

Explanatory note

(This note is not part of the Regulations)

Section 31(6) of the Highways Act 1980 (“the 1980 Act”) prescribes a mechanism by which a landowner may provide (by way of depositing statements and maps followed by subsequent declarations with the appropriate council) sufficient evidence to negative an intention to dedicate ways over the landowner’s land as a highway for the purpose of defeating deemed dedication of such ways as highways. Section 15A of the Commons Act 2006 (“the 2006 Act”) prescribes a mechanism by which a landowner may deposit a statement accompanied with a map with a commons registration authority in order to protect the landowner’s land from registration as a town or village green.

These Regulations apply to applications in England to deposit a statement and map or lodge a declaration under section 31(6) of the 1980 Act or deposit a statement and map under section 15A of the 2006 Act.

Regulation 2 prescribes requirements as to the form such applications must take, including a prescribed application form, the scale requirements for an accompanying map, and fees required in respect of such applications. It is possible for a landowner to submit a combined application to deposit a statement or declaration under the 1980 Act with a statement under the 2006 Act.

Regulation 3 contains provisions relating to when a statement made under section 15A(1) of the 2006 Act is treated as having been deposited with a commons registration authority. Where an application to make such a deposit is combined with an application to deposit a statement and map or lodge a declaration under section 31(6) of the 1980 Act, the combined application shall be treated as having been given to an appropriate authority at the same time as an application to deposit a statement and map or lodge a declaration under section 31(6) of the 1980 Act would be so treated under section 322(2) and (3) of the 1980 Act.

Regulation 4 prescribes the steps which the authority receiving such an application must take upon receipt of a validly made application.

Section 15B(1) of the 2006 Act requires that a register of prescribed information about statements and maps deposited under section 15A of that Act be maintained by each commons registration authority. Under section 15B(3) a commons registration authority may discharge that duty by including such prescribed information in an existing register kept under section 31A of the 1980 Act. Regulation 5(3) requires that a new part of the register kept under section 31A be created for that purpose. Regulation 5 prescribes the information which the register must include

and regulation 6 prescribes the manner in which the register must be kept. Regulation 7 provides for circumstances in which information may be removed from the register.

Regulation 8 makes amendments to the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 (S.I. 2007/2334) (the “2007 Regulations”) to provide for paper registers kept under section 31A of the 1980 Act to be held and inspected at a specified office or the principal office of the appropriate council. Regulation 8 also amends the 2007 Regulations to remove references to statutory declarations and to extend the period in which declarations under section 31(6) of the 1980 Act can be made following the deposit or a initial statement and map or the deposit of a previous declaration.

No separate impact assessment has been prepared for this instrument but the impact assessment prepared for the Growth and Infrastructure Bill is relevant and can be viewed at: <http://services.parliament.uk/bills/2012-13/growthandinfrastructure/documents.html>.