
STATUTORY INSTRUMENTS

2014 No. 3038

The Commons Registration (England) Regulations 2014

PART 4

Miscellaneous

The transitional period and transitional application period

38.—(1) For a 2014 registration authority, the transitional period for the purposes of paragraphs 2 to 5 of Schedule 3 to the 2006 Act is the period from 15th December 2014 to 14th December 2018.

(2) The “transitional application period” means the period in which applications may be made to a 2014 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 15th December 2014 to 14th December 2017.

Notice of the transitional period

39.—(1) Each 2014 registration authority must, as soon as reasonably practicable after 15th December 2014, publicise the transitional period in its area by—

- (a) placing a notice of the transitional period on its website; and
- (b) 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 2014 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 2014 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

40. Each 2014 registration authority must, during the period 15th December 2014 to 14th December 2017—

- (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 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 22.

Determination of applications and proposals to amend the registers

41.—(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 2014 registration authority during the transitional application period; and
 - (ii) any proposal by the 2014 registration authority for such purposes; and
- (b) the 2014 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 4 of Schedule 3 to the 2006 Act, which was made after the end of the transitional 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 period, it would be unfair to do so.

Further amendment of registers under Schedule 3 to the 2006 Act

42.—(1) A 2014 registration authority may, subject to regulation 41(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.

(3) An original registration authority may, subject to paragraphs (4) to (6), amend its registers in consequence of a qualifying event (as described in paragraph 2(2) of Schedule 3 to the 2006 Act) pursuant to an application made to that authority.

(4) For the purposes of determining an application 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, 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.

(5) 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 1st October 2011, it would be unfair to do so.

(6) Where 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.

Declaration of entitlement to exercise a right of common

43.—(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 six months 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 individual register 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 individual register, 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.

(8) In this regulation, “individual register” means the register so named in rule 2 of the Land Registration Rules 2003(1), the contents and arrangement of which are described in rules 3 and 4 of those Rules.

Operation at law of relevant instruments effecting statutory dispositions

44.—(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) “relevant instrument” means a relevant instrument (as defined in section 14(3) of the 2006 Act) to which that paragraph applies.

(4) In paragraph (2) “disposition” means a disposition to which paragraph 8 of Schedule 4 applies.

Severance by transfer to Natural England

45.—(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);

(1) [S.I. 2003/1417](#), to which there are amendments not relevant to these Regulations.

- (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

46.—(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⁽²⁾ or under the Metropolitan Commons Acts 1866 to 1898⁽³⁾;
 - (b) a local Act regulating the land;
 - (c) an order of regulation made under the Commons Act 1876⁽⁴⁾ and confirmed by a Provisional Order Confirmation Act;
 - (d) a declaration made by deed under section 193(2) of the Law of Property Act 1925⁽⁵⁾ which declares that that section is to apply to the land;
 - (e) a limitation and condition imposed under proviso (b) to section 193(1)⁽⁶⁾ 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.

(2) 1899 c. 30.

(3) 1866 c. 122, 1869 c. 107, 1878 c. 71, and 1898 c. 43.

(4) 1876 c. 56.

(5) 1925 c. 20.

(6) 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).

(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) If a registration authority is satisfied on reasonable grounds that the matter to which it relates is no longer subsisting, the registration authority may cancel any note entered in a register.

Registration under Land Registration Act 2002

47.—(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.

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

48.—(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

49. 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 Diocesan Board of Finance for the diocese in which the land is situated.