



Greenham and Crookham Commons Act 2002

CHAPTER i

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Greenham and Crookham Commons Act 2002

2002 CHAPTER i

An Act to restore land at and in the vicinity of the Greenham and Crookham Commons as common land open to the public; to make provision for the conservation of the natural beauty of that land; to grant public access over that land in perpetuity and to make provision with respect to that public access; to restore and extend commoners' rights over that land; to constitute the Greenham and Crookham Common Commission for the management of that land; to confer powers on the West Berkshire District Council and on that Commission with respect to that land; and for connected and other purposes.

[1st May 2002]

WHEREAS—

- (1) The lands known as Greenham Common and Crookham Common in the district of West Berkshire were prior to the Second World War subject to rights of common and open to the public:
- (2) In 1939 Newbury Borough Council (“the Borough Council”) purchased Greenham Common for use as an open recreational area for the people of Newbury subject to subsisting rights of common over the land:
- (3) In 1941 Greenham Common was requisitioned by the Government for military purposes in connection with the national defence:
- (4) Following the end of the Second World War Greenham Common was de-requisitioned in 1947 but in 1951 was re-requisitioned by the Secretary of State for defence purposes:
- (5) In 1961, in anticipation of compulsory purchase proceedings by the Secretary of State, the Borough Council disposed of most of Greenham Common to the Secretary of State subject to any subsisting rights of common, and retained the remainder of Greenham Common:

- (6) In the 1950s and 1960s the Secretary of State acquired the whole of Crookham Common and other adjoining areas of land for defence purposes and, subsequently, most of that land and the land at Greenham Common acquired by the Secretary of State as mentioned above was fenced against the public by the Secretary of State and used as the Greenham Common Airbase:
- (7) In 1982 the Secretary of State sold land at Crookham Common outside the perimeter fence of the Greenham Common Airbase to Newbury District Council (“the Council”), the statutory successor to the Borough Council:
- (8) On 26 July 1983 the Council made a Scheme of Management under the Commons Act 1899 (c. 30) in respect of those parts of Greenham Common and Crookham Common then in their ownership and on 10 August 1983 the Council made byelaws under that Act of 1899 in respect of that land which byelaws were confirmed by the Secretary of State on 7 November 1983 (“the 1983 Scheme and Byelaws”):
- (9) Greenham Common and Crookham Common were registered as common land pursuant to the Commons Registration Act 1965 (c. 64) and rights of common over that land were registered under that Act:
- (10) The rights of common so registered in respect of those parts of Greenham Common then vested in the Secretary of State were extinguished in 1991 under the Defence Acts 1842 (c. 94), 1854 (c. 67) and 1859 (c. 12) and the Lands Clauses Consolidation Act 1845 (c. 18):
- (11) The rights of common registered in respect of those parts of Crookham Common formerly vested in the Secretary of State and enclosed by the perimeter fence of the Airbase as mentioned above have not been extinguished but have not been capable of being exercised since the land became vested in the Secretary of State:
- (12) The land at or in the vicinity of Greenham and Crookham Commons is no longer required for defence purposes except for three parcels of land which are retained by the Secretary of State to facilitate inspections pursuant to the Intermediate Range Nuclear Forces Treaty 1987 (“the IRNF Treaty”):
- (13) In 1997 the Secretary of State transferred to the Council all the land at or in the vicinity of Greenham and Crookham Commons then in the ownership of the Secretary of State except for certain land which was transferred to the Greenham Common Community Trust, a company limited by guarantee and registered under that name, and the three parcels of land mentioned above:
- (14) In addition, the Secretary of State has granted the Council an option to purchase one of the retained parcels of land (being the land cross-hatched black on the map deposited as mentioned below) at such date as the land may cease to be subject to the IRNF Treaty:
- (15) On 1 April 1998 the name of the Council was changed from Newbury District Council to West Berkshire District Council:
- (16) The outcome of the events since 1939 which are set out above is that most, though not all, of the lands forming Greenham and Crookham Commons are, with adjacent land, now in the ownership of the Council (“the Council’s land”); and of the Council’s land, part is subject to rights of common and regulated by the 1983 Scheme and Byelaws, part is subject to rights of common which have

not been capable of being exercised for many years and the remainder is not subject to rights of common (because such rights have been extinguished as mentioned in paragraph (10) above or because such rights were not registered as required by the Commons Registration Act 1965 (c. 64) or because such rights have never existed):

- (17) Greenham Common and Crookham Common together comprise a site of local, regional and national significance on ecological, cultural and historical grounds, and parts of that land have been designated as a site of special scientific interest:
- (18) It is for the public benefit that the Council's land be restored and conserved as common land for the recreation of the local inhabitants and other members of the public, that the exercise of commoners' grazing and other rights on the land be enabled and that conservation and educational activities on the land be encouraged:
- (19) It is desirable that the public be afforded a right of access to the Council's land as by this Act provided:
- (20) To secure the conservation of the natural beauty and good management of the Council's land, it is expedient that that land be managed as a single entity, that there should be constituted a Commission to be called the Greenham and Crookham Common Commission and that there be conferred on the Council and on the Commission powers relating to the Council's land as by this Act provided:
- (21) It is expedient that the other provisions contained in this Act should be enacted:
- (22) A map showing the land to which the provisions of this Act apply has been deposited at the Office of the Clerk of the Parliaments, House of Lords, the Private Bill Office of the House of Commons, the Department of the Environment, Transport and the Regions and the office of the Chief Executive of the Council:
- (23) The objects of this Act cannot be attained without the authority of Parliament:
- (24) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 (c. 70) have been observed:

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:—

PART 1

PRELIMINARY

1 Short title and commencement

- (1) This Act may be cited as the Greenham and Crookham Commons Act 2002.

- (2) This Act shall come into force on such day or days as the Council may by resolution appoint; and the Council may appoint different days for different provisions of this Act.
- (3) The Council shall cause to be published in a local newspaper circulating in the area of the Council notice of—
 - (a) the passing of any such resolution and of the day or days fixed by the resolution; and
 - (b) the general effect of the provisions of this Act coming into operation as from each day so fixed,and no day so fixed shall be earlier than the expiration of two months from the publication of the notice.
- (4) A photostatic or other reproduction certified by the officer appointed for the purpose by the Council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice, and of the date of publication.

2 Interpretation

- (1) In this Act, unless the context otherwise requires—
 - “the 1949 Act” means the National Parks and Access to the Countryside Act 1949 (c. 97);
 - “the 1965 Act” means the Commons Registration Act 1965 (c. 64);
 - “the 1972 Act” means the Local Government Act 1972 (c. 70);
 - “the 2000 Act” means the Countryside and Rights of Way Act 2000 (c. 37);
 - “additional open space” means any additional open space for the time being designated as such under section 6 (Designation of additional open space) below;
 - “appointed Commissioner” means a Commissioner appointed under section 7(2)(a) to (g) (Establishment of Greenham and Crookham Common Commission) below;
 - “the appointed day”, in relation to any provision of this Act, means the day appointed under section 1(2) (Short title and commencement) above for the coming into force of that provision;
 - “appointing body” means any body specified in section 7(2)(a) to (g) (Establishment of Greenham and Crookham Common Commission) below;
 - “bicycle” means a pedal cycle and does not include a motor vehicle within the meaning of the Road Traffic Act 1988 (c. 52);
 - “the Commission” means the Greenham and Crookham Common Commission constituted by this Act;
 - “Commissioner” means a member of the Commission;
 - “the Common” means Greenham and Crookham Common;
 - “commoner” means a person for the time being entitled to exercise rights of common over the Common as provided in section 4 (Rights of common), section 5 (Restoration of extinguished rights of common) and section 33 (Disposals of rights of common) below;

“commoners’ election” means an election held for the purpose of electing Commissioners under section 7(2)(h) (Establishment of Greenham and Crookham Common Commission) below;

“the Council” means West Berkshire District Council;

“the deposited map” means the map of Greenham and Crookham Common deposited as recited above;

“elected Commissioner” means a Commissioner elected under section 7(2)(h) (Establishment of Greenham and Crookham Common Commission) below;

“the election rules” means the provisions of Schedule 2 (Rules applicable to election of Commissioners) to this Act;

“fence” includes a wall, gate or stile;

“financial year”, in relation to the Commission, means the period beginning with the appointed day and ending with 31 March falling on or immediately after the anniversary of the appointed day and each subsequent period ending 31 March;

“functions” means duties and powers;

“Greenham and Crookham Common” has the meaning given in section 3 (Definition of Greenham and Crookham Common) below;

“highway” has the meaning given by section 328 of the Highways Act 1980 (c. 66);

“local authority” means a county council, a district council or a parish council;

“open-air recreation” does not include organised games;

“regulate” includes “restrict” and related expressions shall be construed accordingly;

“relevant interest”, in relation to any land, means the legal fee simple in the land, a legal charge or mortgage of the land or a tenancy of the land granted or extended for a term of years certain of which at the time in question not less than three years remain unexpired;

“the returning officer” means the person for the time being discharging the duties of acting returning officer for the parliamentary constituency of Newbury for the purposes of section 28(1) of the Representation of the People Act 1983 (c. 2);

“site of special scientific interest” means an area of land notified under section 28(1) of the Wildlife and Countryside Act 1981 (c. 69).

- (2) In this Act, references to “the register” are references to the register required to be maintained under section 26 (Register to be maintained by Commission) below as the same is in force for the time being; and “registered” shall be construed accordingly.
- (3) For the purposes of this Act, a person—
 - (a) shall be treated as being related to another if the person is the spouse, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the other;
 - (b) shall be deemed to be so related notwithstanding that the person is so related only though an illegitimacy or in consequence of an adoption; and
 - (c) shall be deemed to be the spouse of another, notwithstanding that they are not married to each other, if they are living together as a couple.

PART 2

PRINCIPAL PROVISIONS

3 Definition of Greenham and Crookham Common

- (1) Subject to any addition, extinction, exchange or variation under this Act or any other enactment, the land described in subsection (2) below—
 - (a) shall, subject to subsection (3) below and the other provisions of this Act, be common land open to the public in perpetuity to be known as Greenham and Crookham Common, and
 - (b) shall be subject to the rights of common referred to in section 4 (Rights of common), section 5 (Restoration of extinguished rights of common) and section 33 (Disposals of rights of common) below.
- (2) The land referred to in subsection (1) above is the land in the parishes of Greenham and Thatcham in the District of West Berkshire which is shown edged black on the deposited map but excluding any land shown coloured black, hatched black or cross-hatched black on that map.
- (3) No rights of common or public access shall be exercisable over the land which is shown shaded grey on the deposited map until such day as the Council shall by resolution determine that the land is in a fit state for those rights to be exercised over it.

4 Rights of common

- (1) Any person who immediately before the appointed day is entitled to exercise any rights of common over any part of the land shown edged black on the deposited map, being rights—
 - (a) for the time being registered (whether provisionally or finally) under the 1965 Act; or
 - (b) registered under the Land Registration Acts 1925 and 1936 (and not extinguished before that day),shall, subject to the provisions of this Act, be entitled to exercise any such rights over the whole of the Common.
- (2) No rights of common shall be exercisable over any land shown coloured black, hatched black or cross-hatched black on the deposited map nor over any highway on the Common.
- (3) On the appointed day, the registration authority maintaining the register of common land of town and village greens under the 1965 Act which includes land specified in subsection (2) above shall modify the register so as to cancel the registration of the land so specified and of any person as owner of that land.

5 Restoration of extinguished rights of common

- (1) Where—
 - (a) any person was entitled to exercise rights of common over any part of the land shown edged black on the deposited map;

- (b) those rights were registered as mentioned in section 4(1) (Rights of common) above; and
 - (c) those rights were extinguished under the Defence Acts 1842 (c. 94), 1854 (c. 67) and 1859 (c. 12) and the Lands Clauses Consolidation Act 1845 (c. 18) before the passing of this Act on payment of compensation, that person, or that person's successor in title to the land to which the rights are appurtenant, may before the expiry of the relevant period apply to the Council for those rights to be restored in respect of the Common upon the payment (before the expiry of that period) to the Council of the requisite sum.
- (2) If, on such an application, the Council are satisfied that the applicant is—
 - (a) a person in whose case the conditions in paragraphs (a) to (c) of subsection (1) above are satisfied; or
 - (b) the successor in title of such a person,the Council shall, on payment by the applicant of the requisite sum, secure that the Commission registers the applicant as a commoner in the register in respect of the restored rights of common; and those rights of common shall be exercisable over the whole of the Common.
- (3) Subsection (4) below applies to any rights of common over any part of the land shown edged black on the deposited map—
 - (a) which fall within subsection (1) above, and
 - (b) in respect of which—
 - (i) no application has been made under subsection (1) above before the expiry of the relevant period; or
 - (ii) such an application has been made before the expiry of the relevant period but the requisite sum has not been paid before the expiry of that period.
- (4) The Council may, after consulting the Commission—
 - (a) vest any rights of common to which this subsection applies in any person holding the legal fee simple in any relevant residence for such consideration and on such terms as the Council think fit; and
 - (b) secure that the Commission registers the person as a commoner in the register in respect of the rights of common so vested;and those rights of common shall attach to the relevant residence and be exercisable over the whole of the Common.
- (5) All money received by the Council under this section shall be retained by the Council to reimburse the Council for the costs incurred by the Council in promoting this Act.
- (6) In this section—
 - “the relevant period” means the period of one year beginning with the appointed day;
 - “relevant residence” means any residential property situated on land which is within the area shown stippled on the deposited map; and
 - “the requisite sum” means a sum equal to the amount of the compensation mentioned in subsection (1)(c) above.

6 Designation of additional open space

- (1) If the Council acquire the whole or any part of the land shown cross-hatched black on the deposited map, being land which at the time of the passing of this Act is retained by the Secretary of State pursuant to the Intermediate Range Nuclear Forces Treaty 1987, the Council may at any time designate as additional open space the whole or part of the land which they acquire.
- (2) If, in the opinion of the Council, it would be in the interests of conservation or otherwise for the public benefit, the Council may from time to time designate such additional area or areas of land to be additional open space as appears or appear to the Council could conveniently be managed with the Common under the provisions of this Act.
- (3) A designation under this section—
 - (a) may be made for an indefinite period or for such period of time as the Council may specify; and
 - (b) may be made subject to such limitations and exceptions as the Council may specify.
- (4) No land shall be designated under subsection (2) above, except with the consent of—
 - (a) the Commission; and
 - (b) every person who has a relevant interest in the land,and before designating any land under that subsection the Council shall consult any other local authority in whose area the land is situated.
- (5) No rights of common shall be exercisable over land designated as additional open space under this section by virtue only of the land having been so designated.
- (6) A designation under this section shall be made by resolution of the Council.
- (7) A designation under this section may be revoked or varied by resolution of the Council passed by not less than three quarters of the members voting on the resolution at a meeting of the Council convened with not less than 10 clear days' notice of the purpose of the meeting.
- (8) Any land designated as additional open space under this section shall be managed as part of the Common under the provisions of this Act.

7 Establishment of Greenham and Crookham Common Commission

- (1) On the appointed day there shall be constituted a Commission to be called “the Greenham and Crookham Common Commission” for the purpose of exercising the functions assigned to it by this Act.
- (2) The Commission shall consist of 20 members of whom—
 - (a) three shall be appointed by the Council;
 - (b) one shall be appointed by Greenham Parish Council;
 - (c) one shall be appointed by Thatcham Town Council;
 - (d) one shall be appointed by Newbury Town Council;
 - (e) one shall be appointed by English Nature;

- (f) one shall be appointed by Greenham Common Community Trust Ltd, a company limited by guarantee and registered under that name;
 - (g) two shall be appointed by the Central Council of Physical Recreation; and
 - (h) ten shall be elected by the commoners in the manner provided by Part 2 of Schedule 1 and Schedule 2 to this Act.
- (3) One of the persons appointed by the Council under paragraph (a) of subsection (2) above shall be a person nominated by the Association known as the Greenham and Crookham Conservation Volunteers or, if that Association ceases to exist, such other association or body as appears to the Council to have purposes similar to those of that Association.
- (4) Each person appointed under paragraphs (a) to (g) of subsection (2) above shall be a person who appears to the body appointing that person to have special knowledge, experience or ability appropriate to the effective and efficient discharge by the Commission of its functions.
- (5) The appointing bodies shall consult together with a view to securing, so far as reasonably practicable, that persons appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the effective and efficient discharge by them of their functions.
- (6) Where—
- (a) following an election held under paragraph 6 or 12 of Part 2 of Schedule 1, less than ten Commissioners are elected; or
 - (b) following an election held under paragraph 19 of that Part of that Schedule, a casual vacancy has not been filled,
- the Commission may make up any deficiency in the number of the elected Commissioners by co-opting as Commissioners one or more commoners who were eligible for nomination at the election.
- (7) The provisions of Schedule 1 (Appointment and election of Commissioners), Schedule 2 (Rules applicable to election of Commissioners) and Schedule 3 (Incidental provisions with respect to Commission) to this Act shall have effect.

8 General duty of Council and Commission

- (1) The Council and the Commission shall each have a duty to use their reasonable endeavours to exercise their functions in a manner which—
- (a) restores and conserves the Common as a peaceful place of natural beauty and, in particular, conserves its flora and fauna and ecological, archeological, geological and physiographical features;
 - (b) conserves any part of the Common which is a site of special scientific interest as such a site; and
 - (c) subject to paragraphs (a) and (b) above—
 - (i) promotes and improves grazing on the Common;
 - (ii) promotes educational activities related to the Common and, in particular, encourages public awareness of the ecological, cultural and historic significance of the Common and any additional open space;

- (iii) manages the Common and any additional open space as a place open to the public for recreational purposes; and
 - (iv) facilitates the exercise of commoners' rights on the Common.
- (2) Without prejudice to the generality of subsection (1) above, the Council and the Commission shall each have a duty to exercise their functions in a manner which implements the policy set out in the Management Plan.
- (3) In subsection (2) above “Management Plan” means the Greenham and Crookham Common Management Plan adopted under section 9 (Greenham and Crookham Common Management Plan) below as for the time being in force.

9 Greenham and Crookham Common Management Plan

- (1) The Council shall, with the approval of the Commission, before the end of the period of three years beginning with the appointed day, adopt and make available for public inspection a plan (to be known as “the Greenham and Crookham Common Management Plan”) setting out their policy with respect to the exercise by the Council and the Commission of their functions under this Act in accordance with section 8(1) above.
- (2) Before adopting the Management Plan the Council shall—
 - (a) prepare a draft of the Management Plan in consultation with the Commission and such other bodies as appear to the Council to represent interests likely to be concerned;
 - (b) make the draft available for public inspection for not less than 28 days;
 - (c) consider any comments made in relation to the draft during, or not later than 7 days after, the period mentioned in paragraph (b) above; and
 - (d) make any amendments to the draft which the Council consider to be appropriate as a result of any such comments.
- (3) The Council shall, in consultation with the Commission and such other bodies as appear to the Council to represent interests likely to be concerned, review the Management Plan at least once in every five years.
- (4) If, as a result of any such review, the Council are of the opinion that it is appropriate to vary the Management Plan, the Council shall do so in such manner as they, with the approval of the Commission, think fit and shall adopt the Management Plan as so varied.
- (5) The provisions of subsection (2) above shall apply in relation to any variation of the Management Plan as they apply in relation to the preparation of the Management Plan.
- (6) In this section “Management Plan” means the Greenham and Crookham Common Management Plan.

10 Obligation to fence land against Common

Where the Council exercise any power (by virtue of a consent under section 194 of the Law of Property Act 1925 (c. 20), as applied by section 35 (Application of section 194 of Law of Property Act 1925) below or otherwise) to erect a fence between the Common or any additional open space and adjoining land, the occupier of the adjoining land shall have the obligation to repair and, where necessary, to renew the fence.

PART 3

PUBLIC ACCESS

11 Rights of public access

- (1) Subject to the following provisions of this Act and compliance with all rules, regulations or byelaws relating to the Common and any additional open space and for the time being in force, the public shall have a right of access to the Common and any additional open space on foot for the purpose of open-air recreation; and a person—
 - (a) who enters upon such land for that purpose without breaking or damaging any fence or hedge; or
 - (b) who is on such land for such purpose after having so entered on the land,shall not be treated as a trespasser on that land or incur any other liability by reason only of entering or being on the land.
- (2) Subject as mentioned in subsection (1) above, the public shall have a right of access on horseback or bicycle on such defined paths or tracks over the Common and any additional open space as the Council may from time to time determine in consultation with the Commission.
- (3) Subsections (1) and (2) above shall not apply to a person who, in or upon any such land—
 - (a) without lawful authority or written authority from the Council—
 - (i) rides any horse or bicycle except on such a defined path or track as is mentioned in subsection (2) above; or
 - (ii) drives or rides any other vehicle;
 - (b) hinders or obstructs—
 - (i) any officer or other person authorised by the Council; or
 - (ii) any commoner or any other person in the exercise of any right or power vested in that person.
- (4) Subsections (1) and (2) above shall have effect subject to the restrictions contained in paragraphs 1 and 2 of Schedule 2 to the 2000 Act (general restrictions to be observed by persons having access to land by virtue of that Act) but with the following modifications to paragraph 1—
 - (a) the reference to section 2(1) of the 2000 Act shall have effect as if it were a reference to those subsections;
 - (b) paragraph (a) shall be omitted;

- (c) paragraph (c) shall not preclude a person riding a horse on such a defined path or track as is mentioned in subsection (2) above; and
 - (d) paragraph (1) shall have effect as if after “plant”, in both places where it occurs, there were inserted “, fungus”.
- (5) Subsections (1) and (2) above shall not apply to land which for the time being is excepted land within the meaning of section 1(2) of the 2000 Act.
 - (6) Nothing in this section shall affect the exercise of powers under any enactment whereby access to the Common or additional open space may be regulated or prohibited.
 - (7) Subsections (4) and (5) above have effect subject to section 42 (Transitional provisions) below.

12 Effect of public access on owners’ rights and liabilities

- (1) The Occupiers’ Liability Act 1957 (c. 31) shall have effect as if in section 1 each reference to a right conferred by section 2(1) of the 2000 Act included a reference to a right conferred by section 11 (Rights of public access) of this Act.
- (2) Any restriction arising under a covenant or otherwise as to the use of any land comprised in the Common or any additional open space shall have effect subject to the provisions of this Part of this Act and any liability of a person interested in such land in respect of such a restriction shall be limited accordingly.
- (3) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across any land at any time while it is comprised in the Common or any additional open space shall be disregarded.
- (4) Subsection (1) above has effect subject to section 42 (Transitional provisions) below.

13 Map of land subject to public access

- (1) The Council shall prepare and keep up-to-date a map on a scale not less than 1:5000 showing—
 - (a) the Common;
 - (b) any additional open space for the time being designated under section 6 (Designation of additional open space) above; and
 - (c) any highways over the Common or any additional open space.
- (2) The Council shall—
 - (a) send a copy of the map (and every subsequent revision of the map) to Ordnance Survey; and
 - (b) make a copy of the map available for inspection by the public at each principal public library in the area of the Council and at such other place or places as the Council may determine.
- (3) The Council shall display at places where the public obtain access to the land—
 - (a) reproductions of the map on an appropriate scale; and

- (b) notices specifying any restrictions on access to the land or any part of the land, whether the restrictions have effect by virtue of any of the provisions of this Part of this Act or otherwise.

14 Power to restrict public access

- (1) The Council may regulate or prohibit for such a period as, in their opinion is reasonably necessary, public access to any part of the Common or any additional open space (including any path or track) if they think it reasonably necessary in the interests of public safety or for the purpose of—
 - (a) the restoration or conservation of the natural beauty of the Common or any additional open space;
 - (b) the restoration or conservation of the suitability for grazing or recreation of that part of the Common or any additional open space;
 - (c) the preservation of trees or shrubs planted on that part;
 - (d) the protection of animals pastured on the Common or any additional open space;
 - (e) the protection of ground nesting birds; or
 - (f) the prevention of the risk of fire.
- (2) During the currency of any such regulation or prohibition, the right of access of the public and the exercise of rights of common over the land concerned and all other interests affected shall be subject to the regulation or prohibition.
- (3) Before exercising any power under subsection (1) above, the Council shall obtain the consent of the Commission except in emergency or where—
 - (a) the area of the land concerned is less than two hectares; or
 - (b) the duration of the regulation or prohibition is for a period not exceeding 30 days.
- (4) Where the Council regulate or prohibit public access to any land—
 - (a) they may fence the land for the purpose of securing compliance with the regulation or prohibition; and
 - (b) they shall display on the land such notices as they consider are reasonably required to inform members of the public of the regulation or prohibition and the duration of, and the reason for, the regulation or prohibition.
- (5) Nothing in this section shall authorise the Council—
 - (a) to close, or restrict the right of members of the public to pass along, any highway; or
 - (b) to regulate or prohibit access to any land by the owner of the land or by any person acting on behalf of the owner.

15 Power to make byelaws

- (1) The Council may make and enforce byelaws for any of the following purposes—
 - (a) the conservation of the natural beauty of the Common and any additional open space;
 - (b) the preservation of order and the prevention of nuisances on that land;

- (c) the good management of that land;
 - (d) to secure that persons on the land will so behave themselves as to avoid undue interference with the enjoyment of the land by other persons or the exercise of rights of common; and
 - (e) to secure public safety.
- (2) Without prejudice to the generality of subsection (1) above, byelaws under this section may—
- (a) regulate or prohibit the lighting of fires;
 - (b) regulate or prohibit the use of the Common and any additional open space for any particular purpose;
 - (c) make provision for the control of dogs and other animals;
 - (d) make provision that a person contravening the byelaws shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Byelaws under this section—
- (a) may relate to the whole or any part of the Common;
 - (b) may relate to specified additional open space or to all additional open space for the time being designated (whether before or after the making of the byelaws) under section 6 (Designation of additional open space) above (subject to such exceptions as may be specified); and
 - (c) may make different provision for different cases and in relation to different parts of such land.
- (4) Before making any byelaws under this section the Council shall consult with the Commission and with any body appearing to them to be representative of persons who may be affected by the byelaws.
- (5) Sections 236 and 238 of the 1972 Act (which respectively relate to the procedure for making byelaws and provide for the proof of byelaws in legal proceedings) shall apply to byelaws made under this section; and the confirming authority for the purposes of section 236 of that Act shall be the Secretary of State.
- (6) The Council may appoint such number of persons as may appear to them to be necessary or expedient to act as rangers as respects the Common and any additional open space; and subsections (3) and (4) of section 92 of the 1949 Act (which confer certain powers on wardens for the enforcement of byelaws under that Act) shall apply in relation to rangers appointed under this section as they apply in relation to wardens appointed under that Act.

16 Power to provide parking spaces

- (1) Subject to subsection (3) below, to facilitate the exercise of public access to the Common and any additional open space, the Council may—
- (a) on any such land secure the provision (whether by the Council or by any other person) of parking spaces and means of access to and egress from parking spaces; and
 - (b) for that purpose carry out such work as may appear to them to be necessary or expedient.

- (2) Subject to subsection (3) below but without prejudice to section 20 (Ancillary provisions relating to Council's functions) below, the Council may make such charges for the use of parking spaces provided by them under this section, and may erect such devices for the collection of charges and controlling such use, as they think fit.
- (3) The Council shall not make any provision for parking spaces, or make charges for the use of parking spaces, under this section except with the consent of the Commission.

17 Power to provide other facilities

- (1) Subject to subsection (2) below, the Council may, with the consent of the Commission, on the Common or any additional open space—
 - (a) provide, maintain, alter, improve or remove cattle grids;
 - (b) lay out tracks and paths suitably surfaced in gravel or other material which is in keeping with the Common or any additional open space—
 - (i) for use by persons on horseback or on bicycles,
 - (ii) to facilitate access to the Common and any additional open space by disabled persons and other members of the public, or
 - (iii) to facilitate access over the Common and any additional open space to adjoining land;
 - (c) provide receptacles for refuse or litter;
 - (d) provide picnic sites;
 - (e) provide public sanitary conveniences.
- (2) The facilities specified in subsection (1)(d) or (e) above shall not be provided on the Common.
- (3) For the purposes set out in section 8(1)(a) to (c) (General duty of Council and Commission) above (but not otherwise) the Council may, with the consent of the Commission, make provision for the construction of such other works on the Common or any additional open space as the Council think fit.

18 Exchange of common land

- (1) If the Council consider that it will be conducive to the attainment of all or any of the purposes set out in section 8(1) (a) to (c) (General duty of Council and Commission) above, the Council may, subject to the provisions of this section, exchange for any land forming part of the Common ("the land disposed of") other land ("the exchange land").
- (2) The Council may not exercise the power under subsection (1) above, unless it is satisfied that the requirement of subsection (3)(a) or (b) below is met.
- (3) The requirement of this subsection is—
 - (a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons entitled to rights of common and to the public and that the land given in exchange has been or will be vested in the Council; or

- (b) that the effect of the exchange will be to improve the conservation and management of the Common as a whole and benefit the neighbourhood.
- (4) Upon the exchange of any land under this section—
- (a) the land disposed of shall cease for all purposes to form part of the Common and shall be freed from all rights and obligations whatsoever attaching to the land by virtue of its having been common land (whether under this Act, any other enactment or otherwise) but shall remain subject to any other rights to which it was subject before the exchange; and
 - (b) the exchange land shall become part of the Common and subject to all rights and obligations under this Act and any other enactment or rule of law to which the land disposed of was subject.
- (5) The Council may only exercise the power under subsection (1) above—
- (a) where the area of the land to be disposed of is less than five hectares, with the prior approval of either the Secretary of State or the Commission; or
 - (b) in any other case, with the prior approval of the Secretary of State.
- (6) Before making an application to the Secretary of State or the Commission for approval under subsection (5) above, the Council shall publish the required notice in a local newspaper circulating in the area of the Common.
- (7) The required notice is a notice—
- (a) stating that the Council proposes to apply to the Secretary of State or the Commission for consent to exchange land under subsection (5) above;
 - (b) naming the Council's offices or another place in the area of the Council where a plan showing the location of the land to be disposed of and the exchange land can be inspected free of charge, and copies may be obtained at a reasonable charge, at all reasonable hours; and
 - (c) specifying the period of time (not being less than 21 days from the date of the notice) within which, and the manner in which, any person may serve on the Council any written representations with respect to the proposed exchange.
- (8) The Council—
- (a) shall consider any written representations duly made under subsection (7) above; and
 - (b) may withdraw the proposal, or make any modifications to it, in the light of any such representations.
- (9) If the Council do not withdraw the proposal, they may apply to the Secretary of State or the Commission for consent under subsection (5) above to the proposed exchange (whether as originally made or as modified under subsection (8) above) and shall send to the Secretary of State or the Commission with the application a copy of any written representation duly made under subsection (7) above which has not been withdrawn.

- (10) Neither the Secretary of State nor the Commission shall give an approval to the exchange of any land under subsection (5) above unless the Secretary of State or, as the case may be, the Commission—
 - (a) is satisfied that the requirement of subsection (3)(a) or (b) above is met; and
 - (b) has considered any written representations duly made under subsection (7) above.
- (11) The provisions of section 123 of the 1972 Act (disposal of land by principal councils) shall not apply in relation to any disposal of land by the Council as part of an exchange of land under this section.

19 Special events and activities

- (1) The Council may, with the consent of the Commission, authorise the holding on the Common or any additional open space of any festival or sporting or other special event which would otherwise be contrary to byelaws made under section 15 (Power to make byelaws) above if the Council considers that the holding of the festival or event will be conducive to the attainment of all or any of the purposes set out in section 8(1) (a) to (c) (General duty of Council and Commission) above.
- (2) Any such authorisation may be given on such terms (including the payment of a fee) and subject to such conditions and restrictions as the Council may determine.
- (3) Any fee received by the Council under subsection (2) above in respect of the holding of a festival or event, after deduction of such amount as the Council may determine to be reasonably necessary to reimburse the Council for any expenditure incurred by the Council in respect of the holding of the festival or event, shall be paid by the Council to the Commission.
- (4) Subject to subsection (5) below, the Council may set aside any part of the Common and any additional open space for the exclusive use for any specified form of, or any specified, recreational or educational activity; and land may be so set aside for such use for such period or periods, or during such time or times of the day, as the Council may determine.
- (5) The power in subsection (4) above may only be exercised with the prior approval of the Commission in any case where—
 - (a) the area of the land set aside exceeds two hectares; or
 - (b) the land is set aside for a period of more than 7 consecutive days.

20 Ancillary provisions relating to Council's functions

- (1) Notwithstanding section 101 of the 1972 Act (discharge of any of the functions of a local authority by a committee, sub-committee, an officer of the authority or by any other local authority), the Council shall not delegate their functions under section 1(2) (Short title and commencement), section 6 (Designation of additional open space), section 8 (General duty of Council and Commission) or section 9(1) and (4) (Greenham and Crookham Common Management Plan) above.

- (2) Without prejudice to section 101 of the 1972 Act but subject to subsection (1) above, the Council may arrange for the discharge of any of their functions under this Act—
 - (a) by the Commission; or
 - (b) by such other person as the Council may think fit,and different functions may be discharged by different persons.
- (3) The Council may provide services relating to or connected with the management of the Common to the Commission.
- (4) The Council shall have power to make reasonable charges for any facilities or services provided by them under this Act to the Commission or any other person and may arrange for any such facilities or services to be provided by some other person, and, where they have made arrangements for such facilities or services to be provided by some other person, may authorise that person to make reasonable charges.
- (5) Services and facilities for which charges may be made under subsection (4) above include the use of any picnic site and the use of any part of the Common or any additional open space set aside under section 19(4) (Special events and activities) above for any specified form of, or specified, recreational or educational activity.
- (6) Any power of the Council under this Act to provide any services or facilities shall include power to enter into agreements with any other person for the use, on such terms as may be agreed, of any services or facilities provided by, or under the control of, that other person.

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
 - (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.
- (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;
 - (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—
- (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.

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, 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,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.

PART 5

FINANCIAL PROVISIONS

28 Funding of Commission

Any expenditure incurred by the Commission in discharging its functions under this Act shall be met from the following receipts—

- (a) amounts paid to the Commission by the Council under section 19(3) (Special events and activities) above;
- (b) grants and gifts received under section 21(3)(c) and (d) (Functions of Commission) above; and
- (c) grazing fees, or amounts in respect of grazing fees, retained by the Commission as provided by section 22(6) and (7) (Grazing agreements) above.

29 Accounts of Commission

- (1) The Commission shall—
- (a) keep proper accounts of all sums received or paid by it and proper records in relation to those accounts;
 - (b) prepare in respect of each financial year a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the Commission; and
 - (c) prepare in respect of each financial year an annual report relating to the discharge of its functions under this Act.
- (2) The Commission's accounts for each financial year shall be audited by an auditor or auditors appointed by the Commission; and no person shall be eligible to be appointed as an auditor under this section unless he is eligible under Part II of the Companies Act 1989 (c. 40) for appointment as an auditor for a company (not being an unquoted company).
- (3) As soon as practicable after the completion of the audit, the secretary of the Commission shall forward to the officer appointed for that purpose by the Council a copy of the audited accounts and of any report to the Commission made by the auditor.
- (4) Any member of the public may at any reasonable time and without charge inspect the audited accounts for the last three financial years for which audited accounts have been prepared.

- (5) As soon as practicable after the preparation of the statement of accounts and the annual report under subsection (1)(b) and (c) above the Commission shall—
 - (a) forward a copy of the statement of accounts and the report to the officer appointed for that purpose by the Council; and
 - (b) make a copy of the statement of accounts and the report available for inspection by the public at each principal public library in the area of the Council.

PART 6

MISCELLANEOUS AND SUPPLEMENTARY

30 Power to modify constitution of Commission

- (1) The Council, after consulting the Commission, may make a scheme altering the constitution of the Commission.
- (2) The Council shall if so requested by an appointing body, make a scheme which—
 - (a) discharges the appointing body from its functions under this Act; and
 - (b) alters the constitution of the Commission by the removal of the member or members appointed by the appointing body;and such a scheme may make such other provision altering the constitution of the Commission, as the Council, after consulting the Commission, think necessary or expedient in consequence of paragraphs (a) and (b) above.
- (3) A scheme under this section —
 - (a) may make new provision in place of section 7 (Establishment of Greenham and Crookham Common Commission) above and Schedule 1 (Appointment and election of Commissioners), Schedule 2 (Rules applicable to election of Commissioners) and Schedule 3 (Incidental provisions with respect to Commission) to this Act, or
 - (b) may make any amendment to those provisions.
- (4) A scheme under this section shall not have effect unless it is confirmed by the Secretary of State by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Before making an application to the Secretary of State for confirmation of a scheme under this section, the Council shall—
 - (a) publish the required notice in a local newspaper circulating in the area of the Common; and
 - (b) serve the required notice with a copy of the scheme and of this section on—
 - (i) the Commission;
 - (ii) each of the appointing bodies; and
 - (iii) such other bodies as appear to the Council to represent interests likely to be concerned.

- (6) The required notice is a notice—
 - (a) stating that the scheme has been made and is about to be submitted to the Secretary of State for confirmation;
 - (b) in the case of a scheme made under subsection (2) above, naming the appointing body and stating that the body has requested the Council to make a scheme discharging the body from its functions under the Act and altering the constitution of the Commission by the removal of the member or members appointed by the appointing body;
 - (c) explaining the general effect of the scheme;
 - (d) naming the Council's offices or another place in the area of the Common where a copy of the scheme can be inspected free of charge, and copies may be obtained at a reasonable charge, at all reasonable hours; and
 - (e) specifying the period of time (not being less than 42 days from the date of the notice) within which, and the manner in which, any person may serve on the Council any written representations with respect to the scheme.
- (7) The Council—
 - (a) shall consider any written representations duly made under subsection (4) above; and
 - (b) may withdraw the scheme, or make any modifications to it, in the light of any such representations.
- (8) If the Council do not withdraw the scheme, they may apply to the Secretary of State for confirmation of the scheme (whether as originally made or as modified under subsection (5) above) and shall send to the Secretary of State with the application a copy of any written representation duly made under subsection (4) above which has not been withdrawn.
- (9) The Secretary of State shall take account of any such representation in deciding whether to confirm the scheme.

31 Power to grant easements over Common, etc.

- (1) The Council may, over any relevant land, grant to the owner or occupier of any land on or adjacent to the Common or any additional open space such easements or other rights for access (with or without vehicles) or services to or in connection with the land as the Council may think fit.
- (2) Any such easements or rights may be granted on such terms (including the payment of charges, whether periodic or otherwise) and subject to such conditions as the Council may think fit.
- (3) In subsection (1) above "relevant land" means the Common and any additional open space owned by the Council.

32 Power to authorise vehicles to enter Common, etc.

- (1) The Council may authorise an officer of the Council or any other person to enter the Common or any additional open space with a vehicle subject to such conditions and restrictions as the Council may think fit.

- (2) An authority under this section may only be exercised for the purposes of the discharge of functions under this Act, emergency purposes or another purpose consistent with section 8(1)(a) to (c) (General duty of Council and Commission) above.
- (3) Except in the case of emergency, an authority under this section shall be given in writing.

33 Disposals of rights of common

- (1) Notwithstanding any enactment or rule of law, a right of common upon any part of the Common shall not be severable from any land or tenement with which it was held on the appointed day except as provided in this section.
- (2) A person entitled to exercise a right of common upon any part of the Common may transfer the right without the land or tenement to which it is appurtenant to another person if, and only if, the transferee holds the legal fee simple in a relevant residence; and the right shall attach to the relevant residence.
- (3) A person entitled to exercise a right of common upon any part of the Common may let or license the right on an annual basis (without the land or tenement to which it is appurtenant).
- (4) In the case of a transfer of a right of common under subsection (2) above—
 - (a) the transferor shall give notice of the transfer to the secretary of the Commission who shall record the name and address of the transferee, in place of the transferor, as the person entitled to exercise the right; and
 - (b) subject to section 26(7) and (8) (Register to be maintained by Commission) above, the transferee shall be entitled to vote for the purposes of Schedule 1 (Appointment and election of Commissioners) to this Act.
- (5) In the case of the letting or licensing of a right of common under subsection (3) above—
 - (a) the registered commoner shall give notice of the letting or licensing to the secretary of the Commission for noting in the register, and
 - (b) no changes shall be made to the name and address of the person shown in the register as entitled to graze or exercise any other right of common or to the name of the person recorded as the person entitled to vote for the purposes of Schedule 1 (Appointment and election of Commissioners) to this Act.
- (6) In this section “relevant residence” has the same meaning as in section 5 (Restoration of extinguished rights of common) above.

34 Provisions of Act to replace 1983 Scheme

- (1) Subject to subsections (2) and (3) below, on the appointed day the scheme dated 26 July 1983 (“the 1983 Scheme”) made under the Commons Act 1899 (c. 30) by the Newbury District Council (which is superseded by the provisions of this Act) shall cease to have effect.

- (2) Notwithstanding the repeal of the 1983 Scheme, the byelaws made in pursuance of that Scheme on 10 August 1983 (which were confirmed by the Secretary of State on 7 November 1983)—
 - (a) shall continue in force as if made under section 15 (Power to make byelaws) above until revoked and replaced by byelaws made under that section; and
 - (b) while so in force shall be extended so as to have effect in relation to the whole of the Common and any additional open space.
- (3) Nothing in this section shall affect the 1983 Scheme, or the byelaws made in pursuance of that Scheme, in their application to the land known as Stroud Green in the parish of Greenham in the district of West Berkshire.

35 Application of section 194 of Law of Property Act 1925

- (1) Subject to subsection (2) below, the provisions of section 194 of the Law of Property Act 1925 (c. 20) (which prohibit the carrying out of certain works on commons without the consent of the Secretary of State) shall apply to the Common as they apply to land which is subject to rights of common.
- (2) The provisions of that section shall not apply in relation to the erection of any fence under section 14(4) (Power to restrict public access) above.

36 Local inquiries

- (1) The Secretary of State may cause such local inquiries to be held as the Secretary of State may consider to be necessary for the purposes of any of the Secretary of State's functions under this Act.
- (2) Subsections (2) to (5) of section 250 of the 1972 Act shall apply in relation to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Commission were a local authority.

37 Service of notices

- (1) A notice or other document required or authorised to be served for the purposes of this Act may be served by post.
- (2) Where the person on whom a notice or other document to be served for the purposes of this Act is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of the body.
- (3) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) as it applies for the purpose of this section, the proper address of any person in relation to the service on the person of a notice or document under subsection (1) above is, if the person has given an address for service, that address, and otherwise—
 - (a) in the case of the secretary or clerk of the body corporate, the registered or principal office of that body;
 - (b) in the case of a commoner who is entered in the register, the address for the time being recorded in the register as the commoner's address; and
 - (c) in any other case the person's last known address at the time of service.

- (4) This section shall not be taken to exclude the employment of any method of service not expressly provided for by it.

38 Saving for certain statutory undertakers

- (1) Nothing in this Act, or in any byelaw or regulation made under this Act, shall prejudice or affect—

- (a) the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system;
- (b) the rights of any undertakers to lay, erect, maintain, inspect, repair, renew or remove any apparatus or works in, under, over, across, along or upon the Common or any additional land;

or prohibit or regulate the use by the operator of a telecommunications code system, or by any undertakers, of equipment or the erection of structures required in connection with the exercise of their respective rights.

- (2) In this section—

- (a) “telecommunications code”, “telecommunications code system” and “operator” have the meanings given to them in paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984 (c. 12);
- (b) “undertakers” means any person authorised to carry on in the area of which the Common or any additional open space forms part—
 - (i) an undertaking for the supply of gas;
 - (ii) an undertaking for the supply of water;
 - (iii) an undertaking for the generation, transmission or supply of electricity;
 - (iv) a sewerage undertaking; or
 - (v) an oil undertaking; and
- (c) “apparatus” means—
 - (i) in the case of gas, water or sewerage undertakers, any sewer, mains, pipes or other apparatus belonging to or maintained by such undertakers;
 - (ii) in the case of electricity undertakers, electric lines or electrical plant (as defined in the Electricity Act 1989 (c. 29)) belonging to or maintained by such undertakers; or
 - (iii) in the case of oil undertakers, any pipes or other apparatus belonging to or maintained by such undertakers.

39 Saving for areas of special scientific interest

Nothing in this Act shall prejudice the operation of sections 28 to 33 of the Wildlife and Countryside Act 1981 (c. 69) or any other enactment relating to areas of special scientific interest under sections 28 and 29 of that Act.

40 Saving for town and country planning

Any development authorised by this Act shall not be deemed for the purposes of the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) (or any general order superseding that order made under section 59 of the Town and Country Planning Act 1990 (c. 8), or any corresponding provision of an Act repealing that section), to be development authorised by an Act which designates specifically both the nature of the development and the land upon which it may be carried out.

41 Relationship with Countryside and Rights of Way Act 2000

The Greenham and Crookham Common and any additional open space shall, for the purposes of the 2000 Act, be treated by section 15 of that Act (rights of access under other enactments) as being accessible to the public apart from that Act.

42 Transitional provisions

- (1) Until the coming into force of section 2 of, and Schedule 2 to, the 2000 Act—
 - (a) subsections (1) and (2) of section 11 (Rights of public access) above shall have effect subject to the restrictions contained in Schedule 2 to the 1949 Act (general restrictions to be observed by persons having access to land by virtue of that Act) as if the reference in that Schedule to section 60(1) of that Act were a reference to those subsections; and
 - (b) section 11(4) above shall not have effect.
- (2) Until the coming into force of section 13 of the 2000 Act, subsection (3) below shall have effect instead of section 12(1) (Effect of public access on owners' rights and liabilities) above.
- (3) A person entering upon any land in accordance with section 11 above is not, for the purposes of the Occupiers' Liability Act 1957 (c. 31), a visitor of any occupier of the land; and the exercise of any right under that section in relation to any land shall not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in that land or adjoining land in respect of the state of the land or of things done or omitted to be done on the land.

SCHEDULES

SCHEDULE 1

Section 7

APPOINTMENT AND ELECTION OF COMMISSIONERS

PART 1

APPOINTED COMMISSIONERS

Appointment and terms of office of first appointed Commissioners

- 1 (1) Each of the appointing bodies shall appoint the first person to be appointed by it as a Commissioner not more than 28 days after the appointed day or, if that is not practicable, as soon as practicable after that day; and the appointment shall take effect on the day on which the first elected Commissioners are elected under Part 2 of this Schedule or as soon as possible after that day.
- (2) The first Commissioners appointed under section 7(2)(a) to (g) (Establishment of Greenham and Crookham Common Commission) of this Act shall hold office until 31 May falling on or immediately after the anniversary of the date when their appointment takes effect.

Term of office of subsequent appointed Commissioners

- 2 An appointed Commissioner (other than a Commissioner appointed under paragraph 1 above) shall, unless appointed to fill a casual vacancy and subject to paragraph 3 below, hold office for the period ending on 31 May next following the anniversary of the date when the appointment takes effect.

Vacation of office by appointed Commissioners

- 3 An appointed Commissioner may resign that office at any time by notice in writing given to the secretary of the Commission or, if that Commissioner is the secretary, the chairman.

Reappointment of Commissioners

- 4 A vacating Commissioner (whether an appointed Commissioner or an elected Commissioner) shall be eligible for reappointment or appointment as a Commissioner.

Casual vacancies

- 5 (1) Subject to subparagraph (3) below, any casual vacancy occurring in the office of an appointed Commissioner shall be filled as soon as reasonably practicable by the appointment by the appointing body by whom that Commissioner was appointed of a person to fill the vacancy.

- (2) A person appointed to fill a casual vacancy shall (unless the person previously dies or resigns) hold office during the remainder of the term for which the vacating Commissioner was appointed.
- (3) An appointing body need not fill any vacancy occurring less than three months before the ordinary date of retirement from the office in which the vacancy occurs.

PART 2

ELECTED COMMISSIONERS

Election of first elected Commissioners

- 6 The returning officer shall arrange for the first commoners' election to be held in accordance with the election rules on a day fixed by the returning officer falling as soon as reasonably practicable after the appointed day.
- 7 (1) For the purpose of the first commoners' election, the returning officer, shall compile a list of those persons who appear to the returning officer, on the date on which the list is compiled, to be entitled to exercise any rights of common upon Greenham Common or Crookham Common or any part of either of them, being rights—
 - (a) for the time being registered (whether provisionally or finally) under the 1965 Act; or
 - (b) registered under the Land Registration Acts 1925 and 1936 (and not extinguished before that date).
- (2) The list compiled by the returning officer as required by subparagraph (1) above shall be available for public inspection at the offices of the returning officer for a period of not less than 28 days immediately preceding the day fixed by the returning officer for the delivery of nomination papers in accordance with paragraph 1 of the election rules.
- (3) Where two or more persons are commoners by virtue of a joint holding, they shall not each be entitled to appear on the list but may jointly nominate one of their number or a relative to appear on the list.
- (4) A commoner may nominate a relative to appear on the list in his place.
- (5) Any person whose name does not appear on that list and who claims to be entitled to be included in that list under subparagraph (1) above, may apply to the returning officer up to the day mentioned in subparagraph (2) above to be included in the list; and if, on such an application, it appears to the returning officer that the person should be included in the list the returning officer shall amend the list accordingly.
- (6) For the purposes of the first commoners' election, the determination of the returning officer as to whether or not any person shall be entitled to be included on the list shall be conclusive; and the validity of the election shall not be questioned in any legal proceedings on the grounds that any person should have been included or omitted from the list.

- 8 (1) The returning officer shall by advertisement in a local newspaper circulating in the area of the Common give notice of the holding of the first commoners' election not less than 28 days immediately preceding the day fixed by the returning officer for the delivery of nomination papers.
- (2) The notice referred to above shall—
 - (a) state the date on which the election will be held;
 - (b) explain the purpose of the election;
 - (c) state that a list of commoners eligible for nomination and entitled to vote at the election has been compiled by the Council for the purpose of that election;
 - (d) state the place and times at which that list may be inspected by members of the public free of charge; and
 - (e) explain the effect of paragraph 7(3) and (4) above.
- 9 (1) Only a person whose name appears on the list compiled by the returning officer under paragraph 7 above, shall be eligible for nomination and entitled to vote at the first commoners' election.
- (2) No person whose name appears on the list shall be entitled to more than one vote.
- 10 A declaration in accordance with paragraph 19 of the election rules purporting to be signed by the returning officer of the election of a Commissioner shall be conclusive evidence of such election.
- 11 The first elected Commissioners shall, subject to paragraphs 16 and 17 below, hold office until 31 May falling on or immediately following the third anniversary of the election.

Subsequent elections

- 12 (1) This paragraph and paragraphs 13 to 15 below apply in relation to elections held after the first commoners' election.
- (2) The returning officer shall in 2006 and every third year thereafter arrange for a commoners' election to be held not more than 28 days before 1 June in that year.
- (3) Each commoners' election shall be held in accordance with the election rules.
- 13 (1) Only a person whose name appears on the register on the relevant day shall be eligible for nomination for election and entitled to vote at the commoners' election.
- (2) Where two or more persons are commoners by virtue of a joint holding, only the person (if any) recorded in the register on the relevant day as being entitled to vote shall be eligible for nomination for election or entitled to vote at the commoners' election.
- (3) Where a relative is recorded in the register on the relevant day as entitled to vote under section 26(7) or (8) of this Act, only the person so recorded shall be eligible for nomination for election or entitled to vote at the commoners' election.

- (4) No person shall be entitled to more than one vote.
- (5) In this paragraph “the relevant day” means the day on which the notice of an election is published under paragraph 3 of the election rules to this Act.

14 A declaration in accordance with paragraph 19 of the election rules purporting to be signed by the returning officer of the election of a Commissioner shall be conclusive evidence of such election.

Term of office of elected Commissioners

15 Subject to paragraphs 16 and 17 below, an elected Commissioner (other than a Commissioner elected under paragraph 6 above) shall, unless appointed to fill a casual vacancy, hold office until 31 May next following the third anniversary of his or her election.

Vacation of office by elected Commissioners

16 An elected Commissioner may resign his or her office at any time by notice in writing given to the secretary of the Commissioners or, if that Commissioner is the secretary, the chairman.

Disqualification of elected Commissioners

- 17 (1) An elected Commissioner who is removed from the register (or, in the case of a Commissioner who is elected at the first commoners’ election, who is not entered on the register within the period of 28 days beginning with the appointed day for the purpose of section 26 (Register to be maintained by Commission) of this Act)—
- (a) shall not be entitled to attend the meetings of the Commission or otherwise act as a Commissioner at any time when he or she is not on the register; and
 - (b) shall, unless he or she is restored to (or entered on) the register under section 27 (Appeals against refusal to register, etc.) of this Act, be disqualified from holding office as Commissioner.
- (2) Where under paragraph 7(3) or (4) or 13(2) or (3) above a person nominated by a commoner or commoners as eligible for nomination for election is elected to be a Commissioner, that person may continue to hold office for the term for which he or she has been elected notwithstanding any change in nomination made by the commoner or commoners.

Re-election of Commissioners

18 A vacating Commissioner (whether an elected Commissioner or an appointed Commissioner) shall, subject to paragraph 13 above, be eligible for re-election or election as a Commissioner.

Casual vacancies

- 19 (1) Subject to subparagraph (3) below, any casual vacancy occurring in the office of an elected Commissioner shall be filled as soon as reasonably practicable by the election of a person to fill the vacancy held by the returning officer in accordance with the election rules.
- (2) A person elected to fill a casual vacancy shall (unless the person previously dies, resigns or becomes disqualified) hold office during the remainder of the term for which the vacating Commissioner was elected.
- (3) No election shall be held to fill any casual vacancy occurring less than six months before the end of the term for which the vacating Commissioner was elected.

Costs of Elections

- 20 The costs of holding elections under this Part of this Schedule, including any expenses incurred by the returning officer, shall be borne by the Commission.

SCHEDULE 2

Section 7

RULES APPLICABLE TO ELECTION OF COMMISSIONERS

PART 1

PROVISIONS AS TO TIME

Timetable

- 1 The proceedings at the election of commissioners shall be conducted in accordance with the following Table.

<i>Proceedings</i>	<i>Time</i>
Publication of notice of election	Not later than the twenty-fifth day before the day of election
Delivery of nomination papers	Not later than noon on the twelfth day before the day of election
Publication of statement as to persons nominated	Not later than noon on the tenth day before the day of election
Delivery of notices of withdrawals of candidature	Not later than noon on the ninth day before the day of election
Despatch of ballot papers	Not later than the eighth day before the day of election
Close of poll	Noon on the day of election

Computation of time

- 2 (1) In computing any period of time for the purposes of the Timetable—
- (a) a Saturday or Sunday,
 - (b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday, or
 - (c) a day appointed for public thanksgiving or mourning,
- shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.
- (2) In this rule “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in England and Wales.

PART 2

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

NOTICE OF ELECTION

Notice of election

- 3 (1) The returning officer shall publish notice of the election stating—
- (a) the place and times at which nomination papers are to be delivered, and
 - (b) the date of the poll in the event of a contest,
- and the notice shall state that forms of nomination papers may be obtained at the place and those times.
- (2) The returning officer shall send a copy of the notice of election and a nomination form to every commoner whose name appears on the register or, in the case of the first commoners’ election, the list compiled under paragraph 7 of Schedule 1 (Appointment and election of Commissioners) to this Act.

Nomination of candidates

- 4 (1) Each candidate shall nominate himself or herself on a separate nomination paper, in the form in the Appendix of Forms to this Schedule, delivered at the place fixed for the purpose by the returning officer.
- (2) The nomination paper shall state the candidate’s—
- (a) full names, and
 - (b) home address in full,
- and the surname shall be placed first in the list of names.

Decisions as to validity of nomination papers

- 5 (1) Where a nomination paper is delivered in accordance with these rules, the candidate shall be deemed to stand nominated unless and until—
- (a) the returning officer decides that the nomination paper is invalid; or

- (b) proof is given to the returning officer's satisfaction of the candidate's death; or
 - (c) the candidate withdraws.
- (2) The returning officer is entitled to hold a nomination paper invalid only on the ground that the particulars of the candidate are not as required by law.
 - (3) As soon as practicable after each nomination paper has been delivered, the returning officer shall examine it and decide whether the candidate has been validly nominated.
 - (4) Where the returning officer decides that a nomination paper is invalid, the returning officer shall endorse and sign on the paper the fact and the reasons for his decision.
 - (5) The returning officer shall send notice of his decision that a nomination paper is valid or invalid to each candidate at his home address as given in his nomination paper.
 - (6) The returning officer's decision that a nomination paper is valid or invalid shall be final and not be questioned in any proceeding whatsoever.

Publication of statement of persons nominated

- 6 (1) The returning officer shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.
- (2) The statement shall show the names and addresses of the persons nominated as given in their nomination papers.
- (3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and if there are two or more of them with the same surname, of their other names.

Withdrawal of candidates

- 7 (1) A candidate may withdraw his or her candidature by notice of withdrawal—
 - (a) signed by the candidate, and
 - (b) delivered to the returning officer at the place for delivery of nomination papers.

Method of election

- 8 (1) If the number of persons remaining validly nominated after any withdrawals under these rules exceeds the number of commissioners to be elected, a poll shall be taken in accordance with Part 3 of these rules.
- (2) If the number of persons remaining validly nominated after any withdrawals under these rules does not exceed the number of commissioners to be elected, such person or persons shall be declared to be elected in accordance with Part 4 of these rules.

PART 3

CONTESTED ELECTIONS

GENERAL PROVISIONS

Poll to be taken by postal ballot

- 9 The votes at the poll shall be given by postal ballot, the result shall be ascertained by counting the votes given to each candidate and the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of commissioners to be elected, shall be declared to have been elected.

The ballot papers

- 10 (1) The ballot of every voter shall consist of a ballot paper and the persons remaining validly nominated after any withdrawals under these rules, and no others, shall be entitled to have their names inserted in the ballot paper.
- (2) Every ballot paper shall be in the form in the Appendix of Forms to this Schedule, and—
- (a) shall contain the names and addresses of the candidates as shown in the statement of persons nominated;
 - (b) shall be capable of being folded up; and
 - (c) shall have a number printed on the back.
- (3) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

Issue of ballot papers

- 11 The returning officer shall send to every voter at the addresses shown in the list or register, a ballot paper and a declaration of identity in the form set out in the Appendix of Forms to this Schedule, or a form to the like effect, together with an envelope for their return.

Spoilt ballot papers

- 12 A voter who has inadvertently dealt with his or her ballot paper in such manner that it cannot conveniently be used as a ballot paper may, on delivering it to the returning officer and proving to the returning officer's satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules referred to as "spoilt ballot paper") and the spoilt ballot paper shall be immediately cancelled.

COUNTING OF VOTES

Attendance at counting of votes

- 13 The returning officer shall make arrangements for counting the votes in the presence of the candidates and such other persons as the returning officer may permit as soon as practicable after the close of the poll, and shall give to the candidates notice in writing of the time and place at which the counting of the votes will commence.

The count

- 14 (1) The returning officer shall count such of the ballot papers as have been duly returned and record the number counted.
- (2) A ballot paper shall not be deemed to be duly returned unless it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed.

Recount

- 15 (1) A candidate may, if present when the counting or any recount of the votes is complete, require the returning officer to have the votes recounted or again recounted but the returning officer may refuse to do so if in his or her opinion the request is unreasonable.
- (2) No step shall be taken on the completion of the counting or any recount of votes until the candidates present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

- 16 (1) Any ballot paper—
- (a) on which votes are given for more candidates than the voter is entitled to vote for, or
 - (b) on which anything is written or marked by which the voter can be identified except the printed number on the back, or
 - (c) which is unmarked or void for uncertainty,
- shall, subject to subparagraphs (2) and (3) below, be void and not counted.
- (2) Where the voter is entitled to vote for more than one candidate, a ballot paper shall not be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote shall be counted.
- (3) A ballot paper on which the vote is marked—
- (a) elsewhere than in the proper place, or
 - (b) otherwise than by means of a cross, or
 - (c) by more than one mark,
- shall not for such reason be deemed to be void (either wholly or as respects that vote) if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified by it.

- (4) The returning officer shall—
 - (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted; and
 - (b) in the case of a ballot paper on which any vote is counted under subparagraph (2) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted;and shall add to the endorsement the words “rejection objected to” if any objection is made by a candidate to that decision.
- (5) The returning officer shall draw up a statement showing the number of ballot papers rejected, including those rejected in part, under the several heads of—
 - (a) voting for more candidates than voter is entitled to;
 - (b) writing or mark by which voter could be identified;
 - (c) unmarked or void for uncertainty;and the statement shall record the number of ballot papers rejected in part.

Decisions on ballot papers

- 17 The decision of the returning officer on any question arising in respect of a ballot paper shall be final.

Equality of votes

- 18 Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

PART 4

FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

Declaration of result

- 19 (1) In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith—
 - (a) declare to be elected the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of commissioners to be elected;
 - (b) give notice of the name of each candidate to whom paragraph (a) above applies to the secretary of the Commission; and
 - (c) give public notice of the name of each candidate elected and of the total number of votes given for each candidate (whether elected or not) together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.
- (2) In an uncontested election, the returning officer shall as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature—

- (a) declare to be elected the person or persons remaining validly nominated;
- (b) give notice of the name of each person to whom paragraph (a) above applies to the secretary of the Commission; and
- (c) give public notice of the name of each such person.

PART 5

DISPOSAL OF DOCUMENTS

Sealing up of ballot papers

- 20 On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers, including ballot papers rejected in part.

Delivery of documents

- 21 Immediately following the declaration of election the returning officer shall forward to the secretary of the Commission the following documents:—
- (a) the packets of ballot papers in the returning officer's possession;
 - (b) the ballot paper account and the statement of rejected ballot papers; and
 - (c) the nomination papers,
- endorsing on each packet a description of its contents and the date of the election to which they relate.

Challenge to election

- 22 (1) If within one calendar month of the declaration of election a person entitled to vote in the election makes representation in writing to the Chairman of the Council alleging improper behaviour in connection with the election or a breach of these rules the Chairman of the Council may appoint an independent person ("the investigator") to investigate such allegation.
- (2) The investigator shall carry out such enquiries as the investigator considers appropriate and shall, if necessary for the purpose of the investigation, be entitled to open the sealed packets of documents relating to the election.
- (3) If, following completion of an investigation, the investigator is of the opinion that there has been a material irregularity in the conduct of the election which may have affected the result, the investigator may declare the election void and order the returning officer to conduct a fresh election.

Retention of documents

- 23 The secretary of the Commission shall retain all documents relating to the election for a period of two months following the election and then, unless required for the purposes of an investigation under paragraph 22 above, shall cause them to be destroyed.

PART 6

DEATH OF CANDIDATE

Abandonment of election on death of candidate

- 24 If at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as candidate in the ballot papers has died, then the returning officer shall abandon the election and give fresh notice of election.

APPENDIX OF FORMS

Note: The forms contained in this Appendix may be adapted so far as circumstances require.

Form of nomination paper

ELECTION OF GREENHAM AND CROOKHAM COMMON
COMMISSIONER

Day of election.....

I, the undersigned, being a person entitled to vote in the above election do hereby nominate myself as a candidate at the said election.

Candidate's surname	Other names in full	Home address in full

Candidate's signature

Date

Form of Ballot Paper

**ELECTION OF GREENHAM AND CROOKHAM COMMON
COMMISSIONER(S)**

Day of Election

BROWN JOHN EDWARD Brown 2 The Cottages, Barlington Grayshire	
BROWN THOMAS WILLIAM Brown 15 Barchester Road, Barlington Grayshire	
JONES WILLIAM DAVID Jones The Grange, Barlington Grayshire	
SMITH MARY Smith School House, Barlington Grayshire	
WILLIAMS ELIZABETH Williams 3 Ivy Lane, Barlington Grayshire	

VOTE FOR NO MORE THAN CANDIDATES

Mark a cross (X) in the box on the righthand side of the ballot paper
opposite the name of the candidate(s) you are voting for.

Form of declaration of identity

GREENHAM AND CROOKHAM COMMONS ACT 2002

DECLARATION OF IDENTITY

Ballot Paper No.....

I hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Voter's signature

Name

Address

.....

INSTRUCTIONS TO THE VOTER

- 1 You must sign this declaration of identity and return it with your ballot paper. Without this your vote will be invalid.
- 2 After you have marked your ballot paper, put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope marked "A", together with the declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot paper must be received by the returning officer not later than noon on the day of the election.
- 3 If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper, the declaration of identity and the envelopes marked "A" and "B". Remember that there is little time available if a fresh postal ballot paper is to be issued and counted.

SCHEDULE 3

Section 7

INCIDENTAL PROVISIONS WITH RESPECT TO COMMISSION

Corporate status of the Commission

- 1 The Commission shall be a body corporate with perpetual succession and a common seal.

Meetings of the Commission

- 2 The first meeting of the Commission shall be held on such day and at such time and place as may be appointed by the returning officer; and the said officer shall make arrangements for notice of the meeting to be sent by post to each member of the Commission not less than 7 days before the day so appointed.
- 3 (1) The first meeting of the Commission shall be the annual meeting for the year then current and thereafter the first meeting held after 1 June in any year shall be the annual meeting.
(2) The Commission shall in every year after the first year hold an annual meeting and at least three other meetings for the transaction of general business and at intervals of not more than 14 weeks.
(3) The chairman of the Commission may call a meeting of the Commission at any time.
(4) If, after a requisition for that purpose signed by five Commissioners has been presented to the chairman—
 - (a) the chairman refuses to call a meeting of the Commission, or
 - (b) without so refusing, the chairman does not call a meeting within 7 days after such requisition has been presented,any five Commissioners, on that refusal or on the expiration of the said 7 days (as the case may be), may forthwith call a meeting of the Commission.
(5) Subject to subparagraph (6) below, the public may attend and, with the consent of the Commission, shall be entitled to speak, at any meeting of the Commission or of any committee or sub-committee of the Commission.
(6) The Commission or any committee or sub-committee of the Commission may, by resolution, exclude the public from a meeting of the Commission or the committee or sub-committee in question (during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest—
 - (a) by reason of the confidential nature of the business to be transacted; or
 - (b) for any other special reason stated in the resolution and arising from the nature of that business or of the proceedings;and where such a resolution is passed, the meeting shall not be required to be open to the public during proceedings to which the resolution applies.

Appointment of chairman and vice-chairman

- 4 (1) The Commission shall at its annual meeting in each year elect one of the Commissioners to be chairman and, unless the chairman resigns that office or otherwise ceases to be a member of the Commission, the chairman shall continue in office until a successor is elected.
- (2) The Commission shall at each annual meeting appoint one of the Commissioners to be vice-chairman and, unless the vice-chairman resigns that office or ceases to be a member of the Commission, the vice-chairman shall continue in office until immediately after the election of the chairman at the next annual meeting.
- (3) On a casual vacancy occurring in the office of chairman or vice-chairman of the Commission—
 - (a) the vacancy shall be filled by the appointment by the Commission of one of their number at a meeting held as soon as practicable after the vacancy occurs and,
 - (b) where the office vacant is that of chairman, the meeting may be convened by the secretary or such other officer as shall be appointed for the purpose by the Commission.
- (4) A person appointed under this paragraph to fill a vacancy shall hold office until the date of the next annual meeting.

Chairman of meeting

- 5 (1) At a meeting of the Commission the chairman of the Commission, if present, shall preside.
- (2) If the chairman of the Commission is absent from a meeting of the Commission, the vice-chairman of the Commission, if present, shall preside.
- (3) If both the chairman and vice-chairman of the Commission are absent from a meeting of the Commission, such Commissioner as the Commissioners present choose shall preside.

Appointment of committees

- 6 (1) The Commission may appoint—
 - (a) a committee for the exercise of any of the functions of the Commission which in the opinion of the Commission can be better regulated and managed by means of a committee and may delegate to a committee so appointed the exercise of any such functions;
 - (b) a committee to advise the Commission on any matter relating to the discharge of its functions.
- (2) Any committee appointed under subparagraph (1)(b) above may include persons who are not Commissioners.
- (3) The number of members of any such committee and their term of office shall be fixed by the Commission or, in the case of a sub-committee, by the appointing committee.

- 7 (1) A committee of the Commission—
- (a) may, subject to any restrictions imposed by the Commission, appoint such sub-committees as the committee may determine and
 - (b) may authorise any such sub-committee to exercise any of the functions of the committee on its behalf;
- and any reference in any of the succeeding paragraphs of this Schedule to a “committee” shall be construed as including a reference to any such sub-committee.
- (2) Any sub-committee of a committee appointed under paragraph 6(1)(b) above may include or comprise persons who are not Commissioners.

Proceedings of the Commission and committees

- 8 The proceedings of the Commission, or of any committee appointed by it, shall not be invalidated by any vacancy in its number or by any defect in the appointment, or the qualification for appointment, of any person as a Commissioner, or as chairman or vice-chairman, of the Commission or committee.
- 9 The quorum required for a meeting of the Commission shall be five.
- 10 (1) Subject to subparagraph (2) below, if a Commissioner—
- (a) has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter; and
 - (b) is present at a meeting of the Commission or of any committee of the Commission at which the contract or other matter is the subject of consideration,
- the Commissioner shall as soon as practicable after the commencement of the meeting disclose that fact at the meeting and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (2) Nothing in subparagraph (1) above shall preclude a Commissioner from taking part in the consideration or discussion of, or voting on, any question connected with—
- (a) grazing agreements under section 22 (Grazing agreements) of this Act; or
 - (b) a specific grazing agreement under that section,
- by reason only of the fact that the Commissioner has a pecuniary interest in such a grazing agreement (other than, in a case where paragraph (b) applies, the specific grazing agreement concerned).
- 11 (1) Any question to be decided by the Commission or any committee of the Commission shall, in the first instance, be decided by the majority of those present at the meeting and voting on the question, and the decision of the person presiding at the meeting as to the result of the voting shall be final.
- (2) In the case of an equality of votes, the person presiding at any such meeting shall have a casting vote, in addition to any other vote that person may have.

- 12 Subject to the provisions of this Schedule, the procedure and business of the Commission and of any committee of the Commission shall be regulated in such manner as the Commission may from time to time determine.

Officers, services and advisors

- 13 (1) The Commission shall appoint a secretary and may appoint a treasurer and such other officers as the Commission thinks necessary for the efficient discharge of its functions.
- (2) A Commissioner shall be eligible to be appointed an officer under subparagraph (1) above and any such officer shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the Commission thinks fit.
- (3) The Commission and the Council may enter into arrangements for the Council to provide (with or without charge) such administrative, professional or technical services as are required for the discharge of the functions of the Commission and as are specified under those arrangements.
- (4) The Council shall nominate an officer of the Council to advise the Commission on matters relating to the discharge of its functions; and that officer shall be entitled to attend and speak at the meetings of the Commission but not to vote.

Authentication of the Commission's seal

- 14 The application of the seal of the Commission shall be authenticated by the signatures of the chairman of the Commission or some other Commissioner authorised by the Commission to authenticate the application of the seal thereof and of such officer as shall be authorised by the Commission to act in that behalf.

Protection from personal liability

- 15 Section 265 of the Public Health Act 1875 (c. 55) (which relates to the protection from personal liability of members and officers of certain authorities when acting under the direction of the authorities) shall have effect as if references to those authorities and that Act included respectively references to the Commission and this Act.