

Dartmoor Commons Act 1985

CHAPTER xxxvii

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Dartmoor Commons Act 1985

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ELIZABETH II

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An Act to constitute the Dartmoor Commoners' Council for the maintenance of and the promotion of proper standards of livestock husbandry on the commons in and about the Dartmoor National Park; to regulate public access to the commons; to confer powers on that Council and on the county council of Devon with reference to those commons; and for connected and other purposes. [30th October 1985]

WHEREAS the county of Devon is, for certain purposes, under the management and local government of the county council of that county (hereinafter respectively called "the county" and "the county council"):

And whereas the Dartmoor National Park (hereinafter called "the Park") in the districts of South Hams, Teignbridge, Mid Devon and West Devon in the county is an area designated under the National Parks and Access to the Countryside Act 1949 and the county council exercise powers under that Act and other enactments for the purpose of conserving and enhancing the natural beauty of the Park and of promoting its enjoyment by the public. 1949 c.97.

1965 c.64. And whereas some two-fifths of the area of the Park is registered as common land under the names of various commons pursuant to the Commons Registration Act 1965, and there are other common lands in the environs of the Park also so registered which are suitable for regulation in conjunction with the commons lying in the Park:

And whereas under the said Act of 1965 there are registered rights of common deriving from venville rights and otherwise, and the register includes details in each case of the nature of the right enjoyed and the lands within the said commons over which the right is exercisable:

And whereas for the better use of all the said commons for purposes of livestock husbandry it is expedient that there be constituted a council to be called the Dartmoor Commoners' Council, and that there be conferred on that Council and the county council powers with reference to those commons as by this Act provided:

And whereas it is expedient that the public be afforded a right of access to the said commons as by this Act provided:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

1972 c.70. And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I PRELIMINARY

- Short title. **1.** This Act may be cited as the Dartmoor Commons Act 1985.
- Interpretation. **2.**—(1) In this Act, unless the context otherwise requires —
1949 c. 97. “the Act of 1949” means the National Parks and Access to the Countryside Act 1949;
“the Act of 1965” means the Commons Registration Act 1965;
“the Act of 1972” means the Local Government Act 1972;

“the appointed day” means 30th June 1986;

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“commoners” means the respective persons entitled to exercise rights of common upon the commons, being rights registered (whether for the time being provisionally or finally) under the Act of 1965 or registered under the Land Registration Acts 1925 and 1936;

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“commoners’ association” means each of the bodies of commoners specified in Part I of Schedule 3 to this Act but without prejudice to Part II of that Schedule; and “the commoners’ associations” means all those associations;

“the commons” means subject to any addition, extinction, exchange or variation as respects any part thereof effected under or by virtue of any enactment authorising the acquisition of land, so much of the land in the districts of South Hams, Teignbridge and West Devon in the county of Devon as is on the passing of this Act registered in the register of common land maintained by the county council of Devon under the Act of 1965 and lies within the areas edged in pink on the plan of which five copies have been signed by Mr Ivor Stanbrook the chairman of the committee of the House of Commons to whom the Bill for this Act was referred and deposited respectively at –

(a) the office of the Clerk of the Parliaments, House of Lords;

(b) the Private Bill Office of the House of Commons;

(c) the Department of the Environment;

(d) the office of the proper officer (within the meaning of section 270 (3) of the Act of 1972) of the county council; and

(e) the office of the secretary of the Commoners’ Council, as soon as may be after his appointment under this Act after the appointed day:

Provided that there shall be excluded from the commons any land which is provisionally registered for the purposes of the Act of 1965 until its registration has become final and any land which may, for the time being, be excepted land for the purposes of section 10 of this Act;

“the Commoners’ Council” means the Dartmoor Commoners’ Council constituted by this Act;

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– cont.

“enactment” includes an enactment in any Act, including this Act, and in any order, byelaw, scheme or regulation in force within the county;

“financial year” means the 12 months ending 30th June or such other date as may for the time being be determined by resolution of the Commoners’ Council;

“livestock unit” means one horse, one cattle beast or 5 sheep;

“newspaper advertisement” means an advertisement in a local newspaper circulating in the area of the commons;

“owner”, in relation to land, has the same meaning as it has for the purposes of Parts I, II and IV to VI of the Act of 1949;

“the Park Authority” means the county council of Devon or other the body exercising the functions mentioned in paragraph 5 of Part I of Schedule 17 to the Act of 1972 (planning and countryside functions in National Parks) in relation to Dartmoor National Park;

“the register” means the register prepared and kept under section 7 of this Act;

“the secretary of the Commoners’ Council” includes any person for the time being authorised by the Commoners’ Council to discharge the duties of secretary of the Commoners’ Council;

1982 c.48. “standard scale” shall be construed in accordance with section 75 of the Criminal Justice Act 1982.

(2) The functions of the Park Authority under this Act, other than the power to make byelaws under section 11 of this Act, shall be included among the functions of the county council of Devon mentioned in paragraph 5 of Part I of Schedule 17 to the Act of 1972.

(3) References in this Act to the conservation of the natural beauty of any area shall be construed as including references to the conservation of its flora, fauna, ecological, archaeological and geological and geographical and physiological features.

PART II DARTMOOR COMMONERS’ COUNCIL

Establishment of Commoners’ Council. **3.**–(1) On the appointed day there shall be constituted a Council to be called “the Dartmoor Commoners’ Council” for the purpose of exercising the functions assigned to them by this Act.

(2) The Commoners' Council shall consist of not less than 26 and not more than 28 members, of whom 26 shall be appointed as follows:— PART II
— cont.

- (a) 16 by the commoners in manner prescribed by paragraphs 9 to 13 of Schedule 1 to this Act;
- (b) 2 by the Park Authority one of whom shall be a person appointed to the Park Authority in accordance with paragraph 11 of Schedule 17 to the Act of 1972 (appointments by the Secretary of State);
- (c) one by the Duchy of Cornwall;
- (d) 2, being persons appearing to represent the interests of owners (other than the Duchy of Cornwall and the Park Authority) of lands forming part of the commons, by the Park Authority;
- (e) one veterinary surgeon by members appointed pursuant to paragraphs (a) to (d) above and (f) below whose practice does not include the care of any livestock grazing in Dartmoor National Park;
- (f) 4 by the commoners in manner prescribed by paragraphs 2 to 11, 12(2) and (3) and 13 of Schedule 1 to this Act, being commoners entitled under the Act of 1965 to graze less than 10 livestock units on the commons and whose names are recorded in the register as normally grazing an animal or animals.

(3) The Commoners' Council may co-opt not more than two persons as members of the Commoners' Council who shall respectively hold office for such period not exceeding four years and otherwise on such terms and conditions as may be specified upon appointment.

(4) The provisions set out in Schedule 1 to this Act shall have effect as respects the appointment of members of the Commoners' Council.

(5) The incidental provisions set out in Schedule 2 to this Act shall apply in relation to the Commoners' Council and the members thereof.

PART III REGULATION OF THE COMMONS

A. Regulation of common rights by Commoners' Council

4.—(1) Subject to this Act, it shall be the duty of the Commoners' Council to take such steps as appear to them to be necessary and reasonably practicable for the maintenance of the commons and the promotion of proper standards of livestock husbandry thereon (including the assessment of the number of Functions of
Commoners'
Council.

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– cont.

animals which can properly be depastured on the commons from time to time); and in discharging that duty the Commoners' Council shall have regard to the conservation and enhancement of the natural beauty of the commons and its use as a place of resort and recreation for enjoyment by the public.

(2) Subject to subsection (3) below, the Commoners' Council may–

- (a) protect the commons and render assistance to any commoner in the maintenance of his rights of common;
- (b) burn heather, gorse, grass and bracken on the commons to such extent as in their opinion is desirable for purposes of livestock husbandry;
- (c) plant clumps of trees (not exceeding one acre as respects any clump) for the protection of animals depastured on the commons, and fence and enclose trees following any such planting for as long as may be necessary to afford protection from animals:

Provided that any tree so planted shall be of a broad-leaved species naturally growing on Dartmoor and any clump so planted shall be not less than one mile from any other clump of trees;

- (d) enter into agreements with any owner of any of the land within any of the areas edged pink on the plan referred to in section 2 of this Act for the management by the Commoners' Council of grazing thereon;

and, subject to the provisions of this Act, the Commoners' Council shall have power to do any thing (whether or not involving the expenditure, setting aside, borrowing, investment or lending of money, or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

(3) The Commoners' Council shall not take any action under paragraphs (b) and (c) of subsection (2) above except with the consent of the owner of the common land as respects which action is proposed; but such consent shall be deemed to have been given in any case where–

- (a) notice applying therefor has been served on the owner and notice of refusal has not within 6 weeks thereafter been served on the Commoners' Council; or
- (b) the identity of the owner cannot after reasonable inquiry be ascertained and notice of refusal has not been served by him on the Commoners' Council within 6 weeks after the display by the Commoners'

Council in a conspicuous position on the land as respects which action is proposed of a notice specifying that land and the action intended.

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– cont.

(4) The provisions of section 194 of the Law of Property Act 1925 (restrictions as to works on commons) shall apply in relation to the erection of any building or fence or the construction of any other work under the powers of this section, notwithstanding anything in subsection (4) of that section. 1925 c. 20.

(5) (a) In the performance of their functions under this Act, the Commoners' Council shall not less than 28 days before undertaking, or giving permission to others to undertake, any relevant operation, give notice in writing to the Nature Conservancy Council of that intention; and in this subsection "relevant operation" means an operation which in the opinion of the Nature Conservancy Council might be detrimental to the flora, fauna or geological or physiographical features of any land to which this subsection applies and in relation to which written notice of that opinion has previously been given by the Nature Conservancy Council to the Commoners' Council.

(b) This subsection applies to any land notified as an area of special scientific interest under section 28 of the Wildlife and Countryside Act 1981. 1981 c. 69.

(6) (a) The Commoners' Council may, without prejudice to the continued exercise by them of their functions under this Act and on such terms and conditions as they think fit, arrange for the discharge of any of their functions (other than functions relating to the regulation and control of the finance of the Commoners' Council and the making of regulations under section 5 of this Act) by a commoners' association, association of commoners' associations or any local authority within the meaning of the Act of 1972 whose area includes any part of the commons.

(b) It shall be a condition of any arrangements made under paragraph (a) above that any action under paragraphs (b) and (c) of subsection (2) above shall require the prior approval of the Commoners' Council.

5.-(1) For the purpose of fulfilling their functions under section 4 of this Act, the Commoners' Council— Regulations.

(a) shall make regulations for the following purposes:—

(i) to ensure the good husbandry and maintenance of the health of all animals depastured on the commons;

(ii) to ensure that the commons are not overstocked and, for that purpose, may fix or provide for the fixing of the number of animals or

PART III
– cont.

animals of any description which from time to time may be depastured on the commons by virtue of a right of common or of any other right or privilege;

(iii) to ensure that all animals depastured on the commons are from their introduction duly hefted or flocked and permanently marked for the purpose of identifying their ownership;

(iv) to control stallions, rams or other male entire commonable animals and to prescribe or provide for prescribing conditions (as to time, or as to the class, description, age or characteristics of animals) under which male entire commonable animals may be depastured on the commons;

(v) to ensure that any dead commonable animal is, whenever reasonably practicable, removed from the commons as soon as possible after its death has occurred;

(vi) to exclude from grazing on the commons bulls exceeding the age of 6 months, shod horses, shod ponies and other animals not entitled to be on the commons or any animal which, in the opinion of the Commoners' Council, either has become unthrifty, or is in such a condition that to allow it to remain depastured on the commons would be likely to cause it unnecessary suffering;

(vii) to regulate or prohibit the burning of heather, gorse, grass and bracken on the commons;

(b) may make such other regulations, in relation to the whole or any part of the commons, as they think fit and without prejudice to the generality of the foregoing, regulations may be made for all or any of the following purposes:–

(i) to exclude from grazing on the commons, for such periods as appear reasonably necessary, all animals or animals of a particular description where the Commoners' Council are satisfied that those exclusions are necessary for the maintenance of the commons or for the promotion of proper standards of livestock husbandry;

(ii) generally to regulate the exercise of rights of common of all kinds and rights or privileges having a similar subject matter as rights of common (including rights of grazing deriving otherwise than from rights of common) over the commons and to prohibit the use of the commons for similar purposes by persons purporting to exercise rights in excess of their entitlement or by persons not entitled to such rights either as commoners or otherwise.

(2) (a) Any regulation under subsection (1) (a) (ii) above, so far as it varies the number of animals which by virtue of a right of common or of any other right or privilege may be depastured under that right or privilege, shall so far as is reasonably practicable impose on all holders of the like rights or privileges held in respect of the same unit of the commons a proportionately similar variation. PART III
– cont.

(b) Subject as otherwise provided in section 4 of this Act and this section, regulations under this section shall not–

(i) alter the area over which any right of pasturage may otherwise be exercised;

(ii) so reduce the entitlement of a commoner to depasture animals on the commons as in any circumstances to preclude his depasturing less than two animals;

(iii) impose restrictions or obligations respecting the exercise of any such rights or other rights or privileges, so as to discriminate between rights of the same class or character; nor

(iv) increase the number of animals which a commoner may depasture on the commons to a number exceeding that recorded in the register maintained under the Act of 1965 as the entitlement in respect of the right which he exercises.

(3) Regulations under this section may provide for the detention by any person authorised by the Commoners' Council of any animal found on the commons in contravention of the regulations, for the recovery by the Commoners' Council of the cost of such detention (including the cost of the animal's proper maintenance and of any reasonably necessary treatment for it) and for the sale of the animal by the Commoners' Council subject to the compliance with such conditions as to the giving of notice to the owner of the animal (if it is known to whom it belongs) and otherwise, as may be prescribed in the regulations.

(4) Regulations under this section may provide that persons contravening the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and in the case of a continuing offence a further fine not exceeding £40 for each day during which the offence continues after conviction thereof.

(5) Regulations under subsection (1) (a) (ii) above shall provide that a person aggrieved by a regulation fixing the number of animals which he may depasture on any part of the commons shall have a right of appeal against the number so fixed to an arbitrator who shall be appointed in such manner and on such terms as may be provided by those regulations.

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– cont.

(6) Any regulation made in pursuance of this section and any alteration or revocation thereof shall not have effect unless and until it shall have been confirmed by the Secretary of State, who shall determine the date on which the regulation, alteration or revocation shall come into operation.

(7) (a) Before in any case making regulations under this section, the Commoners' Council shall consult the Park Authority.

(b) Not less than 90 days before in any case making application to the Secretary of State for confirmation of regulations under this section, the Commoners' Council shall serve a copy of the regulations and of this subsection on the proper officer (within the meaning of section 270 (3) of the Act of 1972) of the Park Authority, on the owners of so much of the commons as appears to be affected by the regulations (so far as the identities of such owners can reasonably be ascertained) and on the secretary or other officer authorised in that behalf of each of the commoners' associations; and the Commoners' Council shall forward with any such application a copy of any written representations which may be served on the Commoners' Council by the Park Authority or any such owner or association before the expiry of the 90 days.

(c) If written representations are so served on the Commoners' Council by the Park Authority or any such owner or association, or by any commoner, and not withdrawn, the Secretary of State, unless he is satisfied that he can proceed to a decision in the matter without causing an inquiry or hearing to be held with respect to it, shall either—

(i) cause a local inquiry to be held; or

(ii) afford to the Park Authority, any such owner or association or any commoner making representations, and to the Commoners' Council, an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

(8) Subsections (3) to (6), (8) and (9) of section 236 and section 238 of the Act of 1972 shall apply and have effect with respect to regulations made by the Commoners' Council under this section as they apply to byelaws made by a district council, as if reference –

(a) to byelaws were to regulations under this section;

(b) to the authority, to the authority by whom the byelaws are made, to a district council or to the local authority, were in each case to the Commoners' Council;

(c) to the area to which the byelaws are to apply were to the commons;

- (d) to the confirming authority were to the Secretary of State; and
- (e) to the proper officer of a district council were to a person appointed for the purpose by the Commoners' Council.

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– cont.

(9) In this section “commons” includes any land which is subject to an agreement made under section 4 (2) (d) of this Act but only where that agreement provides that regulations may apply to that land and to the persons who entered into that agreement, their successors in title or any persons deriving title under them.

6.-(1) The Commoners' Council shall appoint such persons as they think necessary to act as reeves for the purpose of enforcing or securing compliance with regulations made under section 5 of this Act and generally for carrying into effect the powers and duties of the Commoners' Council under this Act.

Reeves.

(2) Any person so appointed and acting pursuant to this section shall have with him a warrant as to his appointment and shall produce the same if required.

7.-(1) As from the appointed day the Commoners' Council shall maintain a register in accordance with this section.

Register to be maintained by Commoners' Council.

(2) After passing of this Act and before the appointed day, the Park Authority shall take steps to prepare a register in accordance with this section and for that purpose the functions of the secretary of the Commoners' Council and of the Commoners' Council under the following provisions of this section may be exercised by the Park Authority; and accordingly the references below in subsections (4), (5), (b), (c) and (d), (6) and (7) to the secretary of the Commoners' Council and to the Commoners' Council, shall include reference to the Park Authority.

(3) There shall be recorded in the register the following particulars:–

- (a) the name and address of each person who, by virtue of a right to do so, normally grazes or depastures an animal or animals on the commons from time to time during the year;
- (b) the name and address of every other person who is a commoner and who applies to have his name entered in the register;
- (c) as respects each person within the description of paragraph (a) above, the number of animals which for

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– cont.

the time being he grazes on the commons and the mark by which the ownership of those animals may be identified; and

(d) such other particulars as to the Commoners' Council seems fit.

(4) The secretary of the Commoners' Council may, after giving notice thereof in writing to any person whose name is recorded in the register by post to his address as therein recorded, make such amendments as appear to the secretary fit to any particulars so recorded respecting that person or his rights to use the commons.

(5) (a) It shall be the duty of any person who has grazed or depastured an animal or animals on any part of the commons in the period of 12 months ending 3 months before the appointed day, to supply to the Park Authority not less than 3 months before the appointed day such particulars as are reasonably required for his registration in the register and it shall be the duty of any other person who subsequently grazes or depastures an animal or animals on any part of the commons not less than one month before so grazing or depasturing, to supply to the Park Authority such particulars as are reasonably required for his registration in the register.

(b) No person who is a commoner within the description of subsection (3) (b) above shall be entitled to have his name entered in the register unless with his application, or within 28 days after notice is served upon him by the secretary of the Commoners' Council, he supplies such particulars as are reasonably required for his registration in the register.

(c) It shall be the duty of every person whose name is recorded in the register, on the occurrence of any event warranting alteration or deletion of particulars in the register respecting that person's registration, to give to the secretary of the Commoners' Council notice of the altered particulars within 28 days after that occurrence.

(d) The secretary or other authorised officer of every commoners' association shall on being requested by notice in writing given by the secretary of the Commoners' Council supply to him particulars of the names and addresses of all persons who are current members of that association and such other particulars as the Commoners' Council may reasonably require for preparing and keeping the register.

(e) Any person who without reasonable excuse fails to supply particulars required of him under paragraph (a) or (c) above, or supplies under any of the foregoing provisions of this subsection particulars which he knows to be false, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Any person aggrieved by any particulars recorded in the register, by the refusal of the secretary of the Commoners' Council to record particulars therein, or by any amendment made to such particulars, may give notice of his complaint to the secretary of the Commoners' Council pursuant to this section and the Commoners' Council, or a committee of the Commoners' Council appointed therefor, shall take the complaint into consideration and shall give notice to the complainant of their decision in writing; and before determining not to accept the complaint the Commoners' Council or the committee, as the case may be, shall afford to the complainant (if so required by the complainant by notice given within seven days after the giving to him of notice that they do not propose to accept the complaint) an opportunity of being heard by the Commoners' Council, or by the committee if the matter is referred to a committee, in support of the complaint.

(7) Any person aggrieved by a decision of the Commoners' Council or a committee of the Commoners' Council under subsection (6) above may appeal to a magistrates' court and sections 300 to 302 of the Public Health Act 1936 shall apply with the necessary modifications to any appeal under this subsection as they apply to any appeal under any provision of that Act.

1936 c. 49.

(8) The register shall at all reasonable times be open to inspection and transcription without payment by any interested person.

8. Notwithstanding any enactment or rule of law, a right of common upon any part of the commons shall not be severable from any land or tenement with which it was held at the passing of this Act.

Severance of rights of common precluded.

9. For the avoidance of doubt, it is hereby declared that the custom on the commons is for the owner of any land—

Fencing of land abutting commons.

(a) which is to be treated for the purposes of this paragraph as not being part of the commons; and

(b) which adjoins land which is part of the commons, being a part that is subject for the time being to rights of grazing registered under the Act of 1965;

to fence the land mentioned in paragraph (a) above, against any animals lawfully depastured on that part of the commons mentioned in paragraph (b) above; and for the purposes of paragraph (a) above land is to be treated as not being part of the commons if it is land which has not at any time been registered under the Act of 1965 and is not land comprising a highway.

PART III

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Public access
to commons.*B. Provisions concerning public access to commons*

10.-(1) Subject to the provisions of this Act and compliance with all rules, regulations or byelaws relating to the commons and for the time being in force, the public shall have a right of access to the commons on foot and on horseback for the purpose of open-air recreation; and a person who enters on the commons for that purpose without breaking or damaging any wall, fence, hedge, gate or other thing, or who is on the commons for that purpose having so entered, shall not be treated as a trespasser on the commons or incur any other liability by reason only of so entering or being on the commons.

(2) A person entering upon the commons in accordance with subsection (1) above is not, for the purposes of the Occupiers' Liability Act 1957, a visitor of any occupier of the commons.

1957 c. 31.

(3) (a) The provisions of sections 60 (5) (b) to (g), 66, 68 and 78 of the Act of 1949 and Schedule 2 to that Act (which relate to land excepted from any access agreement or access order, the effect of such an agreement or order on rights and liabilities of owners and maps) shall apply and have effect with respect to subsection (1) above and the exercise of the right afforded under that subsection, as those provisions apply and have effect with respect to section 60 (1) of that Act and any access agreement or order.

(b) In their application for the purposes of this subsection the provisions of the said section 60 (5) (e) shall have effect as if after the words therein in the first parenthesis there were inserted "or the processing of such minerals including the disposal of waste therefrom or activities ancillary thereto".

(4) Nothing in this section shall prejudice or affect the exercise of powers under any enactment whereby access to the commons may be regulated or prohibited; and, subject to subsection (8) below, the Park Authority may by notices posted in such places on the commons as they think fit regulate or prohibit for such period as may be reasonably necessary access by all, or any part of, the public to any part of the commons (including any footpath or bridleway thereon)-

(a) for the protection, so far as is reasonably necessary, of any ancient monument or any area of archaeological, historical or scientific interest;

(b) after consultation with the Commoners' Council-

(i) for the protection and restoration of the natural beauty of the commons and their suitability for rough grazing or recreation;

(ii) for the preservation of trees planted for shelter on the commons; or

(iii) for the protection of animals depastured on the commons;

(c) for the prevention of the risk of fire on the commons and for the prevention of accidents at any quarry, pit, pond, mine shaft or other man-made source of danger on the commons;

and, notwithstanding anything in any enactment, the Park Authority may post such notices and for the purposes of paragraphs (a), (b) (i), and (c) above, may fence and enclose parts of the commons for so long as may appear necessary for the attainment of the purposes of the regulation or prohibition of access; and during the currency of any such regulation or prohibition the right of access of the public, the exercise of rights of common over the lands to which the regulation or prohibition applies and all other rights affected, shall respectively be subject to the regulation or prohibition.

(5) A notice posted in accordance with subsection (4) above shall include a statement of the reasons for that regulation or prohibition and of its intended duration.

(6) If so stated in any notice posted in pursuance of the powers in subsection (4) (b) (iii) above, section 1 (2) (c) of the Dogs (Protection of Livestock) Act 1953 shall apply to dogs on the commons or the part thereof specified in the notice as if the commons or that part were a field or enclosure. 1953 c. 28.

(7) When considering the question of the posting of a notice under subsection (4) above, which would prevent the use of any footpath or bridleway on any part of the commons, the Park Authority shall use its best endeavours to ensure that there remain available alternative means of access to the said part of the commons and that details of that alternative are specified in the notice.

(8) Nothing in subsection (4) above shall authorise the Park Authority to regulate or prohibit access to any part of the commons by the owner of that part or by his servant or agent when acting on his behalf.

(9) Except in case of emergency or in any case where the regulation or prohibition of access is for a period not exceeding 28 days, not less than 28 days before in any case exercising the powers of paragraph (a), or (b) of subsection (4) above, the Park Authority shall give notice by newspaper advertisement of the regulation or prohibition of access by the public, its intended duration and the reasons for which it is made and stating that written representations relative thereto may be notified to them within 28 days after the date of the publication of the notice, and, before giving effect to their proposals for regulating or prohibiting access, the Park Authority shall consider all representations so made.

PART III
– cont.

(10) The Park Authority shall, on or before the date on which it is published, send a copy of any notice which is to be published in pursuance of subsection (9) above during a specified period, of a specified description and relating to land comprised in a specified area to any person who has previously-

- (a) requested the Park Authority to send him copies of all such notices as so specified; and
- (b) paid to the Park Authority such reasonable charges as the Park Authority may have specified.

(11) Before exercising any of the powers conferred on them by subsection (4) above, the Park Authority shall consult with the Central Council of Physical Recreation except in case of emergency or in any case where the regulation or prohibition of access is for a period not exceeding 28 days.

(12) The Park Authority may make byelaws providing that any person who, without reasonable excuse, contravenes a notice posted under subsection (4) above shall be guilty of an offence and section 106 of the Act of 1949 shall apply to byelaws made under this subsection as it applies to byelaws made under that Act.

Byelaws under
Act of 1949
and wardens.

11.-(1) The powers of the Park Authority to make byelaws and to appoint wardens under sections 90 and 92 of the Act of 1949 shall apply to the whole area of the commons to which under section 10 (1) of this Act a right of access is given or such part thereof as may be specified in the byelaws as if the commons were land comprised in an access agreement in force under Part V of that Act.

(2) The said power to make byelaws shall include power to make byelaws for the prevention of nuisances.

(3) (a) Before making any byelaws under this section, the Park Authority shall give notice to and consult the council of any district whose area includes any part of the commons affected by the byelaws proposed, the Commoners' Council, the lords of the manor for any of the commons so affected, or other the owners of the soil so far as their identities can reasonably be ascertained and the Central Council of Physical Recreation; but a failure in any particular to comply with this subsection shall not invalidate any byelaws made under this section.

(b) If so requested in writing within 42 days after giving notice under paragraph (a) above to any such lord of the manor or other owner, the Park Authority shall give to that person an opportunity of appearing before and being heard with respect to the proposed byelaws by the Park Authority.

(4) Nothing in any byelaw made under section 90 of the Act of 1949 as extended in its application to the commons under this section shall apply to-

PART III
- cont.

- (a) any act done in pursuance of the exercise of any right of common; or
- (b) the owner of any part of the commons as respects any act done on that part by him or his servant or agent when acting on his behalf.

12.-(1) For the purpose of preventing soil erosion and other damage to the surface of the commons, the Park Authority may, when reasonably necessary, give directions to the owners of horses which are, or are intended to be, let to members of the public for hire or reward as to the tracks on the commons which those horses may use, whilst being so let, and those owners shall take all reasonable steps to ensure that only those tracks are so used.

Power of Park Authority to give directions as to use of tracks for horses let for hire or reward.

(2) Any person who, without reasonable excuse, fails to comply with a direction given under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Before giving any directions under this section, the Park Authority shall consult the lords of the manor for the common in question or other the owner of the soil, the Commoners' Council and the owners referred to in subsection (1) above.

13.-(1) The Park Authority may take such steps, whether by civil process or otherwise, for the protection of the commons against unlawful interference as could be taken by an owner in possession thereof and may (without prejudice to any power exercisable apart from this section) institute proceedings for any offence committed in respect of the commons.

Protection of commons.

(2) Before in any case exercising the powers of this section the Park Authority shall, so far as is reasonably practicable, consult the lords of the manor for the common in question or other the owner of the soil.

14. Where a member of the public enters upon the commons for the purpose of open air recreation on foot or on horseback and causes damage to the commons or any thing therein, the Park Authority may make good that damage.

Park Authority may repair certain physical damage to commons.

PART IV
FINANCE AND GENERAL

Accounts of
Commoners'
Council.

15.-(1) The Commoners' Council shall cause to be kept proper accounts of all sums received or paid by them and proper records in relation to those accounts; and the accounts for each financial year shall be audited by an auditor or auditors appointed by the Commoners' Council.

(2) No person shall be qualified to be appointed auditor under this section unless he is a member or, in the case of a firm, all the partners therein are members of one or more of the following bodies:-

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;

The Chartered Association of Certified Accountants;

The Chartered Institute of Public Finance and Accountancy;

The Institute of Chartered Accountants in Ireland;

any body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 389 (1) (a) of the Companies Act 1985 by the Secretary of State.

1985 c. 6.

(3) (a) The Commoners' Council shall cause to be made out annually a balance sheet and a statement of income and expenditure made up to the end of the financial year of the Commoners' Council.

(b) The audited accounts of the Commoners' Council shall at all reasonable times be open to inspection and transcription without payment by any interested person; and, as soon as practicable after the completion of the audit, the secretary of the Commoners' Council shall forward to the officer appointed for that purpose by the Park Authority a copy of the audited accounts and of any report to the Commoners' Council made by the auditor.

Contributions
by commoners.

16.-(1) As soon as may be after the appointed day the Commoners' Council shall cause to be submitted to them for their approval an estimate of their income and expenditure during the period commencing on the appointed day and terminating on 30th June 1987; and before 1st March 1987 preceding the financial year commencing on 1st July 1987, and thereafter not less than 4 months before the end of that and every succeeding financial year, the Commoners' Council shall cause to be submitted to them an estimate of their income and expenditure during the then succeeding financial year.

(2) Any estimate submitted under subsection (1) of this section-

- (a) may include as part of the estimated expenditure an amount to make provision for a reasonable working balance;
- (b) shall be accompanied by a statement of the sum (in this section called “the Commoners’ Council’s net revenue requirement”) derived from the estimate and required by the Commoners’ Council to meet expenditure for defraying which provision is not otherwise made, allowance being made for estimated income from all sources including contributions from owners of lands forming the commons;
- (c) shall be accompanied by a statement of the amount payable under subsection (3) below.

(3) Subject to the provisions of this section, for the purpose of meeting the Commoners’ Council’s net revenue requirement the Commoners’ Council may resolve to raise by way of contributions for each financial year in respect of each commoner whose name is recorded in the register the prescribed sum and in this subsection “the prescribed sum” means-

- (a) in the case of a person who grazes animals by virtue of his right of common, 30 pence for each livestock unit which he is entitled to graze;
- (b) in the case of a person who has a right of common to graze animals but who does not exercise that right, 5 pence for each livestock unit which he is entitled to graze or the sum of one pound (whichever is the greater); and
- (c) in the case of any other person having a right of common, the sum of one pound;

or such other sums (bearing the like proportion to one another) as may respectively for the time being be determined by the Commoners’ Council by resolution passed by a majority of not less than two-thirds of their whole number.

(4) As soon as may be after the passing of any resolution of the Commoners’ Council to raise contributions under subsection (3) above, the Commoners’ Council may, by written notice, demand from each commoner whose name is recorded in the register the amount so to be raised and shall serve with the demand copies of the resolution and of the estimate and statements submitted to the Commoners’ Council under subsections (1) and (2) above and any amount so demanded shall be a debt due from each such commoner to the Commoners’ Council.

PART IV
– cont.

Borrowing
powers of
Commoners’
Council.

1946 c. 58.

Local
inquiries.

Service of
notices.

Saving for
manorial
and other
proprietary
rights.

Saving for
Duchy of
Cornwall.

17.-(1) The provisions of Part I of Schedule 13 to the Act of 1972 shall extend and apply to the Commoners’ Council as if-

- (a) the Commoners’ Council were a local authority within the meaning of the Act of 1972;
- (b) the revenues of the Commoners’ Council and any sums payable to the Commoners’ Council pursuant to this Act were the revenues of such a local authority as aforesaid.

(2) It shall not be lawful to exercise the powers of borrowing conferred by subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

18.-(1) The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.

(2) Subsections (2) to (5) of section 250 of the Act of 1972 shall apply in relation to any such inquiry.

19. Sections 231 (except subsection (2)) and 233 (except subsection (8)) of the Act of 1972 (relating to service of notices on and by local authorities) shall with necessary modifications apply and have effect with respect to any notice or other document required or authorised by this Act to be given to or served on the Commoners’ Council or an officer of the Commoners’ Council or, as the case may be, to be given to or served on any person by or on behalf of the Commoners’ Council or by an officer of the Commoners’ Council, as if the Commoners’ Council were a local authority and every officer of the Commoners’ Council were an officer of a local authority.

20. Nothing in this Act shall affect prejudicially or alter any estate, right, interest, privilege, exemption or authority of or enjoyed by any person as the owner or other holder of-

- (a) any manorial right; or
- (b) any other legal estate (except a right of common) in or over any part of the commons;

in respect of minerals in the soil, sporting rights or, subject to sections 4 to 10 of this Act, in respect of the exercise of any right of pasturage or other right or privilege having a similar subject matter as a right of common.

21.-(1) Subject to the provisions of this section (and without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall), nothing in this Act shall prejudice, diminish, alter, detract from or take away any of the rights, powers, privileges or authority attaching to the

possessions of, or exercisable by, the possessor for the time being of the Duchy of Cornwall in relation to land belonging to the said Duchy and nothing in this Act shall apply to the said possessions or possessor by virtue of an interest in land belonging to the said Duchy without the consent specified in subsection (3) below.

PART IV
– cont.

(2) Nothing in subsection (1) above or in any rule of law shall-

- (a) exclude the rights of access conferred by section 10 of this Act; or
- (b) prejudice the application of restrictions or powers contained in regulations made under section 5 or 10 of this Act;

to, or in respect of, land forming part of the possessions of the Duchy of Cornwall.

(3) A consent given under subsection (1) above shall be in writing of two or more of such of the regular officers of the Duchy of Cornwall or of such other persons as may be authorised under section 39 of the Duchy of Cornwall Management Act 1863 or, as the case may be, the consent of the Duke of Cornwall testified in writing under the seal of the said Duchy. 1863 c. 49.

(4) A consent given under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered appropriate.

(5) Subsection (1) above shall not apply to anything done or permitted or omitted to be done on land belonging to the said Duchy otherwise than by or under the authority of the said possessor.

22.-(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Commoners' Council, the Park Authority or any other person to take, use, enter upon or in any manner interfere with, any land or hereditaments (including any portion of any river, channel, creek, bay or estuary) or any rights of whatsoever description- Crown rights.

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) belonging to Her Majesty in right of Her Duchy of Lancaster, without the consent in writing of the Chancellor for the time being of the said Duchy; or

PART IV
– cont.

- (c) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

Saving for
certain
statutory
undertakers.

23.-(1) Nothing in section 10 of this Act or in any byelaw made under section 90 of the Act of 1949 as extended by section 11 of this Act shall prejudice or affect-

- (a) the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system;
- (b) the rights of the British Gas Corporation under paragraphs 1 and 2 of Schedule 4 to the Gas Act 1972;
- (c) the rights of the Central Electricity Generating Board or the South Western Electricity Board to lay, erect, maintain, inspect, repair, renew or remove any apparatus or works in, under, over, across, along or upon the commons;

1972 c. 60.

or prohibit or regulate the use by the operator of a telecommunications code system, the British Gas Corporation, the Central Electricity Generating Board or the South Western Electricity Board of equipment or the erection of structures required in connection with the exercise of their said respective rights.

1984 c. 12.

(2) In this section “telecommunications code”, “telecommunications code system” and “operator” have the meanings given to them in paragraph 1 (1) of Schedule 4 to the Telecommunications Act 1984.

SCHEDULES

Sections 3
and 7.

SCHEDULE 1

APPOINTMENT OF MEMBERS OF COMMONERS' COUNCIL

General

1. The commoners and the bodies making appointments under section 3 (2) (a) to (f) of this Act shall be appointing bodies for the purposes of this paragraph and paragraphs 2 to 8 below, but in the appointment of members under paragraphs (a) and (f) of the said subsection (2), it shall be the duty of the Park Authority, as respects the first appointments, to arrange for the discharge by the commoners of their obligations as an appointing body.

2.-(1) The commoners shall make the first appointments under section 3 (2) (a) of this Act before the appointed day and-

(a) two members for each of the four quarters shall hold office from the appointed day until 30th June 1988; and

(b) the remaining members shall hold office from the appointed day until 30th June 1990;

and the members who are to hold office until 30th June 1988 shall be-

(i) those who receive the smallest number of votes; or

(ii) in a case where there is an equality of such votes, those who are chosen by lot.

(2) The commoners shall, after making the first appointment under the said section 3 (2) (a), make all subsequent such appointments before 1st July 1988 and before 1st July in each succeeding second year.

(3) Appointments under section 3 (2) (b) to (d) of this Act shall first be made before the appointed day and shall thereafter be made before 1st July in each succeeding fourth year and each member so appointed shall hold office-

(a) in the case of the first appointment, from the appointed day until 30th June 1990; and

(b) in the case of any other appointment, for 4 years from 1st July next following his appointment.

(4) The members of the Commoners' Council specified in section 3 (2) (e) of this Act shall appoint the veterinary surgeon under that provision at the first meeting after the appointed day and after 1st July in each succeeding fourth year after 31st December 1986 and he shall hold office-

(a) in the case of the first appointment, from the day of his appointment until immediately before the meeting of the Commoners' Council next following 30th June 1990; and

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– cont.

(b) in the case of any other appointment, from the day of his appointment until immediately before the meeting of the Commoners' Council next following 1st July in the fourth year thereafter.

(5) The commoners shall make the first appointment under section 3 (2) (f) of this Act before the appointed day.

3.-(1) Subject to sub-paragraph (2) below, any casual vacancy occurring in the office of a member of the Commoners' Council shall be filled as soon as reasonably practicable by the appointment by the appointing body by whom that member was appointed of a person to fill the vacancy; and the person appointed shall come into office upon his appointment and, unless he previously dies, resigns or becomes disqualified, shall hold office during the remainder of the term of office of the person in whose place he is appointed.

(2) It shall not be obligatory upon an appointing body to fill any vacancy occurring less than three months before the ordinary date of retirement from the office in which the vacancy occurs.

4.-(1) Sections 80 (1) and (5), 81 (1) and (2), 82, 85 and 94 to 98 of the Act of 1972 (which relate to the holding of office and voting) shall apply to members of the Commoners' Council or of any committee or sub-committee of the Commoners' Council, as those provisions apply to members of local authorities.

(2) In their application by virtue of this paragraph the said sections shall have effect subject to the following modifications:-

(a) for references to meetings of the local authority there shall be substituted references to meetings of the Commoners' Council or of any committee or sub-committee of the Commoners' Council;

(b) for references to the proper officer of the local authority there shall be substituted a reference to an officer of the Commoners' Council appointed for the purposes of this paragraph;

(c) for references to the election or re-election of members of a local authority and to that Act there shall be substituted references respectively to the appointment or reappointment of members of the Commoners' Council or of any committee or sub-committee of the Commoners' Council and to this Act;

(d) in the case of members of a committee or sub-committee of the Commoners' Council, the right of persons who are members of the committee or sub-committee but not members of the Commoners' Council to inspect the book kept under section 96 (2) shall be limited to an inspection of the entries in the book relating to the members of that committee or sub-committee;

(e) section 97 shall apply as it applies to a local authority other than a parish or community council.

(3) Without prejudice to section 97 (4) of the Act of 1972, section 94 of that Act shall not by virtue of this paragraph apply—

SCH. 1
— cont.

(a) to any interest which a member of the Commoners' Council or of a committee or sub-committee of the Commoners' Council may have in the preparation or revision of regulations under section 5 of this Act or the preparation, revision or raising of any contribution or levy payable to the Commoners' Council under this Act; or

(b) to any interest in any other matter which such a member may have as a commoner, where it is an interest which he has in common with all other persons who are commoners or who belong to a class of commoners.

5. A person ceasing to hold office as a member of the Commoners' Council shall, unless he is not qualified or is disqualified, be eligible for reappointment.

6.-(1) A member of the Commoners' Council appointed by the commoners under section 3 (2) of this Act shall be a commoner and, if he ceases to be a commoner, he shall thereupon cease to be a member of the Commoners' Council so appointed.

(2) A member of the Commoners' Council appointed by the Park Authority under subsection (2) (b) of the said section 3 who at the date of his appointment is also a member of the Park Authority shall, unless the terms of his appointment otherwise provide, cease to be a member of the Commoners' Council if he ceases to be a member of the Park Authority; but a member of the Commoners' Council who becomes disqualified from being such a member by reason only of the earlier provisions of this sub-paragraph shall, unless he previously dies or resigns or otherwise becomes disqualified, continue in office as a member of the Commoners' Council until 30th June next after he ceases to be a member of the Park Authority.

7. A member of the Commoners' Council may resign his membership by sending to the Commoners' Council notice of his desire to do so, and his resignation shall take effect upon the receipt of such notice by the Commoners' Council.

8. Where, under the foregoing provisions of this Schedule, any member of the Commoners' Council ceases to be member of the Commoners' Council or becomes disqualified from being a member of the Commoners' Council or vacates his office by absence, the Commoners' Council shall forthwith notify the casual vacancy so arising to the secretary or other proper officer of each of the appointing bodies concerned in his appointment.

Appointment of Commoners' Council members by commoners

9. The Commoners' Council or, in the case of the first appointments, the Park Authority shall arrange for the holding of meetings (hereinafter in this Schedule called "commoners' election meetings") at which the members of the Commoners' Council

SCH. 1
– cont.

mentioned in section 3 (2) (a) and (f) of this Act (hereinafter in this Schedule called “commoner members of the Commoners’ Council”) shall be appointed:

Provided that not more than one commoners’ election meeting shall be held on any one day.

10. For the purposes of such appointments–

- (1) the whole area of the commons shall be divided into four quarters (in this and the next following paragraph called “quarters”) by reference to the southerly, northerly, westerly and easterly parts of the commons;
- (2) there shall be allocated to each of the quarters those commoners’ associations appearing to derive the main nucleus of their membership from that quarter;

and the bodies specified in Part I of Schedule 3 to this Act shall, subject to Part II of that Schedule, be commoners’ associations for the purposes of this Act and be allocated to the quarters as also specified in the said Part I.

11.-(1) Each of the four quarters shall at commoners’ election meetings appoint–

- (a) 4 commoners who shall be qualified in accordance with paragraph 12 (1) of this Schedule; and
- (b) 1 commoner who shall be qualified in accordance with section 3 (2) (f) of this Act;

to be members of the Commoners’ Council and, subject to subparagraph (2) below, in any election incident to any such appointment and held at a commoners’ election meeting relative to one of those quarters there shall be entitled to vote those commoners whose names are recorded in the register and who have paid the contributions required under section 16 of this Act in respect of each financial year during which the commoner’s name has been so recorded.

(2) A person so registered shall be entitled to vote at commoners’ election meetings for each quarter in which he is qualified as follows:–

- (a) if he is a member of a commoners’ association, then for the quarter to which that association is allocated under the said Schedule 3 to this Act;
- (b) if he is not such a member but is entitled to any right of common attached to land appearing to lie principally within any one quarter, then for that quarter;
- (c) if he is not such a member nor entitled to any right of common so attached but is entitled to any right of common exercisable over land appearing to lie principally within any one quarter, then for that quarter.

12.-(1) No commoner shall be appointed to be a commoner member of the Commoners’ Council under paragraph 11 (1) (a) above unless his name is recorded in the register as grazing not less than 10 livestock units and has paid the contributions required under section 16 of this Act in respect of each financial year during which his name has been so recorded.

(2) Not more than one member of any one commoners' association may be a commoner member of the Commoners' Council at any one time and, if more than one member of such an association is nominated for appointment, the member receiving the greatest number of votes in any ensuing election shall alone be taken into account in determining the outcome of the election:

SCH. 1
– cont.

Provided that—

- (a) this sub-paragraph shall not apply in the case of a member appointed under paragraph 11(1)(b) above; and
- (b) a member of more than one association shall forthwith, upon his nomination, name one of those associations as his qualifying association for the purposes of this sub-paragraph so that members of that other association or those other associations (as the case may be) may qualify for appointment under this paragraph.

(3) No person shall be entitled to more than one vote for each vacancy in any such commoners' election meeting and, where two or more persons are commoners by virtue of a joint holding, only one of those persons shall be entitled to such a vote.

13.—(1) For the purposes of any appointment under paragraph 9 above, the register kept by the secretary of the Commoners' Council under section 7 of this Act shall be evidence of its contents.

(2) The chairman of any commoners' election meeting shall determine any question as to entitlement to vote at the meeting.

14.—(1) Not less than 28 days before the intended appointment of any of the commoner members of the Commoners' Council, the Commoners' Council shall—

- (a) by newspaper advertisement give notice thereof and of the intended holding of a commoners' election meeting to make the appointment at a place in the area of the commons, on a date and at a time (not earlier than 7 nor later than 9 in the afternoon) specified in the notice; and
- (b) give public notice in accordance with section 232 (1) of the Act of 1972 (public notices) as if the Commoners' Council were a local authority and the quarter respecting which the intended appointment is to be made were the area of a local authority.

(2) Any commoner qualified in accordance with section 3 (2) (f) of this Act or paragraph 12 (1) above may be nominated for appointment as one of the commoner members of the Commoners' Council in writing by two such commoners; and no nomination shall be valid unless delivered to the officer conducting the election at least 7 days before the date of the commoners' election meeting, or if not supported by written acceptance of nomination by the person nominated.

(3) The chairman of the Commoners' Council or some other person appointed by the Commoners' Council shall, if present, be the chairman of any commoners' election meeting and, after

SCH. 1
– cont.

examination and announcement of the nominations duly made, the chairman of the meeting shall, if the nominations do not exceed the vacancies to be filled, declare the candidate or, as the case may be, candidates to be duly so appointed and, in any other case, shall cause an election by ballot of those present and voting to be held forthwith.

(4) A declaration purporting to be signed by the chairman of a commoners' election meeting of the appointment of a person to the Commoners' Council shall be evidence of such appointment.

Section 3
(5).

SCHEDULE 2

INCIDENTAL PROVISIONS WITH RESPECT TO COMMONERS' COUNCIL

Corporate status of Commoners' Council

1. The Commoners' Council shall be a body corporate with perpetual succession and a common seal.

Meetings of Commoners' Council

2. The first meeting of the Commoners' Council shall be held on such day and at such time and place as may be appointed by the officer appointed for that purpose by the Park Authority; and the said officer shall make arrangements for notice of the meeting to be sent by post to each member of the Commoners' Council not less than 14 days before the day so appointed.

3.–(1) The first meeting of the Commoners' Council shall be the annual meeting for the year then current and thereafter the first meeting held after 1st July in any year shall be the annual meeting.

(2) The Commoners' Council shall in every year after the first year hold an annual meeting and at least three other meetings for the transaction of general business, which as nearly as may be shall be held at regular intervals.

(3) The chairman of the Commoners' Council may call a meeting of the Commoners' Council at any time.

(4) If the chairman refuses to call a meeting of the Commoners' Council after a requisition for that purpose, signed by 5 members of the Commoners' Council, has been presented to him, or if, without so refusing, the chairman does not call a meeting within 7 days after such requisition has been presented to him, any 5 members of the Commoners' Council, on that refusal or on the expiration of the said 7 days, as the case may be, may forthwith call a meeting of the Commoners' Council.

(5) Subject to sub-paragraph (6) below, the public may attend, but shall not be entitled to speak, at any meeting of the Commoners' Council or of any committee or sub-committee thereof.

(6) The Commoners' Council or any committee or sub-committee thereof may, by resolution, exclude the public from a meeting of the Council or the committee or sub-committee in question (during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature

of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed, sub-paragraph (5) above shall not require the meeting to be open to the public during proceedings to which the resolution applies.

SCH. 2
– cont.

Appointment of chairman and vice-chairman

4.–(1) The Commoners' Council shall at their annual meeting in each year appoint one of their number to be chairman and the chairman shall, unless he resigns his office or ceases to be a member of the Commoners' Council, continue in office until his successor is appointed.

(2) The Commoners' Council may at each annual meeting appoint one of their number to be vice-chairman and the vice-chairman shall, unless he resigns his office or ceases to be a member of the Commoners' Council, continue in office until immediately after the election of the chairman at the next annual meeting.

(3) On a casual vacancy occurring in the office of chairman or vice-chairman of the Commoners' Council the vacancy shall be filled by the appointment by the Commoners' Council of one of their number at a meeting held as soon as practicable after the vacancy occurs and, where the office vacant is that of chairman, the meeting may be convened by the secretary or such other officer as shall be appointed for the purpose by the Commoners' Council.

(4) The person appointed under this paragraph to fill a vacancy shall hold office until the date upon which the person in whose place he is appointed would ordinarily have retired and he shall then retire.

Chairman of meeting

5.–(1) At a meeting of the Commoners' Council the chairman of the Commoners' Council, if present, shall preside.

(2) If the chairman of the Commoners' Council is absent from a meeting of the Commoners' Council, the vice-chairman of the Commoners' Council, if present, shall preside.

(3) If both the chairman and vice-chairman of the Commoners' Council are absent from a meeting of the Commoners' Council, such member as the members of the Commoners' Council present shall choose shall preside.

Appointment of committees

6.–(1) The Commoners' Council may appoint–

(a) a committee for the exercise of any of the functions of the Commoners' Council which in the opinion of the Commoners' Council can be better regulated and managed by means of a committee and may delegate to a committee so appointed the exercise of any such functions;

(b) a committee to advise the Commoners' Council on any matter relating to the discharge of their functions.

SCH. 2
– cont.

(2) Any such committee (other than a committee for regulating or controlling the finance of the Commoners' Council) may include persons who are not members of the Commoners' Council:

Provided that at least two-thirds of the members of every committee appointed under sub-paragraph (1) (a) above shall be members of the Commoners' Council.

(3) The number of members of any such committee and their term of office shall be fixed by the Commoners' Council or, in the case of a sub-committee, by the appointing committee; but a person who is disqualified from being a member of the Commoners' Council shall be disqualified also from being a member of a committee or sub-committee appointed under this paragraph.

7.–(1) A committee of the Commoners' Council may, subject to any restrictions imposed by the Commoners' Council, appoint such sub-committees as the committee may determine and may authorise any such sub-committee to exercise any of the functions of the committee on their behalf and any reference in any of the succeeding paragraphs of this Schedule to a "committee" shall be construed as including a reference to any such sub-committee.

(2) Any such sub-committee (other than a sub-committee for regulating or controlling the finance of the Commoners' Council) may include or comprise persons who are not members of the Commoners' Council.

Proceedings of Commoners' Council and committees

8.–The proceedings of the Commoners' Council, or of any committee appointed by them, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or qualification, of any person as a member, or as chairman or vice-chairman, of the Commoners' Council or committee.

9.–(1) Any question to be decided by the Commoners' Council or any committee of the Commoners' Council shall, in the first instance, be decided by a majority of those present at the meeting and voting thereon, and the decision of the person presiding at the meeting as to the result of the voting shall be final.

(2) In the case of an equality of votes, the person presiding at any such meeting shall have a casting vote, in addition to any other vote he may have.

(3) Subject to sub-paragraphs (1) and (2) above, the Commoners' Council may make standing orders with respect to their proceedings, including a quorum, place of meeting and notices to be given of meetings of the Commoners' Council or any committee appointed by them.

(4) Subject to standing orders made under this paragraph, the proceedings of any committee appointed by the Commoners' Council shall be regulated in such manner as the committee may determine.

10. Minutes of the proceedings of a meeting of the Commoners' Council, or of any committee appointed by them, purporting to be signed at the same or next ensuing meeting of the Commoners' Council, or, as the case may be, at the same or any subsequent meeting of the committee, by the person presiding thereat, shall be evidence of the proceedings, and shall be received in evidence without further proof; and until the contrary is proved, every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the proceedings had at the meeting to have been duly had, and, if the proceedings are the proceedings of the committee, the committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

SCH. 2
– cont.

Officers

11.–(1) The Commoners' Council shall appoint a secretary, treasurer and such other officers as the Commoners' Council think necessary for the efficient discharge of their functions.

(2) The Commoners' Council and the Park Authority may enter into arrangements for that Authority to provide such administrative, professional or technical services as are required for the discharge of the functions of the Commoners Council and as are prescribed under those arrangements.

(3) An officer appointed under sub-paragraph (1) above shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the Commoners' Council think fit.

(4) Sections 114, 115, 116 and 117 of the Act of 1972 (which provide respectively for the taking of security in relation to officers, their accountability, for members not being appointed as officers and for officers disclosing interests in contracts) shall have effect in relation to the Commoners' Council and any officer employed by the Commoners' Council as those sections have effect in relation to a local authority and any officer employed by a local authority, subject to necessary modifications, and as if–

- (a) reference in those sections to that Act were references to this Act;
- (b) in section 116 the words after “vice-chairman” were omitted; and
- (c) in section 117 (1) the reference to section 95 of that Act were to that section as applied by paragraph 4 of Schedule 1 to this Act.

Authentication of Commoners' Council's seal

12. The application of the seal of the Commoners' Council shall be authenticated by the signatures of the chairman of the Commoners' Council or some other member thereof authorised by the Commoners' Council to authenticate the application of the seal thereof and of such officer as shall be authorised by the Commoners' Council to act in that behalf.

SCH. 2
– cont.

Appearance in legal proceedings

13. Section 223 of the Act of 1972 (which relates to the appearance of local authorities in legal proceedings) shall have effect in relation to the Commoners' Council as it has effect in relation to a local authority within the meaning of that Act.

Section 2.

SCHEDULE 3
COMMONERS' ASSOCIATIONS
PART I
ASSOCIATIONS AND QUARTERS

North Quarter

Belstone.
Bridestowe.
Lydford.
Okehampton Borough.
Okehampton Hamlets.
Sourton.
South Tawton.
Throwleigh.

East Quarter

Blackslade and Dunstone.
Buckland-in-the-Moor.
Chagford.
Gidleigh.
Haytor and Ilsington.
Mardon.
Natsworthy.
Spitchwick.

South Quarter

Buckfastleigh West.
Cornwood.
Dean Prior.
Harford.
Holne.
South Brent.
Ugborough Moor.

West Quarter

Mary Tavy.
Meavy.
Meavy and Yennadon.
Peter Tavy.
Ringmoor and Sheepstor.
Roborough.
Samford Spiney.
Shaugh and District.
Whitchurch.

PART II
ALTERATIONS TO PART I ABOVE

SCH. 3
– cont.

1. If it appears to the Commoners' Council–

- (1) that any body which is a commoners' association has ceased to have an identifiable existence; or
- (2) that any other body of commoners in the light of its membership, standing and other circumstances ought to be a commoners' association for the purposes of this Act;

the Commoners' Council may resolve that the association shall cease to be or, as the case may be, shall become a commoners' association for the purposes of this Act and any such resolution to the latter effect shall allocate the commoners' association in question to that quarter of the commons from which it appears to the Commoners' Council that the association derive most of their membership.

2.–(1) The Commoners' Council shall give notice by newspaper advertisement of the passing and the effect of any resolution under this Part of this Schedule.

(2) Any such resolution shall come into force on such day as may be specified in the notice, not being earlier than 28 days after the publication of the notice, and as from that day Part I of this Schedule shall have effect as amended by the resolution.