

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

PART III
—cont.

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

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

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

Annual report of Nature Conservancy.

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

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

Supplementary provisions as to powers of Conservancy.

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

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

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

Application of Part III to Scotland.

PART IV

PUBLIC RIGHTS OF WAY

Ascertainment of footpaths, bridleways and certain other highways

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

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

PART IV
—cont.

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

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

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

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

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

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

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

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

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

“ public path ” means a highway being either a footpath or a bridleway ;

PART IV
—cont.

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

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

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

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

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

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

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

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

PART IV
—cont.

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

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

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

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

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

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

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

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

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

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

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

(5) Any person aggrieved—

- (a) by a determination of the surveying authority under subsection (3) of this section not to give effect to a representation or objection as to anything omitted from the draft map and statement (other than a limitation or condition to which a right of way is alleged to be subject), or
- (b) by a decision of the surveying authority under the last foregoing subsection to maintain a determination to modify the particulars contained in the draft map and statement by the deletion of a way shown as a public path or as a road used as a public path, or
- (c) by a decision of the surveying authority under the last foregoing subsection to revoke a determination to modify the said particulars by the addition of a way so that it will be so shown,

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

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

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

PART IV
—cont.

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

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

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

**Preparation of
provisional
maps and
statements.**

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

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

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

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

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

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

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

PART IV
—cont.

- (a) that at the relevant date mentioned in the provisional statement there was no public right of way over the land ;
- (b) that the rights conferred on the public at that date by the public right of way over the land were such rights as may be specified in the application, and not such rights as are indicated in the provisional map and statement ;
- (c) that the position or width of that part of the land over which the public right of way subsisted at the said date was as specified in the application, and not as indicated in the provisional map and statement ; or
- (d) that the public right of way over the land at the said date was not unconditional but was subject to limitations or conditions specified in the application, or, if the said right is indicated in the provisional statement as being subject to limitations or conditions, that the said right was subject to other limitations or conditions specified in the application either in addition to or in substitution for those indicated in the provisional statement.

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

- (a) for prescribing the court of quarter sessions to which applications under this section are to be made or for requiring such applications to be made to a committee, being either an existing committee or a committee specially constituted for the purpose as may be prescribed by the regulations, of such court of quarter sessions as may be so prescribed ;
- (b) for the form and manner in which such applications are to be made, and the persons who are to be entitled to be parties to the hearing of any such application ;
- (c) as to the publication or service of notice of proposals to make such applications ;
- (d) for the awarding of costs in any proceedings under this section.

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

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