

## Commons Act 2006: Schedule 2

# Application to correct non-registration or mistaken registration

**This section is for office use only**

Official stamp

Application number

COMMONS ACT 2006  
CUMBRIA COUNTY COUNCIL  
COMMONS REGISTRATION AUTHORITY

29 MAR 2021

CA 13/34

Register unit number  
allocated at registration  
(for missed commons  
only)

Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to 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 would 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.

**Note 1**

*Insert name  
of commons  
registration  
authority.*

**1. Commons Registration Authority**

To the: Cumbria County Council

Tick the box 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:

**Note 2**

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 if the applicant is a body corporate or an unincorporated association. 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.

**Note 3**

This box should be completed if a representative, e.g. 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. 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.

**2. Name and address of the applicant**

Name:

The Open Spaces Society

Postal address:

25a Bell Street  
Henley-on-Thames  
Oxfordshire

Postcode RG9 2BA

Telephone number:

01491 573535

Fax number:

E-mail address:

office2@oss.org.uk

**3. Name and address of representative, if any**

Name:

Tom Hannis

Firm:

Landman LLP

Postal address:

1b Oaklands Court  
Tiverton Way  
Tiverton Business Park  
Tiverton  
Devon

Postcode EX16 6TG

Telephone number:

01884 212380

Fax number:

E-mail address:

tomhannis@landmanllp.co.uk

**Note 4**

For further details of the requirements of an application refer to Schedule 4, paragraph 14 to the Commons Registration (England) Regulations 2014.

**4. Basis of application for correction and qualifying criteria**

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:

CL 58

**Note 5**

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

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

The application land is subject to a Deed of Declaration made under section 193(2) of the Law of Property Act 1925 made on 7 April 1933; and an Order of the Minister of Agriculture and Fisheries Imposing Limitations on and Conditions as to the Exercise of Rights of Public Access made under paragraph (b) of the proviso to section 193(1) of the 1925 Act on 17 January 1934.

Within the deed and order, 'Eskdale Fell' was referred to as "the Common" with it being subject to rights of common. The extent of the common was defined by the two separately drawn maps adopted by the deed and order. The extent of the application land near to the village of Boot (application land 1) slightly differs between the adopted maps of the 1933 deed and the 1934 order. The 1933 deed map shows that the land subject to the deed extends further south than the 1934 order map. This application includes all of this additional land identified by the 1933 deed map.

Copies of the deed, order and associated maps are filed in the National Archives under reference MAF 3/19 and MAF 3/20. The two areas of application land are included within the maps adopted by the deed and the order and were therefore identified as common land. The application land however was not registered as common land and therefore qualifies for registration under paragraph 2 of Schedule 2 to the Commons Act 2006.

The application land qualifies for registration under paragraph 2 being land which meets the criteria in sub-paragraph (2)(a), (2)(b)(iv) and (2)(c), and which, further to sub-paragraph (2)(d), does not trigger the requirement specified in paragraph 14(3) of the Commons Registration (England) Regulations 2014, in that none of the application land is covered by a building or is within the curtilage of a building. The land satisfies the criterion in sub-paragraph (2)(b)(iv), being 'otherwise recognised or designated as common land by or under an enactment', by virtue of being recognised as common land in the Deed of Declaration and the Ministerial Order referred to.

**Note 6**

*You must provide an Ordnance map of the land relevant to your application. The relevant area must be hatched in blue. The map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland. Give a grid reference or other identifying detail.*

**Note 7**

*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.*

**6. Description of land**

Name by which the land is usually known:

Eskdale Fell (Part of).

Location:

Part of the application land is located just north of the small village of Boot in the Lake District. The land is located approximately on grid reference NY178014.

The remaining part of the application land is located just east of Wast Water. The land is located approximately on grid reference NY182062.

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

**7. Declarations of consent**

No consent is required. See paragraph 2 of Section 5 above. None of the application land is covered by a building or within the curtilage of a building. The requirement for consent specified in paragraph 14(3) of Schedule 4 to the Commons Registration (England) Regulations 2014 does not apply for this reason.

**Note 8**

*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.*

**8. Supporting documentation**

1. Copy of the 'Deed of Declaration' made by the Right Honourable Charles Henry Baron Leconfield on 7 April 1933.
2. Copy of the plan that accompanied the deed of declaration, referred to in the deed.
3. Copy of the 'Order of the Minister of Agriculture and Fisheries Imposing Limitations on and Conditions as to the Exercise of Rights of Public Access' made on 17 January 1934.
4. Copy of the plan that accompanied the order of limitation, referred to in the order.
5. Two separate Ordnance Survey application maps of the land: the land already registered as common land is shown shaded green; the land omitted from registration, subject of this application and mentioned in section 5 above is shown shaded in blue (with an additional area of application land shaded blue and hatched yellow).  
Subject to comments in section 9 below.

**Note 9**

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.

**9. Any other information relating to the application**

The application land includes all of the land identified within the Deed of Declaration and Order of Limitations maps in the vicinity of the application sites which is not included within the register of common land. It therefore includes all land up to the existing common-land-register map boundary, wherever it lies.

The applicant requests, and intends, that if the application is granted, rights of common currently exercisable over the adjoining registered common land shall become exercisable over the application land, and that the appropriate amendment accordingly should be made to the register.

**Note 10**

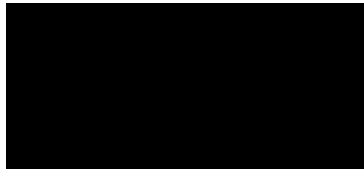
The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.

**10. Signature**

Date:

26 March 2021

Signatures:



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**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.