Agenda Item: 9

Name of Committee:	Council
Date of Meeting:	**27/02/2019**
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	**Commons Registration Amendments to Register**
Purpose of Report:	To authorise the Monitoring Officer / Head of Legal and Democratic Services to act pursuant to The Commons Act 2006 and The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 and establish Council procedures and set relevant fees for processing such applications
Report Owner:	Tim Cousins, Information Manager (Lawyer)
Responsible Officer:	Debbie Marles, Monitoring Officer / Head of Legal and Democratic Services
Elected Member and Officer Consultation:	Given the statutory obligation on the Authority, consultation is not relevant
Policy Framework:	To comply with statutory obligations on the Authority

Executive Summary:

- The Council as Commons Registration Authority holds the statutory registers for both Common Land and Town and Village Greens. The original legislation did not provide a mechanism to rectify or amend a registration.
- To address this, the Commons Act 2006 brought in statutory powers in relation to correction, non-registration or mistaken registration of common land. These are now applicable in Wales by virtue of The Commons Act 2006 (Correction, Non-registration or Mistaken Registration) (Wales) Regulations 2017. It gives individuals the right to make such application for amendment of the register including adding land or removing land.
- This report makes the practical arrangements to implement those provisions to enable people to make such applications. It deals with granting of the relevant delegation to Monitoring Officer / Head of Legal and Democratic Services, the procedures to be followed and the relevant fees applicable.

1. Recommendation

1.1 That the Monitoring Officer / Head of Legal and Democratic Services be granted delegated authority to determine applications under The Commons Act 2006 and The Commons Act 2006 (Correction, Non-registration or Mistaken Registration) (Wales) Regulations 2017, including the appointment of an independent person to chair inquiries where appropriate and make referrals to the Planning Inspectorate in line with the 2017 Regulations.

1.2 That the Monitoring Officer / Head of Legal and Democratic Services be granted delegated authority to establish processes and procedures as are necessary to the comply with The Commons Act 2006 and The Commons Act 2006 (Correction, Non-registration or Mistaken Registration) (Wales) Regulations 2017. The procedures are set out in the Guidance for Commons Registration Authorities which is set out in Appendix 2 and a summary of the procedure is set out in Appendix 3.

1.3 That the Council's Constitution be amended to reflect the new legislative regime in that the reference in paragraph 33 Part B of Section 13 be amended to include applications under The Commons Act 2006 and The Commons Act 2006 (Correction, Non-registration or Mistaken Registration) (Wales) Regulations 2017.

1.4 That the initial Schedule of Fees as set out in Appendix 1 be approved as the Council's fees in relation to possible applications. Disbursements will charged at cost.

1.5 The Public Protection Licensing Committee be given delegated authority to deal with objected applications and the terms of reference of the Committee be extended appropriately.

2. Reasons for Recommendations

2.1-3 To effectively implement The Commons Act and The Commons Act 2006 (Correction, Non-registration or Mistaken Registration) (Wales) Regulations 2017.

2.4 To authorise charging.

2.5 To provide authority to the Public Protection Licensing Committee.

3. Background

3.1 The Vale of Glamorgan Council is a Commons Registration Authority. The Council holds the Registers for both common land and Town or Village Greens within its administrative area lick or tap here to enter text.

3.2 The statutory provisions for the Registration of Common Land were originally contained in The Commons Registration Act 1965. The 1965 Act did not provide a mechanism to remove land that was incorrectly registered.

3.3 To address this The Commons Act 2006 brought in statutory powers in relation to correction, non-registration or mistaken registration of common land. It gives individuals the right to make such application for amendment of the register including adding land or removing land. It also gives the right to register land as Town and Village Green or remove it from such classification.

3.4 Anyone may make an application to amend the registers under sections 19, 22 and Schedule 2 of the Commons Act 2006.

3.5 The Council can make an application under its own volition in the form of a proposal under sections 19 and or 22 or Schedule 2 of the 2006 Act.

3.6 The provisions to amend under the 2006 Act have been in force in England since 2008, however under The Commons Act 2006 (Correction, Non-registration or Mistaken Registration) (Wales) Regulations 2017 they now apply to Wales. The cut-off date for certain applications to the Commons Registration Authority is 2032.

4. Key Issues for Consideration

4.1 The Regulations provide for the establishment of a process in relation to determination of applications. Applications can either be determined by the Commons Registration Authority itself or referred to the Planning Inspectorate. The main criteria for this being if the Commons Registration Authority has an interest in the outcome of the application or the proposal so that it is unlikely that there would be confidence in its impartiality, or the Commons Registration Authority has received objections from those with a legal interest in the land and where the application is looking to add or remove land from the Register or correct an error in the number of rights of common in the Register. Attached at Appendix 2 is the Welsh Government Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017. This sets out further guidance and the procedural steps under the Regulation.

4.2 The Regulations set out detailed provisions with regard to the processing of applications, the criteria to be established and the form of application to be submitted. Consultations may need to take place including informing Natural Resources Wales if the site is a Site of Special Scientific Interest (SSSI). The matter may be referred to a Public Inquiry for a decision. Application forms are as set out in Appendix 4.

4.3 Registration Authorities may set their own reasonable fees.

4.4 Applications made under section 19(2)(a) (correcting a mistake made by the Registration Authority) and 19(2)(c) (removal of a duplicate entry from the Register) do not attract a fee as these are viewed as mistakes having been made historically by the Authority. Similarly, applications under Schedule 2 paragraphs 2 – 5 (inclusive) are also free as their determination is seen as being in the public interest as a whole. The Welsh Government has given a commitment to reimburse the costs incurred by the Commons Registration Authority in respect of public interest provisions. Appendix 1 sets out the fees and exemptions this

Authority proposes to charge. As the costs will be on an hourly rate basis for the relevant officer an estimate of costs will be provided to applicants before work commences, subject to a fee for an initial assessment.

5. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

5.1 Long term: this is a statutory obligation on the Council.

5.2 Prevention: this is a statutory obligation on the Council.

5.3 Integration and collaboration: this is a statutory obligation on the Council.

5.4 Involvement: this is a statutory obligation on the Council.

6. Resources and Legal Considerations

Financial

6.1 The 2017 Regulations permit Commons Registration Authorities to set a fee. The proposed approach in relation to applications that can be charged for is that they will be cost neutral.

Employment

6.2 The 2017 Regulations permit Commons Registration Authorities to set a fee. The proposed approach in relation to applications that can be charged for is that they will be cost neutral.

Legal (Including Equalities)

6.3 As set out in this report.

7. Background Papers

The Commons Act 2006

The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 The Regulations give effect to Sections 19 and 22 and Schedule 2 of the Commons Act 2006.

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Appendix 1

Schedule of Fees

Formal Apportionment under the 1965 Act	To apportion rights in the register when the land to which rights are attached is split	No fee
Section 15 Commons Act 2006	Registration of a new Town or Village Green	No fee
Section 19 (2) (a) or (c) of the 2006 Act	Correction of a mistake made by Registration Authority or removing a duplicate entry from the Register	No fee
Section 19 (2) (b) of the 2006 Act	Correction, for a purpose described in section 19(2)(b) i.e. correcting any mistake, where the amendment would not affect— (i) the extent of any land registered as Common Land or as a Town or Village Green; or (ii) what can be done by virtue of a right of common;	Subject to an initial assessment fee on lodging the application of £33.75. A full estimate will then be provided based on cost per hour depending upon the status of the officer as set out below. The matter will not proceed until the costs set out in the estimate have been received by the Council.
Section 19 (2) (d) or (e) of the 2006 Act	Correction, to update the details of any name or address, or to take account of accretion (the addition to land by the action of water) or diluvion (the gradual washing away of soil along a water course).	Subject to an initial assessment fee on lodging the application of £33.75. A full estimate will then be provided based on cost per hour depending upon the status of the officer as set out below. The matter will not proceed until the costs set out in the estimate have been received by the Council.
Schedule 2, paragraph 2 or 3, to the 2006 Act	Non-registration of Common Land or Town or Village Green (i.e. not registered and should have been)	No fee
Schedule 2, paragraph 4, to the 2006 Act	Waste land of a manor not registered as Common Land (i.e. not registered and should have been)	No fee

Schedule 2, paragraph 5, to the 2006 Act	Town or Village Green wrongly registered as Common Land	No fee
Schedule 2, paragraphs 6 - 9, to the 2006 Act	Deregistration of certain land registered as Common Land or as a Town or Village Green in error	Subject to an initial assessment fee on lodging the application of £33.75. A full estimate will then be provided based on cost per hour depending upon the status of the officer as set out below. The matter will not proceed until the costs set out in the estimate have been received by the Council.

Officer Costs	
Clerical officer	£16.62 per hour
Solicitor	£33.75 per hour
Independent Inspector	£100-150 per hour

Appendix 2

GUIDANCE FOR COMMONS REGISTRATION AUTHORITIES

Llywodraeth Cymru
Welsh Government

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Guidance for Commons Registration Authorities

May 2017

Guidance

OGL © Crown copyright 2017 WG31132 Digital ISBN: 978 1 4734 9541 8
Mae'r ddogfen yma hefyd ar gael yn Gymraeg / This document is also available in Welsh.

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Guidance for Commons Registration Authorities

This guidance has been prepared by the Welsh Government and applies to Wales only.

The guidance is produced to accompany the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (the 2017 Regulations). It is intended to assist Commons Registration Authorities (CRAs) in considering and determining applications and proposals under sections 19, 22 and Schedule 2 to the Commons Act 2006 (the 2006 Act) to amend commons registers. It is not a substitute for legislation and can only reflect the Welsh Government's understanding of the law at the time of issue. In case of doubt, please refer to the Commons Act 2006 and the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017.

The interpretation of the 2017 Regulations and the 2006 Act is ultimately a matter for the courts. Where matters of statutory interpretation arise CRAs are advised to seek their own independent legal advice as necessary.

Background

The Commons Registration Act 1965 (the 1965 Act) established definitive registers of common land and town and village greens in England and Wales in order to record details of rights of common. Commons Registration Authorities (Local Authorities) were appointed to draw up commons registers (the registers).

The task of establishing registers was complex and the 1965 Act proved to have deficiencies. For example, some land was mistakenly registered as common land. Other land was overlooked and never registered. The Court of Appeal held that even where land had been wrongly registered as common land, the 1965 Act provided no mechanism to enable such land to be removed from the register once the registration had become final[1].

This guidance sets out how anomalies and mistakes relating to existing entries in the registers may now be amended. CRAs will be able to receive applications under section 19 of the 2006 Act, which provides for correction of the registers in prescribed circumstances, and under Schedule 2 to the 2006 Act, which allows land which fulfils relevant criteria to be added to the register if it is not registered, or removed from the register if it was wrongly registered.

[1] Corpus Christi College v Gloucestershire CC [1983] 1 Q.B. 360

For a detailed definition of the provisions (sections 19, 22 and Schedule 2 of the 2006 Act) please see the 'Guidance for Applicants'

Applications and Proposals

Anyone may make an application to amend the registers under section 19, 22 and Schedule 2.

A proposal is the term used for an application the CRA makes to itself under section 19 or 22 of, or Schedule 2 to, the 2006 Act.

A CRA can make proposals in the public interest where the CRA has no direct interest in the land or rights affected, however a CRA should not bring forward a proposal on behalf of a person (s) who could have otherwise made an application for that purpose. In particular a CRA should not bring forward a proposal in order that a person need not pay a fee for an application, or because there is a mistaken entry in the register for which the registration authority was not itself responsible.

The CRA may apply to itself where it has a direct interest in the matter, it does this by way of a proposal. For example where land is owned by the CRA; the CRA is entitled to a right of common by virtue of ownership of a dominant tenement to which the right is attached; or the CRA owns a right of common in gross.

CRAs should consider bringing forward proposals for amendment of the register where:

- there is a public interest in the amendment being made (e.g. the amendment would secure the registration of additional land as common land, to which public access would be secured); or

- the CRA (or any predecessor of the CRA) was responsible for a mistaken entry in the register, and no person has a personal interest in correcting the mistaken entry, or any person with such an interest cannot be identified (e.g. because the ownership of the land is unclaimed).

In determining responsibility for a mistaken entry in a register, the CRA should not assume responsibility for the identification of mistakes in anything done by another party to a registration, unless the CRA was under a duty at that time to identify and correct such mistakes.

When a CRA decides to make a proposal it must prepare a statement describing the proposal and explaining the justification for it (regulation 7 of the 2017 Regulations). A proposal is subject to the same requirements as an application in terms of the standard of evidence provided.

In specified cases, a CRA must refer both an application and a proposal to the Planning Inspectorate (PINS) for determination (regulation 15(2) and (3) of the 2017 Regulations), namely where:

- the CRA has an interest in the outcome of the application or proposal so that it is unlikely that there would be confidence in its impartiality; or

- the CRA has received objections to the application or proposal from those with a legal interest in the land;

and in either case:

the application or proposal seeks under section 19(4) of the 2006 Act to:
- add or remove land from the register; or
- correct an error in the number of rights of common in the register;

or

the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.

Regulation 16(2) provides that the CRA may decide that a public inquiry is to be held in relation to any application or proposal.

Where a CRA makes a proposal, it is to be assumed that the CRA has 'an interest in the outcome' of the application (and probably an expectation that it will be granted). The CRA must decide whether that interest is "such that there is unlikely to be confidence in the authority's ability impartially to determine" the proposal (regulation 15(3) of the 2017 Regulations). Where this is the case, and the proposal is for one of the purposes mentioned above, the CRA must refer the proposal to PINS who may hold either a Hearing (regulation 16(3) of the 2017 Regulations) or a Public Inquiry regulation 16(2) of the 2017 Regulations).

Applying to make changes to the commons registers

The registers of common land and of town and village greens record information about where common land is located and the rights of common present over that land. The Commons Act 2006 (the 2006 Act) is the legislation that provides the power for applicants to apply to change the registers. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (the 2017 Regulations) set out the legal requirements that must be complied with when making and processing applications and proposals.

The following guidance sets out the process CRAs need to follow in order to determine applications and proposals to make changes to the commons registers. A series of frequently asked questions (FAQs) is included at page 19 of this document to assist you in the determination process.

Pre application

If advice is sought by applicants on making applications under sections 19 or 22 of, or Schedule 2 to, the 2006 Act, CRAs may find it helpful to refer applicants to the Welsh Government guidance document – Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 – Guidance for Applicants.

http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/?lang=en

Applicants may also ask to view the existing registers. Where an applicant asks the CRA to provide them with official copies of documents you may make a charge for such a service. It will be a matter for individual local authorities to set their own reasonable fees for providing such a service based on actual costs.

Application Forms

Applications may be submitted by anyone, including individuals, an organisation or a business. When someone is applying on behalf of an organisation or a business they will need to make this clear on the application form. An application may only be accepted if it is submitted, in writing, on the correct form. A fee may also be required, along with evidence and any maps requested by the form (at the correct scale).

The application must be signed by every applicant or the applicant's representative. The application forms by type of provision are as follows:

Type of Application	Form
Section 19 – Correction of the Register	CA10 WG – E (English) CA10 WG – W (Welsh)
Schedule 2, paragraphs 2 to 9 – registration of common land and removal of common land from the registers of common land and town or village greens	CA13 WG – E (English) CA13 WG – W (Welsh)

Forms may be downloaded from individual CRA (Local Authority) websites or via the Welsh Government website at:

http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/?lang=en

Setting Fees

It will be a matter for individual local authorities to set their own reasonable fees based on actual costs. You need to ensure that such charges are reasonable for the work performed or to be performed.

The cost of making an application

Applicants may, depending on the application they are making, be required to pay an application fee. CRAs must publish details of their fees on their website. In the event that the CRA wishes to revise its application fees it will need to publish these revised figures on its website for at least 14 days before the new fees take effect (regulation 6).

Applications made under section 19(2)(a) (correcting a mistake made by the registration authority) and 19(2)(c) (removal of a duplicate entry from the register) do not attract a fee as these are viewed as mistakes having been made historically by the CRA. Similarly, applications under Schedule 2 paragraphs 2 – 5 (inclusive) are also free as their determination is seen as being in the public interest as a whole. The Welsh Government has given a commitment to reimburse the costs incurred by the CRA in respect of public interest provisions.

In more complicated cases, it will generally be the case that the application is forwarded to PINS for further consideration. However, it may be the case that the CRA determines the application and if the facts merit it, the CRA may decide that a public inquiry is necessary. The CRA may seek further written representations if it thinks it is necessary to enable an application to be determined. The CRA may seek reimbursement from applicants for the additional costs, for example, the holding of a public inquiry. CRAs must publish additional fees on their website, for example in addition to the initial applications fees the hourly / daily rates of officer time should be clearly set out so that those applying are aware of the likely cost to them of determining the application.

If the applicant fails to pay the relevant fee there is no requirement for the CRA to process the application.

Evidence required

On receipt of an application CRAs will need to ensure that all of the required evidence has been included, including a copy of every document that is asked for on the application form. Applicants are advised not to forward original documents, but rather are expected to send copies that are certified, for example by a solicitor or other professional person, to say that they have been checked against the original and are a true copy. However, the CRA may require an applicant to provide original documents, for example if there are doubts about the validity of a particular document.

Applicants are not required to forward copies of documents that were issued by the CRA or are held by the CRA.

Maps

Applicants will, in most cases, need to include an up to date Ordnance Survey map with their application. CRAs will need to ensure that the maps provided have the relevant area of the land hatched in a distinctive colour (for example red) and are of a scale of:

- 1:2,500 (if this scale is available); or
- 1:10,000.

You may accept a larger scale map showing the land in more detail if it is considered to be appropriate. The map should accurately show the area of land comprised in the application, so that there is no doubt about the purpose of the application, and its effect if granted.

Checking the application

On receipt of an application the CRA should check to see whether the applicant has supplied all of the requisite information and documents and has signed the application.

As a guide applications will need to include the following:

1. A completed application form – CA10 WG (for applications under section 19) or CA13 WG (for applications under Schedule 2);
2. A description of the land to be registered/deregistered as appropriate (Question 6 on form CA13 WG);
3. The application fee (see below);
4. An Ordnance Survey map of the land to the correct scale (1:2,500 if available or 1:10,000 if not) with the relevant area hatched in a distinctive colour (for example red);
5. For applications under sections 19(2)(a) – (e) of the 2006 Act, a statement setting out the purpose of the application, the mistake in the register the applicant is seeking to correct and details of the amendment required (Question 5 form CA10 WG);
6. For applications under section 19(2) (a) and (c) evidence the mistake was made by the CRA;
7. For applications under section 19(4)(b) (amendment of a register of common land or town or village green), a statement of the purpose for which the application is made, the number of the register unit (and, if relevant, the number of the rights section entry), evidence of the mistake or other matter and a description of the amendment required;
8. For applications under Schedule 2:

    - **Schedule 2 (2) – (3)** - evidence that the land in question is land which falls within the scope of the legislation listed in paragraphs

2(2) and 3(2) of Schedule 2 to the 2006 Act and evidence of consent from the owner if the application includes land that is covered by a building or is within the curtilage of a building (if all necessary building consents have been obtained).

- **Schedule 2 (4)** – evidence of the provisional registration of the land, evidence that the land is still waste in character, evidence that the land is or was formerly of a manor, and evidence that the provisional registration was cancelled or withdrawn (including where relevant the Commons Commissioner's determination).
- **Schedule 2 (5)** – evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner's decision) and the status of the land as a town or village green immediately before it was provisionally registered as common land (this can be formal evidence, such as an inclosure award or order or exchange, or it could be 20 years' use as of right, or was in customary use as a village green).
- **Schedule 2 (6) and (8)** - evidence of the provisional registration of the land as common land or as a town or village green; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner's decision) and evidence that the land has been at all times and still is covered by a building or is within the curtilage of a building.
- **Schedule 2 (7)** - evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner's for a determination) and that before its provisional registration the land was not subject to rights of common, waste land of the manor, was not a town or village green, or land of a description specified in section 11 of the Inclosure Act 1845.
- **Schedule 2 (9)** - evidence of the provisional registration of the land as a town or village green; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner's for determination) and that the status of the land immediately before its provisional registration was not common land or a town or village green.

Additional guidance on applications made under Section 19(2)(a): mistakes made by the registration authority

A CRA should not consider itself responsible for any error in the register, solely because it failed to identify and resolve a mistake by another party to a registration, unless the registration authority had a duty at that time to identify and correct such mistakes. Generally, a registration authority was required under the 1965 Act to give effect to any duly made application for registration made to it at the proper time, regardless of its merits.

A mistake may arise, for example, where an error was made by the CRA in transposing onto the register map a plan supplied by an applicant or where in amending an entry in the register the CRA erroneously added a zero to (or deleted a zero from) the number of rights registered. An error made in a map supplied by an applicant which was faithfully reproduced in the register could not be corrected under this provision, because the CRA did not make the mistake (it may be possible to correct it under Schedule 2).

CRAs need to be aware of this distinction as it is likely that some applicants will inappropriately attempt to apply under Section 19(2)(a) either because they assume that all entries in the registers equate to mistakes made by the CRA or because they wish to avoid paying a fee. Applicants will be expected to provide supporting evidence where they believe the mistake was made by the CRA.

Ownership

Once a CRA has received an application that it believes to be complete it is under an obligation to publicise the application (regulation 10). One of the obligations under regulation 10 requires the CRA to serve a notice of the application on the owner of any land affected by the application, or to which the application relates. This obligation applies in connection with any application under section 19 of, or Schedule 2 to, the 2006 Act. In relation to application under Schedule 2, the CRA must also serve a notice of the application on any occupier or lessee of the land. If it is not reasonably practicable to identify such a person then this removes the CRA's obligation to serve a notice on an owner of land.

Furthermore, the 2017 Regulations set out that an application under paragraph 2 of Schedule 2 to the 2006 Act may not include land which is covered by a building, or within the curtilage of a building, if all the necessary building consents have been obtained (and evidence is provided), unless the owner of the land consents to the land being registered as common land.

Acknowledgement

If the application has been duly made (the requisite information and documents are included, the application has been signed and the fee, where relevant, has been enclosed) the CRA is required to send an acknowledgement to the applicant confirming receipt of the application. The acknowledgement letter needs to include:

- the unique reference number assigned to the application;
- a postal and email address through which applicants may contact you;
- a copy of the public notice that you intend to publish on your website and in certain circumstances, post at a location at or near the site;
- details of any further documents or information that you require the applicant to supply and a deadline for complying with this request; and

- details of the process you intend to follow in determining the application, including your obligations to forward applications to PINS for determination in certain circumstances. This will need to include information about the referral process and the fact that any such referral will attract further application fees.

Power to specify directions

CRAs have the power to direct applicants to supply further information or documents that are required in order for the case to be determined. In the event that an applicant fails to comply with such a direction, or fails to do so within the set deadline, the application may be abandoned (regulation 9).

There is no legal requirement to notify the applicant that the CRA considers the application abandoned, however as a matter of best practice CRAs may consider forwarding a letter to applicants notifying them that this is the case (Regulation 9(4)).

Advertising the application or proposal

Once the application is complete and has been acknowledged, the CRA has a duty to publicise the application. CRAs also have a duty to publicise proposals. The following list sets out how CRAs can comply with the requirement:

- publish a notice of the application or proposal on the CRA (LA) website;
- email a notice of the application or proposal to anyone who has asked to be informed of such applications or proposals (and who has provided an email address);
- serve a notice of the application or proposal on various people. This will depend on the specific application or proposal but may include:

    - owners of any land affected by the application or proposal (if reasonably identifiable);
    - anyone who has registered a declaration to use a registered right of common over any land which comprises the whole or part of the register unit connected to the application or proposal (when implemented);
    - any owners of rights of common in gross (rights which are not attached to land, but are held personally and can be bought or sold as assets) unless there are so many it would be impractical;
    - any Commons Council (when in place) responsible for the land which forms part of the application or proposal;
    - any occupier or lessee of the land in question; and
    - other Local Authorities with an interest

As set out above, the CRA is required to serve a notice of the application or proposal on the owner of any land affected by the application or proposal, or

to which the application or proposal relates. This obligation applies in connection with any application or proposal under section 19 of, or Schedule 2 to, the 2006 Act. In relation to application or proposal under Schedule 2, the CRA must also serve notice of the application or proposal on any occupier or lessee of the land. If it is not reasonably practicable to identify such a person then this removes the CRA's obligation to serve a notice on an owner of land.

CRAs would also be expected to inform NRW if the site is protected under habitat legislation and/or is designated as a SSSI, SAC or SPA. If this is the case, you will be required to comply with the relevant habitats legislation in addition to your duties under the 2006 Act and 2017 Regulations.

In addition, it is a matter of good practice for CRAs to send a copy of the notice of the application or proposal by post to anyone who has asked to be informed of such applications or proposals but who has not provided an email address.

As set out above, the CRA is not expected to serve notice on a landowner where it is not reasonably practicable to identify that person, in other words if the Land Registry search draws a blank and there is no other source of information locally.

Nor is the CRA expected to serve notice on the registered owners of rights of common in gross if they are so numerous it would not be reasonably practicable to serve notice on them all.

Adding or removing land from the register – and duty to publicise application or proposal

In the case where an application or proposal that would either add land to, or remove land from, the register, the CRA must post a site notice for not less than 42 days at, or near, a minimum of one obvious place of entry to the land. If there are no such places then the notice can be posted at a conspicuous place on the boundary of the land. In Welsh Government's view, one notice would suffice for contiguous areas of land. In order to keep costs down, multiple notices should be the exception, not the rule. Where the site notice is removed, obscured or defaced prior to the expiry of the 42 day period through no fault of the CRA it will be treated as having complied with the site notice requirement.

The CRA is responsible for drafting the notice. It is important that the notice complies with regulation 12 of the 2017 Regulations, is sufficiently descriptive, and explains fully the details associated with the application including, for example, giving sufficient explanation of the effect of the application or proposal.

Regulation 12 prescribes the details which must be included in a notice of an application or proposal. Failure to draft the notice correctly could leave a CRA's determination open to legal challenge. The notice must contain the following details:

- a reference to ‘the Commons Act 2006’ and the provision of the 2006 Act under which or pursuant to which the application or proposal is made;
- the name of the applicant and of the CRA;
- the name and location of the land affected by the application or proposal;
- a summary of the effect of the application or proposal;
- both a postal address and an email address for the CRA to which any representations concerning the application or proposal may be sent;
- an explanation that such representations will not be treated as confidential;
- the date on which the period for making representations expires, which must not be less than 42 days after the date of the service, publishing or posting of the notice; and
- the address of the CRA at which the application or proposal and any documents accompanying it are available for inspection.

Inspecting applications or proposals made

Copies of applications or proposals and any accompanying documents must be made available for inspection at the address specified in the notice. These documents need to be available for inspection during normal office hours and within the deadline (at least the 42 working days) for representations to be made.

Representations/Objections

Anyone can make a representation/objection regarding an application or proposal within the deadline (at least the 42 statutory days) specified in the notice of application. Those making representations/objections must state their name and address, the nature of their interest (i.e. do they have a legal interest in the land?), the grounds on which it has been made and be signed by the person making the representation/objection. Written representations are permitted to be made by way of email (regulation 26) – if this is the case no signature is required. The CRA may disregard objections where no name and address is supplied.

Any representation received after the deadline for representations has elapsed may be excluded from the process, although there may be (exceptional) circumstances where the CRA considers it reasonable to accept representations after this date – this would need to be considered on a case by case basis.

Once the deadline for representations has passed the CRA is required to write to the applicant to inform them that either:

- no representations have been received; or
- the authority has received representations.

Where representations have been received copies will need to be forwarded to the applicant. Applicants have the opportunity to respond to these representations – the 2017 Regulations set out that they must be given a minimum period of 21 days to write to the CRA with a response. Any such response must be in writing and signed by the person responding, although if this is done by email, no signature is required. A longer timeframe for comment may be given, for example, in the event that substantial correspondence on the application is received. There is also a duty on CRAs to provide the applicant's response to those who have made representations (regulation 14).

Depending on the type of application and the representations received it may be necessary for the application to be referred to PINS (see below).

Applications (or proposals) to which there is no objection

Even if no objections are received, CRAs must nevertheless consider the application or proposal on its merits. An application or proposal should only be granted if it is made in accordance with the criteria in the legislation, and the absence of opposition to its being granted must not be taken as suggestive that those criteria are met and need not be considered.

It is particularly important that an application or proposal is fully examined where, if granted, it would have some effect on the public interest, such as land being deregistered. For example, an application to deregister land under Schedule 2 paragraph 6 of the 2006 Act may not attract representations from third parties, but the CRA should nevertheless satisfy itself that the application contains sufficient evidence to merit granting the application. The applicant would be expected to provide convincing evidence that all of the land referred to in the application was and remained covered by a building, or the curtilage of a building, during the relevant period of time. If such evidence is unavailable then the application must not be granted.

Please note CRAs should be particularly cautious in accepting the applicant's assertion as to the facts, without supporting evidence, particularly in the absence of any third party who may wish to comment on or test such assertion.

Electronic communication

The use of email can speed up the application process, and is generally less costly and burdensome for all parties. Regulation 26 permits the use of email where it would result in the recipient receiving the information in substantially the same form as if it had been sent in printed form, provided that the recipient has consented to receive communications in this way. However, any person may communicate with the CRA by email, without the authority's prior consent. CRAs are therefore advised to establish and advertise email accounts which may be used in relation to sections 19 and 22 of, and Schedule 2 to, the 2006 Act.

An email need not be signed, but in case of any doubt, CRAs should take steps to establish the authenticity of any correspondent. Applications **must** be in hard copy and signed by the applicant; there is currently no mechanism that will allow for such applications to be submitted electronically.

Hearings and public inquiries

It is believed that many of the applications will be routine and will not attract significant interest. In routine cases, where there is no opposition, and the CRA intends to grant the application there will be no need to hold an inquiry. In cases where the CRA is minded to refuse an application you must afford the applicant the opportunity to be heard before you reach a final decision (regulation 16(7)). An opportunity to be heard means that the applicant is given the option of making oral representations so as to present their case to the decision maker, to explain orally the key aspects of the application, and to address any points of contention (but not necessarily to question any other person). This could be face to face or via a telephone call – in deciding this the CRA will need to have regard to the circumstances of the individual case.

When reaching a decision as to whether to grant or refuse an application or proposal, the CRA is required to consider the civil rights of any third party that may be affected by the application. The registration authority has to afford a similar opportunity to be heard to that person (regulation 16(7)).

Public inquiries are governed by regulations 17 to 20, 22 and 23 of the 2017 Regulations. An independent inspector (such as a barrister) can conduct public inquiries on behalf of your CRA. In cases where the application is referred to PINS they will be responsible for appointing an inspector to hear the case. Both you as the CRA and PINS (where cases are referred) will need to publish a notice of inquiries and hearings on respective websites and serve a notice of the inquiry or hearing on various parties (regulation 17). Whilst the 2017 Regulations do not prescribe a specific timeframe for publishing a notice of inquiries or hearings the Welsh Government expects both CRAs and PINS to allow an appropriate amount of time between the notice being published and the hearing or inquiry commencing. This will depend on the facts of the specific case. The appointed inspector may hold a pre-inquiry meeting – this will determine the matters to be addressed at the inquiry and the procedure which will be followed. If a pre-inquiry meeting is not considered necessary, the inspector can give written directions. An inspector, but not the CRA, can hold hearings under regulation 21. A hearing takes the form of a discussion led by the inspector.

Regulation 18 addresses general provisions in connection with a public inquiry. This sets out that, if the inspector considers evidence not to be relevant, or to be repetitious, the inspector has powers to prevent someone from giving evidence, cross-examining or presenting, as may be the case.

Site Visits

The CRA and PINS each have the power to conduct a site visit to help them understand an application or proposal (regulation 22(2)). In the event that a public inquiry is to be held the inspector overseeing the inquiry must organise a site visit before determining the application, unless the landowner refuses entry.

In advance of undertaking a site visit in relation to an application, the applicant must be asked whether they would like to be present or be represented (regulation 22(3)). If an applicant indicates a wish to attend the site visit but subsequently isn't present when it takes place, the inspection can still go ahead.

The 2006 Act does not provide powers of entry to land, and we would not expect a CRA to enter land without the permission of the landowner. In many cases, particularly where an application is made by the landowner, such permission will be willingly given. If permission is refused, it may be possible to inspect the land from public highways (including public rights of way) which pass across or near to the land.

CRAs should be cautious of exercising any right of access to land under Part I of the Countryside and Rights of Way Act 2000, under Section 193 of the Law of Property Act 1925, under any other legislation which confers a public right of access to common land, or any common law right to use of a town or village green. Such rights are invariably conferred for the purposes of recreation (or for similar purposes), and in Welsh Government's view, a landowner would be entitled to require an officer of the CRA to leave such land if that officer were present for the purposes of a site survey. Accordingly, where a CRA wishes to inspect such land, it should seek permission from the landowner notwithstanding any public right of access, and should respect any refusal.

Where land is unclaimed, no permission to enter can be obtained because no-one is known to have the authority to give such permission. In such a case, Welsh Government is of the view that a CRA may reasonably enter the land to inspect it. For the purposes of deciding whether land is unclaimed, the CRA is advised to adopt the criteria in section 45 of the 2006 Act (powers of local authorities over unclaimed land), that is that no person is registered as proprietor in the register of title maintained by the Land Registry and the CRA cannot otherwise identify the owner. The CRA should not assume that land is unclaimed merely because no person is recorded as owner of the land in the ownership section of the commons register.

Official Stamp

CRAs need to keep a stamp with an impression containing the information prescribed in regulation 30(1) of the 2017 Regulations. Following the determination of an application or proposal, the CRA is required to stamp every sheet that forms part of the determination (regulation 3(3)).

Determination by the Commons Registration Authority

The CRA must take all of the evidence and advice received into account, and be satisfied that all parties have been given sufficient opportunity to make their views known. The CRA must, in determining an application or proposal, take into account the matters set out in regulation 16(1) of the 2017 Regulations.

In addition, a CRA must be aware of and act in accordance with the following:

- its duty to take steps to maintain and enhance biodiversity under section 7 of the Environment (Wales) Act 2016;
- its duty (in relation to any land designated as a site of special scientific interest), to take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest (section 28G of the Wildlife and Countryside Act 1981);
- its duty to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions;
- its duty (in relation to National Parks) to have regard to the purposes for which the National Parks are designated, and if it appears that there is a conflict between those purposes, it shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park (section 11A of the National Parks and Access to the Countryside Act 1949); and
- its duty (in relation to an Area of Outstanding Natural Beauty) to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty (section 85 of the Countryside and Rights of Way Act 2000).

If an application or proposal is made where it may have a significant practical effect on any land designated as a SSSI, the CRA should consider consulting Natural Resources Wales.

Once a CRA has granted an application or taken a decision to give effect to a proposal, it must amend the register.

Once the application or proposal has been determined, the CRA must inform (in writing) the applicant. Written notice of the determination must also be given to everyone who made representations concerning the application or proposal, and everyone who gave evidence at a public inquiry or hearing (where the contact details are known). The notice needs to include reasons for the decision and details of any changes that will be made to the register so as to give effect to the decision. The CRA must also publish a copy of the decision and reasons for it on its website (regulation 24).

Following the determination of an application or proposal the CRA must stamp every sheet forming part of the determination, through the application of the official CRA stamp as described in regulation 30(1) of the 2017 Regulations.

Check lists for CRAs to use in determining applications and proposals are attached at Annex 1. These are intended as helpful reference documents, and are not intended to be an exhaustive list of your legal obligations. CRAs should ensure that they comply with the requirements contained within the 2006 Act and the 2017 Regulations.

Referral to the Planning Inspectorate

The Planning Inspectorate's role

An application or proposal must be determined by the CRA with responsibility for the register in which the land to which the application or proposal relates is recorded. However, in certain cases the CRA must refer the case to an 'appointed person'.

The 2017 Regulations refer to an appointed person. Currently the Planning inspectorate (PINS) is appointed by Welsh Ministers as the appointed person to undertake the administrative work associated with the making of decisions in connection with an application made under section 19, 22 and Schedule 2 of the 2006 Act (regulation 4 of the 2017 Regulations).

PINS generally has the same powers as a CRA in determining an application or proposal, for example, PINS can direct the applicant to supply further information or evidence in order to enable the application or proposal to be determined, and the deadline for doing so, and can treat the application as abandoned if the applicant does not comply with a direction (regulation 15(4)(c), (5) and (6) of the 2017 Regulations).

Deciding whether to refer

The following applications should be referred to PINS:

- where the CRA has an interest in the outcome of the application or proposal so that it is unlikely that there would be confidence in its impartiality; or
- the CRA has received objections to the application or proposal from those with a legal interest in the land;

and in either case:

the application or proposal seeks under section 19(4) of the 2006 Act to:

- add or remove land from the register; or
- correct an error in the number of rights of common in the register;

or

the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.

Regulation 16(2) provides that the CRA may decide that a public inquiry is to be held in relation to any application or proposal.

The registration authority's role prior to referral

The CRA must first process the application or proposal in the specified manner (including publishing a notice of the application), and invite representations/objections to be sent to the CRA within the specified period of time (as set out above).

After the deadline for representations/objections, and after seeking the applicant's views on the representations/objections, if the above-mentioned criteria are met, the CRA should then refer the case to PINS, enclosing any documents which are relevant to the case. This includes the application or proposal, supporting documents, other relevant documents possessed by the registration authority, including extracts from the relevant registers, and any representations/objections received (regulation 15(4) of the 2017 Regulations). Where the CRA makes a representation/objection, it should include it with the other documents. At the same time, you must inform the applicant that the application has been referred to PINS for determination (regulation 15(4)(a)).

It is likely that PINS will ask the CRA to complete a 'referral letter', which confirms certain details, including the reason for referral. If PINS thinks that the criteria for referral do not apply, it will return the application or proposal to the CRA for determination. The CRA will be expected to provide a clear reason as to its interest in the matter and why there is unlikely to be any confidence in its ability to impartially determine the application.

The address for referred applications is:

The Planning Inspectorate / Yr Arolygiaeth Gynllunio
Crown Building / Adeilad y Goron
Cathays Park / Parc Cathays
Cardiff / Caerdydd
CF10 3NQ

The registration authority's role after referral

Once a case has been referred to PINS the role of the CRA will be of a practical nature, for example involvement in the setting up of a site visit or the provision of a venue for any hearing or public inquiry.

The registration authority's role after determination

When PINS has determined the referred case, it will notify the CRA of its decision. The CRA must give written notification of the decision to the applicant, anyone who made representations concerning the application or proposal and those who gave evidence as part of an inquiry (where the name and contact details of such a person are known). The notice must include the reasons for the decision and details of any changes made to the register to give effect to the decision. In addition the CRA is required to publish the decision and the reasons for it on its website. (regulation 24 of the 2017 Regulations)

Where an application is granted or a decision is made to give effect to a proposal (in whole or in part), the CRA must give effect to the determination in the register as appropriate – by addition, deletion, correction or otherwise. An amendment of the register has to be made in the appropriate section of the register unit relating to the land. CRAs must follow the format of the current register as closely as possible, noting that the Regulations allow for such variations and adaptations as the circumstances of the application or proposal require. We would expect this to be done as soon as practicable after the decision has been taken.

Whilst any amendment to the register will be dependent on both the specific circumstances of the case, and the form of the register to be amended, example Model Forms are included at Annex 2. It is for the CRA to decide which may be appropriate, and the types of applications that may relate to a specific form are noted on each form for guidance only.

Frequently asked questions

Q. **What or who is an appointed person?**

A. The 2017 Regulations refer to an appointed person. Currently the Planning Inspectorate (PINS) is appointed by Welsh Ministers as the appointed person to make decisions in connection with an application made under section 19 or 22 of, and Schedule 2 to, the 2006 Act.

Q. **Who can make an application?**

A. Anyone. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 state that anyone may apply: however in reality it is believed that only those with a legal interest in registered land will be likely to seek to apply.

Q**. How does a CRA access information on cases previously considered by the Commons Commissioners**

A. Information about Commons Commissioners and decisions made are published on the Association of Commons Registration Authorities England and Wales website at the following link:

http://www.acraew.org.uk/commissioners-decisions

However, the collection of decision letters published on this website is not comprehensive, and the CRAs should rely on their own records and archives in cases of doubt. The register will usually make clear whether a provisional registration was referred to the Commons Commissioners.

Q. **Can applicants view the existing registers?**

A. Yes. If the CRA is asked to provide official copies of documents you may charge for such copies. It will be a matter for individual local authorities to set their own reasonable fees for providing such a service based on actual costs.

Q. **Is there a time limit for making an application or a proposal?**

A. There is no time limit for making an application or proposal under section 19 of the 2006 Act.

All applications and proposals made under Schedule 2 to the 2006 Act must be made within 15 years of the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 coming into force – 4 May 2032.

Q. **How much will applicants be expected to pay for the determination of their application?**

A. This will depend on the nature of the application; CRAs must publish fees on their website by type of application (regulation 6(2) of the 2017 Regulations). A CRA can amend its fees, but any revised fees must be published on its website at least 14 days before such fee takes effect (regulation 6).

If the application needs to be referred to the Planning Inspectorate (PINS) additional charges will be payable. The expectation is that PINS will recover its fees on a full cost recovery basis. PINS publish the daily rates charged for an Inspector and administrative work on their website. PINS will provide applicants with an estimated cost of the likely determination of their application before commencing work.

Any fee charged must be reasonable for the work performed or to be performed. No steps need to be taken by either the CRA or PINS before the specified fee has been received (regulation 6).

Q. **Can applications be made electronically?**

A. Not currently. Applicants are required to physically sign their application. Applicants are advised to either hand deliver the signed application form or send it via recorded post.

Q. **Can other correspondence be sent electronically?**

A. Yes, providing the applicant has agreed to this form of communication. Anyone providing an email address to the CRA is considered to have consented to a document being sent via email. The information contained in the email must be in substantially the same form as if it had been sent in printed form. If the information is in substantially the same form, the applicant is entitled to send the document (which includes a notice, document, information or evidence) electronically to the CRA (without express prior agreement). (regulation 26)

Q. **Does the CRA have to advertise applications or proposals in the press?**

A. No. There is no requirement for applications or proposals made under section 19 or 22 of, or Schedule 2 to, the 2006 Act to be published in the press.

Q. Schedule 2 (paragraphs 6 or 8) refers to curtilage, what does this mean?

A: For the purposes of Schedule 2 of the 2006 Act the definition of curtilage will depend on the circumstances of the particular property. A curtilage is generally understood to be the area of ground used for the enjoyment of a

house or building – so, for example, a house may have a physical barrier around it (e.g. a wall, hedge or fence) and the area within that enclosure (except the house) could, depending on the facts, be the curtilage.

Q. **What sort of evidence should the CRA expect to see to demonstrate that land had 20 years' use as of right, or was in customary use as a village green?**

A. This will depend on the individual circumstances of the land in question. Applicants have been advised to check to see if there are any Parish, Community or Town Council Records indicating that the land has been used by local inhabitants for lawful sports and pastimes as of right.

Please also see the guidance notes issued to accompany Section 15 of the Commons Act 2006 for the completion of an application for the registration of land as a Town or Village Green as this provides additional detail on the 'use as of right'. The guidance may be found at the following link:

http://gov.wales/docs/drah/publications/140807-section-15-commons-act-2006-en.pdf

Q. What is meant by applications duly made?

A. Applications are duly made when they comply with the requirements of the 2006 Act and the 2017 Regulations. CRAs are not required to proceed with applications which do not comply with the requirements of the 2006 Act or the 2017 Regulations.

Q: What happens if a mistake was made by the CRA but it is something that has no practical consequence?

A: Even where an error was made by the CRA in making an entry in the register, the error may have been made nugatory by a subsequent entry in or amendment of the register. For example, the CRA may have mistakenly included a parcel of land in the registration of a common, but a subsequent application for registration of rights over the common included that parcel as the land over which the rights were exercisable. In such a case, although an application may prove the original mistake made by the CRA, the mistake had no substantive impact, and the CRA will need to consider whether it would be unfair to make the correction sought by the application having regard to the test in section 19(5).

Q. **Can anyone inspect applications or proposals made?**

A. Yes, copies of the application or proposal and any accompanying documents (evidence) must be made available for inspection at the address published in the notice of the application or proposal. This inspection may take place during normal office hours and within the 42

working days (or longer period specified in the notice of the application or proposal) ending with the deadline for making representations / objections.

Q. **Can anyone make representations/objections to an application or proposal?**

A. Yes, anyone can make written representations/objections regarding an application or proposal. Representations/objections must be made to the CRA and must be made within the deadline specified in the notice of application or proposal.

The person making the representation/objection must state his or her name and address, the nature of their interest if they have such an interest (e.g. do they have a legal interest in the land?) and the grounds for making the representation/objection. The representation/objection must be signed by the person who has made it. Representations/objections may be made by email – if so, no signature is required.

Q. **Can the Commons Registration Authority object to an application?**

A. Yes, a CRA may object to an application made to them, however, an objection would normally only be appropriate if the CRA itself has some interest in the matter under consideration. If the CRA is aware of an impediment to granting an application, other than one in which it has an interest, that is a ground for refusal (or for concluding that the application is not duly made), rather than a ground for making an objection – in such cases, the CRA should ensure that details of the impediment are disclosed to the applicant and those making representations so that they may comment on them.

Where a CRA objects to an application it must consider whether the application should be referred to PINS. In a case where the CRA is objecting to an application it would seem to be clear that the CRA could be considered to have 'an interest in the outcome' of the application. In such cases there is unlikely to be confidence in the CRA's ability to determine it with impartiality. If this is the case, the application must be referred to PINS.

Q. **Can an application be withdrawn or changed?**

A. Neither the 2006 Act nor the 2017 Regulations contain provisions for the amendment or withdrawal of an application. If an application has been made, it is for the CRA to determine whether to proceed with the application. The CRA does not have to agree to withdraw or change an application if the withdrawal or change would affect the interests of others.

The Welsh Government would expect a CRA to be cautious in accepting the withdrawal of an application that has been made in the public interest, particularly if other people wish to see the application proceed to a determination. The CRA may agree to let the applicant correct something

that is clearly wrong (such as an incorrect map). You will need to act reasonably in the circumstances of the particular application and judge each case on its merits.

Q. Can a CRA refuse repeat applications?

A. The Welsh Government takes the view that an identical, or near identical, application to one previously made and refused would entitle the CRA to refuse to accept it on common law grounds of res judicata (A matter already judged).

If a repeat application was similar, but not the same, as that made previously, the CRA may need to consider the new evidence or material, and consider whether its earlier decision remains appropriate. Depending on the circumstances of the case, it may be relatively straightforward to isolate the new information and its potential impact on the previous decision. However, this could potentially be costly (not least because of the cost of publicising repeated applications), and could be relevant only where the application is sufficiently novel that it merits some element of fresh consideration.

Q. Can an application be granted in part only?

A. CRAs may conclude that an application should be granted only in part, because the criteria are met only in relation to that part.

Before granting an application in part only, the CRA should consider whether, had the application been submitted in relation only to that part, the application would have satisfied the requirements of the 2006 Act and the 2017 Regulations.

Q. Can a CRA reject what it considers to be a spurious application?

A. If the application is spurious in the sense that it does not fulfil the statutory criteria to be successful, this will constitute grounds for the CRA to refuse the application. If the application is made without sufficient evidence to be capable of being granted, then the CRA may conclude that the application is not duly made. For example, an application made under paragraph 7 of Schedule 2, which contains no supporting evidence, is unlikely to be duly made.

Q. Can costs be awarded to any party?

A. Costs may only awarded by an inspector where a Public Inquiry has been held in relation to an application or proposal under Schedule 2 to the 2006 Act. The person against whom costs are awarded must have, in the inspector's opinion, acted unreasonably.

The inspector may make an order for costs in favour of the applicant, any person who participated in the public inquiry or the CRA taking part in the public inquiry.

Costs may be ordered against the applicant, any person who participated in the public inquiry or the CRA taking part in the public inquiry.

Q. **Can a decision by the CRA be challenged?**

A. There is no specific appeals mechanism, however decisions by the CRA or PINS may be challenged in the High Court by way of judicial review.

Q. **Can anyone else order a CRA to amend its register under section 19, 22 and Schedule 2?**

A. Yes, a High Court may order an authority to amend the register if it is satisfied that:

- an entry, or information in an entry, was included due to fraud; and
- it would be just to amend the register.

Contacts

For further enquiries and comments please contact:
For enquiries relating to applications that have been referred to the Planning Inspectorate:

The Planning Inspectorate
Crown Building
Cathays Park
Cardiff
CF10 3NQ

e-mail: wales@pins.gsi.gov.uk

The Commons Act Team
Agriculture – Sustainability and Development Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: CommonsAct2006@wales.gsi.gov.uk

Annex 1 – Check Lists
Annex 2 – Model Forms

Appendix 3

SUMMARY OF COMMONS REGISTRATION AMENDMENTS PROCEDURE

1. Applications may be submitted by anyone, including individuals, an organisation or a business. When someone is applying on behalf of an organisation or a business they will need to make this clear on the application form.

2. An application may only be accepted if it is submitted, in writing, on the correct form.

3. A fee may also be required, along with evidence and any maps requested by the form (at the correct scale).

4. Forms are available as below or may be downloaded or via the Welsh Government website at: http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/?lang=en

   Section 19 – Correction of the Register – Form CA10 WG

   Schedule 2, paragraphs 2 to 9 – Registration of common land and removal of common land from the Registers of Common Land and Town or Village Greens – Form CA13 WG

5. Applicants need to ensure that all of the required evidence has been included.

6. Applicants need to include a copy of every document that is asked for on the application form.

7. Applicants are advised not to forward original documents, but rather are expected to send copies that are certified, for example by a solicitor or other professional person, to say that they have been checked against the original and are a true copy.

8. Applicants are not required to forward copies of documents that were issued by the CRA or are held by the CRA.

9. Applicants will, in most cases, need to include an up to date Ordnance Survey map with their application.

10. As a guide applications will need to include the following:

    (i) A completed application form – CA10 WG (for applications under section 19) or CA13 WG (for applications under Schedule 2);
    (ii) A description of the land to be registered / deregistered as appropriate (Question 6 on form CA13 WG);
    (iii) The application fee (see below);

(iv) An Ordnance Survey map of the land to the correct scale (1:2,500 if available or 1:10,000 if not) with the relevant area hatched in a distinctive colour (for example red);

(v) For applications under sections 19(2)(a) – (e) of the 2006 Act, a statement setting out the purpose of the application, the mistake in the Register the applicant is seeking to correct and details of the amendment required (Question 5 form CA10 WG);

(vi) For applications under section 19(2) (a) and (c) evidence the mistake was made by the CRA;

(vii) For applications under section 19(4)(b) (amendment of a Register of Common Land or Town or Village Green), a statement of the purpose for which the application is made, the number of the Register unit (and, if relevant, the number of the rights section entry), evidence of the mistake or other matter and a description of the amendment required;

(viii) For applications under Schedule 2:

- **Schedule 2 (2) – (3)** – evidence that the land in question is land which falls within the scope of the legislation listed in paragraphs 2(2) and 3(2) of Schedule 2 to the 2006 Act and evidence of consent from the owner if the application includes land that is covered by a building or is within the curtilage of a building (if all necessary building consents have been obtained).
- **Schedule 2 (4)** – evidence of the provisional registration of the land, evidence that the land is still waste in character, evidence that the land is or was formerly of a manor, and evidence that the provisional registration was cancelled or withdrawn (including where relevant the Commons Commissioner's determination).
- **Schedule 2 (5)** – evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner's decision) and the status of the land as a town or village green immediately before it was provisionally registered as common land (this can be formal evidence, such as an inclosure award or order or exchange, or it could be 20 years' use as of right, or was in customary use as a village green).
- **Schedule 2 (6) and (8)** – evidence of the provisional registration of the land as common land or as a town or village green; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner's decision) and evidence that the land has been at all times and still is covered by a building or is within the curtilage of a building.
- **Schedule 2 (7)** – evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner's for a determination) and that before its provisional registration the land was not subject to rights of common, waste land of the manor, was not a town or village green, or land of a description specified in section 11 of the Inclosure Act 1845.
- **Schedule 2 (9)** – evidence of the provisional registration of the land as a town or village green; the circumstances in which the

provisional registration became final (e.g. without reference to the Commons Commissioner's for determination) and that the status of the land immediately before its provisional registration was not common land or a town or village green.

11. Once a CRA has received an application that it believes to be complete it is under an obligation to publicise the application (Regulation 10).

12. Serve a notice of the application on the owner of any land affected by the application, or to which the application relates.

13. In relation to application under Schedule 2, the CRA must also serve a notice of the application on any occupier or lessee of the land.

14. The CRA is required to send an acknowledgement to the applicant confirming receipt of the application.

15. The acknowledgement letter needs to include:

- the unique reference number assigned to the application;
- a postal and e-mail address through which applicants may contact you;
- a copy of the public notice that you intend to publish on your website and in certain circumstances, post at a location at or near the site;
- details of any further documents or information that you require the applicant to supply and a deadline for complying with this request; and
- details of the process you intend to follow in determining the application, including your obligations to forward applications to the Planning Inspectorate (PINS) for determination in certain circumstances. This will need to include information about the referral process and the fact that any such referral will attract further application fees.

16. CRAs have the power to direct applicants to supply further information or documents that are required in order for the case to be determined.

17. Once the application is complete and has been acknowledged, the CRA has a duty to publicise the application.

18. The CRA is required to serve a notice of the application or proposal on the owner of any land affected by the application or proposal.

19. CRAs to send a copy of the notice of the application or proposal by post to anyone who has asked to be informed of such applications or proposals but who has not provided an e-mail address.

20. In the case where an application or proposal that would either add land to, or remove land from, the Register, the CRA must post a site notice for not less than 42 days at, or near, a minimum of one obvious place of entry to the land.

21. Copies of applications or proposals and any accompanying documents must be made available for inspection at the address specified in the notice.

22. Anyone can make a representation / objection regarding an application or proposal within the deadline (at least the 42 statutory days) specified in the notice of application. Those making representations / objections must state their name and address, the nature of their interest (i.e. do they have a legal interest in the land?), the grounds on which it has been made and be signed by the person making the representation / objection.

23. Where representations have been received copies will need to be forwarded to the applicant.

24. Depending on the type of application and the representations received it may be necessary for the application to be referred to PINS (see below).

25. Even if no objections are received, CRAs must nevertheless consider the application or proposal on its merits. An application or proposal should only be granted if it is made in accordance with the criteria in the legislation, and the absence of opposition to its being granted must not be taken as suggestive that those criteria are met and need not be considered.

26. It is particularly important that an application or proposal is fully examined where, if granted, it would have some effect on the public interest, such as land being deregistered. Full examination will take place at the Public Protection Licensing Committee as will the steps set out in paragraphs 27, 28 and 29 of this procedure and any related procedures and provisions that require determination.

27. In routine cases, where there is no opposition, and the CRA intends to grant the application there will be no need to hold an inquiry.

28. In cases where the CRA is minded to refuse an application you must afford the applicant the opportunity to be heard before you reach a final decision (Regulation 16(7)).

29. When reaching a decision as to whether to grant or refuse an application or proposal, the CRA is required to consider the civil rights of any third party that may be affected by the application.

30. Public inquiries are governed by Regulations 17 to 20, 22 and 23 of the 2017 Regulations.

31. Regulation 18 addresses general provisions in connection with a public inquiry.

32. The CRA and PINS each have the power to conduct a site visit to help them understand an application or proposal (Regulation 22(2)).

33. The CRA must take all of the evidence and advice received into account, and be satisfied that all parties have been given sufficient opportunity to make their views known.

34. The following applications should be referred to PINS:

- where the CRA has an interest in the outcome of the application or proposal so that it is unlikely that there would be confidence in its impartiality; or
- the CRA has received objections to the application or proposal from those with a legal interest in the land;

and in either case:

the application or proposal seeks under section 19(4) of the 2006 Act to:

- add or remove land from the Register; or
- correct an error in the number of rights of common in the Register;

or

- the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.

35. When PINS has determined the referred case, it will notify the CRA of its decision. The CRA must give written notification of the decision to the applicant, anyone who made representations concerning the application or proposal and those who gave evidence as part of an inquiry (where the name and contact details of such a person are known).

Further details in respect of the procedure are set out in the Welsh Government Guide to the Commons Registration Authorities.

FORM CA10 W

Commons Act 2006: section 19

Application to correct the register

Applicants are advised to read 'the Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017: Guidance for applicants' and to note:

- All applicants should complete boxes 1–8.
- Any person can apply under section 19 of the Commons Act 2006.
- You will be required to pay a fee unless your application is to correct a mistake made by the registration authority (section 19(2)(a)) or to remove a duplicate entry (section 19(2)(c)). Please ask the registration authority for details. You will have to pay a separate fee should your application be referred to the Planning Inspectorate, unless it is to correct a mistake made by the local authority or to remove aduplicate entry.

This section is for office use only

Offical stamp

Application Number

---

1. Commons Registration Authority

Insert name of commons registration authority.

To the:

Tick one of the following boxes to confirm that you have:

☐ enclosed the appropriate fee for this application **or** ☐ applied under section 19(2)(a) or (c) for a mistake made by the local authority.

---

2. Name and address of the applicant

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation or business if you are applying on behalf of such a body. If you supply an email address in the box provided, you may receive communications from the registration authority or other persons (e.g. objectors) via an email. If box 3 is not completed all correspondence and notices will be sent to the first named applicant.

Name:

Address:

Postcode:

Telephone Number:

Email address:

3. Name and address of representative, if any

This box should be completed if a representative, such as a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or organisation / business named here. If you supply an email address in the box provided, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email.

Name:	
Address:	
Postcode:	Telephone Number:
Email address:	

4. Basis of application for registration and qualifying criteria

For further details of the requirements of an application refer to Schedule 1 to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017.

Specify the register unit number to which this application relates:
Specify the rights number to which this application relates (if relevant):

Tick one of the following boxes to indicate the purpose (described in section 19(2) of the Commons Act 2006 or refer to the guidance) of your application. Are you applying to:

- ☐ Correct a mistake made by the commons registration authority
- ☐ Correct any other eligible mistake
- ☐ Remove a duplicate entry from the register
- ☐ Update the details of any name or address referred to in an entry
- ☐ Record accretion or diluvion

5. Describe the purpose for applying to correct the register and the amendment sought

Explain why the register should be amended and how you think it should be amended

6. Supporting documentation

List all supporting consents, documents and maps accompanying the application,including evidence of the mistake in the register. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

7. Any other information relating to the application

List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

8. Signature

The application must be signed by each individual applicant, or by the authorised officer on behalf of an (organisation or business)

Signatures:

Date:

REMINDER TO APPLICANT

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted. You are advised to keep a copy of the application and all associated documentation.

Data Protection Act 1998: The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public. A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.

Mae'r ddogfen yma hefyd ar gael yn Gymraeg / This document is also available in Welsh

WG31132

OGL © Crown copyright 2017

FFURFLEN CA10 W

Deddf Tiroedd Comin 2006: adran 19

Cais i gywiro'r gofrestr

Dylai ymgeiswyr ddarllen "Canllaw i Reoliadau Deddf Tir Comin 2006 (Cywiro, Tir Comin Heb ei Gofrestru neu Dir Comin a Gam-gofrestrwyd) (Cymru) 2017: Canllawiau i Ymgeiswyr' a dylent hefyd nodi:

- Dylai pob ymgeisydd lenwi blychau 1–8.
- Caiff unrhyw un wneud cais o dan adran 19 o Ddeddf Tiroedd Comin 2006.
- Bydd gofyn ichi dalu ffi oni bai mai diben eich cais yw cywiro camgymeriad a wnaed gan yr awdurdod cofrestru (adran 19(2)(a)) neu ddileu cofnod a gafodd ei gynnwys fwy nag unwaith (adran 19(2)(c)). Dylech ofyn i'r awdurdod cofrestru am fanylion. Bydd yn rhai ichi dalu ffi arall os bydd eich cais yn cael ei gyfeirio at y Gyfarwyddiaeth Gynllunio, oni bai mai diben eich cais yw cywiro camgymeriad a wnaed gan yr awdurdod lleol neu ddileu cofnod a gafodd ei gynnwys fwy nag unwaith.

At ddefnydd y swyddfa'n unig y mae'r adran hon.

Stamp swyddogol

Rhif y Cais

---

1. Awdurdod Cofrestru Tiroedd Comin

Nodwch enw'r awdurdod cofrestru tiroedd comin.

At:

Ticiwch un o'r blychau isod i gadarnhau eich bod:

☐ wedi amgáu'r ffi briodol ar gyfer y cais hwn **neu** ☐ wedi gwneud cais o dan adran 19(2((a) neu (c) oherwydd bod yr awdurdod lleol wedi gwneud camgymeriad

---

2. Enw a chyfeiriad yr ymgeisydd

Os oes mwy nag un ymgeisydd, dylech nodi enwau a chyfeiriadau pob un ohonynt yn llawn. Gallwch ddefnyddio dalen ar wahân os bydd angen. Nodwch deitl llawn y sefydliad neu'r busnes os ydych yn gwneud cais ar ran corff o'r fath. Os byddwch yn nodi cyfeiriad e-bost yn y blwch priodol, mae'n bosibl y bydd yr awdurdod cofrestru neu bobl eraill (e.e. gwrthwynebwyr) yn cysylltu â chi drwy'r e-bost. Os na fydd blwch 3 yn cael ei lenwi, bydd unrhyw ohebiaeth a hysbysiadau yn cael eu hanfon at yr ymgeisydd cyntaf.

Enw:

Cyfeiriad:

Cod Post:

Rhif ffôn:

Cyfeiriad e-bost:

3. Enw a chyfeiriad eich cynrychiolydd, os oes un:

Dylech lenwi'r blwch hwn os ydych wedi gofyn i gynrychiolydd, e.e. cyfreithiwr, ymdrin â'r cais ar eich rhan. Os ydych, bydd yr holl ohebiaeth a hysbysiadau yn cael eu hanfon at yr unigolyn neu'r sefydliad / busnes a enwir yma. Os byddwch yn nodi cyfeiriad e-bost yn y blwch priodol, mae'n bosibl y bydd yr awdurdod cofrestru neu bobl eraill (e.e. gwrthwynebwyr) yn cysylltu ag ef drwy'r e-bost.

Enw:	
Cyfeiriad:	
Cod Post:	Rhif ffôn:
Cyfeiriad e-bost:	

---

4. Y rheswm dros eich cais i gofrestru tir a'r meini prawf cymhwyster

I gael rhagor o fanylion am y gofynion sy'n gysylltiedig â chais, dylech gyfeirio at Atodlen 1 i Reoliadau Deddf Tiroedd Comin 2006 (Cywiro, Tir Comin Heb ei Gofrestru neu Dir Comin a Gam-gofrestrwyd) (Cymru) 2017.

Nodwch rif yr uned yn y gofrestr y mae'r cais hwn yn ymwneud â hi:
Nodwch rif yr hawliau y mae'r cais hwn yn ymwneud â nhw (os yw hynny'n berthnasol):

Ticiwch un o'r blychau isod i ddangos beth yw diben eich cais (ceir disgrifiad yn adran19(2) o Ddeddf Tiroedd Comin 2006 neu gallwch gyfeirio at y canllawiau). Ydych chi'n gwneud cais i:

- ☐ Gywiro camgymeriad a wnaed gan yr awdurdod cofrestru tiroedd comin
- ☐ Cywiro unrhyw gamgymeriad arall sy'n gymwys
- ☐ Dileu cofnod sydd wedi'i gynnwys fwy nag unwaith yn y gofrestr
- ☐ Diweddaru manylion unrhyw enw neu gyfeiriad y cyfeirir atynt mewn cofnod
- ☐ Cofnodi crynodiad neu grebachiant yn sgil dŵr (accretion neu diluvion)

---

5. Disgrifiwch beth yw diben eich cais i gywiro'r gofrestr a disgrifiwch y newid yr ydych yn gofyn i'r awdurdod ei wneud

Esboniwch pam y dylai'r gofrestr gael ei newid a sut, yn eich barn chi, y dylai gael ei newid

6. Dogfennau ategol

Rhestrwch yr holl gydsyniadau, dogfennau a mapiau sy'n cael eu cyflwyno gyda'r cais, gan gynnwys tystiolaeth am y camgymeriad ar y gofrestr. Nid oes angen cyflwyno copïau o ddogfennau a gyhoeddwyd gan yr awdurdod cofrestru neu ddogfennau yr oedd yn barti iddynt, ond mae dal angen ichi eu rhestru. Gallwch ddefnyddio dalen ar wahân os bydd angen.

7. Unrhyw wybodaeth arall sy'n gysylltiedig â'r cais

Rhestrwch unrhyw faterion eraill y dylid eu dwyn at sylw'r awdurdod cofrestru (yn enwedig os disgwylir i unigolyn sydd â diddordeb yn y tir herio'r cais i'w gofrestru). Dylech roi manylion llawn yma neu ar ddalen ar wahân os bydd angen.

8. Llofnod

Rhaid i'r cais gael ei lofnodi gan bob ymgeisydd unigol, neu gan y swyddog a awdurdodwyd i wneud hynny ar ran sefydliad neu fusnes)

Llofnodion:

Dyddiad:

NODYN I ATGOFFA'R YMGEISYDD

Eich cyfrifoldeb chi yw dweud y gwir wrth gyflwyno'r cais a'r dystiolaeth gysylltiedig. Mae'n bosibl y byddwch yn cyflawni trosedd os byddwch, o fwriad, yn darparu tystiolaeth gamarweiniol neu anwireddus, ac os gwnewch chi hynny, mae'n bosibl y cewch eich erlyn. Dylech gadw copi o'r cais a'r holl ddogfennau cysylltiedig.

Deddf Diogelu Data 1998: Ni ellir trin y cais nac unrhyw sylwadau a ddaw i law yn gyfrinachol. Er mwyn penderfynu ar y cais, bydd gofyn i'r awdurdod cofrestru tiroedd comin ddatgelu gwybodaeth a gafodd oddi wrthych i unigolion a chyrff eraill. Gallai'r rheini gynnwys awdurdodau lleol eraill, Adrannau'r Llywodraeth, cyrff cyhoeddus, sefydliadau eraill a'r cyhoedd. Mae'n bosibl y bydd copi o'r ffurflen hon ac unrhyw ddogfennau cysylltiedig yn cael eu datgelu os ceir cais am wybodaeth o dan Reoliadau Gwybodaeth Amgylcheddol 2004 neu Ddeddf Rhyddid Gwybodaeth 2000.

OGL © Hawlfraint y Goron 2017

FORM CA13 W

Commons Act 2006: Schedule 2

Application to correct non-registration or mistaken registration

Applicants are advised to read 'Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017: Guidance for applicants' and to note:

- Any person can apply under Schedule 2 to the Commons Act 2006.
- All applicants should complete boxes 1-10.
- Applications must be submitted by a prescribed deadline. From that date onwards no further applications can be submitted. Ask the registration authority for details.
- You will be required to pay a fee unless your application is submitted under paragraph 2, 3, 4 or 5 of Schedule 2. Ask the registration authority for details. You will have to pay a separate fee should your application relate to any of paragraphs 6 to 9 of Schedule 2 and be referred to the Planning Inspectorate.

This section is for office use only

Offical stamp

Application Number

Register unit number allocated at registration

1. Commons Registration Authority

Insert name of commons registration authority.

To the:

Tick one of the following boxes to confirm that you have:

☐ enclosed the appropriate fee for this application **or** ☐ have applied under paragraph 2, 3, 4 or 5, so no fee has been enclosed:

2. Name and address of the applicant

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary.State the full title of the organisation or business if you are applying on behalf of such a body. If you supply an email address in the box provided, you may receive communications from the registration authority or other persons (e.g. objectors) via email. If box 3 is not completed all correspondence and notices will be sent to the first named applicant.

Name:

Address:

Postcode:

Telephone Number:

Email address:

3. Name and address of representative, if any

This box should be completed if a representative, such as a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or organisation / business named here. If you supply an email address in the box provided, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email

Name / Organisation:	
Address:	
Postcode:	Telephone Number:
Email address:	

---

4. Basis of application for correction and qualifying criteria

For further details of the requirements of an application refer to Schedule 1 to the Commons Act 2006 (Correction, Non- Registration or Mistaken Registration) (Wales) Regulations 2017

Tick one of the following boxes to indicate the purpose for which you are applying under Schedule 2 of the Commons Act 2006.

- ☐ To register land as common land (paragraph 2)
- ☐ To register land as a town or village green (paragraph 3)
- ☐ To register waste land of a manor as common land (paragraph 4)
- ☐ To deregister common land as a town or village green (paragraph 5)
- ☐ To deregister a building wrongly registered as common land (paragraph 6)
- ☐ To deregister any other land wrongly registered as common land (paragraph 7)
- ☐ To deregister a building wrongly registered as town or village green (paragraph 8)
- ☐ To deregister any other land wrongly registered as town or village green (paragraph 9)

For waste land of a manor (paragraph 4), tick one of the following boxes to indicate why the provisional registration was cancelled.

- ☐ The Commons Commissioner refused to confirm the registration having determined that the land was no longer part of a manor (paragraph 4(3))
- ☐ The Commons Commissioner had determined that the land was not subject to rights of common but did not consider whether it was waste land of a manor (paragraph 4(4))
- ☐ The applicant requested or agreed to cancel the application (whether before or after its referral to a Commons Commissioner) (paragraph 4(5))

Please specify the register unit number(s) (if any) to which this application relates:

5. Description of the reason for applying to correct the register

Explain why the land should be registered or, as the case may be, deregistered.

6. Description of land

You must provide an Ordnance map of the land relevant to your application. The relevant area must be hatched in a distinctive colour (e.g. Red). The map must be at a scale of at least 1:2,500, or 1:10,000 if the land is wholly or predominantly moorland. Give a grid reference or other identifying detail.

Name by which the land is usually known:

Location:

☐ Tick the box to confirm that you have attached an Ordnance map of the land

7. Declarations of consent

This can include any written declarations sent to the applicant (i.e. a letter), and any such declaration made on the form itself. If your application is to register common land or a town or village green and part of the land is covered by a building or is within the curtilage of a building, you will need to obtain the consent of the landowner.

8. Supporting documentation

List all supporting documents and maps accompanying the application, including if relevant any written consents. This will include a copy of any relevant enactment referred to in paragraphs 2(2)(b) or 3(2) (a) of Schedule 2 to the Commons Act 2006 or, in relation to paragraph 4 (waste land of a manor) evidence which shows why the provisional registration was cancelled. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary

9. Any other information relating to the application

List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary

10. Signature

The application must be signed by each individual applicant, or by the authorised officer on behalf of a body (organisation / business)

Signatures:

Date:

REMINDER TO APPLICANT

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted. You are advised to keep a copy of the application and all associated documentation.

Data Protection Act 1998: The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.
A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.

Mae'r ddogfen yma hefyd ar gael yn Gymraeg / This document is also available in Welsh
WG31132
OGL © Crown copyright 2017

FFURFLEN CA13 W

Deddf Tiroedd Comin 2006: Atodlen 2

Cais i gywiro achos o beidio â chofrestru neu gam-gofrestru tir comin

Dylai ymgeiswyr ddarllen "Canllaw i Reoliadau Deddf Tir Comin 2006 (Cywiro, Tir Comin Heb ei Gofrestru neu Dir Comin a Gam-gofrestrwyd) (Cymru) 2017: Canllawiau i Ymgeiswyr' a dylent hefyd nodi:

- Caiff unrhyw un wneud cais o dan adran 2 o Ddeddf Tiroedd Comin 2006.
- Dylai pob ymgeisydd lenwi blychau 1–10.
- Rhaid cyflwyno ceisiadau erbyn dyddiad cau penodol. Ni cheir cyflwyno unrhyw geisiadau pellach ar ôl y dyddiad hwnnw. Dylech ofyn i'r awdurdod cofrestru am fanylion.
- Bydd gofyn ichi dalu ffi oni bai bod eich cais yn cael ei gyflwyno o dan baragraffau 2, 3, 4 neu 5 o Atodlen 2. Dylech ofyn i'r awdurdod cofrestru am fanylion. Bydd yn rhaid ichi dalu ffi arall os yw'ch cais yn ymwneud ag unrhyw un neu rai o baragraffau 6 i 9 o Atodlen 2 ac os bydd yn cael ei gyfeirio at yr Arolygiaeth Gynllunio.

At ddefnydd y swyddfa'n unig y mae'r adran hon.

Stamp swyddogol

Rhif y Cais

Y rhif a roddwyd i'r uned gofrestr adeg cofrestru

1. Awdurdod Cofrestru Tiroedd Comin

Nodwch enw'r awdurdod cofrestru tiroedd comin.

At:

Ticiwch un o'r blychau isod i gadarnhau eich bod:

☐ wedi amgáu'r ffi briodol ar gyfer y cais hwn **neu** ☐ wedi gwneud cais o dan baragraff 2, 3, 4, neu 5, felly nad ydych wedi amgáu ffi:

2. Enw a chyfeiriad yr ymgeisydd

Os oes mwy nag un ymgeisydd, dylech nodi enwau a chyfeiriadau pob un ohonynt yn llawn. Gallwch ddefnyddio dalen ar wahân os bydd angen. Nodwch deitl llawn y sefydliad neu'r busnes os ydych yn gwneud cais ar ran corff o'r fath. Os byddwch yn nodi cyfeiriad e-bost yn y blwch priodol, mae'n bosibl y bydd yr awdurdod cofrestru neu bobl eraill (e.e. gwrthwynebwyr) yn cysylltu â chi drwy'r e-bost. Os na fydd blwch 3 yn cael ei lenwi, bydd unrhyw ohebiaeth a hysbysiadau yn cael eu hanfon at yr ymgeisydd cyntaf.

Enw:

Cyfeiriad:

Cod Post:

Rhif ffôn:

Cyfeiriad e-bost:

3. Enw a chyfeiriad eich cynrychiolydd, os oes un:

Dylech lenwi'r blwch hwn os ydych wedi gofyn i gynrychiolydd, e.e. cyfreithiwr, ymdrin â'r cais ar eich rhan. Os ydych, bydd yr holl ohebiaeth a hysbysiadau yn cael eu hanfon at yr unigolyn neu'r sefydliad / busnes a enwir yma. Os byddwch yn nodi cyfeiriad e-bost yn y blwch priodol, mae'n bosibl y bydd yr awdurdod cofrestru neu bobl eraill (e.e. gwrthwynebwyr) yn cysylltu â'r cynrychiolydd drwy'r e-bost.0

Enw / Sefydliad:	
Cyfeiriad:	
Cod Post:	Rhif ffôn:
Cyfeiriad e-bost:	

---

4. Y rheswm dros eich cais i gywiro'r gofrestr a'r meini prawf cymhwyster

I gael rhagor o fanylion am y gofynion sy'n gysylltiedig â chais, dylech gyfeirio at Atodlen 1 i Reoliadau Deddf Tiroedd Comin 2006 (Cywiro, Tir Comin Heb ei Gofrestru neu Dir Comin a Gam-gofrestrwyd) (Cymru) 2017

Ticiwch un o'r blychau isod i ddangos at ba ddiben yr ydych yn gwneud cais o dan Atodlen 2 i Ddeddf Tiroedd Comin 2006.

- ☐ Cofrestru tir yn dir comin (paragraff 2)
- ☐ Cofrestru tir yn faes tref neu bentref (paragraff 3)
- ☐ Cofrestru tir diffaith maenor yn dir comin (paragraff 4)
- ☐ Datgofrestru tir comin yn faes tref neu bentref (paragraff 5)
- ☐ Datgofrestru adeilad a gofrestrwyd yn anghywir yn dir comin (paragraff 6)
- ☐ Datgofrestru unrhyw dir arall a gofrestrwyd yn anghywir yn dir comin (paragraff 7)
- ☐ Datgofrestru adeilad a gofrestrwyd yn anghywir yn faes tref neu bentref (paragraff 8)
- ☐ Datgofrestru unrhyw dir arall a gofrestrwyd yn anghywir yn faes tref neu bentref (paragraff 9)

Yn achos tir diffaith maenor (paragraff 4), ticiwch un o'r blychau isod i nodi pam y cafodd y cofrestriad dros dro ei ddileu.

- ☐ Gwrthododd y Comisiynydd Tiroedd Comin gadarnhau'r cofrestriad ar ôl penderfynu nad oedd y tir bellach yn rhan o faenor (paragraff 4(3))
- ☐ Roedd y Comisiynydd Tiroedd Comin wedi penderfynu nad oedd y tir yn dod o dan hawliau comin ond ni wnaeth ystyried a oedd yn dir diffaith maenor (paragraff 4(4))
- ☐ Gofynnodd yr ymgeisydd i'r cais gael ei ddileu neu cytunodd i wneud hynny (naill ai cyn neu ar ôl iddo gael ei gyfeirio at Gomisiynydd Tir Comin) (paragraff 4(5))

Nodwch rif neu rifau'r uned gofrestr (oes oes rhai) y mae'r cais hwn yn ymwneud â nhw:

5. Disgrifiad o'r rheswm dros wneud cais i gywiro'r gofrestr

Esboniwch pam y dylai'r tir gael ei gofrestru neu ei ddatgofrestru

6. Disgrifiad o'r tir

Rhaid ichi ddarparu map Ordnans o'r tir sy'n berthnasol i'ch cais. Rhaid dangos yr arwynebedd perthnasol drwy roi llinellau ar ei draws gan ddefnyddio lliw amlwg (e.e. coch) i wneud hynny. Rhaid i'r map fod ar raddfa o 1:2,500 man lleiaf, neu 1:10,000 os yw'r tir i gyd, neu'r rhan fwyaf ohono, yn rhostir. Dylech roi cyfeirnod grid neu fanylyn arall sy'n fodd i'w adnabod.

Enw arferol y tir:

Lleoliad:

☐ Ticiwch y blwch i gadarnhau eich bod wedi atodi map Ordnans o'r tir

7. Datganiadau cydsyniad

Gall y rhain gynnwys unrhyw ddatganiadau ysgrifenedig a anfonir at yr ymgeisydd (h.y. llythyr), ac unrhyw ddatganiad o'r fath a wneir ar y ffurflen ei hun. Os yw'ch cais yn ymwneud â chofrestru tir comin neu faes tref neu bentref ac os oes adeilad ar ran o'r tir neu os yw o fewn cwrtil adeilad, bydd angen ichi gael cydsyniad y perchennog.

8. Dogfennau ategol

Rhestrwch yr holl ddogfennau a mapiau sy'n cael eu cyflwyno gyda'r cais, gan gynnwys unrhyw gydsyniadau ysgrifenedig, os yw hynny'n berthnasol. Bydd y dogfennau hynny'n cynnwys copi o unrhyw ddeddfiad perthnasol y cyfeirir ato ym mharagraffau 2(2)(b) neu 3(2) (a) o Atodlen 2 i Ddeddf Tiroedd Comin 2006 neu, mewn perthynas â pharagraff 4 (tir diffaith maenor), dystiolaeth sy'n dangos pam y cafodd y cofrestriad dros dros ei ddileu. Nid oes angen cyflwyno copïau o ddogfennau a gyhoeddwyd gan yr awdurdod cofrestru neu ddogfennau yr oedd yn barti iddynt, ond mae dal angen ichi eu rhestru. Gallwch ddefnyddio dalen ar wahân os bydd angen

9. Unrhyw wybodaeth arall sy'n gysylltiedig â'r cais

Rhestrwch unrhyw faterion eraill y dylid eu dwyn at sylw'r awdurdod cofrestru (yn enwedig os disgwylir i unigolyn sydd â diddordeb yn y tir herio'r cais i'w gofrestru). Dylech roi manylion llawn yma neu ar ddalen ar wahân os bydd angen

10. Llofnod

Rhaid i'r cais gael ei lofnodi gan bob ymgeisydd unigol, neu gan y swyddog a awdurdodwyd i wneud hynny ar ran corff (sefydliad / busnes)

Llofnodion:

Dyddiad:

NODYN I ATGOFFA'R YMGEISYDD

Eich cyfrifoldeb chi yw dweud y gwir wrth gyflwyno'r cais a'r dystiolaeth gysylltiedig. Mae'n bosibl y byddwch yn cyflawni trosedd os byddwch, o fwriad, yn darparu tystiolaeth gamarweiniol neu anwireddus, ac os gwnewch chi hynny, mae'n bosibl y cewch eich erlyn. Dylech gadw copi o'r cais a'r holl ddogfennau cysylltiedig.

Deddf Diogelu Data 1998: Ni ellir trin y cais nac unrhyw sylwadau a ddaw i law yn gyfrinachol. Er mwyn penderfynu ar y cais, bydd gofyn i'r awdurdod cofrestru tiroedd comin ddatgelu gwybodaeth a gafodd oddi wrthych i unigolion a chyrff eraill. Gallai'r rheini gynnwys awdurdodau lleol eraill, Adrannau'r Llywodraeth, cyrff cyhoeddus, sefydliadau eraill a'r cyhoedd.
Mae'n bosibl y bydd copi o'r ffurflen hon ac unrhyw ddogfennau cysylltiedig yn cael eu datgelu os ceir cais am wybodaeth o dan Reoliadau Gwybodaeth Amgylcheddol 2004 neu Ddeddf Rhyddid Gwybodaeth 2000.

OGL © Hawlfraint y Goron 2017