

Status: Point in time view as at 10/04/2017.

Changes to legislation: There are currently no known outstanding effects for the Commons Act 2006, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 22

NON-REGISTRATION OR MISTAKEN REGISTRATION UNDER THE 1965 ACT

Modifications etc. (not altering text)

- C1** Sch. 2 excluded (9.6.2009) by [Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **35(6)** (with [Sch. 13 para. 14\(2\)](#), [Sch. 14 para. 19](#))
- C2** Sch. 2 excluded (9.6.2009) by [Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **5(11)** (with [Sch. 13 para. 14\(2\)](#), [Sch. 14 para. 19](#))
- C3** Sch. 2 excluded (9.6.2009) by [Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **46(5)** (with [Sch. 13 para. 14\(2\)](#), [Sch. 14 para. 19](#), [Sch. 16](#))

Introductory

- 1 In this Schedule “the 1965 Act” means the Commons Registration Act 1965 (c. 64).

Commencement Information

- I1** Sch. 2 para. 1 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), art. 2(1)(f), [Sch.](#) (with [art. 3](#))
- I2** Sch. 2 para. 1 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), [art. 3](#) (with [arts. 4, 5](#))
- I3** [Sch. 2 para. 1](#) in force at 10.4.2017 for W. by [S.I. 2017/564](#), [art. 2\(b\)](#)

Non-registration of common land

- 2 (1) If a commons registration authority is satisfied that any land not registered as common land or as a town or village green is land to which this paragraph applies, the authority shall, subject to this paragraph, register the land as common land in its register of common land.
- (2) This paragraph applies to any land which—
- (a) was not at any time finally registered as common land or as a town or village green under the 1965 Act;
 - (b) is land which is—
 - (i) regulated by an Act made under the Commons Act 1876 (c. 56) confirming a provisional order of the Inclosure Commissioners;
 - (ii) subject to a scheme under Metropolitan Commons Act 1866 (c. 122) or the Commons Act 1899 (c. 30);
 - (iii) regulated as common land under a local or personal Act; or
 - (iv) otherwise recognised or designated as common land by or under an enactment;
 - (c) is land to which this Part applies; and

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- (d) satisfies such other conditions as regulations may specify.
- (3) A commons registration authority may only register land under sub-paragraph (1) acting on—
- (a) the application of any person made before such date as regulations may specify; or
 - (b) a proposal made and published by the authority before such date as regulations may specify.

Modifications etc. (not altering text)

- C4** Sch. 2 paras. 2-4 excluded (1.2.2011) by [The River Mersey \(Mersey Gateway Bridge\) Order 2011 \(S.I. 2011/41\)](#), arts. 1, **49** (with art. 51, Sch. 10 paras. 68, 85)
- C5** Sch. 2 paras. 2-4 disapplied (6.11.2013) by [The Transport for Greater Manchester \(Light Rapid Transit System\) \(Second City Crossing\) Order 2013 \(S.I. 2013/2587\)](#), arts. 1, **5** (with arts. 42, 43)
- C6** Sch. 2 paras. 2-4 excluded (24.11.2016) by [The Transport for Greater Manchester \(Light Rapid Transit System\) \(Trafford Park Extension\) Order 2016 \(S.I. 2016/1035\)](#), arts. 1, **5** (with arts. 43, 44)

Commencement Information

- I4** Sch. 2 para. 2 partly in force; Sch. 2 para. 2 not in force at Royal Assent see s. 56(1); Sch. 2 para. 2(2)(d)(3) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), **art. 2**
- I5** Sch. 2 para. 2 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), **art. 2(1)(f)**, **Sch.** (with **art. 3**)
- I6** Sch. 2 para. 2 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), **art. 3(1)(e)** (with **art. 5**)
- I7** Sch. 2 para. 2(1)(2)(a)-(c) in force at 10.4.2017 for W. by [S.I. 2017/564](#), **art. 2(b)**
- I8** Sch. 2 para. 2(2)(d)(3) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), **art. 3(c)**

Non-registration of town or village green

- 3 (1) If a commons registration authority is satisfied that any land not registered as a town or village green or as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, register the land as a town or village green in its register of town or village greens.
- (2) This paragraph applies to any land which—
- (a) on 31 July 1970 was land allotted by or under any Act for the exercise or recreation of the inhabitants of any locality;
 - (b) was not at any time finally registered as a town or village green or as common land under the 1965 Act;
 - (c) continues to be land allotted as specified in paragraph (a);
 - (d) is land to which this Part applies; and
 - (e) satisfies such other conditions as regulations may specify.
- (3) A commons registration authority may only register land under sub-paragraph (1) acting on—
- (a) the application of any person made before such date as regulations may specify; or
 - (b) a proposal made and published by the authority before such date as regulations may specify.

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Modifications etc. (not altering text)

- C4** Sch. 2 paras. 2-4 excluded (1.2.2011) by [The River Mersey \(Mersey Gateway Bridge\) Order 2011 \(S.I. 2011/41\)](#), arts. 1, **49** (with art. 51, Sch. 10 paras. 68, 85)
- C5** Sch. 2 paras. 2-4 disapplied (6.11.2013) by [The Transport for Greater Manchester \(Light Rapid Transit System\) \(Second City Crossing\) Order 2013 \(S.I. 2013/2587\)](#), arts. 1, **5** (with arts. 42, 43)
- C6** Sch. 2 paras. 2-4 excluded (24.11.2016) by [The Transport for Greater Manchester \(Light Rapid Transit System\) \(Trafford Park Extension\) Order 2016 \(S.I. 2016/1035\)](#), arts. 1, **5** (with arts. 43, 44)

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- I9** Sch. 2 para. 3 partly in force; Sch. 2 para. 3 not in force at Royal Assent see s. 56(1); Sch. 2 para. 3(2)(e)(3) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), **art. 2**
- I10** Sch. 2 para. 3 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), art. 2(1)(f), **Sch.** (with art. 3)
- I11** Sch. 2 para. 3 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), **art. 3(1)(e)** (with art. 5)
- I12** Sch. 2 para. 3(1)(2)(a)-(d) in force at 10.4.2017 for W. by [S.I. 2017/564](#), **art. 2(b)**
- I13** Sch. 2 para. 3(2)(e)(3) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), **art. 3(c)**

Waste land of a manor not registered as common land

- 4 (1) If a commons registration authority is satisfied that any land not registered as common land or as a town or village green is land to which this paragraph applies, the authority shall, subject to this paragraph, register the land as common land in its register of common land.
- (2) This paragraph applies to land which at the time of the application under sub-paragraph (1) is waste land of a manor and where, before the commencement of this paragraph—
- the land was provisionally registered as common land under section 4 of the 1965 Act;
 - an objection was made in relation to the provisional registration; and
 - the provisional registration was cancelled in the circumstances specified in sub-paragraph (3), (4) or (5).
- (3) The circumstances in this sub-paragraph are that—
- the provisional registration was referred to a Commons Commissioner under section 5 of the 1965 Act;
 - the Commissioner determined that, although the land had been waste land of a manor at some earlier time, it was not such land at the time of the determination because it had ceased to be connected with the manor; and
 - for that reason only the Commissioner refused to confirm the provisional registration.
- (4) The circumstances in this sub-paragraph are that—
- the provisional registration was referred to a Commons Commissioner under section 5 of the 1965 Act;
 - the Commissioner determined that the land was not subject to rights of common and for that reason refused to confirm the provisional registration; and

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- (c) the Commissioner did not consider whether the land was waste land of a manor.
- (5) The circumstances in this sub-paragraph are that the person on whose application the provisional registration was made requested or agreed to its cancellation (whether before or after its referral to a Commons Commissioner).
- (6) A commons registration authority may only register land under sub-paragraph (1) acting on—
 - (a) the application of any person made before such date as regulations may specify; or
 - (b) a proposal made and published by the authority before such date as regulations may specify.

Modifications etc. (not altering text)

- C4** Sch. 2 paras. 2-4 excluded (1.2.2011) by [The River Mersey \(Mersey Gateway Bridge\) Order 2011 \(S.I. 2011/41\)](#), arts. 1, **49** (with art. 51, Sch. 10 paras. 68, 85)
- C5** Sch. 2 paras. 2-4 disapplied (6.11.2013) by [The Transport for Greater Manchester \(Light Rapid Transit System\) \(Second City Crossing\) Order 2013 \(S.I. 2013/2587\)](#), arts. 1, **5** (with arts. 42, 43)
- C6** Sch. 2 paras. 2-4 excluded (24.11.2016) by [The Transport for Greater Manchester \(Light Rapid Transit System\) \(Trafford Park Extension\) Order 2016 \(S.I. 2016/1035\)](#), arts. 1, **5** (with arts. 43, 44)

Commencement Information

- I14** Sch. 2 para. 4 partly in force; Sch. 2 para. 4 not in force at Royal Assent see s. 56(1); Sch. 2 para. 4(6) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), **art. 2**
- I15** Sch. 2 para. 4 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), **art. 2(1)(f)**, **Sch.** (with **art. 3**)
- I16** Sch. 2 para. 4 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), **art. 3(1)(e)** (with **art. 5**)
- I17** [Sch. 2 para. 4\(1\)-\(5\)](#) in force at 10.4.2017 for W. by [S.I. 2017/564](#), **art. 2(b)**
- I18** [Sch. 2 para. 4\(6\)](#) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), **art. 3(c)**

Town or village green wrongly registered as common land

- 5 (1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of common land and register it in its register of town or village greens.
- (2) This paragraph applies to land where—
 - (a) the land was provisionally registered as common land under section 4 of the 1965 Act;
 - (b) the provisional registration became final; but
 - (c) immediately before its provisional registration, the land was a town or village green within the meaning of that Act as originally enacted.
- (3) A commons registration authority may only remove and register land under sub-paragraph (1) acting on—
 - (a) the application of any person made before such date as regulations may specify; or

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- (b) a proposal made and published by the authority before such date as regulations may specify.

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- I19** Sch. 2 para. 5 partly in force; Sch. 2 para. 5 not in force at Royal Assent see s. 56(1); Sch. 2 para. 5(3) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), [art. 2](#)
- I20** Sch. 2 para. 5 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), [art. 2\(1\)\(f\)](#), [Sch.](#) (with [art. 3](#))
- I21** Sch. 2 para. 5 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), [art. 3\(1\)\(e\)](#) (with [art. 5](#))
- I22** Sch. 2 para. 5(1)(2) in force at 10.4.2017 for W. by [S.I. 2017/564](#), [art. 2\(b\)](#)
- I23** Sch. 2 para. 5(3) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), [art. 3\(c\)](#)

Buildings registered as common land

- 6 (1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of common land.
- (2) This paragraph applies to land where—
- the land was provisionally registered as common land under section 4 of the 1965 Act;
 - on the date of the provisional registration the land was covered by a building or was within the curtilage of a building;
 - the provisional registration became final; and
 - since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building.
- (3) A commons registration authority may only remove land under sub-paragraph (1) acting on—
- the application of any person made before such date as regulations may specify; or
 - a proposal made and published by the authority before such date as regulations may specify.

Commencement Information

- I24** Sch. 2 para. 6 partly in force; Sch. 2 para. 6 not in force at Royal Assent see s. 56(1); Sch. 2 para. 6(3) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), [art. 2](#)
- I25** Sch. 2 para. 6 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), [art. 2\(1\)\(f\)](#), [Sch.](#) (with [art. 3](#))
- I26** Sch. 2 para. 6 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), [art. 3](#) (with [arts. 4, 5](#))
- I27** Sch. 2 para. 6(1)(2) in force at 10.4.2017 for W. by [S.I. 2017/564](#), [art. 2\(b\)](#)
- I28** Sch. 2 para. 6(3) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), [art. 3\(c\)](#)

Other land wrongly registered as common land

- 7 (1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of common land.

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- (2) This paragraph applies to land where—
- (a) the land was provisionally registered as common land under section 4 of the 1965 Act;
 - (b) the provisional registration of the land as common land was not referred to a Commons Commissioner under section 5 of the 1965 Act;
 - (c) the provisional registration became final; and
 - (d) immediately before its provisional registration the land was not any of the following—
 - (i) land subject to rights of common;
 - (ii) waste land of a manor;
 - (iii) a town or village green within the meaning of the 1965 Act as originally enacted; or
 - (iv) land of a description specified in section 11 of the Inclosure Act 1845 (c. 118).
- (3) A commons registration authority may only remove land under sub-paragraph (1) acting on—
- (a) the application of any person made before such date as regulations may specify; or
 - (b) a proposal made and published by the authority before such date as regulations may specify.

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- I29** Sch. 2 para. 7 partly in force; Sch. 2 para. 7 not in force at Royal Assent see s. 56(1); Sch. 2 para. 7(3) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), [art. 2](#)
- I30** Sch. 2 para. 7 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), [art. 2\(1\)\(f\)](#), [Sch. \(with art. 3\)](#)
- I31** Sch. 2 para. 7 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), [art. 3](#) (with [arts. 4, 5](#))
- I32** Sch. 2 para. 7(1)(2) in force at 10.4.2017 for W. by [S.I. 2017/564](#), [art. 2\(b\)](#)
- I33** Sch. 2 para. 7(3) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), [art. 3\(c\)](#)

Buildings registered as town or village green

- 8 (1) If a commons registration authority is satisfied that any land registered as a town or village green is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of town or village greens.
- (2) This paragraph applies to land where—
- (a) the land was provisionally registered as a town or village green under section 4 of the 1965 Act;
 - (b) on the date of the provisional registration the land was covered by a building or was within the curtilage of a building;
 - (c) the provisional registration became final; and
 - (d) since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building.
- (3) A commons registration authority may only remove land under sub-paragraph (1) acting on—

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- (a) the application of any person made before such date as regulations may specify; or
- (b) a proposal made and published by the authority before such date as regulations may specify.

Commencement Information

- I34** Sch. 2 para. 8 partly in force; Sch. 2 para. 8 not in force at Royal Assent see s. 56(1); Sch. 2 para. 8(3) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386, art. 2](#)
- I35** Sch. 2 para. 8 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960, art. 2\(1\)\(f\)](#), [Sch. \(with art. 3\)](#)
- I36** Sch. 2 para. 8 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026, art. 3](#) (with arts. 4, 5)
- I37** Sch. 2 para. 8(1)(2) in force at 10.4.2017 for W. by [S.I. 2017/564, art. 2\(b\)](#)
- I38** Sch. 2 para. 8(3) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564, art. 3\(c\)](#)

Other land wrongly registered as town or village green

- 9 (1) If a commons registration authority is satisfied that any land registered as a town or village green is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of town or village greens.
- (2) This paragraph applies to land where—
- (a) the land was provisionally registered as a town or village green under section 4 of the 1965 Act;
 - (b) the provisional registration of the land as a town or village green was not referred to a Commons Commissioner under section 5 of the 1965 Act;
 - (c) the provisional registration became final; and
 - (d) immediately before its provisional registration the land was not—
 - (i) common land within the meaning of that Act; or
 - (ii) a town or village green.
- (3) For the purposes of sub-paragraph (2)(d)(ii), land is to be taken not to have been a town or village green immediately before its provisional registration if (and only if) —
- (a) throughout the period of 20 years preceding the date of its provisional registration the land was, by reason of its physical nature, unusable by members of the public for the purposes of lawful sports and pastimes; and
 - (b) immediately before its provisional registration the land was not, and at the time of the application under this paragraph still is not, allotted by or under any Act for the exercise or recreation of the inhabitants of any locality.
- (4) A commons registration authority may only remove land under sub-paragraph (1) acting on—
- (a) the application of any person made before such date as regulations may specify; or
 - (b) a proposal made and published by the authority before such date as regulations may specify.

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Commencement Information

- I39** Sch. 2 para. 9 partly in force; Sch. 2 para. 9 not in force at Royal Assent see s. 56(1); Sch. 2 para. 9(4) in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), **art. 2**
- I40** Sch. 2 para. 9 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), **art. 2(1)(f)**, **Sch.** (with **art. 3**)
- I41** Sch. 2 para. 9 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), **art. 3** (with **arts. 4, 5**)
- I42** [Sch. 2 para. 9\(1\)-\(3\)](#) in force at 10.4.2017 for W. by [S.I. 2017/564](#), **art. 2(b)**
- I43** [Sch. 2 para. 9\(4\)](#) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), **art. 3(c)**

Costs

- 10 (1) Regulations may make provision as to the payment of costs which pursuant to an application under this Schedule are incurred by the applicant, an objector or the person determining the application.
- (2) That provision may in particular include provision—
- (a) for the payment of costs by the applicant, an objector or a commons registration authority;
 - (b) for the person determining an application or the appropriate national authority to determine who is liable to pay costs and how much they are liable to pay.

Commencement Information

- I44** Sch. 2 para. 10 partly in force; Sch. 2 para. 10 not in force at Royal Assent see s. 56(1); Sch. 2 para. 10 in force for certain purposes for W. at 12.8.2007 by [S.I. 2007/2386](#), **art. 2**
- I45** Sch. 2 para. 10 in force at 1.10.2008 for specified purposes for E. by [S.I. 2008/1960](#), **art. 2(1)(f)**, **Sch.** (with **art. 3**)
- I46** Sch. 2 para. 10 in force at 15.12.2014 for specified purposes for E. by [S.I. 2014/3026](#), **art. 3** (with **arts. 4, 5**)
- I47** [Sch. 2 para. 10](#) in force at 10.4.2017 for W. in so far as not already in force by [S.I. 2017/564](#), **art. 3(c)**

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