
STATUTORY INSTRUMENTS

2008 No. 1961

The Commons Registration (England) Regulations 2008

PART 5

Miscellaneous

Declaration of entitlement to right of common

44.—(1) The owner of—

- (a) a freehold estate in land to which a right of common is attached, or
- (b) a leasehold estate in any such land (excluding one that is granted for a term of three years or less from the date of grant),

may apply to amend the relevant entry in the rights section of the register unit relating to all or part of the land over which the right is exercisable, to record a declaration of the applicant's entitlement to exercise the right.

(2) An applicant must provide one of the following with an application under paragraph (1)—

- (a) a copy of the register of title to all or part of the land to which the right is attached, which records the applicant's ownership of an estate referred to in paragraph (1); or
- (b) where the land is not registered in the register of title, other evidence of the applicant's ownership of an estate referred to in paragraph (1).

(3) An applicant must also provide details of—

- (a) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates; and
- (b) where the declaration relates to only part of the land to which the right of common in the register entry is shown as attached, an explanation of how the applicant has calculated the extent to which the right of common is exercisable in relation to the part of the land to which the declaration relates.

(4) On receipt of an application under this regulation, the registration authority must allocate a reference number to it.

(5) Where a declaration is entered in a register pursuant to an application under this regulation, the registration authority must send the applicant a copy of the entry.

(6) If a registration authority believes that an entry made in a register pursuant to an application under this regulation contains a material error, or that the person who made the declaration is no longer the owner of the land to which the right of common is attached, it may, subject to paragraph (7), cancel the declaration.

(7) Before cancelling the declaration the registration authority must—

- (a) serve on the person who made the declaration notice in writing of its intention to do so; and
- (b) consider any representations made by that person within 28 days of being served with the notice.

Operation at law of relevant instruments effecting statutory dispositions

- 45.**—(1) This regulation applies where a relevant instrument—
- (a) in relation to any registered land, extinguishes—
 - (i) a right of common; or
 - (ii) a right of access for open air recreation (however expressed);
 - (b) in relation to any land registered as a town or village green, extinguishes a right to indulge in lawful sports or pastimes (however expressed);
 - (c) confers, or vests in any person, a right over other land in exchange for a right which is extinguished as mentioned in sub-paragraph (a) or (b);
 - (d) causes any registered land to cease to be common land or a town or village green; or
 - (e) causes any land to become common land or a town or village green.
- (2) The relevant instrument does not, to the extent that it has any of the effects mentioned in paragraph (1), operate at law until, further to the granting of an application made under paragraph 8 of Schedule 4, the disposition effected by that instrument is registered in the register of common land or the register of town or village greens.
- (3) In paragraphs (1) and (2)—
- (a) “disposition” means a disposition to which paragraph 8 of Schedule 4 applies; and
 - (b) “relevant instrument” means a relevant instrument (as defined in section 14(3) of the 2006 Act) to which that paragraph applies.

Severance by transfer to Natural England

- 46.**—(1) A notice under paragraph 1(2) of Schedule 1 to the 2006 Act of a proposal to sever a right of common from the land to which it is attached by transferring it on its own to Natural England must, in addition to the matters set out in paragraph 1(3) of Schedule 1 to the 2006 Act—
- (a) contain an extract of the relevant entry in the rights section of the register unit relating to the registration of the right of common, which must include the information specified in paragraph (2);
 - (b) state whether, and if so to what extent, the right of common has been exercised during the period of five years prior to the giving of the notice; and
 - (c) specify the earliest date on which the application by Natural England under paragraph 1(6) (b) of Schedule 1 to the 2006 Act is intended to be made.
- (2) The extract from the register required by paragraph (1)(a) must include—
- (a) a description of the right of common;
 - (b) the rights section entry number of the register entry for the right of common;
 - (c) a description of the land to which the right of common is attached;
 - (d) the register unit number of the land over which the right of common is exercisable; and
 - (e) where the right of common is exercisable over part only of that register unit, a description of that part of the register unit over which the right is exercisable.

Matters affecting the public

- 47.**—(1) Where registered land is affected by any of the matters referred to in paragraph (2), the registration authority—
- (a) must, on an application made in accordance with this regulation, enter a note of the matter in the land section of the register; and

- (b) may enter such a note on its own initiative.
- (2) Those matters are—
 - (a) a scheme made under Part 1 of the Commons Act 1899⁽¹⁾ or under the Metropolitan Commons Acts 1866 to 1898⁽²⁾;
 - (b) a local Act regulating the land;
 - (c) an order of regulation made under the Commons Act 1876⁽³⁾ and confirmed by a Provisional Order Confirmation Act;
 - (d) a declaration made by deed under subsection (2) of section 193 of the Law of Property Act 1925⁽⁴⁾ which declares that that section is to apply to the land;
 - (e) a limitation and condition imposed under proviso (b) to section 193(1) of the Law of Property Act 1925;
 - (f) an order made under Part 2 of the 2006 Act establishing a commons council.
- (3) An application under this regulation may be made by—
 - (a) any local authority (other than the registration authority) in whose area any part of the land lies;
 - (b) any person with a function relating to the management or regulation of the land, conferred by an instrument or enactment mentioned in paragraph (2)(a), (b) or (c); or
 - (c) in the case of an application to note a matter referred to in paragraph (2)(d) or (e)—
 - (i) the owner of any part of the land;
 - (ii) any person appearing from the register to be entitled to exercise a right of common over the land;
- (4) Where a note is entered in a register pursuant to an application, the registration authority must send the applicant a copy of the entry.
- (5) A registration authority may cancel an entry under this regulation if it is satisfied on reasonable grounds that the matter to which the entry relates is no longer subsisting.

Registration under Land Registration Act 2002

- 48.**—(1) Paragraphs (2) and (3) apply in relation to any registered land where—
- (a) the register unit contains an ownership section; and
 - (b) the registration authority is notified by the Chief Land Registrar that the land has become registered in the register of title.
- (2) If the ownership of the land is not registered in the ownership section of the register unit, the registration authority must insert a note in the ownership section.
- (3) If the ownership of the land is registered in the ownership section of the register unit, the registration authority must (in addition to deleting the registration of the ownership as required by paragraph 8(2) of Schedule 3 to the 2006 Act) insert a note in the ownership section.

(1) 1899 c. 30.

(2) 1866 c. 122, 1869 c. 107, 1878 c. 71, and 1898 c. 43.

(3) 1876 c. 56.

(4) 1925 c. 20. Section 193(1) was amended by section 189(4) of, and Schedule 30 to, the Local Government Act 1972 (c. 70), paragraph 10(5) of Schedule 8 to the Local Government Act 1985 (c. 51), paragraph 7 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19), and paragraph 1 of Schedule 4 to the Countryside and Rights of Way Act 2000 (c. 37).

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Deregistration and exchange: action to be taken by registration authority on receipt of order

49.—(1) Paragraph (2) applies where the Secretary of State has granted an application under section 16 of the 2006 Act and made an order to a registration authority under section 17(1), or under section 17(1) and (2), of the 2006 Act.

(2) When the registration authority has amended its registers in accordance with the order, it must give written notice of that fact, including details of the amendment made, to—

- (a) the applicant under section 16 of the 2006 Act; and
- (b) the Secretary of State.

Vacant benefices

50. Where any land or rights of common belong to an ecclesiastical benefice of the Church of England and the benefice is vacant, anything done with respect to the land or rights of common which, if the benefice had an incumbent, might by virtue of the 2006 Act or these Regulations be done by or to the incumbent may be done by or to the Church Commissioners.

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Changes and effects yet to be applied to :

- Regulations revoked by [S.I. 2014/3038 reg. 54\(1\)\(a\)](#)