
STATUTORY INSTRUMENTS

2015 No. 1515

COMMONS, ENGLAND

**The Bodmin Moor Commons
Council Establishment Order 2015**

<i>Made</i>	- - - -	<i>14th July 2015</i>
<i>Laid before Parliament</i>		<i>16th July 2015</i>
<i>Coming into force</i>	- -	<i>1st September 2015</i>

The Secretary of State has published a draft of this Order in the area of Bodmin Moor and invited representations about it in accordance with section 27(2) of the Commons Act 2006⁽¹⁾.

In accordance with section 27(4) of that Act, the Secretary of State is satisfied that there is substantial support for the making of this Order.

The Secretary of State considers, in accordance with section 31(2) of that Act, that the functions conferred on the commons council⁽²⁾ established by this Order are appropriate in the case of that council.

In exercise of the powers conferred by sections 26, 29(3) and (4), 30, 31(1) to (4), 35(2) and 36(1) and (2)(b) of that Act, the Secretary of State makes this Order.

Title and commencement

1. This Order may be cited as the Bodmin Moor Commons Council Establishment Order 2015 and comes into force on 1st September 2015.

Interpretation

2. In this Order—

“the 2006 Act” means the Commons Act 2006;

“active grazier” means—

- (a) in relation to the election and appointment of the first members of the Council, a commoner named in the list compiled under paragraph 2(a) of Schedule 2;

⁽¹⁾ 2006 c. 26; section 61(1) defines the “appropriate national authority” as the Secretary of State, in relation to England.

⁽²⁾ The expression “commons council” is defined by section 61(1) of the Commons Act 2006 as a commons council established under Part 2 of that Act.

- (b) in relation to subsequent elections and appointments, a commoner who is registered under article 8(1)(a), or pursuant to an application under article 8(2), in the register maintained by the Council under article 8(1);

“the appointed day” means 1st March 2016;

“commoner” has the meaning it is given in the Standard Constitution;

“the Commons” means all those areas of registered common land, within the area known as Bodmin Moor in the county of Cornwall, that are listed in Schedule 1 against the name of the Section in which they are respectively situated;

“the Council” means the Bodmin Moor Commons Council established by article 3;

“owner”, in relation to the Commons, means a person holding the estate of fee simple in the land in which the Commons or any part of the Commons is situated, and any reference to owning, or ownership of, the Commons is to be construed accordingly;

“Section” means one of the eight sub-divisions of Bodmin Moor, those sub-divisions being Blisland, Hamatethy, Davidstow, Westmoor, East Moor, St Cleer & District, Warleggan and Cardinham;

“Section-Group” means any one of the following four groupings of the Sections—

- (a) Blisland and Hamatethy;
- (b) Davidstow, Westmoor and East Moor;
- (c) St Cleer & District;
- (d) Warleggan and Cardinham;

“the Standard Constitution” means the constitution in the Schedule to the Commons Councils (Standard Constitution) (England) Regulations 2010(3).

Establishment of the Council

3. With effect from the appointed day a commons council, to be known as the Bodmin Moor Commons Council, is established for the Commons.

Membership of the Council

4.—(1) The Council is to consist of not fewer than 24 and not more than 26 members, of whom—

- (a) for each of the Sections, two are to be elected from among themselves by the active graziers on land registered as common land in that Section;
- (b) for each of the Section-Groups, one is to be elected from among themselves by the commoners with rights of common over land in that Section-Group and who are not active graziers;
- (c) four are to be appointed by the owners of land forming part of the Commons, to represent their interests;
- (d) one, being a veterinary surgeon, may be co-opted by the members referred to in sub-paragraphs (a), (b) and (c); and
- (e) one further member may be co-opted by the members referred to in sub-paragraphs (a), (b) and (c).

(2) Elections and appointments of members of the Council under paragraph (1)(a) to (c) are first to be held and made before the appointed day.

(3) The members first elected or appointed under paragraph (1)(a) to (c) (unless a member resigns or dies, or Schedule 2 provides differently) are to hold office from the appointed day until the end of February 2020.

(4) Elections and appointments of subsequent members of the Council under paragraph (1)(a) to (c) are to be held or made before the end of February 2020 and in every fourth year after that, to replace those members whose terms of office expire in that year.

(5) Each member so elected or appointed is to hold office (unless the member resigns or dies, or paragraph (6) applies, or Schedule 2 provides differently) for four years from 1st March next following their election or appointment.

(6) A person elected as a member of the Council under paragraph (1)(a) or (b) ceases to be a member of the Council if at any time during the period of membership that person ceases to be eligible for membership.

(7) A person co-opted as a member of the Council under paragraph (1)(d) or (e) is to hold office (unless the member resigns or dies, or Schedule 2 provides differently) from the date on which that person's co-option has effect until—

- (a) the date of expiry of the then current terms of the members of the Council who co-opted that member; or
 - (b) such earlier date as the members of the Council who co-opted that member may determine.
- (8) Schedule 2 (election and appointment of members) has effect.

Functions of the Council

5. The Council has the following functions—

- (a) managing agricultural activities on the Commons;
- (b) managing vegetation on the Commons;
- (c) managing rights of common on the Commons;
- (d) making rules relating to—
 - (i) agricultural activities, the management of vegetation and the exercise of rights of common on the Commons;
 - (ii) the leasing or licensing of rights of common;
- (e) preparing and maintaining a register of the grazing of animals on the Commons in accordance with article 8;
- (f) establishing and maintaining boundaries on land forming part of the Commons or between the Commons and adjoining land;
- (g) removing unlawful boundaries and other encroachments on the Commons; and
- (h) removing animals unlawfully permitted to graze on the Commons.

Rules: further provision

6.—(1) Rules under article 5(d)(i) may in particular include provision—

- (a) limiting periods when animals may be turned out onto the Commons;
- (b) limiting the number of animals which may be turned out onto the Commons during a specified period (for example, by restricting each commoner with rights to graze animals from exercising more than a specified proportion of those rights during the specified period);
- (c) restricting or prohibiting the turning out of entire animals;

- (d) prohibiting the turning out of animals by anyone not having a legal right to do so;
 - (e) about measures to be taken to control disease among animals on the Commons, including temporary prohibition of the grazing of animals on the Commons;
 - (f) about the supplementary feeding of animals on the Commons;
 - (g) about standards of husbandry to be followed by persons keeping animals on the Commons; and
 - (h) requiring, from any person to be entered in the register maintained in accordance with article 8, the information described in that article.
- (2) Rules may be made under article 5(d)(i) applying to—
- (a) all of the Commons; or
 - (b) such of the areas of land comprised in the Commons as are specified in the rules.

Procedure for making, varying or revoking rules

7.—(1) Rules under article 5(d) are to be made pursuant to a decision of the Council and must be confirmed by the Secretary of State before coming into force.

(2) Paragraph (1) applies to any variation of such rules as it applies to the making of rules, save that a variation consisting solely of the revocation of one or more rules is not subject to confirmation by the Secretary of State.

(3) At least one month before applying to the Secretary of State for confirmation of the rules, the Council must—

- (a) publish notice of its intention to apply for confirmation together with—
 - (i) details of the website on which publication is required under paragraph (ii), in one or more local newspapers circulating in the area of the Commons; and
 - (ii) a copy of the rules, on an appropriate website;
- (b) give notice in writing of its intention to apply for confirmation, together with a copy of the rules, to—
 - (i) every commoner whose name and address appears in the register maintained in accordance with article 8;
 - (ii) such persons (if any) as it considers represent the interests of commoners not included in paragraph (i); and
 - (iii) every owner of the Commons;
- (c) give notice in writing of its intention to apply for confirmation to, and deposit a copy of the rules with—
 - (i) the proper officer of Cornwall Council;
 - (ii) the proper officer of the Cornwall Area of Outstanding Natural Beauty Partnership; and
 - (iii) the chairman of each parish council and parish meeting within the area of the Commons; and
- (d) post a copy of the rules, together with a statement of its intention to apply for confirmation of them, in a prominent place on or in the locality of each area of land forming part of the Commons.

(4) The Council must provide to any person who so requests a copy of the rules, before or after confirmation, on payment of a reasonable charge.

(5) If any written representations are served on the Council before it applies for confirmation of the rules, the Council must send a copy of the representations to the Secretary of State with the application for confirmation, and the Secretary of State must take account of any such representations in deciding whether to confirm the rules.

(6) The Secretary of State may confirm, or refuse to confirm, any rules submitted under this article for confirmation, but reasons must be given to the Council if the Secretary of State refuses to confirm them.

(7) When rules have been confirmed by the Secretary of State, they come into force—

- (a) one month after the date of their confirmation; or
- (b) upon such later date as the Secretary of State may determine.

(8) When rules have been confirmed by the Secretary of State, the Council must, at least 14 days before the rules come into force—

- (a) publish notice of their confirmation, together with a copy of the rules and notification of the date on which they are to come into force, on an appropriate website;
- (b) give notice in writing of their confirmation and the date on which they are to come into force to, and deposit a copy of the rules with—
 - (i) the proper officer of Cornwall Council;
 - (ii) the proper officer of the Cornwall Area of Outstanding Natural Beauty Partnership; and
 - (iii) the chairman of each parish council and parish meeting within the area of the Commons;
- (c) give notice in writing of their confirmation and the date on which they are to come into force, together with a copy of the rules, to—
 - (i) every commoner whose name and address appears in the register maintained in accordance with article 8;
 - (ii) such persons (if any) as it considers represent the interests of commoners not included in paragraph (i);
 - (iii) every owner of the Commons; and
 - (iv) the chief constable of Devon and Cornwall Police; and
- (d) post a copy of the rules, together with a statement that they have been confirmed and the date on which they come into force, in a prominent place on or in the locality of each area of land forming part of the Commons.

(9) Where the Council is acting solely to revoke any rules made under article 5(d), not less than 14 days before the revocation comes into force the Council must—

- (a) publish notice of the revocation, together with a copy of the rules (in which any unrevoked rules are clearly to be distinguished from those newly revoked), on an appropriate website;
- (b) give notice in writing of the revocation, and the date on which it comes into effect, to—
 - (i) the Secretary of State;
 - (ii) the proper officer of Cornwall Council;
 - (iii) the proper officer of the Cornwall Area of Outstanding Natural Beauty Partnership;
 - (iv) the chairman of each parish council and parish meeting within the area of the Commons;
 - (v) every commoner whose name and address appears in the register maintained in accordance with article 8;

- (vi) such persons (if any) as it considers represent the interests of commoners not included in paragraph (v);
 - (vii) every owner of the Commons; and
 - (viii) the chief constable of Devon and Cornwall Police; and
- (c) post notice of the revocation of the rules, and the date on which it comes into effect, in a prominent place on or in the locality of each area of land forming part of the Commons.
- (10) The proper officers and other persons mentioned in paragraphs (3)(c) and (8)(b) must retain the deposited copy of the rules in accordance with section 225 of the Local Government Act 1972(4) and make it available for inspection and the making of copies in accordance with section 228(5) and (6) of that Act—
- (a) in the case of paragraph (3)(c), until such time as the confirmation of the rules is either given or refused by the Secretary of State or, prior to their confirmation, the Council withdraws the rules; or
 - (b) in the case of paragraph (8)(b), for as long as those rules remain in force.
- (11) In this article “proper officer” has the meaning given by section 270(3) of the Local Government Act 1972.

Register to be maintained by the Council

- 8.—**(1) The Council must prepare (and in so doing may rely on the lists prepared by the returning officer under Schedule 2) within one month of the appointed day, and maintain, a register containing the following information—
- (a) the name and address of each commoner who at any time in the period of 12 months immediately preceding 1st September 2015 has exercised a right of common to graze animals on any area forming part of the Commons;
 - (b) the name and address of any other person who at any time in the period of 12 months immediately preceding 1st September 2015 has exercised any other right to graze animals on any area forming part of the Commons;
 - (c) the name and address of any other person who is a commoner and who applies to be entered in the register, together with a description of that person’s right of common, including in which Section or Sections it may be exercised, and an explanation of that person’s lawful entitlement to exercise that right;
 - (d) as respects each person falling within sub-paragraph (a) or (b), or within paragraph (2)—
 - (i) a description of that person’s right of common, or other right, to graze animals and an explanation of that person’s lawful entitlement to exercise that right;
 - (ii) in which Sections, and on which areas forming part of the Commons, that person grazes animals;
 - (iii) the number, types and breeds of animals which for the time being that person grazes on those areas;
 - (iv) the period during which such grazing takes place; and
 - (v) the mark, tag or other method by which the ownership of those animals may be identified; and

(4) 1972 c. 70. Section 225 contains amendments not relevant to its application to article 7. Section 228 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; by virtue of section 228(5), the offence in section 228(7) of obstructing inspection of documents, or refusing to give copies or extracts of documents, applies in relation to any rules deposited in accordance with article 7(3)(c). There are other amendments to section 228 which are not relevant to its application to the authorities referred to in article 7(2)(c). Sections 225(1) and 228 have effect as if, for the purpose of those provisions, a National Park Authority were a local authority, by virtue of paragraph 17(2) of Schedule 7 to the Environment Act 1995 (c. 25).

(e) such other information as the Council thinks fit;

but in each case not including information as to any matter which is, or was, capable of being registered under Part 1 of the 2006 Act, but which has not been so registered.

(2) Any person who—

(a) has lawfully grazed any animal on any part of the Commons at any time during the immediately preceding period of 12 months, or

(b) proposes to exercise a right to graze any animal on any part of the Commons,

may apply to the secretary of the Council to be entered in the register, giving such information as the Council may reasonably require.

(3) Any person who is entered in the register may apply to the secretary of the Council for the entry in the register to be amended or removed, if—

(a) that person is no longer grazing animals on the Commons,

(b) that person, having applied to be entered in the register under paragraph (1)(c), no longer wishes to be entered in the register, or

(c) there is any other change in the relevant information recorded in the register.

(4) Any member of the public may, on application to the secretary of the Council—

(a) make an appointment to inspect the register without charge, and make copies or take extracts, or

(b) on payment of a reasonable charge, be provided with copies by the Council.

(5) Any person having a legal interest in the matter and objecting to any information recorded in the register, or to the omission of any information from the register, may complain in writing to the secretary of the Council, and the Council must consider the complaint and give the person notice of its decision in writing.

Decisions of the Council

9.—(1) Schedule 3 (decisions of the Council) has effect.

(2) The application of paragraph 9 of the Standard Constitution is subject to Schedule 3.

Vacancies in membership of the Council

10.—(1) Paragraph 18 of the Standard Constitution applies subject to paragraph (2).

(2) If any vacancies occurring among those posts to be filled by election under article 4(1) result in any Section having no members, the Council may act only for the purpose of filling those vacancies (together with any other vacancies as exist at that time for posts described in article 4(1)(a), (b) or (c)), by holding such by-elections (or holding such by-elections and requiring such appointments) as are necessary to fill those vacancies.

Revocations

11. Any regulations or arrangement made in respect of the Commons or any part of the Commons under section 1 of the Commons Act 1908(5), if not previously revoked, are revoked.

Changes to legislation: There are currently no known outstanding effects for the The Bodmin
Moor Commons Council Establishment Order 2015. (See end of Document for details)

14th July 2015

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

SCHEDULE 1

Article 2

The Commons

Section: Blisland

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL140	Racecourse Downs
CL142	Trehudreth Downs
CL143	Newton Downs
CL144	Greenbarrow Downs
CL145	Menacrin Downs
CL165	Brockbarrow
CL166	Sprey Moor
CL181	St Breward Common / Roughtor Downs
CL183	Manor Common
CL184	Kerrow Downs
CL185	Pendrift Downs
CL187	Shallow Water Common
CL458	Emblance Downs /Harpurs Down Etc.
CL507	Brockbarrow Common

Section: Hamatethy

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL113	Church Hay Down
CL124	St Breward Common / Roughtor Downs
CL182	St Breward Common / Roughtor Downs
CL195	St Breward Common / Roughtor Downs
CL197	St Breward Common / Roughtor Downs
CL198	St Breward Common / Roughtor Downs
CL468	Roughtor Moors / Treswallock
CL508	<i>No name given</i>
CL763	Hamatethy Common

Section: Davidstow

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL186	Davidstow Moor
CL194	High Moor

Changes to legislation: There are currently no known outstanding effects for the The Bodmin Moor Commons Council Establishment Order 2015. (See end of Document for details)

Section: Westmoor

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL110	Westmoor
CL193	Westmoor
CL230	Trewint Village
CL231	Trewint Tor
CL232	Trewint Marsh
CL388	West Carne
CL390	Trewint Downs
CL431	South Carne Land
CL432	Westmoor
CL685	Priddacoombe Downs

Section: East Moor

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL108	East Moor
CL162	East Moor

Section: St Cleer & District

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL107	Caradon Hill
CL129	St Cleer Downs
CL130	Draynes Common
CL131	Cheesewring Common
CL148	Twelvemens Moor
CL149	Craddock Moor
CL150	Tremar Coombe Common
CL151	Small Downs, East Moor Common
CL152	St Cleer Downs
CL159	Fore Down
CL167	Tor Plain
CL168	Fore Down
CL169	Tremar Coombe Common
CL205	Caradon Hill
CL242	Higher Tremar Coombe

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL281	Craddock Moor
CL291	St Cleer Downs
CL461	Craddock Moor
CL463	Tremarcombe Common
CL747	Tremar Common

Section: Warleggan

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL128	Treslea Downs
CL133	Goonzion Downs
CL134	Penkestele, Letter Moor
CL135	Warleggan Down
CL158	Redhill Downs
CL744	Dewey Marsh

Section: Cardinham

<i>Unit number in Register of Common Land</i>	<i>Name of land</i>
CL127	Tawna Downs
CL136	Long Downs / Bunnys Hill
CL137	Cardinham Moor / Fore Downs
CL138	Cardinham Downs
CL139	Racecourse Downs
CL164	Hardhead Downs, Carburrow
CL247	Littledowns
CL353	Cardinham Downs

SCHEDULE 2

Article 4(8)

Election and appointment of members

Election and appointment of first members of the Council

1. The Secretary of State must appoint a returning officer to facilitate the election and appointment of the first members of the Council.

2. For the purpose of the first election of the members of the Council under article 4(1)(a) and (b), the returning officer must, in relation to each Section, compile a list of each of the following—

- (a) persons who appear to the returning officer to be commoners who have lawfully grazed animals in the period of 12 months immediately preceding the date of coming into force of this Order on land registered as common land in that Section;
 - (b) persons who appear to that officer to be commoners, not falling within sub-paragraph (a), entitled to exercise rights of common over land registered as common land in that Section.
- 3.** For the purpose of the first appointment of the members of the Council under article 4(1)(c), the returning officer must compile a list of the persons who appear to the returning officer to own any land forming part of the Commons.
- 4.—(1)** Sub-paragraph (2) applies in relation to a commoner who is entitled to exercise rights of common over land in more than one Section.
- (2) The commoner must be included on a list compiled under paragraph 2 for at least one Section in which the rights are exercisable (to be that for the Section notified by the commoner to the returning officer or, in the absence of such notification, that for such Section as the returning officer decides), and must also be included on the list for any one or more other Sections in respect of which the rights are exercisable if the commoner so wishes and has notified the returning officer accordingly, and consequently—
- (a) for the purposes of an election under article 4(1)(a), the commoner is entitled to vote in the election held for each of the Sections in respect of which the commoner is listed; and
 - (b) for the purposes of an election under article 4(1)(b), the commoner is entitled to vote in the election held for each of the Section-Groups of which the Section in respect of which the commoner is listed forms part, and if the commoner is listed in more than one of the Sections within the same Section-Group the commoner is entitled to vote in respect of each such Section.
- 5.** Before finalising the lists under paragraphs 2 and 3, the returning officer must—
- (a) by notice in one or more local newspapers circulating in the area of the Commons, specify a period (ending not less than 28 days after the date of publication of the notice) during which the draft lists may be inspected and representations made about them, giving details of the dates, times and place at which such inspection may be made, and of the website on which publication is required under sub-paragraph (c);
 - (b) make available for inspection a draft of each list during the period and at the dates, times and place specified under sub-paragraph (a); and
 - (c) publish on a website both the notice and draft lists throughout the period specified under sub-paragraph (a).
- 6.** In compiling and finalising the lists under paragraph 2, the returning officer may presume any declaration of entitlement to a right of common⁽⁶⁾ contained in the register of common land kept by Cornwall Council to be accurate.
- 7.** The returning officer may request further information from any person who makes representations under paragraph 5(a), and from any person the subject of such a representation, and in particular may require proof of ownership of, or (as applicable) other title to, land from—
- (a) any person claiming to be entitled to be included on a list under paragraph 2 as the owner of any interest in land to which a right of common is registered as being attached; and
 - (b) any person claiming to be entitled to be included on the list under paragraph 3 as an owner of land forming part of the Commons.
- 8.** In finalising the lists, the returning officer—

⁽⁶⁾ Regulation 43 of the Commons Registration (England) Regulations 2014 ([S.I. 2014/3038](#)) provides for the making of declarations of entitlement to a right of common.

- (a) must take account of any representations received within the time specified under paragraph 5(a) and any further information provided pursuant to a request under paragraph 7; and
 - (b) must not take account of any matter which is, or was, capable of being registered under Part 1 of the 2006 Act, and which has not been registered (though not so as to exclude any matter on the ground only that it was capable of being the subject of a declaration of entitlement to a right of common but was not thus declared).
- 9.** The decision of the returning officer as to whether or not any person is entitled to be included on any list is conclusive, and the validity of the election or appointment of any member of the Council may not be questioned in any legal proceedings on the ground that any person should have been included in or omitted from any list.
- 10.—(1)** The returning officer must, not less than 28 days before holding a meeting for the purpose of electing the first members of the Council of the categories described in article 4(1)(a) and (b)—
- (a) give notice of the time, date (to be before the appointed day), and place of a meeting for that purpose;
 - (b) invite nominations in writing for election as members of the Council, specifying a date by which nominations must be received; and
 - (c) instruct the owners of land forming part of the Commons to appoint four members of the Council.
- (2) The returning officer must perform the obligations under sub-paragraph (1) by means of—
- (a) notice in writing to every person on a list compiled under paragraph 2 or 3; and
 - (b) advertisement in one or more local newspapers circulating in the area of the Commons.
- 11.** In relation to each list compiled under paragraph 2, only persons included on the list are entitled to vote to elect members of the Council of the category listed.
- 12.** The only persons eligible for election or appointment as members of the Council are—
- (a) in respect of persons to be elected under article 4(1)(a) in relation to each Section, the persons included on the relevant list compiled pursuant to paragraph 2(a) for that Section (but no person included on more than one such list may be elected for more than one Section);
 - (b) in respect of persons to be elected under article 4(1)(b) in relation to each Section-Group, the persons included on the relevant list or lists compiled pursuant to paragraph 2(b) for the Section or Sections which constitute that Section Group (but no person included on lists relating to more than one Section-Group may be elected for more than one Section-Group); and
 - (c) in respect of persons to be appointed under article 4(1)(c), the persons included on the list compiled pursuant to paragraph 3, or any other person nominated by a person included on that list.
- 13.** The owners of land forming part of the Commons must, before the date of the meeting notified under paragraph 10(1)(a), notify the returning officer in writing of the names of the four persons whom they have chosen to appoint as members of the Council pursuant to article 4(1)(c).
- 14.** At the meeting notified under paragraph 10(1)(a)—
- (a) the returning officer must announce—
 - (i) the names of any validly appointed members of the Council; and
 - (ii) any valid nominations received for membership of the Council; and

- (b) in relation to each of the categories mentioned in article 4(1)(a) and (b)—
 - (i) where the number of valid nominations does not exceed the number of vacancies to be filled, the returning officer must declare the candidate or candidates to be duly elected unopposed; and
 - (ii) in any other case, the returning officer must cause an election by ballot of those present and entitled to vote to be held at the meeting.

Election and appointment of subsequent members

15.—(1) For each subsequent occasion on which members of the Council are to be elected under article 4(1)(a) or (b), or for the purposes of any election to fill a vacancy caused by a person so elected ceasing to be a member, the secretary of the Council or another member chosen by the Council is to act as returning officer.

- (2) On any such subsequent occasion—
 - (a) in the case of an active grazier, a person may only be elected as a member or vote in an election if the person is entered under article 8(1)(a) or pursuant to an application under article 8(2) in the register maintained by the Council;
 - (b) in the case of any other commoner, a person may only be elected as a member or vote in an election if the person is entered under article 8(1)(c) in the register maintained by the Council; and
 - (c) while a commoner entitled to exercise rights in more than one Section is entitled to a vote in respect of each such Section, no person may be elected for more than one Section or, as the case may be, Section-Group.

16. Members are to be elected or appointed, and any elections are to be conducted, in accordance with the standing orders of the Council.

General provisions

- 17.** In any election of members of the Council—
 - (a) in any one Section (whether or not relevant to that Section’s forming part of a Section-Group) each commoner entitled to vote is entitled to one vote;
 - (b) where two or more persons are commoners by virtue of a joint holding, they are not each entitled to vote but may jointly nominate one of them to be entitled to vote;
 - (c) the returning officer may allow a person entitled to vote to appoint a proxy in writing to vote on that person’s behalf; and
 - (d) in the event that any candidates receive an equal number of votes, each vote received must be weighted according to the extent of the rights held by the person casting that vote (the greater the amount of the right held in the Section in question, the greater the weight of the vote), and the candidate elected is to be that with the largest weight of votes.

18. A declaration signed by the returning officer as to the election or appointment of a person to the Council is evidence of such election or appointment.

SCHEDULE 3

Article 9

Decisions of the Council

Voting rights

1.—(1) Members of the Council elected or appointed pursuant to article 4(1)(a) to (c) are entitled to vote in any decisions taken by the Council, and their votes are to have equal weight.

(2) A member of the Council co-opted pursuant to article 4(1)(d) or (e) is an advisory member and is not entitled to vote in decisions taken by the Council.

Decisions requiring special majority

2.—(1) A decision by the Council on any of the matters specified in sub-paragraph (2) must be made at a meeting of the Council and approved in a vote by a majority of at least two-thirds of the members described in paragraph 1(1) who are present.

(2) Those matters are—

- (a) making, varying or revoking any rules;
- (b) making, amending or revoking any standing orders;
- (c) entering into any agreement under which the Council undertakes any obligation as to the manner in which it is to exercise any of its functions; and
- (d) co-opting any person as a member of the Council.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes, with effect from 1st September 2015, a commons council (“the Council”) for the areas of registered common land within that part of the county of Cornwall known as Bodmin Moor (*article 3*).

The standard constitution for commons councils, as prescribed in the Commons Councils (Standard Constitution) (England) Regulations 2010 (*S.I. 2010/1204*), applies to the Council by virtue of section 29(2) of the Commons Act 2006 (*c. 26*).

This Order—

makes provision as to the Council’s membership, and the election or appointment of its members (*article 4 and Schedule 2*);

confers functions on the Council, including that of making rules relating to agricultural activities, the management of vegetation, and the exercise of, and the leasing and licensing of, rights of common (*articles 5 and 6*);

requires that any rule made or varied by the Council (other than a variation consisting solely of the revocation of any previously made rule) must be confirmed by the Secretary of State before it comes into force, and describes the procedure for publicising any rules it makes, and for obtaining the Secretary of State’s confirmation of them (*article 7*);

Changes to legislation: *There are currently no known outstanding effects for the The Bodmin Moor Commons Council Establishment Order 2015. (See end of Document for details)*

describes the information to be included in the register of grazing required to be prepared and maintained by the Council (*article 8*); and

describes the manner in which decisions are to be taken by the Council (*article 9 and Schedule 3*).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Bodmin Moor Commons Council Establishment Order 2015.