subsection (6) below as the Secretary of State may determine;” 35
- (3) In subsection (4)(d), for “Countryside Agency” substitute “Agency”.

- (4) In subsection (8), omit “and” preceding the definition of “the Broads” and after that definition insert –
- ““management agreement” means –
- (a) in relation to land in England, an agreement under section 39 of the Wildlife and Countryside Act 1981 or section 7 of the Natural Environment and Rural Communities Act 2005; 5
- (b) in relation to land in Wales, an agreement under section 39 of the Wildlife and Countryside Act 1981.”
- Water Resources Act 1991 (c. 57)* 10
- 113 In Schedule 6 (orders relating to abstraction of small quantities and compulsory registration of protected rights), in paragraph 1(4)(g), for “English Nature” substitute “Integrated Agency”.
- Land Drainage Act 1991 (c. 59)*
- 114 (1) Amend section 61C (duties with respect to sites of special scientific interest) as follows. 15
- (2) In subsection (1) –
- (a) for “English Nature” substitute “the Integrated Agency”, and
- (b) for “that Council” substitute “that Agency or Council”.
- (3) In subsection (4), for “English Nature” substitute “the Integrated Agency”. 20
- 115 In section 61E (codes of practice), in subsection (4)(b), for “Countryside Agency, English Nature” substitute “Integrated Agency”.
- Transport and Works Act 1992 (c. 42)*
- 116 In section 6 (applications for orders relating to railways, tramways, inland waterways etc.), in subsection (7) – 25
- (a) in paragraph (a), for “Countryside Agency” substitute “Integrated Agency”, and
- (b) omit paragraph (e) and “and” preceding it.
- Protection of Badgers Act 1992 (c. 51)*
- 117 In section 10 (licences) – 30
- (a) in subsections (1), (3), (4) and (6), for “the appropriate Conservancy Council” (in each place) substitute “the appropriate conservation body”,
- (b) in subsection (4)(a), for “English Nature” substitute “the Integrated Agency”, and 35
- (c) in subsection (6), for “Council’s” substitute “body’s”.
- Environment Act 1995 (c. 25)*
- 118 (1) Amend section 8 (environmental duties with respect to sites of special interest) as follows.
- (2) In subsection (1) – 40
- (a) for “English Nature” substitute “the Integrated Agency”, and

	(b) for “that Council” substitute “the Agency or (as the case may be) the Council”.								
	(3) In subsection (4), for “English Nature” substitute “the Integrated Agency”.								
119	In section 9 (codes of practice with respect to environmental and recreational duties), in subsection (3)(b), for “Countryside Agency, English Nature,” substitute “Integrated Agency”.	5							
120	In section 66 (National Park Management Plans), in subsection (7)(a), for “the Countryside Agency and English Nature” substitute “the Integrated Agency”.								
121	In section 72 (National Park grant), in subsection (2), for “the Countryside Agency” substitute “the Integrated Agency”.	10							
122	In section 99 (consultation before making or modifying certain subordinate legislation for England), in subsection (2), for paragraphs (b) and (c) substitute— “(b) the Integrated Agency;”.	15							
123	In Schedule 7 (National Park authorities), in paragraphs 4(1) and 14(3), for “the Countryside Agency” substitute “the Integrated Agency”.								
 <i>Channel Tunnel Rail Link Act 1996 (c. 61)</i>									
124	In Schedule 6 (planning conditions), in the table in paragraph 27(4) for the entries relating to English Nature and the Countryside Agency substitute—	20							
	<table border="0" style="border-collapse: collapse;"> <tr> <td style="padding-right: 10px;">“Nature conservation</td> <td style="padding-right: 10px;">or</td> <td rowspan="3" style="border-left: 1px solid black; padding-left: 10px; vertical-align: middle;">The Integrated Agency.”</td> </tr> <tr> <td style="padding-right: 10px;">conservation of the natural beauty</td> <td></td> </tr> <tr> <td style="padding-right: 10px;">or amenity of the countryside</td> <td></td> </tr> </table>	“Nature conservation	or	The Integrated Agency.”	conservation of the natural beauty		or amenity of the countryside		
“Nature conservation	or	The Integrated Agency.”							
conservation of the natural beauty									
or amenity of the countryside									
125	In Schedule 14 (overhead lines: consent), in the table in paragraph 7(4), for the entries relating to English Nature and the Countryside Agency substitute—	25							
	<table border="0" style="border-collapse: collapse;"> <tr> <td style="padding-right: 10px;">“Nature conservation</td> <td style="padding-right: 10px;">or</td> <td rowspan="3" style="border-left: 1px solid black; padding-left: 10px; vertical-align: middle;">The Integrated Agency.”</td> </tr> <tr> <td style="padding-right: 10px;">conservation of the natural beauty</td> <td></td> </tr> <tr> <td style="padding-right: 10px;">or amenity of the countryside</td> <td></td> </tr> </table>	“Nature conservation	or	The Integrated Agency.”	conservation of the natural beauty		or amenity of the countryside		
“Nature conservation	or	The Integrated Agency.”							
conservation of the natural beauty									
or amenity of the countryside									
 <i>Greater London Authority Act 1999 (c. 29)</i>									
126	In section 352 (the Mayor’s biodiversity action plan), in subsection (3), for paragraphs (a) and (b) substitute— “(a) the Integrated Agency, and”.								
127	In section 408 (transfer of property, rights or liabilities), in subsection (3), for paragraph (g) substitute— “(g) the Integrated Agency;”.	35							

Freedom of Information Act 2000 (c. 36)

- 128 In Schedule 1 (public authorities), in Part 6, insert at the appropriate places—
“Commission for Rural Communities.”, and
“Integrated Agency.”

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

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- 129 In section 1 (principal definitions for Part 1), in subsection (2), in paragraph (a) of the definition of “the appropriate countryside body”, for “Countryside Agency” substitute “Integrated Agency”.

- 130 In section 4 (duty to prepare maps), in subsection (1), for “Countryside Agency” substitute “Integrated Agency”.

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- 131 (1) Amend section 20 (codes of conduct and other information) as follows.
(2) In subsection (1), for “Countryside Agency” substitute “Integrated Agency”.
(3) In subsection (3), for “Countryside Agency” substitute “Integrated Agency”.

- 132 In section 26 (nature conservation and heritage preservation), in subsection (6)(a)(i), for “, English Nature” substitute “in respect of which the Integrated Agency is not the relevant authority, the Integrated Agency”.

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- 133 In section 33 (guidance by countryside bodies to National Park authorities), in subsections (1), (3) and (4), for “Countryside Agency” substitute “Integrated Agency”.

- 134 In section 58 (application for path creation order), for subsection (1) substitute—

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- “(1) An application for the making of a public path creation order under section 26(2) of the 1980 Act may be made—
(a) by the Integrated Agency to the Secretary of State, or
(b) for the purpose of enabling the public to obtain access to any access land (within the meaning of Part 1) or of facilitating such access, by the Countryside Council for Wales to the National Assembly for Wales.”

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- 135 In section 61 (rights of way improvement plans: supplemental), in subsection (1)(f), for “Countryside Agency” substitute “Integrated Agency”.

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- 136 Omit section 73 (Nature Conservancy Council for England: change of name).

- 137 In section 74 (conservation of biological diversity), in subsection (7), in paragraph (a) of the definition of “appropriate conservation body”, for “English Nature” substitute “the Integrated Agency”.

- 138 In section 82 (designation of areas of outstanding natural beauty), in subsection (1), for “Countryside Agency” substitute “Integrated Agency”.

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- 139 In section 85 (general duty of public bodies etc.) in subsection (3), after the definition of “public office” insert—

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

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SCHEDULE 11

Section 68(2)

REPEALS AND REVOCATIONS

Repeals

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
National Parks and Access to the Countryside Act 1949 (c. 97)	In section 1(1) “There shall be a Countryside Agency which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and” and “corresponding” (in both places).	5
	Section 1(2).	10
	In the heading to section 1 “Countryside Agency and the”.	
	In section 6(1) “as soon as may be after the commencement of this Act, and thereafter”.	
Public Records Act 1958 (c. 51)	In Schedule 1, in part 2 of the table at the end of paragraph 3, the entries relating to the Countryside Agency and English Nature.	15
Cereals Marketing Act 1965 (c. 14)	In section 6(2), “(subject to section 17(2) of this Act)”.	
	In section 17, subsection (2) and, in subsection (3), paragraph (c) and “or” preceding it.	20
Superannuation Act 1965 (c. 74)	In section 39, in subsection (1), in paragraph 7, the entry relating to English Nature.	
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to the Countryside Agency and English Nature.	25
Agriculture Act 1967 (c. 22)	Section 24.	
Countryside Act 1968 (c. 41)	In section 2(9), “Agency and the” and “Agency or”.	
	In section 12(1), in the second sentence, “and no grant shall be payable under paragraph (a) or paragraph (e) of section 97(1) of the Act of 1949 in respect of expenses incurred by the local planning authority under this subsection, or expenses in or in connection with the acquisition of land for the purposes of this subsection”.	30
	Section 15(6A).	
	Section 15A(5).	
	In section 23(5), “Countryside Agency and the” and “each”.	40
	In section 45(1), “the Agency,”.	
	In section 46, in subsection (2) “references to the Nature Conservancy Council shall include references to the Agency and” and in subsection (4), “experimental projects or schemes,”.	45
Transport Act 1968 (c. 73)	Section 110(1) to (1D).	

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Transport Act 1968 (c. 73) – <i>cont.</i>	In section 110(2)(a) and (b), “the Waterways Board and the Minister or, in relation to any waterway in Scotland,” and, in the words following paragraph (b), “the Board or the Minister or, as the case may be,”. Section 110(3) to (7). In Schedule 17, in Part 1, “and 110”.	5
Superannuation Act 1972 (c. 11)	In Schedule 1, the entries relating the the Countryside Agency and English Nature.	10
Nature Conservancy Council Act 1973 (c. 54)	In Schedule 1, paragraphs 1, 2(2) and 9.	
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entries relating to the Countryside Agency and English Nature.	15
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to English Nature and, in Part 3, the entry relating to the Countryside Agency.	
Highways Act 1980 (c. 66)	In section 119E(2), paragraph (c) and the word “and” preceding it.	20
Wildlife and Countryside Act 1981 (c. 69)	In section 22(3), the words following paragraph (b). In section 24(1), the words following paragraph (b). Section 27A and the heading preceding it. In section 28G(3)(e), “(meaning the persons referred to in section 262(1), (3) and (6) of the Town and Country Planning Act 1990)”. In section 34, in subsection (5), from “or Part” to the end and in subsection (6) the definition of “the Agency” and paragraph (b) of the definition of “relevant authority”. Section 39(5)(d). In section 41, subsection (2), in subsection (3) the words after paragraph (b) and subsection (6). In section 45, in subsection (1) “in England” and subsection (2). In section 47, subsection (1) and in subsection (2) “to the Countryside Agency or”. In section 50(3), “(or, in Scotland, an arbiter)” and “(or, in Scotland, the arbiter’s)”. In section 52(1), the definition of “the Nature Conservancy Councils” and the words concerning the construction of references to “the Nature Conservancy Council”. Schedule 13.	25 30 35 40 45
Miscellaneous Financial Provisions Act 1983 (c. 29)	Section 1.	
Electricity Act 1989 (c. 29)	In Schedule 9, in paragraph 2(2), “with the Countryside Agency, and”.	50

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Environmental Protection Act 1990 (c. 43)	In section 130, in subsection (1) “, in place of the Commission established under section 1 of the National Parks and Access to the Countryside Act 1949 (so far as concerns Wales),” and in subsection (4) “and the Countryside Agency” and “respective”. Section 131(5). In section 132, in subsection (1), the words from “and the Councils shall” to the end, and subsection (3). Section 133. In section 134, subsection (2). In Schedule 6, paragraphs 1 and 15(1). Schedule 7. In Schedule 8, paragraphs 2(2) to (4), 6(3) and (4). In Schedule 9, paragraphs 4(2)(b), 10(3), 11(3), (5), (6)(a), (7)(b), (8), (12) and (13).	5 10 15
Natural Heritage (Scotland) Act 1991 (c. 28)	In Schedule 2, paragraphs 7(3) and 8(5).	20
Water Industry Act 1991 (c. 56)	In section 156(8), “and” before the definition of “the Broads”.	
Transport and Works Act 1992 (c. 42)	In section 6(7), paragraph (e) and “and” before it.	25
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6, the entries relating to English Nature and the Countryside Agency.	
Countryside and Rights of Way Act 2000 (c. 37)	Section 73. In section 87(2), “, but without incurring significant expenditure in doing so;”. In section 90(1)(a)(i), “and English Nature”. Section 101(a). In Schedule 4, paragraph 5. In Schedule 8, paragraphs 1 and 2(a) and (c). In Schedule 15, paragraph 1.	30 35

Revocations

<i>Title and number</i>	<i>Extent of revocation</i>	
Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (S.I. 1999/416)	In Schedule 1, paragraphs 1(2) to (4), 2, 3, 4(2) to (4), 5 to 8, 9(3) to (9), 10 to 13, 14(2) and (5) and 15 to 18.	40
National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)	In Schedule 1, in the entry relating to the Environmental Protection Act 1990, paragraph (d).	

*These notes refer to the Natural Environment and Rural Communities Bill
as published in draft on 10 February 2005*

Draft Natural Environment and Rural Communities Bill

Explanatory Notes

First Edition

NATURAL ENVIRONMENT AND RURAL COMMUNITIES BILL

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Natural Environment and Rural Communities Bill published in draft on 10 February 2005. They have been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) in order to assist the reader of the draft Bill and to help inform debate on it.
2. The notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the contents of the draft Bill. So where a section or part of a section does not seem to require any explanation or comment, none is given.
3. The reader may also find it helpful to read the policy statement at the front of this volume.
4. In these explanatory notes the draft Bill is simply referred to as the Bill.

SUMMARY

5. This Bill is intended to implement key aspects of the Government’s Rural Strategy (July 2004). It establishes an independent Integrated Agency responsible for conserving, enhancing and managing the natural environment for the benefit of current and future generations, bringing together English Nature, part of the Countryside Agency and certain functions currently performed by the Rural Development Service (RDS, a Defra Directorate). The Integrated Agency will work in close partnership with other organisations that have a major role in relation to the natural environment, in particular the Environment Agency, the Forestry Commission and English Heritage. The Bill also establishes the Commission for Rural Communities, from another element of the Countryside Agency, under its own legal framework. This new body will be an advocate,

adviser and watchdog on behalf of rural people, communities and businesses, especially those suffering disadvantage. The Bill also reconstitutes the Joint Nature Conservation Committee (JNCC) and renames and reconstitutes the Inland Waterways Amenity Advisory Council (IWAAC).

6. Among other measures, which again flow from the Rural Strategy, the Bill further ensures that the Secretary of State has funding powers that fully reflect Defra's remit, and the ability to authorise other bodies to carry out functions to deliver Defra strategic objectives. Public bodies for which Defra is responsible are also given the power to enter agreements to enable other bodies to perform functions on their behalf. The powers are intended to be used to simplify, devolve and improve the flexibility of delivery structures; to improve effectiveness and efficiency from the perspective of the customer; and to strengthen sustainability and ensure that it is championed at all levels – for the long term benefit of our natural heritage, for rural communities, the farming and food industries, and for current and future generations to enjoy and benefit.

BACKGROUND

7. The Government set out its proposals for the countryside in the Rural White Paper, published in November 2000. The White Paper was published at a time of rapid change for rural areas, highlighted by the Foot and Mouth outbreak which started less than three months after the White Paper was published.

8. Following the creation of the Department for the Environment, Food and Rural Affairs (Defra), in June 2001, the Secretary of State for Environment, Food and Rural Affairs commissioned a number of actions to improve the focus and delivery of rural policy through:

- a review of the Rural White Paper,
- steps to improve the rural evidence base; and
- an independent review of rural delivery carried out by Lord Haskins.

9. The Government published a full review of the Rural White Paper in January 2004, alongside a report on Social and Economic Change and Diversity in Rural England – part of Defra's ongoing research programme to develop the evidence base for rural policy.

10. The review by Lord Haskins of rural delivery commissioned by the Secretary of State was published in November 2003, having taken evidence from 350 organisations,

authorities and groups and receiving comments from nearly 300 individual customers of rural delivery. The Government gave its initial response to Lord Haskins' report in November 2003, agreeing with Lord Haskins' analysis of Defra's delivery structures as confusing for customers and too bureaucratic and centralised to meet Defra's future challenges, and accepting the thrust of his recommendations. All of these documents are available on the Defra website at: www.defra.gov.uk/rural.

11. Since the publication of the Rural White Paper in 2000, there have also been wider policy developments that are important in relation to rural policy and delivery. In particular, these include:

- Decentralisation – Your Region, Your Choice: Revitalising the English Regions White Paper, Office of the Deputy Prime Minister (ODPM) 2002; and the Devolved Decision-Making Review report, published with the Budget 2004
- Strategy for Sustainable Farming and Food, Defra 2002
- Common Agricultural Policy reform agreed in the EU in 2003 and Single Payment Scheme announced in 2004
- Sustainable Communities, Building for the Future, ODPM 2003
- Energy White Paper – Our Energy Future – Creating a Low Carbon Economy, DTI/Defra 2003
- Working with the Grain of Nature: A Biodiversity Strategy for England, Defra 2002
- Taking it on – the Government's consultation on reviewing the National Sustainable Development Strategy, Defra 2004

12. The Government published its Rural Strategy in July 2004. This contained its detailed response to Lord Haskins' recommendations. It is available on the Defra website at: <http://www.defra.gov.uk/rural/strategy>.

13. In the Rural Strategy, the Government made a commitment to publish a draft Bill making the statutory changes required by the Strategy in Spring 2005. The draft Bill is intended to give effect to this commitment.

THE BILL

Part 1: The Agency and the Commission

14. Part 1 of the Bill establishes two new independent statutory non-departmental public bodies (“NDPBs”), the Integrated Agency (“the Agency”) and the Commission for Rural Communities (“the Commission”). It also provides for the dissolution of English Nature and the Countryside Agency. The Agency is established in Chapter 1, which also sets out the Agency’s general purpose, functions and governance arrangements. The Commission is established in Chapter 2, where its general purpose, functions and governance arrangements are set out.

15. Chapter 3 makes provision for the transfer of property, rights and liabilities in connection with the dissolution of English Nature and the Countryside Agency. It also confers power to make transfers in future between the Agency, the Commission and a Minister of the Crown. This power is exercisable for the efficient management of property, rights and liabilities.

Part 2: Nature conservation in the UK

16. Part 2 and Schedule 4 reconstitute the Joint Nature Conservation Committee (in these notes referred to as “the joint committee”) as a UK-wide organisation.

Part 3: Flexible administrative arrangements

17. Chapter 1 enables Ministers of State to make agreements with any listed Defra family and associated body (referred to in the Bill as “designated” bodies) or with non-Defra bodies to authorise them to carry out functions on the Minister’s behalf, subject to mutual consent. This will, for example, be the mechanism by which the activities currently carried out by the RDS on behalf of the Secretary of State will, in the future, be authorised to be undertaken by Agency staff. There is additionally provision to enable designated bodies to enter agreements either with each other or with non-designated bodies (for example, local authorities or voluntary organisations). Such agreements will enable the other body to perform specified functions.

18. Chapter 2 confers power to establish boards for the purpose of helping to develop and promote agricultural and related industries. The Bill also contains power to abolish certain existing levy bodies that are within Defra’s remit (namely, the British Potato Council, the Home-Grown Cereals Authority, the Horticultural Development Council, the Meat and Livestock Commission and the Milk Development Council).

19. Chapter 3 provides a wide power to enable financial assistance to be given by the Secretary of State for any purposes connected with Defra activities.

Part 4: Inland Waterways

20. Part 4 of the Bill re-constitutes the Inland Waterways Amenity Advisory Council by severing its administrative connections with British Waterways and setting it up as an independent body supported by Defra (or the Scottish Executive in Scotland). The clauses replace the Council's existing statutory advisory functions with new, wider terms of reference enabling it to advise Government, navigation authorities and other interested persons, about the inland waterways generally. The Council is renamed the Inland Waterways Advisory Council to reflect its new role. The Bill does not change the Council's existing functions as a statutory consultee.

Part 5: Miscellaneous and supplementary

21. Clause 66 introduces Schedule 9, which extends the time limit for summary proceedings for certain wildlife offences.

22. Part 5 also deals with commencement and extent of the Bill.

TERRITORIAL APPLICATION

23. Clause 70 of the Bill deals with extent.

24. Part 1 of the Bill extends to England and Wales. But clause 1(2) makes it clear that, except where expressly otherwise provided, the Agency's functions are exercisable in relation to England only. Similarly, the Commission's general purpose relates to England only.

25. Part 2 extends to Scotland and Northern Ireland as well as England and Wales.

26. All of Part 3 extends to England and Wales. Chapter 2 (powers to reform agricultural etc. bodies) extends also to Scotland and Northern Ireland. Chapter 3 (financial assistance) extends also to Scotland and Northern Ireland, but it should be noted that clause 60 does not confer power to give financial assistance in respect of devolved matters.

27. Part 4 (Inland Waterways) extends to England and Wales, and Scotland.

28. Part 5 extends to England, Wales, Scotland and Northern Ireland. Scheduled amendments or revocations have the same extent as the provision to which they relate, or as provided in the schedules.

COMMENTARY ON CLAUSES

Part 1 The Agency and the Commission

Chapter 1 Integrated Agency

The Agency and its general purpose

Clause 1: Integrated Agency

29. This clause establishes the Integrated Agency, provides for the dissolution of the Countryside Agency and English Nature and introduces Schedule 1.

30. Schedule 1 sets out the constitution of the Agency, including provisions about its status, membership, chief executive and other employees, pay and pensions, procedure, accounts and annual reports.

31. The functions of English Nature and the Countryside Agency are transferred to the Agency, subject to the provisions of the Bill.

Clause 2: Agency's general purpose

32. This clause sets out the Agency's general purpose.

33. *Subsection (1)* sets out that the Agency's general purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. The terms "natural environment" and "benefit" are broad and encompassing. The natural environment is found in towns as well as the countryside, and includes rivers, lakes and the sea, as well as the flora and fauna that depend on it. Benefits include environmental, social and economic benefits for present and future generations. *Subsection (1)* sets the Agency's activities within a sustainable development context. This means that the Agency should seek solutions which, while achieving environmental benefits, also provide long-term economic and social benefits, and avoid unnecessary economic and social impacts.

34. *Subsection (2)* ensures that the general purpose includes matters covered within the purposes of the Countryside Agency, English Nature, and the aims of the Rural

Development Service. Subsection (2) is not intended to be a comprehensive list. The Agency will be able to pursue anything which falls within its general purpose.

35. *Subsection (2)(a)* sets out a purpose of promoting nature conservation and protecting biodiversity. Nature conservation is defined in clause 30 as the conservation of flora, fauna or geological or physiographical features and therefore includes the conservation of geodiversity. Protecting biodiversity includes protecting habitats that support such diversity. A core role of the Agency is therefore to conserve, manage, enhance, restore, create and protect both habitats and ecosystems and their resilience in rural, urban or marine areas.

36. *Subsection (2)(b)* sets out a purpose of conserving and enhancing the English landscape. This includes conserving and enhancing all aspects of the English landscape such as its natural beauty and distinctiveness. This subsection makes clear that the Agency's role includes conserving the diversity and local character of the physical form of England's environment. The term "landscape" includes the historic and cultural environment, for example field boundaries (e.g. hedgerows and dry stone walls), and monuments and buildings which contribute to the landscape. The Agency will therefore have powers to conserve and enhance the English landscape for aesthetic and historic preservation purposes as well as those carried out for habitat protection purposes.

37. *Subsection (2)(c)* provides that the Agency's general purpose includes securing the provision and improvement of facilities for the study, understanding and enjoyment of nature. Amongst other things, this is intended to promote respect for nature.

38. *Subsection (2)(d)* makes clear that the Agency's role includes the Countryside Agency and English Nature's roles to encourage open-air recreation and promote access to the countryside and open spaces. This purpose and the preceding purpose are similar to purposes given in the National Parks and Access to the Countryside Act 1949 ("the 1949 Act"), the Countryside Act 1968 ("the 1968 Act") and the Wildlife and Countryside Act 1981 ("the 1981 Act").

39. *Subsection (2)(e)* helps define the Agency's relationship to the economic and social elements of sustainable development. This makes clear that the Agency will contribute to social and economic well-being through management of the natural environment.

Review and research

Clause 3: Review

40. This clause ensures that the Agency keeps under review matters relating to its general purpose. It also requires the Agency to consult bodies that it considers to have an interest when keeping relevant matters under review.

Clause 4: Research

41. This clause gives the Agency powers to undertake research and commission or support others to undertake research which relates to its general purpose. The power to support research is not limited to financial support and so could include the provision of accommodation, equipment and expertise. Research is defined by clause 30 to include inquiries and investigations.

General implementation powers

Clause 5: Carrying out proposals etc.

42. This clause gives the Agency powers to carry out direct actions in pursuit of its general purpose. The methods the Agency may use to carry out proposals are not limited. This clause also gives the Agency power to assist others in carrying out such proposals, or to coordinate or promote them. This will enable the Agency to enter into a variety of working arrangements with persons or organisations in the public, private, voluntary and charity sectors.

Clause 6: Financial assistance by the Agency

43. This clause gives the Agency power to provide financial assistance to any person if it appears that providing financial assistance would further the Agency's general purpose. This power does not place restrictions on the type of financial assistance, the persons to whom financial assistance can be given, nor the Agency's ability to provide financial assistance in conjunction with others.

Clause 7: Management agreements

44. Management agreements are agreements that the Agency may enter into with people who have an interest in land. Their aim is to ensure that the land is managed or used in a way that would help to further the Agency's general purpose. This new clause will replace English Nature and the Countryside Agency's agreement making powers in other legislation but transitional provisions will be made to ensure that existing agreements will remain in force.

45. Clause 7 needs to be read in conjunction with the consequential amendments made to the 1949 Act, the 1968 Act and the 1981 Act by Schedule 10 to the Bill. Those Acts make further provision about the consequences of entering into or not entering into management agreements, and other related matters.

Clause 8: Experimental schemes

46. This clause enables the Agency to make and carry out experimental schemes and promote the making and carrying out of such schemes by others. These are schemes to develop new methods, concepts or techniques, or to test or further develop them. The Countryside Agency has such powers in relation to its current remit; this clause will extend such powers to all of the Agency's remit. It also provides the Secretary of State with powers in individual cases to authorise the Agency to acquire land compulsorily for the purposes of an experimental scheme.

Supplementary powers

Clause 9: Information services etc.

47. This clause specifies the information services that the Agency may provide and confirms that this power is not to be interpreted as limited by any other enactment conferring more specific powers to publish documents or provide information (such as section 86 of the 1949 Act).

48. The Agency can charge for its information services (see clause 11).

Clause 10: Advisory and consultancy work

49. This clause specifies the Agency's duties and powers for providing advice and consultancy services. This includes a duty to advise public authorities on matters relating to its general purpose on request, and a power to advise any person on matters relating to the Agency's general purpose on request or on its own initiative. "Public authority" is defined in clause 30.

50. *Subsections (2) and (3)* provide that where the Agency believes that advice sought by a public authority has been rejected, the Agency may request written confirmation as to whether the advice has been rejected and, if so, why.

Clause 11: Power to charge for services and licences

51. This clause gives the Agency power, with the consent of the Secretary of State, to charge for its services. As charges are to be reasonable this is, in effect, in accordance with the principles of cost recovery.

52. This clause also gives the Secretary of State a power, exercisable by statutory instrument, to require charges for licences where no charging provisions are currently set out.

Clause 12: Power to bring criminal proceedings

53. This clause provides that the Agency has the power to institute proceedings and the power to authorise persons other than barristers or solicitors to bring prosecutions on its behalf. This enables the Agency to have prosecutors on its staff in the same manner as organisations such as the Environment Agency or local authorities.

Clause 13: Incidental powers

54. *Subsection (1)* gives the Agency power to do anything conducive or incidental to the discharge of its functions. This includes but is not limited to the powers listed in *subsection (2)*. The power to enter into agreements is not limited, and therefore can include working arrangements with persons in the private, public, voluntary and charity sectors.

Powers of Secretary of State

Clause 15: Guidance

55. This clause gives the Secretary of State power to give guidance to the Agency about how it is to carry out its functions. Any such guidance must be published in a suitable manner.

Clause 16: Directions

56. This clause gives the Secretary of State power to give general or specific directions in writing to the Agency and requires that these directions be published. *Subsection (2)* provides that the direction-giving power does not apply to functions that the Agency exercises through the Joint Nature Conservation Committee. The Secretary of State has a separate power to give directions to the joint committee under clause 39.

Chapter 2 Commission for Rural Communities

The Commission and its general purpose

Clause 17: Commission for Rural Communities

57. This clause establishes the Commission for Rural Communities.

58. It introduces Schedule 2, which sets out the constitution of the Commission, including provisions about its status, membership, chief executive and other employees, pay and pensions, procedure, accounts and annual reports.

Clause 18: Commission's general purpose

59. This clause sets out the general purpose of the Commission. This is focused upon the social and economic needs of rural areas and people in England, especially those areas and people suffering from social disadvantage or economic under-performance. The general purpose of the Commission is to increase awareness of rural needs and of sustainable ways of meeting those needs, thereby contributing to sustainable development. "Relevant persons" is defined by the Bill to mean public authorities and other bodies which appear to the Commission to be concerned with the needs of rural people. "Rural need" includes in particular the needs of those suffering disadvantage.

Clause 19: Representation, advice and monitoring

60. Clause 19 establishes the three main functions of the Commission. The three main functions are:

- representation: i.e. to be an independent voice or "advocate" for rural people and communities, especially those suffering disadvantage, to ensure that their views are articulated to, and heard by, Government and other bodies to inform policy-making;
- information and advice: i.e. to provide advice to the Government and others on issues affecting the interests, needs and well-being of people, communities and businesses in rural England; and
- monitoring: i.e. to assess the way in which policies adopted by the Government and others are implemented and the extent to which those policies are meeting rural needs, especially rural inequality.

Clause 20: Research

61. This clause gives the Commission powers to undertake research and commission or support others to undertake research which relates to its general purpose. The power to support research is not limited to financial support and so could include the provision of accommodation, equipment, expertise and any supporting working arrangements. Research is defined by clause 30 to include inquiries and investigations.

Clause 21: Information services etc.

62. The Commission may publish documents or provide information about any matter relating to its general purpose. It may also assist others in such activities.

63. In broad terms it is intended that the Commission will be a body that gives advice based on its assessment of the state of rural matters, accordingly it will not be providing services directly to the public.

Clause 22: Power to charge for services

64. This clause enables the Commission to charge for services. This would, for example, include publications. The Commission must obtain the Secretary of State's consent before it charges for any services. It is not envisaged that consent would be given for the Commission to charge for its advisory or monitoring activities.

Clause 23: Incidental powers

65. This clause gives the Commission powers to take action which will help it to exercise its functions.

Powers of Secretary of State

Clause 24 Grants

66. This clause enables the Secretary of State to fund the Commission. The Secretary of State may impose conditions when giving a grant. Such a power is usually used to provide for a Financial Memorandum and a Management Agreement with the body.

Clause 25: Directions

67. This clause enables the Secretary of State to give the Commission directions as to the exercise of its functions.

Chapter 3 Transfer schemes etc.

Supplementary

Clause 26: Transfers on dissolution of English Nature and Countryside Agency

68. This clause makes provision for the transfer of property, rights and liabilities in relation to the dissolution of English Nature and the Countryside Agency. This will be by way of transfer schemes made by the Secretary of State (see Schedule 3).

69. The transfers of property, rights and liabilities are to cover all matters such as land held by the bodies, staff employment contracts, agreements and any outstanding liabilities. The transfers may be to the Agency, the Commission, Regional Development Agencies or Ministers of the Crown.

70. In relation to the transfer of employment rights and liabilities, Schedule 3 provides for the equivalent of regulation 5 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended)(TUPE). The Bill also makes provision for staff pensions. This is in the context of the Cabinet Office statement of practice of January 2000 “Staff Transfers in the Public Sector” which states that public sector bodies should ensure that the principles of TUPE are followed and staff are offered the opportunity to transfer on terms that are, overall, no less favourable than had TUPE applied.

Clause 27: Continuing powers to make transfer schemes

71. This clause makes provision for further transfer schemes. These are for the efficient management of property, rights and liabilities.

72. The transfers allowed under *subsections (2) and (3)* respectively are those from a Minister for the Crown to the Agency, the Commission or a person acting on their behalf or to a Minister for the Crown from the Agency or the Commission.

Clause 29: Interim arrangements

73. This clause gives the Secretary of State the power to require English Nature or the Countryside Agency to provide staff, premises or other facilities, on a temporary basis, to the Integrated Agency or the Commission for Rural Communities.

74. This is for use during any period of transition between the establishment of the Integrated Agency or the Commission and the dissolution of English Nature and the Countryside Agency.

Part 2 Nature Conservation in the UK

Joint Nature Conservation Committee etc.

Clause 31: Joint Nature Conservation Committee

75. The Joint Nature Conservation Committee, referred to as the “joint committee”, was established under Part 7 of the Environmental Protection Act 1990. The Bill re-enacts, with changes, the provisions of the 1990 Act that relate to the joint committee. The main change is that under the Bill the joint committee has a UK-wide remit. This is reflected in Schedule 4, which reconstitutes the joint committee. The Schedule includes provision for Northern Ireland to have voting members. Schedule 4 also reproduces the effect of the changes which it is hoped will shortly be made to the 1990 Act by the Regulatory Reform (Joint Nature Conservation Committee) Order 2005. This will amongst other things provide the joint committee with the ability to employ its own staff and pay its chairman and independent members. It will also enable the Secretary of State to pay money directly to the joint committee.

Clause 32: UK conservation bodies

76. This clause defines the terms “UK conservation bodies” and “GB conservation bodies”. Some of the functions of the joint committee are UK-wide (covering England, Wales, Scotland and Northern Ireland), others are GB-wide (covering England, Wales and Scotland).

Clause 33: Purpose of functions under this Part

77. The joint committee is given functions for the purpose of nature conservation and fostering the understanding of nature conservation. The functions of the UK conservation bodies under this part are also to be exercised for this purpose. The bodies and the joint committee are required to have regard to actual or possible ecological changes and the desirability of contributing to sustainable development.

Coordinated functions

Clause 34: Functions of national or international significance

78. This clause sets out functions of the UK conservation bodies that can be discharged only through the joint committee. These are functions of UK-wide or of international significance. They include giving advice about nature conservation matters of UK-wide or international significance. Advice on the development and implementation of policies can be given to “the appropriate authorities”, i.e. the Ministers or governmental body in the relevant part of the UK. Advice can also be given, and

knowledge disseminated, to any other person. The functions also include establishing common standards and commissioning or supporting research.

Clause 35: Advice from joint committee to UK conservation body

79. This clause gives the joint committee power to provide advice to UK conservation bodies, so long as that advice is connected with the functions of the body and is of UK-wide or international significance.

Clause 36: GB functions with respect to wildlife

80. This clause requires certain functions of the GB conservation bodies under the 1981 Act to be performed through the joint committee. The relevant provisions of the 1981 Act do not extend to Northern Ireland.

Powers of Secretary of State

Clause 38: Grants

81. This clause enables the Secretary of State to fund the joint committee. The Secretary of State can impose conditions when giving grants. Further provisions on funding are set out in Schedule 4.

Clause 39: Directions

82. This clause enables the Secretary of State to give the joint committee directions about the exercise of certain functions. As the joint committee is a cross border body any direction under this power would be made after consulting Scottish, Welsh and Northern Irish Ministers.

Part 3 Flexible administrative arrangements

Chapter 1 Agreements with designated bodies etc.

Powers to enter into agreements

Clause 41: Agreement between a Minister and designated body

83. This clause gives a Minister of the Crown the power to enter into an agreement with a designated body authorising that body to carry out an eligible function on behalf of the Minister. "Designated body" is defined as a body listed in Schedule 5; the listed bodies carry out functions within the broad Defra remit. The meaning of "eligible function" is dealt with in clause 44. Clause 47(2) requires an agreement under this clause to be in writing. Clause 45(5) provides that a power to give directions to a statutory body cannot be used to require it to enter into an agreement under this Chapter.

84. An agreement made under this clause after the enactment of the Bill will enable activities that are currently carried out by Defra's Rural Development Service (RDS) to be carried out by the Integrated Agency.

Clause 42: Agreement between the Secretary of State and non-designated body

85. This clause gives the Secretary of State the power to enter into an agreement with a non-designated body to authorise that body to carry out any eligible function which is being performed by Defra. In practice, such agreements would be made only by the Secretary of State for Environment Food and Rural Affairs. Such agreements would only be by mutual consent, including that of any sponsor Minister to the receiving body in question. As in the case of clause 41, the intention is to enable functions to be carried out by the body that is best placed to deliver services to customers.

Clause 43: Agreement between designated body and another body

86. This clause allows a designated body ("A") (i.e. a body listed in Schedule 5) to enter into an agreement with a designated or non-designated body ("B") authorising "B" to carry out an eligible function of "A". This would be by mutual agreement, and subject to the approval of the "relevant Minister" (as defined in subsection (6)).

87. *Subsection (2)* allows for the Minister's approval to be given either to a particular agreement or to a description of agreements. This will enable a Minister to approve an agreement in respect of a single function or to give a generic approval (which may be time limited if desirable) that covers a group of similar functions. This will be useful for the regular agency type arrangements that a body may wish to employ as part of its normal way of carrying out its business in partnership with other bodies, for example to provide a single face to customers in relation to specific functions carried out across a partnership of bodies. Ministerial formal approval of the arrangement will ensure that Ministers have a record of functions that are being performed by particular bodies and will provide for a record of accountability

Clause 44: Eligible functions

88. This clause defines what "eligible functions" means for this Chapter; principally that any function to be performed by others should fit within the overall purpose of the receiving body. Certain listed functions cannot be subject to such Chapter 1 agreements. These are referred to in the Bill as "reserved" functions. A provision has been inserted to enable negative resolution subordinate legislation to be used where it is considered to be appropriate for the Secretary of State to authorise another to make regular alterations to charges. This could be helpful for instance for public entrance fees for a park that is managed by a body designated pursuant to this Chapter.

Clause 45: Maximum duration of agreement

89. This clause imposes a 20-year limit on the duration of agreements made under this Chapter.

Supplementary Provisions

Clause 46: Powers of bodies authorised to perform functions

90. A body cannot be authorised to perform functions that are incompatible with the purposes for which the body was originally established. However the fact that it lacks a specific power will not prevent it from performing a function which it is authorised under this Chapter to perform.

Clause 47: Supplementary provisions with respect to agreements

91. Chapter 1 agreements and any ministerial approvals must be in writing. The agreements are to be made public in such a way that bodies and people likely to be affected by it have the arrangement brought to their attention. The clause provides that the body taking on a function can be paid to carry it out. *Subsection (5)* limits Ministers' powers of direction, so that they cannot be used in connection with activities authorised under this Chapter (i.e. it prevents Ministers from directing bodies to enter agreements under this part of this Bill). *Subsection (6)* applies Schedule 15 of the Deregulation and Contracting Out Act 1994 to authorisations by a designated body under this Chapter. (That Schedule will apply to authorisations by Ministers without anything further needing to be said.) The purpose is to make it clear to each body how to handle confidential information and the situations where sharing of information between the contracting bodies is permitted.

Chapter 2 Powers to reform agricultural etc. bodies

Power to create boards

92. This Chapter gives the Secretary of State the powers to establish new bodies for agricultural and related industries and dissolve both existing levy bodies and any bodies created using the provisions in this Chapter. Used in combination, in effect, these powers also allow for levy bodies to be merged or otherwise modified within prescribed limits.

Clause 49: Power to establish boards

93. This clause confers power on the appropriate authority to make an order establishing a board. The order will specify the purpose for which the board is established and assign certain functions to it. The permissible purposes are set out in

clause 50; the permissible functions are set out in clause 51. An order under this clause must specify the area in relation to which assigned functions are to be exercised.

94. “The appropriate authority” is defined in clause 58—

- in relation to matters concerning England only, the appropriate authority is the Secretary of State;
- in relation to matters concerning Wales only, the appropriate authority is the National Assembly for Wales;
- in relation to matters concerning Scotland only, the appropriate authority is the Scottish Ministers;
- in relation to matters concerning Northern Ireland only, the appropriate authority is the Department of Agriculture and Rural Development in Northern Ireland;
- in relation to certain other specified matters (broadly speaking cross-border matters), the appropriate authority is the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers or the Department of Agriculture and Rural Development in Northern Ireland.

95. An order under this clause 49 is referred to in the Bill (and in these notes) as a “section 49 order”.

96. The procedure for making a section 49 order is provided for in clause 59.

Clause 50: Permissible purposes of boards

97. *Subsection (1)* lists the purposes for which a board may be established. *Subsection (2)* requires a section 49 order to specify the purposes for which the board is established and to define the industry to which the order relates.

Clause 51: Permissible function of boards

98. This clause sets out the variety of functions which may be assigned to a board under a section 49 order. Schedule 7 contains a list of functions that is based on those available for development councils that are set up under the Industrial Organisation and Development Act 1947. Functions in particular include promotion or undertaking scientific research, marketing, product certification, development of export trade,

education and training. The other permissible functions that may be assigned to a board are functions of the five main existing levy bodies. Three of them, those dealing with horticulture, potatoes and milk are set up as development councils under the 1947 Act. There is a separate Act, the Cereals Marketing Act 1965 that set up the levy board in the cereals sector (Home Grown Cereals Association), and Part 1 of the Agriculture Act 1967 that set up the Meat and Livestock Commission. These bodies will remain in place unless and until the appropriate authority (see above) decides to dissolve them (see clause 54).

Clause 52: Ancillary provisions

99. Schedule 8 contains further provisions about the contents of a section 49 order. It contains provisions relating to registers, returns and other information, investigative powers, levies, reserve funds, consultation and offences. In particular the board of a new body will be able to demand sight of documents and records so as to enable them to verify that the correct levy is raised from people.

Power to dissolve existing levy bodies and boards

Clause 53: Power to dissolve existing levy bodies

100. This clause confers power on the appropriate authority to dissolve the existing levy bodies (as defined by clause 51(2)). The clause ensures that where an existing levy body is dissolved the primary or secondary legislation which established the body is repealed or revoked.

Clause 54 Power to dissolve board

101. This clause confers power on the appropriate authority to dissolve any board established under this Chapter.

Clause 55: Dissolution: supplementary

102. In the event of the dissolution of an existing levy body or a board created under this Chapter, the order may deal with the transfer of any property, rights or liabilities of the existing body or board. Broadly speaking, subsections (3) to (5) are intended to ensure that where an existing levy body or a board has collected levies, any surplus assets are applied for benefit of the industry that has paid the levies in past years.

Powers of appropriate authority

Clause 56: Grants

103. The Secretary of State may make grants to a board under such conditions as he/she sees fit.

Clause 57: Directions

104. The appropriate authority (see clause 58) may give directions and revoke or amend such directions (which have to be in writing and published).

Chapter 3 Financial assistance

Clause 60: Financial assistance

105. This clause enables the Secretary of State to pay grants to any individual, body, or legal entity. These grant-giving powers are couched in very broad terms, in order to provide maximum flexibility to fund any activity within Defra's remit. For example, this will enable the Secretary of State to grant fund matters such as regeneration of deprived rural areas. At present she can do this only through the Countryside Agency. Clause 60 does not confer power to give financial assistance in respect of devolved matters.

Part 4 Inland Waterways

Clause 61: Inland Waterways Advisory Council

106. This clause changes the name of the Inland Waterways Amenity Advisory Council to the Inland Waterways Advisory Council.

Clause 62: Constitution of Council

107. This clause substitutes for section 110 of the Transport Act 1968 (which governs the existing Inland Waterways Amenity Advisory Council), a new section 110 setting out the arrangements governing the composition of the new Council and the procedures to be adopted for the appointment of the chairman and members. The clause removes the requirement to consult the chairman of the Waterways Board (also known as British Waterways) before making appointments to the Council.

Clause 63: Term of office, procedure etc.

108. This clause inserts a new section 110A in the Transport Act 1968 setting out the terms under which the members of the new Council hold office, and the procedure for the appointment of regional and other committees. The new section also provides for the payment of members' expenses and allowances, and the remuneration of the chairman.

109. The Waterways Board is currently required to provide the Council with staff and accommodation. This provision is dropped. Under the new provision the Secretary of State and Scottish Ministers are required to fund the Council. This will enable the Council to make their own arrangements for staff and accommodation.

Clause 64: Changes of functions: England and Wales

110. This clause adds a new section 110B to the Transport Act 1968 setting out the functions of the new Council in relation to England and Wales. The new section effectively replaces section 110(2) of the Act which sets out the existing Council's functions. It gives the Council the role of providing advice to the Secretary of State and navigation authorities about matters relevant to inland waterways in England and Wales. It also allows the Council to provide any other interested person with such advice.

Clause 65: Changes of functions: Scotland

111. This clause changes the functions of the Council in relation to Scotland by adding a new clause 110C to the Transport Act 1968, replacing section 110(2) of the Act. It gives the Council the function of providing advice to Scottish Ministers and the Waterways Board about matters relevant to inland waterways in Scotland which are either owned or managed by the Waterways Board or in respect of which the Board is providing advice or assistance. It also allows the Council to advise other interested persons about such matters.

Part 5 Miscellaneous and supplementary

Clause 66: Time limit on proceedings for certain offences

112. This clause introduces Schedule 9. The Schedule extends the present requirement to bring summary proceedings for certain offences concerning wildlife and habitats within six months of the commission of the offence. In relation to the legislation detailed in the Schedule, summary proceedings must be brought within six months of the acquisition of sufficient evidence to warrant proceedings, and in any event, within two years of the commission of the offence.

Clause 67: Power to make further provision

113. This clause gives the Secretary of State power to give effect to the Bill by making supplementary, incidental, consequential, transitory, transitional or saving provisions. There is certain secondary legislation that will need to be amended to reflect the fact that the Integrated Agency is taking over the role (for example as statutory consultee) previously undertaken by English Nature and the Countryside Agency. An order containing provisions that amend primary legislation requires the approval of both

Houses of Parliament. The negative procedure (annulment) applies to a statutory instrument containing any other order under this clause.

FINANCIAL EFFECTS

114. The Bill will entail some additional public expenditure by Defra during the transitional phase of dissolving existing bodies and establishing the Integrated Agency and the Commission for Rural Communities. These costs, which for Defra's Modernising Rural Delivery change programme amount to approximately £40m, have been budgeted for and thus will be met within existing budgets. This change programme includes establishing the new bodies and devolving decision making on the basis of the principles of subsidiary. In the long term, the organisational changes in this bill are designed to simplify and integrate structures and it is estimated that by 2007/8 the MRD programme should yield efficiency savings of approximately £13m per year. Other costs and savings associated with restructuring funding streams and improving the IT support to the rationalised funding streams are being identified separately.

115. Additional costs that will fall on other bodies from the provisions in this Bill will be very minor. The flexible delivery powers are designed to simplify delivery and reduce complexity of services and as such offer opportunities to make significant efficiency savings over time.

EFFECTS ON PUBLIC SERVICE MANPOWER

116. In the short term the Bill will not result in any significant increases in public service manpower. In the longer term it is intended that the measures and powers set out in this Bill will lead to increased productivity and therefore some efficiency savings.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

117. See the full Regulatory Impact Assessment (including a three-page summary), bound together with the draft Bill and these explanatory notes.

Draft Natural Environment and Rural Communities Bill

Regulatory Impact Assessment

First Edition

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Draft Bill

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Overview

1. This Regulatory Impact Assessment (RIA) assesses the impact of measures introduced in the draft Bill. It also includes an analysis of measures which may, following further consideration, be included on the Bill's formal introduction. The RIA will be amended to take into account comments received during pre-legislative scrutiny. It should be read alongside the draft Bill, the accompanying Explanatory Notes and the overarching Policy Statement.
2. The proposed changes implement certain key elements of the Rural Strategy 2004 (RS04), which itself built on the evidence and recommendations in Lord Haskins' Rural Delivery Review (RDR), commissioned by the Secretary of State Margaret Beckett and published in October 2003. Most of the policy proposals have already been subject to review and revision in the light of stakeholder views. The RDR, from which many of the proposals flow, took account of contributions from around 350 organisations, authorities and groups, and views from almost 300 individual customers of rural delivery. The Rural Strategy 2004 was similarly subject to wide-ranging discussion with stakeholders; an accompanying RIA was produced in July 2004 and is available at http://defraweb/rural/pdfs/strategy/regulatory_impact_assessment.pdf. Other measures in the Bill have been or are currently part of separate review and consultation processes.
3. Some of the measures set out in the RS04 have already been implemented; with implications for those that require implementation through this Bill. This RIA takes that into account in addressing options.
4. For enquiries please contact the Bill Team at:
Department for Environment, Food & Rural Affairs,
Zone 3/A Ergon House,
Horseferry Road,
London,
SW1P 2AL.
Email: nercbillenquiries@defra.qsi.gov.uk

Summary

5. The measures for inclusion in the Bill fall into two main categories: (I) core measures and (II) additional measures.

(I) Core Measures

6. The core provisions in the Bill are around the establishment of two new NDPBs, as announced in the Rural Strategy:
 - the merger of English Nature, a large part of the Countryside Agency (CA), and most of the Rural Development Service into a single 'Integrated Agency'¹ (IA) to provide an integrated approach to sustainable management, enhancement and use of the natural environment for the benefit of current and future generations. The Agency's mandate will extend to England only.

¹ Working title

- the formal establishment of the Commission for Rural Communities (CRC) (referred to in the Rural Strategy as the New Countryside Agency) as a small expert advisor, advocate and watch-dog for rural communities, focusing particularly on disadvantage. Its mandate will extend to England only. The CRC will be established in March 2005 as a distinct body within the legal framework of the CA; the purpose of the Bill is to provide the Commission with its own independent legal status.

7. In addition, and in line with the modernising and streamlining themes of the Rural Strategy, the Bill includes the following provisions:

- new wide-ranging powers for the Secretary of State to provide financial assistance.
- delegation of functions by agreement, from the Secretary of State to either Defra funded bodies listed in the Bill, or – in relation to EFRA functions only – to non Defra-funded bodies; and for each of the Defra family bodies to delegate functions to each other or to other outside bodies. These powers would be exercised only by mutual consent of the parties concerned, and the Secretary of State, and would be applicable to England and Wales only. They are referred to in the Bill as ‘agreements with designated bodies’.
- powers to take forward any findings from the forthcoming review of the levy boards. These are referred to in the Bill as ‘Powers to reform agricultural etc. bodies’. Powers would extend to the UK as a whole.

(II) Additional Streamlining Measures

8. The Bill will also introduce a number of lower profile but important measures to strengthen the natural environment, promote devolution and simplify the legislative framework. These are:

- changes to the competence, remit and constitution of the Joint Nature Conservation Committee (JNCC) to extend the remit of this GB body to the UK and improve its governance arrangements;
- reconstituting the Inland Waterways Amenity Advisory Council (IWAAC) as an independent body supported by Defra and the Scottish Executive, with a statutory remit to advise on the inland waterways generally; and
- amending the CROW Act 2000, so that it unambiguously defines which bodies should have to “have regard to the purpose of AONBs”. This measure would apply to England and Wales.

9. In addition to the measures in the draft Bill, there are a number of measures which, subject to further work and consideration, may be introduced on the Bill’s formal introduction. We are thus using this period of pre-legislative scrutiny to seek comments on them. Most of these measures extend to England and Wales only, however some extend to Great Britain or the UK as a whole.

- improving the governance arrangements for the National Parks, to implement recent reviews.

- three possible changes to the Broads Authorities: to align its purposes to achieve consistency with those of National Park Authorities; to give the Broads Authority powers to require all vessels using the Broads to have third party insurance, and to enable the Broads Authority to operate a Boat Safety Scheme (effectively an MOT scheme for boats).
- provisions to address a small number of gaps and uncertainties have been identified for Sites of Special Scientific Interest (SSSIs).
- provisions to make five amendments to Part 1 of the Wildlife and Countryside Act 1981 to improve wildlife protection, subject to the results of an ongoing consultation exercise.
- possible provisions to extend the CROW² biodiversity duty to public bodies and statutory undertakers in England and Wales, subject to the results of consultation.
- provisions to clarify the use of mechanically propelled vehicles on rights of way.
- repealing provisions for three Defra-sponsored statutory committees which have become defunct: the Hill Farming Advisory Committee and two Committees covering Food and Drink, the Consumer Committee for Great Britain and Committee for Investigation.

Costs & Benefits

10. The establishment of the IA and CRC is not expected to impose any direct costs or regulatory burdens on businesses or voluntary organisations; on the contrary, they should reduce costs and burdens by rationalising existing structures, resulting in a smaller number of contacts for businesses and voluntary organisations, and maximising efficiency. The further measures under consideration should impose no additional cost or regulatory burden, other than some minimal costs for conservation bodies. But we will consider this carefully before decisions are taken on their introduction, so as to identify any additional burdens. Any such burdens relating to Local Authorities would be subject to the New Burdens Doctrine.

11. The Small Business Service has confirmed that the measures proposed will not have a significant direct impact on small businesses, and it is their view that they will not add any additional burdens or costs to small businesses. The Office of Fair Trading has indicated that the proposals should have little or no effect on competition.

Rural Proofing

12. The measures proposed for inclusion in the Bill are designed to help achieve social and economic regeneration in rural areas by strengthening the monitoring of how rural policy is delivered. The Bill will confirm the CRC as an independent expert adviser, advocate and watchdog for rural people, businesses and communities, with a particular focus on those suffering social and economic disadvantage. Through devolution of decision making, the Bill will also support better targeting and tailoring and more streamlining of services to make them more user-friendly for customers.

² CROW – Countryside and Rights of Way

Section 1: Core Measures

Integrated Agency

This section corresponds to Clauses 1 – 16, 26 - 30 and 66 of the draft Bill.

Purpose and Intended Effect

Objective

13. The aim of the legislation is to establish an Integrated Agency (working title) (IA) as a single executive public body responsible for conserving, enhancing and managing the natural environment, biodiversity and landscape while realising the benefits for people, including through improving access and recreation. The Agency will integrate and build on the work done by English Nature, the Countryside Agency and the Rural Development Service. Its mandate will extend to England only.

Background

14. There are currently five separate national bodies which provide advice and incentives to improve wildlife, landscape, and people's access to the countryside. They are:

- English Nature (EN) - Defra sponsored NDPB.
- the Rural Development Service (RDS) - Part of core-Defra.
- the Countryside Agency (CA) - Defra sponsored NDPB.
- the Forestry Commission (FC) - Non-ministerial Government Department.
- the Environment Agency (EA) – Defra sponsored NDPB.

15. In the Rural Strategy 2004 (RS04), which included the Government's response to Lord Haskins' Review of Rural Delivery (RDR), the Government confirmed its intention to establish an IA comprising EN, the landscape access and recreation elements of the CA and the functions of the RDS focused on improving environmental land management. The IA would provide an independent approach to sustainable management, enhancement and use of the natural environment. The IA would work in close partnership with others, especially the FC, EA, English Heritage, Rural Development Agencies and local authorities. The Strategy announced that, subject to parliamentary time, the aim was to establish the IA by the beginning of 2007, to coincide with the introduction of the new EU Rural Development Regulation.

16. The IA will own a wide range of levers and interventions to improve the quality and accessibility of the countryside, as well as of green spaces in urban areas, and along our coasts. The scope of regulation exercised by the IA will be the same as its predecessor bodies, except in the areas set out in section II of this RIA.

Risk assessment

17. Under the current set up there is no single body responsible for natural resource management. The Haskins report concluded that this resulted in work that is often fragmented and confusing³. The establishment of an IA will address the risks of:

³ Chapter 6, Rural Delivery Review (RDR)

- ineffective and/or uncoordinated targeting of resources and services;
- poor value for money;
- unclear demarcation of roles among policy and delivery bodies;
- customer confusion through duplication/overlap of activities; and
- poor coordination.

Options

Option 1: Do nothing

18. Work would continue in a less coordinated manner, with no single body responsible for natural resource management or the delivery of integrated, sustainable outcomes in relation to the natural environment and people's enjoyment of it.

Option 2: Alignment

19. EN, CA and RDS would come together as a confederation of partners to work jointly under a common vision but with each body fulfilling individual statutory duties. Efficiencies could be gained through co-location of staff and improved ways of working. However legal barriers to joined up delivery would remain, with the three bodies unable to take a fully integrated approach to natural resource management or act as a unified voice at national, regional and local level.

Option 3: Establish an Integrated Agency

20. Lord Haskins' proposal to establish an IA was accepted by the Government in its response to his initial review, and the Government consequently announced its decision to set up a statutory NDPB. The IA will champion integrated land management, nature conservation, biodiversity, landscape, access and recreation. The IA will be responsible for ensuring that the natural environment is conserved, enhanced and managed for the benefit of present and future generations and thereby to contribute to sustainable development. This role will include:

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

21. The IA will have the following powers or levers to undertake its work:

- powers to give financial assistance;
- powers to enter into management agreements;
- experimental powers;
- powers to provide information;
- powers and duties to provide advice; and
- existing regulatory/enforcement powers, including byelaws.

22. The majority of the powers proposed for the IA are already available to the existing bodies, but will be widened across the IA's broader remit. The Bill will include two specific measures to extend powers already exercised by the RDS:

- power to carry out field enquires under the Wildlife and Countryside Act 1981, Destructive Imported Animals Act 1932, Deer Act 1991 and Badgers Act 1992. This corrects an anomaly where the RDS is currently able to carry out field enquiries into suspected offences under certain legislation but not the above Acts (it is proposed to include this at introduction); and
- extension of the 6 month deadline for commencing proceedings against a suspect set under the Magistrates Court Act 1980, 127. This has proved difficult for environmental investigations and some wildlife licensing, which in turn has prevented offences being prosecuted. The Bill extends this limit on commencement to 2 years, but requires that proceedings are started within 6 months of evidence of an offence becoming available.

23. The Bill also introduces a new power in relation to the IA's advice giving role. The IA will have a duty to provide advice to public bodies on matters within its remit on request. Public bodies in this instance will include Ministers of the Crown, Government Departments and statutory undertakers. Under the Bill, should the public body seek but not act on the IA's advice, the IA will have the power to request a written statement from the public body, explaining the reasons for its decision. This accords with the bringing into force of the Freedom of Information Act.

Benefits

Economic

Option 1: Do nothing

24. Government expenditure required to establish the IA would be saved (such as the avoidance of investment costs, of changes in the numbers of staff, relocation, changes in terms and conditions, and staff training etc.).

Option 2: Alignment

25. Alignment of the three bodies would produce limited economic benefits:

- reduced costs through co-location;
- more targeted interventions with landowners;
- better leverage over external funding through improved regional influencing mechanism; and
- joint working and delivery of projects for example in the delivery of the new Environmental Stewardship scheme for SSSIs.

Option 3: Establish an Integrated Agency

26. Establishment of an IA would produce maximum economic benefits:

- more effective and simpler relationships with land managers, through the development of a single "shop window" for customers for environmental schemes and advice.
- more effective and powerful relationships with key partners to deliver sustainable economic solutions at national, regional and local level.
- better quality of service for lower unit cost.

- better quality advice and simplified, more integrated land management and natural resource protection funding that aligns more closely with Defra priorities and is easier for customers to access.

27. The Government announced in the 2004 Spending Review Defra's plan to generate efficiencies of £13m a year by 2007/08 through the MRD Programme as a whole. Establishment of the IA will generate efficiencies from a number of sources, principally reduced estates and staff costs from the merger of the three organisations and the application of Gershon principles to deliver better value for money from back office services. These will contribute at least £6.5m cumulative efficiencies by 2007/08 with further efficiencies in 2008/09 and 2009/10.

Environmental

Option 1: Do nothing

28. There are no additional environmental benefits associated with doing nothing. EN, CA and RDS would continue to deliver benefits related to access, landscape, recreation, biodiversity and geodiversity, including agri-environment schemes, in line with current PSA targets, statutory remits and EU policies, although there may be less scope for exploiting synergies between these agendas.

Option 2: Alignment

29. There are limited environmental benefits associated with alignment:

- increased synergies between the three organisations to promote sustainable development, including a joint approach to the protection and management of natural resources and, to address global challenges such as climate change, and to work on the sustainable management of coast, seas, wetlands and water courses;
- a stronger, more coherent evidence-base for informing policy and influencing land managers, including collective input into shaping the new Rural Development Regulation and its delivery, integrated science strategies and a co-ordinated approach to handling geographical information.

Option 3: Establish an Integrated Agency

30. Establishing an IA will introduce the following environmental benefits:

- a more flexible, integrated and sustainable approach to management of the natural environment, tackling problems according to natural rather than administrative boundaries;
- the Agency will have special regard to promoting biodiversity (on land, in rivers, and in the sea), enhancing landscapes, developing public access and enjoyment of our green spaces, and improving soil and water through encouraging better land management;
- a stronger, unified voice at regional and local level, with conservation aspects of decisions considered from the outset in decisions such as spatial planning, and with natural resource protection and sustainable land management issues reflected in broader regional strategies and frameworks;
- protection of natural resources to achieve sustainable and environmentally beneficial land management;

- a stronger, more coherent evidence-base for informing policy and influencing land managers; and
- better targeting of funding towards environmental objectives and outcomes by a single organisation with an overview of the full range of environmental land management and natural resource protection funding.

Social

Option 1: Do nothing

31. For customers with an existing relationship with EN, CA, or RDS, this option would avoid disruption to working practices in the immediate short term. However, existing delivery bodies would continue to deliver rural policy in less integrated ways, with overlapping roles creating potential confusion and duplication. The absence of a single organisation integrating environmental management with the pursuit of social and economic gains from its environmental activity would miss an opportunity for increasing the social and economic benefits for the public and rural communities.

Option 2: Alignment

32. Partial alignment would result in limited social benefits:

- increased synergies between the three organisations to promote the wider social benefits of the environment;
- improved customer service for land managers, for example, linking delivery of the Aggregates Levy Sustainability Fund scheme so that there is a single unified scheme from the viewpoint of customers (although legal requirements demand that behind the scenes delivery be managed separately); and
- joint work on access, recreation and health.

Option 3: Establish an Integrated Agency

33. Establishing an IA will produce the following social benefits:

- a wide range of levers and interventions combined to improve the quality and accessibility of our countryside, as well as of green spaces in our towns, and along our coasts;
- a single body focused on ensuring that a diverse range of people enjoy the benefits of the natural environment, including for the purposes of increasing public well-being; and
- improved customer service for land managers, with customers only having to deal with one body instead of three.

Costs

Economic

Option 1: Do nothing

34. The positive economic impact of combining the environmental spend of the three bodies would be foregone. The total administration costs in 2003/04 for EN, CA and RDS was approximately £136m; of this approximately £120m is related to functions that will form part of the IA. The do nothing option would incur a small additional cost - with the parallel establishment of the CRC - as it would leave the CA with both its existing Land,

Access and Recreation division and central HR and estates division with no rationale to reduce core costs. Land managers would continue to deal with three bodies instead of one with the associated costs of managing such a process. Equally, in order to influence effectively on land issues society, voluntary and business sectors would need to continue working with a range of bodies - a process which can be both confusing and costly.

Option 2: Alignment

35. The main investment costs associated with partial alignment relate to developing new ways of working, implementing the basic IT needed to enable a confederation of partners to work effectively together, some rationalisation of estates and training of staff. We estimate the cost of this would be in the region of £5m. Partial alignment would provide opportunities to link services in some cases. However where joint working is not possible land managers would continue to incur the costs of working with three organisations. There would be some economic benefits from sharing joint objectives and outcomes.

Option 3: Establish an Integrated Agency

36. The total main investment costs required to implement the MRD programme as a whole are estimated to be approximately £40m. These costs are expected to fall in financial years 2004/05 to 2008/09. Of this, it is estimated that around £30m will be needed for establishment of the IA. This will provide for:

- the IT systems already in use in EN, CA and RDS to be built on and integrated;
- rationalising the current estate holdings of the CA, EN and the RDS;
- re-branding, training and introducing new ways of working; and
- redundancies arising from transition to the new delivery arrangements.

37. There may also be an additional ongoing cost for providing harmonisation of terms and conditions for staff. This might be in the order of £2m.

38. The IA provides an opportunity for land managers to work with one organisation and thus reduce time and costs to their business. In addition, there are broad economic benefits for society as access to a single agency provides a simpler and more cost effective method of influencing and engaging in nature and landscape issues, and for addressing the economic benefits that can be achieved from a healthy and sustainable environment.

Environmental

Option 1: Do nothing

39. Work would continue to be carried out separately by the relevant bodies, with the following consequences:

- opportunities to tackle the drivers of environmental protection and increasing diversity at landscape and river catchment scale would be missed;
- responsibility for natural resource management across seas, rivers and green spaces would continue to be split across three bodies thus reducing opportunities for efficient and co-ordinated action or for exploiting synergies between these agendas.

40. This non-integral approach would be expected to increase the costs of protecting and enhancing the natural environment.

Option 2: Alignment

41. Whilst partial alignment would be possible in some areas, legal requirements would limit the effectiveness of coordinated working with environmental benefits not fully realised. Working in alignment would reduce, but not eliminate the costs identified in the 'do nothing' option.

Option 3: Establish an Integrated Agency

42. The cost of protecting and enhancing the natural environment will be reduced through the integrated approach to be taken by the IA; this is therefore a cost-avoidance measure.

Social

Option 1: Do nothing

43. Society values the environmental quality of landscapes, biodiversity and the opportunities they provide for recreation and leisure. However, the wider benefits of the countryside are not shared equitably and promotion of the social benefits of the environment takes place in an uncoordinated manner. By doing nothing there are a range of potential benefits that would not be fully realised; such as health and public well-being benefits from outdoor activity and improved opportunities for social interaction.

Option 2: Alignment

44. There are no additional social costs identified with this option.

Option 3: Establish an Integrated Agency

45. There are no additional social costs identified with this option, which is effectively a cost-avoidance measure.

Equity and Fairness

46. The driving principles of the MRD change programme⁴ include better targeting of resources at the areas where they are needed most, and support that is easier for all to access. The IA will contribute to this agenda by joining-up support and services, making it easier to prioritise resources and for customers to access those resources. Establishment of the IA will not require new regulatory enforcement. It will not directly impose any new costs on those benefiting from its services nor negatively impact on the business, charity or the voluntary sector.

Competition Assessment

47. Applying the competition filter test suggests that there is not a substantial detrimental effect on competition and no change to the competitive process. A detailed competition assessment is therefore not necessary:

- there are no direct additional costs of regulation as a result of the IA;
- no individual firm identified in the markets affected has a degree of market power;

⁴ See RIA for RS04

- the IA is unlikely to affect market structures materially;
- costs will not be higher for new or potential firms than for existing firms;
- the market affected is not characterised by unusually rapid technological change;
- the IA will not affect the ability of firms to choose the price, quality, range or location of its products.

Consultation with small business: the Small Firms' Impact Test

48. It is not intended that the IA will impose any additional direct costs or regulatory burdens on small businesses. It should reduce costs and burdens by offering more effective and simpler relationships with land managers, through the development of a single “shop window” for customers for environmental schemes and advice. The IA will provide advice and incentives to land managers, through, for example, the England Rural Development Programme’s agri-environment schemes.

Enforcement & Sanctions

49. Establishment of the IA will not in itself impose new regulations or sanctions and will have no direct legislative impact on stakeholders or the public.

Monitoring & Review

50. The effectiveness of the legislation used to set up the IA will need to be assessed at the Agency’s first business review⁵. Monitoring will be carried out as before.

Consultation

51. The decision to establish an IA stems from Lord Haskins’ Rural Delivery Review, which took account of over 600 contributions. The publication of the Rural Strategy engaged a wide range of stakeholders in both formal and informal fora. In addition, a wide range of stakeholders have been drawn together to form a regular IA Stakeholder Group, which provides a forum for regular consultation and feedback on proposals for the Integrated Agency. These include representatives of local and regional government and non-government organisations.

Summary & Recommendation

52. It is recommended that an IA is established as set out in Option 3 and as further explained in the accompanying policy statement and RS04.

⁵ See Cabinet Office Guidance for Non Departmental Public Bodies: A Guide for Departments, (k) Guidance for reviewing NDPBs (p.3).

Commission for Rural Communities

This section corresponds to Clauses 17 - 30 of the draft Bill.

Purpose and Intended Effect

Objective

53. The Bill will provide a distinct legal status for the Commission for Rural Communities (CRC) (referred to in the Rural Strategy as the New Countryside Agency) as an independent expert adviser, advocate and watchdog for rural people, businesses and communities, with a particular focus on rural disadvantage. The CRC's mandate will extend to England only.

Background

54. The Countryside Agency (CA) was formed in 1999 from a merger of the Countryside Commission and elements of the Rural Development Commission. Its aims are to:

- conserve and enhance England's countryside;
- spread social and economic opportunity for the people who live there; and
- help everyone, wherever they live and whatever their background, to enjoy the countryside and share in this priceless national asset.⁶

55. In the Rural Strategy 2004 (RS04), the Government decided to establish a Commission for Rural Communities (CRC) (known in the RS04 as the New Countryside Agency) as a small expert body, focussed on disadvantage in rural areas. The Chair of the CRC would also be the Rural Advocate. The CRC will provide impartial advice to Government and act as watchdog and advocate for rural people, businesses and communities, especially those suffering disadvantage. The CRC will not have responsibilities for delivering grant programmes or any other executive delivery functions; it will be an advisory body. The CRC will be established in March 2004 as a distinct body within the Countryside Agency (which is to be abolished, with a third of its functions and funding transferring to the IA and another third to the Regional Development Agencies on 1 April 2005). The Bill gives statutory effect to the establishment of the CRC⁷.

56. The CRC will be an advisory rather than delivery body. It will:

- provide independent advice to the Government and others with responsibility for rural policy development and service delivery (including organisations in the public, voluntary and private sectors) on issues affecting people, communities and businesses in rural England, within a sustainable development context;
- be an independent voice for rural people and communities, especially those suffering disadvantage, to ensure that their views are heard by, and articulated to, Government and other bodies to inform policy-making and delivery; and
- monitor progress in the delivery of the Government's rural policies, including at regional and local level, to ensure that policies and delivery on the ground are meeting needs and leading to measurable benefits.

⁶ As summarised in the Rural Delivery Review (RDR), Annex 2, page 115.

⁷ Lord Whitty made reference to the NCA's status in his opening statement to EFRA Committee, 30 November 2004, Q280.

57. The CA's rural regeneration work is in the process of being transferred to the Regional Development Agencies (RDAs); the RDAs' Tasking Framework incorporates social and economic targets in support of Defra, and their budget has been increased commensurately for 2005/06. Resources to support the rural voluntary and community sector will largely be administered by the regional Government Offices. The CA's landscape, access and recreational division will transfer to the Integrated Agency (IA). The Commission is currently being established within the legal framework of the CA.

Risk assessment

58. The establishment of a refocused organisation with a distinctive new remit and no delivery responsibilities, together with the transfer of the CA's delivery functions to others, addresses the risk of duplication of work, and potential conflict of interest from engagement in both delivery and watchdog functions.

Options

59. The Bill represents is the final, important step in implementing the Government's decision to establish a New Countryside Agency. Primary legislation is required in order to establish the CRC as a statutory body in its own right and to make provision for its functions and powers. The option of doing nothing has not been addressed since it would not deliver agreed and announced Government policy: the CRC will have been established before the Bill is introduced, the Bill will confirm it as a legal entity in its own right.

Benefits

Economic

60. The establishment of a CRC will produce substantial economic benefits, such as:
- efficiency benefits including reduced staff numbers, reduced corporate service costs, and reduced estate costs;
 - benefits from locating the CRC in a rural area identified as having economic and social disadvantage;
 - benefits to rural businesses from maintaining a strong rural advocate to champion their needs;
 - as a powerful and independent watchdog, the CRC will help ensure that government funding for rural regeneration is spent well; and
 - transferring delivery functions to regional and local organisations will bring delivery closer to the customer, benefiting rural businesses by ensuring that support is better targeted, better integrated, and more closely aligned with wider regional economic strategies.

61. The decisions being implemented in relation to the CA will contribute some £5m to the overall efficiency benefits of £13m that the MRD programme is planning to achieve by 2007/08.

Environmental

62. Establishing a CRC will produce several environmental benefits:
- refocusing the CA, by transferring its landscape, access and recreation responsibilities to the IA, will ensure a much more integrated approach to

management of the land and natural environment and promote the development of “win-win” solutions – sustainable development in practice;

- the Rural Advocate will be able to champion the importance of a good quality, well managed local environment for rural communities and businesses and the role that rural people can play in maintaining it; and
- accountability for environmental outcomes in the countryside will be clearer and services to customers better integrated.

Social

63. Establishing the CRC as an advocate for rural communities will have numerous social benefits, including:

- the provision of well founded evidence and analysis of rural needs to Government and other bodies will result in improvements in outcomes in the quality of services rural communities receive, especially those suffering disadvantage;
- the needs of rural people and communities, especially those suffering disadvantage, will be articulated to Government and other bodies authoritatively and independently, so as to inform policy development and delivery and to inspire innovative solutions; and
- transfer of delivery functions to regional and local bodies will result in better integration with other public services and better targeting of support to deal with rural disadvantage.

Costs

Economic

64. The CA has estimated that the establishment and launch of the CRC in itself will cost around £700k. This figure is for initial costs only and does not include costs relating to redundancies or relocation.

Environmental & Social

65. There are no additional environmental or social costs associated with establishing a CRC. The cost of overlap between organisations, less efficient targeting of resources, and less mainstreaming of support in rural communities will be saved; this is therefore a cost-avoidance measure.

Equity & Fairness

66. The CRC will be founded on the principles of equity and fairness with the goal that all Government policy should achieve equitable treatment for rural areas and ensure fair access to services for rural people, communities and businesses. The CRC will have a remit to focus on social and economic rural disadvantage for precisely this purpose. Establishment of the CRC will not require regulatory enforcement. It will not directly impose any new costs on those benefiting from its advice, advocacy or watchdog functions nor introduce a negative impact on the business, charity or voluntary sector.

Enforcement & Sanctions

67. No new enforcement procedures or sanctions are required.

Competition Assessment

68. Establishment of the CRC will not directly affect any of the potential main impacts on competition identified in the Office of Fair Trading's Guidelines for Competition Assessment:

- There are no direct additional costs of regulation as a result of the CRC;
- No individual firm identified in the markets affected has a degree of market power;
- The CRC is unlikely to affect market structures materially;
- Costs will not be higher for new or potential firms than for existing firms;
- The market affected is not characterized by unusually rapid technological change;
- The CRC will not affect the ability of firms to choose the price, quality, range or location of its products.

Consultation with small business: the Small Firms' Impact Test

69. The CRC will provide advice to, and monitor progress in delivery by, public service providers. It is not intended that the establishment of the CRC will give rise to any negative impact on small businesses. On the contrary, it will help ensure that businesses are not unfairly disadvantaged by being located in rural areas.

Monitoring & Review

70. The effectiveness of the legislation used to set up the CRC will be assessed at the Agency's first business review. Monitoring by Defra will be incorporated into the governance arrangements to be established for the CRC.

Consultation

71. The establishment of the CRC builds on the commitments made in the Government's RS04, which built on the Review of the Rural White Paper and included the Government's response to Lord Haskins' Rural Delivery Review (RDR). A full list of those consulted on the Rural White Paper Review and RDR is available on request.

Summary & Recommendation

It is recommended that the Bill establish the Commission for Rural Communities as set out in RS04.

Delegation Powers

This section corresponds to Clauses 41 - 48 of the draft Bill.

Purpose and Intended Effect

Objective

72. To establish general powers allowing the Secretary of State to delegate functions to listed bodies (comprising Defra public bodies plus the Forestry Commission), along with a general power for Defra public bodies to delegate functions to other NDPBs and bodies, subject to mutual consent and the approval of such delegation by the Secretary of State. Powers would be applicable to England and Wales only.

Background

73. At present there are limited powers for the Secretary of State or Defra public bodies to delegate functions to specific bodies without recourse to primary legislation or use of the Deregulation and Contracting Out Act. The use of the latter Act requires an affirmative resolution procedure which can be disproportionately burdensome and time consuming. It is therefore difficult to maintain efficient and effective delivery of Defra's aims and objectives in a changing environment, and in a way that provides early benefits to customers.

74. Introducing general powers of delegation (referred to in the Bill as 'agreements with designated bodies') will reduce administrative burdens and generally enable greater flexibility of delivery. It will make dealing with government bodies easier and faster for customers. The powers will cover a wide range of regulatory, funding and administrative functions. Some functions are not suitable for delegation - these include powers to make Crown appointments, to act as accounting officer, to make secondary legislation and certain powers to fix fees or charges. These are explicitly excluded from the scope of the delegation powers in the Draft Bill. As a matter of good practice it is envisaged that these powers would be used in a coherent manner rather than piecemeal fashion, to avoid confusion; but they are intended to allow for regional flexibility and are likely to lead to differences in the means through which services are delivered between regions.

Risk assessment

75. Under the current system it is difficult to maintain efficient and effective delivery of Defra's aims and objectives in a climate which requires functions to be moved deftly. An example of such a function would be the Secretary of State responsibility of issuing statutory notices under the Weeds Act 1959. Such notices can be served on the occupier of land where Ministers are satisfied that one of the listed injurious weeds are growing on that land. Such notice would require an occupier to take necessary action to prevent weeds from spreading. This function could not at present be delegated to a Defra public body without recourse to primary legislation. Defra public bodies can be similarly frustrated should they wish to delegate any of their own statutory functions to other bodies.

Options

Option 1: Do nothing

76. Without powers to delegate functions to appropriate bodies it would be more difficult to allow delivery bodies the flexibility to deliver in changing circumstance and to continue the process of devolving delivery away from the centre to the regional and local level, where decisions can more readily be taken with full understanding of the implications for customers. Without this power, Defra delivery bodies would not be as strong and independent as the Government intends them to be. Defra public bodies would generally lack sufficient flexibility to improve efficiency and effectiveness, and provide a more streamlined and accessible service to customers. It would remain difficult for the Secretary of State to delegate functions to other public bodies without recourse to primary legislation or the Deregulation and Contracting Out Act. This would limit the potential for reshaping delivery arrangements in order to achieve Defra objectives.

Option 2: Establish powers of delegation

77. This proposed option will introduce general powers to enable Defra and its public bodies to be more flexible and responsive in the future to the changing needs of customers, wider stakeholders and central requirements. It introduces general powers for the Secretary of State to delegate functions to Defra public bodies, and for Defra public bodies to delegate functions to other NDPBs and bodies. Delegation would be subject to mutual consent by the bodies concerned, and approval by the Secretary of State. For example, powers of delegation will allow the Forestry Commission to delegate grant giving functions relating to forests to the Integrated Agency (IA). The broader grant giving facility will provide a more coherent approach to achieving better land management and use. Such flexibility would be consistent with Defra's Delivery Strategy and the principles of public sector reform. It could help avoid, in future, the kind of complexity and duplication in the delivery landscape that was the driver for the Secretary of State commissioning Lord Haskins' RDR.

Benefits

Option 1: Do nothing

78. Under this option, the Secretary of State, the IA, and other Defra public bodies would rely heavily on primary legislation or disproportionately burdensome processes to delegate functions.

Option 2: Establish powers of delegation

79. Establishing powers of delegation would provide for more flexible ways of working, with the following specific benefits:

- more flexibility in placing work where it can best be carried out. This would assist in moving activities from the core department to delivery bodies and between delivery bodies in line with the Defra Delivery Strategy. It would help provide a more accessible and efficient service to customers.
- more efficient administration. Statutory approvals by Ministers for minor administrative changes (for example, opening times) could be delegated to the body concerned.

- reduction in the time needed to implement changes (perhaps by years) where primary legislation otherwise would have been required. It would also avoid administrative burdens associated with the use of secondary legislation.

Costs

Option 1: Do nothing

80. This would leave only costly, time consuming and burdensome processes available for delegating delivery functions, and could result in the continuation of non-cost effective and inefficient delivery arrangements.

Option 2: Establish powers of delegation

81. Introducing powers of delegation would not impose costs on the business, charity or voluntary sector. This power is explicitly designed to be deregulatory, reducing the burdens on public bodies in delivering services. However, it would reduce the scope or length of time available for parliamentary scrutiny.

Monitoring & Review

82. These are enabling powers. The monitoring and evaluation arrangement would be part of assessing the policies they were being used to deliver and not the functions themselves.

Small Firms' Impact Test and Competition Assessment

83. A small firms' impact test and competition assessment is not required because the proposal impacts only on the provision of public services. The proposals would not impose any new burdens or costs on private sector enterprises.

Consultation

84. These powers build on the modernising and delivery themes set out in the Rural Strategy⁸. As ideas have developed Defra NDPBs have been consulted. We are using this period of pre-legislative scrutiny to consult other Government Departments on the detail.

Summary & Recommendation

85. It is recommended that the Government establish general powers of delegation, subject to mutual consent and Secretary of State approval.

⁸ Rural Strategy 2004, paragraph 40, page 21

Levy Bodies

This section corresponds to Clauses 49 - 59 of the draft Bill.

Purpose and Intended Effect

Objective

86. In Rural Strategy 2004 (RS04) the Government announced its decision to commission a review of levy bodies. The purpose of this provision is to allow the implementation of the review's recommendations by creating a general enabling power to establish, amend, dissolve or merge levy boards across the UK through affirmative resolution secondary legislation. The measure applies to the UK as a whole.

Background

87. There are five main statutory agriculture and horticulture levy bodies operating in England – the British Potato Council, the Home Grown Cereals Authority, the Horticultural Development Council, the Meat and Livestock Commission and the Milk Development Council. Primary legislation for each of the Boards dates back 30 years or more (pre-CAP accession). The purpose of the bodies is to fund research and development and other activities on behalf of the agriculture sector.

88. Agriculture and the food industry are changing rapidly, most particularly for our farmers. The landmark CAP reform agreement in 2003 breaks the link between EU subsidies and agricultural production. The time is right for a fundamental review of the levy boards and their operation. This was a point identified by Lord Haskins' Rural Delivery Review, in response to which the Government undertook to "commission, with the Devolved Administrations, an independent, fundamental review of the levy-funded organisations, to report in 2005⁹."

Risk assessment

89. The risk associated with the current position is that there is no workable way in which any but the most mundane changes to levy boards' structure or operations could be made without separate primary legislation. This would mean that whatever benefits for customers are identified in the review could not be implemented.

Options

Option 1: Do nothing

90. By doing nothing it would not be possible to implement any changes to the levy bodies' structures or activities arising from the review without making time-consuming and expensive changes to the separate pieces of legislation under which they operate (see option 3 below). This is not therefore a viable option because it would mean that any findings of the review could not be implemented for the foreseeable future, thereby losing the opportunity to make improvements to the way these industries are supported.

⁹ Annex C to Rural Strategy 2004 - Government's Response to Lord Haskins' Recommendations (Recommendation 20) and Implementation Plan

Option 2: Make changes to the individual status of the existing bodies under existing legislation

91. Option 2 is provided as an illustration of the potential alternative to creating a general power. However, the complexity of changing numerous legislative provisions (each body was set up under different pieces of primary or secondary legislation) and the need for primary legislation in certain cases, coupled with the cross-cutting nature of the review, makes this an unworkable option. In any event, were the recommendations of the review to affect the bodies collectively, it would be illogical to consider each one individually.

Option 3: Create a general enabling power to establish, amend, dissolve or merge levy boards across the UK

92. This would provide a means for the review's findings to be implemented without recourse to fresh primary legislation. However, as these powers would be subject to affirmative resolution procedure in both Houses, an appropriate level of Parliamentary scrutiny would be maintained for any changes arising from the review.

Costs and Benefits

93. As this would be an enabling provision, rather than a proposal for legislation, it is not possible to calculate cost and benefits at this stage. These will depend on the outcome of the planned review. Any proposals for secondary legislation under this provision would be subject to separate Regulatory Impact Assessments.

Small Firms' Impact Test and Competition Assessment

94. As this would be an enabling provision, rather than a proposal for regulation, it is not possible to address the impact on small firms or competition. Exact proposals will depend on the outcome of the planned review. Any proposals for secondary legislation under this provision would be subject to separate Regulatory Impact Assessments.

Consultation

95. The review will seek views of all interested parties both within Government and private.

Summary & Recommendation

96. The Government recommends option 3, create a general enabling power to establish, amend, dissolve or merge levy boards across the UK.

Funding Powers

This section corresponds to Clause 60 of the draft Bill.

Purpose and Intended Effect

Objective

97. To create a broad general funding power for both the Secretary of State and the Integrated Agency (IA) to pay grants, make loans, or otherwise use funding to support any person or body in furthering Defra's objectives or the objective of the Agency respectively. This includes the power for both the Secretary of State and the IA to run experiments. The Secretary of State would be able to delegate that power to any delivery body.

Background

98. As part of the Rural Strategy 2004 (RS04) Defra's Rural Funding Review found that current funding powers are constrained and do not reflect Defra's broad-based sustainable development remit and objectives given by the Prime Minister on the creation of Defra in 2001. In particular, other than those quite specific funding powers for agriculture and agri-environment, Defra's ability to fund wider social and economic interventions (rural or otherwise) and experimental funding reside solely with the Countryside Agency (CA). As the 'Commission for Rural Communities' is proposed to be an advisory body without such funding powers then, contingent on that change, Defra will need to assume these powers. The separate delegation power will enable Defra to devolve delivery to others.

Risk assessment

99. The risks of not having these broad powers would be that Defra and its delivery agents and the IA would lack the full range of incentivising tools necessary to allow them to achieve their objectives, in particular the social and economic powers currently exercised by the CA which would be lost. This would negatively impact on the service Defra would be able to deliver to its customers.

Options

Option 1: Do nothing

100. To do nothing would restrict the Secretary of State's grant-giving powers and therefore frustrate the achievement of Defra objectives, and those of Defra's Rural Funding Review in making funding as strategic and flexible as possible. In particular, on the assumption that the CA would still lose its current social and economic funding powers, that would leave a huge gap in the funding that Defra were able to give or delegate in those areas. It would also risk fragmentation of funding across different delivery organisations because of inflexibilities about who the Secretary of State can fund; it would therefore hinder the achievement of the benefits to customers of radical streamlining and rationalising of Defra's rural funding streams.

Option 2: Create broad funding powers

101. Creating broad funding powers for both the Secretary of State and the IA would fully empower both to pursue their objectives through funding subject to the normal budgetary

constraints but without legislative barriers. This would also enable a better, more joined-up service to be delivered to the customer free of bureaucratic restrictions.

Costs and Benefits

102. The benefits as outlined above are those of flexibility and enabling Defra and the Integrated Agency to achieve their objectives through the use of financial incentives to the benefit of their customers. As such this is a cost-free proposal other than the cost of individual funding decisions. Indeed it will avoid the costs currently imposed by Defra having to find elaborate ways of giving grants to delivery organisations such as through use of the Appropriation Act. Although new funding would no longer be subject to express Parliamentary approval through the granting of a specific funding power, they would still be subject to the normal budgetary process through the National Audit Office and the Public Accounts Committee.

Small Firms' Impact Test and Competition Assessment

103. As this is essentially an enabling provision to provide funding, rather than a proposal for regulation, any impact there might be on small firms or competition can only be positive.

Consultation

104. Extensive consultation on the efficacy of funding, both with customers and delivery agents, was carried out as part of the evidence gathering process for both Lord Haskins' Rural Delivery Review and the subsequent Defra Rural Funding Review.

Summary & Recommendation

105. The Government recommends option 2, to create broad funding and experimental powers for both the Secretary of State and the IA.

Section II: Additional Streamlining Measures

Joint Nature Conservation Committee

This section corresponds to Clauses 31 - 40 of the draft Bill.

Purpose and Intended Effect

Objective

106. The purpose of this proposal is to:

- a) extend the geographical coverage of the Joint Nature Conservation Committee (JNCC) from GB to UK by extending its functions more formally to Northern Ireland;
- b) give the two Northern Ireland members of the JNCC voting rights and formalise the current voluntary funding provided for the JNCC by Department of Environment Northern Ireland (DOENI);
- c) increase the number of independent members of the JNCC appointed by the Secretary of State from 3 to 5;
- d) remove the Chairman of the Countryside Agency (CA) from the JNCC; and
- e) place an obligation on the JNCC to offer advice in the context of sustainable development.

Background

107. JNCC is the forum, established under section 128 of the Environmental Protection Act 1990, through which the English, Scottish and Welsh conservation agencies – English Nature, Scottish Natural Heritage and the Countryside Council for Wales - discharge their special statutory responsibilities for nature conservation across Great Britain as a whole and internationally.

108. The following actions were identified as part of the Government Response to the last Financial Management and Policy Review (FMPR) of the JNCC published in November 2002:

- a) extend JNCC's competence for common standards to Northern Ireland;
- b) place Northern Ireland's funding on a formal basis;
- c) give Northern Ireland JNCC members voting rights; and
- d) increase the number of independent members by two.

109. The Government response to the review¹⁰ made a commitment to take forward the changes proposed to JNCC's remit and constitution, with changes to Northern Ireland agreed following consent (which has been secured). JNCC itself suggested that it should be given an obligation to offer its advice in the context of sustainable development in a way which reflected the sustainable development responsibilities of the Integrated Agency (IA) (provision (e)). The abolition of the Countryside Agency (CA) in its existing form and the inclusion of some of its responsibilities in the IA with the remainder passing to a smaller New CA would remove the need for the Chair of the CA to be on the JNCC.

¹⁰ Review of the Joint Nature Conservation Committee: Government Response

Risk assessment

110. These proposals do not address a specific risk; rather they put the current voluntary arrangements on a more formal basis, thus introducing greater clarity of roles. The appointment of additional independent members restores the balance of the 1990 Act between those appointed by the Secretary of State and those appointed by or on behalf of the nature conservation agencies in the four constituent countries of the UK.

Options

Option 1: Do nothing

111. This option would retain the status quo. Northern Ireland's participation in the JNCC would continue to be on a voluntary basis. There would continue to be lack of clarity about whether JNCC is advising on a GB or UK basis.

Option 2: Implement proposals (a) – (e)

112. These provisions would effectively put Northern Ireland on the same footing as England, Scotland and Wales, introducing greater clarity of roles. The increased number of independent members would also allow for a greater depth and breadth of scientific expertise to be represented on the JNCC.

113. The proposal to require JNCC to set its advice in the context of sustainable development would update the JNCC's role and bring it into line with other environmental NDPBs who have sustainable development responsibilities.

Benefits

Option 1: Do nothing

114. There are no additional benefits associated with this option.

Option 2: Implement proposals (a) – (e)

115. It is difficult to quantify the benefits of the changes proposed since they relate essentially to the benefits to the way in which the organisation operates and functions of making Northern Ireland a full partner in UK conservation matters, with Northern Ireland's views formally reflected in JNCC's advice to Ministers.

Costs

Option 1: Do nothing

116. There are no additional costs associated with this option.

Option 2: Implement proposals (a) – (e)

117. There are marginal increases in cost (circa £18K per annum) to the JNCC from the increase in the number of independent members. There are some additional costs to JNCC arising from its wider remit but these are likely to be offset by savings to DOENI and its agencies that will, in future, be able to rely on advice from JNCC on a wider range of

issues. These costs and benefits are as yet unquantified but are not estimated to be significant. There may be additional but insignificant costs associated with developing a sustainable development expertise.

Equity and Fairness

118. No interested party would be disproportionately affected by these proposals.

Consultation with small business: the Small Firms' Impact Test

119. A Small Firms' Impact test is not required because the proposal impacts only on the public services. This has been verified by the completion of a Public Services Threshold test.

Competition Assessment

120. A competition assessment is not required because the proposal impacts only on the public-services. This has been verified by the completion of a Public Services Threshold test.

Enforcement & Sanctions

121. There are no enforcement or sanction issues.

Monitoring & Review

122. The effectiveness of the changes would be assessed in the next FMPR of the JNCC.

Consultation

123. The proposals have been consulted upon within Defra, the Scottish Executive, Welsh Assembly Government and DOE Northern Ireland and their nature agencies.

Summary & Recommendation

124. The Government recommends the organisational changes set out under option 2.

Inland Waterways Amenity Advisory Council

This section corresponds to Clauses 61 - 65 of the draft Bill.

Purpose and Intended Effect

Objective

125. To re-constitute the Inland Waterways Amenity Advisory Council (IWAAC) by severing its administrative connections with British Waterways and setting it up as an independent body reporting to and supported by Defra (or Scottish Executive in Scotland).

126. The provisions would apply to Great Britain. The approval of the Scottish Parliament is sought for the provisions insofar as they alter the executive competence of Scottish Ministers or affect devolved arrangements.

Background

127. A public consultation exercise carried out in 2003¹¹ as part of a five-yearly review of the Council revealed widespread support for the Council's work, but an acceptance of the need to modernise its terms of reference, principally by separating it from British Waterways. In the light of this, Ministers decided to re-constitute the Council as an independent body reporting to and supported by Defra (or the Scottish Executive in Scotland) with a remit to provide strategic advice to Government, navigation authorities and other waterway bodies about the inland waterways generally.

Risk assessment

128. The Bill does not address a specific risk but the Council's links to British Waterways are not conducive to its effective performance.

Options

129. Four options have been identified:

Option 1: Do nothing

130. The Council is at present dependant on British Waterways' cooperation for its effective performance. While British Waterways has a statutory obligation to provide financial and administrative support it considers that it no longer has a need for the Council's advice, much of which is not now directly related to its waterways. The do-nothing option would perpetuate the Council's limited and outdated terms of reference which inhibit its performance.

Option 2: Allow the Council to continue to operate under its present legislative remit but give it clearer administrative terms of reference

131. Maintaining the status quo, albeit with new administrative guidance would not give the Council new statutory terms of reference which it needs to be able to perform effectively.

¹¹ Inland Waterways Amenity Advisory Council - Policy Review: Defra July 2003

Option 3: Make a Regulatory Reform Order (RRO) to separate the Council from British Waterways and give the Council new terms of reference

132. A RRO could relieve the Minister from the need to consult British Waterways over appointments but it could not give the Council a remit to advise the Minister or other bodies about the waterways generally because the change would not amount to removing a burden or a constraint but would change the nature of the Council's activities. Nor could a RRO relieve British Waterways from its statutory obligation to provide funding and other support for the Council and transfer this to the Secretary of State because this would amount to changing its functions. The same argument applies to transferring the duty to the Secretary of State.

133. The limited changes which could be made by a RRO would not be self-supporting; they would need to be supplemented by primary legislation even to achieve the basic objective of separating the Council from British Waterways. It is not therefore practical to pursue such an order.

Option 4: Seek primary legislation to re-constitute the Council

134. By including provision in the Bill it is possible to reconstitute the Council in the most timely and effective manner. This is therefore the preferred option.

Benefits

Option 1: Do nothing

135. Under this option, the Council would remain dependant on British Waterways for financial and administrative support, and would retain its outdated terms of reference. This would produce no benefits and indeed would be detrimental in that it would inhibit the Council's performance.

Option 2: Allow the Council to continue to operate under its present legislative remit but give it clearer administrative terms of reference

136. This option would produce no benefits because maintaining the status quo with new administrative guidance would not overcome British Waterways' reluctance to support the Council; nor would it give the Council the new statutory terms of reference which it needs to be able to perform effectively.

Option 3: Make a Regulatory Reform Order (RRO) to separate the Council from British Waterways and give the Council new terms of reference

137. A RRO could only make very limited changes to the Council; effectively it could only relieve the Minister from the need to consult British Waterways over appointments. This would be of no benefit in terms of the Council's operation and the advice it could offer.

Option 4: Seek primary legislation to re-constitute the Council

138. Reconstituting the IWAAC through the Bill would deliver numerous benefits, including:

- abolition of the obsolete legislation which ties to Council to British Waterways for support and imposes constraints on the advice it can formally offer; and
- freedom for the Council to provide independent strategic advice on the entire waterway system (rather than the waterways owned or managed by British Waterways) and to a wider range of bodies.

Costs

139. The proposals would impose no costs on businesses, charities or the voluntary sector. The Council is currently supported by grant-in-aid paid by Defra to British Waterways; its annual budget is approximately £180,000. The running costs of the reconstituted Council would depend on its status which has not yet been decided. However its costs would be met from a deduction from British Waterways' grant-in-aid. Consequently the net effect on government expenditure should be nil.

Equity and Fairness

140. The Council's existing statutory consultee functions would not be altered.

Consultation with small business: the Small Firms' Impact Test

141. A Small Firms' Impact test is not required because the proposal is restricted to reconstituting a public body which has advisory functions only. It will therefore have no impact on small firms.

Competition Assessment

142. A competition assessment is not required because the proposal is restricted to reconstituting a public body which has advisory functions only. It will therefore have no impact on competition.

Monitoring and review

143. The Government would continue to monitor the effectiveness of the Council at five yearly intervals under the arrangements applying to NDPBs.

Consultation

144. Government: Defra has consulted the Scottish Executive, the Wales National Government and the Department for Transport about the proposals.

145. Public: A public consultation on the future of the Council was held in 2003 as part of a five-yearly policy review of the Council. More than 70 organisations and private individuals involved with the waterways were consulted.

Summary and recommendation

146. The Government recommends option 4. Primary legislation is the only practicable way of reconstituting the Council. The new Council's running costs are expected to be of the same order as those of the existing Council, and will be met by a deduction from British Waterways' grant in aid so the net effect on the public purse will be nil.

Areas of Outstanding Natural Beauty

This section corresponds to Schedule 10, paragraph 139 of the draft Bill.

Purpose and Intended Effect

Objective

147. To define the meaning of “statutory undertaker” in Section 85 of the Countryside and Rights of Way (CROW) Act 2000 to provide greater clarity as to which bodies must have regard to the purpose of Areas of Natural Beauty (AONBs). This measure would apply to England and Wales only.

Background

148. Section 85 of the CROW Act 2000 places a duty on “relevant authorities” when exercising their functions in relation to, or so as to affect land in, an AONB to have regard to its purpose, which is to conserve and enhance the natural beauty of the AONB. How they have regard to this purpose is a matter for “relevant authorities” themselves to decide, however it would be for the Courts to elect in any dispute whether sufficient regard had been paid to the duty.

149. Section 85 gives a definition of which types of bodies are “relevant authorities”, which includes “any statutory undertaker”. However, neither Section 85 nor the general interpretation provisions of the 2000 Act give a precise meaning of “statutory undertaker”, leaving room for misinterpretation and confusion. Defra’s original intention was that the same bodies would be subject to the Section 85 duty as are subject to the similar duty in Section 11A of the National Parks and Access to the Countryside Act 1949. This amendment would therefore clarify that the same “statutory undertakers” are subject to Section 85 as those that are subject to Section 11A of the 1949 Act, which are as follows:

- those considered to be statutory undertakers for the purposes of s.262 (1) Town & Country Planning Act 1990 (various transport, navigation and hydraulic power undertakings);
- public gas transporters (under s.16(1) of, and Schedule 4 to, the Gas Act 1995 (1995 c45));
- water and sewerage undertakers (under s.190 of, and Schedule 25 to, the Water Act 1989 (1989 c15));
- the holder of a licence under s.6(1) of the Electricity Act 1989 (1989 c29) (S.112(1) of, and Schedule 16 to, the Electricity Act 1989);
- a universal service provider (s.76 of, and paragraph 93(x) of Schedule 4 to, the Post Office Act 1969 (1969 c48));
- the Civil Aviation Authority (s.19 of, and Schedule 2 to, the Civil Aviation Act 1982 (1982 c16));
- licence holders under Chapter 1 of Part 1 of the Transport Act 2000 (2000 c38) (s.37 of, and Schedule 5 to, the Transport Act 2000).

Risk assessment

150. The uncertainty regarding which statutory undertakers are subject to the statutory duty to have regard to the purpose of AONBs increases the likelihood of individual undertakers claiming not to be subject to the duty and operating without due regard. By

providing greater certainty as to which bodies are covered, this amendment should avoid this risk, and at the same time bring the provision in line with the similar one for National Parks.

Options

Option 1: Do nothing

151. Leave Section 85 unchanged. This would maintain existing uncertainty as to which bodies are covered by the duty and leave the application of the duty to individual undertakers open to challenge in the Courts.

Option 2: Amend Section 85 to bring it in line with Section 11A of the National Parks and Access to Countryside Act 1949

152. This would be achieved by defining a statutory undertaker as “any person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990”. This definition would cover all those statutory undertakers listed in the background section above. By removing some of the current uncertainty as to which statutory undertakers are covered by the Section 85 duty, this amendment should help improve relevant statutory undertakers’ compliance with the duty and contribute to the achievement of the purpose of AONBs to conserve and enhance the natural beauty of the area.

Option 3: Amend Section 85 to provide a specific definition of statutory undertaker

153. As an alternative to option 2 a specific definition could be included in the CROW Act which lists the types of “statutory undertaker” covered. However, further primary legislation would be required to amend such a list were any new undertakers to be created. This could prove a more timely and costly option.

Benefits

Economic

154. There are no identifiable additional economic benefits from the options presented.

Environmental

Option 1: Do nothing

155. There are no additional environmental benefits from maintaining the existing situation.

Options 2 & 3: Amend Section 85

156. Amending Section 85 to include a definition of statutory undertakers should help to conserve and enhance the natural beauty of AONBs (which cover approximately 15% of the land in England) by providing greater certainty on who is subject to the duty, both to those who manage these areas and to statutory undertakers themselves.

Social

157. There are no additional social benefits identified for the options presented.

Costs

Economic

Option 1: Do nothing

158. There are no additional economic costs from maintaining the current situation.

Options 2 & 3: Amend Section 85

159. In principle there should be no additional costs to the statutory undertakers identified since this duty is an existing one. However, there could be a small cost to those who are not complying with the Section 85 duty due to a lack of awareness that it applies to them. It is not possible to put an accurate figure on the cost of compliance since it is for those authorities themselves to decide how best to comply. Possible options to do so include making reference to the duty in their annual reports and ensuring decisions are properly considered and recorded in policy documents and public statements. It is not expected that doing so would place any significant financial burden on the statutory undertakers involved.

Environmental

Option 1: Do nothing

160. Since some statutory undertakers may not be complying with their duty to have regard to the purpose of AONBs there is currently a potential environmental cost to the conservation and enhancement of the natural beauty of the AONB.

Options 2 & 3: Amend Section 85

161. The amendment to Section 85 does not guarantee compliance, however environmental costs should be minimised if the uncertainty regarding 'statutory undertaker' is removed.

Social

162. There are no additional social costs identified for any of the options.

Equity and Fairness

163. Option 1: The current situation gives opportunity for disparity between those bodies who readily accept they are obliged to have regard to the AONB purpose and those who are reluctant to do so, thus leaving room to exploit the lack of clarity of the current definition.

164. Options 2 & 3: There are no groups disproportionately affected under this option which improves equity and fairness between bodies by removing doubts as to which bodies are caught by the obligation.

Consultation with small business: the Small Firms' Impact Test

165. The amendment to Section 85 should not have any disproportionate effect on Small Firms. For any that are not already complying with the duty, the costs are not likely to be significant. It is only those undertakers who are themselves mentioned in the background section (paragraph 148) which would be subject to the duties.

Competition Assessment

166. The amendment of Section 85 should not impact on the competitiveness of those statutory undertakers identified. Statutory undertakers should already be complying with the duty and the costs for those not currently doing so would be minimal. All undertakers in the relevant industries would be subject to the duties so any impact should fall more or less equally on all.

Enforcement & Sanctions

167. There are no specific enforcement provisions or sanctions in current legislation, apart from normal recourse to the Courts. However, greater clarity of definition would enable Defra to better persuade bodies that they are caught by the obligation and should better observe it.

Monitoring & Review

168. AONB management bodies will continue to monitor compliance with Section 85, as will the Integrated Agency. A better definition would aid such monitoring.

Consultation

169. This amendment has not been consulted on externally. It does not introduce anything new but rather clarifies the meaning of existing legislation. Comments are sought during pre-legislative scrutiny.

Summary & Recommendation

170. Government recommends Option 2, for the amendment of Section 85 of the CROW Act. Such action would give the same meaning to “statutory undertaker” as in Section 11A National Parks and Access to the Countryside Act 1949, and remove some of the uncertainty about which statutory undertakers are subject to the Section 85 duty.

National Parks Authorities

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

171. To improve the capacity of the National Park Authorities (NPAs) to deliver their statutory purposes effectively. The measures would apply to England and Wales.

Background

172. The NPAs were reviewed by Defra during 2001/02 and the findings published in July 2002.¹² The Review produced 54 recommendations, the majority of which were accepted by Government in the Ministerial foreword which was published with the Review, and are being implemented. A small number of the accepted recommendations require primary legislation.

173. Aside from the Review, a need was identified during the 1997 Efficiency Scrutiny of Local Authority consent regimes¹³ to give NPAs the "Section 42" (s.42) power¹⁴ to prevent the ploughing up of land, where appropriate, within National Parks.

Risk assessment

174. Leaving the situation unchanged risks losing the opportunity to improve the effectiveness of the NPAs, resulting in a less efficient delivery of services. In addition, the existing requirement for Defra to make a s.42 order at very short notice following a request from a NPA (or anyone else) carries the risk that delay could result in loss of environmentally beneficial land.

Options

Option 1: Do nothing

175. Doing nothing would mean that the Government had failed to deliver the recommendations of the Review and that opportunities for improvement were lost.

Option 2: Implement recommendations of NPA Review

176. The proposals are to:

(a) Remove the expenditure constraint on NPAs' (and AONB Conservation Boards') activities in pursuit of their socio-economic duty

177. NPAs and AONB Conservation Boards are encouraged to support socio-economic development in the 1995 Environment Act and 2000 CROW Act respectively. To make clear that theirs was only a supporting role, Section 62 of the Environment Act and Section 87(2) of the CROW Act added two qualifications to the socio-economic duty. The first

¹² "Review of English National Park Authorities" Defra July 2002.

¹³ Carried out by DETR

¹⁴ Contained in the Wildlife and Countryside Act 1981

required them to act jointly and to “cooperate with local authorities and public bodies whose functions include the promotion of economic or social development...”. The second was that they were not to incur significant expenditure in providing this activity. The wording of the Acts states that they “shall seek to foster the economic and social well-being of local communities within the National Park [or AONB], but without incurring significant expenditure in doing so”.

178. The Review of NPAs reported that although the expenditure restraint had not caused serious difficulties, and although it remained the intention that NPAs should have only a supporting role related to their own purposes, there was nevertheless some confusion over what “significant” meant and thus “there would be benefit in removing this constraint when Parliamentary time allows”¹⁵. The Government has accepted this finding. With this restriction removed from the NPAs it would be inconsistent not to do the same for the identical duty placed on AONB Conservation Boards.

(b) Extend the appointment term of Secretary of State selected members from 3 to 4 years

179. Members of NPAs are not directly elected but appointed through three separate mechanisms. Those who come from a local authority or parish council are ordinarily entitled to remain on the NPA for as long as they are councillors of the Council from which they were appointed. In most cases this means that their term of office runs for the four years between local government elections (though if re-elected they can be re-appointed to the NPA and serve further term(s)). However, under paragraph 4(2)(a) of Schedule 7 to the 1995 Environment Act, the maximum term of office for members appointed by the Secretary of State following an open recruitment exercise is three years. The Review recommended that this should be aligned with the terms of Councillor appointments and that the “national” members should also be appointed for up to four years. The Government has accepted this recommendation.

(c) Prevent breaks in local authority and parish councillors’ service on NPAs during local elections

180. As described above, principal local authorities (that is, counties, districts, and unitaries) and parish councils both have the right to appoint members to NPAs. Those appointed must be serving councillors (or Chairs of parish meetings) and, other than in exceptional circumstances, their appointment on the NPA runs until they cease to be members of the Council from which they were appointed. Where such a member is standing for re-election as a Councillor, they automatically cease to be a member of the NPA when they cease to be a member of the Council. Once re-elected as a Councillor they can then be re-appointed as a member of the NPA. However the practicalities of being re-appointed can take some time. The Review suggested that this disruption could be avoided if re-elected Councillor-members were allowed to continue as NPA members for a further three months (or until their successor was appointed if that happened more quickly). The Government has accepted this recommendation.

(d) Permit a more flexible approach to setting the membership of NPAs

181. As already described under provision (b), Members of NPAs come from three separate backgrounds. Some are councillors of “principal” councils; some are parish councillors; and some are “national” members recruited through open competition. The

¹⁵ Review of English National Park Authorities, page 14

relative size of each of those groups is controlled by a formula set out by the 1995 Environment Act (Schedule 7). The effect of the formula is that for a 22 member Authority there would be 12 members from “principal” councils; 4 parish council members; and 6 “national” members. The Review made specific suggestions for reducing the overall size of NPAs (which could be achieved through secondary legislation) and for altering the *balance* of the membership. In the light of this recommendation, the Government wishes to replace the current formula with a more flexible approach to membership which would allow the existing balance to be maintained where it made sense to do so but would also allow for a rather different balance to be struck by means of secondary legislation in those Authorities where local circumstances made that more appropriate.

(e) Transfer to NPAs the Secretary of State’s power to make orders preventing agricultural operations in National Park land

182. This provision does not stem from the Review but has been identified through separate work on reducing the regulatory burden imposed by Local Authorities. Section 42 of the Wildlife and Countryside Act 1981 allows the Secretary of State to prevent (in practice for up to a year) moor or heath land in National Parks from being ploughed up or otherwise converted to agricultural use. We believe that the power has only been used three times in the last two decades¹⁶. Transferring the power to the NPA is intended to simplify the process and so reduce the bureaucratic burden. In particular, it should enable orders to be processed more quickly and thus make them potentially more effective in preventing damage to moor and heath land.

Benefits

Economic

Option 1: Do nothing

183. There are no additional economic benefits associated with this option.

Option 2: Implement recommendations of NPA Review

184. Economic benefits are identified for provisions (a), (b) and (e) as follows:

(a) Increased participation by NPAs in multi-agency work should enable a greater impact to be made in driving forward the socio-economic agenda for local communities within the National Park. Potentially this would apply to some 204,000 people (the collective population of the National Parks). It is not possible to quantify how much of any improvement in socio-economic conditions could be directly attributed to an increased financial contribution from the NPAs alone since the NPA would be expected to “co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park”¹⁷. This should have the same impact on local communities within AONBs with Conservation Boards (of which there are currently two).

¹⁶ Two orders were made for the Peak District in December 2001 and early 2002, and one for Dartmoor in the 1980s, all at the request of the NPAs.

¹⁷ S.11A of the National Parks and Access to the Countryside Act 1949 as inserted by the Environment Act 1995

(b) There would be a minimal saving to Defra in that the interview and appointment process would only need to be repeated every four years rather than every three.

(e) There would be a minimal saving in public sector costs as the NPA alone could process requests. At present both the NPA and central Government are involved.

185. There are no additional economic benefits identified for provisions (c) and (d).

Environmental

Option: Do nothing

186. There are no additional environmental benefits associated with this option.

Option 2: Implement recommendations of NPA Review

187. Transferring s.42 powers from the Secretary of State to the NPAs would improve processing time and thus reduce the risk of losing as much environmentally beneficial land as exists with the existing process.

Social

Option 1 – Do nothing

188. There are no additional social benefits associated with doing nothing.

Option 2: Implement recommendations of NPA Review

189. Increased participation by NPAs in multi-agency work (provision (a)) should enable a greater collective impact to be made in driving forward social development for local communities within the National Park. This should have the same impact on local communities within AONBs with Conservation Boards (of which there are currently two).

190. There are no additional social benefits associated with provisions (b) to (e).

Costs

Economic

Option 1 – Do nothing

191. There are no additional economic costs associated with this option.

Option 2: Implement recommendations of NPA Review

192. Economic costs are identified for provisions (a) and (c) as follows:

(a) This would potentially open the way to increased public expenditure by removing the constraint on an activity carried out by NPAs which are publicly funded bodies. However, the change in the statute would allow Authorities to re-direct part of their existing budget to this area of work if they felt that it had sufficient priority. In respect to AONB Conservation

Boards, most of their costs are provided by the Countryside Agency (CA) (or new Integrated Agency (IA)) and their constituent Local Authorities.

(c) There would be a minimal economic cost to the National Parks since councillor-members (who are unsalaried but receive expenses and allowances) would serve continuously through election periods rather than, as now, being obliged to resign and then be re-appointed or replaced after a gap of some months.

193. There are no additional economic costs identified for provisions (b), (d) and (e).

Environmental

194. There are no additional environmental costs associated with either option.

Social

195. There are no additional social costs identified with either option.

Equity and Fairness

196. These measures would not directly impose any new costs nor introduce a negative impact on the business, charity or voluntary sector.

Consultation with small business: the Small Firms' Impact Test

197. Provisions (a) to (d) impact only on the public sector. Provision (e) has no impact on small business because the power it gives to restrain their business activities already exists; the provision would simply allow the power to be exercised by the National Park Authority rather than by Ministers. A small firms impact test is therefore not required.

Competition Assessment

198. A competition assessment is not required for (a) to (d) because the provisions impact only on the public-services. Extending the appointment term of Secretary of State selected members means that each post will only become available every 4 years rather than every three years. However the staggered pattern of appointments means that each Authority is likely to have at least one vacancy each year so that there is no appreciable effect on competition. In the case of s.42, the impact of utilising the power does not affect competition any more or less than it does currently. The effect of the transfer of the power is administrative and impacts only on the public bodies involved.

Enforcement & Sanctions

199. Provision (a) does not impose any new duty or responsibility and thus raises no new issues of enforcement. Provision (b) affects Defra only; the appointments procedure is (voluntarily) subject to scrutiny by Office of the Commissioner for Public Appointments. Provision (c) would be implemented by the NPAs who are subject to local government controls, for example being required to appoint a monitoring officer, being audited by the Audit Commissioner, and being within the remit of the local government ombudsman. The duty under provision (d) falls partly to Defra and partly to the appointing local authorities and will be enforced by the measures described under provisions (b) and (c). The

available penalties under provision (e) are set out in Section 42 (5) of the Wildlife and Countryside Act 1981. This part of the legislation would not change.

Monitoring & Review

200. The monitoring and review implications for each provision are set out below:

(a) NPAs are Best Value authorities and thus under a statutory duty to report on their activities. They will shortly be subject to an adapted form of Comprehensive Performance Assessment. Administratively their Financial Grant Memorandum requires them to make financial returns to Defra with whom they have an annual meeting to discuss their financial needs. These mechanisms will allow any changes in spend on the socio-economic duty to be monitored and evaluated. AONB Conservation Boards are not Best Value authorities, but when they bid for funding from the CA (or new IA) and constituent Local Authorities they will have to justify their financial needs, including spending on their socio-economic duty.

(b) – (d) These will be open to appraisal in the next Review of English NPAs (date not yet set) and, in advance of that, in the regular discussions which the NPAs hold with Defra.

(e) Cases are expected to arise so rarely (there have been only 3 since the 1981 Act came into force) that formal review is not appropriate. NPAs, who will exercise the power, are however subject to a range of local government review mechanisms, including the District Audit Service, the local government ombudsman, the Best Value regime, and an adapted form of Comprehensive Performance Assessment.

Consultation

201. The first four provisions (a-d) were all contained in the Review of English National Park Authorities, published in July 2002, apart from the provision to remove the expenditure constraint on AONB Conservation Boards. The Review was produced by Defra officials and its preparation included a period of public consultation from 7 August 2001 to 2 November 2001. Once the findings of the Review were published, seven of their recommendations were subject to public consultation from July 2002 to 11 October 2002. This public consultation covered recommendation 22 on changing the balance of membership (provision (d)) and recommendation 29 on continuity during elections (provision (c)). The remaining findings of the Review were immediately accepted by the Government.

202. The fifth provision (e) to transfer to NPAs the Secretary of State's power to make orders preventing agricultural operations in National Park land, and that to remove the expenditure constraint on AONB Conservation Boards, have not yet been consulted on but comments are encouraged during pre-legislative scrutiny.

Summary & Recommendation

203. The Government recommends option 2, implement the findings of the NPA Review in order to improve the capacity of the NPAs to deliver their statutory purposes effectively. The recommendations all bear on the way NPAs operate. They have no direct economic implications outside the public sector (and only minimally within it); no environmental cost implications; and no measurable social implications.

Broads Authority

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

204. To improve the capacity of the Broads Authority to deliver its statutory purposes effectively.

Background

205. The Review of English National Parks made some recommendations which covered the Broads Authority whilst reporting that a separate study should be undertaken to examine issues specific to the Broads¹⁸. The findings of this consequent study were made public during 2004 and a consultation carried out.¹⁹ As a result of these two exercises – the general Review and the Broads-specific study – there are a number of recommendations which the Government wishes to implement, some of which require primary legislation. These are set out as the proposed option 2. The measures would relate only to the Broads area of England.

Risk assessment

206. Giving the Broads Authority powers to give directions to shipping and extending a Boat Safety Scheme (BSS) to the Broads should reduce the risks of accidents involving boats, for example reducing the incidence of fires caused by faulty gas supplies and unventilated engine compartments. The scheme would also reduce the risk of environmental damage associated with poorly maintained boats e.g. contamination of waterways with fuels and lubricants. Introduction of compulsory third party insurance would reduce the financial risk to those boat users involved in accidents.

Options

Option 1: Do nothing

207. Leaving the situation unchanged would result in continued risk to users arising from unfit boats and the presence of uninsured boats. It would also mean that the Broads Authority could not address navigation issues as quickly or as flexibly as would be the case if it had the power to issue general directions.

Option 2: Implement provisions (a) to (d)

The proposals are to:

(a) Make the first two purposes of the Broads Authority consistent with those of NPAs

208. The National Park concept was first enshrined in legislation in 1949 by means of the National Parks and Access to the Countryside Act. That Act set out two purposes for

¹⁸ Recommendation 53

¹⁹ Copies available from Defra, CYD6 Division, 1st Floor, Temple Quay House, 2 the Square, Temple Quay, Bristol, BS1 6EB

National Parks, the first dealing with conservation and the second with recreation. When the Norfolk and Suffolk Broads Act of 1988 creating the Broads Authority was passed, it followed the same wording for the first two purposes (the third purpose relates to navigation and is unique to the Broads). However the purposes of the National Parks have subsequently been amended (by the Environment Act 1995) so that the wording of the Broads' purposes is now out of line with that for the National Parks. The Review recommended that these be re-aligned. The Government has accepted this recommendation. In summary the change would mean that the Broads Authority acquires: an explicit role in conserving or enhancing the wildlife and cultural heritage of its area, in addition to its natural beauty as at present; and an explicit role in promoting understanding of its area, in addition to promoting its enjoyment as at present.

209. These purposes set the context for the Broads Authority and do not of themselves give any new regulatory powers. In practice the new wording would largely reflect the existing position and thus not generate significant new elements of work or cost for the Broads Authority.

(b) Give the Broads Authority power to issue general directions to shipping

210. The Broads Authority has a power to give directions to specific vessels, however it usually relies on its powers to make navigation byelaws. This is an inflexible mechanism and the Broads study found that it needed the power to act more flexibly, for example to apply rules on particular dates or to particular types of vessels, with a power to issue general directions to non sea-going vessels. This is essentially the same power as some harbour authorities have been given by Harbour Revision Orders, however that mechanism is not available here because (although a harbour authority). The Broads Authority is concerned with boats that are neither at sea nor sea-going.

(c) Give the Broads Authority power to require all vessels using the Broads to have third party insurance.

211. The Broads Authority seeks the power to require all vessels to carry third party insurance. This would make the Broads a lower risk environment for boat users.

(d) Enable the Broads Authority to operate a Boat Safety Scheme

212. The BSS – which sets minimum standards for boats - is already in force on the waterways controlled by the Environment Agency and British Waterways. The Broads Authority has made a commitment to apply it within its area by 2005. However, the Broads Authority's existing power to do this is unwieldy – it would require them to make byelaws which would have to be confirmed by the Secretary of State for Transport and each time the requirements of the Scheme changed (for example to reflect new research or changes in technology) the byelaws would have to be revoked and fresh ones made. The proposal therefore is to give the Broads Authority a power to apply a BSS by determining specifications to which vessels must comply in the interests of safety etc. This would enable them to introduce (and then update) the Scheme without needing the approval of the Department for Transport for every change.

Benefits

Economic

Option 1: Do nothing

213. There are no additional economic benefits associated with this option.

Option 2: Implement provisions (a) to (d)

214. There are no additional economic benefits associated with provisions (a) and (b). For provision (c) the knowledge that the Broads is a better regulated and fully insured environment should encourage more people to boat on the Broads, with the resulting economic benefits which that brings to local businesses. Provision (d) would help inspire confidence among boats users by assuring them that vessels were safe to use.

Environmental

Option 1: Do nothing

215. There are no additional environmental benefits associated with this option.

Option 2: Implement provisions (a) to (d)

216. Provision (a) is likely to introduce little change in practice (as the Broads Authority is already active in this area) but it would underpin the Broads Authority's role in conserving or enhancing wildlife. Better control of shipping is essentially a safety issue but provision (b) could have some environmental benefits too, for example by limiting traffic in certain areas. Provision (c) is primarily a financial issue but could have an environmental benefit. For example, abandoned boats are likely to be removed more quickly when there is an insurance company to meet the costs of doing so. Operating a BSS (provision (d)) should help reduce the number of accidents caused by reducing the incidents of accidents caused for example by fires, faulty gas supplies or unventilated engine compartments. It should also help reduce the risk of environmental damage associated with poorly maintained boats and small boat accidents e.g. contamination of waterways with fuels and lubricants.

Social

Option 1: Do nothing

217. There are no additional social benefits identified with this option

Option 2: Implement provisions (a) to (d)

218. Provision (a) is likely to have little social impact but it would underpin the Broads Authority's role in conserving or enhancing the cultural heritage. Provision (c) would provide reassurance to boaters that there was proper protection available in the event of an accident and so encourage potential risk-averse boaters to use the Broads. There are no additional social benefits associated with provisions (b) and (d).

Costs

Economic

Option 1: Do nothing

219. There are no additional economic costs associated with this option.

Option 2: Implement provisions (a) to (d)

220. Potential economic costs are reflected upon under each provision as follows:

(a) There are no additional economic costs associated with this provision. Whilst the proposed change expands the Authority's remit and might lead to additional pressure to spend on the new elements (namely, conservation of wildlife and cultural heritage), the change in wording is largely about specifying more precisely what the Authority exists to do (as well as delivering consistency with the National Parks statute);

(b) The power to issue general directions is essentially a quicker and more flexible alternative to the tools already at the disposal of the Broads Authority. As such it should lead to no overall increase in costs or work for the Authority;

(c) This provision would impose a direct cost on those boat owners who have not previously taken out insurance. The Broads Authority's best estimate is that approximately 350 motor cruisers and motorized sailing craft do not currently have insurance which would typically cost them around £70 a year and that most of the 4,500 or so rowing boats, sailing dinghies and motor dinghies do not have insurance which would typically cost them about £20 a year. Insurance would mainly be policed as part of the toll collecting work so there should be no appreciable increase in workload or cost to the Authority;

(d) This provision would impose costs on boat owners in having their vessels inspected and certificated and, where necessary, in having them repaired or modified to meet the necessary standard. An analysis of the boats currently registered with the Broads Authority suggests that 10,354 of them would need to be certificated under the BSS (of whom 320 already have a certificate) and 2,898 would not require to be certificated (these are open boats powered by no more than an outboard motor and having no heating, lighting or cooking facilities). It is likely (depending on the size of the boat, the complexity of the inspection, and the inspector chosen) that obtaining a certificate would cost between £90 and £120 per boat. A certificate would last for 4 years.

Environmental & Social

221. There are no additional environmental or social costs associated with either option.

Equity and Fairness

222. Compulsory third party insurance would ensure that all boat owners have to meet the same requirements and costs in operating their boats on the Broads. No other issues of equity or fairness arise.

Consultation with small business: the Small Firms' Impact Test

223. Recent amendments to the BSS were the subject of public consultation in July 2004. Both the BSS and the compulsory third party insurance provision have the potential to generate costs for small firms. In the case of the insurance measure this is estimated at £115,000 per annum for all vessels, many of which will be privately owned. For the BSS the best estimate is an inspection cost in the broad order of £1 million every four years for all vessels, many of which will be privately owned. This excludes the cost of any works needed to bring vessels up to the standard (the extent of which cannot be known at this stage).

Competition Assessment

224. Compulsory insurance would ensure that all boat owners (including the commercial operators) face the same costs. The BSS already operates on Environment Agency and British Waterways waters so extending it to the Broads would ensure equality across those areas. No other issues of competition arise.

Enforcement & Sanctions

225. The first provision (a) is essentially permissive as it relates to the purposes of the Broads Authority. No specific enforcement is needed, however the existing avenues – in particular the local Government ombudsman – would be available to anyone who felt the Authority was not properly delivering its purposes.

226. The second provision (b) would allow the Authority to issue general directions and thus achieve more effectively what it currently achieves through byelaws. Section 6 (10) of the Norfolk and Suffolk Broads Act 1988 allows for byelaws to provide for contraventions to be punished by fine. It is envisaged that similar measures would support the general directions.

227. For provisions (c) and (d), requiring compulsory insurance and requiring compliance with the BSS, the Broads Authority already has powers to require boats to be registered and to pay tolls. Compliance could possibly be linked to those existing mechanisms, though a new enforcement power may be required

Monitoring & Review

228. The Broads Authority is subject to the Best Value regime for local authorities and will shortly be required to undergo a Comprehensive Performance Assessment exercise. Both these provide avenues to examine the effectiveness of its activities.

Consultation

229. Government: A BSS is supported by Government, specifically Defra, DfT and DCA.

230. Public: The provisions relating to the general direction power and the BSS have been consulted on locally by the Broads Authority.

Summary & Recommendation

231. It is recommended that the changes proposed under option 2 be introduced.

Habitat Protection

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

232. To enhance site protection by:

- a) better securing compliance with the duty placed on ‘section 28G authorities’²⁰ to notify English Nature (EN) and the Countryside Council for Wales (CCW) (hereafter referred to as the conservation bodies) before permitting an operation likely to damage an SSSI;
- b) further deterring reckless or intentional damage to SSSIs or disturbance of their fauna, particularly by third parties, through an additional offence;
- c) enabling the provision of information concerning SSSIs to discourage harmful activities, assist with enforcement of their protection and to help alert stakeholders, particularly any unidentified stakeholders, to matters concerning the SSSI so that they are able to ensure their interests are represented; and,
- d) fixing a drafting omission to enable the addition of other land or enlargement of SSSIs notified before 1985, bringing them on to a par with those notified after that time.

233. The proposals cover England and Wales.

Background

234. The background to each measure is set out below:

- a) Section 28G authorities have a duty to notify the conservation bodies before permitting (e.g. planning consent) operations likely to damage a SSSI. However, unlike the situation concerning operations carried out by the authorities themselves, there is no sanction for failure to comply with this duty other than possibly judicial review of the decision;
- b) Any person who damages a SSSI or disturbs its fauna commits an offence, but the present offence also requires that the offender knew the land was a SSSI. Where this is provable, the act is clearly made all the more significant and the existing offence should be retained. However, there are times when the status of the land may not be known or cannot be sufficiently proved. This should not result in the inability to take enforcement action. For example, some SSSIs are very large open areas, 122 cover 1,000 hectares or more and a further 22 are over 10,000 hectares in area. Damage can be caused to SSSIs and nature reserves through activities such as, for example, the use of off-road vehicles and setting of malicious fires. It is desirable to have a means to enforce against this damage to SSSIs by unauthorized or unlawful activities;

²⁰ “Section 28G authorities” are those defined in section 28G of the Wildlife and Countryside Act 1981 as: Ministers of the Crown or a Government department; the National Assembly for Wales; a local authority; a person holding an office under the Crown, created or continued in existence by a public general Act of Parliament or the remuneration in respect of which is paid out of money provided by Parliament; a statutory undertaker and any other public body of any description.

- c) The legislation requires the conservation bodies, in exercising their SSSI functions, to serve certain formal notifications on owners and occupiers of the land and where the identity of owners or occupiers is not known, a power to erect signs and notices to achieve this already exists. This power does not, however, allow for other purposes such as erecting signs and notices for general provision of information regarding the land's status and to deter harmful activities; and
- d) Use of the powers introduced in the Countryside and Rights of Way (CROW) Act 2000 to enable notification of additional land or enlargement of an SSSI is not currently possible in relation to pre-1985 SSSIs because of a technical omission in schedule 11 of the Act.

Risk assessment

235. The risks associated with each provision are explored individually:

- a) English Nature is aware of instances of authorities failing to comply with their duty to notify them before granting permission for operations likely to damage a SSSI;
- b) Sites can be and are damaged by third parties who may be unaware of the SSSI status of the land or who act despite this. In these instances, unless it is a suitable case for police action, the conservation bodies have little prospect of a successful prosecution under the current offence if they cannot prove knowledge of the SSSI status;
- c) Sites can be at risk from unauthorized activities. It would be helpful to provide a power for erecting signs and notices to, for example, publicize the importance of the land and its SSSI status or to alert stakeholders to other matters concerning the SSSI. The current powers are confined to the formal notifications specified in and required by the legislation and do not embrace this wider use. For example, EN reports that in 2003, 110 SSSIs were affected by off-road vehicle use; and
- d) The risks of not addressing the technical omission regarding additions to or enlargement of pre-1985 SSSIs are that areas that form part of the full ecological functionality of the special interests in these sites will not benefit from the full extent of the legislative protection.

236. Since the provisions in the CROW Act 2000 came into force, thereby enhancing the powers available to EN and the CCW to protect these sites, EN has dealt with around 250 reported enforcement incidents, four of which have resulted in prosecutions. The CCW has dealt with 123 reported enforcement cases, of which one has resulted in prosecution.

Options

Option 1: Do nothing.

237. Doing nothing would mean that sites would remain at risk of harm in a number of ways as outlined above. These risks would work against the Government's target to bring 95% of England's SSSI land into favourable condition by 2010 and to then maintain their condition. It would also, to some extent, undermine the investment made by Government, EN, CCW and numerous SSSI owners and occupiers to improve and maintain their sites in the national interest.

Option 2: Introduce changes to the SSSI legislative regime.

238. The Bill would provide an opportunity to address the issues identified and to ensure that the new Integrated Agency (IA) in England inherits the most effective legislative framework for protecting SSSIs. The proposals do not involve the introduction of significant new burdens but rather aim to secure better compliance with existing duties and deter actions that would be harmful to the sites. The changes proposed are as follows:

239. *Enhancing protection:*

- a) To ensure compliance, by section 28G authorities, with their existing duties in section 28I of the Wildlife and Countryside Act (WCA) 1981 (to notify the conservation bodies before permitting an operation that is likely to damage an SSSI) by making it an offence to fail to do so. Such authorities already have to make the decision as to whether an operation is likely to damage an SSSI in order to comply with the existing enforceable duty concerning their own operations. Compliance with section 28I should therefore not involve any significant new decision-making burden. Authorities should already be competent to avoid the risk of enforcement action;
- b) To create an alternative lesser offence to the existing offence of intentionally or recklessly damaging an SSSI, or disturbing any of the fauna, knowing that the land was a SSSI. The alternative offence would not require knowledge of the SSSI status and would carry an appropriate lesser penalty;
- c) To create a power to erect or affix and subsequently remove notices or signs for the purpose of conveying information to owners, occupiers and the general public; and to enter land for this purpose where the consent of an owner/occupier is not forthcoming. Additionally to make interference with such signs an offence. The Countryside Council for Wales has experienced many cases of signs erected with landowner's permission having been damaged or destroyed over the years; and
- d) To correct a drafting omission in schedule 11 of the CROW Act 2000 so that the powers to notify additional land or enlarge an SSSI are also made available in respect of SSSIs notified pre-1985.

Benefits

Economic

Option 1: Do nothing

240. Doing nothing might mean that 'missed' owners and occupiers who are not required to first obtain consent from the conservation bodies could carry out activities that might reap some economic benefit. However, once discovered, any such activity that damaged the SSSI could result in prosecution and possibly a restoration order made by the court, in which case the overall effect might be neutral or even costly to the owner/occupier. The proposals improve the protection of sites and do not produce economic benefits in themselves.

Option 2: Introduce changes to the SSSI legislative regime.

241. Addressing these issues would further enhance the level of protection for the sites and complement the expenditure of public and other funds on improving the condition of and managing the sites. The economic benefits of doing so might include reducing the costs incurred for avoidable site improvements and restoration works thereby enabling

available funds to be deployed more effectively to bring sites into better condition. There is a positive economic value related to SSSI and to enhanced levels of biodiversity. The Crabtree report (still unpublished) very crudely estimated the use value of SSSIs to be £372m-£1,110m per year. The report also concluded that 'non-use values are more problematic to estimate because of limits on the public's ability to understand biological diversity, however there is some evidence that they dominate use values'. The Christie *et al* report²¹ which considered the value of changes in biodiversity, concluded that people attached a positive and significant value to improvements to biodiversity.

Environmental

Option 1: Do nothing

242. Doing nothing would bring no additional environmental benefits since each of the proposals aims in one way or another to reduce the likelihood of sites being damaged.

Option 2: Introduce changes to the SSSI legislative regime.

243. Each of the proposals would further the protection afforded to SSSIs by reducing the likelihood of damage or deterring harmful actions. The proposal concerning adding to or enlarging pre-1985 SSSIs would help achieve this by affording protection to other relevant land not currently benefiting from SSSI status but which may be important to the ecological integrity of existing sites.

Social

Option 1: Do nothing

244. Doing nothing would bring no additional benefits to society because the risk would be one of harm to nationally important wildlife sites.

Option 2: Introduce changes to the SSSI legislative regime.

245. The proposals would address a number of risks and complement all other efforts being made to secure the welfare of these sites in the national interest. Over half of open country and common land mapped in England for the right of access introduced by the CROW Act 2000 is SSSI land; society will therefore benefit from such important areas being well protected.

Costs

Economic

Option 1: Do nothing

246. Doing nothing would mean that if sites are damaged, the taxpayer would pay for restoring or improving them unless the offender can be found and made to put things right at their own cost.

²¹ Developing Measures For Valuing Changes In Biodiversity. Dr Mike Christie, Dr John Warren, Prof. Nick Hanley, Dr. Kevin Murphy, Prof. Robert Wright, Mr Tony Hyde and Mr Nick Lyons, Defra 2004

Option 2: Introduce changes to the SSSI legislative regime.

247. The proposals themselves introduce little or no cost since they mainly concern the legislative framework itself and aim to ensure that all parties are doing what they should already be doing. However, an economic cost would be the opportunity cost (the income/welfare opportunities foregone) incurred by owners/occupiers in not being able to pursue certain economic or other activities. The extent of this cost would depend on what activities have been foregone. It should be noted that these opportunity costs would be no different from those faced by other owners/occupiers already dealt with under current rules.

248. There would be some cost to the conservation bodies in enforcing the legislation in specific instances but the number of actual prosecutions brought is expected to remain small and other suitable and less costly enforcement action is likely to be taken in the first instance. Figures set out above under Risk Assessment illustrate that only 5 prosecutions have been brought by the conservation bodies since January 2001, though the additional scope to tackle further problems as and when they arise, and when other approaches have failed, could be expected to produce some increase until a sufficient level of deterrence had been achieved. It is estimated that up to 15 prosecutions might be brought in England and 2 in Wales under the new lesser offence of causing damage to sites at a broad cost figure of about £10,000 per case. It would be expected that over time publicising such cases, provision of warning information and closer working with police forces would reduce the likelihood of prosecutions being necessary.

249. Use of a new power to provide general information through signs and notices would incur some additional costs. The CCW for example, estimates that it might commit £3,000 to £5,000 per year on proactive campaigns to address damage to sites from vehicles and similar activities. However, as this power would work in tandem with the new 'damage' offence, such costs could of course avert expenditure that might otherwise have been necessary in bringing prosecutions and in restoring the site.

250. It is estimated that perhaps no more than 2 prosecutions in a year might become necessary in relation to serious disregard by section 28G authorities for their duty to notify the conservation bodies before permitting or consenting to operations likely to damage a site. Such authorities should already be alive to their duties given that the duty concerning their own operations already carries a criminal sanction and again, compliance would be expected to improve over time.

251. The proposal concerning addition to or enlargement of pre-1985 SSSIs would secure what was already intended to be the current position and such powers would be exercisable at the discretion of the conservation bodies.

Environmental

Option 1: Do nothing

252. Doing nothing would mean that these risks to the sites remained. It is generally considered that undamaged habitat is preferable to restored or recreated habitat. The environmental costs of doing nothing might be to increase to some degree the incidence of 'repaired' habitats and some disturbance to the ecological integrity of habitats and species populations.

Option 2: Introduce changes to the SSSI legislative regime.

253. The proposals would introduce no additional environmental costs as they are all designed to improve the protection of SSSIs from harm.

Social

Option 1: Do nothing

254. Doing nothing would mean that the risks of damage to nationally important wildlife sites identified would remain, whilst at the same time public money was being invested in securing significant effort by owners and occupiers to manage the sites appropriately and maintain their condition.

Option 2: Introduce changes to the SSSI legislative regime.

255. The proposals are not expected to have any additional social costs because they are designed to improve the protection of national wildlife assets.

Equity and Fairness

256. No group would be disproportionately affected by the proposals. Society in general would benefit from increased site protection.

Consultation with small business: the Small Firms' Impact Test

257. SSSI legislation requires the conservation bodies to notify each and every owner/occupier of SSSI land of the land's designation as an SSSI, plus other information including the list of operations that will require consent from the conservation bodies before they can be carried out by the owner or occupier. Provided that the identity of the owner/occupier could be discovered through all reasonable enquiries, the SSSI status should come as no surprise to any owner/occupier, many of whom are farmers and clearly small businesses.

258. If these specific controls over the activities of owner/occupiers are observed, an owner or occupier working in partnership with the conservation bodies to conserve the SSSI should not find themselves undertaking any legitimate activities likely to damage the site and should be able to avoid rendering themselves liable to prosecution under existing provisions or the new offence.

259. Owners and occupiers of land who are still unknown to the conservation bodies, and who may be currently undertaking activities on land which they may not realise is an SSSI can find out whether the land is an SSSI or not in a number of ways. For example, they can contact the CCW or the local EN area team or consult the SSSI information available on their respective websites. They can also search the local land charges register for their area which should record any SSSI status.

260. The Bill would seek to introduce a power for the IA to put up signs for providing general information concerning the SSSI status of land and this too may assist where its use would be appropriate to alert unknown owner/occupiers to the importance of the land.

Competition Assessment

261. These proposals would not change the SSSI regime in a way that would introduce new impacts on competition. They do not introduce any further controls or restrictions over legitimate activities going on within or around SSSI land.

Enforcement & Sanctions

262. The legislative framework protecting SSSIs is operated by the conservation bodies who would use their powers appropriately to secure the welfare of the sites. English Nature has published an enforcement strategy that describes how it would approach its enforcement functions; prosecution is not regarded as a first resort. Ultimately the aim is to secure effective partnerships with owners and occupiers to secure ongoing positive management of SSSIs rather than to regulate activities.

Monitoring & Review

263. The Secretary of State and the Welsh Assembly Government have issued guidance to the conservation bodies on how they should exercise their functions and use their powers under the legislation. They can be held publicly accountable for their actions by judicial review and in certain respects; their decisions can be challenged by way of appeal to the Secretary of State or the Welsh Assembly Government.

Consultation

264. Government: Departments likely to be affected by the proposals, including Office of the Deputy Prime Minister, Department for Constitutional Affairs, Home Office and the Welsh Assembly Government.

265. Public: English Nature and the Countryside Council for Wales have been consulted on the proposals. On 22 December 2004 a letter was sent to over 100 English stakeholders identified as likely to have an interest in these proposals. A similar letter was sent to Welsh stakeholders on the 4 January 2005. The letter served to alert such interested parties and to help elicit views during pre-legislative scrutiny.

Summary & Recommendation

266. The Government recommends Option 2. The proposals would not introduce significant new powers or burdens nor introduce new controls or restrictions on the legitimate activities of owners and occupiers of the sites. They aim to secure better compliance with the requirements of the existing legislation, to better deter people from causing harm to SSSIs and to address an omission in the CROW Act regarding powers to add to or enlarge existing SSSIs.

Wildlife Protection

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

267. To make 5 amendments to the Wildlife and Countryside Act (WCA) 1981 (“the 1981 Act”) to ensure that this legislation is correctly targeted and provides the appropriate degree of protection for wildlife without imposing unnecessary controls on people’s activities. Amendments would apply to England and Wales only.

Background

268. Part I of the 1981 Act is the principal piece of legislation covering the conservation and protection of birds, other animals and plants within the UK. Although various amendments have been made to Part I over the last 23 years, no overall strategic review of the effectiveness of its provisions has been undertaken until now. These five amendments have arisen from the review of the provisions contained within Part I of the 1981 Act, and form part of a public consultation exercise on a wide range of proposed measures which was launched on 20 December 2004.²²

269. The requirement for a review followed the commitment made in the Rural White Paper for England - Our Countryside; Our Future (November 2000) that the Government would: “.. review.. the provisions in part I of the Wildlife and Countryside Act 1981 with a view to rationalising the identification and protection of rare and endangered species, and will bring forward amending legislation where necessary and as parliamentary time permits.”

270. These provisions are designed to improve the conservation of wild animals, birds and plants; measures to address animal welfare issues are more properly the concern of the Animal Welfare Bill.

Risk assessment

271. The current Act appears generally to work well and it is not the intention to introduce changes unless there are compelling reasons for doing so. The issues addressed by the five amendments listed under option 2 below have been raised in recent years by those who use the 1981 Act as a working tool, and who have noted areas where practical difficulties have arisen. Other issues derive from the need to ensure full compliance with European legislation (the EC Wild Birds Directive (79/409/EEC) and the EC Habitats Directive (92/43/EEC)).

²² <http://defraweb/corporate/consult/wildlifeact-part1/index.htm>

Options

Option 1: Do nothing

272. Do nothing; and take no action to amend the WCA 1981, or delay amending the Act until an alternative legislative vehicle is available. This would prolong the effects of deficiencies identified in the legislation as it stands, including in particular the acknowledged environmental and economic threats posed by invasive non-native species.

Option 2: Make amendments to the Wildlife and Countryside Act 1981

273. Five measures are proposed for possible inclusion in the Bill. A public consultation on a wide range of measures, including these, runs from 20 December 2004 to 24 March 2005:

- a) statutory underpinning for codes of practice regarding potentially damaging non-native plants and animals. This would introduce powers for the Secretary of State to issue guidance, or approve guidance issued by others, for the purposes of providing persons with recommendations, advice and information regarding how to stop the spread of non-native animals and plants, thereby giving such guidance appropriate authority;
- b) extension of 1981 Act provisions to the Crown. This will ensure that domestic legislation is in line with the Birds Directive 79/409/EEC and that the Crown is seen to give a clear lead in conserving native species;
- c) creation of an offence of being in possession of any pesticide containing one or more proscribed active ingredients, except where possession is for a legitimate purpose. This is intended to combat continued poisoning of birds of prey, despite the fact that it has been illegal since 1954. The storage of unapproved pesticides is an offence, but there are no restrictions on possession or requirements to have a specific intention for their use. The measure would create an offence of possession unless for the purpose of doing something specific in accordance with the Pesticide Regulations;
- d) increased protection for wild plants. The amendment will clarify the protection afforded to wild plants in the 1981 Act, ensuring that it extends to their seeds and spores, any other part capable of propagation, including bulbs, corns and rhizomes, and to fungi. The intention is to ensure their continued survival in the wild; and
- e) creation of a new offence of importation and sale of certain non-native species. The intention is to prevent the release of certain non-native species, known to be invasive, into the wild. The prohibition will be by means of an Order listing the affected species on a new Part III to Schedule 9 of the 1981 Act. This amendment is an enabling measure, which will have no immediate financial impact. The impact will be evaluated when species are proposed for inclusion via an Order.

Benefits

Economic

Option 1: Do nothing

274. There are no additional economic benefits associated with this option.

Option 2: Make amendments to the Wildlife and Countryside Act 1981

275. Measures (b), (c) and (d) are expected to have no economic impact, however, there are some potential economic benefits predicted as a result of introducing measures (a) and (e). These measures are designed to prevent the introduction of invasive non-native species and forestall the economic costs associated with their effects in the future. The exact figure is impossible to estimate in advance and will depend on the species identified for action. However, as an illustration, the cost of eradicating Japanese knotweed from Great Britain has been estimated at £1.56 billion. The benefit of introducing these measures would help to avoid such potential costs, by preventing the importation and sale of known invasive species, and providing statutory authority for Codes of Good Practice.

Environmental

Option 1: Do nothing

276. No additional environmental benefits are identified. The measures are designed to address weaknesses which have been identified in the legislation.

Option 2: Make amendments to the Wildlife and Countryside Act 1981

277. Legislation would be correctly targeted and secure a proportionate degree of protection for native biodiversity against identified threats.

Social

Option 1: Do nothing

278. No additional social benefits are identified.

Option 2: Make amendments to the Wildlife and Countryside Act 1981

279. The effective conservation of wildlife is an important social benefit. The proposals, if accepted for amendment, should have an equal impact across England and Wales. There are concerns associated with the handling of invasive non-native species issues, but these will be fully addressed in any consultation on specific Codes of Practice, or orders preventing importation and sale.

Costs

Economic

Option 1: Do nothing

280. There are potentially extensive potential costs in pursuing the “do nothing” option. Invasive non-native species can cause severe economic damage, for example, Japanese knotweed can cause damage to property by growing through tarmac and the floors of houses. It also erodes river banks causing problems for flood management. The grey squirrel causes significant economic damage to tree crops: a study in 1999 calculated losses in state owned forests in England and Wales at £2m at the end of a rotation²³.

²³ Broome and Johnson (2000)

Option 2: Make amendments to the Wildlife and Countryside Act 1981

281. The majority of the proposed measures would not impose any economic costs. There is one potential exception in relation to the proposal (e) to introduce a restricted ban on the importation and sale of species listed on Schedule 9, which could have an impact on the retail trade. However, the amendment introduces an enabling power only; no costs will result until species are identified and listed on a prohibition Order, on which there would be separate consultation. The resulting RIA would be drafted in close consultation with trade interests.

Environmental

Option 1: Do nothing

282. All of the measures are designed to address perceived weaknesses in the legislation protecting wildlife within England and Wales. While it is difficult to quantify the environmental costs arising from the “do nothing” option, they clearly would arise if protection were not improved. This would include for example, the continued loss of birds of prey as a consequence of poisoning.

Option 2: Make amendments to the Wildlife and Countryside Act 1981

283. These measures are designed to protect the environment; there are no additional environmental costs foreseen as a result of introducing these measures.

Social

Option 1: Do nothing

284. To do nothing would risk failing to address threats to native wildlife, which is part of our national heritage, leading to a reduction in native biodiversity and loss of social benefit. It is however difficult to quantify the likely risk or extent of native biodiversity loss, if protection were not improved

Option 2: Make amendments to the Wildlife and Countryside Act 1981

285. The introduction of these measures is not expected to introduce any additional social costs.

Equity and Fairness

286. The proposals should have an equal impact across everyone within England and Wales; no one interest is singled out for additional regulation. Any amendments arising from this consultation should not introduce a regime that is any less equitable or fair than that which has operated across England and Wales since 1981. There are two potential exceptions: the proposal to introduce a restricted ban on the importation and sale of species listed on Schedule 9, could have an impact on the retail trade; and there may be some adverse reaction to the proposal on pesticides from gamekeepers and the pigeon-racing community. In practice, however, the policy intent on pesticide abuse has not changed – it is rather a question of how effectively that policy intent is implemented.

Consultation with small business: the Small Firms' Impact Test

287. The proposals would not have an immediate impact on small businesses. In so far as they set up an enabling provision, the impact would only be felt when a subsequent prohibition Order comes into effect. The application of such an Order is likely to be restricted to a small subset of species on Schedule 9, but it is not possible at this stage to identify which traders would be affected.

288. It is thought that most if not all of the retail traders currently importing and selling species listed on Schedule 9 of the 1981 Act fall into the micro (less than 9 employees) or small (under 50 employees) categories. A Small Firms' Impact Test would be carried out when species are considered for prohibition.

Competition Assessment

289. A competition assessment is not appropriate at this stage. When consideration is given to which species are to be prohibited by Order, a full Competition Filter Test will be carried out to assess the likely effect on the competitiveness of small businesses.

Enforcement & Sanctions

290. Offences under the Act are normally enforced by the Police. Local Authorities already exercise enforcement functions under section 25 of the Act. It is not envisaged that the proposed amendments will impose a significant additional burden upon the enforcement authorities. In some cases they would simplify legal processes and reduce unnecessary costs associated with enforcement. The proposals will impose criminal sanctions in line with other penalties for existing offences within the Act.

Monitoring & Review

291. Home Office statistics of court cases are reviewed on a regular basis by Defra's Global Wildlife Division. The introduction and effect of Codes of Practice would be carefully monitored, so that guidance is appropriately targeted and well understood.

Consultation

292. Government: Departments with an interest in the Act or who have stakeholders that will be affected by any amendments to the Act have been consulted on the proposals, including the Home Office, the Cabinet Office, the Department for Transport and the Department for Trade and Industry.

293. Public: A public consultation on a wide range of measures, including these 5 proposals, runs from 20 December 2004 to 24 March 2005. The consultation documents have been sent to a wide range of consultees, and are available on the Defra website. A Press Notice has been sent to media interests.

Summary & Recommendation

294. The Government recommends option 2 to amend the WCA 1981 ("the 1981 Act"). The amendments will have limited economic effect, and will deliver environmental and social benefit through more effective protection of wildlife.

Extending Biodiversity Statutory Duty

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

295. To extend the Countryside and Rights of Way (CROW) biodiversity duty²⁴ to public bodies²⁵ and statutory undertakers²⁶. The provisions would apply to government agencies, public authorities and statutory undertakers. The change would affect England and Wales only, removing existing inconsistencies in the UK (the Greater London Authority Act 1999 confers duties on London to conserve biodiversity and the Nature Conservation (Scotland) Act places the duty on every public body and office holder in Scotland).

Background

296. Section 74 of the CROW Act 2000 places a biodiversity duty on any Minister of the Crown, Government Department and the National Assembly for Wales. However there is no equivalent duty placed on government agencies, public authorities, or statutory undertakers. Therefore, the duty does not extend to English Nature, the Countryside Agency (CA), or the Countryside Council for Wales and would not apply to the new Integrated Agency (IA) unless extended in this way.

Risk assessment

297. The implementation of the principles of Section 74 by bodies other than those specified in the CROW Act currently takes place on a voluntary basis. There are a number of drivers for public bodies to take action on biodiversity, such as planning, the Strategic Environmental Assessment (SEA) Directive, and legislation on habitats, species and site protection. However, without a unifying duty, these tend to be carried out in a disjointed way. The indirect link between legislation and implementation mechanisms leads to inconsistent and patchy policy application. Without the duty extending to the IA, it will be more difficult for it to fulfil the Government's commitment for it to be a champion for biodiversity. Not extending the duty will increase the risk of the UK not meeting its EU commitment to halt the loss of biodiversity by 2010 and Defra's PSA biodiversity targets. The duty is intended to be a facilitating and enabling measure rather than a prescriptive one. It does not attempt to specify any particular course of action, acknowledging that that is best left for each public body to determine.

²⁴ To a) have regard to the purpose of conservation of biological diversity in the exercise of their functions so far as is consistent with the proper exercise of those functions; and b) take, or promote the taking by others of, such steps as are reasonably practicable to further the conservation of the living organisms and types of habitat which are of principal importance for the preservation of biological diversity in England and Wales, as specified in the lists published by the Secretary of State and the National Assembly of Wales in accordance with section 74(2) of the 2000 Act.

²⁵ See definition at annex II

²⁶ See definition at annex III

Options

Option 1: Do nothing.

298. This would lead to a weakening of the biodiversity duty of the IA since the RDS is currently covered by the CROW section 74 duty as part of Defra. It would also not resolve the current inconsistent geographical approach to biodiversity in the UK with regards to biodiversity conservation and legislation, as explained under the objective above (paragraph 295).

Option 2: Extend Section 74 of the CROW biodiversity duty only to the IA

299. This option would extend the biodiversity duty to the IA, but carries a high risk that other bodies, such as Local Authorities would not actively promote biodiversity conservation on a voluntary basis. The important role that Local Authorities have in implementing Government's biodiversity duty is demonstrated by DETR guidance circular (04/2001), which makes it clear that the Secretary of State may include local authorities in exercising the duty. In addition, in draft PPS9, Government has indicated that Local Authorities in England should take steps to further the conservation of biodiversity and habitats through their planning function. In Planning Guidance (Wales) - TAN 5 it is also recognised that local authorities have an important role in delivering biodiversity objectives at a local level. The SEA Directive also requires local authorities in England and Wales to take account of biodiversity. Local Authorities in England must also take account of biodiversity as part of their Community Strategies and possibly in the future will have to as part of their Comprehensive Performance Assessment. Whilst current guidance and strategies are helpful, they are not universal for all public bodies (the example above relates to local authorities). Existing strategies may lay a framework, but protection and enhancement of biodiversity would be increased by extending the duty as a statutory requirement. This option would also not address the current geographical inconsistencies in biodiversity conservation and legislation as explained above.

Option 3: Extend Section 74 of the CROW biodiversity duty to public bodies

300. Extending the duty to all public bodies and statutory undertakers would formalise the currently voluntary conservation of biological diversity and important species and habitats by public bodies in England and Wales not covered by section 74 of the CROW Act. This should improve England and Wales' delivery of biodiversity conservation and enhancement. It would also remove current and emerging geographic inconsistencies in the UK with regards to biodiversity conservation and legislation, as set out under the objective above (paragraph 295).

Benefits

Economic

301. There are no additional economic benefits identified with option 1. Option 3 would lead to greater efficiency as a result of streamlining public bodies' efforts in taking account of biodiversity; and better management of biodiversity related risk²⁷. Option 2 would lead to limited benefits similar to those for option 3.

²⁷ For example through incorporating ecosystem services properly in land management e.g. for mitigating flood risk.

Environmental

Option 1: Do nothing

302. There are no additional economic benefits associated with this option.

Option 2: Extend Section 74 of the CROW biodiversity duty only to the IA

303. Extending the duty to the IA only would lead to limited improved conservation of biodiversity and priority habitats and species.

Option 3: Extend Section 74 of the CROW biodiversity duty to public bodies

304. Extending the biodiversity duty to public bodies would:

- improve the conservation of biodiversity and priority habitats and species. In implementing the duty, bodies would have to consider the impact of their activities on biodiversity and take this into account. This should lead to positive outcomes for biodiversity; and
- lead to greater integration of biodiversity into general policy, resulting in an increased delivery of biodiversity objectives on the ground, thus meeting 2010 targets. The consideration of impacts on biodiversity in all aspects of a body's activities should lead to a gradual raising of awareness of biodiversity and integration into general policies.

Social

Option 1: Do nothing

305. There are no additional social benefits associated with doing nothing,

Option 2: Extend Section 74 of the CROW biodiversity duty only to the IA

306. Extending the biodiversity duty to the IA alone would result in limited improved conservation of biodiversity, species and habitats, leading to limited improved physical and mental health and well-being²⁸. There would also be limited integration and joined-up delivery.

Option 3: Extend Section 74 of the CROW biodiversity duty to public bodies

307. Extending the duty to public bodies as a whole would result in the improved conservation of biodiversity, species and habitats, leading to improved physical and mental health and well-being²⁹. There would also be full integration of biodiversity with economic and social drivers operated by key agencies/authorities, leading to joined-up delivery and more sustainable solutions.

²⁸ English Nature – Response to “Choosing Health? Choosing Activity – A consultation on action improve people’s health” DoH

²⁹ As above

Costs

Economic

Option 1: Do nothing

308. There are no new costs associated with doing nothing.

Option 2: Extend Section 74 of the CROW biodiversity duty only to the IA

309. Extending the duty to the IA alone would introduce some limited costs for the IA who would have to comply with the duty. However, this should in any case be part of their core business; this legislation would formalise that.

Option 3: Extend Section 74 of the CROW biodiversity duty to public bodies

310. Subject to any evidence to the contrary providing during this consultation we judge there should be no significant financial cost to public bodies, including local authorities, as they already carry out the requirements of the duty to a large extent³⁰; this formalises the commitment. There may be *some* small additional costs, for example associated with estate and road management. For example, organisations may need to time land management operations differently so that they are not detrimental to biodiversity rather than according to times of surplus labour. However, in many instances, managing in a way that is sympathetic towards biodiversity will be cheaper. For example, an appropriate change to road verge management might be to cut grass a little longer, or to cut less frequently.

Environmental

311. Doing nothing would result in reduced conservation of biodiversity and priority species and habitats. There are no additional environmental costs associated with extending the duty.

Social

312. Doing nothing would result in reduced conservation leading to a reduction in the positive social effects of biodiversity and the natural environment. There are no additional social costs associated with extending the duty.

Equity and Fairness

313. There would be equality in benefits acquired in extending the duty since the wider public views biodiversity as a common good. However, some organisations may be disproportionately affected by having to comply with the new duty, for example if they have a particularly large estate it will take longer to assess the impact of their activities on biodiversity. These are most likely to be utilities and transport undertakers.

³⁰ For example in planning (under the SEA Directive and guidance in draft PPS 1 and 9), through their management of SSSIs and other protected areas, and in drafting their Community Strategies which subsumed biodiversity strategies when plans were rationalised.

Consultation with small business: the Small Firms' Impact Test

314. The change should not impact on small firms since they do not fall under the list of public bodies and statutory undertakers defined at annexes II and III.

Competition Assessment

315. The change should not impact on the competitiveness of those public bodies and statutory undertakers identified; on the contrary, extending the duty would remove current inconsistencies in application.

Enforcement & Sanctions

316. No statutory enforcement mechanisms are proposed.

Monitoring & Review

317. No statutory monitoring mechanisms are proposed, although the effectiveness of implementation would be informally monitored in England through the following: proposed biodiversity indicators in the Comprehensive Performance Assessment of Local Authorities, biodiversity indicators within the planning process, implementation of Strategic Environmental Assessment (SEA) Directive responsibilities, and corporate plan indicators for the Integrated Agency. The development and use of these indicators is independent to this extension of the biodiversity duty.

Consultation

318. Government clearance has been given to consult on extending this duty. The Wales Assembly Government has expressed a wish for any extension of duty to apply in Wales. Attention has been drawn to this proposal by the Welsh Assembly Government to key Welsh Stakeholders.

Summary & Recommendation

319. Government recommends Option 3, the extension of the biodiversity duty to cover public bodies and statutory undertakers. This would have the greatest impact by placing a duty onto all public and statutory bodies, thereby formalising existing biodiversity actions, making this more visible, and retaining their focus on biodiversity issues. Extending the biodiversity duty to all public bodies will therefore provide a statutory requirement for those who feel unable to promote biodiversity on a voluntary basis.

Rights of Way

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and intended effect

Objective

320. To clarify the vehicular rights that exist over public rights of way in England and Wales by curtailing the basis on which new rights of way can be claimed for mechanically propelled vehicles.

Background

321. Public rights of way are recorded by local highway authorities in their definitive map and statement. There are 3 elements to the proposed legislation:

- a) Element 1 This element removes any ambiguity about whether claims for byways open to all traffic can arise through future use by non-mechanically propelled vehicles. It ensures that any future use of a route by non-mechanically propelled vehicles can give rise to restricted byway rights only.
- b) Element 2 prevents the establishment of byways open to all traffic by reference to historic or illegal use by vehicles. This historic evidence will instead establish restricted byway rights only. It is proposed that the legislation would come into force by a separate commencement order, which would provide some flexibility in determining the most appropriate timescale within which to implement the legislation. There will continue to be a public right of way for mechanically propelled vehicles where the rights arose by virtue of an express dedication; or an enactment authorising use.
- c) Element 3 provides for the retention of a right of way for mechanically propelled vehicles for the benefit of an owner or occupier where a public right of way for vehicles has arisen which, without legislation, would have been capable of being recorded as a public right of way for all vehicles.

Risk assessment

322. Elements 1 & 3: No risks of injury, environmental damage, or perverse effects have been identified.

323. Element 2: The following risks have been identified:

- *Risks of injury* - The removal of mechanically propelled vehicles from ways used largely by horse riders and pedestrians that would result from element 2 is likely to reduce the risk of injury, although the current risk of injuries is extremely low;
- *Risks of environmental damage* - The risk of environmental damage is reduced if fewer ways are used by mechanically propelled vehicles. Damage may still be inflicted by landowners or others with lawful authority using a route but they are more likely to repair damage caused where they benefit from its repair; and
- *Risks of perverse effects* - Element 2 might cause a surge of applications to add byways open to all traffic to the definitive map. Local authorities may find it difficult

to deal with these in a reasonable time though their longer-term workload would be reduced.

Options

324. Element 1: The options are to do nothing, leaving no opportunity to record new restricted byway rights, or to implement element 1.

325. Element 2: The options are to do nothing; to give effect to element 2 without allowing an appropriate period of notice between Royal Assent and commencement; or to implement element 2. Doing nothing would not remove the current uncertainty about rights. However, commencement two months after Royal Assent would not provide a reasonable period of notice for people to prepare applications to add byways open to all traffic to the definitive map. Research for the Discovering Lost Ways project³² estimated that 3000 kilometres of ways in England and Wales may be capable of being recorded under element 2.

326. Element 3: The options are to do nothing; to use a non-legislative approach; to grant easements³³ to all owners and occupiers; and to implement element 3. Doing nothing would leave owners and occupiers without legal access to their properties. Using a non-legislative approach would involve devising a voluntary scheme for deciding whether a private easement should be granted and at what cost to the owner/occupier. Owners and occupiers would have to resort to the courts where there was no agreement. Granting easements to all owners/occupiers who do not have recorded private or public vehicular rights would open the way for any owner or occupier to receive an easement even where they had no legitimate claim.

Benefits

Economic

Element 1

327. There would be some economic benefits from reducing the potential number of contentious claims which local authorities receive, saving time in administrative processing.

Element 2

328. After commencement of the relevant legislation, local authorities will know the precise number of claims they have for byways open to all traffic and can plan accordingly. At present, many Local Authorities experience a large measure of uncertainty concerning the number of and rate at which byways open to all traffic claims will be submitted before the 2026 cut-off date.

⁴⁵Under the cut-off provisions in Part II of the CROW Act 2000, after 2026 it will no longer be possible to add historic rights of way to the definitive map and statement. In order to add as many historic routes to the definitive map and statement as possible before the cut-off date, the Countryside Agency has been commissioned to organise a research project to systematically gather evidence of the existence of these historic routes and make formal applications to have them recorded on the definitive map and statement. This initiative is known as the Discovering Lost Ways project.

⁴⁶An easement allows an individual other than the owner permission to use a property for a specific purpose.

Element 3

329. Owners and occupiers affected by element 3 will have assured access to their properties without the need to negotiate easements with owners of the land crossed by the ways.

Environmental

Element 1

330. Restricting mechanically propelled vehicular rights will reduce the potential impact of motor traffic on rights of way.

Element 2

331. Implementing element 2 will result in less damage to rights of way through restricting the passage of mechanically propelled vehicles.

Element 3

332. There are no additional environmental benefits associated with implementing element 3.

Social

Element 1

333. Implementing element 1 will extend public rights of way for non motorised users.

Element 2

334. By implementing element 2 users, landowners and others would have greater certainty regarding mechanically propelled vehicle rights on public rights of way, thus reducing conflict. The use of ways that are recorded after commencement would be consistent with their historic use.

Element 3

335. Element 3 will ensure that property owners will not be 'landlocked' by these provisions.

Costs

Economic

Element 1

336. There would be minimal economic costs of maintaining the restricted byways added to the definitive map. Maintenance responsibility would fall to the local highway authority.

Element 2

337. There would be some minimal costs associated with this element. In the short-term a surge in claims will bring an up front cost which, in the absence of element 2, would have been spread over the period up to 2026. However claims after commencement of the relevant legislation up to 2026 will be for restricted byways, which will be less contentious and therefore less costly to process.

Element 3

338. There may be minimal economic costs arising from the need to consider historic evidence to establish whether a vehicular right of access to property can be recognised.

Environmental

339. There are no additional economic costs identified for elements 1 to 3.

Social

Element 1

340. There may be minimal social costs for landowners who could perceive the potential addition of rights to non mechanically propelled vehicles as undesirable.

Element 2

341. The circumstances under which claims to have rights of way by mechanically propelled vehicle users could be made would be reduced. Volunteers working to record byways open to all traffic would be constrained by the shorter timescale for putting in claims.

Element 3

342. It may appear inconsistent to provide that historic evidence of use of a route by vehicles that are not mechanically propelled should lead to a way being recorded as a restricted byway rather than a byway open to all traffic, whilst making provision for the same evidence to allow a person access to their property in a mechanically propelled vehicle.

Business sector

343. No business sector is affected by elements 1 to 3. There will be no costs for small businesses.

Compliance costs

344. Elements 1 & 2: Local highway authorities are under a duty to keep their definitive maps of rights of way under continuous review. Where ways meeting the elements 1 or 2 criteria are identified, authorities will have to record them on their definitive map. But the burden of doing so is no greater than that under current legislation.

345. Element 3: The compliance costs of element 3 are minimal. The right of access will need to be recorded, especially where property changes hands. It is impossible to estimate the number of cases likely to arise as there are no registers of such ways.

Distributional effects

346. Element 2: Local highway authorities may experience a surge of applications before the commencement of new legislation. Applications to add byways open to all traffic to the definitive map would otherwise be spread over time until 2026.

Other costs

347. Local highway authorities are under a duty to maintain public rights of way to a standard appropriate to their status. Element 1 means that a few ways will be recorded as restricted byways in their definitive maps and statements, and element 2 means that fewer ways will be recorded as byways open to all traffic, than if there were no legislation. Section 49 of the Countryside and Rights of Way Act 2000 places a limit on the extent to which local highway authorities are obliged to provide surfaces suitable for vehicles on restricted byways. Thus there will be a modest saving on maintenance costs.

Equity and Fairness

348. Mechanically propelled vehicle users of public rights of way will be treated differently from other users because element 2 curtails their ability to apply to local highway authorities to have byways open to all traffic recorded on the definitive map and statement. However, we consider that this is justified in the interests of sustainability and a more appropriate reflection of historic use of routes. Existing ways recorded as byways open to all traffic are unaffected. Under element 3, there could be a period of uncertainty until all outstanding applications to add byways open to all traffic to definitive maps have been processed.

Consultation with small business: the Small Firms' Impact Test

349. A Small Firms' Impact test is not required because the proposal impacts only on the public services. This has been verified by the completion of a Public Services Threshold test.

Competition Assessment

350. A competition assessment is not required because the proposal impacts only on the public-services. This has been verified by the completion of a Public Services Threshold test.

Enforcement and sanctions

351. No new enforcement procedures or sanctions are required. Local highway authorities are already under a duty to maintain their definitive maps and to ensure that all public rights of way are maintained, free from obstruction and available for use by the public. There are no registers of those rights of way which are used for "private" access to property. Since this private use is safeguarded under element 3, there is no need to attempt to identify how many ways or people are affected.

Monitoring and review

352. Existing monitoring and reviewing procedures can be used, in so far as they are needed. Best Value Performance Indicator (BVPI) 178 requires each local authority to assess the ease of use of all rights of way for which they are responsible.

Consultation

353. Government: Departments with an interest in these measures have been consulted, including Department for Transport, Department for Constitutional Affairs, and the Home Office. Clearance has been obtained through Government channels.

354. Public: The public has been consulted on the thrust of the proposals in the Government consultation paper 'Use of mechanically propelled vehicles on Rights of Way'. There were 5282 formal responses and a further 9143 letters treated as contributions to the consultation. Of the formal responses, 4662 were from individuals and 620 from organisations. Organisations responding included the Ramblers' Association, the British Horse Society, the Land Access and Recreation Association, the Country Land and Business Association and the National Farmers' Union. Local Government was represented by formal responses from 71 local authorities and 158 parish councils. 65 Local Access Forums also responded. The views of respondents to the consultation have been taken into account in drawing up elements 1, 2 and 3.

Recommendation

355. The Government recommends that legislation should implement elements 1 to 3.

Conclusion of the statutory Hill Farming Advisory Committee

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

356. To conclude the statutory Hill Farming Advisory Committee (HFAC), removing what are now unused statutory provisions. This would apply to England, Wales and Northern Ireland only. Scotland has a separate advisory committee.

Background

357. The role of the HFAC was originally to advise Ministers on the exercise of their powers under the 1946 Hill Farming Act. However, few of these powers are still relevant today, as the main ones relate to post-war land improvement grants or hill livestock subsidy schemes prior to the CAP.

358. The Hills Task Force, which reported in March 2001, mentioned the HFAC and recommended 'that consultation arrangements for Less Favoured Areas (LFA) be reviewed in order to secure greater integration of production-related and England Rural Development Programme elements of LFA policy, mainstream farmer involvement and closer engagement of parties in Whitehall and the regions'³⁴

359. Ministers agreed to the recommendation of the Hills Task Force that, in future, hill farming interests would be better represented on a new, wider, non-statutory body - the Uplands Land Management Advisory Panel (ULMAP). In January 2003 Lord Whitty (Defra) wrote to members of the HFAC informing them that the Government did not plan to re-appoint members to the Committee and intended to wind down the HFAC in due course.

Risk assessment

360. The appointment of members of the HFAC lapsed in 2001 and the committee has not been reconstituted. The replacement committee, ULMAP, has met on seven occasions since the demise of the HFAC. As the 1946 Act places a duty on Ministers to establish an advisory committee, the Government could be challenged for failing to fulfil its legal duty. Revoking the provisions relating to the establishment of the HFAC and the Welsh sub-committee would however remove the risk of legal challenge.

Options

361. Two options have been identified:

- Option 1: Do nothing
- Option 2: Revoke the provisions relating to establishment of HFAC

³⁴ The Task Force for the Hills, March 2001, Recommendation 52

Costs and Benefits

362. This is a tidying up exercise. There are no perceived benefits or costs other than the saving in officials' time in servicing committee meetings. Conclusion of the HFAC will have no impact on the business, charity or voluntary sector.

Consultation with small business: the Small Firms' Impact Test

363. A Small Firms' Impact test is not required because the proposal impacts only on the public services. This has been verified by the completion of a Public Services Threshold test.

Competition Assessment

364. A competition assessment is not required because the proposal impacts only on the public-services. This has been verified by the completion of a Public Services Threshold test.

Consultation

365. Defra has consulted the Welsh Assembly Government, Department of Agriculture, and Department of Environment Northern Ireland.

Recommendation

366. The Government recommends Option 2: Revoke the provisions relating to establishment of HFAC.

Abolition of the Consumer Committee of Great Britain and the Committee of Investigation

This measure is included for consideration in advance of possible introduction to the Bill.

Purpose and Intended Effect

Objective

367. To abolish the statutory Consumer Committee of Great Britain and the Committee of Investigation, both of which operate on a UK basis.

Background

368. The Consumer Committee of Great Britain and the Committee of Investigation (Food and Drink committees) were established by Parliament under the Agricultural Marketing Act 1958 to ensure that the interests of consumers were taken into account in the operation of statutory agricultural marketing schemes. As the number of agricultural marketing schemes reduced, the responsibilities of the Committees declined. In March 2000 an announcement was made in Parliament “to leave the Committee in abeyance and not re-appoint members”³⁵.

Risk assessment

369. The Consumer Committee for Great Britain last met in August 1997; the Committee of Investigation last met 13 years ago. There are no risks involved in abolishing these bodies.

Options

370. Two options have been identified: (1) to do nothing or (2) to abolish the Committees

Benefits and Costs

371. This is a tidying up exercise and there are no perceived benefits or costs other than the saving in staff time dealing with enquiries about these defunct Committees. Abolition will have no impact on the business, charity or voluntary sector.

Enforcement & Sanctions

372. The proposal will be enforced via an amendment to the Agricultural Marketing Act 1958.

Consultation with small business: the Small Firms’ Impact Test

373. A Small Firms’ Impact test is not required because the proposal impacts only on the public services. This has been verified by the completion of a Public Services Threshold test.

³⁵ Hansard Ref 28 Mar 2000: Column 84W

Competition Assessment

374. A competition assessment is not required because the proposal impacts only on the public-services. This has been verified by the completion of a Public Services Threshold test.

Consultation

375. Government: The Departments for Scotland, Wales and Northern Ireland were all consulted on the Minister's announcement in 2000.

376. Public: Committee members were informed regarding the decision to leave these Committees in abeyance.

Recommendation

377. The Government recommends Option 2: Abolish the Consumer Committee of Great Britain and the Committee of Investigation.

Appendix

Glossary of Terms

AONB	Area of Natural Beauty
BSS	Boat Safety Scheme
BVPI	Best Value Performance Indicator
CA	Countryside Agency
CAP	Common Agricultural Policy
CCW	Countryside Council for Wales
CRC	Commission for Rural Communities
CROW	Countryside and Rights of Way Act
Defra	Department for Environment Food and Rural Affairs
DOENI	Department of Environment Northern Ireland
EA	Environment Agency
EN	English Nature
EU	European Union
HFAC	Hill Farming Advisory Committee
IA	Integrated Agency
IWAAC	Inland Waterways Amenity Advisory Council
FC	Forestry Commission
FMPR	Financial Management and Policy review
LFA	Less Favoured Areas
MRD	Modernising Rural Delivery
NDPB	Non Departmental Public Body
NCA	New Countryside Agency
NI	Northern Ireland
NPA	National Park Authority
PSA	Public Service Agreement
RDA	Rural Development Agency
RDR	Rural Delivery Review
RDS	Rural Development Service
RIA	Regulatory Impact Assessment
RRO	Regulatory Reform Order
RS04	Rural Strategy 2004
SEA	Strategic Environmental Assessment
SSSI	Site of Special Scientific Interest
ULMAP	Uplands Land Management Advisory Panel
WCA	Wildlife and Countryside Act

Definition of Public Bodies: Extract from Water Act 2003

83 Water conservation by public authorities

(1) In exercising its functions and conducting its affairs, each public authority shall take into account, where relevant, the desirability of conserving water supplied or to be supplied to premises.

(2) In subsection (1), "public authority" means any of the following-

(a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975 (c. 26)),

(b) a Government department,

(c) the Assembly,

(d) a local authority (within the meaning of section 270(1) of the Local Government Act 1972 (c. 70)),

(e) a person holding an office-

(i) under the Crown,

(ii) created or continued in existence by a public general Act, or

(iii) the remuneration in respect of which is paid out of money provided by Parliament,

(f) a statutory undertaker (being any person who, by virtue of section 262 of the Town and Country Planning Act 1990 (c. 8) is or is deemed to be a statutory undertaker for any purpose), and

(g) any other public body of any description.

Definition of Statutory Undertakers: Extract from Town and Country Planning Act

Part XI

Statutory Undertakers

Preliminary

Meaning
"statutory
undertakers".

of **262.**—(1) Subject to the following provisions of this section, in this Act "statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the [1986 c. 31.] Airports Act 1986).

(2) Subject to the following provisions of this section, in this Act "statutory undertaking" shall be construed in accordance with subsection (1) and, in relation to a relevant airport operator (within the meaning of that Part), means an airport to which that Part of that Act applies.

(3) Subject to subsection (5), for the purposes of the provisions mentioned in subsection (4) any public gas supplier, water or sewerage undertaker, the National Rivers Authority, the Post Office and the Civil Aviation Authority shall be deemed to be statutory undertakers and their undertakings statutory undertakings.

(4) The provisions referred to in subsection (3) are sections 55, 90, 101, 108(3), 123, 139 to 141, 143, 148, 170(12)(b), 236(2)(a), 237 to 241, 245, 247(4)(b), 253, 257(2), 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9), 336(2) and (3), paragraph 18 of Schedule 1 and Schedules 8, 13 and 14.

(5) Subsection (4) shall apply—

(a) as respects the Post Office, as if the reference to sections 55, 247(4)(b), 253 and 257(2) were omitted; and

(b) as respects the Post Office and the Civil Aviation Authority as if—

(i) the references to sections 245, 263(1) and (2) and 336(2) and (3) were omitted; and

(ii) after the words "266 to 283" there were inserted the words "(except section 271 as applied by section 13 of the Opencast Coal Act 1958)".

(6) Any holder of a licence under section 6 of the [1989 c. 29.] Electricity Act 1989 shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking—

(a) for the purposes of the provisions mentioned in subsection (7)(a), if he holds a licence under subsection (1) of that section;

(b) for the purposes of the provisions mentioned in subsection (7)(b), if he is entitled to exercise any power conferred by Schedule 3 to that Act; and

(c) for the purposes of the provisions mentioned in subsection (7)(c), if he is entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.

(7) The provisions referred to in subsection (6) are—

(a) sections 55, 108(3), 123, 139 to 141, 143, 148, 236(2)(a), 237, 245, 253, 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9) and 336(2) and (3), paragraph 18 of Schedule 1 and Schedule 13;

(b) sections 170(12)(b) and 238 to 241; and

(c) sections 247(4) and 257(2) and Schedule 14.

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