

2010 No. 2357

COMMONS, ENGLAND AND WALES

The Commons Registration (Amendment and Miscellaneous Revocations) Regulations 2010

<i>Made</i>	- - - -	<i>22nd September 2010</i>
<i>Laid before Parliament</i>		<i>29th September 2010</i>
<i>Laid before the National Assembly for Wales</i>		<i>29th September 2010</i>
<i>Coming into force</i>	- -	<i>30th November 2010</i>

The Secretary of State in relation to England and the Welsh Ministers in relation to Wales, in exercise of the powers conferred by sections 3, 4, 5, 6(2), 13(a) and 19(b) of the Commons Registration Act 1965(c), and now vested in them(d), make the following Regulations.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Commons Registration (Amendment and Miscellaneous Revocations) Regulations 2010 and come into force on 30th November 2010.

(2) Save as provided in regulation 2, these Regulations apply in relation to England(e) and Wales.

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- (a) The Secretary of State has limited powers under section 13 by virtue of the Commons Act 2006 (Commencement No. 1, Transitional Provisions and Savings) (England) Order 2006 (S.I. 2006/2504, C.84), the Commons Act 2006 (Commencement No. 2, Transitional Provisions and Savings) (England) Order 2007 (S.I. 2007/456, C.17) and the Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960, C.94). Each of those Orders brought into force in relation to England the repeal by the Commons Act 2006 of (among other provisions) parts of section 13, subject to the savings provisions stated therein. The powers of the Welsh Ministers under section 13 are limited by the Commons Act 2006 (Commencement No. 1, Transitional Provisions and Savings) (Wales) Order 2007 (S.I. 2007/2386, W.197, C.88), which brought into force in relation to Wales the repeal of parts of section 13, subject to the savings provisions stated therein.
- (b) Section 19(1)(g) was amended, and Regulations made under that provision were modified, by paragraph 13 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1), which is repealed by section 12(4) of, and Schedule 2 to, the Church of England (Miscellaneous Provisions) Measure 2010 (2010 No. 1). Article 3 of the Church of England (Miscellaneous Provisions) Measure 2010 (Appointed Day No. 1) Instrument 2010 (2010 No. 2) appoints 1st September 2010 as the date for the coming into force of such repeal. The function conferred upon the “Minister” under section 19(1)(g) is, in relation to Wales, now vested in the Welsh Ministers (see footnote (d) below), in so far as an ecclesiastical benefice of the Church of England which is vacant is situated wholly or partially within Wales.
- (c) 1965 c. 64. See section 22(1) for the definitions of “the Minister” and “prescribed”.
- (d) The functions of the Minister in relation to England were transferred to the Minister of Housing and Local Government by article 2(5) of the Ministry of Land and Natural Resources (Dissolution) Order 1967 (S.I. 1967/156). The functions of the Minister of Housing and Local Government (so far as relevant) were transferred to the Secretary of State by article 2(1) of the Secretary of State for Environment Order 1970 (S.I. 1970/1681). The functions of the Minister in relation to Wales were transferred to the Secretary of State for Wales by article 2(2) of the Ministry of Land and Natural Resources (Dissolution) Order 1967 (S.I. 1967/156). The functions of the Secretary of State for Wales were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), the functions of the National Assembly for Wales were transferred to the Welsh Ministers.
- (e) Seven commons registration authorities in England are pioneering the implementation of Part 1 of the Commons Act 2006. The registration areas affected, known as “the pilot areas”, are those of the commons registration authorities specified in the Schedule to the Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960, C.94).

Revocations

2. The Regulations specified in Columns 1 and 2 of the Schedule are revoked to the extent specified in Column 3 (Part 1 of the Schedule specifying regulations applying to England and Wales, Part 2 regulations applying to England only, and Part 3 regulations applying to Wales only).

Amendment of the Commons Registration (General) Regulations 1966

3. The Commons Registration (General) Regulations 1966(a) are amended as follows—
- (a) in regulation 2(2), omit the definition of “parcel of land”;
 - (b) omit regulations 5, 6, 8, 9, 10(1), 11, 12 and 14;
 - (c) in regulation 21, for “under the Land Registration Acts 1925 and 1936” substitute “in the register of title”;
 - (d) in regulation 26(2)—
 - (i) in paragraph (a), omit “and, where the registration of the land is provisional, the person (if any) on whose application it was made, and any person whose application has been noted under section 4(4) of the Act”;
 - (ii) in paragraph (b), omit “, and, where the registration is provisional, the person on whose application it was made and any person whose application is noted under regulation 9(5) above”;
 - (e) in regulation 27(5)(c), omit “, and, where the registration is provisional, the person on whose application it was made and any person whose application is noted under regulation 9(5) above”;
 - (f) in regulation 29(5), omit “, and, where the registration is provisional, upon the person on whose application it was made and any person whose application is noted under regulation 9(5) above”;
 - (g) for regulation 34(1) substitute—

“(1) The fees payable for certified copies and extracts shall be those specified in Schedule 3 to these Regulations.”(b);
 - (h) in Schedule 1—
 - (i) omit Form 5 and Forms 7 to 15;
 - (ii) in the Notes to Form 16—
 - (aa) in the heading to paragraph 3, omit “and search of registers”;
 - (bb) in paragraph 3, omit the words from “, or the copies of the register entries affecting land in their areas” to the end of that paragraph; and

Article 2(1)(h) of that Order brought into force, in relation to the pilot areas only and subject to the savings specified therein, the repeal by the Commons Act 2006 of sections 1 to 7, 10 to 12, 13 (in so far as the repeal of section 13 had not already been commenced), 14 to 16 and 19 of the Commons Registration Act 1965, and regulations made under such provisions lapsed by virtue of the repeal, subject to the savings mentioned. Thus, in respect of the pilot areas in England, these Regulations only apply to the extent required for the purposes of the savings provisions in article 3 of that Order.

- (a) S.I. 1966/1471, as modified by paragraph 13 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). That paragraph is repealed with effect from 1st September 2010 (see footnote (b) on page 1 of these Regulations). Relevant amending instruments to S.I. 1966/1471 are S.I. 1968/658, 1968/989, 1994/2567, 2007/2404 (in relation to England only) and 2007/2597 (in relation to Wales only). In relation to the areas in England outside of the “pilot areas”, and in relation to Wales, S.I. 1966/1471 has lapsed to the extent that it relies on section 13(a) and (b) of the Commons Registration Act 1965 by virtue of the repeal of those provisions, as mentioned in footnote (a) on page 1, subject to the savings contained in the relevant orders mentioned in that footnote.
- (b) The amendment made by regulation 3(h) reinstates a provision of the Commons Registration (General Regulations) 1966 (S.I. 1966/1471), as amended in relation to England by regulation 4 of the Commons Registration (General) (Amendment) (England) (No. 2) Regulations 2007 (S.I. 2007/2404) and in relation to Wales by regulation 4 of the Commons Registration (General) (Amendment) (Wales) Regulations 2007 (S.I. 2007/2597, W.220). Such amendment is made in consequence of the revocation of the Commons Registration (General) (Amendment) (England) (No. 2) Regulations 2007 (S.I. 2007/2404) and the Commons Registration (General) (Amendment) (Wales) Regulations 2007 (S.I. 2007/2597, W.220) by these Regulations.

- (cc) omit paragraph 4;
- (iii) in the Notes to Form 17—
 - (aa) in the heading to paragraph 2, omit “and search of registers”;
 - (bb) in paragraph 2, omit the words from “, or the copies of the register entries affecting land in their areas” to the end of that paragraph;
 - (cc) omit paragraphs 3 and 4; and
 - (dd) at the beginning of paragraph 6, insert—
 - “An application for removal, to be successful, must show that events subsequent to the registration of the land concerned have caused such land to cease to be common land or a town or village green by virtue of any instrument made under or pursuant to an enactment.”;
- (iv) in the Notes to Form 19—
 - (aa) in the heading to paragraph 4, omit “and search of registers”;
 - (bb) in paragraph 4, omit the words from “, or the copies of the register entries affecting land in their areas” to the end of that paragraph;
 - (cc) omit paragraphs 5 and 6; and
 - (dd) at the beginning of paragraph 8, insert—
 - “An application for amendment, to be successful, must show that events subsequent to the registration of the right concerned have caused the right to become altered, for example by apportionment.”; and
- (i) in Schedule 2—
 - (i) in Part 1, omit Model Entries 5 and 6; and
 - (ii) in Part 2—
 - (aa) omit Standard Entries 2 and 3; and
 - (bb) in each of Standard Entries 4 and 5, for “under the Land Registration Acts 1925 and 1936” substitute “in the register of title”.

Amendment of the Commons Registration (Objections and Maps) Regulations 1968

4. The Commons Registration (Objections and Maps) Regulations 1968(a) are amended as follows—

- (a) in regulation 2(2)—
 - (i) omit the definitions of “concerned authority”, “Form”, “Model Entry”, “objector” and “supplemental map”; and
 - (ii) in the definition of “the General Regulations”, for “as amended by the Commons Registration (General) (Amendment) Regulations 1968” substitute “as they have effect on 30th November 2010”;
- (b) omit regulations 2(3), (4), (5), (7) and 3 to 8;
- (c) in regulation 9(6)(d), after “section 13 of the Act,”, insert “or by virtue of the Common Land (Rectification of Registers) Act 1989”(b); and

(a) S.I. 1968/989, as modified by paragraph 13 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). That paragraph is repealed with effect from 1st September 2010 (see footnote (b) on page 1 of these Regulations). Relevant amending instruments to S.I. 1968/989 are S.I. 1970/384, 1990/311 and 2007/540.

(b) The amendment made by regulation 4 was previously effected by regulation 27 of the Common Land (Rectification of Registers) Regulations 1990 (S.I. 1990/311). Those regulations lapsed as a result of the repeal of the Common Land (Rectification of Registers) Act 1989 (c. 18) by Part 1 of Schedule 6 to the Commons Act 2006 (c. 26), commenced in relation to England by article 2(h)(v) of the Commons Act 2006 (Commencement No. 1, Transitional Provisions and Savings) (England) Order 2006 (S.I. 2006/2504, C.84), and commenced in relation to Wales by article 3(p)(v) of the Commons Act (Commencement No. 1, Transitional Provisions and Savings) (Wales) Order 2007 (S.I. 2007/2386, W.197, C.88).

(d) omit Schedules 1 and 2.

Amendment of the Commons Registration (New Land) Regulations 1969

5. In the definition of “the General Regulations”, in regulation 2(2) of the Commons Registration (New Land) Regulations 1969(a), for “as amended”, substitute “as they have effect on 30th November 2010”.

21st September 2010

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

22nd September 2010

Elin Jones
Minister for Rural Affairs, one of the Welsh Ministers

SCHEDULE

Regulation 2

Revocations

PART 1

Regulations applying to England and Wales

Column 1	Column 2	Column 3
<i>Regulations</i>	<i>References</i>	<i>Extent of revocation</i>
The Commons Registration (Publicity) Regulations 1966	S.I. 1966/972	The whole Regulations
The Commons Registration (General) (Amendment) Regulations 1968	S.I. 1968/658	Regulation 4 In the Schedule, paragraphs 2, 6, 7, 8 and 9
The Commons Registration (Objections and Maps) (Amendment) Regulations 1970	S.I. 1970/384	The whole Regulations
The Commons Commissioners Regulations 1971(b)	S.I. 1971/1727	The whole Regulations
The Commons Registration (Second Period References)	S.I. 1973/815	The whole Regulations

- (a) S.I. 1969/1843, as modified by paragraph 13 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). That paragraph is repealed with effect from 1st September 2010 (see footnote (b) on page 1 of these Regulations). There are amendments to S.I. 1969/1843 not relevant to these Regulations. In relation to the areas in England outside of the “pilot areas”, and in relation to Wales, S.I. 1969/1843 has lapsed to the extent that it relies on section 13(a) and (b) of the Commons Registration Act 1965 by virtue of the repeal of those provisions, as mentioned in footnote (a) on page 1, subject to the savings contained in the relevant orders mentioned in that footnote.
- (b) Regulation 11 and Form 38 in the Schedule to the Commons Commissioners Regulations 1971 lapsed by virtue of the repeal of section 8 of the Commons Registration Act 1965, which was commenced in relation to England by article 2(h)(i) of the Commons Act 2006 (Commencement No. 1, Transitional Provisions and Savings) (England) Order 2006 (S.I. 2006/2504, C.84), and in relation to Wales by article 3(p)(i) of the Commons Act (Commencement No. 1, Transitional Provisions and Savings) (Wales) Order 2007 (S.I. 2007/2386, W.197, C.88).

Column 1	Column 2	Column 3
<i>Regulations</i>	<i>References</i>	<i>Extent of revocation</i>
Regulations 1973		

PART 2

Regulations applying to England only

Column 1	Column 2	Column 3
<i>Regulations</i>	<i>References</i>	<i>Extent of revocation</i>
The Commons Registration (Objection and Maps) (Amendment) (England) Regulations 2007	S.I. 2007/540	The whole Regulations
The Commons Registration (General) (Amendment) (England) (No. 2) Regulations 2007	S.I. 2007/2404	The whole Regulations

PART 3

Regulations applying to Wales only

Column 1	Column 2	Column 3
<i>Regulations</i>	<i>References</i>	<i>Extent of revocation</i>
The Commons Registration (General) (Amendment) (Wales) Regulations 2007	S.I. 2007/2597 (W.220)	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke with effect from 30th November 2010 several instruments which relate to provisional registration under the Commons Registration Act 1965 (“the 1965 Act”). The following Regulations are revoked entirely:

- (a) the Commons Registration (Publicity) Regulations 1966 (S.I. 1966/972);
- (b) the Commons Registration (Objections and Maps) (Amendment) Regulations 1970 (S.I. 1970/384);
- (c) the Commons Commissioners Regulations 1971 (S.I. 1971/1727);
- (d) the Commons Registration (Second Period References) Regulations 1973 (S.I. 1973/815);
- (e) the Commons Registration (Objection and Maps) (Amendment) (England) Regulations 2007 (S.I. 2007/540);
- (f) the Commons Registration (General) (Amendment) (England) (No. 2) Regulations 2007 (S.I. 2007/2404); and
- (g) the Commons Registration (General) (Amendment) (Wales) Regulations 2007 (S.I. 2007/2597, W.220).

The revoked regulations cease to have any purpose following the expiry of the time period for submitting applications for provisional registration under the 1965 Act and the determination of all provisional registrations referred to the Commons Commissioners under that Act.

These Regulations also make consequential amendments and revocations of certain provisions of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471), the Commons Registration (General) (Amendment) Regulations 1968 (S.I. 1968/658), the Commons Registration (Objections and Maps) Regulations 1968 (S.I. 1968/989) and the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).

A full impact assessment has not been produced for this instrument as no impact on the private, voluntary or public sector is foreseen.

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STATUTORY INSTRUMENTS

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