

2013 No. 1774

COMMONS, ENGLAND

HIGHWAYS, ENGLAND

The Commons (Registration of Town or Village Greens) and
Dedicated Highways (Landowner Statements and Declarations)
(England) Regulations 2013

<i>Made</i> - - - -	<i>14th July 2013</i>
<i>Laid before Parliament</i>	<i>17th July 2013</i>
<i>Coming into force</i> - -	<i>1st October 2013</i>

The Secretary of State, in exercise of the powers conferred by sections 15A(1), (3), (6), (7) and (9) and 15B(1), (4) and (5) of the Commons Act 2006(a) and sections 31(6A), (6C), (13) and (14) and 31A of the Highways Act 1980(b), makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations—

- (a) may be cited as the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013;
- (b) come into force on 1st October 2013; and
- (c) apply in relation to England.

(2) In these Regulations—

“the 1980 Act” means the Highways Act 1980;

“the 2006 Act” means the Commons Act 2006;

“appropriate authority” means—

- (a) in relation to a map or statement deposited or declaration lodged under section 31(6) of the 1980 Act, an appropriate council; and
- (b) in relation to a statement and map deposited under section 15A of the 2006 Act, a commons registration authority.

(a) 2006 c. 26; section 61(1) defines the “appropriate national authority” as the Secretary of State in relation to England. Sections 15A and 15B were inserted into the Commons Act 2006 by section 15 of the Growth and Infrastructure Act 2013 (c. 27).

(b) 1980 c. 66. Section 31(6) was amended by Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37), paragraph 3 of Part 1. Section 31(6A), (6C), (13), and (14) was inserted by section 13 of the Growth and Infrastructure Act 2013 (c. 27). Section 31(7) was amended by Schedule 4 to the Local Government Act 1985 (c. 51), paragraph 7. Section 31A was inserted into the Highways Act 1980 by section 57 of and paragraph 4 of Part 1 of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37).

“authorised person” means a “conveyancer” as defined in rule 217A(1) of the Land Registration Rules 2003(a).

“relevant office” means—

- (a) where the commons registration authority has specified an office for the purpose of these Regulations on that authority’s website(b), the office so specified;
- (b) otherwise, the principal office of the commons registration authority.

“register” means the register which the commons registration authority is required to keep under section 15B(1) of the 2006 Act with respect to maps and statements deposited under section 15A of that Act.

Making an application

2.—(1) This regulation applies to any application made on or after 1st October 2013—

- (a) to deposit a statement and map under section 31(6) of the 1980 Act;
- (b) to lodge a declaration under section 31(6) of the 1980 Act;
- (c) to deposit a statement under section 15A(1) of the 2006 Act.

(2) An application under paragraph (1) must—

- (a) be made in the form set out in Schedule 1 or in a form substantially to the same effect, with such insertions or omissions as are necessary in any particular case;
- (b) be signed by, or by a duly authorised representative of, every owner of land to which the application relates who is an individual, and by the secretary or some other duly authorised officer of every owner of land to which the application relates which is a body corporate or an unincorporated association;
- (c) be accompanied by an Ordnance Map, at a scale of not less than 1:10,560 showing the boundary of the land to which the application relates in coloured edging or, in respect of declarations under section 31(6) of the 1980 Act or statements under section 15A(1) of the 2006 Act, refer to a map previously deposited in accordance with these Regulations or a map deposited in accordance with section 31(6) of the 1980 Act before 1st October 2013;
- (d) be accompanied by such reasonable fee (if any) specified by the appropriate authority for an application of that type.

(3) Where an application in the form required under paragraph (2) is to be signed by a person who is unable to read or sign the document, it must be supported by a certificate made by an authorised person.

(4) The authorised person must certify—

- (a) that the application has been read to the person (“A”) signing it;
- (b) that A appeared to understand it and approved its content as accurate;
- (c) that the statement of truth in Part F of the application has been read to A;
- (d) that A appeared to understand the statement and the consequences of making a false statement; and
- (e) that A signed or made their mark in the presence of the authorised person.

(a) S.I. 2003/1417. Rule 217A was inserted by regulation 4 of the Land Registration (Amendment) Rules 2011 (S.I. 2011/1410) with effect from 1 October 2011, being the day on which section 71 of the Legal Services Act 2007 (c. 29) came into force (see article 2(1)(c) of the Legal Services Act 2007 (Commencement No. 11, Transitory and Transitional Provisions and Related Amendments) Order 2011, S.I. 2011/2196 (C. 79), and regulation 1 of S.I. 2011/1410).

(b) A person without access to the internet can contact the commons registration authority by telephone to determine what the relevant office is.

Timing of deposit

3.—(1) A statement under section 15A(1) of the 2006 Act shall be treated as having been deposited with a commons registration authority when an application to deposit such a statement which complies with regulation 2 is given to that authority.

(2) An application to which regulation 2(1)(c) applies which is combined with an application to which regulation 2(1)(a) or (b) applies shall be treated as having been given to an appropriate authority at the same time as an application to which regulation 2(1)(a) or (b) applies would be so treated under section 322(2) and (3) of the 1980 Act.

(3) An application to which regulation 2(1)(c) applies which is not combined with an application to which regulation 2(1)(a) or (b) applies may be given to a commons registration authority by hand delivery or by post to the relevant office of that authority.

(4) Where an application to which paragraph (3) applies is sent by post otherwise than by a method which guarantees proof of delivery, the application shall be deemed not to have been given if it is proved that the commons registration authority did not receive it.

Management and publishing of application

4.—(1) As soon as practicable after receiving an application made in accordance with regulation 2, the appropriate authority must—

- (a) send an acknowledgement of receipt to the applicant; and
- (b) publicise notice of receipt of the application in accordance with paragraphs (2) and (3).

(2) An appropriate authority must—

- (a) publish notice of the application on the authority's website;
- (b) serve notice of the application by email on any person who has previously asked to be informed of all applications and who has given the authority an email address for that purpose; and
- (c) so as to bring it to the attention of users of the land, post notice of the application for not less than 60 days at or near at least one obvious place of entry to (or, if there are no such places, at or near at least one conspicuous place on the boundary of) the land to which the application relates.

(3) The notices required under paragraph (2)(a), (b) and (c) must be in the form set out in Schedule 2, or in a form substantially to the same effect, with such insertions or omissions as are necessary in any particular case.

(4) Where a notice posted under paragraph (2)(c) is, without any fault or intention of the appropriate authority, removed, obscured or defaced before the period of 60 days referred to in that paragraph has elapsed, the authority shall be treated as having complied with the requirements of that paragraph.

Information to be contained in the register kept under section 15B(1) of the 2006 Act

5.—(1) The register must contain the following information with respect to each map and statement deposited pursuant to section 15A of that Act—

- (a) a copy of the map and any legend accompanying or forming part of the map;
- (b) a copy of the statement;
- (c) the name and address, including the postcode, of the person who deposited the statement and the map;
- (d) the date on which the application to deposit the statement and map was given to the commons registration authority;
- (e) details of the land delineated on the map including—
 - (i) the Ordnance Survey six-figure grid reference of a point within the area of the land;
 - (ii) the name of the parish, ward or district in which the land is situated;

- (iii) where the commons registration authority is the council of a county, the name of the non-metropolitan district within that county in which the land is situated;
 - (iv) the address and postcode of those buildings on the land to which a postcode has been assigned; and
 - (v) the name of the town or city which is nearest to the point referred to in paragraph (i).
- (2) The register must contain—
- (a) the job title of the person in the commons registration authority to whom enquiries about the contents of the register can be made;
 - (b) the email address and telephone number of the commons registration authority; and
 - (c) an index of the contents of the register.
- (3) Where a commons registration authority discharges its duty under section 15B(1) of the 2006 Act in the way described in subsection (3) of that section, the authority must create a new part of the register kept under section 31A of the 1980 Act for that purpose.

Manner of keeping the register

- 6.**—(1) The register must be kept in both electronic and paper form.
- (2) The paper version of the register must be kept at the relevant office of the commons registration authority.
- (3) The register may be kept in parts so that each part—
- (a) relates to land within—
 - (i) a particular ward or parish; or
 - (ii) a particular non-metropolitan district, where the commons registration authority is the council of a county; and
 - (b) contains the information referred to in regulation 5(1) relating to each map and statement deposited in respect of such land.
- (4) In respect of the electronic version of the register, the commons registration authority must—
- (a) make the register available for inspection by the public on its website or on a website maintained by the commons registration authority for that purpose;
 - (b) make provision for the register to be inspected at the relevant office of the commons registration authority; and
 - (c) ensure that the register has a search facility which allows, as a minimum, postcode and keyword searches to be made.
- (5) The commons registration authority must keep the register in such manner as is suitable to enable a copy of any of the particulars contained on the register to be taken by or for any person who requests a copy in person at the relevant office of the commons registration authority.

Removal of entries from the register

- 7.**—(1) The commons registration authority may remove an entry from the register, or any part of it, if that authority is satisfied that the map or statement in question contains a material error.
- (2) Before removing an entry from the register, the commons registration authority must give not less than 28 days' notice of its intention to do so to the owner of the land to which the map or statement relates.

Amendment of the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007

8.—(1) The Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007^(a) are amended as follows.

(2) In regulation 2, after the definition of “the register”, add the following definition—

““relevant office” means

(a) where the appropriate council has specified an office for the purpose of these Regulations on that council’s website^(b), the address so specified;

(b) otherwise, the principal office of the appropriate council.”

(3) In regulations 3(1)(b), (3), 4(3)(b)(ii) and 5, omit “statutory”, in each place occurring.

(4) In regulation 3(3)(c), for the words “ten-year period in question with respect to the statutory declaration” substitute “twenty-year period within which a subsequent declaration may be lodged”.

(5) In regulation 3(5) of the 2007 Regulations, for “ten-year period means the period of ten years” substitute “twenty-year period means the period of twenty years”.

(6) In regulation 4(2), (4)(b) and (5), for “principal office” substitute “relevant office”, in each place occurring.

Richard Benyon

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

14th July 2013

^(a) SI 2007/2334.

^(b) A person without access to the internet can contact the appropriate council by telephone to determine what the relevant office is.

SCHEDULE 1
Application Form

Regulation 2(2)(a)

Form CA16

Application Form for deposits under section 31(6) of the Highways Act 1980 and section 15A(1) of the Commons Act 2006

Please read the following guidance carefully before completing this form

- 1. Guidance relating to completion of this form is available from <http://www.defra.gov.uk/rural/protected/greens/>. Please refer to these separate notes when completing this form.*
- 2. Parts A and F must be completed in all cases.*
- 3. The form must be signed and dated by, or by a duly authorised representative of, every owner of land to which the application relates who is an individual, and by the secretary or some other duly authorised officer of every owner of land to which the application relates which is a body corporate or an unincorporated association.*
- 4. In the case of land in joint ownership all the joint owners must complete paragraphs 2 and 3 of Part A and complete and sign the application in Part F, unless a duly authorised representative completes and signs the form on behalf of all of the owners of the land. Paragraph 3 should be completed in full to clearly explain the capacity of each applicant e.g. trustee, landowner's managing agent, executor.*
- 5. 'Owner' is defined in section 61(3) of the Commons Act 2006 and section 31(7) of the Highways Act 1980 and means, broadly, a legal owner of the freehold interest in the land.*
- 6. Where the application relates to more than one parcel of land, a description of each parcel should be included in Paragraph 4 of Part A and the remainder of the form should be completed to clearly identify which statement and/or declaration relates to which parcel of land. This may require the insertion of additional wording. See separate notes for further guidance. Multiple parcels of land should be clearly identified by coloured edging on any accompanying map.*
- 7. Where a statement or declaration requires reference to colouring shown on an accompanying map or previously lodged map, the colouring must be clearly specified and must match that shown on the relevant map. For example, if a footpath is specified in a Part C declaration as shown coloured brown, the accompanying map or previously deposited map referred to must reflect that colouring.*
- 8. An application must be accompanied by an ordnance map, or (in respect of declarations under Part C or statements under Part D of this form) refer to a map previously deposited in accordance with the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declaration) (England) Regulations 2013 or (if deposited before 1st October 2013) in accordance with section 31(6) of the Highways Act 1980. Any accompanying map must be an ordnance map at a scale of not less than 1:10,560 showing the boundary of the land to which the application relates in coloured edging.*
- 9. An application must be accompanied by the requisite fee – please ask the appropriate authority for details.*

10. 'Appropriate authority' means (a) in relation to a map or statement deposited or declaration lodged under section 31(6) of that Act, an appropriate council (as defined in section 31(7) of the Highways Act 1980); and (b) in relation to a statement and map deposited under section 15A(1) of the 2006 Act, a commons registration authority (defined in section 4 of the Commons Act 2006 and section 2 of the Commons Registration Act 1965). In practice, the appropriate council and commons registration authority will usually be the same body.

PART A: Information relating to the applicant and land to which the application relates
(all applicants must complete this Part)

1. Name of appropriate authority to which the application is addressed:

2. Name and full address (including postcode) of applicant:

3. Status of applicant (tick relevant box or boxes):

I am

(a) the owner of the land(s) described in paragraph 4.

(b) making this application and the statements/declarations it contains on behalf of [insert name of owner] who is the owner of the land(s) described in paragraph 4 and in my capacity as [insert details].

4. Insert description of the land(s) to which the application relates (including full address and postcode):

5. Ordnance Survey six-figure grid reference(s) of a point within the area of land(s) to which the application relates (if known):

6. This deposit comprises the following statement(s) and/or declarations (*delete Parts B, C, or D where not applicable*):

PART B: Statement under section 31(6) of the Highways Act 1980

[I am/[insert name of owner] is] the owner of the land described in paragraph 4 of Part A of this form and shown [insert colouring] on the map accompanying this statement.
(*delete wording in square brackets as appropriate and/or insert information as required*)

[Ways shown [insert colouring] on the accompanying map are byways open to all traffic.]

[Ways shown [insert colouring] on the accompanying map are restricted byways.]

[Ways shown [insert colouring] on the accompanying map are public bridleways.]

[Ways shown [insert colouring] on the accompanying map are public footpaths.]

No [other] ways over the land shown [insert colouring] on the accompanying map have been dedicated as highways.

(*delete wording in square brackets as appropriate and/or insert information as required*)

PART C: Declaration under section 31(6) of the Highways Act 1980

1. [I am/[insert name of owner] is] the owner of the land described in paragraph 4 of Part A of this form and shown [insert colouring] on the map [accompanying this declaration/lodged with [insert name] Council on [insert day, month, year]].

(delete wording in square brackets as appropriate and/or insert information as required)

2. On the [insert day] day of [insert month, year] [I/my/[insert name of owner's] predecessor in title [insert name]] deposited with [insert name] Council, being the appropriate council, a statement accompanied by a map showing [my/[insert name of owner's]] property [insert colouring] which stated that:

[the ways shown [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as byways open to all traffic]

[the ways shown [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as restricted byways]

[the ways shown [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as bridleways]

[the ways shown [insert colouring] on that map [and on the map accompanying this declaration] had been dedicated as footpaths]

[no [other] ways had been dedicated as highways over [my/[insert name of owner's]] property].
(delete wording in square brackets as appropriate and/or insert information as required)

[3. On the [insert day] day of [insert month, year] [I/my/[insert name of owner's] predecessor in title [insert name]] deposited with [insert name] Council, being the appropriate council, a declaration dated [insert day, month, year], stating that no additional ways [other than those marked in the appropriate colour on the map accompanying that declaration] had been dedicated as [byways open to all traffic] [restricted byways] [bridleways] [footpaths] since the deposit of the statement referred to in paragraph 2 above.]

(delete if not applicable and delete wording in square brackets as appropriate and/or insert information as required)

4. No additional ways have been dedicated over the land [insert colouring] on the map [accompanying this declaration/referenced in paragraph 1 above] since the statement dated [insert day, month, year] referred to in paragraph 2 above [since the date of the declaration referred to in paragraph 3 above] [other than those [byways open to all traffic] [restricted byways] [bridleways] [footpaths] marked in the appropriate colour on the map accompanying this declaration] and at the present time [I/[insert name of owner]] [have/has] no intention of dedicating any more public rights of way over [my/the] property.

(delete wording in square brackets as appropriate and/or insert information as required)

PART D: Statement under section 15A(1) of the Commons Act 2006

[I am/[insert name of owner] is] the owner of the land described in paragraph 4 of Part A of this form and shown [insert colouring] on the map [accompanying this statement/deposited with [insert name] Council on [insert day, month, year]].

[I/[insert name of owner]] [wish/wishes] to bring to an end any period during which persons may have indulged as of right in lawful sports and pastimes on the whole or any part of the land shown [insert colouring] on the [accompanying map/map referenced above].

(delete wording in square brackets as appropriate and/or insert information as required)

PART E: Additional information relevant to the application
(insert any additional information relevant to the application)

PART F: Statement of Truth
(all applicants must complete this Part)

WARNING: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS FORM ARE TRUE

Signature (of the person making the statement of truth):

Print full name:

Date:

You should keep a copy of the completed form

Data Protection Act 1998 - Fair Processing Notice

The purpose of this Fair Processing Notice is to inform you of the use that will be made of your personal data, as required by the Data Protection Act 1998.

The appropriate authority (see explanation of definition in above guidance notes) in England is the data controller in respect of any personal data that you provide when you complete this form.

The information that you provide will be used by the appropriate authority in its duties to process applications to deposit statements, maps and declarations under section 31(6) the Highways Act 1980 and statements under section 15A(1) of the Commons Act 2006. The information you provide will also be used by the appropriate authority in its duty to update the registers in which details of such deposits are recorded under the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 and the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013.

The appropriate authority is required by the legislation above to maintain a register which holds information provided in this form, which can be inspected online or in person by members of the public on request. It may also be required to release information, including personal data and commercial information, on request under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000. However, the appropriate authority will not permit any unwarranted breach of confidentiality nor will they act in contravention of their obligations under the Data Protection Act 1998.

SCHEDULE 2

Regulation 4(3)

Form of Notice of Application

Form CA17
Notice of landowner deposits under section 31(6) of the Highways Act 1980 and section 15A(1) of the Commons Act 2006
<p><i>[Insert name of appropriate authority]</i></p> <p>An application to [deposit a map and statement/lodge a declaration] under section 31(6) of the Highways Act 1980 [and deposit a statement under section 15A(1) of the Commons Act 2006] has been made in relation to the land (or lands) described below and shown <i>[insert colouring]</i> on the accompanying map. <i>(Delete as necessary)</i></p> <p>PLEASE NOTE: This deposit may affect rights over the land described below. Deposits made under section 31(6) of the Highways Act 1980 may prevent deemed dedication of public rights of way over such land under section 31(1) of that Act. Deposits made under section 15A(1) of the Commons Act 2006 may affect the ability to register such land as a town or village green under section 15 of that Act. Please see guidance at http://www.defra.gov.uk/rural/protected/greens/ for further information.</p> <p>Description of the land(s) (including full address and postcode):</p> <p>Name of the Parish, Ward or District in which the land(s) is situated:</p> <p>The deposit was submitted by <i>[insert name of applicant]</i>/[on behalf of <i>[insert name of stated owner]</i>] and was received by this authority on <i>[insert date]</i>. The authority maintains a register of maps, statements and declarations deposited under section 31A of the Highways Act 1980 [and section 15B of the Commons Act 2006] <i>(delete as necessary)</i>. This register can be accessed online at <i>[insert web address and link]</i> or can be inspected free of charge at the address below at the times indicated below: <i>[Insert relevant office of the authority]</i> <i>[Insert opening times of the office]</i></p> <p>Signed on behalf of <i>[name of authority]</i>: Name and Position of Signatory: Date:</p>

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 31(6) of the Highways Act 1980 (“the 1980 Act”) prescribes a mechanism by which a landowner may provide (by way of depositing statements and maps followed by subsequent declarations with the appropriate council) sufficient evidence to negative an intention to dedicate ways over the landowner’s land as a highway for the purpose of defeating deemed dedication of such ways as highways. Section 15A of the Commons Act 2006 (“the 2006 Act”) prescribes a mechanism by which a landowner may deposit a statement accompanied with a map with a commons registration authority in order to protect the landowner’s land from registration as a town or village green.

These Regulations apply to applications in England to deposit a statement and map, or lodge a declaration under section 31(6) of the 1980 Act or deposit a statement and map under section 15A of the 2006 Act.

Regulation 2 prescribes requirements as to the form such applications must take, including a prescribed application form, the scale requirements for an accompanying map, and fees required in respect of such applications. It is possible for a landowner to submit a combined application to deposit a statement or declaration under the 1980 Act with a statement under the 2006 Act.

Regulation 3 contains provisions relating to when a statement made under section 15A(1) of the 2006 Act is treated as having been deposited with a commons registration authority. Where an application to make such a deposit is combined with an application to deposit a statement and map or lodge a declaration under section 31(6) of the 1980 Act, the combined application shall be treated as having been given to an appropriate authority at the same time as an application to deposit a statement and map or lodge a declaration under section 31(6) of the 1980 Act would be so treated under section 322(2) and (3) of the 1980 Act.

Regulation 4 prescribes the steps which the authority receiving such an application must take upon receipt of a validly made application.

Section 15B(1) of the 2006 Act requires that a register of prescribed information about statements and maps deposited under section 15A of that Act be maintained by each commons registration authority. Under section 15B(3) a commons registration authority may discharge that duty by including such prescribed information in an existing register kept under section 31A of the 1980 Act. Regulation 5(3) requires that a new part of the register kept under section 31A be created for that purpose. Regulation 5 prescribes the information which the register must include and regulation 6 prescribes the manner in which the register must be kept. Regulation 7 provides for circumstances in which information may be removed from the register.

Regulation 8 makes amendments to the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 (S.I. 2007/2334) (the “2007 Regulations”) to provide for paper registers kept under section 31A of the 1980 Act to be held and inspected at a specified office or the principal office of the appropriate council. Regulation 8 also amends the 2007 Regulations to remove references to statutory declarations and to extend the period in which declarations under section 31(6) of the 1980 Act can be made following the deposit or a initial statement and map or the deposit of a previous declaration.

No separate impact assessment has been prepared for this instrument but the impact assessment prepared for the Growth and Infrastructure Bill is relevant and can be viewed at: <http://services.parliament.uk/bills/2012-13/growthandinfrastructure/documents.html>.

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