



Greenham and Crookham Commons Act 2002

2002 CHAPTER i

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

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- (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

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- (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.

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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—

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- (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.

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- (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.