



mae'n wlad i mi
breathe easier

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Dear Ms Dellar

15th June 2009

Re: Commons Act 2006 - part 1: Updating the Commons Registers in Wales

Thank you for providing the Welsh Association of National Park Authorities (WANPA) with this opportunity to respond to the above consultation. The three Welsh National Park Authorities collaborate – working in partnership - to promote the collective interests of Wales' three National Parks.

The National Parks have two statutory purposes in the 1995 Environment Act:

- Conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park.
- Promote opportunities for the understanding and enjoyment of the special qualities of the Park by the public.

In fulfilling these purposes, the National Park Authorities also:

- Seek to foster the economic and social well being of the local communities within the National Parks.

We recognise the importance of commons in contributing to the special qualities of National Parks and Protected Landscapes and the need to consider how their management can contribute to National Park purposes. General comments have been provided within the text of this letter and with the response to the specific proposals attached.

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In general our comments on the updating of commons registers are likely to be more limited as this is not a direct responsibility for National Park Authorities. However, the registers need to be fit for purpose in order that National Parks Authorities and other conservation organisations can determine what rights are held on a particular common and by whom. We need to work with a variety of stakeholders on commons as:

- National Park Authorities own significant areas of common land
- Commons contribute significantly to the special characteristics of National Parks and need to be managed accordingly
- Officers within National Parks Authorities may have local knowledge that may contribute to the correct processing of applications to amend the registers
- National Park Authorities can take on the responsibility for managing commons for when there is no known owner

We suggest that updating systems relating to the Commons Registers takes account of best practice found in other systems that record information related to land and how these can work together (for example the Integrated Administration and Control System used for processing rural payments, the Rural Land Registry and the Land Registry). For example, it may be that it is voluntary for a rights holder to ensure that the commons register is updated, but that other payments cannot be released unless this is done so.

Consideration should be given to a simple method of consulting with other bodies such as National Parks or bodies with the responsibility of managing Protected Landscapes when applications are made to update the registers, such as an e-mail update as currently happens with Forestry Commission applications.

It is not clear how the registers will record changes to the ownership of a common. For example, the Brecon Beacons National Park has acquired significant areas of common land since the original registers were created. There can be problems in tracking the current owner of a common even though someone may originally have registered as the owner.

The following response has been prepared by and agreed between specialist officers working for the three National Park Authorities. Should you have any questions, please contact me in the first instance and I'll refer your query to the appropriate person.

Yours sincerely,

Greg Pycroft
Welsh Policy Officer

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Enc. Detailed response to the consultation on updating the commons registers in Wales



Detailed Response to the Consultation on Updating the Commons Registers in Wales

Proposal 1

No Comment

Proposal 2

In order to manage commons it is useful to be able to determine from the commons registers who has what rights, who has a legal interest in those rights, how these rights are held and who is likely to have the rights in the future. Consideration should be given to whether both landlord & tenant details could be included within column 6.

Proposal 3

Rights holders should be able to and arguably encouraged to update the commons register in order to ensure that the register is as up to date as possible. This could be encouraged or the information made available if the commons registers and the Integrated Administration and Control System (IACS) could be made to work together so that anybody claiming rural payments from the government had to be able to make available the information that generated the entitlement to those payments.

Proposal 4

Agreed with thinking behind proposal that dominant tenement should be registered with the Land Registry. For leases of less than 7 years the Landlord's interest should either be already captured on the registers, if not, it may be worth considering whether the Landlord's interest should be registered with the Land Registry.

Proposal 5

Seems reasonable

Proposal 6

In general, rights holders should be encourage to register their rights and cost may be a barrier. It is not known the typical costs involved, but consideration should be given to what this is and also the additional costs Authorities may incur in processing any charge that may be made.

Proposal 7

It could be argued that it is reasonable for a fee to be charged for information held on the registers. Again, this should be balanced against the additional costs of collecting fees compared to a free service. If the registers were to be put into an electronic format options for accessing this through a web-based system for free should be considered as is increasingly possible for planning applications. Charges within and between Authorities

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should be discouraged as there should be a culture of sharing data where reasonable in the public interest.

Proposal 8

It is desirable that forms are kept the same or as similar as possible across Authorities (for example commons may straddle Authority boundaries). At the very least a model template should be considered as is the case with Tree Preservation Order applications to make the design of forms easier for Registration Authorities and the public.

Proposal 9

Consideration should be given as to how National Park Authorities and other bodies could be consulted in a simple manner such as by e-mail that is not onerous on either party and is time constrained so as not to slow down an application if no response is received within a reasonable timescale

Proposal 10

It should be possible to just notify the Registration Authority of a possible objection within the 42 day time period even if the full case and evidence is not presented. A reasonable timescale should then be allowed for submission of more details.

Proposal 11

No comment.

Proposal 12

Before imposing a fee structure, the additional costs of collecting any fee should be considered against the costs incurred.

Proposal 13

Regulations specifying who should be notified of an application should be amended to differentiate commons council from bodies that may represent the interests of commoners as both could exist at the same time in theory. Many commons associations are not a legal entity and frequently only represent a proportion of the rights holders. It may be sensible that such organisations should be responsible for registering with the Registration Authority in order to guarantee being notified. This list of contacts may be useful for other purposes, for example if a statutory undertaker needs to undertake works on a common.

Proposal 14

No comment

Proposal 15

Seems reasonable. Text relating to Commons Councils and bodies that may represent commoners needs to be clearer.



Proposal 16

Text relating to Commons Councils and bodies that may represent commoners needs to be clearer.

Notification in a simple manner to National Park Authorities should be considered (e.g. e-mail) and any other body who might be able to take on responsibility for commons with no known owner.

Agriculture is defined within the Town and Country Planning Act but for these purposes could also include forestry, woodland, scrubland and any purpose which entitles a claim to be made under the single payment scheme. However, does this include land managed under other agri-environment schemes such as the former Habitats Scheme or ancillary features associated with agriculture (e.g. tracks, agricultural buildings, hedges, ditches).

Proposal 17

Text relating to Commons Councils and bodies that may represent commoners needs to be clearer.

Notification in a simple manner to National Park Authorities should be considered (e.g. e-mail) and any body who might be able to take on responsibility for commons with no known owner.

Proposal 18

See comments on proposal 17

Proposal 19

See comments on proposal 17

Proposal 20

No comment

Proposal 21

No comment

Proposal 22

It is assumed that National Park Authorities would be notified as a local authority. However, other landowners who own a separate part of the same common should be considered.

Proposal 23

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No comment

Proposal 24

Consideration should be given as to whether there are other circumstances when developed land acquired by adverse possession (encroachment) should not benefit from the veto (e.g. creation of a hard-standing or parking area).

Proposal 25

No comment

Proposal 26

Not being an Authority with the registration of commons as a statutory purpose we do not have experience of these types of errors. However, consideration should be given as to whether other stakeholders in the commons should be notified (such as owners and National Park Authorities).

Proposal 27

Electronic registers, especially if they could be accessed remotely by other bodies, would seem to be a desirable objective. However, we recommend that Commons Registration Officers are consulted as to whether this is a reasonable time scale.

Proposal 28

Consideration should be given as to whether measures should be implemented to encourage voluntary registration, for example it being a pre-requisite to claim rural subsidies that rely on them.

Proposal 29

No comment

Proposals 30 & 31

Stakeholders such as owners of the common or bodies such as National Park Authorities may be interested in such applications.

Proposal 32

It might be helpful to provide some guidance as to what might constitute a conflict of interest.

Proposal 33

Seems reasonable

