



Hill Farming Act 1946

1946 CHAPTER 73 9 and 10 Geo 6

Rehabilitation of Hill Farming Land

12 Improvements of hill farming land subject to rights of common.

- (1) Where the Minister of Agriculture and Fisheries (in this section referred to as “the Minister”) is of opinion that it is expedient so to do for the purpose of rehabilitating hill farming land in England or Wales that is subject to rights of common of pasture, he shall have power, subject to the provisions of this section, to do work required for making improvements for the benefit thereof, and the provisions in that behalf of this section shall have effect as to the recovery by the Minister from persons claiming to enjoy rights over such land of sums amounting in the aggregate to one half of the cost of work done by him under this section.
- (2) Before beginning to do work under this section, the Minister shall publish, in such manner as he thinks best adapted for informing persons enjoying rights of common over the land for the benefit of which the improvements are intended and any person entitled as lord of the manor or otherwise to the soil of that land, a notice—
 - (a) stating that he is of the opinion aforesaid, specifying what improvements ought, in his opinion, to be made and the work required for making them, the land on which he proposes to do the work, the estimated cost of the work and the period (which shall not be less than twenty-eight days from the date of the publication of the notice) within which written objection to the doing of the work may be made to him by any person claiming to be such a person as aforesaid; and
 - (b) inviting any person so claiming who is willing to bear an apportioned part of half the estimated cost of the work to furnish to the Minister, within the period aforesaid, his name and address and particulars of such matters relating to the rights which he claims to enjoy as may be specified in the notice.
- (3) If an objection to the doing of the work is duly made to the Minister by any person so claiming as aforesaid within the time limited by the notice for making objections, then, unless either—
 - (a) the objection is withdrawn by that person or appears to the Minister to be frivolous; or

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- (b) the Minister is satisfied that the claim is groundless;
no further steps shall be taken under this section in pursuance of the notice, but without prejudice to the publication of a fresh notice.
- (4) Subject to the provisions of the last preceding subsection, the Minister, after the expiration of the said period, shall, by an instrument executed by him, apportion half the amount stated in the notice as the estimated cost of the work amongst the persons who have furnished their names under subsection (2) of this section as being willing to bear apportioned parts thereof, in such amount as he thinks just, and shall serve on each of them, at the address furnished by him under that subsection, a copy of the said instrument having annexed thereto particulars of the matters by reference to which each of the amounts has been arrived at and a statement of the period (which shall not be less than twenty-eight days from the date of the service of the copy) within which written objection to the amount apportioned to that person may be made by him to the Minister.
- (5) If no objection is duly made under the last preceding subsection within the time limited for the making of objections, or if all objections so made are withdrawn by the persons by whom they were respectively made, the Minister may do the work.
- (6) If an objection duly made as aforesaid is not withdrawn by the person by whom it was made, the Minister may revise the apportionment, and the provisions of the two last preceding subsections shall apply to a revised apportionment as they apply to an original apportionment.
- (7) Where the Minister has done work under this section, the amount apportioned to any person under the instrument by virtue of the execution of which the Minister became entitled to do the work or, where the actual cost of the work falls short of the estimated cost thereof, that amount abated rateably as between it and the remainder of the amounts so apportioned, shall be recoverable from that person by the Minister on the completion of the work.
- (8) Where work under this section for making improvements consists of or includes the making or restoration of permanent fences, subsections (1) and (2) of this section shall have effect as if references therein to persons enjoying or claiming to enjoy rights of common over the land for the benefit of which the improvements are intended included references to persons occupying adjoining land, and as if, in relation to any such person, there were substituted, for the reference in paragraph (b) of the said subsection (2) to rights claimed to be enjoyed, a reference to the adjoining land occupied by him.
- (9) Nothing done under this section shall be treated as an admission of the existence or non-existence of an obligation on the part of a person occupying land adjoining land subject to rights of common of pasture to fence against animals on the last-mentioned land, or as to the extent of any such obligation.
- (10) No work under this section on land subject to rights of common of pasture shall be so done as to prevent or impede access to that land or any part thereof for a period exceeding three years from the beginning of the work.
- (11) Notwithstanding the provisions of subsection (4) of section one of this Act, an operation specified in a notice published under subsection (2) of this section shall not, so far as the operation of this section is dependent on the publication of that notice, be deemed to cease to be an improvement by reason of the deletion from the First Schedule to this Act of that operation or any modification of the description thereof.

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(12) The power conferred by this section on the Minister to do work required for making improvements for the benefit of any land shall not be construed as extending so as to authorise the Minister to do work for that purpose on other land without the consent of all persons interested in that other land whose consent to the doing of the work would be requisite apart from this section.

(13) ^{F1}

Textual Amendments

F1 S. 12(13) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. II**

Modifications etc. (not altering text)

C1 Power to extend s. 12 given by [Agriculture Act 1967 \(c. 22\)](#), s. 42(1)

C2 Power to apply with modifications s. 12(1)—(12) given by [Agriculture Act 1970 \(c. 40\)](#), s. 30(3)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 227A heading substituted by [2024 asp 4 s. 23\(7\)\(d\)](#)