



Commons Act 2006

2006 CHAPTER 26

PART 1

REGISTRATION

Registration of rights of common

6 Creation

- (1) A right of common cannot at any time after the commencement of this section be created over land to which this Part applies by virtue of prescription.
- (2) A right of common cannot at any time after the commencement of this section be created in any other way over land to which this Part applies except—
 - (a) as specified in subsection (3); or
 - (b) pursuant to any other enactment.
- (3) A right of common may be created over land to which this Part applies by way of express grant if—
 - (a) the land is not registered as a town or village green; and
 - (b) the right is attached to land.
- (4) The creation of a right of common in accordance with subsection (3) only has effect if it complies with such requirements as to form and content as regulations may provide.
- (5) The creation of a right of common in accordance with subsection (3) does not operate at law until on an application under this section—
 - (a) the right is registered in a register of common land; and
 - (b) if the right is created over land not registered as common land, the land is registered in a register of common land.
- (6) An application under this section to register the creation of a right of common consisting of a right to graze any animal is to be refused if in the opinion of the

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commons registration authority the land over which it is created would be unable to sustain the exercise of—

- (a) that right; and
- (b) if the land is already registered as common land, any other rights of common registered as exercisable over the land.

7 Variation

- (1) For the purposes of this section a right of common is varied if by virtue of any disposition—
 - (a) the right becomes exercisable over new land to which this Part applies instead of all or part of the land over which it was exercisable;
 - (b) the right becomes exercisable over new land to which this Part applies in addition to the land over which it is already exercisable;
 - (c) there is any other alteration in what can be done by virtue of the right.
- (2) A right of common which is registered in a register of common land or town or village greens cannot at any time after the commencement of this section be varied so as to become exercisable over new land if that land is at the time registered as a town or village green.
- (3) A right of common which is registered in a register of town or village greens cannot at any time after the commencement of this section be varied so as to extend what can be done by virtue of the right.
- (4) The variation of a right of common which is registered in a register of common land or town or village greens—
 - (a) only has effect if it complies with such requirements as to form and content as regulations may provide; and
 - (b) does not operate at law until, on an application under this section, the register is amended so as to record the variation.
- (5) An application under this section to record a variation of a right of common consisting of a right to graze any animal is to be refused if in the opinion of the commons registration authority the land over which the right is or is to be exercisable would, in consequence of the variation, be unable to sustain the exercise of—
 - (a) that right; and
 - (b) if the land is already registered as common land, any other rights of common registered as exercisable over the land.

8 Apportionment

- (1) Regulations may make provision as to the amendments to be made to a register of common land or town or village greens where a right of common which is registered in a register of common land or town or village greens as attached to any land is apportioned by virtue of any disposition affecting the land.
- (2) Regulations under subsection (1) may provide that a register is only to be amended when—
 - (a) a disposition relating to an apportioned right itself falls to be registered under this Part; or
 - (b) the register falls to be amended under section 11.

- (3) Where at any time—
- (a) a right of common which is registered in a register of common land or town or village greens as attached to any land has been apportioned by virtue of any disposition affecting the land, and
 - (b) no amendments have been made under subsection (1) in respect of the apportionment of that right,
- the rights of common subsisting as a result of the apportionment shall be regarded as rights which are registered in that register as attached to the land to which they attach as a result of the apportionment.

9 Severance

- (1) This section applies to a right of common which—
- (a) is registered in a register of common land or town or village greens as attached to any land; and
 - (b) would, apart from this section, be capable of being severed from that land.
- (2) A right of common to which this section applies is not at any time on or after the day on which this section comes into force capable of being severed from the land to which it is attached, except—
- (a) where the severance is authorised by or under Schedule 1; or
 - (b) where the severance is authorised by or under any other Act.
- (3) Where any instrument made on or after the day on which this section comes into force would effect a disposition in relation to a right of common to which this section applies in contravention of subsection (2), the instrument is void to the extent that it would effect such a disposition.
- (4) Where by virtue of any instrument made on or after the day on which this section comes into force—
- (a) a disposition takes effect in relation to land to which a right of common to which this section applies is attached, and
 - (b) the disposition would have the effect of contravening subsection (2),
- the disposition also has effect in relation to the right notwithstanding anything in the instrument to the contrary.
- (5) Where by virtue of any instrument made on or after the day on which this section comes into force a right of common to which this section applies falls to be apportioned between different parts of the land to which it is attached, the instrument is void to the extent that it purports to apportion the right otherwise than rateably.
- (6) Nothing in this section affects any instrument made before, or made pursuant to a contract made in writing before, the day on which this section comes into force.
- (7) This section and Schedule 1 shall be deemed to have come into force on 28 June 2005 (and an order under paragraph 2 of that Schedule may have effect as from that date).

10 Attachment

- (1) This section applies to any right of common which is registered in a register of common land or town or village greens but is not registered as attached to any land.

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- (2) The owner of the right may apply to the commons registration authority for the right to be registered in that register as attached to any land, provided that—
- (a) he is entitled to occupy the land; or
 - (b) the person entitled to occupy the land has consented to the application.

11 Re-allocation of attached rights

- (1) Where—
- (a) a right of common is registered in a register of common land or town or village greens as attached to any land, and
 - (b) subsection (2), (3) or (4) applies in relation to part of the land (“the relevant part”),
- the owner of the land may apply to the commons registration authority for the register to be amended so as to secure that the right does not attach to the relevant part.
- (2) This subsection applies where the relevant part is not used for agricultural purposes.
- (3) This subsection applies where planning permission has been granted for use of the relevant part for purposes which are not agricultural purposes.
- (4) This subsection applies where—
- (a) an order authorising the compulsory purchase of the relevant part by any authority has been made in accordance with the Acquisition of Land Act 1981 (c. 67) (and, if the order requires to be confirmed under Part 2 of that Act, has been so confirmed);
 - (b) the relevant part has not vested in the authority; and
 - (c) the relevant part is required for use other than use for agricultural purposes.
- (5) Regulations may for the purposes of subsections (2) to (4) make provision as to what is or is not to be regarded as use of land for agricultural purposes.
- (6) Regulations may provide that an application under this section is not to be granted without the consent of any person specified in the regulations.

12 Transfer of rights in gross

The transfer of a right of common which is registered in a register of common land or town or village greens but is not registered as attached to any land—

- (a) only has effect if it complies with such requirements as to form and content as regulations may provide; and
- (b) does not operate at law until, on an application under this section, the transferee is registered in the register as the owner of the right.

13 Surrender and extinguishment

- (1) The surrender to any extent of a right of common which is registered in a register of common land or town or village greens—
- (a) only has effect if it complies with such requirements as to form and content as regulations may provide; and
 - (b) does not operate at law until, on an application under this section, the right is removed from the register.

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- (2) The reference in subsection (1) to a surrender of a right of common does not include a disposition having the effect referred to in section 7(1)(a).
- (3) A right of common which is registered in a register of common land or town or village greens cannot be extinguished by operation of common law.