STATUTORY INSTRUMENTS

2015 No. 1515

COMMONS, ENGLAND

The Bodmin Moor Commons Council Establishment Order 2015

Made - - - -	*14th July 2015*
Laid before Parliament	*16th July 2015*
Coming into force - -	*1st September 2015*

The Secretary of State has published a draft of this Order in the area of Bodmin Moor and invited representations about it in accordance with section 27(2) of the Commons Act 2006(**1**).

In accordance with section 27(4) of that Act, the Secretary of State is satisfied that there is substantial support for the making of this Order.

The Secretary of State considers, in accordance with section 31(2) of that Act, that the functions conferred on the commons council(**2**) established by this Order are appropriate in the case of that council.

In exercise of the powers conferred by sections 26, 29(3) and (4), 30, 31(1) to (4), 35(2) and 36(1) and (2)(b) of that Act, the Secretary of State makes this Order.

Title and commencement

1. This Order may be cited as the Bodmin Moor Commons Council Establishment Order 2015 and comes into force on 1st September 2015.

Interpretation

2. In this Order—

"the 2006 Act" means the Commons Act 2006;

"active grazier" means—

(a) in relation to the election and appointment of the first members of the Council, a commoner named in the list compiled under paragraph 2(a) of Schedule 2;

(**1**) 2006 c. 26; section 61(1) defines the "appropriate national authority" as the Secretary of State, in relation to England.
(**2**) The expression "commons council" is defined by section 61(1) of the Commons Act 2006 as a commons council established under Part 2 of that Act.

(b) in relation to subsequent elections and appointments, a commoner who is registered under article 8(1)(a), or pursuant to an application under article 8(2), in the register maintained by the Council under article 8(1);

"the appointed day" means 1st March 2016;

"commoner" has the meaning it is given in the Standard Constitution;

"the Commons" means all those areas of registered common land, within the area known as Bodmin Moor in the county of Cornwall, that are listed in Schedule 1 against the name of the Section in which they are respectively situated;

"the Council" means the Bodmin Moor Commons Council established by article 3;

"owner", in relation to the Commons, means a person holding the estate of fee simple in the land in which the Commons or any part of the Commons is situated, and any reference to owning, or ownership of, the Commons is to be construed accordingly;

"Section" means one of the eight sub-divisions of Bodmin Moor, those sub-divisions being Blisland, Hamatethy, Davidstow, Westmoor, East Moor, St Cleer & District, Warleggan and Cardinham;

"Section-Group" means any one of the following four groupings of the Sections—

(a) Blisland and Hamatethy;

(b) Davidstow, Westmoor and East Moor;

(c) St Cleer & District;

(d) Warleggan and Cardinham;

"the Standard Constitution" means the constitution in the Schedule to the Commons Councils (Standard Constitution) (England) Regulations 2010(**3**).

Establishment of the Council

3. With effect from the appointed day a commons council, to be known as the Bodmin Moor Commons Council, is established for the Commons.

Membership of the Council

4.—(1) The Council is to consist of not fewer than 24 and not more than 26 members, of whom—

(a) for each of the Sections, two are to be elected from among themselves by the active graziers on land registered as common land in that Section;

(b) for each of the Section-Groups, one is to be elected from among themselves by the commoners with rights of common over land in that Section-Group and who are not active graziers;

(c) four are to be appointed by the owners of land forming part of the Commons, to represent their interests;

(d) one, being a veterinary surgeon, may be co-opted by the members referred to in sub-paragraphs (a), (b) and (c); and

(e) one further member may be co-opted by the members referred to in sub-paragraphs (a), (b) and (c).

(2) Elections and appointments of members of the Council under paragraph (1)(a) to (c) are first to be held and made before the appointed day.

(**3**) S.I. 2010/1204.

(3) The members first elected or appointed under paragraph (1)(a) to (c) (unless a member resigns or dies, or Schedule 2 provides differently) are to hold office from the appointed day until the end of February 2020.

(4) Elections and appointments of subsequent members of the Council under paragraph (1)(a) to (c) are to be held or made before the end of February 2020 and in every fourth year after that, to replace those members whose terms of office expire in that year.

(5) Each member so elected or appointed is to hold office (unless the member resigns or dies, or paragraph (6) applies, or Schedule 2 provides differently) for four years from 1st March next following their election or appointment.

(6) A person elected as a member of the Council under paragraph (1)(a) or (b) ceases to be a member of the Council if at any time during the period of membership that person ceases to be eligible for membership.

(7) A person co-opted as a member of the Council under paragraph (1)(d) or (e) is to hold office (unless the member resigns or dies, or Schedule 2 provides differently) from the date on which that person's co-option has effect until—

(a) the date of expiry of the then current terms of the members of the Council who co-opted that member; or

(b) such earlier date as the members of the Council who co-opted that member may determine.

(8) Schedule 2 (election and appointment of members) has effect.

Functions of the Council

5. The Council has the following functions—

(a) managing agricultural activities on the Commons;

(b) managing vegetation on the Commons;

(c) managing rights of common on the Commons;

(d) making rules relating to—

(i) agricultural activities, the management of vegetation and the exercise of rights of common on the Commons;

(ii) the leasing or licensing of rights of common;

(e) preparing and maintaining a register of the grazing of animals on the Commons in accordance with article 8;

(f) establishing and maintaining boundaries on land forming part of the Commons or between the Commons and adjoining land;

(g) removing unlawful boundaries and other encroachments on the Commons; and

(h) removing animals unlawfully permitted to graze on the Commons.

Rules: further provision

6.—(1) Rules under article 5(d)(i) may in particular include provision—

(a) limiting periods when animals may be turned out onto the Commons;

(b) limiting the number of animals which may be turned out onto the Commons during a specified period (for example, by restricting each commoner with rights to graze animals from exercising more than a specified proportion of those rights during the specified period);

(c) restricting or prohibiting the turning out of entire animals;

(d) prohibiting the turning out of animals by anyone not having a legal right to do so;

(e) about measures to be taken to control disease among animals on the Commons, including temporary prohibition of the grazing of animals on the Commons;

(f) about the supplementary feeding of animals on the Commons;

(g) about standards of husbandry to be followed by persons keeping animals on the Commons; and

(h) requiring, from any person to be entered in the register maintained in accordance with article 8, the information described in that article.

(2) Rules may be made under article 5(d)(i) applying to—

(a) all of the Commons; or

(b) such of the areas of land comprised in the Commons as are specified in the rules.

Procedure for making, varying or revoking rules

7.—(1) Rules under article 5(d) are to be made pursuant to a decision of the Council and must be confirmed by the Secretary of State before coming into force.

(2) Paragraph (1) applies to any variation of such rules as it applies to the making of rules, save that a variation consisting solely of the revocation of one or more rules is not subject to confirmation by the Secretary of State.

(3) At least one month before applying to the Secretary of State for confirmation of the rules, the Council must—

(a) publish notice of its intention to apply for confirmation together with—

(i) details of the website on which publication is required under paragraph (ii), in one or more local newspapers circulating in the area of the Commons; and

(ii) a copy of the rules, on an appropriate website;

(b) give notice in writing of its intention to apply for confirmation, together with a copy of the rules, to—

(i) every commoner whose name and address appears in the register maintained in accordance with article 8;

(ii) such persons (if any) as it considers represent the interests of commoners not included in paragraph (i); and

(iii) every owner of the Commons;

(c) give notice in writing of its intention to apply for confirmation to, and deposit a copy of the rules with—

(i) the proper officer of Cornwall Council;

(ii) the proper officer of the Cornwall Area of Outstanding Natural Beauty Partnership; and

(iii) the chairman of each parish council and parish meeting within the area of the Commons; and

(d) post a copy of the rules, together with a statement of its intention to apply for confirmation of them, in a prominent place on or in the locality of each area of land forming part of the Commons.

(4) The Council must provide to any person who so requests a copy of the rules, before or after confirmation, on payment of a reasonable charge.

(5) If any written representations are served on the Council before it applies for confirmation of the rules, the Council must send a copy of the representations to the Secretary of State with the application for confirmation, and the Secretary of State must take account of any such representations in deciding whether to confirm the rules.

(6) The Secretary of State may confirm, or refuse to confirm, any rules submitted under this article for confirmation, but reasons must be given to the Council if the Secretary of State refuses to confirm them.

(7) When rules have been confirmed by the Secretary of State, they come into force—

(a) one month after the date of their confirmation; or

(b) upon such later date as the Secretary of State may determine.

(8) When rules have been confirmed by the Secretary of State, the Council must, at least 14 days before the rules come into force—

(a) publish notice of their confirmation, together with a copy of the rules and notification of the date on which they are to come into force, on an appropriate website;

(b) give notice in writing of their confirmation and the date on which they are to come into force to, and deposit a copy of the rules with—

(i) the proper officer of Cornwall Council;

(ii) the proper officer of the Cornwall Area of Outstanding Natural Beauty Partnership; and

(iii) the chairman of each parish council and parish meeting within the area of the Commons;

(c) give notice in writing of their confirmation and the date on which they are to come into force, together with a copy of the rules, to—

(i) every commoner whose name and address appears in the register maintained in accordance with article 8;

(ii) such persons (if any) as it considers represent the interests of commoners not included in paragraph (i);

(iii) every owner of the Commons; and

(iv) the chief constable of Devon and Cornwall Police; and

(d) post a copy of the rules, together with a statement that they have been confirmed and the date on which they come into force, in a prominent place on or in the locality of each area of land forming part of the Commons.

(9) Where the Council is acting solely to revoke any rules made under article 5(d), not less than 14 days before the revocation comes into force the Council must—

(a) publish notice of the revocation, together with a copy of the rules (in which any unrevoked rules are clearly to be distinguished from those newly revoked), on an appropriate website;

(b) give notice in writing of the revocation, and the date on which it comes into effect, to—

(i) the Secretary of State;

(ii) the proper officer of Cornwall Council;

(iii) the proper officer of the Cornwall Area of Outstanding Natural Beauty Partnership;

(iv) the chairman of each parish council and parish meeting within the area of the Commons;

(v) every commoner whose name and address appears in the register maintained in accordance with article 8;