

1968 No. 658

COMMON

**The Commons Registration (General) (Amendment) Regulations 1968**

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| <i>Made - - - -</i>           | <i>24th April 1968</i> |
| <i>Laid before Parliament</i> | <i>2nd May 1968</i>    |
| <i>Coming into Operation</i>  | <i>9th May 1968</i>    |

The Minister of Housing and Local Government and the Secretary of State, in exercise of their respective powers under sections 3 and 19 of the Commons Registration Act 1965(a), as read with the Ministry of Land and Natural Resources (Dissolution) Order 1967(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

1. These Regulations may be cited as the Commons Registration (General) (Amendment) Regulations 1968 and shall come into operation on 9th May, 1968.

2.—(1) In these Regulations—

(a) “the principal regulations” means the Commons Registration (General) Regulations 1966(c);

(b) a regulation or form referred to by number in the Schedule to these Regulations is the regulation or form so numbered in the principal regulations.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

3. The principal regulations shall be amended in the manner specified in the Schedule to these Regulations.

4.—(1) Nothing in these Regulations shall affect the validity of any application for the registration of land as common land or as a town or village green, or of any application for the registration of a right of common over or of a claim to the ownership of such land, and nothing herein shall affect the validity of any other application which is made before 1st July 1968.

(2) In this regulation “application” includes a statutory declaration in support of an application.

**SCHEDULE**

1. The following shall be substituted for regulation 7:—

“*Applications in special cases*

7.—(1) Where a right of common is attached to any land, and is comprised in a tenancy of the land, an application for the registration of that right may be made by the landlord, the tenant, or both of them jointly.

(2) Where a right of common belongs to an ecclesiastical benefice of the Church of England which is vacant an application for the registration of that right may be made by the Church Commissioners.

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(a) 1965 c. 64.

(b) S.I. 1967/156 (1967 I, p. 258).

(c) S.I. 1966/1471 (1966 III, p. 3978).

(d) 1889 c. 63.

(3) Where any land registered under the Act belongs to an ecclesiastical benefice of the Church of England which is vacant an application for the registration of a claim to the ownership of that land may be made by the Church Commissioners.

(4) The foregoing provisions of this regulation do not affect the right of any person entitled, apart from those provisions, to make any application under the Act."

2. In regulation 8—

(a) in paragraph 1(b) after the words "signed by" there shall be inserted the words "or on behalf of";

(b) in paragraph (1)(c) for the words "every person who has signed the application" there shall be substituted the words "every applicant";

(c) after paragraph (2) insert the following paragraph:—

"(3) An application for the registration of a right of common, or of a claim to the ownership of any land, made by a person who is not the owner of the right or, as the case may be, of the land, shall, unless that person is entitled by virtue of any provision of regulation 7 above to make the application, be supported by such further evidence (if any) of his right to make it as, after considering the application and the declaration in support, the registration authority may reasonably require."

3. In regulation 27—

(a) the following shall be substituted for paragraph (2):—

"(2) An application under this regulation may be made by the person who, at the date of the application, would have been entitled (whether or not by virtue of any provision of these Regulations) to apply under section 4 of the Act for the registration of a claim to the ownership of the land if at that date such an application could have been made.";

(b) in paragraph 3(b) after the words "signed by" there shall be inserted the words "or on behalf of".

4. In regulation 29—

(a) the following shall be substituted for paragraph (2):—

"(2) (a) An application under this regulation may be made by any person having an interest under the apportionment, variation, extinguishment, release or transfer.

(b) For the purposes of this regulation the following are included in the expression "person having an interest", but without prejudice to the generality of that expression:—

(i) in the case of an apportionment, variation or transfer, any person who, at the date of the application under this regulation, would have been entitled (whether or not by virtue of any provision of these Regulations) to apply under section 4 of the Act for the registration of the right as apportioned, varied or transferred, if at that date such an application could have been made;

(ii) in the case of an extinguishment or release, any person who, at the date of the application under this regulation, would have been entitled (whether or not by virtue of any provision of these Regulations) to apply under the said section 4 for the registration of a claim to the ownership of any part of the land over which the

right extinguished or released was formerly exercisable, if at that date such an application could have been made.”;

- (b) in paragraph 3(b) after the words “ signed by ” there shall be inserted the words “ or on behalf of ”.

5. After regulation 31 insert:—

*“Applications signed by agents*

31A. Any application signed by an agent on behalf of an individual applicant shall be supported by such evidence (if any) of the agent’s authority as, after considering the application, the registration authority may reasonably require.”.

6. In Form 7—

- (a) the following shall be substituted for the marginal note <sup>3</sup> at the end of the application:—

*“<sup>3</sup> If the applicant is a body corporate or unincorporate the application must be signed by the secretary or some other duly authorised officer.”;*

- (b) in paragraph 1 of the Statutory Declaration in Support, after “ 1. ”, there shall be inserted the reference “<sup>3</sup>”, and, in the same paragraph, “ made ” shall be substituted for “ signed ”;

- (c) at the end of paragraph 3 of that Declaration, there shall be inserted the reference “<sup>3A</sup>”, and against paragraph 3 there shall be added the following marginal note:—

*“<sup>3A</sup> The words “ unless it is a town or village green as defined in the Commons Registration Act 1965 ” may be added here if the applicant can only declare to a belief that the land is one or the other. This will avoid inconsistency if the applicant intends to apply to have the land registered also as a town or village green.”.*

7. In Form 8—

- (a) the following shall be substituted for the marginal note <sup>3</sup> at the end of the application:—

*“<sup>3</sup> If the applicant is a body corporate or unincorporate the application must be signed by the secretary or some other duly authorised officer.”;*

- (b) in paragraph 1 of the Statutory Declaration in Support, after “ 1. ”, there shall be inserted the reference “<sup>3</sup>”, and, in the same paragraph, “ made ” shall be substituted for “ signed ”;

- (c) at the end of paragraph 3 of that Declaration, there shall be inserted the reference “<sup>3A</sup>”, and against paragraph 3 there shall be added the following marginal note:—

*“<sup>3A</sup> The words “ unless it is common land as defined in the Commons Registration Act 1965 ” may be added here if the applicant can only declare to a belief that the land is one or the other. This will avoid inconsistency if the applicant intends to apply to have the land registered also as common land.”.*

8. In Form 9—

- (a) the following shall be substituted for the marginal note <sup>3</sup> at the end of the application:—

*“<sup>3</sup> If the applicant is a body corporate or charity trustees the application must be signed by the secretary or some other duly authorised officer.”;*

(b) in paragraph 1 of the Statutory Declaration in Support, after "1.", there shall be inserted the reference "2", and, in the same paragraph "made" shall be substituted for "signed";

(c) the following shall be substituted for paragraph 2 of that Declaration and for the marginal note <sup>3</sup> thereto:—

<sup>3</sup> *Insert capacity in which acting and adapt as necessary.* "2. <sup>2</sup>I am<sup>3</sup> to the applicant(s) and am authorised [by the applicant(s)] [in manner stated in the application] to make the foregoing application on [his] [their] behalf.";

(d) in the first paragraph of Note 2, for the words "(a) by the owner of the right;" there shall be substituted the words "(a) by the owner of the right or in certain cases (see below) by someone on his behalf or in his stead;"

(e) the following shall be substituted for the last paragraph of Note 2:—

"In certain cases a person may be entitled to apply on behalf of the owner of the right or in his stead. Examples are (a) a receiver appointed under section 105 of the Mental Health Act 1959(a); (b) charity trustees where the right of common is vested in the Official Custodian for Charities; (c) trustees for the purposes of the Settled Land Act 1925(b) authorised by order under section 24 of that Act. In such cases mention should so far as possible be made in part 3 of (a) the Act of Parliament, statutory instrument, order of court or other authority under which the applicant claims to be entitled to apply; (b) the capacity in which he applies; and (c) the name and address of the person on whose behalf or in whose stead the application is made, and whether that person is owner, landlord or tenant. The registration authority has power to call for such further evidence of the right of the applicant to make the application as it may reasonably require.

Where charity trustees apply (whether the right is vested in themselves or in the Official Custodian) the fact should be stated, and the name of the charity given, in part 3."

## 9. In Form 10—

(a) the following shall be substituted for the marginal note <sup>3</sup> at the end of the application:—

<sup>3</sup> *If the applicant is a body corporate or charity trustees the application must be signed by the secretary or some other duly authorised officer."*;

(b) in paragraph 1 of the Statutory Declaration in Support, after "1.", there shall be inserted the reference "2", and, in the same paragraph "made" shall be substituted for "signed";

(c) the following shall be substituted for paragraph 2 of that Declaration and for the marginal note <sup>3</sup> thereto:—

<sup>3</sup> *Insert capacity in which acting and adapt as necessary.* "2. <sup>2</sup>I am<sup>3</sup> to the applicant(s) and am authorised [by the applicant(s)] [in manner stated in the application] to make the foregoing application on [his] [their] behalf.";

(d) in paragraph 3 of that Declaration, after the word "entitled" there shall be inserted the words:—

"[, in the capacity or respective capacities stated in the application,]";

## (e) the following shall be substituted for Note 1:—

## “ 1. Who may apply for registration.

An application for the registration of a claim to the ownership of any land registered under the Act may be made by the owner of the land or, where the land belongs to an ecclesiastical benefice of the Church of England which is vacant, by the Church Commissioners.

In certain cases a person may be entitled to apply on behalf of the owner of the land or in his stead. Examples are (a) a receiver appointed under section 105 of the Mental Health Act 1959; (b) charity trustees where the land is vested in the Official Custodian for Charities; (c) trustees for the purposes of the Settled Land Act 1925 authorised by order under section 24 of that Act. In such cases mention should so far as possible be made in part 1 of (a) the Act of Parliament, statutory instrument, order of court or other authority under which the applicant claims to be entitled to apply; (b) the capacity in which he applies; and (c) the name and address of the person (i.e. the owner of the land) on whose behalf or in whose stead the application is made. The registration authority has power to call for such further evidence of the right of the applicant to make the application as it may reasonably require.

The ownership of any land, for the purposes of the Act, means the ownership of the legal estate in fee simple in that land. It follows that applications made by, on behalf or instead of persons not having the legal estate in fee simple cannot be entertained. Thus, for example, an application by or on behalf of a lessee, mortgagee, or person having only an equitable interest in the land must be rejected. Anyone who is not sure whether he is entitled to apply should obtain legal advice.

Where the Church Commissioners apply with respect to land belonging to a vacant benefice, the fact should be stated, and the name of the benefice given, in part 1.

In all cases where charity trustees apply (not only where the land is vested in the Official Custodian) the fact should be stated, and the name of the charity given, in part 1.”

## 10. In Form 16—

## (a) the following shall be substituted for the last sentence of the marginal note to part 1 of the application:—

*“ Application may only be made by the person entitled to the relevant right or interest, unless the right or interest belongs to a vacant Church of England benefice, when application may be made by the Church Commissioners. In that case the fact should be stated here and the name of the benefice given. Where charity trustees apply the fact should be stated here and the name of the charity given.”*;

(b) the following shall be substituted for the marginal note <sup>3</sup> opposite the signature space:—

*“<sup>3</sup> If the applicant is a body corporate or charity trustees the application must be signed by the secretary or some other duly authorised officer.”*

## 11. In Form 17—

(a) the following shall be substituted for the footnote <sup>2</sup> at the end of the application:—

*“<sup>2</sup> If the applicant is a body corporate or charity trustees the application must be signed by the secretary or some other duly authorised officer.”*;

(b) in paragraph 1 of the Statutory Declaration in Support, after "1.", there shall be inserted the reference "2", and, in the same paragraph, "made" shall be substituted for "signed";

(c) the following shall be substituted for paragraph 3 of that Declaration:—

"3. (I) (We) have read the Notes on the back of the application form and believe—

\**(a)* that (I) (we) (the applicant(s)) (am) (are) (is) the owner of the legal estate in fee simple in the land described in the application, and

\**(a)* that the owner(s) of the legal estate in fee simple in the land described in the application (is) (are) the person(s) therein named as such, and that under or by virtue of the matters therein stated (I) (we) (am) (are) entitled, in the capacity or respective capacities therein mentioned, to make this application, and

\**Delete all but one of these alternatives.*

\**(a)* that the land described in the application belongs to the benefice therein mentioned, that the said benefice is vacant, and

*(b)* that the said land ceased to be (common land) (a town or village green) on the date and in the manner therein stated.";

(d) the following shall be substituted for Note 1:—

"1. Who may apply for the removal of land from a register.

An application for the removal of land from a register maintained under the Act may be made by the owner of the land or, where the land belongs to an ecclesiastical benefice of the Church of England which is vacant, by the Church Commissioners.

In certain cases a person may be entitled to apply on behalf of the owner of the land or in his stead. Examples are *(a)* a receiver appointed under section 105 of the Mental Health Act 1959; *(b)* charity trustees where the land is vested in the Official Custodian for Charities; *(c)* trustees for the purposes of the Settled Land Act 1925 authorised by order under section 24 of that Act. In such cases mention should so far as possible be made in part 1 of *(a)* the Act of Parliament, statutory instrument, order of court or other authority under which the applicant claims to be entitled to apply; *(b)* the capacity in which he applies; and *(c)* the name and address of the person (i.e. the owner of the land) on whose behalf or in whose stead the application is made. The registration authority has power to call for such further evidence of the right of the applicant to make the application as it may reasonably require.

The ownership of any land, for the purposes of the Act, means the ownership of the legal estate in fee simple in that land. It follows that applications made by, on behalf or instead of persons not having the legal estate in fee simple cannot be entertained. Thus, for example, an application by or on behalf of a lessee, mortgagee, or person having only an equitable interest in the land must be rejected. Anyone who is not sure whether he is entitled to apply should obtain legal advice.

Where the Church Commissioners apply with respect to land belonging to a vacant benefice, the fact should be stated, and the name of the benefice given, in part 1.

In all cases where charity trustees apply (not only where the land is vested in the Official Custodian) the fact should be stated, and the name of the charity given, in part 1."

12. In Form 19—

- (a) the following shall be substituted for the footnote <sup>2</sup> at the end of the application:—

"<sup>2</sup> *If the applicant is a body corporate or charity trustees the application must be signed by the secretary or some other duly authorised officer.*";

- (b) in paragraph 1 of the Statutory Declaration in Support, after "1.", there shall be inserted the reference "<sup>2</sup>", and, in the same paragraph "made" shall be substituted for "signed";

- (c) the following shall be substituted for paragraph 3 of that Declaration:—

"3. (I) (We) have read the Notes on the back of the application form and believe—

\*that (I) (we) (the applicant(s)) (am) (are) (is) entitled to the interest mentioned in the application, and

\*that the person(s) entitled to the interest mentioned in the application (is) (are) the person(s) therein stated to be so entitled, that, under or by virtue of the matters referred to therein (I) (we) (am) (are) authorised, in the capacity or respective capacities therein mentioned, to make this application, and

\*that the land described in the application belongs to the benefice therein mentioned, that the said benefice is vacant, and that, by reason of the facts therein stated, the register to which the application relates ought to be amended accordingly.";

*\*Delete all but one of these alternatives.*

- (d) the following shall be substituted for Note 2:—

"2. Who may apply.

An application may be made by any person having an interest under the apportionment, variation, extinguishment, release or transfer. "Having an interest" means having gained a benefit or advantage by the transaction. Thus, for example, in the case of an apportionment, each of the persons entitled to any part of the apportioned right would be entitled to apply. In the case of an extinguishment or release, the applicant would generally be the soil owner. In the case of a variation, any person benefited by the variation, and in the case of a transfer, the transferee, would be entitled to apply. Where the relevant interest belongs to an ecclesiastical benefice of the Church of England which is vacant, the Church Commissioners may make the application and, where they do so, the fact should be stated, and the name of the benefice given, in part 1.

There are certain other cases where a person may be entitled to apply on behalf of the owner of the relevant interest or in his stead. Examples are (a) a receiver appointed under section 105 of the Mental Health Act 1959; (b) charity trustees where the relevant interest is vested in the Official Custodian for Charities; (c) trustees for the purposes of the Settled Land Act 1925 authorised by order under section 24 of that Act. In such cases mention should so far as possible be made, either in part 1 or in part 6 as may be most convenient, of

(a) the Act of Parliament, statutory instrument, order of court or other authority under which the applicant claims to be entitled to apply; (b) the capacity in which he applies; and (c) the name and address of the person on whose behalf or in whose stead the application is made, that is to say the person having the necessary interest as explained in the preceding paragraph. The registration authority has power to call for such further evidence of the right of the applicant to make the application as it may reasonably require.

In all cases where charity trustees apply (not only where the right is vested in the Official Custodian) the fact should be stated, and the name of the charity given, in part 1 or 6 as convenient."

- (e) the following shall be substituted for the heading to Note 6:—  
 " 6. Objections and amendment applications contrasted "

Given under the official seal of the Minister of Housing and Local Government on 23rd April, 1968.

(L.S.)

*Anthony Greenwood,*  
 Minister of Housing and Local Government.

*George Thomas,*  
 One of Her Majesty's Principal Secretaries of State.  
 Welsh Office.

24th April 1968.

#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the Commons Registration (General) Regulations 1966 (1) by providing for applications to be made in appropriate cases by persons other than the owner of the relevant right or interest, and for the forms to be signed if necessary by an agent, and (2) by facilitating applications by the same person for the provisional registration of land both as common land and as a town or village green in a case where that person can only declare to a belief that the land is one or the other. The Regulations make revisions to the forms prescribed for these purposes, but the forms as originally prescribed may be used where suitable—

- (a) in the case of applications for the registration of land as common land or as a town or village green, of rights of common over or claims to the ownership of such land, until 2nd January 1970 (the last date specified under the Commons Registration (Time Limits) Order 1966 (S.I. 1966/1470 (1966 III, p. 3976)) for making such applications), and  
 (b) in the case of applications for a note to be made in a register, for the amendment of a register in relation to a right of common, and for the removal of land from a register, until 30th June 1968, after which date the revised forms must be used.