

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

COMMONS, WALES

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1 April 2012 certain provisions of the Commons Act 2006 (“the 2006 Act”) in relation to Wales.

The Commons Act 2006 (Commencement No.1, Transitional Provisions and Savings) (Wales) Order 2007 (S.I. 2007/2386) (W.197) (C.88) brought into force a number of provisions for the limited purpose of enabling the Welsh Ministers to give guidance or directions and to make, or to make provision by means of, regulations.

Article 2 of this Order brings into force provisions which relate to deregistration and exchange of, and works on, common land, together with related appeals.

Article 3 of this Order brings into force for all remaining purposes provisions which relate to deregistration and exchange of, and works on, common land.

Article 4 of this Order contains transitional and saving provisions relating to the provisions brought into force by articles 2 and 3 of this Order.

Further information on the provisions brought into force by this Order can be found in the Explanatory Notes to the 2006 Act, which can be viewed at www.legislation.gov.uk.

**NOTE AS TO EARLIER COMMENCEMENT
ORDERS**

(This note is not part of the Order)

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

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|---|-----------------------------|--------------------------------|
| Section 3(5) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 4 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 5 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 6(4) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 7(4) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 8(1),(2) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 11(5),(6) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 12(a) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 13(1)(a) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 14 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 15 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 17 (3), (10) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 19(6) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 20(2), (3) | 12 August 2007 | 2007/2386 |

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| – for certain purposes | | (W.197) (C.88) |
| Section 21(2), (3) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 22 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 23 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 23 – for certain purposes | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 24 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 24 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 25 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 29(1), (6) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 31(6)(a) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 39(6) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 40 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 42(4) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 43 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 44 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 45 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 47 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 49 | 6 September 2007 | 2007/2386 (W.197) (C.88) |

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|---|------------------|--------------------------------|
| Section 50 (1), (4)-(6) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Section 51 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 52 – for certain purposes | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Section 53 – for certain purposes | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 2, paragraphs 2(2)(d) and (3), 3(2)(e) and (3), 4(6), 5(3), 6(3), 7(3), 8(3), 9(4) and 10 – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 3, paragraphs 2(1), (5) and (6), 4, 5, 8(2) and (3) – for certain purposes | 12 August 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 3, paragraph 9 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 4, paragraph 6 | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 5, paragraphs 4, 6(a), 7(1)(in part) and (5) | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 6, Part 1 in part | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 6, Part 1 in part | 1 December 2010 | 2010/2356 (C.114) |
| Schedule 6, Part 2 in part | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 6, Part 3 in part | 6 September 2007 | 2007/2386 (W.197) (C.88) |
| Schedule 6, Part 5 | 6 September 2007 | 2007/2386 (W.197) (C.88) |

The following Commencement Order has been made under the 2006 Act by the Secretary of State in relation to England and by the Welsh Ministers in relation to Wales —

The Commons Act 2006 (Commencement No. 1 and Savings (England and Wales) and Commencement No.5 (England) (Amendment)) Order 2010 (S.I. 2010/2356) (C. 114)

The following Commencement Orders have been made under the 2006 Act by the Secretary of State in relation to England —

The Commons Act 2006 (Commencement No. 1, Transitional Provisions and Savings) (England) Order 2006 (S.I. 2006/2504) (C.84)

The Commons Act 2006 (Commencement No. 2, Transitional Provisions and Savings) (England) Order 2007 (S.I. 2007/456) (C.17)

The Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007 (S.I. 2007/2584) (C.98)

The Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960) (C. 94)

The Commons Act 2006 (Commencement No. 5) (England) Order 2010 (S.I. 2010/61) (C.10)

The Commons Act 2006 (Commencement No. 6) (England) Order 2011 (S.I. 2011/2460) (C.88)

See also section 56 of the Commons Act 2006 for the provisions that come into force other than by way of commencement order.

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

COMMONS, WALES

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

Made

7 March 2012

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

Title, interpretation and application

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

(2) In this Order—

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

“the 2006 Act” (“*Deddf 2006*”) means the Commons Act 2006.

(3) This Order applies in relation to Wales.

Provisions coming into force

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

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

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

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

(3) 1965 c.64.

- (b) section 17(1) to (2) and (4) to (9) (deregistration and exchange: orders);
- (c) section 38 (prohibition on works without consent);
- (d) section 39(1) to (5) and (7) (consent: general);
- (e) section 41 (enforcement);
- (f) section 42(1) to (3) and (5) (schemes);
- (g) section 48 (inclosure); and
- (h) insofar as they have not already come into force—
 - (i) Schedule 4 (works: supplementary); and
 - (ii) Parts 2, 3 and 5 of Schedule 6 (repeals), and section 53 insofar as it relates to those provisions.

Provisions coming into force for all remaining purposes

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

- (a) section 17(3) and (10) (deregistration and exchange: orders);
- (b) section 39(6) (consent);
- (c) section 40 (consent: procedure);
- (d) section 42(4) (schemes);
- (e) section 43 (power to exempt); and
- (f) section 44 (supplementary).

Transitional provisions and savings

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

- (a) references to land being registered as common land or as a town or village green in—
 - (i) sections 16 and 17 of the 2006 Act;
 - (ii) sections 38 and 44 of the 2006 Act; and
 - (iii) section 29(2) of the National Trust Act 1907⁽¹⁾,
 are, in relation to that area, to be taken as references to land being so registered under the 1965 Act;
- (b) references in section 17 of the 2006 Act to rights of common being registered as exercisable over such land are to be taken, in relation to that area, as references to rights of

(1) 1907 c.cxxxvi. Section 29(2) is inserted by section 44(1) of and paragraph 3 of Schedule 4 to the 2006 Act.

common being so registered under the 1965 Act; and

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

(2) Despite the repeal of section 147 of the Inclosure Act 1845(1), section 4 of the Inclosure Act 1847(2) and sections 4 and 5 of the Inclosure Act 1857(3), any application for an order of exchange under section 147 of the Inclosure Act 1845 made before 1 April 2012 is to be dealt with on and after that date as if those provisions remained in force.

(3) Section 38(1) of the 2006 Act will not apply in relation to any works carried out in accordance with consent which is granted under section 194 of the Law of Property Act 1925(4) before 1 April 2012.

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

- (a) any application for consent under that section made before 1st April 2012 is to be dealt with on or after that date as if that section remained in force; and
- (b) if consent is granted on such an application, section 38(1) of the 2006 Act will not apply in relation to any works carried out in accordance with that consent.

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

John Griffiths

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

7 March 2012

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- (1) 1845 c.118. Section 147 is repealed by sections 48(1) and 53 of, and Part 3 of Schedule 6 to, the 2006 Act.
 - (2) 1847 c.111. Section 4 is repealed by section 53 of, and Part 3 of Schedule 6 to, the 2006 Act.
 - (3) 1857 c.31. Sections 4 and 5 are repealed by section 53 of, and Part 3 of Schedule 6 to, the 2006 Act.
 - (4) 1925 c.20. Section 194 is repealed by section 53 of, and Part 2 of Schedule 6 to, the 2006 Act.
 - (5) 1971 c.vi. Section 23(2A) is inserted by section 44(1) of, and paragraph 4(3) of Schedule 4 to, the 2006 Act.