

2007 No. 2396(W.198)

COMMONS, WALES

**The Commons (Registration of
Town or Village Greens) (Interim
Arrangements) (Wales) Regulations
2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 15 of the Commons Act 2006 (“the 2006 Act”) provides a revised basis for seeking registration of land as a town or village green.

Part I of the 2006 Act has only been partially brought into force. In particular, sections 1 to 3 are not yet in force. Until that happens, new greens cannot be entered onto the register of town or village greens to be maintained pursuant to the 2006 Act. Until that time, these Regulations enable registration authorities to register land, which meets the criteria for registration set out in section 15(1) or 15(8) of the 2006 Act, in the register of town or village greens maintained pursuant to the Commons Registration Act 1965 (“the 1965 Act”).

These Regulations specify—

- (a) the procedure for applying to register land as a town or village green (regulation 3);
- (b) the procedure for dealing with applications for registration (regulations 4 to 7); and
- (c) the method of registration of land as a town or village green following the granting of an application (regulation 8).

These Regulations replace the relevant provisions in the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843) (“the 1969 Regulations”) for the registration of new town or village greens under the 1965 Act. However, the 1969 Regulations remain in force to enable the registration of new greens and new common land for the purposes specified in the savings contained in article 4(1) of the Commons Act 2006 (Commencement No.1, Transitional Provisions and

Savings) (Wales) Order 2007 (S.I. 2007/2386)
(W.197) (C.88).

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COMMONS, WALES

**The Commons (Registration of
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Arrangements) (Wales) Regulations
2007**

Made *12 August 2007*

Laid before the National Assembly for Wales
14 August 2007

Coming into force *6 September 2007*

The Welsh Ministers, in exercise of the power conferred on the appropriate national authority by sections 24 and 59 of the Commons Act 2006⁽¹⁾ and section 26 of the Welsh Language Act 1993⁽²⁾, make the following Regulations⁽³⁾:

Title, commencement and application

1.—(1) The title of these Regulations is the Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007.

(2) These Regulations come into force on 6 September 2007.

(3) These Regulations apply in relation to Wales.

Scope and Interpretation

2.—(1) These Regulations apply to applications made to a registration authority under section 15(1) or (8) of the 2006 Act to register land as a town or village green.

⁽¹⁾ 2006 c.26.

⁽²⁾ 1993 c.38.

⁽³⁾ See section 61(1) of the 2006 Act for the meaning of “appropriate national authority”, the functions of which are now exercisable, in relation to Wales, by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

(2) In these Regulations—

“the 2006 Act” means the Commons Act 2006;

“concerned authority”, in relation to an application to a registration authority, means a local authority (other than the registration authority) in whose area any part of the land affected by the application lies; and “local authority” means a county, county borough or community council;

“form 44” and “form 45” mean the forms so numbered in the Schedule to these Regulations or those forms with any variations that the circumstances may require;

“the General Regulations” means the Commons Registration (General) Regulations 1966(1); and “General Regulation” followed by a number means the regulation so numbered in the General Regulations; and

“registration authority” means a commons registration authority.

(3) Any requirement for a registration authority to send anything to “the applicant” is, where a solicitor has been instructed for the purposes of an application, deemed to be satisfied by sending it to the solicitor or, where two or more persons have jointly made an application and no solicitor has been instructed, to the person whose name appears first on the application form.

(4) A requirement for a registration authority to stamp any document is a requirement to cause an impression of its official stamp as described in General Regulation 3 to be affixed to it, which must bear the date mentioned in the requirement or (where no date is mentioned) the date when it was affixed.

(5) Form 44 may be in the English or Welsh language, or both.

(6) Form 45 must be in both the English and Welsh language.

Application to register land as a town or village green

3.—(1) An application for the registration of land as a town or village green must be made in accordance with these Regulations.

(2) An application must be—

(a) made on form 44;

(b) signed by every applicant who is an individual and by the secretary or some other

(1) S.I. 1966/1471, as amended by S.I. 1968/658, 1968/989, 1969/1843, 1980/1195, 1982/210, 1989/2167, 1990/311, 1994/2567 and 2003/994 (W.143) and as modified by S.I. 1991/2684.

duly authorised officer of every applicant which is a body corporate or unincorporate;

- (c) accompanied by, or by a copy or sufficient abstract of, every document relating to the matter of which the applicant has possession or control, or to which the applicant has a right to production; and
- (d) supported by—
 - (i) a statutory declaration as set out in form 44, with such adaptations as the case may require, and
 - (ii) such further evidence as, at any time before finally disposing of the application, the registration authority may reasonably require.

(3) A statutory declaration in support of an application must be made by—

- (a) the applicant, or one of the applicants if there is more than one;
- (b) the person who signed the application on behalf of an applicant which is a body corporate or unincorporate; or
- (c) a solicitor acting on behalf of the applicant.

Procedure on receipt of applications

4.—(1) On receiving an application, the registration authority must—

- (a) allot a distinguishing number to the application and mark it with that number; and
- (b) stamp the application form indicating the date it was received.

(2) The registration authority must send the applicant a receipt for the application containing a statement of the number allotted to it; and Form 6, if used for that purpose, is sufficient.

(3) In this regulation, “Form 6” means the form so numbered in the General Regulations.

Procedure in relation to applications to which section 15(1) of the 2006 Act applies

5.—(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, the registration authority must, subject to paragraph (4), on receipt of an application—

- (a) send, by post, a notice in form 45 to every person (other than the applicant) whom the registration authority has reason to believe (whether from information supplied by the applicant or otherwise) to be an owner, lessee, tenant or occupier of any part of the land

affected by the application, or to be likely to wish to object to the application;

- (b) publish in the concerned area, and display, the notice described in sub-paragraph (a) and send the notice and a copy of the application to every concerned authority; and
- (c) affix the notice to some conspicuous object on any part of the land which is open, unenclosed and unoccupied, unless it appears to the registration authority that such a course would not be reasonably practicable.

(2) The date to be inserted in a notice under paragraph (1)(a) as the date by which written statements in objection to an application must be submitted to the registration authority must be such as to allow an interval of not less than six weeks from the latest of the following—

- (a) the date on which the notice may reasonably be expected to be delivered in the ordinary course of post to the persons to whom it is sent under paragraph (1)(a); or
- (b) the date on which the notice is published and displayed by the registration authority.

(3) Every concerned authority receiving under this regulation a notice and a copy of an application must—

- (a) immediately display copies of the notice; and
- (b) keep the copy of the application available for public inspection at all reasonable times until informed by the registration authority of the disposal of the application.

(4) Where an application appears to the registration authority after preliminary consideration not to be duly made, the authority may reject it without complying with paragraph (1), but, where it appears to the authority that any action by the applicant might put the application in order, the authority must not reject the application under this paragraph without first giving the applicant a reasonable opportunity of taking that action.

(5) In this regulation, “concerned area” means an area including the area of every concerned authority.

(6) A requirement upon a registration authority to publish a notice in any area is a requirement to cause the document to be published in one or more newspapers circulating in that area as appears to the authority sufficient to secure adequate publicity for it.

(7) A requirement to display a notice or copies thereof is a requirement to treat it, for the purposes of section 232 of the Local Government Act 1972 (public

notices)⁽¹⁾, as if it were a public notice within the meaning of that section.

Consideration of objections

6.—(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, the registration authority must, as soon as possible after the date by which statements in objection to an application have been required to be submitted, proceed to the further consideration of the application, and the consideration of statements (if any) in objection to that application, in accordance with the following provisions of this regulation.

(2) The registration authority—

- (a) must consider every written statement in objection to an application it receives before the date on which it proceeds to the further consideration of the application under paragraph (1); and
- (b) may consider any such statement it receives on or after that date and before it finally disposes of the application.

(3) The registration authority must send the applicant a copy of every statement which it is required under paragraph (2) to consider and of every statement which it is permitted to consider and intends to consider.

(4) The registration authority must not reject the application without giving the applicant a reasonable opportunity of dealing with—

- (a) the matters contained in any statement of which copies are sent to the applicant under paragraph (3); and
- (b) any other matter in relation to the application which appears to the authority to afford possible grounds for rejecting the application.

Procedure in relation to applications to which section 15(8) of the 2006 Act applies

7.—(1) Where an application is made under section 15(8) of the 2006 Act to register land as a town or village green, the registration authority must grant the application provided it is satisfied that—

- (a) the applicant is the owner of the land; and
- (b) any consents which are required by section 15(9) of the 2006 Act have been obtained.

Method of registration

8.—(1) Where the registration authority grants an application, it must make the necessary registration,

(1) 1972 c.70.

following as closely as possible Model Entry No 4 with such variations and adaptations as the circumstances may require, but with the substitution, for the words “(Registration provisional.)”, of the words “(Registration under section 15 of the Commons Act 2006.)”.

(2) The provisions of paragraphs (2) to (6) of General Regulation 10 apply to registrations under these Regulations as they apply to registrations made pursuant to the General Regulations with the following modifications—

- (a) in paragraph (2), after the words “Form 2, and”, insert “, to the extent required.”; and
- (b) in paragraph (5), the words “for the Register of Common Land shall bear the prefix CL, and every such number” do not apply.

(3) The provisions of regulation 9 of the Commons Registration (Objections and Maps) Regulations 1968⁽¹⁾ (changes as to provisional register maps) apply for the purposes of section 15 of the 2006 Act as they apply for the purposes of section 4 of the Commons Registration Act 1965⁽²⁾ with the following modifications—

- (a) paragraphs (1), (2) and (3) do not apply;
- (b) “new map” means any map taken into use for the purpose of this regulation; and
- (c) in paragraph (4), for the words “six inches to one mile”, substitute “1:2,500”.

(4) Each new map taken into use must be stamped by, and signed on behalf of, the registration authority, and forms part of the register.

(5) Where the land which is the subject of an application is already registered as common land in the register of common land, the registration authority must, in addition,—

- (a) where rights of common are entered in that register, make a corresponding entry in the register of town or village greens; and
- (b) modify the entry in the register of common land so that the land which is the subject of the application ceases to be registered as common land.

(6) Where a registration authority has made a registration under this regulation, it must file the application form and any plan and return all other documents which accompanied the application to the applicant.

(7) In this regulation—

⁽¹⁾ S.I. 1968/989, as amended by S.I. 1969/1843, 1970/384 and 1990/311.
⁽²⁾ 1965 c.64.

- (a) “Model Entry No 4” means the specimen entry so numbered in Part I of Schedule 2 to the General Regulations; and
- (b) “register of common land” and “register of town or village greens” refer to the registers maintained by a registration authority pursuant to section 3 of the 1965 Act⁽¹⁾.

Information about disposal of applications, and procedure on rejection

9.—(1) When the registration authority has disposed of an application and, if it has granted the application, has made the necessary registration, it must give written notice of the fact to—

- (a) every concerned authority;
- (b) the applicant; and
- (c) every person whose address is known to the registration authority and who objected to the application.

(2) Such notice must include, where the registration authority has granted the application, details of the registration and, where it has rejected the application, the reasons for the rejection.

(3) A person is deemed to have objected to an application for the purposes of paragraph (1) if that person submitted a statement in objection to the application which the registration authority was required to consider under paragraph (2) of regulation 6 or which it did consider under that paragraph.

(4) Where the registration authority has rejected an application, it must return the application form and all accompanying documents to the applicant.

Land descriptions

10.—(1) This regulation applies to the description of any land which is the subject of an application for registration as a town or village green.

(2) Land must be described for the purposes of any application—

- (a) by an Ordnance map accompanying the application and referred to in that application; or
- (b) in the case of land already registered as common land, if the application relates to the whole of the land in a register unit, by a reference to that register unit.

⁽¹⁾ By article 4(1) of the Commons Act 2006 (Commencement No. 1, Transitional Provisions and Savings) (Wales) Order 2007 (S.I. 2007/2386) (W.197) (C.88), a green complying with the criteria under section 15 of the 2006 Act is to be entered in the register maintained by a registration authority pursuant to the 1965 Act.

(3) Any Ordnance map accompanying an application must—

- (a) be on a scale of not less than 1:2,500;
- (b) show the land to be described by means of distinctive colouring; and
- (c) be marked as an exhibit to the statutory declaration in support of the application.

(4) In this regulation, “register unit” has the same meaning as in the General Regulations.

Jane Davidson

Minister for Sustainability and Housing, one of the Welsh Ministers

12 August 2007

SCHEDULE

Regulation 2(2)

Forms

Form 44

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:

Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the ‘Guidance Notes for the completion of an Application for the registration of land as a Town or Village Green’ and to note the following:

- All applicants should complete questions 1 to 6 and 10 and 11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7 and 8 as appropriate. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for the voluntary registration under section 15(8) should, in addition, complete question 9.

Note 1
Insert name of registration authority.

1. Registration Authority

To the

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so, all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

Full postal address:

Postcode

Telephone number:
(incl. national dialling code)

Fax Number:
(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if any

Name:

Firm:

Full postal address:

Postcode

Telephone number:
(incl. national dialling code)

Fax Number:
(incl. national dialling code)

E-mail address:

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

** Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

If **section 15(3) or (4)** applies, please indicate the date on which you consider that use as of right ended.

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

**Only complete if the land is already registered as common land.*

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as that of a community or town council, electoral ward or other area sufficiently defined by name (such as a village or street). If this is not possible, a map should be provided on which a locality or neighbourhood is marked clearly.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

Location:

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

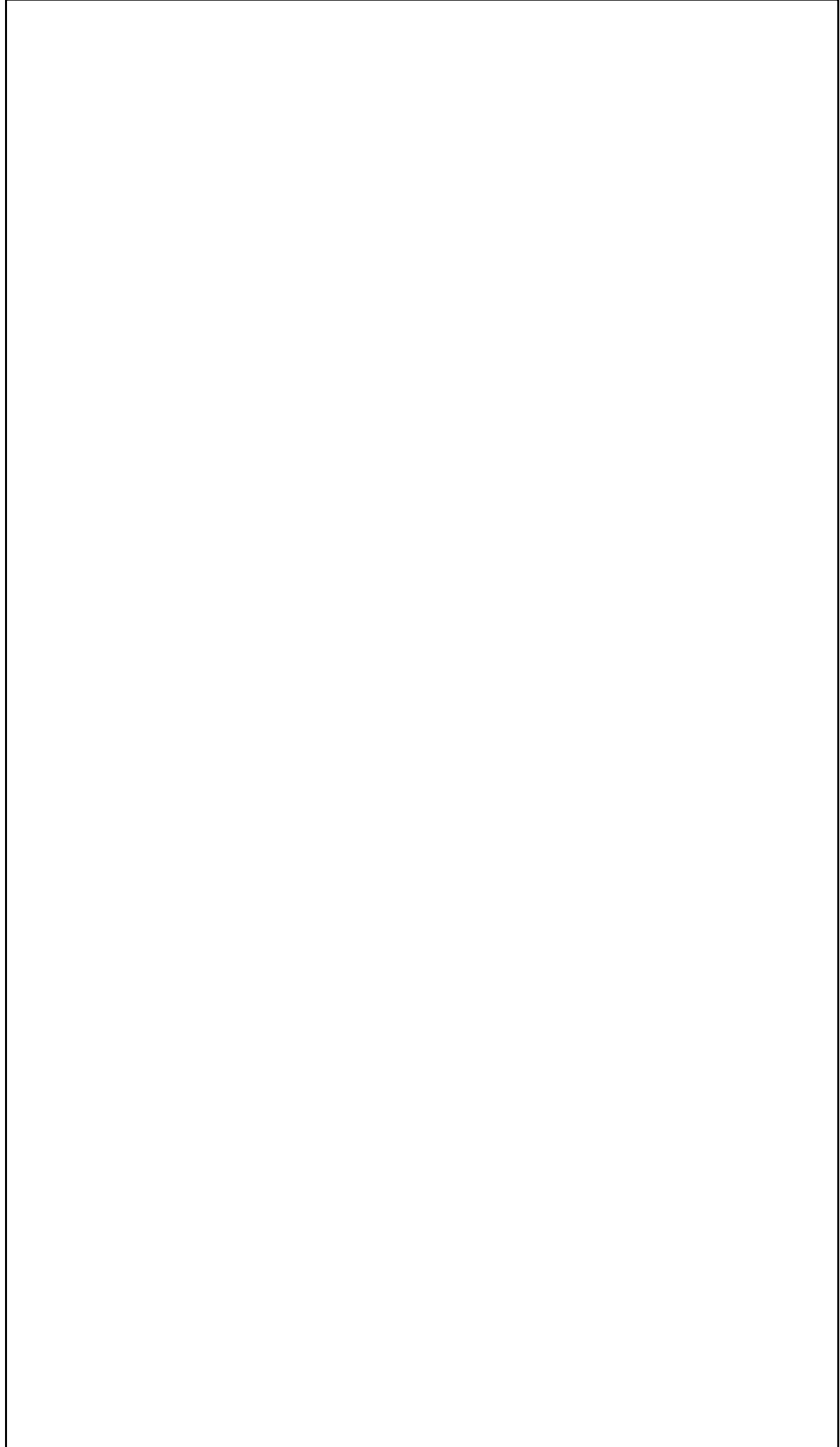
Tick here if map attached:

7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).



Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none".

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

Note 10

List all supporting documents and maps accompanying the application. If none, write "none".

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

9. Voluntary registration – declarations of consent from ‘relevant leaseholder’, and of the proprietor of any ‘relevant charge’ over the land

10. Supporting documentation

Note 11

If there are 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.

11. Any other information relating to the application

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

Signatures:

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

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 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.

Statutory Declaration in Support

To be made by the applicant, or by one of the applicants, or by the applicant's or applicants' solicitor, or, if the applicant is a body corporate or unincorporated, by its solicitor, or by the person who signed the application.

¹ *Insert full name (and address if not given in the application form).*

I.....,¹ solemnly and sincerely declare as follows:

² *Delete and adapt as necessary.*

1.² I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (³ one of the applicants)).

³ *Insert name if applicable.*

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in Parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in Part 5 of the application.

⁴ *Complete only in the case of voluntary registration (strike through if this is not relevant).*

4. ⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent :

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

Continued

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the
same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said)
)
)
at) *Signature of Declarant*
)
)
this day of)

Before me*

Signature:

Address :

Qualification :

*** The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.**

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

COMMONS ACT 2006 — SECTION 15(1)

Notice of an application for the registration of land as a Town or Village Green

To every reputed owner, lessee, tenant or occupier of any part of the land described below, and to all others whom it may concern.

Application has been made to the *(name and address of the registration authority)* by *(name and address of applicant)* under section 15(1) of the Commons Act 2006 and in accordance with the Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007 (“the 2007 Regulations”). The application seeks the inclusion in the register of town and village greens of the land described in the Schedule below which is claimed to have qualified for registration as a town or village green on *(period given in question 4 of Form 44)* by virtue of *(summary of case given in question 7 of Form 44)*.

The application, which includes a plan of the land proposed for registration may be inspected at the following office between the hours of*(address and timings where and when application papers are available)*. Copies of the documents may also be inspected at the following local authority offices *(insert details of concerned local authorities if any)*.

If the registration authority is satisfied that the land described below qualifies for registration as a town or village green, it will so register the land.

Any person wishing to object to the registration of the land as a town or village green should send a statement of the facts on which the objection is based to *(name and address of registration authority)* on or before *(insert date — not less than 6 weeks from the later of the date the notice is published and displayed or the date on which it is delivered pursuant to regulation 5(2) of the 2007 Regulations)*. Any statements that are to be taken into account by the Authority in reaching a decision on the application cannot be treated as confidential and will be copied to the applicant for comment and may be disclosed to other interested parties.

Dated

Signed *(signature on behalf of the registration authority)*

Schedule

Description of the land claimed to have qualified for registration as a town or village green