



City of London Corporation (Open Spaces) Act 2018

2018 CHAPTER i

An Act to make provision relating to the public open spaces under the management and control of the City of London Corporation; and for related purposes. [15th March 2018]

WHEREAS—

- (1) A number of open spaces outside of the City of London are vested in the City of London Corporation (“the Corporation”) for the public benefit as places of recreation and enjoyment, and under various Acts the Corporation has powers of management over those open spaces:
- (2) It is expedient to provide certain further powers of management in relation to those open spaces, with a view to clarifying in various respects the powers and duties of the Corporation, more effectually promoting and securing the objects for which the open spaces are held, and enabling revenue to be raised to be applied to those objects:
- (3) It is expedient to provide more effective powers of enforcement against persons who may act unlawfully in them:
- (4) It is expedient that certain of the provisions also be applied to open spaces within the City of London under the management of the Corporation:
- (5) It is expedient that the related provisions in this Act be enacted:
- (6) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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Preliminary

1 Citation

This Act may be cited as the City of London Corporation (Open Spaces) Act 2018.

2 Interpretation

(1) In this Act—

“amenity” includes visual appearance;

“authorised officer” means, in relation to any function, an officer or employee of the Corporation, or other person acting under the control of the Corporation in relation to an open space, who is authorised in writing by the Corporation for the purposes of the function concerned;

“the Corporation” means the Mayor and Commonalty and Citizens of the City of London, acting by the Common Council.

(2) In any provision of this Act, a reference to an “open space” is a reference to any open space to which, by virtue of section 3, the provision applies.

(3) In the application of this Act to Epping Forest, any reference to the Corporation is to be taken as a reference to the Corporation in its capacity as the Conservators of Epping Forest.

(4) In the application of this Act to any other open space outside the City of London, any reference to the Corporation is a reference to the Corporation acting other than in its capacity as a local authority.

Introductory provisions

3 Application of this Act

(1) This Act applies to the following open spaces—

Epping Forest, being the land subject to the Epping Forest Act 1878 and vested in the Corporation;

Highgate Wood and Queen’s Park, together being the land vested in the Corporation by the Highgate and Kilburn Open Spaces Act 1886;

Hampstead Heath, being the land vested in the Corporation by the London Government Reorganisation (Hampstead Heath) Order 1989; and

Ashted Common, Burnham Beeches, Coulsdon Common, Farthing Downs, Kenley Common, Riddlesdown, Spring Park, Stoke Common and West Wickham Common, being the land vested in the Corporation by the Corporation of London (Open Spaces) Act 1878.

(2) Subject to subsection (3), sections 4(2), 6, 7, 8 and 10 also apply to the following open spaces—

(a) Bunhill Fields, being the land vested in the Corporation by Part 3 of the City of London (Various Powers) Act 1960; and

(b) any garden, ornamental ground or churchyard in the City of London which is managed by the Corporation for purposes of public recreation under the Open Spaces Act 1906 or any local enactment.

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- (3) In relation to any land falling within subsection (2)(b) which is not vested in the Corporation, the powers in sections 6, 7, 8 and 10—
- (a) may only be exercised with the consent of the landowner, and
 - (b) do not include the power to grant a lease or an easement.
- (4) Section 4 and sections 11 to 14 also apply to any land comprising a deer sanctuary to which section 17 of the City of London (Various Powers) Act 1959 applies (which land is accordingly to be regarded as an open space for the purposes of section 2(2)).

4 Protected status and private rights

- (1) The sections of the Acts referred to in the following paragraphs of this subsection apply to this Act as they apply to the Acts referred to in those paragraphs—
- (a) sections 12, 14 and 16 of the Hampstead Heath Act 1871 (which provide for the preservation of Hampstead Heath as an unenclosed public open space, the prohibition of the sale of turf, gravel or other material, and the preservation of its natural aspect);
 - (b) sections 7 and 9 of the Epping Forest Act 1878 (which provide for the preservation of Epping Forest as an unenclosed public open space and the preservation of its natural aspect);
 - (c) sections 6 and 7 of the Corporation of London (Open Spaces) Act 1878 (which provide for the preservation of the open spaces to which that Act applies as unenclosed public open spaces and the preservation of their natural aspect); and
 - (d) section 2 of the Highgate and Kilburn Open Spaces Act 1886 (which provides for the preservation of the lands to which that Act applies as public open spaces and the preservation of their natural aspect).
- (2) Nothing in this Act—
- (a) affects any power of the Corporation other than under this Act;
 - (b) prevents the operation of any private right in respect of an easement or covenant affecting an open space;
 - (c) affects the operation of section 57(1) of the Town and Country Planning Act 1990, or constitutes authority for development for the purposes of any order under section 59(2)(a) of that Act.

General powers

5 Land management

- (1) The Corporation may, if it appears to the Corporation to be necessary or expedient for the proper management or husbandry of the land forming part of an open space and its flora and fauna, undertake—
- (a) the cutting, felling, lopping, chipping, mulching, swaling, cultivation or collection of any trees, pollards, gorse, heather, turf, grass or other shrubs, crops or herbage;
 - (b) the scraping of soil; and
 - (c) the grazing of cattle or other animals.

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- (2) In relation to Epping Forest, the Corporation must, in respect of each year in which the grazing of animals is proposed under subsection (1)—
- (a) take reasonable steps to ascertain the extent to which the relevant rights of common are likely to be exercised in that year; and
 - (b) ensure that a sufficient area of land is maintained so as to allow for the exercise of those rights to the extent so ascertained.
- (3) In subsection (2), “relevant rights of common” means such of the rights mentioned in section 5 of the Epping Forest Act 1878 as are liable to be affected by the proposed grazing.

6 Letting of buildings

- (1) Where the Corporation has entered into arrangements for the provision by another person of a service or facility in, or in connection with, an open space, the Corporation may let to that person any building which the Corporation would have been able to use for the purpose of providing that service or facility.
- (2) Where any building held by the Corporation for purposes connected with the management of an open space or its enjoyment by the public is, in the opinion of the Corporation, no longer required for those purposes, the Corporation may let the building to another person, or permit another person to occupy it, for the purpose of any use that will not cause material injury to the amenity of the open space.
- (3) A lease or permission granted under subsection (1) or (2) may be for any period not exceeding 15 years or, where there are exceptional circumstances, 21 years.
- (4) The exceptional circumstances referred to in subsection (3) are circumstances in which the Corporation is satisfied that a period exceeding 15 years is necessary to secure investment in the building in respect of which the lease or permission is to be granted.
- (5) In exercising the power in subsection (1), the Corporation must have regard to the desirability of ensuring that the service or facility to which the lease relates is provided to a satisfactory standard throughout the duration of the lease.
- (6) Before granting a lease under subsection (1), the Corporation must consult such persons or bodies as it thinks appropriate (which must include any committee or group established by statute for the purpose of consultation about the management of the open space).
- (7) Part II of the Landlord and Tenant Act 1954 (which provides security of tenure for commercial tenancies) and section 5 of the Housing Act 1988 (which provides security of tenure for assured tenancies) do not apply to a lease granted under subsection (1) or (2).
- (8) In this section, “building” includes the curtilage of a building.

7 Facilities for events

- (1) In this section “event” means—
 - (a) a ceremony, celebration, entertainment or similar occasion; or
 - (b) a conference, an exhibition or the making of a film.
- (2) The Corporation may—

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- (a) temporarily use or permit others to use land (including buildings) forming part of an open space for the purposes of an event;
 - (b) provide, or arrange for another person to provide, equipment, facilities or services for the purposes of an event;
 - (c) so far as appears to the Corporation to be necessary in connection with an event, restrict or authorise others to restrict access temporarily to an area of land forming part of the open space; and
 - (d) charge for permission or provision given or made under paragraph (a) or (b) or charge or authorise others to charge for admission to an area to which access is so restricted.
- (3) The Corporation must exercise the powers in subsection (2) having regard to a policy concerning the exercise of the powers prepared by the Corporation in consultation with such persons or bodies as it thinks appropriate (which must include any committee or group established by statute for the purpose of consultation about the management of the open space).
- (4) The policy must, in particular, contain provision—
- (a) requiring that—
 - (i) in deciding whether, and on what terms, to permit an event under subsection (2), the Corporation must have regard to the character and local environment of the open space (or the part of the open space in which the event is to take place);
 - (ii) such an event (whether individually or taken with other events) does not cause material injury to the amenity of the open space or significant impairment to the public enjoyment of the open space; and
 - (iii) the locations in the open space to which events are confined are specified, and, in relation to land to which the London Government Reorganisation (Hampstead Heath) Order 1989 applies, that any structure erected is not on a part of the land which is unbuilt on; and
 - (b) limiting the frequency and duration of events in the open space.

8 Grant of rights for utilities

- (1) The Corporation may grant easements or licences in relation to land forming part of an open space in connection with the provision of services relating to water, electricity, gas, oil, electronic communications, drainage or sewerage.
- (2) A grant under subsection (1) is to be made on such terms and conditions as appear to the Corporation to be necessary in order to avoid material injury to the amenity of the open space.

9 Agreements with highway authorities and traffic authorities

- (1) The Corporation may enter into an agreement with a highway authority or traffic authority about the exercise of their respective functions as they relate to an open space.
- (2) An agreement under subsection (1) may include agreement for—
- (a) the provision, installation or maintenance of signs, fences, gates, cattle-grids, road-humps, traffic-calming works, or any other works or equipment;
 - (b) the restriction or regulation of traffic; or

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- (c) the making, or dedication to the public, of a road or path.
- (3) In exercising the power in subsection (1), the Corporation must have regard to the amenity of the open space and the interests of persons resorting to it, and to the interests of inhabitants of the locality of the open space and other persons using the highways in that locality.

10 Control of commercial activity

- (1) The Corporation may make a scheme (a “licensing scheme”) for the purposes of controlling activity in an open space carried on for commercial gain.
- (2) Where an activity is specified in a licensing scheme (a “specified activity”), the Corporation may grant a licence for the carrying on of that activity.
- (3) The Schedule makes provision about licensing schemes and the grant of licences under subsection (2).
- (4) A person who, without reasonable excuse, carries on a specified activity without a licence granted under subsection (2), or in contravention of the terms or conditions of such a licence, commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) Nothing contained in this section is to be taken as conferring a right of access to an open space for the purpose of carrying on a specified activity other than in accordance with a licence granted under subsection (2).

Enforcement

11 Fixed penalty notices

- (1) An authorised officer may issue a fixed penalty notice to any person who the officer has reason to believe has committed an offence in an open space under—
 - (a) a byelaw having effect in relation to the open space;
 - (b) section 10(4) of this Act;
 - (c) section 9(5) of the City of London (Various Powers) Act 1971 (contravention of horse-riding restrictions in Epping Forest);
 - (d) section 7(6) of the City of London (Various Powers) Act 1977 (contravention of access restrictions in Epping Forest); or
 - (e) section 87 of the Environmental Protection Act 1990 (littering).
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the Corporation.
- (3) A fixed penalty notice must be in writing and state—
 - (a) the particulars of the circumstances alleged to constitute the offence;
 - (b) the amount of the fixed penalty;
 - (c) the effect of subsection (6);
 - (d) the name and address of the person to whom payment of the fixed penalty may be sent;

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- (e) the permissible methods of payment (which include the method laid down by subsection (8)); and
 - (f) the effect of subsection (9).
- (4) A fixed penalty notice may be issued in person or by post, and must identify by name the person to whom it is issued unless the authorised officer cannot reasonably ascertain the person's name.
- (5) Where a fixed penalty notice is issued by post, it is regarded as having been issued at the time at which it would be delivered in the ordinary course of post.
- (6) Where a person is issued with a fixed penalty notice—
- (a) no proceedings may be taken in respect of the alleged offence in relation to which the notice was issued before the end of the period of 14 days following the date on which the notice was issued; and
 - (b) the person may not be convicted of that offence if the fixed penalty is paid to the Corporation before the end of that period.
- (7) The amount specified under subsection (3)(b) is to be an amount prescribed by the Corporation, which—
- (a) may prescribe different amounts in relation to different classes of case; but
 - (b) may not prescribe an amount exceeding £100.
- (8) Payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under subsection (3)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (9) Where a letter is sent in accordance with subsection (8), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) In any proceedings, a certificate that—
- (a) purports to be signed by or on behalf of the officer responsible for the Corporation's financial affairs; and
 - (b) states that payment of a fixed penalty was, or was not, received by the date specified in the certificate,
- is evidence of the facts stated.

12 Power to require name and address

- (1) An authorised officer who has reason to believe that a person has committed an offence in an open space may require that person to give his or her name and address with a view to—
- (a) the service of a summons on that person; or
 - (b) the issuing of a fixed penalty notice to that person under section 11, in relation to that offence.
- (2) A person who, without reasonable excuse, fails to provide information required under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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13 Removal and disposal of unauthorised articles

- (1) The Corporation may remove any article or object placed or left in an open space without its permission or otherwise without lawful authority.
- (2) If a person appearing to be in control of an article or object is present, that person must be given a reasonable opportunity to remove the article or object before it is removed under subsection (1).
- (3) On removing an article or object under subsection (1), the Corporation must store it in a convenient place unless it appears to the Corporation that the article or object—
 - (a) has been abandoned;
 - (b) is unlikely to be of any continuing value to its owner; or
 - (c) is not reasonably capable of being stored.
- (4) If an article or object removed under subsection (1)—
 - (a) has been stored under subsection (3), and no person appearing to be the owner has within a period of 14 days beginning with the day of removal claimed it and paid all expenses reasonably incurred by reason of its removal and storage; or
 - (b) is not one which the Corporation must store under subsection (3),
 the Corporation may dispose of it in such a manner as the Corporation thinks fit.
- (5) Where a motor vehicle is removed under subsection (1), subsections (3) and (4) of this section do not apply, but—
 - (a) section 100(4) of the 1984 Act (which imposes a duty to retain safe custody of a removed vehicle) applies to the vehicle as if the Corporation were an authority having custody of the vehicle under that section; and
 - (b) sections 101 to 103 of the 1984 Act (which provide for the disposal of a removed vehicle) and any regulations made under them apply in relation to the vehicle as if—
 - (i) the Corporation were the local authority in relation to the open space and the vehicle had been removed by the Corporation under regulations made under section 99 of the 1984 Act; and
 - (ii) the open space were not within a civil enforcement area for parking contraventions.
- (6) In subsection (5)—

“the 1984 Act” means the Road Traffic Regulation Act 1984; and
 “motor vehicle” has the meaning given by section 136 of that Act.

Miscellaneous

14 Open spaces in which services and facilities may be provided

In the list in section 9(1) of the City of London (Various Powers) Act 1977 (provision of facilities for public in other open spaces), omit “and” and insert at the appropriate places.

- “Ashtead Common;” and
 “Stoke Common; and”.

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15 Representation in legal proceedings

Section 223 of the Local Government Act 1972 (appearance of local authorities in legal proceedings) applies to an officer of the Corporation authorised to prosecute, defend or appear in proceedings on behalf of the Corporation before a magistrates' court in connection with an open space.

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SCHEDULE

Section 10

LICENSING SCHEMES

- 1 A licensing scheme must specify—
 - (a) the date on which the scheme takes effect;
 - (b) the activities to which it applies;
 - (c) the terms and conditions to which a licence for each specified activity is subject; and
 - (d) the fee (determined in accordance with paragraph 4(b)) payable for, and the duration of, a licence for each activity.

- 2 The Corporation may vary or revoke a licensing scheme.

- 3 Before making, varying or revoking a licensing scheme, the Corporation must consult such persons or bodies as it thinks appropriate (which must include any committee or group established by statute for the purpose of consultation about the management of the open space).

- 4 The Corporation may—
 - (a) charge an applicant for a licence such fee as is determined by the Corporation to be sufficient to cover the reasonable administrative costs incurred in connection with such applications; and
 - (b) charge such fee for a licence as the Corporation considers is an appropriate contribution towards the costs incurred by the Corporation in connection with the open space.

- 5 An applicant for a licence must—
 - (a) provide such information as the Corporation may reasonably require; and
 - (b) pay such fee as is determined by the Corporation in accordance with paragraph 4(a).

- 6 The Corporation must refuse to grant a licence if, in the opinion of the Corporation—
 - (a) the applicant is not a fit and proper person to hold a licence; or
 - (b) activity carried on under the licence would (whether individually or taken with activity under licences already granted) cause annoyance to persons making recreational use of the open space, restriction of access for such use by them or other material injury to the amenity of the open space.

- 7 A licence is subject to such terms and conditions as may be required by the licensing scheme.

- 8 The Corporation may revoke a licence if there has been a breach of any of its terms or conditions.

- 9 Any person aggrieved by the refusal of the Corporation to grant a licence, or by the revocation of a licence, may—
 - (a) within 14 days of having been notified by the Corporation of its decision, seek a review of the decision by a committee of the Corporation comprising three members who are magistrates; and
 - (b) if aggrieved by the decision of the committee, appeal within 14 days of having been notified by the Corporation of that decision, to the magistrates' court, and on any such appeal the court may confirm, reverse or vary the decision of the Corporation and may award costs.

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- 10 For a period beginning not less than 21 days before the date on which a licensing scheme takes effect and continuing for so long as the scheme remains in force, the Corporation must—
- (a) on its website, publish the scheme and state—
 - (i) the manner in which an application for a licence may be made; and
 - (ii) the effect of section 10(4); and
 - (b) on notices posted in the open space, provide information sufficient to bring the scheme to the general attention of persons resorting to the open space, including—
 - (i) the date on which the licensing scheme takes effect;
 - (ii) the activities to which it applies;
 - (iii) the website on which the licensing scheme may be viewed;
 - (iv) the manner in which an application for a licence may be made; and
 - (v) the effect of section 10(4).
- 11 Paragraph 10 (so far as relevant) applies to any variation or revocation of a licensing scheme.
- 12 A licence granted under section 10(2) must be in writing and state—
- (a) the name of the person to whom it is granted;
 - (b) the open space and activity to which it relates;
 - (c) the terms and conditions to which it is subject; and
 - (d) the dates on which it commences and expires.