

## **FLY-GRAZED HORSES THE CONTROL OF HORSES ACT 2015 AND THE CONTROL OF HORSES (WALES) ACT 2014**

### **What is it?**

From the 26 May 2015, the Animals Act 1971 was amended to include the [Control of Horses Act 2015](#) which provides landowners in England with additional rights to deal with horses that are unlawfully grazing on their land. This act is an amendment to the Animals Act 1971 and the two pieces of legislation should be viewed in conjunction. The aim of the act is to enable enforcement authorities and private landowners to work together to protect both the public and the environment from the nuisance caused by abandonment, straying and fly-grazing of horses. The act covers England only; however, Wales has a similar piece of legislation (The Control of Horses (Wales) Act 2014), therefore the information below is applicable to both England and Wales. Scotland and Northern Ireland are NOT covered by this legislation.

In Northern Ireland if you find a horse abandoned on your land then you will need to contact the Police Service of Northern Ireland (PSNI) who will be able to advise you on what to do next. In most circumstances an incident number will be issued by the PSNI. The owner of the land will then be advised by the PSNI to display an abandonment notice and if the horses are not removed within 2 weeks then ownership will be automatically transferred to the land owner.

### **Why do we need this legislation?**

Fly-grazing, straying or abandoned horses present numerous difficulties for landowners, the public and the horses themselves. For example, horses may present a risk to public safety, particularly when left on public land, such as parks; and private land, such as residential property.

The impact that horses have on the land can be considerable, particularly in areas where grazing is already poor. The land can become poached and horses may cause damage to fencing in an attempt to access better grazing. The cost of dealing with unlawfully grazed horses can be substantial, often running into many thousands of pounds. Additionally, horses that are not properly cared for can quickly become a welfare concern. Cases of neglected and starving horses are often due to abandonment.

### **Who does the legislation affect?**

The act affects those who, either intentionally or unintentionally, allow their horses to graze on land without the permission of the landowner. This includes abandonment, straying and fly-grazing. It also includes situations where the landowner has withdrawn permission for the horse to graze on their land.

### **A horse has been abandoned on my land, what should I do?**

The following information applies to England only:

- The horses can be detained on the land, or they can be detained and removed by

an equine bailiff company. Within the first 24 hour period of detention, it is a legal requirement that you inform the police that you believe the horses are being illegally grazed on your land and that you have detained the horse(s) under the Control of Horses Act 2015. Complete notice template ([Notice 3 s.7C \(2\)\(a\) Officer in Charge of a Police Station](#)) and give to the officer in charge of the police station. Display a notice ([Notice 1 s.7C Detention](#)) on the gate of the field where the horse is being fly-grazed, or in a prominent position near to the horse if tethered. Notices should include the time and date, and some contact details. The contact details do not have to be the landowner, we would recommend you put contact details for the police.

- It is useful to take photographic evidence of the notice once it has been displayed in case it is removed or destroyed; to prove that notice has been served.
- If you know who the owner of the horse(s) is then you must also serve a notice ([Notice 2 s.7C \(2\)\(b\) Officer in Charge of a Police Station](#)) to them.
- The person detaining the horse must then continue to detain it for a total period of four working days (96 hours), this does not include weekends or bank holidays.
- The owner has the right to claim back the animal within this detention period. If someone comes forward to claim back the horse, you should check that they are indeed the owner. If the potential owner can produce a valid passport in their name for the horse then this is a good indication that they are in fact, the owner. If no passport can be produced, photos of the horse, vet bills, a bill of sale or an accurate description are also acceptable methods of identifying an owner.
- If the horse(s) is not claimed back within the detention period, then ownership of the horse(s) passes to the person detaining the horse. You may now dispose of the horse(s) as you see fit. This can include selling or rehoming the animal, or arranging for it to be humanely destroyed.
- It is important to record all your actions so that you are able to prove that you have acted within the law.

If you live in Wales and find horses on your land, you must contact the Local Authority as they have the power to detain the horse(s) left on your land but you do not. In Wales the detention period is seven days.

## Notices

	When to use
Notice 1 s.7C Detention	This notice is to be put where the horses were being fly-grazed. For example, gate of the field
Notice 2 s.7C(2)(b) Owner	This notice is to be used if you know who the owner of the horse(s) is and therefore you must serve a notice to them
Notice 3 s.7C(2)(a) Officer in charge of a police station	This notice is used to inform the police that you have detained the horses

## **If I sell the horse(s), can I keep the proceeds of the sale?**

If the horse is not claimed by the owner within 4 days of detention, ownership of the horse is legally transferred to the person detaining the horse. Therefore that person is within their rights to keep any proceeds of sale.

If you do decide to sell the horse you must first ensure that the horse has a passport as it is an offence to buy, sell or re-home a horse without a passport. You may be able to find out whether the horse has previously had a passport by having the animal scanned for a microchip (your vet should be able to provide this service). If the horse does not have a microchip then this could mean that the horse has not had a passport issued to it before. Alternatively, the horse could have been issued with a passport prior to 2009 when microchipping became mandatory. If there is any doubt as to whether the horse has previously had a passport, then a replacement passport must be issued.

This service is available through the BHS. More information about this service can be found [here](#) or by contacting the BHS passport administrator on 02476 840574 or at [passports@bhs.org.uk](mailto:passports@bhs.org.uk). As you will be applying for a passport for a horse where its history is unknown it will be necessary to apply for a [replacement passport](#).

If the horse does have a microchip, then you should check this microchip number with each of the passport issuing organisations to see if the horse is registered with them. The full lists of passport issuing organisations can be found on the [DEFRA website](#): If the horse has previously been issued with a passport then you must apply for a duplicate passport from the organisation that originally issued the passport.

If you have been unable to find out which organisation issued the original passport, but the horse does have a microchip, then you may apply for a replacement passport. This service is also available through the BHS. More information about this service can be found [here](#) or by contacting the BHS passport office on 02476 840574 or at [passports@bhs.org.uk](mailto:passports@bhs.org.uk).

## **The horse(s) is injured. Who is liable for this?**

You are responsible for any injury caused to the horse(s) whilst it is on your land. You are also responsible for providing adequate and appropriate food and water, shelter and veterinary care under sections 4 and 9 of the Animal Welfare Act 2006. However, you cannot be held liable for any injury or neglect caused to the horse(s) before it came to be on your land. It is advisable to call a vet when the horse first appears on your land so that the condition of the horse may be checked and recorded.

## **The horse(s) has caused damage to my land. What can I do?**

Should an owner come forward within four working days, the owner of the horse(s) would then hold liability for any damage caused by the horse(s) to your land. It is advisable to take photographs of any damage caused and to keep receipts of any repair work that is undertaken. This is a civil matter, however, and you would need to seek legal advice about how to claim back this money. Gold members of the BHS have access to a free legal helpline which you can call for advice. Information about

becoming a member can be found [here](#). Alternatively, contact the membership team on 02476 840506 or at [membership@bhs.org.uk](mailto:membership@bhs.org.uk).

I have spent a lot of money looking after the horse(s). Can I get this money back? Reasonable expenses can be claimed for expenses accrued during the detention period or whilst trying to trace the original owner of the horse(s) should an owner actually come forward. Again, claiming this money back, however, may present a challenge and you will need to seek legal advice on how to do this. You will also need proof of how these costs were calculated.

How can I avoid this happening to me in the future?

- Plough unused fields so that no grazing is available, making your land less attractive to potential fly-grazers
- Remove water troughs
- Put locks on all gates and entrances to fields
- Block entrances to fields with large rocks, banks of earth or deep ditches
- Keep up to date records to prove your ownership of the land

A horse is being fly-grazed on land owned by the local authority, what should I do?

Contact the local authority to inform them that a horse is being fly-grazed on local authority owned land. Local authorities may or may not choose to invoke the legislation to have the horse removed from the land. If the local authority does decide to take action they may employ an equine bailiff to seize and detain the horse. In this instance the local authority remains responsible for the welfare of the horse. The local authority has the right to detain the horse(s) for four working days (seven days in Wales) after which time, ownership of the animal passes to the local authority. Individuals wishing to have a horse removed from their land may also engage the services of an equine bailiff; however, this can be extremely costly.

**This information has been taken from the British Horse Society website – [www.bhs.org.uk](http://www.bhs.org.uk).**