

SCHEDULE 4

Regulation 16

Making an application

Applications under section 6: creation of right of common

1.—(1) An application under section 6 of the 2006 Act may only be made by—

- (a) the owner of the land over which the right of common is to be exercisable, or
- (b) the owner of the land to which the right of common is to be attached,

and the application must show in which capacity it is made.

(2) The application must show that the following persons consent to it—

- (a) the owner (other than an owner who is the applicant)—
 - (i) of the land over which the right of common is to be exercisable; or
 - (ii) of the land to which the right of common is to be attached;
- (b) any relevant leaseholder of the land over which the right of common is to be exercisable;
- (c) any person having the benefit of a relevant charge over the land over which the right of common is to be exercisable.

(3) The application must include—

- (a) evidence of the applicant's capacity to make the application by virtue of sub-paragraph (1) (a) or (b);
- (b) a description of the right of common to be created;
- (c) a description of the land over which the right of common is to be exercisable;
- (d) a description of the land to which the right of common is to be attached; and
- (e) where the right of common to be created consists of a right to graze any animal, evidence that the land over which that right would be exercisable is able to sustain the exercise of that right (together with, if the land is already registered as common land, any other rights of common registered as exercisable over that land).

Applications under section 7: variation of right of common

2.—(1) An application under section 7 of the 2006 Act may only be made by—

- (a) the owner of any part of the land over which the right of common was exercisable prior to the variation of that right,
- (b) the owner of any land over which the right of common becomes exercisable in consequence of the variation, or
- (c) (as the case may be) the owner of the land to which the right of common is attached, or the owner of the right of common in gross,

and the application must show in which capacity it is made.

(2) The application must show that the following persons consent to it—

- (a) every person (other than the applicant) who is the owner—
 - (i) of any land described in sub-paragraph (1)(a) or (b), and
 - (ii) (as the case may be) of the land to which the right of common is attached, or of the right of common in gross;
- (b) any relevant leaseholder of any land described in sub-paragraph (1)(a) or (b);

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- (c) any person having the benefit of a relevant charge over any land described in sub-paragraph (1)(a) or (b).
- (3) The application must include—
 - (a) evidence of the applicant’s capacity to make the application by virtue of sub-paragraph (1) (a), (b) or (c);
 - (b) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates;
 - (c) a description of the variation to be recorded;
 - (d) except where the right of common is held in gross, a description of the land to which the right of common is attached; and
 - (e) where the right of common to be varied consists of a right to graze any animal, evidence that the land over which that right, in consequence of the variation, would be exercisable is able to sustain the exercise of that right (together with, if the land is already registered as common land, any other rights of common registered as exercisable over that land).
- (4) Where it relates to only part of a right of common, the application must—
 - (a) identify that part of the land to which it is attached; and
 - (b) be accompanied by an application made for the purposes of section 8 of the 2006 Act.

Applications for the purposes of section 8: apportionment of right of common

3.—(1) An application for the purposes of section 8 of the 2006 Act (in relation to the apportionment of a right of common which is attached to land) must accompany any application (“the primary application”) which—

- (a) is made under—
 - (i) section 7, 11 or 13 of the 2006 Act;
 - (ii) paragraph 1(6)(b) or 3(7)(b) of Schedule 1 to the 2006 Act; or
 - (iii) paragraph 8 of this Schedule; and
- (b) relates to only a part of a right of common.

(2) An application for the purposes of section 8 of the 2006 Act may be made in any other case in which a right of common is attached to land of which the ownership is divided into separate titles amongst two or more persons.

- (3) The application may only be made—
 - (a) in the case of an application required to be made by sub-paragraph (1), by the person (and if more than one, by all such persons) by whom the primary application is made;
 - (b) in the case of an application permitted to be made by sub-paragraph (2)—
 - (i) by an owner of any part of the land to which the right of common is attached; or
 - (ii) by two or more such owners, acting jointly.
- (4) The application must include—
 - (a) evidence of the capacity of the applicant, or (as the case may be) applicants, to make the application by virtue of sub-paragraph (3)(a) or (b);
 - (b) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates;
 - (c) a description, and details of the ownership, of—

- (i) the land to which is attached the part of the right of common which is the subject of the primary application, in the case of an application required to be made by sub-paragraph (1); or
- (ii) the land belonging to the applicant or (as the case may be) applicants, in the case of an application permitted to be made under sub-paragraph (2);
- (d) a calculation as to what constitutes a rateable apportionment of the right of common between the land in respect of which a description and details of ownership are required by paragraph (c) and any remaining land to which the right of common is attached; and
- (e) in the case of applications made by two or more owners of different parts of the land, an indication of the portions attaching to the part of each such applicant.

Applications under section 10: attachment of right of common to land

4.—(1) Where an applicant under section 10 of the 2006 Act is not the person entitled to occupy the land to which the right of common is to be attached, the application must show that that person consents to the application.

- (2) The application must include—
 - (a) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates;
 - (b) a description of the land to which that right of common is to be attached; and
 - (c) evidence that—
 - (i) the applicant is the owner of the right of common to be attached, and
 - (ii) where a person’s consent is given under sub-paragraph (1), that person is entitled to occupy the land to which the right of common is to be attached.

Applications under section 11: re-allocation of a right of common

5.—(1) An application under section 11 of the 2006 Act must show that the following persons consent to it—

- (a) any relevant leaseholder of the land to which the right of common is attached;
- (b) any person having the benefit of a relevant charge over that land.
- (2) The application must include—
 - (a) evidence of the applicant’s capacity (as owner of the land to which the right of common is attached) to make the application;
 - (b) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates;
 - (c) a description of the land to which the right of common is attached; and
 - (d) details of which part of that land qualifies as “the relevant part” (as described in section 11(1)(b) of the 2006 Act), together with evidence for its so qualifying.
- (3) Where it relates to only part of a right of common, the application must—
 - (a) identify that part of the land to which it is attached; and
 - (b) be accompanied by an application made for the purposes of section 8 of the 2006 Act.
- (4) For the purposes of subsections (2) to (4) of section 11 of the 2006 Act the use of land for any of the following purposes is to be regarded as use of that land for agricultural purposes—
 - (a) growing crops;

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- (b) pasture or grazing;
- (c) forestry;
- (d) the keeping of land as woodland or scrubland;
- (e) any purpose in respect of which any payment under the single payment scheme is made.

(5) For the purposes of this paragraph “single payment scheme” has the meaning it is given in the Common Agricultural Policy Single Payment and Support Schemes Regulations 2005⁽¹⁾.

Applications under section 12: transfer of right in gross

6.—(1) An application under section 12 of the 2006 Act may only be made by—

- (a) the registered owner of the right of common in gross, or
- (b) the transferee of that right.

(2) Where the registered owner of the right of common in gross is not the applicant, the application must show that that registered owner consents to the application.

(3) The application must include—

- (a) evidence of the applicant’s capacity to make the application by virtue of sub-paragraph (1) (a) or (b); and
- (b) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates.

Applications under section 13: surrender or extinguishment of right of common

7.—(1) An application under section 13 of the 2006 Act may only be made by—

- (a) the owner of the land to which the right of common is attached or, in the case of a right of common in gross, the owner of that right; or
- (b) the owner of the land or of any part of the land over which the right of common is exercisable.

(2) Where the applicant is the owner of the land (or of any part of the land) over which the right of common is exercisable, the application must show that the owner of the land to which that right is attached or, as the case may be, the owner of the right of common in gross, consents to the application.

(3) The application must include—

- (a) evidence of the applicant’s capacity to make the application by virtue of sub-paragraph (1) (a) or (b);
- (b) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates; and
- (c) except where the right of common is held in gross, a description of the land to which the right of common is attached.

(4) Where it relates to only part of a right of common which is attached to land, the application must—

- (a) identify that part of the land to which it is attached; and
- (b) be accompanied by an application made for the purposes of section 8 of the 2006 Act.

Applications pursuant to section 14: statutory dispositions

8.—(1) This paragraph applies to applications referred to in sub-paragraph (2).

(1) [S.I. 2005/219](#), to which there are amendments not relevant to these Regulations.

(2) There must be an application to the registration authority for amendment of a register of common land or of town or village greens in the event of a disposition effected by a relevant instrument in relation to registered land or a registered right of common.

(3) A “disposition” in relation to land, or in relation to a registered right of common, to which this paragraph applies is one made under or pursuant to an enactment listed in column 1 of the table following this paragraph, as described in the corresponding entry in column 2.

(4) A “relevant instrument” (as defined in section 14(3) of the 2006 Act) to which this paragraph applies is any relevant instrument made under or pursuant to an enactment listed in column 1 of the table as described in the corresponding entry in column 3.

(5) Paragraph (6) applies where—

- (a) in connection with a disposition of registered land, other land is given in exchange or otherwise substituted; or
- (b) in connection with a disposition of a registered right of common, other land is to be burdened with an equivalent right of common.

(6) The application to be made under sub-paragraph (2) must include an application for the registration of that other land as common land or as a town or village green, as the case may be, and, where applicable, for the registration of the equivalent right of common.

(7) The application must be made by the person or body specified in the entry in column 4 of the table corresponding to the relevant enactment.

(8) The application must include—

- (a) evidence of the applicant’s capacity to make the application (as described in sub-paragraph (7));
- (b) a copy of the relevant instrument effecting the disposition, and of any consent, authorisation, approval or certificate given for the purposes of that relevant instrument;
- (c) the number of the register unit and, where applicable, the number of the rights section entry, in the register of common land or town or village greens for the right of common to which the application relates; and
- (d) a description of the amendment required to be made in the register of common land or town or village greens.

(9) Where it relates to only part of a right of common, the application must be accompanied by an application made for the purposes of section 8 of the 2006 Act.

Statutory dispositions: persons who must apply for amendment of register

<i>Column 1 – Enactment</i>	<i>Column 2 – Dispositions</i>	<i>Column 3 – Relevant Instrument</i>	<i>Column 4 – applicant</i>
Inclosure Act 1845(2), section 147	The exchange of lands not subject to be inclosed, or as to which no inclosure is pending	The order made by the Secretary of State by which that exchange is effected	The applicants for the order

(2) [1845 c. 118](#). Section 147 was amended by the Statute Law Revision Act [1891 \(c.67\)](#), and was repealed by section 53 of, and Part 3 of Schedule 6 to, the Commons Act [2006 \(c.26\)](#), subject to a saving provision in article 3(3) of the Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007 ([S.I. 2007/2584 \(C. 98\)](#)), which requires any application for an order of exchange under section 147 made before 1st October 2007 to continue to be dealt with after that date as if section 147 remained in force.

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<i>Column 1 – Enactment</i>	<i>Column 2 – Dispositions</i>	<i>Column 3 – Relevant Instrument</i>	<i>Column 4 – applicant</i>
Inclosure Act 1845, section 149(3)	The exchange of an inconveniently sited allotment for the poor, or for exercise and recreation, for other land more convenient or suitable for the purposes	The order made by the Secretary of State by which that exchange is effected	The applicants for the order
Lands Clauses Consolidation Act 1845(4), sections 99 and 107 (as incorporated into any other Act by virtue of section 1)	The freeing and discharge under the Act of 1845 of all commonable or other such rights from land, upon the vesting of the land (after payment of compensation) in the promoters of the undertaking (as defined in section 2 of that Act)	The conveyance or deed poll by which (where applicable with the consent of the Secretary of State under section 22(1) (c) of the Commons Act 1899(5)) that disposition is effected	The promoters of the undertaking (as defined in section 2 of the Act of 1845)
Inclosure Act 1846(6), section 11	The exchange of any registered right of common defined by numbers or stints, in or to be exercised over any land, for any such right exercised over any other land	The order made by the Secretary of State by which that exchange is effected	The applicants for the order
Malvern Hills Act 1930(7), section 8	The sale, lease, exchange or absolute disposal free from any rights or restrictions of any part or parts of the Malvern Hills comprising registered common land	The deed or other instrument made by the Malvern Hills Conservators (with the consent of the Secretary of State) effecting that disposition	The Malvern Hills Conservators
Malvern Hills Act 1930, section 9	The sale or exchange of any part or parts of the Malvern Hills comprising registered common land, for the purpose of adjusting, defining or improving the boundaries of the Malvern Hills	The deed or other instrument made by the Malvern Hills Conservators (with the consent of the Secretary of State) effecting that disposition	The Malvern Hills Conservators

(3) Section 149 was amended by the Statute Law Reform Act 1891.

(4) 1845 c. 18. Section 99 was amended by Schedule 1 to the Administration of Justice Act 1965 (c. 2). Section 107 was amended by the Statute Law Revision Act 1892 (c. 19) and Schedules 1 and 2 to the Administration of Justice Act 1965.

(5) 1899 c. 30.

(6) 1846 c. 70. Section 11 was amended by the Statute Law Revision Act 1891 (c. 67).

(7) 1930 c. lxxii.

New Parishes Measure 1943(8), sections 13 and 15	The disposition of registered common land, made with the consent of the Secretary of State under section 15	A conveyance to the Church Commissioners	The Church Commissioners
Compulsory Purchase Act 1965(9), section 21 and Schedule 4 (as applying in relation to, or by virtue of, another Act)	The compulsory purchase of registered common land or of a registered town or village green, resulting (after payment of compensation) in the extinguishment of all commonable or other rights in that land	The conveyance, executed deed poll or vesting declaration, together with the compulsory purchase order, effecting that disposition	The acquiring authority, as defined in section 1(3) of the Act
Greater London Parks and Open Spaces Order 1967(10), articles 7, 8 and 12	Erecting, or permitting to erect any building or other structure on, or enclosing permanently, or permitting to be enclosed permanently, any part of land which is registered as common land or as a town or village green	The instrument by which the erection of the building or the permanent enclosure (or, in either case, the permission to do the same), (where applicable with the consent of the Secretary of State), was confirmed	The London borough council that is party to the disposition
Greater London Parks and Open Spaces Order 1967, article 15	The exchange of open space for adjacent land where that open space is registered as common land or town or village green	The deed or other instrument by which that agreement is made	The London borough council that is party to the agreement
Greater London Parks and Open Spaces Order 1967, article 17(11)	The utilisation, alienation, or exchange for other land, of any part of any open space with the consent of the Secretary of State, where all or part of that open space is registered as common land or town or village green	The deed or other instrument by which the agreement so to dispose of the open space is made	The London borough council so disposing of the open space
Countryside Act 1968(12), sections	The taking of land out of registered common land,	The deed or other instrument (including,	The local authority (as defined in

(8) 1943 No.1. Section 13 was amended by section 48(2) of, and Part 2 of Schedule 7 to, the Charities Act 1960 (c. 58), and by the Church Property (Miscellaneous Provisions) Measures of 1960 (section 5), 1983 (section 1(1)) and 1992 (section 8(a)). Section 15 was amended by paragraph 5 of Schedule 4 to the Commons Act 2006 (c.26).

(9) 1965 c. 56.

(10) The Order was confirmed by the [Ministry of Housing and Local Government Provisional Order Confirmation \(Greater London Parks and Open Spaces\) Act 1967 \(c. xxix\)](#), and is contained in the Schedule to that Act. Article 12 was amended by paragraph 2(1), (2), (3) and (4) of Schedule 4, and Part 2 of Schedule 6, to the Commons Act 2006 (c.26).

(11) Article 17 was amended by paragraph 2(1), (5) and (6) of Schedule 4, and Part 2 of Schedule 6, to the Commons Act 2006.

(12) 1968 c. 41. Section 6 was amended by Schedule 30 to the Local Government Act 1972 (c. 70), by Schedule 17 to the Local Government Act 1985 (c.51), and by Schedule 24 to the Environment Act 1995 (c. 25). Schedule 2 was amended by paragraph 17 of Schedule 4 to the Acquisition of Land Act 1981 (c. 67), by paragraph 48(2) of Schedule 4 to the Telecommunications Act 1984 (c. 12), by paragraph 40(1) and (3) of Schedule 17 to the Communications Act 2003 (c. 21), and by paragraph 5 of Schedule 7 to the Planning and Compulsory Purchase Act 2004 (c. 5).

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6 and 9 and Schedule 2	with the authority of the Secretary of State, for the purpose of providing, or improving, opportunities for the enjoyment of the public	if applicable, any compulsory purchase order, or any agreement under which land is acquired) effecting the taking of the land	section 6(2) of the Act) authorised by the Secretary of State
New Towns Act 1981(13), paragraph 13 of Schedule 4	The compulsory purchase of registered common land or of a registered town or village green	The compulsory purchase order effecting that disposition, and any vesting declaration, and any deed made under the authority of that order, the 1981 Act and the Compulsory Purchase Act 1965 by which, as a consequence of the disposition, any right, trust or incident was discharged or any right acquired	The acquiring authority (as defined in section 80(1) of the Act)
Acquisition of Land Act 1981(14), section 19 and paragraph 6 of Schedule 3	Either— (a) the compulsory purchase of registered common land or of a registered town or village green (other than in a case certified by the Secretary of State under section 19(1) (aa) of the Act), or (b) the compulsory acquisition of a right over land forming part of such registered common land or green (other than in a case certified by the Secretary of State under paragraph 6(1)(a) or (aa) of Schedule 3 to the Act)	The compulsory purchase order effecting that disposition, and any vesting declaration, and any deed made under the authority of that order, by which, as a consequence of the disposition, any right, trust or incident was discharged or any right acquired	The acquiring authority (as defined in section 7(1) of the Act)
Town and Country Planning Act 1990(15), section 229 (as read with	The appropriation of land forming part of registered common land or of a town or village green	The order authorising the appropriation made by the local authority and confirmed by the Secretary of State	The local authority authorised by the order

(13) 1981 c. 64. Paragraph 13 of Schedule 4 was amended by S.I. 1985/442.

(14) 1981 c. 67. Section 19 was amended by paragraph 12(1) of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). Paragraph 6 of Schedule 3 was amended by paragraph 12(2) of Schedule 15 to that Act.

(15) 1990 c. 8.

section 19 of the Acquisition of Land Act 1981)			
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Applications under section 15(1): registration of town or village green

9. An application under section 15(1) of the 2006 Act must—
- (a) include evidence that section 15(2), (3) or (4) of that Act applies to the land in respect of which registration is sought;
 - (b) contain a description of that land; and
 - (c) contain a description of the locality or the neighbourhood within a locality relied upon for the purposes of section 15(2)(a), (3)(a) or (4)(a), as applicable, by reference to—
 - (i) the name of any parish, electoral ward or other local administrative area with which it is coextensive;
 - (ii) the local geographical area within which it is situated; or
 - (iii) a map showing that locality or neighbourhood.

Applications under section 15(8): registration of land as town or village green by its owner

10.—(1) An application under section 15(8) of the 2006 Act for the purpose of registering land owned by the applicant as a town or village green must—

- (a) include evidence that the applicant is the owner of the land in respect of which registration is sought;
- (b) contain a description of that land; and
- (c) show that any consents which are required under section 15(9) of the 2006 Act have been obtained.

(2) The application may include a description of the locality or the neighbourhood within a locality of which the inhabitants are to have the right to indulge in lawful sports and pastimes on the land, by reference to—

- (a) the name of any parish, electoral ward or other local administrative area with which it is coextensive;
- (b) the local geographical area within which it is situated; or
- (c) a map showing that locality or neighbourhood.

Applications under section 19(4)(b): amendment of a register of common land or town or village greens

11. An application made under section 19(4)(b) of the 2006 Act must include—

- (a) a statement of the purpose (being one of those described in section 19(2) of the 2006 Act) for which the application is made;
- (b) the number of the register unit and, in so far as is relevant to the mistake or other matter in the register in respect of which the application seeks correction, the number of the rights section entry, in the register of common land or town or village greens to which the application relates;
- (c) evidence of the mistake or other matter in the register in respect of which the application seeks correction; and

- (d) a description of the amendment sought in the register of common land or town or village greens.

Applications under paragraph 1(6)(b) of Schedule 1: severance of right of common by transfer to public body

12.—(1) An application made under paragraph 1(6)(b) of Schedule 1 to the 2006 Act, for the purpose of registering a transferee as the owner of a right of common upon the severance of that right, may only be made by—

- (a) the body (being a body specified in paragraph 1(1)(a) to (c) of Schedule 1 to the 2006 Act) to which the right of common to be severed is to be transferred; or
- (b) any person who, by virtue of an order under paragraph 1(5) of that Schedule, is to be regarded as a commons council for the purpose of paragraph 1(1)(a), and to whom the right of common to be severed is to be transferred.

(2) The application must show that the owner of the land to which the right of common is attached consents to the application.

(3) The application must include—

- (a) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates;
- (b) a description of the land to which the right of common is attached and from which it is to be severed, and evidence of the ownership of that land;
- (c) in a case to which paragraph 1(2) of Schedule 1 to the 2006 Act applies, evidence that notice has been given in accordance with the requirements of—
 - (i) regulation 46; and
 - (ii) paragraph 1(2) and (3) of that Schedule; and
- (d) in a case to which paragraph 1(4) of that Schedule applies, evidence that the commons council (or the person who, by virtue of an order under paragraph 1(5) of that Schedule, is to be regarded as a commons council for the purpose of paragraph 1(4)) for the land in question consents to the transfer.

(4) Where it relates to only part of a right of common, the application must—

- (a) identify that part of the land to which it is attached; and
- (b) be accompanied by an application made for the purposes of section 8 of the 2006 Act.

Applications under paragraph 3(7)(b) of Schedule 1: severance of right of common by order

13.—(1) An application made under paragraph 3(7)(b) of Schedule 1 to the 2006 Act, for the purpose of registering a transferee as the owner of a right of common upon the authorisation by order made under paragraph 3(1) of that Schedule of the severance of that right, may only be made by a person to whom the right of common to be severed is to be transferred, further to provision made by an order under paragraph 3(1) of that Schedule.

(2) The application must show that the owner of the land to which the right of common is attached consents to the application.

(3) The application must include—

- (a) the name and statutory instrument number of the order providing for the severance by transfer to which the application relates;
- (b) the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates;

- (c) a description of the land to which the right of common is attached and from which it is to be severed, and evidence of the ownership of that land; and
 - (d) evidence that any requirement imposed by the provision in the order made under paragraph 3(1) of that Schedule and applicable to the transfer in question has been met.
- (4) Where it relates to only part of a right of common, the application must—
- (a) identify that part of the land to which it is attached; and
 - (b) be accompanied by an application made for the purposes of section 8 of the 2006 Act.

Applications under Schedule 2: non-registration or mistaken registration

14.—(1) An application made under Schedule 2 to the 2006 Act, for the purpose of remedying non-registration or mistaken registration under the 1965 Act, must be made on or before 31st December 2020.

(2) An application made under Schedule 2 to the 2006 Act must include a description of the land to which the application relates.

(3) In an application made under paragraph 2 or 3 of Schedule 2 to the 2006 Act, the land to which the application relates may only include land that is covered by a building or which is within the curtilage of a building if the owner of that land consents to its registration.

(4) An application made under paragraph 2 of Schedule 2 to the 2006 Act must include—

- (a) evidence of the application of that paragraph, as described in paragraph 2(2) of that Schedule, to the land to which the application relates;
- (b) a copy of any enactment or scheme referred to in paragraph 2(2)(b) of that Schedule, by which the land to which the application relates is regulated, recognised or designated, or to which it is subject;
- (c) evidence, if applicable, that any consent required under sub-paragraph (3) has been given.

(5) An application made under paragraph 3 of Schedule 2 to the 2006 Act must include—

- (a) evidence of the application of that paragraph, as described in paragraph 3(2) of that Schedule, to the land to which the application relates;
- (b) a copy of any enactment by or under which the land was (and continues to be) allotted, including any award; and
- (c) evidence, if applicable, that any consent required under sub-paragraph (3) has been given.

(6) An application made under paragraph 4, 5, 6, 7, 8 or 9 of Schedule 2 to the 2006 Act must include evidence of the application of the appropriate paragraph, as described in paragraph 4(2), 5(2), 6(2), 7(2), 8(2) or 9(2) of that Schedule, to the land to which the application relates.

Applications for the purposes of Schedule 3: creation of right of common

15.—(1) An application to amend a register in consequence of the creation of a right of common which is a qualifying event by virtue of paragraph 2(2)(a) of Schedule 3 to the 2006 Act may only be made by—

- (a) the owner of any part of the land over which the right of common is exercisable,
- (b) if the right of common is attached to land, the owner of any part of that land, or
- (c) if the right of common is not attached to land, the owner of the right of common.

(2) The application must include—

- (a) evidence of the applicant's capacity to make the application (as described in sub-paragraph (1));

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- (b) a description of the right of common to be registered;
 - (c) a description of the land over which the right of common is exercisable; and
 - (d) if the right of common is attached to land, a description of the land to which it is attached.
- (3) The application must be accompanied—
- (a) where the right of common was created by an instrument in writing, by a copy of that instrument;
 - (b) in any other case, by evidence of the creation of the right.

Applications for the purposes of Schedule 3: surrender or extinguishment of right of common

16.—(1) An application to amend a register in consequence of a surrender or extinguishment of a right of common which is a qualifying event by virtue of paragraph 2(2)(b) of Schedule 3 to the 2006 Act may only be made—

- (a) if the right of common was attached to land, by the current owner of any part of the land to which it was attached;
 - (b) if the right of common was a right in gross, by the owner of the right immediately before it was surrendered or extinguished; or
 - (c) (in either case) by the current owner of any part of the land over which the right of common was exercisable.
- (2) The application must include—
- (a) evidence of the applicant’s capacity to make the application (as described in subparagraph (1));
 - (b) the numbers of—
 - (i) the register unit; and
 - (ii) the entry in the rights section of that register unit,which are to be amended; and
 - (c) if the right of common was attached to land, a description of the land to which it was attached.
- (3) The application must be accompanied—
- (a) where the right of common was surrendered or extinguished by an instrument in writing, by a copy of that instrument; and
 - (b) in any other case, by evidence of the extinguishment of the right.

Applications for the purposes of Schedule 3: variation of right of common

17.—(1) An application to amend a register in consequence of a variation of a right of common which is a qualifying event by virtue of paragraph 2(2)(b) of Schedule 3 to the 2006 Act may only be made by—

- (a) the current owner of any part of the land over which the right of common was exercisable before its variation;
- (b) the owner of any part of the land over which the right of common is exercisable at the date of the application;
- (c) if the right of common is attached to land, the owner of the land to which it is attached; or
- (d) if the right of common is a right of common in gross, the owner of the right.

- (2) The application must include—
 - (a) evidence of the applicant’s capacity to make the application (as described in sub-paragraph (1));
 - (b) the numbers of—
 - (i) the register unit, and
 - (ii) the entry in the rights section of that register unit,which are to be amended;
 - (c) a description of the variation to be recorded in the register; and
 - (d) if the right of common is attached to land, a description of the land to which it is attached.
- (3) The application must be accompanied—
 - (a) if the variation was made by an instrument in writing, by a copy of that instrument;
 - (b) in any other case, by evidence of the variation.

Applications for the purposes of Schedule 3: apportionment of right of common

18.—(1) An application to amend a register in consequence of an apportionment of a right of common which is attached to land, which is a qualifying event by virtue of paragraph 2(2)(b) of Schedule 3 to the 2006 Act, may only be made if—

- (a) part of the apportioned right of common has been—
 - (i) surrendered, extinguished or varied;
 - (ii) severed from the land to which it was attached; or
 - (iii) the subject of a disposition by virtue of any relevant instrument; and
 - (b) the application is made at the same time as an application (“the primary application”) to register, or to amend the register in consequence of that event.
- (2) The application may only be made by the person making the primary application.
- (3) The application must include—
- (a) the numbers of—
 - (i) the register unit, and
 - (ii) the entry in the rights section of that register unit,which are to be amended;
 - (b) a description of—
 - (i) the whole of the land to which the right of common was attached before its apportionment; and
 - (ii) the part of that land to which, following the apportionment, the part of the right of common which is the subject of the primary application was attached;
 - (c) the name and address of the owner of the land to which is attached the part of the right of common which is the subject of the primary application; and
 - (d) the applicant’s calculation as to how the right of common is apportioned between the part specified in sub-paragraph (3)(b)(ii) and the remainder of the land.
- (4) If the applicant claims that the right of common is apportioned otherwise than rateably between the constituent parts of the land to which it was attached, the application must—
- (a) explain the basis for that claim; and
 - (b) be accompanied—

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- (i) if the apportionment was effected by an instrument in writing, by a copy of that instrument; and
- (ii) in any other case, by evidence that the right has been apportioned otherwise than rateably.

(5) In sub-paragraph (1), “disposition” and “relevant instrument” have the meanings given in paragraph 21(3).

Applications for the purposes of Schedule 3: severance of right of common

19.—(1) An application to amend a register in consequence of the severance of a right of common from land to which it was attached, which is a qualifying event by virtue of paragraph 2(2)(b) of Schedule 3 to the 2006 Act, may only be made by—

- (a) the person to whom the right of common was transferred upon being severed;
 - (b) the owner of the right of common at the date of the application; or
 - (c) the owner of land to which the right of common is registered as being attached.
- (2) The application must include—
- (a) evidence of the applicant’s capacity to make the application (as described in sub-paragraph (1));
 - (b) the numbers of—
 - (i) the register unit, and
 - (ii) the entry in the rights section of that register unit,which are to be amended; and
 - (c) a description of the land to which the right of common was attached, and evidence of the ownership of that land at the time of the severance of the right of common.
- (3) The application must include or be accompanied by—
- (a) the written instrument (if any) which the applicant claims has effected the severance of the right of common; and
 - (b) if there is no such instrument, or if that instrument does not express an unambiguous common intention by the parties to it that the right of common should be severed—
 - (i) other documentary evidence, contemporaneous to the time at which the applicant claims that the right of common was severed, of a common intention by the transferor and transferee of the right of common that it was to be severed; or
 - (ii) evidence that the right of common has subsequently been treated as severed.

Applications for the purposes of Schedule 3: transfer of right in gross

20.—(1) An application to amend a register in consequence of the transfer of a right of common in gross, which is a qualifying event by virtue of paragraph 2(2)(b) of Schedule 3 to the 2006 Act, may only be made by—

- (a) the person registered as the owner of the right of common; or
 - (b) the owner of the right of common at the date of the application.
- (2) The application must include—
- (a) evidence of the applicant’s capacity to make the application (as described in sub-paragraph (1)); and
 - (b) the numbers of—

- (i) the register unit, and
 - (ii) the entry in the rights section of that register unit,
- which are to be amended.

(3) The application must be accompanied by a copy of the instrument in writing by which the right of common was transferred to the person who is its owner at the date of the application.

Applications for the purposes of Schedule 3: statutory dispositions

- 21.**—(1) An application may be made by any person to amend a register in consequence of—
- (a) a disposition by virtue of any relevant instrument, which is a qualifying event by virtue of paragraph 2(2)(c) of Schedule 3 to the 2006 Act; or
 - (b) the giving of land in exchange for any land subject to such a disposition, which is a qualifying event by virtue of paragraph 2(2)(d) of Schedule 3 to the 2006 Act.
- (2) The application must include—
- (a) a copy of—
 - (i) the relevant instrument effecting the disposition or exchange; and
 - (ii) any consent, authorisation, approval or certificate given for the purposes of that relevant instrument;
 - (b) if applicable, the numbers of—
 - (i) the register unit, and
 - (ii) the entry in the rights section of that register unit,which are to be amended; and
 - (c) a description of the amendment to be made to the register.
- (3) In sub-paragraphs (1) and (2)—
- (a) “disposition” means a disposition made under or pursuant to an enactment listed in column 1 of the table in paragraph 8 or a predecessor enactment, which is described in the corresponding entry in column 2 of that table; and
 - (b) “relevant instrument” means any such instrument (as defined in paragraph 2(4) of Schedule 3 to the 2006 Act) made under or pursuant to an enactment listed in column 1 of the table in paragraph 8 or a predecessor enactment, which is described in the corresponding entry in column 3.
- (4) In sub-paragraph (3), a “predecessor enactment” means a repealed or revoked enactment which has been substantially re-enacted by an enactment listed in column 1 of the table in paragraph 8.