

COMMONS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Management

Commons councils

Section 26 Establishment

153. *Section 26* provides a power for the appropriate national authority, by order, to establish commons councils in relation to land registered as common land. The power can also be exercised in relation to land registered as a town or village green where the land is subject to rights of common, although it is expected that the power is likely to be exercised where such land is contiguous with neighbouring registered common land. A commons council is a body corporate: that is, the council has its own corporate status apart from its members and officers.

Section 27 Procedure for establishment

154. *Section 27* sets out the procedural requirements to be followed by the appropriate national authority when seeking to establish a commons council. *Subsection (2)* provides that the appropriate national authority must publish a draft of the proposed order under section 26 and invite representations on it, which must be taken into consideration in deciding whether to establish the council and, if so, whether to amend the draft order. The appropriate national authority may not make an order establishing a commons council unless it is satisfied, after having regard to any representations made to it, that there is substantial support for the making of the order.
155. *Subsection (3)* enables a local inquiry to be held if, for example, there is particular controversy over whether a council should be established and what form it should take.
156. *Subsection (5)* requires the appropriate national authority to have particular regard to representations made by those persons described in the subsection. When taking account of representations made by commoners, paragraph (b) requires the appropriate national authority to pay particular attention to those exercising their rights of common.