

2007 No. 2585

COMMONS, ENGLAND

The Commons (Deregistration and Exchange Orders) (Interim Arrangements) (England) Regulations 2007

<i>Made</i> - - - -	<i>3rd September 2007</i>
<i>Laid before Parliament</i>	<i>7th September 2007</i>
<i>Coming into force</i> - -	<i>1st October 2007</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 17(3), 24(1) and (2)(m) and 59(1) of the Commons Act 2006(a), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Commons (Deregistration and Exchange Orders) (Interim Arrangements) (England) Regulations 2007 and come into force on 1st October 2007.

(2) These Regulations apply in relation to England only.

Scope and interpretation

2.—(1) These Regulations apply where the Secretary of State, or a person appointed by him, has granted an application under section 16 of the 2006 Act and has made an order under section 17 of the 2006 Act in consequence of the granting of that application.

(2) In these Regulations—

“the 1965 Act” means the Commons Registration Act 1965(b);

“the 2006 Act” means the Commons Act 2006;

“commons registration authority” means a registration authority under the 1965 Act;

“deregistration order” means an order to a commons registration authority under section 17(1) of the 2006 Act (other than a deregistration and exchange order);

“deregistration and exchange order” means an order to a commons registration authority under section 17(1) and (2) of the 2006 Act;

“the General Regulations” means the Commons Registration (General) Regulations 1966(c), and “General Regulation” followed by a number means the regulation so numbered in the General Regulations;

(a) 2006 c.26. Section 61(1) contains definitions of “appropriate national authority” and “regulations”.

(b) 1965 c.64. By article 3(1) and (2) of the Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007/2584 (C..98), until the coming into force of section 1 of the 2006 Act, references to land being registered as common land or as a town or village green in sections 16 and 17 of the 2006 Act are to be taken as references to land being so registered under the 1965 Act, and an order under section 17 of the 2006 Act is to be treated as an order requiring the commons registration authority to amend the registers which it maintains pursuant to the 1965 Act..

(c) S.I. 1966/1471, to which there are amendments not relevant to these Regulations.

“Model Entry” followed by a number means the specimen entry so numbered in Part 1 of Schedule 2 to the General Regulations or Part 1 of the Schedule to these Regulations(a);

“register of common land” and “register of town or village greens” refer to the registers maintained by a commons registration authority pursuant to section 3 of the 1965 Act;

“register unit” is to be interpreted in accordance with General Regulation 10;

“Standard Entry” followed by a number means the specimen entry so numbered in Part 2 of the Schedule to these Regulations, or an entry to substantially the same effect(b).

Deregistration of release land

3. Where a commons registration authority receives a deregistration order or a deregistration and exchange order, it must amend the register unit in its register of common land or register of town or village greens which contains the registration of the release land in accordance with Standard Entry 11.

Registration of replacement land

4.—(1) Where a commons registration authority receives a deregistration and exchange order, the following provisions of this regulation apply subject to any provisions in the order specifying the manner in which the replacement land is to be registered.

(2) The registration authority may register the replacement land—

- (a) by amending the register unit in its register of common land or register of town or village greens which contains the registration of the release land; or
- (b) by inserting a new register unit in respect of the replacement land.

(3) If the registration authority registers the replacement land by amending the register unit which contains the registration of the release land, it must do so in accordance with Standard Entry 12.

(4) If the registration authority registers the replacement land by inserting a new register unit in respect of it, paragraphs (5) to (9) apply.

(5) The registration authority must follow as closely as possible Model Entry 4 with such variations and adaptations as the circumstances may require, and with—

- (a) the substitution, for the sentence beginning “Registered pursuant to application”, of the words “Registered pursuant to an order under section 17 of the Commons Act 2006.”; and—
- (b) the omission of the words “(Registration provisional.)”.

(6) Paragraphs (2) to (6) of General Regulation 10 apply to the registration.

(7) Paragraphs (4) to (8) of regulation 9 of the Commons Registration (Objections and Maps) Regulations 1968(c) (changes as to provisional register maps) apply, subject to the following modifications—

- (a) references to a “new map” are to be interpreted as meaning any map taken into use for the purpose of this regulation;
- (b) instead of the scale specified in paragraph (4), every new map must be prepared on an Ordnance Map of a scale of not less than 1:2,500 if available, and in any case not less than 1:10,000; and
- (c) paragraph (7) applies as if the word “provisional” were omitted.

(8) Each new map taken into use must be stamped by, and signed on behalf of, the registration authority, and shall then form part of the register.

(a) Model Entries 1-22 are contained in the General Regulations, and Model Entries 23-32 (which are not referred to in these Regulations) are contained in S.I. 1968/989, 1970/1371 and 1972/437.

(b) Standard Entries 1-10 are contained in the General Regulations and S.I. 1968/989, 1972/437 and 1990/311.

(c) S.I. 1968/989 as amended by S.I. 1990/311. There are other amending instruments not relevant to these Regulations.

(9) The requirement in paragraph (8) for a registration authority to stamp a new map is a requirement to cause an impression of its official stamp as described in General Regulation 3 to be affixed to it, which must bear the date when it was affixed.

Registration of rights of common over replacement land

5.—(1) Where, pursuant to a deregistration and exchange order, a commons registration authority registers replacement land by inserting a new register unit in respect of it, the following provisions of this regulation apply, subject to any provisions in the order specifying the manner in which rights of common are to be registered as exercisable over the replacement land.

(2) If, immediately before the deregistration of the release land, rights of common are registered as exercisable over the release land and no other land, the registration authority must register those rights as being exercisable over the replacement land, by following as closely as possible Model Entry 7 with such variations and adaptations as the circumstances may require, and with the omission from column 4 of the words from “except” to the end.

(3) If, immediately before the deregistration of the release land, rights of common are exercisable over an area of land which comprises the release land (Area A) and other land (Area B), the registration authority must register those rights as being exercisable over the replacement land in addition to remaining exercisable over Area B, in accordance with Model Entries 33 (relating to Area B) and 34 (relating to the replacement land) with such variations and adaptations as the circumstances may require.

Information about amendments to the registers

6. When a commons registration authority has amended its registers in accordance with a deregistration order or a deregistration and exchange order, it must give written notice of that fact, including details of the amendment made, to—

- (a) the applicant for the order; and
- (b) the Secretary of State, or the person appointed by him, who made the order.

Jeff Rooker
Minister of State

3rd September 2007

Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 2

PART 1 MODEL ENTRIES

Model Entry Nos. 33 and 34

For rights section of register

In the register entry relating to the release land ('register unit CL X'):

	1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
	17 12 April 1967	301 3 April 1967	John Dale, Thatcham Farm, Fursdon, Basset. Tenant.	To graze— (a) 20 head cattle, or (b) 100 sheep, over the whole of the land comprised in this register unit. (Registration provisional)	Thatcham Farm, Fursdon, Basset, as shown hatched blue on the supplemental map bearing registration 17.
No. 33	18 12 December 2007	Not applicable	Registration amendment: entry No. 17 above is modified by entries Nos. 1 and 2 in register unit CL Y.		

In the register entry relating to the replacement land ('register unit CL Y'):

	1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
No. 34	1 12 December 2007	Not applicable	Not applicable. Registration made pursuant to an order made by or on behalf of the Secretary of State on 20.. under section 17 of the Commons Act 2006.	(See entries Nos. 17 and 18 in register unit CL X.) The right to graze— (a) 20 head of cattle, or (b) 100 sheep, over register unit CL X is also exercisable over the whole of this register unit.	Thatcham Farm, Fursdon, Basset, as shown hatched blue on the supplemental map bearing registration 17 under register unit CL X.

PART 2
STANDARD ENTRIES

Standard Entry 11

For land section of register

No. and date of entry	Description of the land, reference to the register map, registration particulars, etc.
	Registration amendment: [the whole] [the part]* of the land comprised in this register unit [shown hatched violet on the register map and marked R1]* was removed from the register of [common land] [town or village greens]* on 20.. pursuant to an order made by or on behalf of the Secretary of State on 20.. under section 17 of the Commons Act 2006.

* Delete inapplicable wording.

Standard Entry 12

For land section of register

No. and date of entry	Description of the land, reference to the register map, registration particulars, etc.
	The land comprised in the registration at entry no. ... (“the replacement land”) was registered as [common land] [a town or village green]* on 20.. in substitution for the land removed from the register at entry no. ... (“the release land”) pursuant to an order made by or on behalf of the Secretary of State on 20.. under section 17 of the Commons Act 2006. The replacement land became on [date of registration] subject to the rights of common (if any) which were immediately before that date exercisable over the release land.

* Delete inapplicable wording.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 16 and 17 of the Commons Act 2006 (“the 2006 Act”) make provision for applications to deregister land which is registered as common land or as a town or village green, and to register other land in replacement.

Such applications are, in England, to be determined by the Secretary of State or a person appointed by him. Where he grants an application, section 17(1) and (2) of the 2006 Act requires him to make an order directing the commons registration authority to amend its register of common land or town or village greens accordingly.

Part 1 of the 2006 Act has not yet been fully brought into force. Until sections 1 to 3 are brought into force, an order under section 17 is to be treated as an order directing the registration authority to amend the registers which it maintains pursuant to the Commons Registration Act 1965 (“the 1965 Act”), by virtue of transitional provisions contained in the Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007.

These Regulations specify the manner in which a registration authority must amend the registers which it maintains pursuant to the 1965 Act, when it receives an order under section 17.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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