

2010 No. 2356 (C. 114)

COMMONS, ENGLAND AND WALES

**The Commons Act 2006 (Commencement No. 1 and Savings
(England and Wales) and Commencement No. 5 (England
(Amendment)) Order 2010**

Made - - - - *22nd September 2010*

The Secretary of State in relation to England and the Welsh Ministers in relation to Wales make this Order in exercise of the powers conferred on the appropriate national authority by sections 56(1) and 59(1) of the Commons Act 2006(a).

Citation, interpretation and application

1.—(1) This Order may be cited as the Commons Act 2006 (Commencement No. 1 and Savings (England and Wales) and Commencement No. 5 (England) (Amendment)) Order 2010.

(2) In this Order “the 1965 Act” means the Commons Registration Act 1965(b).

(3) This article and articles 3, 4 and 5 apply in relation to England and Wales.

(4) Article 2 applies in relation to England only.

Amendment of the Commons Act 2006 (Commencement No. 5) (England) Order 2010

2.—(1) With effect from 1st December 2010, the Commons Act 2006 (Commencement No. 5) (England) Order 2010(c) is amended as follows.

(2) After article 2 add —

“Extension of application of sections 26 to 37

3.—(1) This article applies to any area in England in relation to which—

(a) section 1 of the Commons Act 2006 (“the Act”) is not yet in force, and

(b) the application of sections 26 to 37 (“Part 2”) of the Act depends on the coming into force of section 1 in relation to that area.

(2) Until the coming into force of section 1 of the Act in relation to any area in England to which this article applies—

(a) 2006 c. 26; section 61(1) defines the “appropriate national authority” as the Secretary of State in relation to England and the National Assembly for Wales in relation to Wales. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), the functions of the National Assembly for Wales were transferred to the Welsh Ministers.

(b) 1965 c. 64.

(c) S.I. 2010/61 (C.10).

- (a) Part 2 of the Act and any order made under Part 2 are to apply in relation to that area as if, in section 61(2)(b) of the Act, for the words “Part 1 of this Act” there were substituted “sections 1 and 3 of the Commons Registration Act 1965(a)”, and
- (b) any regulations made under section 29 or 30 of the Act are to apply in relation to commons councils established under Part 2 by virtue of this Order.”.

Commencement of provisions

3.—(1) In this article —

- (a) “the 2006 Act” means the Commons Act 2006; and
- (b) “Part 1” means Part 1 of Schedule 6 (repeals relating to registration) to the 2006 Act.

(2) The entry in Part 1 relating to the 1965 Act, and section 53 of the 2006 Act in so far as it relates to that entry, come into force on 1st December 2010 to the extent of repealing the following provisions (and in so far as the repeal of such provisions has not already been commenced)—

- (a) sections 4, 5, 6 and 7;
- (b) sections 17 and 18;
- (c) paragraphs (c), (e), (f), (h) and (i) of section 19(1); and
- (d) paragraph (k) of section 19(1) (but only in so far as this provision relates to the making of regulations which prescribe anything required or authorised to be prescribed by sections 4, 5, 6 or 7 of the 1965 Act).

(3) The entries in Part 1 relating to the following enactments, and section 53 of the 2006 Act in so far as it relates to those entries, come into force on 1st December 2010—

- (a) Parliamentary Commissioner Act 1967(b);
- (b) Tribunal and Inquiries Act 1992(c);
- (c) Judicial Pensions and Retirement Act 1993(d); and
- (d) Constitutional Reform Act 2005(e).

Savings

4.—(1) Paragraph (2) applies where, before 1st December 2010, a commons registration authority has not complied with any requirement imposed on it by section 6(2) or (3) or section 7(2) of the 1965 Act or by regulations made under any of those provisions.

(2) The following provisions continue to apply in relation to any such requirement until it is complied with, as if the provisions had not been repealed or revoked—

- (a) section 6(2), and regulations made under both sections 6(2) and 19(1)(k), of the 1965 Act(f);
- (b) section 6(3) of the 1965 Act; and
- (c) section 7, and regulations made under both sections 7(2) and 19(1)(k), of the 1965 Act(g).

(3) Paragraphs (c), (f) and (i) of section 19(1) of the 1965 Act continue to have effect in so far as those provisions concern the making of relevant regulations, and any relevant regulations that were in effect immediately prior to the date on which this Order is made continue to apply as if those provisions had not been repealed.

(a) 1965 c. 64; section 1 was amended by paragraph 7(1) and (2) of Schedule 11 to the Land Registration Act 2002 (c. 9).

(b) 1967 c. 13.

(c) 1992 c. 53.

(d) 1993 c. 8.

(e) 2005 c. 4.

(f) The Regulations subject to the savings in article 4(2)(a) are S.I. 1972/437 as amended by S.I. 1993/1771.

(g) The Regulations subject to the savings in article 4(2)(c) are S.I. 1970/1371.

(4) In paragraph (3), “relevant regulations” means regulations made under section 19(1)(c), (f), or (i) of the 1965 Act relating to applications made pursuant to regulations under section 13 of that Act.

Consequential and supplemental provision

5.—(1) With effect from 1st December 2010, any proceedings in respect of a decision made by a Commons Commissioner may be brought or continued against the Secretary of State and, for the purposes of any such proceedings, the Secretary of State assumes the powers and responsibilities of the Commons Commissioners that existed immediately prior to the date on which this Order is made.

(2) In paragraph (1) “Commons Commissioner” means a Commissioner appointed under section 17(1)(a) of the 1965 Act.

21st September 2010

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

22nd September 2010

Elin Jones
Minister for Rural Affairs, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st December 2010, in relation to England and Wales, the repeal by the Commons Act 2006 (“the Act”) of provisions in the Commons Registration Act 1965 (“the 1965 Act”) relating to the provisional registration of land under the 1965 Act, the determination of objections to such registration and the appointment and procedures of the Commons Commissioners. These provisions have ceased to have any purpose since the time period for submitting applications for provisional registration under the 1965 Act has expired and all provisional registrations referred to the Commons Commissioners have been determined.

Upon commencement of the repeal the role of the Commons Commissioners ceases to exist. The Order contains consequential and supplemental provisions to allow proceedings in respect of a decision made by a Commons Commissioner to be brought or continued against the Secretary of State.

The Order contains saving provisions.

The Order also amends the Commons Act 2006 (Commencement No. 5) (England) Order 2010 (S.I. 2010/61 (C. 10)) (“the principal Order”) so as to extend the application of Part 2 (sections 26 to 37) of the Act and orders and regulations made under Part 2. Part 2 of the Act provides for the establishment of commons councils, their status and constitution, and their functions, together with supplementary provisions.

The principal Order brought Part 2 of the Act into force in relation only to areas in respect of which section 1 had been commenced and which are thus registered in either a register of common land or a register of town or village greens kept under Part 1 of that Act. (This limitation is the effect of section 26(2) of the Act, as read with section 61(2).) By virtue of this amendment, the commencement of Part 2 is extended to any area of England where, until such time as section 1 of the Act is commenced in respect of it, registration is still effected under the 1965 Act. This extension of the application of Part 2 has effect from 1st December 2010.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Commons Act 2006 have been brought into force in relation to England by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1, 2 and 3 (pilot areas only)	1st October 2008	2008/1960 (C.94)
Sections 4 and 5	6th April 2007	2007/456 (C.17)
Sections 6 to 8 (pilot areas only)	1st October 2008	2008/1960 (C.94)
Sections 10 to 14 (pilot areas only)	1st October 2008	2008/1960 (C.94)
Section 15	6th April 2007	2007/456 (C.17)
Sections 16 and 17	1st October 2007	2007/2584 (C.98)
Sections 18 to 22 (pilot areas only)	1st October 2008	2008/1960 (C.94)
Section 23 (partially)	1st October 2006	2006/2504 (C.84)
Section 23 (remainder) (pilot areas only)	1st October 2008	2008/1960 (C.94)
Section 24	6th April 2007	2007/456 (C.17)
Sections 26 to 37 (areas in respect of which section 1 has been commenced only)	20th January 2010	2010/61 (C.10)
Sections 38 to 43	1st October 2007	2007/2584 (C.98)
Sections 44(1) (partially)	1st October 2006	2006/2504 (C.84)
Section 44 (remainder)	1st October 2007	2007/2584 (C.98)
Section 45	1st October 2006	2006/2504 (C.84)
Section 46	1st October 2008	2008/1960 (C.94)
Section 47	1st October 2006	2006/2504 (C.84)
Section 48	1st October 2007	2007/2564 (C.98)
Section 49	1st October 2006	2006/2504 (C.84)
Section 51	1st October 2006	2006/2504 (C.84)
Section 52 (partially)	1st October 2006	2006/2504 (C.84)
Ditto	20th February 2007	2007/456 (C.17)
Section 53 (partially)	1st October 2006	2006/2504 (C.84)
Ditto	6th April 2007	2007/456 (C.17)
Ditto	1st October 2007	2007/2584 (C.98)
Ditto (pilot areas only)	1st October 2008	2008/1960 (C.94)
Schedule 2 (pilot areas only)	1st October 2008	2008/1960 (C.94)
Schedule 3, paragraph 9	1st October 2006	2006/2504 (C.84)
Schedule 3 (remainder) (pilot areas only)	1st October 2008	2008/1960 (C.94)
Schedule 4, paragraph 6	1st October 2006	2006/2504 (C.84)
Schedule 4, (remainder)	1st October 2007	2007/2584 (C.98)
Schedule 5, paragraph 4	20th February 2007	2007/456 (C.17)
Schedule 5, paragraph 6 (partially)	20th February 2007	2007/456 (C.17)
Schedule 5, paragraph 7 (partially)	1st October 2006	2006/2504 (C.84)
Schedule 6, Part 1 (partially)	1st October 2006	2006/2504 (C.84)
Ditto	6th April 2007	2007/456 (C.17)
Ditto (pilot areas only)	1st October 2008	2008/1960 (C.94)
Schedule 6, Part 2 (partially)	1st October 2006	2006/2504 (C.84)
Schedule 6, Part 2 (remainder)	1st October 2007	2007/2584 (C.98)
Schedule 6, Part 3 (partially)	1st October 2006	2006/2504 (C.84)
Schedule 6, Part 3 (remainder)	1st October 2007	2007/2584 (C.98)
Schedule 6, Part 5	1st October 2007	2007/2584 (C.98)

The “pilot areas” means the registration areas in England, as at 1st October 2008, of the commons registration authorities specified in the Schedule to the Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960 (C.94)).

The following provisions of the Commons Act 2006 have been brought into force in relation to Wales by a commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 3 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 5	6 September 2007	2007/2386 (W. 197) (C.88)
Sections 6 to 8 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Sections 11 to 14 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 15	6 September 2007	2007/2386 (W. 197) (C.88)
Section 19 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Sections 20 and 21 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 22 to 25 (for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 23 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Section 24 (remainder)	6 September 2007	2007/2386 (W. 197) (C.88)
Section 29 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 31 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Sections 39 to 40 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Sections 42 to 44 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 44 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Section 45	6 September 2007	2007/2386 (W. 197) (C.88)
Section 47	6 September 2007	2007/2386 (W. 197) (C.88)
Section 49	6 September 2007	2007/2386 (W. 197) (C.88)
Section 50 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Section 51	6 September 2007	2007/2386 (W. 197) (C.88)
Section 52 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Section 53 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 2 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Schedule 3 (partially and for certain purposes only)	12 August 2007	2007/2386 (W. 197) (C.88)
Schedule 3, paragraph 9	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 4, paragraph 6	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 5, paragraph 4	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 5, paragraph 6 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 5, paragraph 7 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 6, Part 1 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 6, Part 2 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 6, Part 3 (partially)	6 September 2007	2007/2386 (W. 197) (C.88)
Schedule 6, Part 5	6 September 2007	2007/2386 (W. 197) (C.88)

STATUTORY INSTRUMENTS

2010 No. 2356 (C. 114)

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The Commons Act 2006 (Commencement No. 1 and Savings
(England and Wales) and Commencement No. 5 (England)
(Amendment)) Order 2010

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