

COMMONS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Registration

Conclusiveness and Correction of the Registers

Section 19 Correction

108. *Section 19* enables commons registration authorities to correct certain errors in the commons registers. *Subsection (4)* provides that a correction may be made on the authority's own initiative or on an application by any person. *Subsection (2)* sets out the purposes for which a correction may be made. These comprise:

- In paragraph (a), a mistake in making or amending an entry in the register (including, by virtue of *subsection (3)*, an ambiguous description of, for example, rights of common), but only where the mistake was made by the authority. Such a mistake may arise, for example, where an error was made by the authority in transposing onto the register map a map supplied by an applicant for provisional registration of common land, or where in amending an entry in the register (for example, on an apportionment under the 1965 Act), the authority erroneously added a zero to (or deleted a zero from) the number of rights registered. An error made in a map supplied by an applicant defining the area of common land, which was faithfully reproduced in the register entry, could not be corrected under this provision (but it may be possible to correct such an error under the provisions in Schedule 2).
- In paragraph (b), any other mistake, whether made by the authority or another person, provided that the amendment would not affect the extent of land registered as common land or as a town or village green, nor the quantification of any right of common. For example, a mistake may have been made by an applicant for registration of a right of common attached to land by which the dominant tenement was wrongly defined. The authority would be able to correct such a mistake.
- In paragraph (c), removing a duplicate entry in the register (whether caused by the error of the authority or another person). Duplicate entries typically arose where application was made for provisional registration of a right of common under the 1965 Act, both by the tenant of a farm entitled to exercise the right, and the landlord of the farm¹, and no objection was made to either registration, so that they both became final.
- In paragraph (d), updating any details of name or address, such as those which relate to the registered owner of a right held in gross.
- In paragraph (e), updating an entry in the register to take account of the common law principles of accretion and diluvion. The principles apply to all land where

¹ See regulation 7(1) of the [Commons Registration \(General\) Regulations 1966 \(SI 1966/1471\)](#).

*These notes refer to the Commons Act 2006 (c.26)
which received Royal Assent on 19 July 2006*

the boundary of ownership follows a body of water — whether river, lake or sea shore. They provide that, if by gradual and imperceptible accretions in the ordinary course of nature, land is added on one side, it falls into the ownership of the person owning the rest of the land on the same side, and the boundary line correspondingly advances, and (in the case of diluvion) *vice versa*. If one side of the body of water is also subject to rights of common, then the rights of the commoners will adjust along with the rights of the owners.

109. Corrections may be made to the registers for the purposes set out above, whether the error originates from a registration made under this Act or under the 1965 Act (*subsection (3)*). In some cases, an error may meet the criteria for correction both under this section and under Schedule 2.
110. *Subsection (5)* provides that the commons registration authority may not correct mistakes in the register if it would be unfair to do so. For example, if land had been acquired by a person reliant on an inspection of the register which showed it not to be registered common land, but the commons registration authority had mistakenly excluded that land from the register, it would not be able to correct the mistake if it would, in all the circumstances, be unfair to do so (having regard, for example, to the interests of the person acquiring the land, as well as the interests of others interested in correcting the error).
111. *Subsection (7)* provides a limited power, derived from section 14(a) of the 1965 Act, for the High Court to order the register to be amended where an entry, or any information in an entry, has been secured by fraud and it would be just to amend it. The High Court will also be able to judicially review the actions of a commons registration authority, but it is not necessary to include provision in the Act for this purpose.