



# Commons Act 2006

## 2006 CHAPTER 26

### PART 5

#### SUPPLEMENTARY AND GENERAL

##### *Amendments and repeals*

#### **52 Minor and consequential amendments**

Schedule 5 (minor and consequential amendments) has effect.

#### **53 Repeals**

Schedule 6 (repeals, including consequential repeals and repeals of spent and obsolete enactments) has effect.

#### **54 Power to amend enactments relating to common land or greens**

- (1) The appropriate national authority may by order amend any relevant Act so as to secure that—
  - (a) a provision of that Act applying to common land does not apply to land to which Part 1 applies and which is not registered as common land;
  - (b) such a provision applies to either or both of the following—
    - (i) land registered as common land, or particular descriptions or areas of such land;
    - (ii) land to which Part 1 does not apply, or particular descriptions or areas of such land.
- (2) The appropriate national authority may by order amend any relevant Act so as to secure that—
  - (a) a provision of that Act which is expressed to apply to a town or village green does not apply to land to which Part 1 applies and which is not registered as a town or village green;

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- (b) such a provision applies to either or both of the following—
  - (i) land registered as a town or village green, or particular descriptions or areas of such land;
  - (ii) land to which Part 1 does not apply, or particular descriptions or areas of such land.
- (3) In this section, “relevant Act” means any public general Act passed before this Act.
- (4) For the purposes of subsection (1) a provision applies to common land if it is expressed to apply (generally) to common land, any common or commons, commonable land, land subject to inclosure under any enactment or other land of a similar description.

## **55 Power to amend enactments conferring functions on national authorities**

- (1) A national authority may by order amend or repeal any provision of a local or personal Act passed before this Act which applies to common land for any of the following purposes—
  - (a) to remove any function of the national authority which relates to the common land;
  - (b) to transfer such a function from the national authority to another person;
  - (c) to remove a requirement that the national authority be consulted, or that its consent be obtained, in respect of—
    - (i) any act or omission relating to the common land; or
    - (ii) any act or omission of a person concerned with the management of the common land;
  - (d) to substitute for a requirement referred to in paragraph (c) a requirement that a person other than the national authority be consulted, or his consent obtained, in relation to the act or omission.
- (2) In subsection (1), “common land” means—
  - (a) any land registered as common land or as a town or village green;
  - (b) any land referred to in section 5(2); and
  - (c) any land not falling within paragraph (a) or (b) which is subject to a scheme under the Metropolitan Commons Act 1866 (c. 122) or the Commons Act 1899 (c. 30).
- (3) A national authority may by order amend or repeal any provision of an Act made under the Commons Act 1876 (c. 56) confirming a provisional order of the Inclosure Commissioners for any of the following purposes—
  - (a) to remove any function of the national authority which relates to land to which the Act applies;
  - (b) to transfer such a function from the national authority to another person;
  - (c) to remove a requirement that the national authority be consulted, or that its consent be obtained, in respect of—
    - (i) any act or omission relating to land to which the Act applies; or
    - (ii) any act or omission of a person concerned with the management of such land;
  - (d) to substitute for a requirement referred to in paragraph (c) a requirement that a person other than the national authority be consulted, or his consent obtained, in relation to the act or omission.

(4) In this section “national authority” means—

- (a) the Secretary of State; and
- (b) the National Assembly for Wales.

#### *Commencement and transitional provision*

### **56 Commencement**

- (1) The preceding provisions of this Act, except section 9 and Schedule 1 and sections 54 and 55, come into force in accordance with provision made by order by the appropriate national authority.
- (2) Sections 54 and 55 come into force at the end of the period of two months beginning with the day on which this Act is passed.

### **57 Severance: transitional**

- (1) In relation to any area of England and Wales, the reference in subsection (1) of section 9 to a register of common land or town or village greens shall, during the relevant period in relation to that area, be read as a reference to such a register kept under the Commons Registration Act 1965 (c. 64).
- (2) Sub-paragraph (6) of paragraph 1 of Schedule 1 shall not have effect in relation to a right of common severed (in accordance with that paragraph) from land in any area of England and Wales during the relevant period in relation to that area.
- (3) In this section, the “relevant period”, in relation to an area of England and Wales, is the period which—
  - (a) begins with the coming into force of this section; and
  - (b) ends with the coming into force of section 1 in relation to that area.
- (4) This section is deemed to have come into force on 28 June 2005.

### **58 Natural England**

Any reference in a provision of this Act to Natural England shall, in relation to any time after the coming into force of that provision but before the coming into force of section 1(4) of the Natural Environment and Rural Communities Act 2006, be read as a reference to English Nature.

#### *General*

### **59 Orders and regulations**

- (1) An order or regulations under this Act may make—
  - (a) transitional, consequential, incidental and supplemental provision or savings;
  - (b) different provision for different purposes or areas.
- (2) An order or regulations under this Act, other than an order under section 17, must be made by statutory instrument.

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- (3) A statutory instrument containing regulations under section 29(1) or an order under section 54 or 55 may not be made by the Secretary of State (alone or jointly with the National Assembly for Wales) unless a draft has been laid before and approved by a resolution of each House of Parliament.
- (4) Subject to subsection (3), a statutory instrument containing any order or regulations made under this Act by the Secretary of State (alone or jointly with the National Assembly for Wales) other than an order under section 56 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 60 Crown application

- (1) This Act (and any provision made under it) binds the Crown.
- (2) This section does not impose criminal liability on the Crown in relation to an offence under section 34(1).
- (3) Subsection (2) does not affect the criminal liability of persons in the service of the Crown.

## 61 Interpretation

- (1) In this Act—
  - “appropriate national authority” means—
    - (a) the Secretary of State, in relation to England; and
    - (b) the National Assembly for Wales, in relation to Wales;
  - “commons council” means a commons council established under Part 2;
  - “land” includes land covered by water;
  - “nature conservation” means the conservation of flora and fauna and geological and physiographical features;
  - “regulations” means regulations made by the appropriate national authority;
  - “register of title” means the register kept under section 1 of the Land Registration Act 2002 (c. 9);
  - “right of common” includes a cattlegate or beastgate (by whatever name known) and a right of sole or several vesture or herbage or of sole or several pasture, but does not include a right held for a term of years or from year to year.
- (2) In this Act—
  - (a) any reference to land registered as common land or a town or village green is to land so registered in a register of common land or town or village greens;
  - (b) any reference to a register of common land or town or village greens is to such a register kept under Part 1 of this Act.
- (3) In this Act—
  - (a) references to the ownership or the owner of any land are references to the ownership of a legal estate in fee simple in the land or to the person holding that estate;
  - (b) references to land registered in the register of title are references to land the fee simple of which is so registered.

**62 Short title**

This Act may be cited as the Commons Act 2006.

**63 Extent**

This Act extends to England and Wales only.