

# **CONTROL OF HORSES ACT 2015**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Control of Horses Act 2015 which received Royal Assent on 26 March 2015. They have been prepared by the Department for Environment, Food and Rural Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **SUMMARY AND BACKGROUND**

3. The Act is about horses which are unlawfully present on land, whether they have strayed there or been placed there deliberately. It amends the Animals Act 1971 (“the 1971 Act”) so as to enable local authorities to deal with horses which are present unlawfully in public places, and also to enable freeholders and occupiers to deal with horses which are present unlawfully on their land.
4. The Act introduces a new procedure regarding the detention and disposal of such horses. Specifically, it allows horses to be disposed of 96 hours after detention, rather than fourteen days as previously, and for disposal to include destruction or any other way (which could include giving it to a charity). Previously, detained horses had to be sold at a market or an auction, despite many having little or no value.
5. Fly-grazing is the placing of horses on another person’s land to use their grazing, without their consent. Despite legal requirements for all horses to be identified by a horse passport and a microchip it has become a significant problem in some parts of England and there were calls for the law to be changed to make it easier for local authorities in relation to public places and freeholders and occupiers of land to deal with the problem.

### **TERRITORIAL EXTENT AND APPLICATION**

6. The 1971 Act extends to England and Wales as a single jurisdiction and so does this Act. However, these amendments to the 1971 Act apply only in England. Wales legislated on fly-grazing in the Control of Horses (Wales) Act 2014. The 1971 Act and this Act do not extend to Scotland or Northern Ireland.

### **COMMENTARY ON SECTIONS**

#### ***Section 1: Powers of local authorities in England to detain horses***

7. *Section 1(1)* inserts section 7A into the 1971 Act and gives local authorities in England a power to detain horses in public places in their area.
  - a. Section 7A(2) provides that the local authority should have reasonable grounds for believing that the horse is there without lawful authority and, if someone

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is lawfully occupying the public place, that the occupier consents to the local authority detaining the horse or would consent if asked.

- b. Section 7A(3) applies the procedure in section 7C to detention of horses under section 7A.
  - c. Section 7A(4) defines “local authority” for this section. The definition covers unitary authorities (as a unitary authority will in law be a county, district or London borough council).
8. *Section 1(3)(a)* defines “horse” to include an ass, mule or hinny. (A donkey is an ass.) *Section 1(3)(c)* states that “public place” includes any common land, town or village green and any highway or its verges.

***Section 2: Powers of freeholders and occupiers in England to detain horses***

9. *Section 2* inserts section 7B into the 1971 Act and gives freeholders and occupiers of land in England a power to detain horses which are on their land without lawful authority.
- a) Section 7B(2) provides that the horse may be detained in any case by the occupier of the land. In cases where the freeholder of the land is not also the occupier, the freeholder may detain the horse with the occupier’s consent.
  - b) Section 7B(3) applies the procedure in section 7C to detention of horses under section 7B.

***Section 3: Exercise of powers of detention***

10. *Section 3* inserts section 7C into the 1971 Act to set out the procedure for the detention of horses under the new sections 7A and 7B of the 1971 Act. The new procedure is a modification of the procedure in section 7.
- a. The horse may be detained for a total of 96 hours if within the first 24 hours notice is given to an officer in charge of a police station and to the horse-owner, if the person detaining the horse knows who the horse-owner is (section 7C(2) and (3)). If such notice is not given within the first 24 hours, the horse cannot be detained after the end of the 24-hour period. The 96-hour period excludes non-working days (see section 7C(9)).
  - b. The right to detain the horse ceases if, before the end of 96 hours beginning with the time when the horse was first detained, the horse-owner claims the horse and tenders to any person with a claim under section 4A such sums as are sufficient to satisfy the claim (section 7C(3) and (4)).
  - c. If at the end of the period of 96 hours, the right to detain the horse has not ceased, then no-one may subsequently claim the horse who has not already done so. The person detaining the horse may thereafter dispose of it by selling it, arranging for it to be destroyed (which would have to be done humanely) or in any other way, including giving it away (section 7C(5)).
  - d. Where the horse is sold, the former owner of the horse may recover from the person who detained the horse any excess from the proceeds of the sale. This sum is determined after deducting from the proceeds of sale the costs of sale and any costs incurred in connection with it, any expenses incurred in detaining the horse and any claim by the freeholder or occupier of the land in respect of any damage caused by the horse (section 7C(6)).
  - e. The person detaining the horse is liable to the horse-owner for any damage caused to it through failure to treat it with reasonable care while it is detained (section 7C(7), which specifically requires the provision of “adequate food and water”). Separately the Animal Welfare Act 2006 requires, by virtue of section 9

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(“duty to ensure welfare”), that any person responsible for an animal takes reasonable steps to ensure that all its welfare needs are met.

***Section 4: Liability for damage and expenses due to horses***

11. *Section 4* inserts section 4A into the 1971 Act relating to horses on land without lawful authority, and also makes consequential amendments to sections 4, 5 and 10 of the 1971 Act. Section 4A makes provision for liability of the person to whom the horse belongs for expenses arising from its detention and the ascertainment of that person as the owner of the horse. It also covers any damage the horse may have caused to the land or property. It is modelled on the existing section 4.

***Section 5: Commencement, extent and short title***

12. *Section 5* provides for the commencement, extent and short title of the Act.

**HANSARD REFERENCES**

13. The following table sets out the dates and Hansard references for each stage of the Act’s passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<b>House of Commons</b>		
Introduction	2 July 2014	Vol. 583 – Col. 897
Second Reading	24 October 2014	Vol. 586 Cols. 1191-1209
Instruction	25 November 2014	Vol. 588 Cols. 885 - 886
Committee	8 January 2015	Public Bill Committee Col 3
Report and Third Reading	16 January 2015	Vol. 590 Cols. 1151-1165
<b>House of Lords</b>		
Introduction	19 January 2015	Vol. 758 Col. 1081
Second Reading	27 February 2015	Vol. 759 Cols. 1898 – 1912
Committee	12 March 2015	Vol. 760 Col. 772
Third Reading	18 March 2015	Vol. 760 Col. 1068
Royal Assent	26 March 2015	Lords: Vol. 760 Col. 1590 Commons: Vol. 594 Col. 177WS