



Greenham and Crookham Commons Act 2002

2002 CHAPTER i

PART 4

CONSERVATION OF COMMON

21 Functions of Commission

- (1) It shall be the duty of the Commission, acting in consultation with the Council and for the purposes set out in section 8(1)(a) to (c) (General duty of Council and Commission) above, to take such steps as appear to it to be necessary and reasonably practicable for—
 - (a) the improvement and maintenance of the Common and any additional open space, and
 - (b) the promotion of proper standards of livestock husbandry on that land (including the assessment of the number of animals which can properly be grazed on the Common from time to time).
- (2) Subject to the provisions of this Act, the Commission may, with the Council's consent, do anything which is designed to facilitate, or is conducive or incidental to, the discharge of any of its functions and, in particular, the attainment of the purposes set out in section 8(1)(a) to (c) (General duty of Council and Commission) above.
- (3) Without prejudice to the generality of subsection (2) above, the Commission, with the Council's consent, may—
 - (a) render assistance to any commoner in the maintenance of the commoner's rights of common;
 - (b) enter into agreements with the owner of any land in the vicinity of the Common which the Commission consider can conveniently be managed with the Common for the management by the Commission of grazing on the land;
 - (c) apply for and receive grants and other gifts subject to such conditions (if any) as to repayment or otherwise as the Commission may accept; and

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- (d) engage, or participate in, fund-raising activities including the holding of public collections or the making of public appeals.
- (4) Subject to subsection (5) below, the provisions of sections 65 to 71, 73 and 74 of the Charities Act 1992 (c. 41) (which regulate public charitable collections and charitable appeals) shall apply in relation to public collections and public appeals by the Commission under subsection (3) above as if they were respectively public charitable collections and charitable appeals for the purposes of Part III of that Act.
- (5) Until the coming into force of Part III of the Charities Act 1992 (c. 41), the provisions of—
- (a) the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 (c. 31); and
 - (b) the House to House Collections Act 1939 (c. 44),
- (and any regulations made under either of those Acts) shall apply in relation to a collection or sale of articles by the Commission for any of the purposes set out in paragraphs (a) to (d) of section 8(1) (General duty of Council and Commission) above as if the collection or sale were for a charitable purpose.

22 Grazing agreements

- (1) Subject to subsections (2) to (4) below, the Commission may enter into agreements, on such terms (including the payment of grazing fees) and subject to such conditions as the Council may approve, permitting any person to graze animals over the whole or any part of—
- (a) the Common;
 - (b) any additional open space which is subject to rights of common;
 - (c) any additional open space which is not so subject; or
 - (d) any land which is subject to an agreement made under section 21(3)(b) (Functions of Commission) above.
- (2) The Commission shall not enter into a grazing agreement under this section in respect of—
- (a) the Common;
 - (b) any part of the Common; or
 - (c) any additional open space falling within subsection (1)(b) above,
- unless the Commission is satisfied that the exercise of grazing rights under the agreement will not, when taken together with such rights of common as are normally exercised over the land in question, result in that land being grazed by a number of animals, or animals of any description, which exceeds any number fixed under regulations as mentioned in section 23(3) (Regulations as to management of commoners' rights) below.
- (3) The Council may, after consultation with the Commission, fix the maximum number of animals or animals of any description which may, in any financial year, be grazed on any land falling within paragraph (a), (b), (c) or (d) of subsection (1) above; and the total number of animals, or animals of any description, permitted to be grazed on any such land shall not exceed any number so fixed.
- (4) Without prejudice to the generality of subsection (3) above, the Council may determine that, in any financial year, no animals or no animals of any particular description may be grazed on any land falling within paragraph (a), (b), (c) or (d) of subsection (1) above.

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- (5) Nothing in subsection (3) or (4) above shall affect any rights of common.
- (6) Subject to subsection (7) below, all grazing fees received by the Commission under agreements entered into under this section—
 - (a) shall be paid by the Commission to the Council to reimburse the Council for the costs incurred by the Council in promoting this Act; and
 - (b) if those costs have been fully recovered by the Council, or if and to the extent that the Council waive or defer their right to receive grazing fees under this subsection, shall be retained by the Commission for the discharge of its functions under this Act.
- (7) Until such time as those costs have been fully recovered by the Council, the Commission may retain from the grazing fees received in any financial year a sum not exceeding £1000 (or such greater sum as the Council may agree) for the discharge of its functions under this Act.

23 Regulations as to management of commoners' rights

- (1) The Commission may, with the prior approval of the Council, make regulations to secure the good management of the Common as respects the exercise of rights of common and the good husbandry of animals grazed on the Common.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
 - (a) modifying or restricting the exercise on the Common of any rights of turbary, estovers or taking sand, gravel, stone, clay or otherwise interfering with the soil so far as the Commission may think necessary to protect the Common, including provision restricting the exercise of any such rights to specified parts of the Common;
 - (b) to ensure the good husbandry and maintenance of the health of all animals grazed on the Common;
 - (c) to ensure that the Common is not over grazed;
 - (d) to ensure that all animals grazed on the Common are from their introduction duly hefted or flocked and that their ownership may be identified by means of a mark, tag or other method;
 - (e) to control or exclude stallions, rams, bulls or other male entire animals which are commonable and to prescribe, or provide for prescribing, conditions (as to time or as to the class, description, age or characteristics of animals) under which male entire animals which are commonable may be grazed on the Common;
 - (f) to ensure that any dead commonable animal is, whenever reasonably practicable, removed from the Common as soon as possible after its death has occurred;
 - (g) to exclude from grazing on the Common shod horses or ponies and other animals not entitled to be on the Common or any animal which, in the opinion of the Commission, either has become unthrifty or is in such a condition that to allow it to remain grazed on the Common would be likely to cause it unnecessary suffering;
 - (h) to regulate or prohibit the burning of heather, gorse, grass and bracken on the Common;

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- (i) to exclude from grazing on the Common, for such periods as appear reasonably necessary, all animals, or animals of a particular description, where the Commission is satisfied that such exclusion is necessary for the maintenance of the Common or for the promotion of proper standards of livestock husbandry;
 - (j) generally to regulate the exercise of rights of common of all kinds and rights or privileges having a similar subject matter as rights of common (including rights of grazing deriving otherwise than from rights of common) over the Common;
 - (k) to prohibit the use of the Common for grazing or other uses having a similar subject matter as rights of common by persons purporting to exercise rights in excess of their entitlement or by persons not entitled to such rights either as commoners or otherwise.
- (3) Regulations made under subsection (2)(c) above may fix or provide for the fixing, for each financial year, of the number of animals or animals of any description which from time to time may be grazed on the Common by virtue of a right of common or of any other right or privilege; and any such regulation—
- (a) shall, so far as is reasonably practicable, impose on all holders of the like rights or privileges a proportionately similar variation;
 - (b) shall not reduce the entitlement of a commoner to graze animals on the Common so as, in any circumstances, to preclude the grazing of two or less animals; and
 - (c) shall provide that a person aggrieved by the reduction of the number of animals which may be grazed by that person on any part of the Common shall have a right of appeal to an arbitrator who shall be appointed in such manner and on such terms as may be provided by the regulations.
- (4) Regulations under this section shall not—
- (a) except as provided in subsection (2)(i) above, prevent rights of pasturage being exercised over any part of the Common;
 - (b) impose restrictions or obligations respecting the exercise of any such rights or other rights or privileges, so as to discriminate between rights of the same class or character;
 - (c) increase the number of animals which a commoner may graze on the Common to a number exceeding that recorded in the register maintained under the 1965 Act as the entitlement in respect of the right which he exercises.
- (5) Regulations under this section may make provision—
- (a) for the detention by any person authorised by the Commission of any animal found on the Common in contravention of the regulations;
 - (b) for the recovery by the Commission of the cost of such detention including the cost of the animal's proper maintenance and of any reasonably necessary treatment for it; and
 - (c) for the sale of the animal by the Commission subject to compliance with such conditions as to the giving of notice to the owner of the animal (if it is known to whom it belongs) and otherwise, as may be prescribed in the regulations; and
 - (d) for the recovery by the Commission of the cost of removing any dead commonable animal under regulations made under subsection (2)(f) above.
- (6) Regulations under this section may—

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- (a) make provision that a person contravening the regulations shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale; and
- (b) may be made so as to relate—
 - (i) either to the whole or to any part of the Common;
 - (ii) not only to the Common but also to any additional open space (or any part of such space) which is used for the exercise of any such rights and privileges as are mentioned in subsection (2)(j) above;
 - (iii) to any land which is subject to an agreement made under section 21(3)(b) (Functions of Commission) above where that agreement provides that regulations may apply to that land so as to bind the persons who entered into the agreement, their successors in title or any person deriving title under them;and may make different provision for different cases and in relation to different parts of such land.

24 Procedure for making regulations

- (1) Sections 236 and 238 of the 1972 Act (which respectively relate to the procedure for making byelaws by local authorities and provide for the proof of byelaws in legal proceedings) shall apply to regulations made by the Commission under this section as they apply to byelaws made by a district council, as if—
 - (a) references to byelaws were references to regulations under this section;
 - (b) references to a district council were references to the Commission;
 - (c) references to the area to which the byelaws are to apply were references to the Common and any other land to which the regulations apply; and
 - (d) references to the proper officer of a district council were references to a person appointed for that purpose by the Commission;and the confirming authority for the purposes of section 236 of that Act shall be the Secretary of State.
- (2) Not less than 42 days before making application to the Secretary of State for confirmation of regulations under this section, the Commission shall serve a copy of the regulations and of this section on every commoner registered on the register.
- (3) If any written representations are served on the Commission by any such commoner before the expiry of the period of 42 days beginning with the date of the service of the notice, and not withdrawn, the Commission shall send a copy of the representations to the Secretary of State with the application for confirmation of the regulations.
- (4) The Secretary of State shall take account of any such representations in deciding whether to confirm the regulations.

25 Appointment of reeves

- (1) The Commission shall appoint such persons as it thinks necessary to act as reeves for the purpose of enforcing or securing compliance with regulations made under section 23 (Regulations as to management of commoners' rights) above.
- (2) Any person so appointed and acting pursuant to this section shall carry a warrant issued by the Commission as to that appointment and shall produce it if required.

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26 Register to be maintained by Commission

- (1) As soon as reasonably practicable after the appointed day, the Commission shall prepare a register of commoners in accordance with this section; and shall subsequently maintain that register.
- (2) There shall be recorded in the register the following particulars—
 - (a) the name and address of each person who, as provided by section 4 (Rights of common) or section 5 (Restoration of extinguished rights of common) above or section 33 (Disposals of rights of common) below, is entitled to graze an animal or animals on the Common and who exercises that right at any time during the year;
 - (b) the name and address of each person who, as provided by section 4 or 5 above or section 33 below, is entitled to exercise any other right of common on the Common and who exercises that right at any time during the year;
 - (c) the name and address of any person who, as provided by section 4 or 5 above or section 33 below, is entitled to graze an animal or animals on the Common but does not exercise that right and who applies to be entered in the register in accordance with subsection (6) below;
 - (d) the name and address of any person who, as provided by section 4 or 5 above or section 33 below, is entitled to exercise any other right of common on the Common but does not exercise that right and who applies to be entered in the register in accordance with subsection (6) below;
 - (e) as respects each person falling within paragraph (a), (b), (c) or (d) above, a description of the land to which the right of common concerned is appurtenant;
 - (f) as respects each person falling within paragraph (a) above, the number of animals which for the time being that person grazes on the Common and the mark, tag or other method by which the ownership of those animals may be identified;
 - (g) as respects each person falling within paragraph (c) above, the number of animals which that person is entitled to graze on the Common;
 - (h) where two or more persons are commoners by virtue of a joint holding and have applied under subsection (7) below for one of their number or a relative to be recorded as the person entitled to vote for the purposes of Schedule 1 (Appointment and election of Commissioners) to this Act, the name of that last mentioned person;
 - (i) where a person entered in the register has applied under subsection (8) below for a relative to be recorded as the person entitled to vote for the purposes of Schedule 1 (Appointment and election of Commissioners) to this Act, the name of that relative; and
 - (j) such other particulars in relation to each registered commoner as the Commission thinks fit.
- (3) The secretary of the Commission may, after giving written notice to any person who is recorded in the register, make such amendments to any registered particulars relating to that person as the Commission considers to be necessary (including, if the secretary considers that that person is no longer a commoner, the deletion of the entry relating to that person).
- (4) Any commoner who has grazed an animal or animals, or who has exercised any other rights of common, on any part of the Common in the period of 12 months ending on the appointed day shall, within the period of 28 days beginning with the appointed day,

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apply to the secretary of the Commission to be registered and give the secretary of the Commission such particulars as are reasonably required to be recorded in the register.

- (5) After the appointed day, any other person who—
- (a) is not for the time being registered under subsection (2)(a) or (b) above (as the case may be);
 - (b) is entitled as provided by section 4 or 5 above or section 33 below to exercise a right of common on the Common; and
 - (c) proposes to exercise that right,
- shall not less than 28 days before exercising that right apply to the secretary of the Commission to be registered and shall give the secretary such particulars as are reasonably required to be recorded in the register.
- (6) Any person falling within subsection (2)(c) or (d) above, may apply to the secretary of the Commission to be entered in the register as a commoner and, on giving the secretary such particulars as are reasonably required to be recorded in the register, shall be entitled to be so registered.
- (7) Where two or more persons are commoners by virtue of a joint holding, they may from time to time jointly nominate one of their number, or a relative of any one of them, as the person entitled to vote for the purposes of Schedule 1 (Appointment and election of Commissioners) to this Act, and may apply for the nomination to be recorded in the register.
- (8) A person who is entered in the register may from time to time nominate a relative as the person entitled to vote for the purposes of Schedule 1 (Appointment and election of Commissioners) to this Act in respect of the relevant rights of common; and may apply for the nomination to be recorded in the register.
- (9) A relative nominated and recorded in the register as entitled to vote under subsection (7) or (8) above shall be entitled to vote and eligible for nomination for election under Schedule 1 (Appointment and election of Commissioners) to this Act until—
- (a) the nomination is withdrawn; or
 - (b) the person entered in the register as a commoner ceases to be a commoner or, in the case of a joint holding, all the persons so entered cease to be commoners.
- (10) Any person who is entered in the register shall, if that person ceases to be a commoner or if there is any other change in the relevant particulars recorded in the register, notify the secretary of the Commission of the change not later than 28 days after the change has taken place.
- (11) Any person who is entered in the register in respect of rights of common may, if that person ceases to exercise those rights (or, being a person falling within subsection (2)(c) or (d) above, no longer wishes to be entered on the register), apply to the secretary of the Commission to be removed from the register.
- (12) Any person who, without reasonable excuse—
- (a) exercises a right of common without being entered in the register in respect of that right;
 - (b) fails to apply for registration, or to give any particulars required, under paragraph (4), (5) or (10) above; or
 - (c) gives under this section any particulars which that person knows to be false or misleading,

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

- (13) Any member of the public may at any reasonable time and without charge inspect the register.

27 Appeals against refusal to register, etc.

- (1) Any person who is aggrieved—
- (a) by the refusal of the secretary of the Commission to enter that person in, or remove that person from, the register;
 - (b) by being removed from the register;
 - (c) by being entered on the register;
 - (d) by the particulars recorded in the register as respects that person; or
 - (e) by any amendment made to those particulars,
- may give notice of the complaint to the secretary of the Commission.
- (2) On any such complaint, the Commission or a committee of the Commission appointed for that purpose shall consider the complaint and shall give written notice of its decision to the complainant.
- (3) Unless the Commission or the committee determine to accept the complaint without hearing the complainant, it shall give the complainant an opportunity of appearing before and being heard by the Commission or the committee in support of the complaint before making its decision.
- (4) Any person aggrieved—
- (a) by a decision under this section of the Commission or a committee of the Commission; or
 - (b) by the failure of the Commission or a committee of the Commission to reach a decision on a complaint made under this section within 42 days of the date of the complaint;

may appeal to a magistrates' court and sections 300 to 302 of the Public Health Act 1936 (c. 49) shall apply to any appeal under this subsection as they apply to an appeal under any provision of that Act.