

**1982 No. 209****COMMON****The Commons (Schemes) Regulations 1982***Made - - - - 17th February 1982**Coming into Operation 25th March 1982*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred by sections 1, 2 and 15 of the Commons Act 1899(a) and now vested in them (b), and of all other powers enabling them in that behalf, hereby make the following regulations:—

1. These regulations may be cited as the Commons (Schemes) Regulations 1982, and shall come into operation on 25th March 1982.

2. In these regulations, “council” means the council of a district, and “scheme” means a scheme made under the Commons Act 1899 for the regulation and management of a common.

3. A scheme made by a council shall be in the form set out in the Schedule to these regulations, subject to such modifications as appear to the council to be necessary or expedient.

4. Notice of the intention to make a scheme shall be given by—

- (a) inserting a notice in the form set out in the Schedule to these regulations, or a form to the like effect, in at least one newspaper circulating in the neighbourhood of the common to which the proposed scheme relates, the notice to be inserted twice with an interval of not less than one week between the insertions;
- (b) displaying copies of the notice at two or more places on the common;
- (c) serving a copy of the notice upon the council of every county and of every parish and, in Wales, of every community in which the common, or any part of the common, to which the proposed scheme relates is situate;
- (d) sending a copy of the notice to every person entitled to the soil of the common, whether as Lord of the Manor or otherwise;
- (e) sending a copy of the notice to every commoner:

Provided that, where a copy of the notice is required to be sent,—

- (i) it shall be sent by pre-paid registered letter, or by the recorded delivery service;
- (ii) in a case where Her Majesty is entitled to the soil of the common, the copy of the notice shall be sent to the Crown Estate Commissioners or, where Her Majesty is entitled as Duke of Lancaster, to the Chancellor of the Duchy of Lancaster;

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(a) 1899 c. 30, as amended by section 272 of, and Schedule 30 to, the Local Government Act 1972 (c. 70), and by section 1 of, and Schedule 3 to, the Local Government, Planning and Land Act 1980 (c. 65).

(b) 1903 c. 31, 1919 c. 91; S.I. 1955/554, 1965/143, 1967/156, 1970/1681.

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- (iii) in a case where the Duke of Cornwall is entitled to the soil of the common, the copy of the notice shall be sent to the Lord Warden of the Stannaries.
  - (iv) in a case where the council is satisfied after reasonable inquiry that it is not practicable to ascertain the name or address of any person or commoner, it may dispense with the requirement to send a copy of the notice to that person or, as the case may be, to that commoner;
  - (v) in a case where the council considers that the commoners are too numerous, it may dispense with the requirement to send a copy of the notice to the commoners.

5. Copies of a draft scheme shall be placed on sale at the offices of the council which intends to make the scheme for such reasonable price as the council may determine.

6. The plan referred to in a draft scheme shall be deposited at the offices of the council which intends to make the scheme, and shall be available for inspection during office hours.

7. The Commons Regulations 1935(a) are hereby revoked.

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(a) S.R. & O. 1935/840.

## SCHEDULE

## FORM I

## FORM OF SCHEME

1. The piece of land with ponds, streams, paths and roads thereon, commonly known as \_\_\_\_\_, situate in the [parish] [community] of \_\_\_\_\_ in the County of \_\_\_\_\_ and hereinafter referred to as "the common", as shown on a plan sealed by, and deposited at the offices of the \_\_\_\_\_ District Council of \_\_\_\_\_ hereinafter called "the Council" and thereon coloured green, being a common within the meaning of the Commons Act 1899, shall henceforth be regulated by this Scheme, and the management thereof shall be vested in the Council.

2. The Council may execute any necessary works of drainage, raising, levelling or other works for the protection and improvement of the common, and may, for the prevention of accidents, fence any quarry, pit, pond, stream or other like place on the common, and shall preserve the turf, shrubs, trees, plants and grass thereon, and for this purpose may, for short periods, enclose by fences such portions as may require rest to revive the same, and may plant trees and shrubs for shelter or ornament and may place seats upon and light the common, and otherwise improve the common as a place for exercise and recreation. Save as hereinafter provided, the Council shall do nothing that may otherwise vary or alter the natural features or aspects of the common or interfere with free access to any part thereof, and shall not erect upon the common any shelter, pavilion, drinking fountain or other building without the consent of the person or persons entitled to the soil of the common and of the Secretary of State [for the Environment] [for Wales]. The Secretary of State, in giving or withholding his consent, shall have regard to the same considerations and shall, if necessary, hold the same enquiries as are directed by the Commons Act 1876(a) to be taken into consideration and held by the Secretary of State before forming an opinion whether an application under the Inclosure Acts 1845 to 1882 shall be acceded to or not.

3. The Council shall maintain the common free from all encroachments and shall not permit any trespass on or partial enclosure thereof or of any part thereof.

4. The inhabitants of the neighbourhood shall have a right of free access to every part of the common and a privilege of playing games and of enjoying other kinds of recreation thereon, subject to any byelaws made by the Council under this Scheme.

5. The [here insert description of any particular trees or objects of historical, scientific or antiquarian interest] are, so far as possible, to be conserved by the Council.

6. The Council may set apart for games any portion or portions of the common as it may consider expedient and may form grounds thereon for cricket, football, tennis, bowls and other similar games, and may allow such grounds to be temporarily enclosed with any open fence, so as to prevent cattle and horses from straying thereon; but such grounds shall not be so numerous or extensive as to affect prejudicially the enjoyment of the common as an open space or the lawful exercise of any right of common, and shall not be so near to any dwelling-house or road as to create a nuisance or be an annoyance to the inhabitants of the house or to persons using the road.

7. The Council may, with the consent of the person or persons entitled to the soil of the common, and of the Secretary of State, temporarily set apart and fence such portion or portions of the common as it may consider expedient for the parking of motor and other vehicles, and may make such charges for the use of such part as it may deem necessary and reasonable: provided that any area so set apart shall not be so near to any dwelling-house as to create a nuisance or be an annoyance to the inhabitants of the house. The Secretary of State, in giving or withholding his consent, shall have regard to the same considerations and shall, if necessary, hold the same enquiries as are directed by the Commons Act 1876 to be taken into consideration and held by the Secretary of State before forming an opinion whether an application under the Inclosure Acts 1845 to 1882 shall be acceded to or not.

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(a) 1876 c. 56.

8. The Council may, for the prevention of nuisances and the preservation of order on the common, and subject to the provisions of section 10 of the Commons Act 1899, make, revoke or alter byelaws for any of the following purposes, namely—

- (a) prohibiting any person without lawful authority from digging or taking turf, sods, gravel, sand, clay or other substance on or from the common, and from cutting, felling or injuring any gorse, heather, timber, or other tree, shrub, brushwood or other plant growing on the common;
- (b) regulating the place and mode of digging and taking turf, sods, gravel, sand, clay, or other substance, and cutting, felling and taking trees or underwood on or from the common in exercise of any right of common or other right over the common;
- (c) prohibiting the removal or displacement of seats, shelters, pavilions, drinking fountains, fences, notice-boards, or any works erected or maintained by the Council on the common;
- (d) prohibiting any person without lawful authority from killing, molesting or intentionally disturbing any animal, bird or fish or engaging in hunting, shooting or fishing or the setting of traps or nets or the laying of snares;
- (e) prohibiting the driving, drawing or placing upon the common or any part thereof without lawful authority of any motor vehicle, motor cycle, carriage, cart, caravan, truck or other vehicle (including any aircraft), except in the case of accident or other sufficient cause;
- (f) prohibiting—
  - (i) the flying of any model aircraft driven by the combustion of petrol vapour or other combustible substances;
  - (ii) the taking off or (except in the case of accident or other sufficient cause) landing of any glider or any other aircraft;
  - (ii) the flying of any glider or aircraft in such a manner as to be likely to cause undue interference with the enjoyment of the common by persons lawfully on it;
- (g) prohibiting or, in the case of a fair lawfully held, regulating the placing on the common of any show, exhibition, swing, roundabout or other like thing;
- (h) regulating games to be played and other means of recreation to be exercised on the common;
- (i) regulating assemblies of persons on the common;
- (j) regulating the use of any portion of the common temporarily enclosed or set apart under this Scheme for any purpose;
- (k) prohibiting or regulating the riding, driving, exercising or breaking in of horses without lawful authority on any part of the common;
- (l) prohibiting any person without lawful authority from turning out or permitting to remain on the common any cattle, sheep or other animals;
- (m) prohibiting any person from bathing in any pond or stream on the common, save in accordance with the byelaws;
- (n) prohibiting camping or the lighting of any fire;
- (o) prohibiting or regulating any act or thing which may injure or disfigure the common, or interfere with the use thereof by the public for the purposes of exercise and recreation;
- (p) authorising any officer of the Council, after due warning, to remove from the common any vehicle or animal drawn, driven or placed, or any structure erected or placed thereon in contravention of this Scheme or of any byelaw made under this Scheme;

- (q) prohibiting any person on the common from selling or offering or exposing for sale or letting to hire or offering or exposing for letting to hire, any commodity or article, unless in pursuance of an agreement with the Council or otherwise in the exercise of any lawful right or privilege;
- (r) prohibiting the fixing of bills, placards or notices on trees, fences, erections or notice boards on the common;
- (s) prohibiting the hindrance or obstruction of an officer of the Council in the exercise of his powers or duties under this Scheme or under any byelaw made thereunder.

9. Copies of all byelaws made under this Scheme shall be displayed on notice boards placed on such parts of the common as the Council think fit.

10. Nothing in this Scheme or any byelaw made under it shall prejudice or affect any right of the person entitled as Lord of the Manor or otherwise to the soil of the common, or of any person claiming under him, which is lawfully exercisable in, over, under or on the soil or surface of the common in connection with game, or with mines, minerals, or other substrata or otherwise, or prejudice or affect any right of the commoners in or over the common, or the lawful use of any highway or thoroughfare on the common, or affect any power or obligation to repair any such highway or thoroughfare.

11. Printed copies of this Scheme shall be available for sale at the offices of the Council for such reasonable price as the Council may determine.

#### FORM II

#### FORM OF NOTICE Commons Act 1899

Notice is hereby given that the Council intend to make a Scheme under the above Act for the regulation and management of in their district with a view to the expenditure of money on the drainage, levelling and improvement of the Common, and to the making of byelaws for the prevention of nuisances and the preservation of order.

Copies of the draft Scheme may be purchased and the plan therein referred to may be inspected at the offices of the Council.

Any objection or representation with respect to the Scheme or plan shall be sent to the offices of the District Council of within three months from the date of this notice.

If, at any time before the Council have approved the Scheme, they receive a written notice of dissent, which is not subsequently withdrawn, from either a person entitled to the soil of the common or from persons representing at least one third in value of such interests in the common as are affected by the Scheme, then the Scheme cannot be made.

(Date)

(Signature of Officer authorised to sign)

11th February 1982.

*Michael R. D. Heseltine,*  
Secretary of State for the Environment.

17th February 1982.

*Nicholas Edwards,*  
Secretary of State for Wales.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations prescribe the form of the schemes which may be made by district councils under the Commons Act 1899, and the form of notice of a council's intention to make schemes. The aim of these schemes is to make provision for the regulation and management of common land. Under them councils may improve the condition of commons and make byelaws to prevent nuisances and preserve order.

SI 1982/209  
ISBN 0-11-026209-3

