Draft Regulations laid before Parliament under section 59(3) of the Commons Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

COMMONS, ENGLAND

The Commons Councils (Standard Constitution) (England) Regulations 2010

Made - - - - ***

Coming into force in accordance with regulation 1(b)

The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections 29(1) and 30 of the Commons Act 2006(**1**).

In accordance with section 59(3) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Title, commencement and application

1. These Regulations—

(a) may be cited as the Commons Councils (Standard Constitution) (England) Regulations 2010;

(b) come into force on the day after the day on which they are made; and

(c) apply in relation to England.

Standard constitution of commons councils

2. The standard terms as to the constitution and administration of commons councils (the "standard constitution"), which (by virtue of section 29(2) of the Commons Act 2006) apply to every commons council established by an order under section 26 of that Act for any area or areas of land in England, are those set out in the Schedule(**2**).

(**1**) 2006 c.26; section 61(1) defines the "appropriate national authority" as the Secretary of State, in relation to England.

(**2**) Section 29(5) of the Commons Act 2006 provides that where (under section 29(3) of that Act) an order under section 26 of that Act establishing a commons council makes provision as to the constitution and administration of that council, and that provision is inconsistent with any term of the standard constitution and any such term has not been expressly disapplied, then the provision made under section 29(3) will prevail, to the extent of any inconsistency, over the term of the standard constitution.

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

Date

THE SCHEDULE Regulation 2

STANDARD CONSTITUTION OF COMMONS COUNCILS

Definitions

1. In this standard constitution—

"commoner" means a person entitled to exercise a registered right of common over any land in respect of which a commons council is established, and includes—

(a) a person in favour of whom such a right has been temporarily severed by the person otherwise entitled to it where that temporary severance was achieved by leasing or licensing in accordance with article 2(1) of the Commons (Severance of Rights) (England) Order 2006(**3**), and

(b) a person whose entitlement to exercise such a right has lawfully been suspended under an agreement to which that person is a party;

"establishment order" means an order under section 26 of the Commons Act 2006 establishing a commons council;

"financial year" means the 12 months ending on 31st March or such other date as may for the time being be decided by a commons council;

"officer" means the chairperson, secretary or treasurer of a commons council, or other member of the council who is appointed to a specified office in accordance with paragraph 11;

"owner" means the owner of any land in respect of which a commons council is established.

Membership

2. The members of a commons council are to be the individuals—

(a) elected by a class of persons,

(b) appointed by a specified person, or

(c) co-opted by the existing members,

from time to time in accordance with the council's establishment order.

3.—(1) The persons eligible to become members of a commons council are—

(a) any commoner;

(b) any owner; and

(c) such other persons or classes of persons as may be specified in its establishment order.

(2) The persons entitled to elect or appoint members of a commons council are—

(a) the commoners;

(b) the owners; and

(c) such other persons or classes of persons as may be specified in its establishment order.

4. Where, in accordance with section 32 of the Commons Act 2006, a commons council has duly required the payment of a fee by any person, that person may only—

(a) become or remain a member of the council,

(b) participate in the appointment or election of members of the council, or

(c) otherwise participate in the affairs of the council,

(**3**) S.I. 2006/2145.