WELSH STATUTORY INSTRUMENTS

2012 No. 739 (W.99) (C.19)

COMMONS, WALES

The Commons Act 2006 (Commencement No.2, Transitional Provisions and Savings) (Wales) Order 2012

Made - - - - 7 March 2012

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 56(1) and 59(1) of the Commons Act 2006(**1**), and now exercisable by them(**2**), make the following Order:

Title, interpretation and application

1.—(1) The title of this Order is the Commons Act 2006 (Commencement No.2, Transitional Provisions and Savings) (Wales) Order 2012.

(2) In this Order—

"the 1965 Act" ("*Deddf 1965*") means the Commons Registration Act 1965(**3**); and

"the 2006 Act" ("*Deddf 2006*") means the Commons Act 2006.

(3) This Order applies in relation to Wales.

Provisions coming into force

2. The following provisions of the 2006 Act come into force on 1 April 2012—

(a) section 16 (deregistration and exchange: applications);

(b) section 17(1) to (2) and (4) to (9) (deregistration and exchange: orders);

(c) section 38 (prohibition on works without consent);

(d) section 39(1) to (5) and (7) (consent: general);

(e) section 41 (enforcement);

(f) section 42(1) to (3) and (5) (schemes);

(g) section 48 (inclosure); and

(h) insofar as they have not already come into force—

(**1**) 2006 c. 26; section 61(1) defines "appropriate national authority" as the National Assembly for Wales, in relation to Wales.

(**2**) The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**3**) 1965 c. 64.

(i) Schedule 4 (works: supplementary); and

(ii) Parts 2, 3 and 5 of Schedule 6 (repeals), and section 53 insofar as it relates to those provisions.

Provisions coming into force for all remaining purposes

3. The following provisions of the 2006 Act come into force for all remaining purposes on 1 April 2012—

(a) section 17(3) and (10) (deregistration and exchange: orders);

(b) section 39(6) (consent);

(c) section 40 (consent: procedure);

(d) section 42(4) (schemes);

(e) section 43 (power to exempt); and

(f) section 44 (supplementary).

Transitional provisions and savings

4.—(1) Until the coming into force of section 1 of the 2006 Act in relation to any area of Wales—

(a) references to land being registered as common land or as a town or village green in—

(i) sections 16 and 17 of the 2006 Act;

(ii) sections 38 and 44 of the 2006 Act; and

(iii) section 29(2) of the National Trust Act 1907(**4**),

are, in relation to that area, to be taken as references to land being so registered under the 1965 Act;

(b) references in section 17 of the 2006 Act to rights of common being registered as exercisable over such land are to be taken, in relation to that area, as references to rights of common being so registered under the 1965 Act; and

(c) an order under section 17(1) of the 2006 Act relating to land in that area is to be taken as an order requiring the commons registration authority to remove the release land from its register of common land or town or village greens kept under the 1965 Act, and (where applicable) to register the matters referred to in section 17(2) of the 2006 Act in that register.

(2) Despite the repeal of section 147 of the Inclosure Act 1845(**5**), section 4 of the Inclosure Act 1847(**6**) and sections 4 and 5 of the Inclosure Act 1857(**7**), any application for an order of exchange under section 147 of the Inclosure Act 1845 made before 1 April 2012 is to be dealt with on and after that date as if those provisions remained in force.

(3) Section 38(1) of the 2006 Act will not apply in relation to any works carried out in accordance with consent which is granted under section 194 of the Law of Property Act 1925(**8**) before 1 April 2012.

(4) Despite the repeal of section 194 of the Law of Property Act 1925—

(a) any application for consent under that section made before 1st April 2012 is to be dealt with on or after that date as if that section remained in force; and

(**4**) 1907 c.cxxxvi. Section 29(2) is inserted by section 44(1) of and paragraph 3 of Schedule 4 to the 2006 Act.
(**5**) 1845 c. 118. Section 147 is repealed by sections 48(1) and 53 of, and Part 3 of Schedule 6 to, the 2006 Act.
(**6**) 1847 c. 111. Section 4 is repealed by section 53 of, and Part 3 of Schedule 6 to, the 2006 Act.
(**7**) 1857 c. 31. Sections 4 and 5 are repealed by section 53 of, and Part 3 of Schedule 6 to, the 2006 Act.
(**8**) 1925 c. 20. Section 194 is repealed by section 53 of, and Part 2 of Schedule 6 to, the 2006 Act.

(b) if consent is granted on such an application, section 38(1) of the 2006 Act will not apply in relation to any works carried out in accordance with that consent.

(5) Section 23(2A) of the National Trust Act 1971(**9**) will not apply in relation to any application for consent under that section made before 1st April 2012.

John Griffiths
Minister for Environment and Sustainable Development, one of the Welsh Ministers

7 March 2012

(**9**) 1971 c.vi. Section 23(2A) is inserted by section 44(1) of, and paragraph 4(3) of Schedule 4 to, the 2006 Act.