STATUTORY INSTRUMENTS

2016 No. 1039

CONTRACTING OUT, ENGLAND

The Contracting Out (Functions relating to the Royal Parks) Order 2016

Made - - - - 26th October 2016

Coming into force in accordance with article 1(c)

The Secretary of State, in exercise of the powers conferred by sections 69(2) and (4) of the Deregulation and Contracting Out Act 1994(**a**), makes the following Order.

A draft of this Order was laid before Parliament in accordance with section 77(2) of the Deregulation and Contracting Out Act 1994 and approved by a resolution of each House.

Citation, extent, application and commencement

1. This Order—

(a) may be cited as the Contracting Out (Functions relating to the Royal Parks) Order 2016;

(b) extends to England and Wales; and

(c) comes into force on the day after the day on which it is made.

Interpretation

2. In this Order "the functions" means the functions now vested in the Secretary of State, and referred to in the following provisions—

(a) section 22 of the Crown Lands Act 1851 (duties of Commissioners of Woods, &c. in relation to Royal Parks, &c., and under the Acts in Schedule, vested in Commissioners of Works)(**b**), in relation to—

(i) Saint James's Park;

(ii) Hyde Park;

(iii) Green Park;

(iv) Regent's Park;

(v) Primrose Hill;

(**a**) 1994 c.40.

(**b**) 1851 c.42 (14 & 15 Vict). Section 22 was amended by section 1 of and the Schedule to the Statute Law Revision Act 1892 (55 & 56 Vict c.19) and section 1 of and the Schedule to the Statute Law (Repeals) Act 1993 (c.50). The functions of the Commissioners of Works were transferred to the Minister of Works by the Ministry of Works (Transfer of Powers) (No 1) Order 1945 (S.R. & O. 1945/991). The Minister of Works was renamed the Minister of Public Building and Works by the Minister of Works (Change of Style and Title) Order 1962 (S.I. 1962/1549). The functions of the Minister of Public Building and Works were transferred to the Secretary of State by virtue of the Secretary of State for the Environment Order 1970 (S.I. 1970/1681).

(vi) Greenwich Park;

(vii) Richmond Park(**a**); and

(viii) Bushy Park.

(b) section 23 of the Crown Lands Act 1851 (powers as to parts of the parks preserved to Commissioners of Woods &c. under this Act)(**b**);

(c) sections 45 and 48 of the Burial Act 1852 (which conferred certain functions in relation to Brompton Cemetery on the Commissioners of Works)(**c**);

(d) section 10 of the Parks Regulation Act 1872 (publication of regulations)(**d**);

(e) section 1 of the Roosevelt Memorial Act 1946 (erection of statue and laying out of garden)(**e**);

(f) section 17(1) of the Park Lane Improvement Act 1958 (certain land to become part of Hyde Park)(**f**);

(g) sections 7(1), (2) and (3) of the Crown Estate Act 1961 (powers of Minister of Works in Regent's Park)(**g**);

(h) sections 5(1), (3), (5), (6) and (7) of the Royal Parks (Trading) Act 2000 (retention and disposal)(**h**);

(i) section 147 of the Police Reform and Social Responsibility Act 2011 (authorisation for operation of amplified noise equipment)(**i**);

(j) the following provisions of the Royal Parks and Other Open Spaces Regulations 1997(**j**), other than in relation to The Natural History Museum Gardens; Hampton Court Gardens, Green and Park; and Tower Gardens—

(i) regulation 2 (restriction on use of a park);

(ii) regulation 3(4), (5)(b), (9), (12)(a) and (13) (acts prohibited in a park);

(iii) regulation 3A(3)(c) (acts prohibited in designated parks);

(iv) regulation 4 (Acts in a Park for which written permission is required); and

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(**a**) Richmond Green, which is also listed in section 22 of the Crown Lands Act 1851 (14 & 15 Vict c.42), was transferred to the management of the London Borough of Richmond under an agreement made pursuant to section 7(1) of the Crown Lands Act 1906 (6 Edw 7 c.28).

(**b**) Section 23 was amended by section 1 of and the Schedule to the Statute Law Revision Act 1892 (55 & 56 Vict c.19). The Commissioners of Her Majesty's Woods, Forests and Land Revenues were renamed the Commissioners of Woods under section 1 of and the Schedule to the Statute Law Revision Act 1892. The Commissioners of Woods were renamed the Commissioners of Crown Lands under the Forestry (Title of Commissioners of Woods) Order 1924 (S.R. & O. 1924/1370). Section 1(1) of the Crown Lands Act 1927 (17 & 18 Geo 5 c.23) constituted the persons holding office as Commissioners of Crown Lands as a body corporate by that same name. Section 1(1) of the Crown Estate Act 1956 (4 & 5 Eliz 2 c.73) reconstituted the Commissioners of Crown Lands and renamed them the Crown Estate Commissioners. The Crown Estate Act 1961 (c.55) repealed the Crown Estate Act 1956 and section 1(1) continued the Crown Estate Commissioners. The Regent's Park (Transfer of Powers of Management) Order 1979, an Order in Council made under section 9 of the Crown Lands Act 1936 (26 Geo 5 & 1 Edw 8 c.47), transferred the powers of management of some of the land within the Outer Circle of Regent's Park from the Crown Estate Commissioners to the Secretary of State.

(**c**) 1852 c.85 (15 & 16 Vict). Section 45 was amended by section 1 of and the Schedule to the Statute Law Revision Act 1892 (55 & 56 Vict c.19).

(**d**) 1872 c.15 (35 & 36 Vict). Section 10 was amended by section 4 of and the Schedule to the Parks Regulation (Amendment) Act 1926 (16 & 17 Geo 5 c.36).

(**e**) 1946 c.83 (9 & 10 Geo 6).

(**f**) 1958 c.63 (6 & 7 Eliz 2).

(**g**) 1961 c.55.

(**h**) 2000 c.13. Regulation 3C of the Royal Parks and Other Open Spaces Regulations 1997 (S.I. 1997/1639) provides that sections 4 to 6 of the Royal Parks (Trading) Act 2000 apply in relation to an offence under the Parks Regulation (Amendment) Act 1926 (c.36) relating to a breach of regulation 3A(7) of those Regulations as if that offence were a park trading offence under the Royal Parks (Trading) Act 2000.

(**i**) 2011 c.13. Section 147 was amended by section 153 of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12). Under section 148(4)(a) of the Police Reform and Social Responsibility Act 2011 the Secretary of State is responsible authority for land in the Palace of Westminster controlled area (as defined by section 142A(1) of that Act) which is Royal Park land. "Royal Park land" is defined in section 148(5) as any land of a description specified in Schedule 1 to the Royal Parks and Other Open Spaces Regulations 1997 (S.I. 1997/1639), as that Schedule has effect on the day on which the Anti-social Behaviour, Crime and Policing Act 2014 is passed.

(**j**) S.I. 1997/1639; relevant amending instruments are S.I. 2004/1308, 2012/98 and 2012/957.

(v) paragraph 2 of Part 1 of Schedule 2 (the driving and riding of vehicles on a park road).

(k) regulation 2 (interpretation) of the Hyde Park and The Regent's Park (Vehicle Parking) Regulations 1995(**a**), in the definitions of "official notice", "parking place", "parking permit" and "parking ticket", and regulation 7(2) (excess charge) of those Regulations; and

(l) regulation 2 (Interpretation) of the Greenwich Park (Vehicle Parking) Regulations 2000(**b**), in the definitions of "official notice", "parking place", "parking permit" and "parking ticket", and regulation 6(2) (excess charge) of those Regulations.

Contracting out of functions

3. The functions, or any of them, may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the Secretary of State—

(a) either wholly or to such extent as may be specified in the authorisation;

(b) either generally or in such cases or areas as may be so specified; and

(c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

Tracey Crouch
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

26th October 2016

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables the Secretary of State to authorise another person (or that person's employees) to perform the functions set out in article 2. The functions are currently performed by the Secretary of State for Culture, Media and Sport. Article 1(b) explains that the Order extends to England and Wales.

The functions are defined in article 2 as the functions referred to in the provisions listed in sub-paragraphs (a) to (l). These are all now vested in the Secretary of State.

The function referred to in sub-paragraph (a) is the management under section 22 of the Crown Lands Act 1851 (14 & 15 Vict c.42) of the Royal Parks listed in that sub-paragraph. The function referred to in sub-paragraph (b) is the management of parts of Regent's Park under section 23 of the Crown Lands Act 1851. That function is vested in the Secretary of State by virtue of the Regent's Park (Transfer of Powers of Management) Order 1979. Sub-paragraph (c) refers to the functions of managing Brompton Cemetery under sections 45 and 48 of the Burial Act 1852 (15 & 16 Vict c.85). Sub-paragraph (d) refers to the function of displaying park regulations under section 10 of the Parks Regulation Act 1872 (35 & 36 Vict c.15).

The function referred to in sub-paragraph (e) is of managing Grosvenor Square and maintaining the statue there of Franklin Delano Roosevelt under section 1 of the Roosevelt Memorial Act 1946 (9 & 10 Geo 6 c.83). The function sub-paragraph (f) refers to is of managing some land that became part of Hyde Park pursuant to section 17(1) of the Park Lane Improvement Act 1958 (6 & 7 Eliz 2 c.63). Sub-paragraph (g) refers to functions under sections 7(1) to (3) of the Crown Estate Act 1961 (c.55) relating to the management of land in Regent's Park occupied by the Zoological Society of London, and the leasing of land to that body.

(**a**) S.I. 1995/993; relevant amending instrument is S.I. 2010/1194.
(**b**) S.I. 2000/934; relevant amending instrument is S.I. 2010/1194.

Sub-paragraph (h) refers to the Secretary of State's functions under section 5 of the Royal Parks (Trading) Act 2000 (c.13) of retaining and disposing of items relating to park trading offences that are seized under section 4 of that Act. Regulation 3C of the Royal Parks and Other Open Spaces Regulations 1997 (S.I. 1997/1639) applies sections 4 to 6 of the Royal Parks (Trading) Act 2000 in relation to an offence arising from contravention of regulation 3A(7) of those Regulations as if it was a park trading offence under the Royal Parks (Trading) Act 2000. As a result, the function referred to in sub-paragraph (g) also incorporates the retention and disposal of items seized in relation to an offence arising from contravention of regulation 3A(7) of the Royal Parks and Other Open Spaces Regulations 1997.

Sub-paragraph (i) refers to functions of the Secretary of State as "responsible authority" under section 147 of the Police Reform and Social Responsibility Act 2011 (c.13) for authorising the use of amplified noise equipment in Victoria Tower Gardens and the garden surrounding the Jewel Tower and on the lawn surrounding the King George V Memorial.

Sub-paragraph (j) refers to functions under the Royal Parks and Other Open Spaces Regulations 1997 (S.I. 1997/1639), in relation to the land listed in Schedule 1 to those regulations, but not The Natural History Museum Gardens; Hampton Court Gardens, Green and Park; and Tower Gardens. Those functions are of giving permissions and licences, exhibiting notices, and designating and marking land uses, relating to behaviour on the land.

The functions referred to in sub-paragraphs (k) and (l) are of exhibiting notices, appointing parking places, issuing permits, authorising persons to dispense tickets, and receiving or authorising the receipt of excess charges, relating to vehicle parking, under the Hyde Park and The Regent's Park (Vehicle Parking) Regulations 1995 (S.I. 1995/993) and the Greenwich Park (Vehicle Parking) Regulations 2000 (S.I. 2000/934).

Article 3 provides that the Secretary of State may authorise the contracting out of the functions referred to in article 2 either wholly, generally and unconditionally or to a more limited degree.

An impact assessment has not been prepared for this instrument as no as no impact on the costs of business or the voluntary sector is foreseen. An Explanatory Memorandum has been prepared and is available alongside this instrument at www.legislation.gov.uk.

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