

Commons Act 2006

Factsheet 2: Wrongly registered land

Part 1 of the Commons Act 2006 came into force on 1 October 2008 in seven pilot commons registration authorities: the county councils of Cornwall, Devon (not Plymouth or Torbay), Hertfordshire, Kent (not Medway) and Lancashire (not Blackpool), the County of Herefordshire district council, and Blackburn with Darwen borough council. Part 1 of the 2006 Act will update and improve the registration system for common land and town or village greens, and includes new powers to deregister certain types of land that was wrongly registered.

What is wrongly registered land?

The registers of common land and town or village green were first prepared under the Commons Registration Act 1965 and continue to be maintained by commons registration authorities (generally county and unitary councils). In some cases the original applications to register land included maps that either were difficult to interpret or incorrectly defined the boundary of the land. Consequently some land registered under the 1965 Act was wrongly registered as common land or town or village green. Paragraphs 6 to 9 of Schedule 2 to the Commons Act 2006 enable you to apply to the commons registration authority to deregister certain types of land and buildings that were wrongly registered as either common land or town or village green.

Deregistration of buildings

You may be able to apply under paragraphs 6 or 8 of Schedule 2 to the 2006 Act to deregister land which is and has been covered by a building or the curtilage of a building ever since the land was registered under the 1965 Act. Typically, such land may include cottages or gardens on or abutting the common or green. It does not matter whether the building or curtilage was lawfully present on the land when the land was provisionally registered under the 1965 Act. Neither is it necessary that the land has been covered by the same building throughout the period since the date of provisional registration — it would be sufficient, for example, that the land had at the date of registration been covered by a garage adjacent to a house, but the garage had subsequently been demolished and the land became part of the garden of that house. The full criteria for deregistration (set out in paragraph 6(2) and 8(2) of Schedule 2 to the 2006 Act) are:

- the land was provisionally registered as common land or green under section 4 of the 1965 Act;
- on the date of the provisional registration, the land was covered by a building or was within the curtilage of a building;
- the provisional registration became final;
- since the provisional registration, the land has at all times been, and still is, covered by a building or within the curtilage of a building.

For more information please contact:

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<http://www.defra.gov.uk/rural/protected/commonland/index.htm>



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Factsheet 2: Wrongly registered land (continued)

Deregistration of land wrongly registered as common land

You may be able to apply under paragraph 7 of Schedule 2 to the 2006 Act to deregister land which was wrongly registered as common land if it was provisionally registered under section 4 of the 1965 Act and the provisional registration of the land was not referred to a Commons Commissioner for determination. You must show that, before its registration, the land was not common land (whether subject to rights of common or as waste land of the manor), nor a town or village green within the meaning of the 1965 Act as originally enacted, nor was within the special definition of common land subject to be inclosed under section 11 of the Inclosure Act 1845.

Deregistration of land wrongly registered as town or village green

You may be able to apply under paragraph 9 of Schedule 2 to the 2006 Act to deregister certain land registered as a town or village green. You will need to show that the land was provisionally registered as town or village green under section 4 of the 1965 Act, and its provisional registration was not referred to a Commons Commissioner for determination. You must also show that, before its original provisional registration, the land was not common land, and that:

- owing to its physical nature, the land could not have been used by members of the public for lawful sports and pastimes throughout the 20 years before its provisional registration, and
- the land was not (and still is not) allotted under any enactment (such as under an Inclosure Act) as a green, or for the purposes of a green.

How do I find out more?

For more information about the pilot implementation, and for detailed guidance for applicants, visit Defra's website, or ask your commons registration authority.

How can I apply?

Contact your commons registration authority to request an application form. There is usually a fee for applications to deregister land and your registration authority will be able to tell you the amount.

It will usually be easier to apply under paragraph 6 or 8 of Schedule 2, than under paragraph 7 or 9: check first to see if you meet the criteria. You may also be able to apply under section 19, if the land was registered owing to the registration authority's error: see our section 19 factsheet.

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