STATUTORY INSTRUMENTS

1985 No. 170 (N.I. 1)

The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985

- - - - - - *13th February 1985*

PART I

INTRODUCTORY

Title and commencement

1. This Order may be cited as the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 and shall come into operation on the expiration of the period of two months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"Committee for Nature Conservation" means the committee established under Article 5;

"the Department" means the Department of the Environment;

"derelict site" means land, which the Department after consultation with the district council within whose district the land is situated, considers as detracting from the amenity of the area by reason of any unsightly, dilapidated or neglected structure or works or unsightly vegetation, refuse or waste material on the land;

"local or public authority" includes any authority or body specified in paragraph 1 of Schedule 1 to the**[**F1 Financial Provisions (Northern Ireland) Order 1983**]** as an authority or body to whom government loans may be made by the Department of Finance and Personnel under**[**F1 Article 8 of that Order**]**;

"National Park" means an area designated as a National Park under Article 12;

"nature conservation" means the conservation of flora, fauna and geological and physiographical features;

"nature reserve" means any area reserved, managed and used for the purpose of—

(a) conserving flora, fauna or features of geological, physiographical or other scientific or special interest therein; or

(b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to flora and fauna and the physical conditions in which they live, or for the study of features of geological, physiographical or other scientific or special interest therein;

or for both of those purposes;

"owner", in relation to any land, means any person (other than a mortgagee not in possession) who is the holder of or who is for the time being entitled to sell or otherwise dispose of the fee simple (including a fee farm grant) of the land or any person entitled to possession of the land by virtue of any estate in the land other than a mere licence;

"statutory provision" has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"Ulster Countryside Committee" means the committee referred to in Article 11;

"voluntary body" means any body of persons, whether corporate or unincorporate carrying on or proposing to carry on an undertaking otherwise than for profit.

(3) Nothing in this Order shall make unlawful anything done under the Diseases of Animals (Northern Ireland) Order 1981.

F1 1989 NI 3

PART II

NATURE CONSERVATION AND ENJOYMENT OF THE COUNTRYSIDE

Nature conservation and enjoyment of the countryside

3.—(1) The functions of the Department shall include formulating and implementing policies for nature conservation and the conservation and enhancement of the natural beauty and amenity of the countryside.

(2) In exercise of its functions under paragraph (1) (and without prejudice to the generality of that paragraph), the Department may—

(a) carry out, commission, or support by financial means or otherwise, such inquiries, investigations or researches as it considers necessary or expedient;

(b) provide advice and disseminate knowledge about nature conservation and the conservation and enhancement of the natural beauty and amenity of the countryside;

(c) establish, manage and maintain nature reserves in Northern Ireland;

(d) take such steps as it considers expedient to encourage the provision and improvement, for persons resorting to the countryside, of facilities for the enjoyment of the countryside and open-air recreation in the countryside.

(3) The Department—

(a) may provide, or assist in the provision of, publicity, mapping and information services relating to the countryside, to places of beauty and interest therein; and

(b) shall take such steps as appear to it expedient for securing that suitable methods of publicity are used for the prevention of damage in the countryside and for encouraging a proper standard of behaviour on the part of persons resorting to the countryside.

Duty of public bodies

4.—(1) In exercising functions relating to land under any statutory provision, public bodies shall have regard to the need to conserve the natural beauty and amenity of the countryside and the need to protect (so far as reasonably practicable) flora, fauna and geological and physiographical features of the countryside from any harmful effects which might result from the exercise of such functions.

(2) In paragraph (1) the expression "public bodies" includes government departments, district councils and statutory undertakers, and any trustees, commissioners, board or other persons who, as a public body and not for their own profit, act under any statutory provision for the improvement of any place or the production or supply of any commodity or service.

The Committee for Nature Conservation

Para. (1) rep. by 1989 NI 3

(2) The Committee for Nature Conservation shall—

(a) exercise the functions conferred on it by this Order; and

(b) advise the Department on matters relating to nature conservation.

Para. (3) rep. by 1989 NI 3

F2 functions transf. by 1989 NI 3

PART III

AMENITY LANDS

Acquisition and disposal of amenity lands

6.—(1) Where the Department considers that it is expedient to acquire land for the purpose of—

(a) conserving any area of natural beauty or amenity;

(b) establishing a nature reserve;

(c) providing means of access to any area of the kind referred to in sub-paragraphs (a) and (b);

(d) providing, in or in relation to any such area or any National Park, facilities for the use of that area or Park by the public;

(e [F3] restoring or improving the appearance of a derelict site or of improving the amenities of the neighbourhood of a derelict site;

the Department may, in accordance with arrangements approved by the Department of Finance and Personnel, acquire such land by agreement (whether by way of purchase, lease or exchange) or otherwise.

(2 [F3] Where, for any of the purposes referred to in paragraph (1), the Department desires to acquire otherwise than by agreement any land, the Department may make an order vesting that land in the Department.

(3 [F3] Section 97(2) and (3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972 shall apply subject to the modifications specified in Schedule 2 for the purpose of the making of vesting orders under this Article.

(4 [F3] Where the Department is of the opinion that any land acquired under this Article would be more expediently or efficiently managed or conserved in the public interest**[**[F4] by any person**]** the Department may, in accordance with arrangements approved by the Department of Finance

and Personnel, convey, either for value or otherwise and upon such terms and conditions as the Department may think fit, that land to**[**[F4] that person**]**, and may—

(i) impose such restrictions as the Department may think necessary on the user of the land so conveyed; and

(ii) grant or reserve such rights over such land as the Department may think fit.

(5 [F3] Without prejudice to paragraph (4), the Department may, in accordance with arrangements approved by the Department of Finance and Personnel, dispose of any land acquired under this Article which the Department no longer requires for any of the purposes referred to in paragraph (1), upon such terms and conditions as the Department may think fit, and may impose restrictions and grant or reserve rights as if the land were conveyed under paragraph (4).

(6 [F3] Nothing in section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (which relates to the taking and disposal of land for the public services) shall affect the disposal by the Department of land acquired under this Article.

F3 functions transf. by SR 1999/481
F4 1989 NI 3

Grants and loans to National Trust for acquisition, etc., of amenity lands

7.—(1) The Department may, in accordance with arrangements approved by the Department of Finance and Personnel, make grants (whether by way of endowment or otherwise) or loans to the National Trust for Places of Historic Interest or Natural Beauty towards the cost of—

(a) acquiring any land for the purpose of—

(i) conserving any area of natural beauty or amenity;

(ii) establishing a nature reserve;

(iii) providing means of access to any area of the kind referred to in heads (i) and (ii);

(b) improving, maintaining or managing any land so acquired.

(2) Grants and loans under paragraph (1) shall be on such terms and conditions as the Department thinks fit.

Power of Department to enter into agreements or covenants restricting use of land

8.—(1) Where any owner of land in any area, which in the opinion of the Department is one of natural beauty or amenity, is willing to agree with the Department that the land or any part thereof shall, so far as his interest in the land enables him to bind it, be made subject (either permanently or for a specified period) to conditions restricting the use or development thereof in any manner, the Department may if it thinks fit (either for consideration or otherwise) enter into an agreement with him or accept a covenant from him to that effect.

(2) Where an owner entering into an agreement or covenant under paragraph (1) has power to make that agreement or covenant binding upon his successors in title, and the agreement or covenant is expressed to be so binding, the Department shall have power to enforce that agreement or covenant against such successors in the like manner and to the like extent as if the Department were possessed of or entitled to or interested in adjacent land and as if the agreement or covenant had been expressed to be entered into for the benefit of the adjacent land.

(3) The Department may waive (either permanently or temporarily) any condition imposed by an agreement or covenant made under paragraph (1) which is inconsistent with any provision of a **[**[F5]local development plan**]** or development order under the **[**[F6]Planning Act (Northern Ireland) 2011**]**.

F5 Words in art. 8(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 48(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F6 Words in art. 8(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 48(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Management agreements with owners and occupiers of land

9 [F7]**.**—(1) The Department may for the purpose of conserving or enhancing the natural beauty or amenity of any land or promoting its enjoyment by the public, make an agreement (in this Article referred to as a "management agreement") with any person having an estate in the land, with respect to the management of the land during a specified term or without limitation of the duration of the agreement.

(2) Without prejudice to the generality of paragraph (1), a management agreement—

(a) may impose restrictions on that person as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person to carry out works or agricultural or forestry operations or do other things on the land;

(b) may contain such incidental and consequential provisions (including provisions for the making of payments by the Department to that person) as appear to the Department to be necessary or expedient for the purposes of the agreement.

(3) The provisions of a management agreement with any person having an estate in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the Department against those persons accordingly.

F7 functions transf. by SR 1999/481

Power of Department to carry out works and provide facilities

10.—(1) The Department may carry out such works or do such other things on land acquired under Article 6**[**[F8],[F9]. . . **]** as the Department thinks necessary or expedient for the proper management and use of that land for the purpose for which that land was acquired.

(2) Where the Department is of the opinion that the facilities on or in relation to land acquired under Article 6 (other than a nature reserve or a derelict site) are inadequate or unsatisfactory, the Department may, in accordance with arrangements approved by the Department of Finance and Personnel, provide or arrange for the provision of, on or in relation to such land, the following facilities—

(a) accommodation, meals and refreshments;

(b) camping sites and caravan parks;

(c) parking places;

(d) such other facilities for persons using the land as the Department, after consultation with the Ulster Countryside Committee, may think fit.

(3) Where any land of the kind referred to in paragraph (2) is covered by water, the Department may, in accordance with arrangements approved by the Department of Finance and Personnel, provide or arrange for the provision of facilities for the use by the public of the water for recreation.