
STATUTORY INSTRUMENTS

2008 No. 1961

The Commons Registration (England) Regulations 2008

PART 4

Transitional Period

The transitional period and transitional application period

39.—(1) The transitional period for the purposes of paragraphs 2 to 5 of Schedule 3 to the 2006 Act is the period from 1st October 2008 to 30th September 2010.

(2) The “transitional application period” means the period in which applications may be made to a registration authority for the purposes of paragraph 2 of Schedule 3 to the 2006 Act, without payment of a fee, for its registers to be amended during the transitional period.

(3) The transitional application period is the period from 1st October 2008 to 30th September 2009.

Notice of the transitional period

40.—(1) Every registration authority must, as soon as reasonably practicable after 1st October 2008, publicise the transitional period in its area by—

- (a) placing a notice of the transitional period on its website;
- (b) publishing a notice of the transitional period in such one or more newspapers as appears to the registration authority to be sufficient to secure adequate publicity; and
- (c) serving notice of the transitional period on—
 - (i) every other local authority in its area;
 - (ii) any body appearing to it to be representative of persons entitled to exercise rights of common on any registered land in its area; and
 - (iii) such other persons as the registration authority thinks fit.

(2) A notice pursuant to paragraph (1) must contain the following details—

- (a) a reference to Schedule 3 to the Commons Act 2006;
- (b) the name of the registration authority, and a description of its registration area;
- (c) a summary of the purpose and effect of the transitional period;
- (d) an explanation of what qualifying events may be registered;
- (e) the dates on which the transitional period and the transitional application period begin and end;
- (f) an explanation of how to make an application during the transitional application period;
- (g) the name and address of a person from whom further information may be obtained;
- (h) an address at which the registers may be inspected;

- (i) an explanation of the possible effects of failing to apply during the transitional application period to register a qualifying event which was not registered under the 1965 Act, including—
 - (i) that a fee will be payable for any application made after the end of that period;
 - (ii) that a qualifying event may not be registered pursuant to an application made after the end of that period, if it would be unfair to do so by reason of any reliance placed on the registers since the end of that period; and
 - (iii) that if a qualifying event has not been registered by the end of the transitional period, rights of common may be extinguished, or rights previously surrendered or extinguished may be revived.

Review of the registers

41. Every registration authority must, during the period 1st October 2008 to 30th September 2009—

- (a) carry out a review of the information contained in its register of common land and its register of town or village greens;
- (b) consider whether to make any proposals to amend its registers on its own initiative in consequence of qualifying events; and
- (c) in relation to any proposal which it decides to make—
 - (i) prepare a statement of the proposal in accordance with regulation 18(1); and
 - (ii) publicise the proposal in accordance with regulation 23.

Determination of applications and proposals to amend the registers

42.—(1) By the end of the transitional period—

- (a) the determining authority must determine—
 - (i) any application for the purposes of paragraph 2 of Schedule 3 to the 2006 Act which was made to the registration authority during the transitional application period; and
 - (ii) any proposal by the registration authority to amend its registers on its own initiative;and
- (b) the registration authority must make any amendment to its registers which is required in consequence of a determination pursuant to sub-paragraph (a).

(2) Paragraph (3) applies for the purposes of determining an application or proposal made for the purposes of Schedule 3 to the 2006 Act to amend a register to record the severance of a right of common from land to which it was attached.

(3) A right of common attached to land is not to be treated as having been severed from that land in consequence of a qualifying event, unless the determining authority is satisfied that the severance was lawful and—

- (a) there is documentary evidence showing that the parties to the transaction or disposition which is a qualifying event intended the transaction or disposition to have the effect of severing the right of common; or
- (b) there is evidence that the right of common has been treated since the qualifying event as having been severed.

(4) Paragraph (5) applies where a determining authority is determining an application made for the purposes of paragraph 2 or 4 of Schedule 3 to the 2006 Act, which was made after the end of the transitional application period.

(5) Where this paragraph applies, the determining authority may not determine that a register entry should be amended if it considers that, by reason of reliance reasonably placed on the register by a person since the end of the transitional application period, it would be unfair to do so.

Amendment of registers after end of transitional period

43.—(1) A registration authority may, subject to regulation 42(5), amend its registers after the end of the transitional period in consequence of a qualifying event, pursuant to an application made before or after the end of that period.

(2) Where, after the end of the transitional period, a right of common is registered in consequence of a qualifying event, paragraph 3 of Schedule 3 to the 2006 Act is to be treated as not having applied to that right of common.