

Commons Act 2006

Factsheet 4: Registration of new events

Part 1 of the Commons Act 2006 came into force on 1 October 2008 in the seven commons registration authorities participating in a pilot scheme: the county councils of Cornwall, Devon (not Plymouth or Torbay), Hertfordshire, Kent (not Medway) and Lancashire (not Blackpool), the County of Herefordshire district council, and Blackburn with Darwen borough council. Part 1 of the 2006 Act updates and improves the registration system for common land and town or village greens, and includes new powers to keep the commons registers up-to-date.

What are new events?

You can apply to amend the commons registers to create, vary, amend, transfer or extinguish a right of common, or to register new land as common land or as a town or village green. Any changes take effect only when the registration is made or amended (in the past, changes affecting rights of common or registered land had effect whether or not the commons registers were updated).

Creation of new rights of new common land

You can apply under section 6 to create and register a new right of common either over existing registered common land or over unregistered land (resulting in the land becoming common land). You can apply only if you are the owner of the land over which the right will be exercisable (the common land) or the land to which the right will be attached. Any new right of common must be 'attached to land' (so that it will be exercisable by the owner of that land).

Variation of existing rights of common

You can apply under section 7 to vary an existing right of common so that it becomes exercisable over new land (in replacement for or in addition to the existing common land), or is otherwise varied (for example, in terms of the type of stock which may be grazed). You can apply only if you are the owner of the land over which the right to be varied is currently exercised or over which the right once varied is or will become exercisable, or if you are the owner of the land to which the right of common is attached or of the right of common held in gross.

Apportionment of rights of common

You can apply under section 8 to apportion a right of common to reflect a change in ownership of part of the land to which a right of common is attached. For example, if a farm has a right to graze 30 sheep but the farm is subsequently divided into three equally-sized lots, each owner of one lot will be entitled to a one-third share of the rights. The original right of common shown in the register can be apportioned on application to show the entitlement belonging to the owner of each lot.

For more information please contact:

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www.defra.gov.uk/wildlife-countryside/protected-areas/common-land/index.htm



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Attaching a right in gross to land

You can apply under section 10 to attach to land (such as a farm holding) a right of common that you hold in gross (*i.e.* as a 'personal' possession), so that in future, the right will be exercisable by the owner of that land. You can apply only if you are the owner of the right of common in gross.

Re-allocating an attached right

You can apply under section 11 to re-allocate a right of common attached to land where part of the land has been or will be put to non-agricultural use. For example, you can apply where part of the land to which the right is attached has been acquired for development (such as a new road) by compulsory purchase. You can apply only if you are the owner of the land to which the right of common is attached.

Transfer of a right of common held in gross

You can apply under section 12 to transfer a right of common held in gross between persons. You can apply only if you are the registered owner of the right or the person to whom it will be transferred.

Extinguishment of a right of common

You can apply under section 13 to extinguish a right of common. You can apply only if you own the land to which the right is attached or hold the right of common in gross, or if you own any part of the land over which the right is exercisable.

Statutory dispositions

Application can be made under section 14 to amend the commons registers because of a statutory disposition which has a consequential effect on the registers. This most often happens where common land, greens or rights of common are acquired compulsorily, sometimes with other land being given in exchange. There is a duty, generally on the compulsory purchase authority, to apply to the registration authority to amend the commons registers. So you cannot generally apply under section 14 (unless the duty falls on you), but it may be helpful to draw the registration authority's attention to any statutory disposition which has not been registered under section 14.

How do I find out more?

For more information about the pilot implementation, and for detailed guidance for applicants, visit Defra's website, or ask your commons registration authority.

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