
Changes to legislation: There are currently no known outstanding effects for the Commons Act 2006, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 9

AUTHORISED SEVERANCE

Severance by transfer to public bodies

- 1 (1) A right of common to which section 9 applies may on or after the day on which this Schedule comes into force be severed permanently from the land to which it is attached by being transferred on its own to—
- (a) any commons council established for the land over which the right is exercisable;
 - (b) Natural England (where the land or any part of it is in England); or
 - (c) [^{F1}the Natural Resources Body for Wales] (where the land or any part of it is in Wales).
- (2) Where a person proposes to sever a right of common to which section 9 applies by a transfer under sub-paragraph (1)(b) or (c), Natural England or [^{F2}the Natural Resources Body for Wales] as the case may be must—
- (a) give notice of the proposal to the owner of the land over which the right is exercisable unless his name and address cannot reasonably be ascertained;
 - (b) in a case where there is no commons council established for the land, give notice of the proposal to such persons (if any) as they consider represent the interests of persons exercising rights of common over the land.
- (3) A notice under sub-paragraph (2) must be given at least two months before the transfer and must—
- (a) specify the name and address of the owner of the land to which the right is attached;
 - (b) describe the right proposed to be transferred, giving such details as regulations may specify;
 - (c) state the proposed consideration for the transfer; and
 - (d) give such other information as regulations may specify.
- (4) Where a right of common to which section 9 applies is exercisable over land for which a commons council is established, the right may only be severed by a transfer under sub-paragraph (1)(b) or (c) if that council consents to the transfer.
- (5) In a case where there is no commons council established for the land over which a right of common to which section 9 applies is exercisable, the appropriate national authority may by order provide that a person with functions of management conferred by any enactment in relation to that land is to be regarded, for any or all purposes of this paragraph, as a commons council established for the land.
- (6) The severance of a right of common by its transfer under sub-paragraph (1)—
- (a) only has effect if the transfer complies with such requirements as to form and content as regulations may provide; and

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- (b) does not operate at law until, on an application under this Schedule, the transferee is registered as the owner of the right in the register of common land or of town or village greens in which the right is registered.

Textual Amendments

- F1** Words in Sch. 1 para. 1(1)(c) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 434** (with Sch. 7)
- F2** Words in Sch. 1 para. 1(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 434** (with Sch. 7)

Temporary severance by letting or leasing

- 2 (1) A right of common to which section 9 applies may, on or after the day on which this Schedule comes into force, to any extent be severed temporarily from the land to which it is attached by virtue of the right, or all or part of the land, being leased or licensed on its own in accordance with—
- (a) provision made by order by the appropriate national authority; or
 - (b) rules made in relation to the land by a commons council under section 31.
- (2) Provision under sub-paragraph (1)(a) and rules referred to in sub-paragraph (1)(b) may be framed by reference to—
- (a) particular land or descriptions of land;
 - (b) descriptions of persons to whom rights of common may be leased or licensed.
- (3) Where—
- (a) provision under sub-paragraph (1)(a) applies in relation to any land, and
 - (b) rules referred to in sub-paragraph (1)(b) also apply in relation to that land and are inconsistent with that provision,
- the rules prevail over that provision, to the extent of the inconsistency, in relation to that land.
- (4) The appropriate national authority may by order provide that the leasing or licensing of a right of common (whether authorised by provision under sub-paragraph (1)(a) or by rules referred to in sub-paragraph (1)(b)) must comply with such requirements as to form and content as the order may provide.

Severance authorised by order

- 3 (1) The appropriate national authority may by order make provision authorising rights of common to which section 9 applies to be severed permanently from the land to which they are attached by transfer in accordance with that provision.
- (2) Provision under sub-paragraph (1) is to be framed by reference to—
- (a) particular land over which the rights of common are exercisable, or
 - (b) particular descriptions of such land,
- and may authorise transfers to particular persons, particular descriptions of persons or any person.
- (3) The appropriate national authority must, before making any provision under sub-paragraph (1) in relation to any land, consult such persons (if any) as it considers represent the interests of—

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- (a) persons who own the land;
 - (b) persons who exercise rights of common over the land.
- (4) Provision under sub-paragraph (1) may include provision securing that the owner of any land over which a right of common is exercisable is to be notified, and his consent obtained, before the right may be transferred.
- (5) Provision referred to in sub-paragraph (4) may include—
- (a) provision as to the circumstances in which notification may be regarded as having been given; or
 - (b) provision as to the circumstances in which consent may be regarded as having been obtained.
- (6) Provision referred to in sub-paragraph (5)(b) may include—
- (a) provision for consent to be regarded as having been obtained if it is withheld unreasonably;
 - (b) provision for the circumstances in which consent is to be regarded as withheld unreasonably;
 - (c) provision for the resolution of disputes.
- (7) The severance of a right of common by its transfer under provision under sub-paragraph (1)—
- (a) only has effect if the transfer complies with such requirements as to form and content as regulations may provide; and
 - (b) does not operate at law until, on an application under this Schedule, the transferee is registered as the owner of the right in the register of common land or of town or village greens in which the right is registered.
- (8) Provision under sub-paragraph (1) may include provision to secure the result that where—
- (a) the person to whom the right of common is transferred is the owner of land to which rights of common are attached, and
 - (b) those rights are exercisable over the same land, or substantially the same land, as the right of common being transferred,
- the transferee must, when making an application as specified in sub-paragraph (7)(b), apply to the commons registration authority for the right to be registered as attached to the land referred to in paragraph (a).

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