
WELSH STATUTORY INSTRUMENTS

2014 No. 219 (W. 29)

COMMONS, WALES

The Commons (Severance of Rights) (Wales) Order 2014

Made - - - - - *4 February 2014*
Laid before the National
Assembly for Wales - - - *6 February 2014*
Coming into force - - - *1 March 2014*

The Welsh Ministers, in exercise of the powers conferred upon them by sections 9(2) and (7), 59(1) and 61(1) of, and paragraphs 2(1) and 2(4) of Schedule 1 to, the Commons Act 2006⁽¹⁾ and now vested in them⁽²⁾, make the following Order:

Title, application and commencement

1. (1) The title of this Order is the Commons (Severance of Rights) (Wales) Order 2014.
- (2) This Order comes into force on 1 March 2014.
- (3) This Order applies in relation to Wales.

Interpretation

2. In this Order—
 - “the 2006 Act” (“*Deddf 2006*”) means the Commons Act 2006;
 - “the 2007 Order” (“*Gorchymyn 2007*”) means the Commons (Severance of Rights) (Wales) Order 2007;
 - “Commons Registration Authority” (“*Awdurdod Cofrestru Tiroedd Comin*”) means a county or county borough council;
 - “temporary severance agreement” (“*cytundeb holli dros dro*”) means any lease or licence of a right of common entered into pursuant to article 3 of this Order;

(1) 2006 c. 26.

(2) See Section 61(1) Commons Act 2006 for the meaning of “appropriate national authority”. The functions of the “appropriate national authority” are exercisable, in relation to Wales, by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

Temporary severance of right of common

3. (1) A right of common to graze animals to which section 9(1) of the Commons Act 2006 applies may be temporarily severed from the land to which it is attached by leasing or licensing—

- (a) the right of common on its own, provided that the period of the lease or licence does not exceed five years; or
- (b) the land, or part of the land, to which the right of common is attached, without the right of common.

(2) Where a right of common is temporarily severed from any land pursuant to paragraph (1)(b), any disposal of the retained right of common on or after the grant of the lease or licence of the land and before the termination has no effect unless the disposal is made—

- (a) to the grantee of the lease or licence of the land; and
- (b) for a period expiring not more than five years from the expiry of that lease or licence.

(3) Upon the expiration of the term of any lease or licence, the parties may renew it for further periods of up to five years.

(4) References in this article to a right of common, in relation to a right of common to graze more than one animal, include a right to graze a proportion of the number of animals that may be grazed by virtue of that right of common.

Notification

4. (1) All temporary severance agreements must contain a provision stipulating that the owner of the land to which the right of common to graze animals is attached must, within 28 days of entering into a temporary severance agreement, supply—

- (a) the names and addresses of the parties;
- (b) the date the agreement was entered into;
- (c) the duration of the agreement;
- (d) the land to which the agreement relates; and
- (e) the nature/extent of the grazing rights;

to the persons listed in paragraph (2).

(2) The persons referred to in paragraph (1) are—

- (a) the Commons Registration Authority in whose area the land is situated;
- (b) the landowner of the common over which the rights are exercisable, to the extent that person can be identified by reasonable enquiries;
- (c) any relevant commoners association, graziers association or similar organisation; and
- (d) the Natural Resources Body Wales, if the common to which the rights apply includes a site of special scientific interest (SSSI) under the Wildlife and Countryside Act 1981(3).

(3) In addition to the notification requirements contained in paragraph (1), all temporary severance agreements must contain a provision stipulating that the owner of the land to which the right of common to graze animals is attached must provide any other information reasonably requested to the Commons Registration Authority in whose area the land is situated, to the persons listed in paragraph (2) within 21 days of receipt of such a request.

Revocation

5. The Commons (Severance of Rights) (Wales) Order 2007(4) is revoked.

Savings and Transition

6. Article 5 (Revocation) does not affect the validity of any leases or licences entered into by virtue of article 2 of the 2007 Order, which, at the time of this Order coming into force, have not expired.

Alun Davies

Minister for Natural Resources and Food, one of
the Welsh Ministers

4 February 2014

EXPLANATORY NOTE

(This note is not part of the Order)

Section 9 of the Commons Act 2006, prevents, subject to exceptions, the severance of a right of common from the land to which it is attached.

Article 3 of this Order permits the temporary severance of a right of common to graze animals from the land to which the right is attached by enabling the leasing or licensing of the right to a third party for no more than five years.

Article 4 requires any temporary severance agreement made under this Order to contain a clause ensuring that the agreement is notified to the relevant Commons Registration Authority and various other organisations and individuals, within 28 days.

Article 5 revokes the Commons (Severance of Rights) (Wales) Order 2007.

Article 6 preserves the effect of any leases or licences entered into by virtue of article 2 of the Commons (Severance of Rights) (Wales) Order 2007.

A Regulatory Impact Assessment of the effects of this Order on the costs of business, in relation to increasing the period a temporary severance agreement may last for, has been prepared in respect of this Order. Copies can be obtained from the Department of Sustainable Future, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

This Order comes into force on 1 March 2014.