
STATUTORY INSTRUMENTS

2007 No. 2386 (W. 197) (C. 88)

COMMONS, WALES

**The Commons Act 2006 (Commencement No.1,
Transitional Provisions and Savings) (Wales) Order 2007**

Made - - - -

11 August 2007

The Welsh Ministers make the following Order in exercise of the powers conferred upon the appropriate national authority⁽¹⁾ by sections 56(1) and 59(1) of the Commons Act 2006⁽²⁾:

Title, interpretation and application

1.—(1) The title of this Order is the Commons Act 2006 (Commencement No.1, Transitional Provisions and Savings) (Wales) Order 2007.

(2) In this Order—

“the 1965 Act” (“*Deddf 1965*”) means the Commons Registration Act 1965⁽³⁾;

“the 2006 Act” (“*Deddf 2006*”) means the Commons Act 2006.

(3) This Order applies in relation to Wales.

Provisions coming into force for certain purposes

2.—(1) The provisions of the 2006 Act set out in paragraph (2) come into force on the day after the day on which this Order is made insofar as they confer a power, or impose a duty, on the Welsh Ministers to-

(a) make, or make provision by, regulations;

(b) give guidance or directions; or

(c) make provision with respect to the exercise of any such power or performance of such duty.

(2) The provisions referred to in paragraph (1) are-

section 3(5);

section 6(4);

section 7(4);

section 8(1) and (2);

(1) See section 61(1) of the 2006 Act for the meaning of “appropriate national authority”, the functions of which are now exercisable, in relation to Wales, by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(2) 2006 c. 26.

(3) 1965 c. 64.

section 11(5) and (6);
section 12(a);
section 13(1)(a);
section 14;
section 17(3) and (10);
section 19(6);
section 20(2) and (3);
section 21(2) and (3);
sections 22 to 25;
section 29(1) and (6);
section 31(6)(a);
section 39(6);
section 40;
section 42(4);
sections 43 and 44;
section 50(1) and (4) to (6);
paragraphs 2(2)(d) and (3), 3(2)(e) and (3), 4(6), 5(3), 6(3), 7(3), 8(3), 9(4) and 10 of
Schedule 2; and
paragraphs 2(1), (5) and (6), 4, 5 and 8(2) and (3) of Schedule 3.

Provisions coming into force on 6 September 2007

3. The following provisions of the 2006 Act come into force on 6 September 2007—
- (a) section 4 (commons registration authorities);
 - (b) section 5 (land to which Part 1 applies);
 - (c) section 15 (registration of greens);
 - (d) section 23 (transitional), insofar as it gives effect to paragraph (m) of this article;
 - (e) section 24 (applications etc.), insofar as it is not brought into force by article 2 of this Order;
 - (f) section 44 (supplementary), insofar as it gives effect to paragraph (n) of this article;
 - (g) section 45 (powers of local authorities over unclaimed land);
 - (h) section 47 (approval);
 - (i) section 49 (notice of inclosure);
 - (j) section 51 (vehicular access);
 - (k) section 52 (minor and consequential amendments), insofar as it gives effect to paragraph (o) of this article;
 - (l) section 53 (repeals), insofar as it gives effect to paragraphs (p) to (s) of this article;
 - (m) in Schedule 3 (registration: transitional provision), paragraph 9;
 - (n) in Schedule 4 (works: supplementary), paragraph 6;
 - (o) in Schedule 5 (minor and consequential amendments)—
 - (i) paragraph 4,
 - (ii) sub-paragraph (a) of paragraph 6, and

- (iii) sub-paragraph (5) of paragraph 7 and sub-paragraph (1) of that paragraph insofar as it relates thereto;
- (p) in Part 1 of Schedule 6 (repeals relating to registration), the entries relating to
 - (i) the Commons Registration Act 1965 to the extent of repealing sections 8, 9 and 13(a) and (b)(4) of the 1965 Act,
 - (ii) section 189(1) and (2) of the Local Government Act 1972(5),
 - (iii) paragraph 10(6) of Schedule 8 to the Local Government Act 1985(6),
 - (iv) section 8 of the Dartmoor Commons Act 1985(7),
 - (v) the Common Land (Rectification of Registers) Act 1989(8),
 - (vi) sections 46(1) and 98 of the Countryside and Rights of Way Act 2000(9), and
 - (vii) section 33(1) of the Greenham and Crookham Commons Act 2002(10);
- (q) in Part 2 of Schedule 6 (repeals relating to works), the entries relating to
 - (i) section 21 of the Metropolitan Commons Act 1866(11),
 - (ii) section 30 of the Commons Act 1876(12),
 - (iii) section 21 of the Commons Act 1899(13), and
 - (iv) Schedule 7 to the Compulsory Purchase Act 1965(14);
- (r) in Part 3 of Schedule 6 (repeals relating to approvement and inclosure), the entries relating to—
 - (i) the Commons Act 1285(15),
 - (ii) section 31 of the Commons Act 1876, and
 - (iii) the Law of Commons Amendment Act 1893(16); and
- (s) Part 5 of Schedule 6 (repeals relating to vehicular access).

Transitional provisions and savings

4.—(1) Where a commons registration authority grants an application under section 15 of the 2006 Act for the registration of land as a town or village green before section 1 of the 2006 Act has come into force in relation to the area in which the land is situated—

- (a) the registration authority must register the land in the register of town or village greens maintained for that area under the 1965 Act; and
- (b) until the coming into force of section 1 of the 2006 Act in relation to that area, the 1965 Act applies in relation to the registration as if it had been made pursuant to section 13(b) of the 1965 Act.

(4) 1965 c. 64; section 8 was amended by the Local Government Act 1972 (c. 70), section 189(2) and by the Land Registration Act 2002 (c. 9), Schedule 11, paragraph 7(1) and (2); section 9 was amended by the Land Registration Act 2000, Schedule 11, paragraph 7(1) and (3); section 13 was amended by the Law of Property Act 1969 (c. 59), Schedule 2, Part I.

(5) 1972 c. 70.

(6) 1985 c. 51.

(7) 1985 c.xxxvii.

(8) 1989 c. 18.

(9) 2000 c. 37.

(10) 2002 c.i.

(11) 1866 c. 122.

(12) 1876 c. 56; section 30 was amended by the Administration of Justice (Appeals) Act 1934 (c. 40), Schedule, Part I and by the Constitutional Reform Act 2005 (c. 4), Schedule 11, Part 4, paragraph 13.

(13) 1899 c. 30; section 21 was amended by the Statute Law Revision Act 1908 (c. 49).

(14) 1965 c. 56.

(15) 13 Edw 1 c.46.

(16) 1893 c. 57.

(2) In relation to any area of Wales—

- (a) references in section 24 of the 2006 Act, and in regulations made under that section, to a register of common land or town or village greens are, until the coming into force of section 1 of the 2006 Act in relation to that area, to be taken to be references to such a register maintained under the 1965 Act; and
- (b) section 13(b) of the 1965 Act, and regulations made under it⁽¹⁷⁾, continue to have effect until the coming into force of—
 - (i) section 6 of the 2006 Act in relation to that area, insofar as they relate to land which becomes common land other than by virtue of any instrument made under or pursuant to an enactment, and
 - (ii) section 14 of the 2006 Act in relation to that area, insofar as they relate to land which becomes common land or a town or village green by virtue of any instrument made under or pursuant to an enactment.

(3) Where—

- (a) an application is made to a registration authority before 6 September 2007 pursuant to section 13(b) of the 1965 Act for the amendment of the register of town or village greens as a result of any land having become a town or village green, and
- (b) the registration authority does not determine the application before that date,

the registration authority must continue to deal with the application on and after 6 September 2007 as if section 13(b) of the 1965 Act had not been repealed.

(4) In relation to any area of Wales, the reference in section 45(1) of the 2006 Act to land being registered as common land or a town or village green is, until the coming into force of section 1 of the 2006 Act in relation to that area, to be read as a reference to land being so registered under the 1965 Act.

(5) Where, before 6 September 2007, a Commons Commissioner makes a direction under section 8(2) or (3) of the 1965 Act for a registration authority to register a person as the owner of land, but the registration authority does not comply with the direction before that date—

- (a) the direction continues to have effect on and after 6 September 2007 notwithstanding the repeal of section 8(2) and (3) of the 1965 Act; and
- (b) if the direction is for a local authority to be registered as the owner of land, on the registration being made, section 8(4) of the 1965 Act will apply as if it had not been repealed.

(6) In relation to any area of Wales, section 13(a) of the 1965 Act, and regulations made under it⁽¹⁸⁾, continue to have effect, until the coming into force of section 14 of the 2006 Act in relation to that area, insofar as they relate to land which ceases to be common land or a town or village green by virtue of any instrument made under or pursuant to an enactment.

(7) Where, in relation to any land other than land referred to in paragraph (6),—

- (a) an application is made to a registration authority before 6 September 2007 pursuant to regulations under section 13(a) of the 1965 Act for land to be removed from the register as a result of that land having ceased to be common land or a town or village green; and
- (b) the registration authority does not determine the application before that date,

⁽¹⁷⁾ Regulation 28 of the Commons Registration (General) Regulations 1966 (S.I.1966/1471), as amended by S.I. 1969/1843 (there are other amending instruments, but none is relevant), and the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843) are made under section 13(b).

⁽¹⁸⁾ Regulation 27 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471), as amended by S.I. 1968/658, makes provision under section 13(a) of the 1965 Act.

the registration authority must continue to deal with the application on and after 6 September 2007 as if section 13(a) of the 1965 Act had not been repealed.

11 August 2007

Jane Davidson
Minister for Environment, Sustainability and
Housing, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences certain provisions of the Commons Act 2006 (“the 2006 Act”) in relation to Wales.

Article 2 of this Order brings into force, on the day after the day on which this Order is made, a number of provisions for the limited purpose of enabling the Welsh Ministers to give guidance or directions and to make, or to make provision by means of, regulations.

Article 3 of this Order brings into force on 6 September 2007 the provisions of the 2006 Act cited in that article.

Article 4 of this Order contains transitional and saving provisions relating to the provisions brought into force by article 3 of this Order.

Amongst other things, this Order brings into force section 15 of the 2006 Act, which makes new provision about the registration of land in Wales as a town or village green, and contains transitional and saving provisions which—

- (a) require, until section 1 of the 2006 Act is brought into force in relation to the relevant area, a green registered under section 15 of the 2006 Act to be entered in the registers maintained under the Commons Registration Act 1965 (“the 1965 Act”);
- (b) ensure that the existing provisions for registration of new greens and common land under section 13(b) of the 1965 Act remain effective in certain cases (such as on an exchange of land consequential on a compulsory purchase order); and
- (c) preserve any application to register a green made under the 1965 Act before 6 September 2007, so that such applications must be determined under the 1965 Act.

Further information on the provisions brought into force by this Order can be found in the Explanatory Notes to the Commons Act 2006, which can be viewed at www.opsi.gov.uk.