



Commons Act 2006

2006 CHAPTER 26

PART 4

MISCELLANEOUS

Intervention powers

45 Powers of local authorities over unclaimed land

- (1) This section applies where—
- (a) land is registered as common land or a town or village green;
 - (b) no person is registered in the register of title as the owner of the land; and
 - (c) it appears to a local authority in whose area the land or any part of it is situated that the owner cannot be identified.
- (2) The local authority may—
- (a) take any steps to protect the land against unlawful interference that could be taken by an owner in possession of the land; and
 - (b) institute proceedings against any person for any offence committed in respect of the land (but without prejudice to any power exercisable apart from this section).
- (3) In this section “local authority” means—
- (a) a county, district or parish council in England;
 - (b) a London borough council; and
 - (c) a county, county borough or community council in Wales.

46 Powers relating to unauthorised agricultural activities

- (1) This section applies where it appears to the appropriate national authority that—
- (a) a person is carrying out, or causing to be carried out by virtue of any arrangements, an agricultural activity on land which—

Status: This is the original version (as it was originally enacted).

- (i) is registered as common land; or
 - (ii) is registered as a town or village green and is subject to rights of common;
 - (b) the activity is unauthorised; and
 - (c) the activity is detrimental to—
 - (i) the interests of persons having rights in relation to, or occupying, the land; or
 - (ii) the public interest.
- (2) The appropriate national authority may, subject to the following provisions of this section, serve a notice on the person requiring him to do any one or more of the following—
 - (a) within such reasonable period as may be specified in the notice to stop carrying out the activity, or stop causing it to be carried out, to the extent that it is unauthorised;
 - (b) not to carry out, or cause to be carried out, any other unauthorised agricultural activity on the land which would be detrimental to the matters specified in subsection (1)(c)(i) and (ii);
 - (c) to supply the authority with such information relating to agricultural activities on the land carried out, or caused to be carried out, by him as it may reasonably require.
- (3) Before serving a notice under this section the appropriate national authority must, to the extent that it is appropriate and practicable in all the circumstances to do so—
 - (a) notify the persons specified in subsection (4) of its intention to serve the notice; and
 - (b) publicise its intention to do so (in such manner as it thinks fit).
- (4) The persons referred to in subsection (3)(a) are—
 - (a) any commons council for the land;
 - (b) any other person with functions under any enactment which relate to the maintenance or management of the land; and
 - (c) any person appearing to the authority to own or occupy the land.
- (5) Any notification or publication under subsection (3) may specify a period within which representations about the proposed notice may be made.
- (6) In deciding whether to serve a notice under this section the appropriate national authority must have regard to—
 - (a) any criminal or civil proceedings that have been or may be commenced in relation to the activity; and
 - (b) any steps taken by a commons council in relation to the activity.
- (7) If a person on whom a notice is served under this section fails to comply with it—
 - (a) the appropriate national authority may apply to a county court for an order requiring him to do so; and
 - (b) the court may make such an order for the purpose of securing compliance with the notice as it thinks fit.
- (8) For the purposes of this section, activity is unauthorised if the person carrying it out or causing it to be carried out—

- (a) has no right or entitlement by virtue of his ownership or occupation of the land, or pursuant to any right of common, to do so; or
 - (b) is not doing so with the authority of the person or persons entitled to give such authority.
- (9) The reference in subsection (1)(c)(ii) to the public interest includes the public interest in—
- (a) nature conservation;
 - (b) the conservation of the landscape;
 - (c) the protection of public rights of access to any area of land; and
 - (d) the protection of archaeological remains and features of historic interest.
- (10) Section 123(1) to (5) of the Environment Act 1995 (c. 25) applies in relation to the service of a notice under this section as it applies in relation to the service of a notice under that Act.

Abolition of powers of approvement and inclosure etc

47 Approvement

- (1) The Commons Act 1285 (13 Edw 1 c. 46) (power of approvement) shall cease to have effect.
- (2) Any power of approvement of a common which subsists at common law is abolished.

48 Inclosure

- (1) Section 147 of the Inclosure Act 1845 (c. 118) (power to exchange common land for other land) shall cease to have effect.
- (2) The following shall cease to have effect—
 - (a) section 2 of the Gifts for Churches Act 1811 (c. 115);
 - (b) in section 2 of the School Sites Act 1841 (c. 38), the words from “Provided also, that where any portion” to “such conveyance;”;
 - (c) in section 1 of the Literary and Scientific Institutions Act 1854 (c. 112), the words from “Provided also” to the end.

49 Notice of inclosure

- (1) Section 31 of the Commons Act 1876 (c. 56) (three months' notice of claim to inclose to be given in local papers) shall cease to have effect.
- (2) In section 3 of the Metropolitan Commons Act 1878 (c. 71), for “Sections thirty and thirty-one” substitute “Section 30”.

Commons Act 1899

50 Schemes under the Commons Act 1899

- (1) The Commons Act 1899 (c. 30) is amended as follows.
- (2) In section 1 (power of councils to make schemes for the regulation of commons)—

Status: This is the original version (as it was originally enacted).

- (a) in subsection (1), for the words from “their district” to the end substitute “in the public interest”;
- (b) after that subsection insert—

“(1A) In subsection (1), the reference to the public interest includes the public interest in—

- (a) nature conservation;
- (b) the conservation of the landscape;
- (c) the protection of public rights of access to any area of land;
and
- (d) the protection of archaeological remains and features of historic interest.”

(3) In that section, in subsection (3), omit the words from “, and for” to the end.

(4) In that section, after subsection (3) insert—

“(4) Regulations under subsection (3) may—

- (a) prescribe alternative forms;
- (b) permit exceptions or modifications to be made to any prescribed form.”

(5) In section 2 (procedure for making scheme)—

- (a) for subsections (1) to (3) and the first paragraph of subsection (4) substitute—

“(1) A council is to make and approve a scheme under this Part of this Act in the prescribed manner.”;

- (b) renumber the second paragraph of subsection (4) as subsection (2).

(6) For section 9 (power to amend scheme) substitute—

“9 Power to amend or revoke scheme

- (1) A scheme under this Part of this Act for any common may, in prescribed circumstances, be amended in the prescribed manner.
- (2) A scheme under this Part of this Act for any common may, where a new scheme is made under this Part of this Act for the whole of that common, be revoked in the prescribed manner.”

(7) For section 10 (byelaws) substitute—

“10 Byelaws

- (1) A council which has made a scheme under this Part of this Act in relation to any common may make byelaws for the prevention of nuisances and the preservation of order on the common.
- (2) Sections 236 to 238 of the Local Government Act 1972 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding level 2 on the standard scale, and provide for the proof of byelaws in legal proceedings) apply to all byelaws under this section.”

Vehicular access

51 Vehicular access

Section 68 of the Countryside and Rights of Way Act 2000 (c. 37) shall cease to have effect.