

**EXPLANATORY MEMORANDUM TO  
THE COMMONS (DEREGISTRATION AND EXCHANGE ORDERS) (INTERIM  
ARRANGEMENTS) (ENGLAND) REGULATIONS 2007**

**2007 No. 2585**

**1.** This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations prescribe the administrative procedures to be followed by commons registration authorities when the Secretary of State makes an order under sections 16 and 17 of the Commons Act 2006 authorising the deregistration of land which is registered as common land or a town or village green, and (in some cases) the registration of other land in exchange.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 Sections 16 and 17 of the Commons Act 2006 make provision for the Secretary of State to make an order, on the application of the owner of any land which is registered as common land or a town or village green, authorising the deregistration of the land. In any case where the land to be deregistered is more than 200 square metres in area, other land must be registered in exchange. These sections replace with modifications section 147 of the Inclosure Act 1845, which has previously been used to achieve exchanges of common land or greens.

4.2 Sections 16 and 17 are to come into force in England on 1st October 2007. The Deregistration and Exchange of Common Land and Greens (Procedure) (England) Regulations 2007 (S.I. 2007/xxxx) make provision for the procedure to be followed upon such applications.

4.3 Section 17 provides that, where the Secretary of State grants an application, he must make an order requiring the commons registration authority (usually the county council or unitary authority) to amend its register of common land or town or village greens. These Regulations make provision about the steps to be taken by a commons registration authority upon receiving such an order.

4.4 Most of Part 1 of the 2006 Act, which makes provision about registration of common land and greens, has not yet come into force (see paragraph 7.6 below), and for the time being registers of common land and greens are maintained pursuant to the Commons Registration Act 1965 and regulations under that Act. These Regulations

make provision for amendments to be made to the registers kept under the 1965 Act in consequence of a deregistration and exchange order.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Sections 16 and 17 of the 2006 Act give the Secretary of State discretion to allow land that is registered as common land or a town or village green to be deregistered, upon an application by the owner of the land. In determining an application, the Secretary of State is required to have regard to the interests of persons having rights in relation to the land (including persons exercising rights of common over it), the interests of the neighbourhood and the wider public interest.

7.2 Defra anticipates that applications under section 16 of the 2006 Act will be made by landowners to facilitate the development or sale of land which is presently registered as common land or a green, or to regularise the position where, for example, an enclosed garden encroaches on to a registered common or green. By requiring all relevant interests to be taken into account, and by requiring other land to be registered in exchange in all cases where the land to be deregistered is more than 200 square metres in area, the sections strike a balance between the policies of preserving common land and avoiding undue restrictions on the development or sale of land.

7.3 If the Secretary of State grants an application under section 16 of the 2006 Act and makes a 'deregistration order', it will be necessary for commons registration authorities to amend their registers to give effect to the order.

7.4 These regulations provide detailed guidance on how register amendments must be made, together with Model and Standard register entries for use by commons registration authorities.

7.5 Whilst these regulations do not place a time limit on registration authorities, within which register amendments must be made, it is expected that registration authorities will act expeditiously as they are required to send written confirmation to the Secretary of State once the register has been amended. Accurate and up to date registers of common land and town or village greens are an essential resource for those managing or otherwise using such land.

7.6 Part 1 of the 2006 Act includes a number of other changes to the registration arrangements for common land and greens. Defra's intention is to introduce these provisions on a phased basis, beginning with a pilot scheme in 2008, followed by commencement on a region-by-region basis between 2010 and 2014. These Regulations provide, as an interim arrangement, for amendments to be made to the registers kept

under the Commons Registration Act 1965, and they will be replaced when Part 1 is fully brought into force in relation to any particular area or region.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

## **9. Contact**

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