



Commons Registration Act 1965

CHAPTER 64

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ELIZABETH II



1965 CHAPTER 64

An Act to provide for the registration of common land and of town or village greens; to amend the law as to prescriptive claims to rights of common; and for purposes connected therewith. [5th August 1965]

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:—

1.—(1) There shall be registered, in accordance with the provisions of this Act and subject to the exceptions mentioned therein,—

Registration of commons and town or village greens and ownership of and rights over them.

- (a) land in England or Wales which is common land or a town or village green;
- (b) rights of common over such land; and
- (c) persons claiming to be or found to be owners of such land or becoming the owners thereof by virtue of this Act;

and no rights of common over land which is capable of being registered under this Act shall be registered under the Land Registration Acts 1925 and 1936.

(2) After the end of such period, not being less than three years from the commencement of this Act, as the Minister may by order determine—

- (a) no land capable of being registered under this Act shall be deemed to be common land or a town or village green unless it is so registered; and
- (b) no rights of common shall be exercisable over any such land unless they are registered either under this Act or under the Land Registration Acts 1925 and 1936.

(3) Where any land is registered under this Act but no person is registered as the owner thereof under this Act or under the Land Registration Acts 1925 and 1936, it shall—

- (a) if it is a town or village green, be vested in accordance with the following provisions of this Act; and
- (b) if it is common land, be vested as Parliament may hereafter determine.

Registration
authorities.

2.—(1) The registration authority for the purposes of this Act shall be—

- (a) in relation to any land situated in any county or county borough, the council of that county or county borough; and
- (b) in relation to any land situated in Greater London, the Greater London Council;

except where an agreement under this section otherwise provides.

(2) Where part of any land is in the area of one registration authority and part in that of another the authorities may by agreement provide for one of them to be the registration authority in relation to the whole of the land.

The registers.

3.—(1) For the purpose of registering such land as is mentioned in section 1(1) of this Act and rights of common over and ownership of such land every registration authority shall maintain—

- (a) a register of common land; and
- (b) a register of town or village greens;

and regulations under this Act may require or authorise a registration authority to note on those registers such other information as may be prescribed.

(2) Any register maintained under this Act shall be open to inspection by the public at all reasonable times.

Provisional
registration.

4.—(1) Subject to the provisions of this section, a registration authority shall register any land as common land or a town or village green or, as the case may be, any rights of common over or ownership of such land, on application duly made to it and accompanied by such declaration and such other documents (if any) as may be prescribed for the purpose of verification or of proving compliance with any prescribed conditions.

(2) An application for the registration of any land as common land or as a town or village green may be made by any person, and a registration authority—

- (a) may so register any land notwithstanding that no application for that registration has been made, and

(b) shall so register any land in any case where it registers any rights over it under this section.

(3) No person shall be registered under this section as the owner of any land which is registered under the Land Registration Acts 1925 and 1936 and no person shall be registered under this section as the owner of any other land unless the land itself is registered under this section.

(4) Where, in pursuance of an application under this section, any land would fall to be registered as common land or as a town or village green, but the land is already so registered, the registration authority shall not register it again but shall note the application in the register.

(5) A registration under this section shall be provisional only until it has become final under the following provisions of this Act.

(6) An application for registration under this section shall not be entertained if made after such date, not less than three years from the commencement of this Act, as the Minister may by order specify; and different dates may be so specified for different classes of applications.

(7) Every local authority shall take such steps as may be prescribed for informing the public of the period within which and the manner in which applications for registration under this section may be made.

5.—(1) A registration authority shall give such notices and take such other steps as may be prescribed for informing the public of any registration made by it under section 4 of this Act, of the times and places where copies of the relevant entries in the register may be inspected and of the period during which and the manner in which objections to the registration may be made to the authority.

Notification of, and objections to, registration.

(2) The period during which objections to any registration under section 4 of this Act may be made shall be such period, ending not less than two years after the date of the registration, as may be prescribed.

(3) Where any land or rights over land are registered under section 4 of this Act but no person is so registered as the owner of the land the registration authority may, if it thinks fit, make an objection to the registration notwithstanding that it has no interest in the land.

(4) Where an objection to a registration under section 4 of this Act is made, the registration authority shall note the objection on the register and shall give such notice as may

be prescribed to the person (if any) on whose application the registration was made and to any person whose application is noted under section 4(4) of this Act.

(5) Where a person to whom notice has been given under subsection (4) of this section so requests or where the registration was made otherwise than on the application of any person, the registration authority may, if it thinks fit, cancel or modify a registration to which objection is made under this section.

(6) Where such an objection is made, then, unless the objection is withdrawn or the registration cancelled before the end of such period as may be prescribed, the registration authority shall refer the matter to a Commons Commissioner.

(7) An objection to the registration of any land as common land or as a town or village green shall be treated for the purposes of this Act as being also an objection to any registration (whenever made) under section 4 of this Act of any rights over the land.

(8) A registration authority shall take such steps as may be prescribed for informing the public of any objection which they have noted on the register under this section and of the times and places where copies of the relevant entries in the register may be inspected.

(9) Where regulations under this Act require copies of any entries in a register to be sent by the registration authority to another local authority they may require that other authority to make the copies available for inspection in such manner as may be prescribed.

6.—(1) The Commons Commissioner to whom any matter has been referred under section 5 of this Act shall inquire into it and shall either confirm the registration, with or without modifications, or refuse to confirm it; and the registration shall, if it is confirmed, become final, and, if the confirmation is refused, become void—

- (a) if no appeal is brought against the confirmation or refusal, at the end of the period during which such an appeal could have been brought;
- (b) if such an appeal is brought, when it is finally disposed of.

(2) On being informed in the prescribed manner that a registration has become final (with or without modifications) or has become void a registration authority shall indicate that fact in the prescribed manner in the register and, if it has become void, cancel the registration.

(3) Where the registration of any land as common land or as a town or village green is cancelled (whether under this section or under section 5(5) of this Act) the registration authority shall also cancel the registration of any person as the owner thereof.

Disposal of
disputed
claims.

7.—(1) If no objection is made to a registration under section 4 of this Act or if all objections made to such a registration are withdrawn the registration shall become final at the end of the period during which such objections could have been made under section 5 of this Act or, if an objection made during that period is withdrawn after the end thereof, at the date of the withdrawal.

Finality of undisputed registrations.

(2) Where by virtue of this section a registration has become final the registration authority shall indicate that fact in the prescribed manner in the register.

8.—(1) Where the registration under section 4 of this Act of any land as common land or as a town or village green has become final but no person is registered under that section as the owner of the land, then, unless the land is registered under the Land Registration Acts 1925 and 1936, the registration authority shall refer the question of the ownership of the land to a Commons Commissioner.

Vesting of unclaimed land.

(2) After the registration authority has given such notices as may be prescribed, the Commons Commissioner shall inquire into the matter and shall, if satisfied that any person is the owner of the land, direct the registration authority to register that person accordingly; and the registration authority shall comply with the direction.

(3) If the Commons Commissioner is not so satisfied and the land is a town or village green he shall direct the registration authority to register as the owner of the land the local authority specified in subsection (5) of this section; and the registration authority shall comply with the direction.

(4) On the registration under this section of a local authority as the owner of any land the land shall vest in that local authority and, if the land is not regulated by a scheme under the Commons Act 1899, sections 10 and 15 of the Open Spaces Act 1906 (power to manage and make byelaws) shall apply in relation to it as if that local authority had acquired the ownership under the said Act of 1906.

1899 c. 30.
1906 c. 25.

(5) The local authority in which any land is to be vested under this section is—

- (a) if the land is in a borough or urban district, the council of the borough or urban district;
- (b) if the land is in a rural district, the council of the district, except in a case falling within paragraph (c) of this subsection;
- (c) if the land is in a rural parish which has a parish council, that council, but, if the land is regulated by a scheme under the Commons Act 1899, only if the powers of management under Part I of that Act have been delegated to the parish council.

Protection of
unclaimed
common land.

9. Where the registration under section 4 of this Act of any land as common land has become final but no person is registered under this Act or the Land Registration Acts 1925 and 1936 as the owner of the land, then, until the land is vested under any provision hereafter made by Parliament, any local authority in whose area the land or part of the land is situated may take such steps for the protection of the land against unlawful interference as could be taken by an owner in possession of the land, and may (without prejudice to any power exercisable apart from this section) institute proceedings for any offence committed in respect of the land.

Effect of
registration.

10. The registration under this Act of any land as common land or as a town or village green, or of any rights of common over any such land, shall be conclusive evidence of the matters registered, as at the date of registration, except where the registration is provisional only.

Exemption
from
registration.

11.—(1) The foregoing provisions of this Act shall not apply to the New Forest or Epping Forest nor to any land exempted from those provisions by an order of the Minister, and shall not be taken to apply to the Forest of Dean.

(2) The Minister shall not make an order under this section except on an application made to him before such date as may be prescribed.

(3) The Minister shall not make an order under this section with respect to any land unless it appears to him—

1899 c. 30.

(a) that the land is regulated by a scheme under the Commons Act 1899 or the Metropolitan Commons Acts 1866 to 1898 or is regulated under a local Act or under an Act confirming a provisional order made under the Commons Act 1876; and

1876 c. 56.

(b) that no rights of common have been exercised over the land for at least thirty years and that the owner of the land is known.

(4) The Minister shall, before dealing with any application under this section, send copies thereof to the registration authority and to such other local authorities as may be prescribed, and shall inform those authorities whether he has granted or refused the application; and those authorities shall take such steps as may be prescribed for informing the public of the application and its grant or refusal.

(5) If any question arises under this Act whether any land is part of the forests mentioned in subsection (1) of this section it shall be referred to and decided by the Minister.

12. The following provisions shall have effect with respect to the registration under the Land Registration Acts 1925 and 1936 of any land after the ownership of the land has been registered under this Act, that is to say—

Subsequent registration under Land Registration Acts 1925 and 1936.

- (a) section 123 of the Land Registration Act 1925 (compulsory registration of title on sale) shall have effect in relation to the land whether or not the land is situated in an area in which an Order in Council under section 120 of that Act is for the time being in force, unless the registration under this Act is provisional only; and
- (b) if the registration authority is notified by the Chief Land Registrar that the land has been registered under the Land Registration Acts 1925 and 1936 the authority shall delete the registration of the ownership under this Act and indicate in the register in the prescribed manner that it has been registered under those Acts.

1925 c. 21.

13. Regulations under this Act shall provide for the amendment of the registers maintained under this Act where—

Amendment of registers.

- (a) any land registered under this Act ceases to be common land or a town or village green; or
- (b) any land becomes common land or a town or village green; or
- (c) any rights registered under this Act are apportioned, extinguished or released, or are varied or transferred in such circumstances as may be prescribed;

and may exclude or modify the application of section 14 of the Yorkshire Registries Act 1884 (priority of assurances) with respect to matters capable of being registered under this Act.

1884 c. 54.

14. The High Court may order a register maintained under this Act to be amended if—

Rectification of registers.

- (a) the registration under this Act of any land or rights of common has become final and the court is satisfied that any person was induced by fraud to withdraw an objection to the registration or to refrain from making such an objection; or
- (b) the register has been amended in pursuance of section 13 of this Act and it appears to the court that no amendment or a different amendment ought to have been made and that the error cannot be corrected in pursuance of regulations made under this Act;

and, in either case, the court deems it just to rectify the register.

15.—(1) Where a right of common consists of or includes a right, not limited by number, to graze animals or animals of certain class, it shall for the purposes of registration under this

Quantification of certain grazing rights.

Act be treated as exercisable in relation to no more animals, or animals of that class, than a definite number.

(2) Any application for the registration of such a right shall state the number of animals to be entered in the register or, as the case may be, the numbers of animals of different classes to be so entered.

(3) When the registration of such a right has become final the right shall accordingly be exercisable in relation to animals not exceeding the number or numbers registered or such other number or numbers as Parliament may hereafter determine.

16.—(1) Where during any period a right of common claimed over any land was not exercised, but during the whole or part of that period either—

(a) the land was requisitioned ; or

(b) where the right claimed is a right to graze animals, the right could not be or was not exercised for reasons of animal health ;

that period or part shall be left out of account, both—

(i) in determining for the purposes of the Prescription Act 1832 whether there was an interruption within the meaning of that Act of the actual enjoyment of the right ; and

(ii) in computing the period of thirty or sixty years mentioned in section 1 of that Act.

(2) For the purposes of the said Act any objection under this Act to the registration of a right of common shall be deemed to be such a suit or action as is referred to in section 4 of that Act.

(3) In this section “ requisitioned ” means in the possession of a Government department in the exercise or purported exercise of powers conferred by regulations made under the Emergency Powers (Defence) Act 1939 or by Part VI of the Requisitioned Land and War Works Act 1945 ; and in determining in any proceedings any question arising under this section whether any land was requisitioned during any period a document purporting to be a certificate to that effect issued by a Government department shall be admissible in evidence.

(4) Where it is necessary for the purposes of this section to establish that a right to graze animals on any land could not be or was not exercised for reasons of animal health it shall be sufficient to prove either—

(a) that the movement of the animals to that land was prohibited or restricted by or under the Diseases of Animals Act 1950 or any enactment repealed by that Act ; or

Disregard of certain interruptions in prescriptive claims to rights of common.

1832 c. 71.

1939 c. 62.

1945 c. 43.

1950 c. 36.

- (b) that the land was not, but some other land was, approved for grazing under any scheme in force under that Act or any such enactment and the animals were registered, or were undergoing tests with a view to registration, under the scheme.

17.—(1) The Lord Chancellor shall—

Commons
Commissioners
and assessors.

- (a) appoint to be Commons Commissioners such number of barristers or solicitors of not less than seven years standing as he may determine; and

- (b) draw up and from time to time revise a panel of assessors to assist the Commons Commissioners in dealing with cases calling for special knowledge;

and shall appoint one of the Commons Commissioners to be Chief Commons Commissioner.

(2) Any matter referred under this Act to a Commons Commissioner shall be dealt with by such one of the Commissioners as the Chief Commons Commissioner may determine, and that Commissioner may sit with an assessor selected by the Chief Commons Commissioner from the panel appointed under this section.

(3) If at any time the Chief Commons Commissioner is for any reason unable to act, the Lord Chancellor may appoint another Commons Commissioner to act in his stead.

(4) A Commons Commissioner may order any party to any proceedings before him to pay to any other party to the proceedings any costs incurred by that party in respect of the proceedings; and any costs so awarded shall be taxed in the county court according to such of the scales prescribed by county court rules for proceedings in the county court as may be directed by the order, but subject to any modifications specified in the direction, or, if the order gives no direction, by the county court, and shall be recoverable in like manner as costs awarded in the county court.

(5) The Minister shall pay to the Commons Commissioners and assessors appointed under this section such fees and such travelling and other allowances as the Minister may, with the approval of the Treasury, determine, and shall provide the Commons Commissioners with such services and facilities as appear to him required for the discharge of their functions.

18.—(1) Any person aggrieved by the decision of a Commons Commissioner as being erroneous in point of law may, within such time as may be limited by rules of court, require the Commissioner to state a case for the decision of the High Court.

Appeals from
Commons
Commissioners.

1925 c. 49.

(2) So much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires appeals to the High Court to be heard and determined by a Divisional Court shall not apply to an appeal by way of case stated under this section, but no appeal to the Court of Appeal shall be brought against the decision of the High Court in such a case except with the leave of that Court or the Court of Appeal.

Regulations.

19.—(1) The Minister may make regulations—

- (a) for prescribing the form of the registers to be maintained under this Act and of any applications and objections to be made and notices and certificates to be given thereunder ;
- (b) for regulating the procedure of registration authorities in dealing with applications for registration and with objections ;
- (c) for prescribing the steps to be taken by registration authorities for the information of other local authorities and of the public in cases where registrations are cancelled or modified ;
- (d) for requiring registration authorities to supply by post, on payment of such fee as may be prescribed, such information relating to the entries in the registers kept by them as may be prescribed ;
- (e) for regulating the procedure of the Commons Commissioners and, in particular, for providing for the summoning of persons to attend and give evidence and produce documents and for authorising the administration of oaths, and for enabling any inquiry or proceedings begun by or before one Commons Commissioner to be continued by or before another ;
- (f) for enabling an application for the registration of rights of common attached to any land to be made either by the landlord or by the tenant and for regulating the procedure where such an application is made by both ;
- (g) for enabling the Church Commissioners to act with respect to any land or rights belonging to an ecclesiastical benefice of the Church of England which is vacant ;
- (h) for treating any registration conflicting with another registration as an objection to the other registration ;
- (i) for requiring, before applications for registration are entertained, the taking of such steps as may be specified in the regulations for the information of persons having interests in any land affected by the registration ;

- (j) for the correction of errors and omissions in the registers ;
- (k) for prescribing anything required or authorised to be prescribed by this Act.

(2) The regulations may make provision for the preparation of maps to accompany applications for registration and the preparation, as part of the registers, of maps showing any land registered therein and any land to which rights of common registered therein are attached, and for requiring registration authorities to deposit copies of such maps with such Government departments and other authorities as may be prescribed.

(3) The regulations may prescribe the payment of a fee not exceeding five pounds on an application made after the end of such period as may be specified in the regulations.

(4) The regulations may make different provision with respect to different circumstances.

(5) Regulations under this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

20.—(1) Any order made by the Minister under any provision Orders.
of this Act may be varied or revoked by subsequent order made thereunder.

(2) Any such order, other than an order made under section 11 of this Act, shall be made by statutory instrument.

(3) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

21.—(1) Section 1(2) of this Act shall not affect the application Savings.
to any land registered under this Act of section 193 or section 194 of the Law of Property Act 1925 (rights of access to, and 1925 c. 20.
restriction on inclosure of, land over which rights of common are exercisable).

(2) Section 10 of this Act shall not apply for the purpose of deciding whether any land forms part of a highway.

22.—(1) In this Act, unless the context otherwise requires,— Interpretation.
“ common land ” means—

(a) land subject to rights of common (as defined in this Act) whether those rights are exercisable at all times or only during limited periods ;

(b) waste land of a manor not subject to rights of common ;

but does not include a town or village green or any land which forms part of a highway ;

“land” includes land covered with water ;

“local authority” means the Greater London Council, the council of a county, county borough, London borough or county district, the council of a parish or the council of a borough included in a rural district ;

“the Minister” means the Minister of Land and Natural Resources ;

“prescribed” means prescribed by regulations under this Act ;

“registration” includes an entry in the register made in pursuance of section 13 of this Act ;

“rights of common” includes cattlegates or beastgates (by whatever name known) and rights of sole or several vesture or herbage or of sole or several pasture, but does not include rights held for a term of years or from year to year ;

“town or village green” means land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes or on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years.

(2) References in this Act to the ownership and the owner of any land are references to the ownership of a legal estate in fee simple in any land and to the person holding that estate, and references to land registered under the Land Registration Acts 1925 and 1936 are references to land the fee simple of which is so registered.

Application to Crown.

23.—(1) This Act shall apply in relation to land in which there is a Crown or Duchy interest as it applies in relation to land in which there is no such interest.

(2) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a Government department, or held in trust for Her Majesty for the purposes of a Government department.

Expenses.

24. There shall be defrayed out of moneys provided by Parliament any expenses of the Minister under this Act and any increase attributable to this Act in the sums payable under any other Act out of moneys so provided.

25.—(1) This Act may be cited as the Commons Registration Act 1965. Short title,
commence-
ment and
extent.

(2) This Act shall come into force on such day as the Minister may by order appoint, and different days may be so appointed for different purposes; and any reference in any provision to the commencement of this Act is a reference to the date on which that provision comes into force.

(3) This Act does not extend to Scotland or to Northern Ireland.

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