



Inclosure Act 1854

1854 CHAPTER 97 17 and 18 Vict

An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land. [10th August 1854]

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 “The said Acts” means those Acts cited or referred to in [Inclosure Act 1852 \(c. 79\)](#), [s. 34](#)
- C3 “The commissioners” means the Inclosure Commissioners for England and Wales whose functions are now exercisable by Secretary of State: [Settled Land Act 1882 \(c. 38\)](#), [s. 48\(1\)](#), [Board of Agriculture Act 1889 \(c. 30\)](#), [s. 2\(1\)\(b\)](#), [Sch. 1 Pt. II](#), [Board of Agriculture and Fisheries Act 1903 \(c. 31\)](#), [s. 1\(1\)](#), [Ministry of Agriculture and Fisheries Act 1919 \(c. 91\)](#), [s. 1](#), [S.I. 1955/554 \(1955 I, p. 1200\)](#), [1965/143](#), [1967/156](#) and [1970/1681](#)
- C4 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)
Act: powers transferred (1.7.1999) by virtue of [S.I. 1999/672](#), [art. 2](#), [Sch.1](#)

F1

Textual Amendments

- F1 [S. 1](#) repealed (19.1.1998) by [1998 c. 43](#), [s. 1\(1\)](#), [Sch. 1 Pt.VI](#)

F2

Textual Amendments

- F2 [S. 2](#) repealed (19.11.1998) by [1998 c. 43](#), [s. 1\(1\)](#), [Sch. 1 Pt.VI](#)

Changes to legislation: There are currently no known outstanding effects for the Inclosure Act 1854. (See end of Document for details)

3 Land to include incorporeal hereditaments.

The word “land” shall extend to and include incorporeal as well as corporeal hereditaments, and any undivided share thereof.

4 Lessee the “person interested” in certain cases.

Where any land or hereditaments shall have been leased for a term which shall have exceeded one hundred years from the commencement thereof, and it shall be shown to the satisfaction of the commissioners that no rent or acknowledgment has been paid or given for the period of twenty years, or that the person entitled to the rent reserved upon such lease cannot upon reasonable inquiry be ascertained, the person in the actual possession or enjoyment of such land or hereditaments, or in the actual receipt of the rents and profits thereof as owner of such term, shall be and be deemed to be the person interested within the provisions of the said Acts.

5 Orders of exchange, partition and division may be made upon application of parties in possession under an agreement.

It shall be lawful for the commissioners, on the application in writing of the parties in possession of any lands, tenements, or hereditaments under any agreement for the exchange, partition, or division of the same or any of them, to proceed with such exchange, partition, or division under the provisions of the said Acts; and such application, and order thereon, shall be as valid and effectual as if the parties making such application had been the parties interested under the provisions of the said Acts.

F3 6

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Textual Amendments
F3 S. 6 repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt.VI

F4 7

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Textual Amendments
F4 S. 7 repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt.VI

8 Tenure of allotments in respect of rights.

Whereas it is enacted by the ^{M1}Inclosure Act 1845 that all such land as shall be taken in exchange or on partition, or be allotted, shall be held by the person to whom it shall be given in exchange or on partition, or allotted, under the same tenures, rents, customs, and services as the land in respect of which such land shall have been given in exchange or on partition, or allotted, would have been held in case no such exchange, partition, or inclosure had been made; and doubts have arisen whether land taken in exchange or on partition, or allotted, in respect of “rights” will follow the tenure of such rights;

The word “land” in such recited enactment shall include and be deemed to have included “rights.”

Marginal Citations

M1 1845 c. 118.

9 Fencing and making roads dispensed with, in certain cases.

Whenever it shall appear to the commissioners that any public roads or driftways set out by the valuer in the matter of any inclosure are of such a nature or so situate that it is not necessary, for public convenience, that the same should be fenced, or made of hard materials, and certified by two justices, the commissioners may, by any order under their hands and seal, certify that the said roads or driftways are sufficiently formed, having reference to the nature or situation thereof; and such roads shall thenceforth be kept in repair by such persons and in such manner as like public roads within the said parish are or ought by law to be kept in repair; but such last-mentioned persons shall not by such obligation to repair be liable to convert the said roads so set out into fenced roads, or into roads made of hard materials.

10 Apportionment of fee-farm rents, &c.

In all cases where any lands or hereditaments are charged with any [^{F5}fee-farm rent, rent seck, rent of assize, or chief rent, or other] annual or periodical fixed rent, or other certain payment, any persons respectively interested, according to the provisions of the said Acts, in such lands, and in the said rent or other certain payment as aforesaid issuing therefrom, may make application in writing to the said commissioners to apportion the said rent or other fixed payment among all the lands charged with the payment thereof, and the commissioners, upon receipt of such application, shall, by themselves, or by an assistant commissioner or other person to be by them appointed for think fit; purpose, make inquiry, and satisfy themselves as to the expediency of such apportionment: Provided always, that if in any case there shall be any doubt as to the extent, identity, or boundaries of the lands and hereditaments charged with any such rent or payment, the commissioners, assistant commissioner, or other person appointed by them as aforesaid shall inquire into and ascertain such extent, identity, or boundaries.

[^{F6}No application for apportionment shall be made under this section in a case in which an application for apportionment may be entertained under the ^{M2}Rentcharges Act 1977.]

Textual Amendments

F5 Words repealed by [Rentcharges Act 1977 \(c. 30\), s. 18\(2\), Sch. 2](#)

F6 Words added by [Rentcharges Act 1977 \(c. 30\), s. 18\(2\), Sch. 1 para. 1](#)

Modifications etc. (not altering text)

C5 S. 10 extended by [Tithe Annuities Apportionment Act 1921 \(c. 20\), s. 1\(1\)](#), [Law of Property Act 1925 \(c. 20\), s. 192](#) and [Landlord and Tenant Act 1927 \(c. 36\), s. 20](#)

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Marginal Citations

M2 1977 c. 30.

11 Order of apportionment. Order to determine boundaries.

If the said commissioners after inquiry made, shall be satisfied of the expediency of such apportionment, they may and they are hereby empowered, by an order under their hands and seal, to apportion such rent or other fixed payment among all the lands charged with the payment thereof, and also, where necessary, to determine the extent, identity, and boundaries of the land and hereditaments charged with such rent or payment;^{F7}

Textual Amendments

F7 Proviso repealed with savings by [Law of Property Act 1925 \(c. 20\), s. 207, Sch. 7](#)

Modifications etc. (not altering text)

C6 S. 11 extended by [Tithe Annuities Apportionment Act 1921 \(c. 20\), s. 1\(1\)](#), [Law of Property Act 1925 \(c. 20\), s. 192](#) and [Landlord and Tenant Act 1927 \(c. 36\), s. 20](#)

12 Confirmation of Order.

From and after the confirmation of such order by the said commissioners the lands out of which the said rent or other fixed payment as aforesaid issued shall be chargeable in respect thereof only in the manner and to the extent directed and set forth in the said order.

Modifications etc. (not altering text)

C7 S. 12 extended by [Tithe Annuities Apportionment Act 1921 \(c. 20\), s. 1\(1\)](#), [Law of Property Act 1925 \(c. 20\), s. 192](#) and [Landlord and Tenant Act 1927 \(c. 36\), s. 20](#)

13 Recovery of apportioned amounts.

And from and after the confirmation of the said order the owner for the time being of the said rent or other fixed payment as aforesaid,^{F8} shall have all such rights and remedies for the recovery of the apportioned parts of such rent or other fixed payment, as against the portions of land severally charged therewith respectively as such owner would have had for the recovery of such rent or fixed payment as against the lands originally charged therewith in case no such order had been made.

Textual Amendments

F8 Words repealed with savings by [Law of Property Act 1925 \(c. 20\), s. 207, Sch. 7](#)

Modifications etc. (not altering text)

C8 S. 13 extended by [Tithe Annuities Apportionment Act 1921 \(c. 20\), s. 1\(1\)](#), [Law of Property Act 1925 \(c. 20\), s. 192](#) and [Landlord and Tenant Act 1927 \(c. 36\), s. 20](#)

14 Expenses attending apportionment.

The persons making such application as aforesaid shall pay the expenses incident to such apportionment, in such proportions and to such amount as the commissioners shall certify in that behalf; and the commissioners, or any person authorized by them for that purpose, may take all such proceedings and have all such remedies for the recovery of such expenses as they, or the valuer acting in the matter of any inclosure, now have or may at any time hereafter by law have for the recovery of the expenses of or incident to any inclosure under the powers of the said recited Act.

Modifications etc. (not altering text)

- C9** S. 14 extended by [Tithe Annuities Apportionment Act 1921 \(c. 20\), s. 1\(1\)](#), [Law of Property Act 1925 \(c. 20\), s. 192](#) and [Landlord and Tenant Act 1927 \(c. 36\), s. 20](#)

15 Application of compensation for common rights paid under 8 & 9 Vict. c. 18.

Where any money shall have been or may hereafter be paid to a committee under the Lands Clauses Consolidation Act 1845 or under any railway or other special Act by which money may have been directed or authorized to be paid to a committee as compensation for the extinction of commonable or other rights, or for lands, being common lands or in the nature thereof, the right to the soil of which may have belonged to the commoners, and the majority of such committee shall be of opinion that the provisions of such Act for the apportionment thereof cannot be satisfactorily carried into effect, such majority may make application in writing to the commissioners to call a meeting of the persons interested in such compensation money, to determine whether or not such compensation money shall be apportioned under the provisions of this Act.

16 Money to be paid into Bank of England.

If the majority in number and interest shall resolve that such compensation money shall be apportioned, the amount of such compensation money shall be forthwith paid into the Bank of England, to the credit of an account to be named by the Inclosure Commissioners for England and Wales; and the said committee shall be absolutely discharged from all liability in respect of such compensation money, upon payment thereof into the Bank of England as herein-before directed.

17 Interests to be ascertained by commissioners.

As soon as the said monies shall have been paid into the Bank as aforesaid, the said Inclosure Commissioners, or any assistant commissioner appointed or to be appointed by them for that purpose, shall proceed to ascertain, determine, and award the names of the parties who are entitled to such estates, rights, and interests in the said common and commonable lands, and the amount of value of their respective shares, rights, and interests therein, and the proportionate amount of the price so to be paid as aforesaid for such estates, rights, and interests to which each party so entitled as aforesaid is entitled in respect of his share, right, or interest as aforesaid; and the award of the commissioners under their common seal, or assistant commissioner in writing under his hand and seal, shall be binding on all parties claiming such estates, rights, and interests as aforesaid; and for the purpose of ascertaining the rights and interests of such parties as aforesaid it shall be lawful for the said Inclosure Commissioners or assistant commissioner to call such meetings as they or he shall think fit of all persons

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having or claiming any such rights or interests in the said common and commonable lands as aforesaid, at such time and place as the said commissioners or assistant commissioner shall think fit, so as the same shall be appointed by a public notice thereof in writing, to be affixed at least twelve days before such meeting on the principal outer door of the parish church in which such land or any part is situate, and to be inserted in one of the public newspapers published or generally circulated in the county in which such land is situate; and at such meeting the said commissioners or assistant commissioner do and shall proceed to examine into and ascertain all and every the claims which shall be made or put forward in respect of any such rights or interests as aforesaid, and the relative and proportionate value of the estates, rights, and interests of any person or persons claiming to be entitled thereto, and for that purpose do and may employ any valuer or surveyor, and call for and receive such records, deeds, and writings, and such other proof or evidence, as the said commissioners or assistant commissioner may think fit; and they and he are and is hereby authorized and required to take the testimony of any witnesses upon oath (which oath they and he are and is respectively hereby empowered to administer), or to take the affirmation of such witnesses in cases where affirmation is allowed by law instead of oath.

18 As to the payment of costs of inclosure commissioners, and as to the residue of monies.

All the costs and expenses of the said Inclosure Commissioners and assistant commissioner, and of any valuer or surveyor employed by them or him under the provisions herein-before contained, shall in the first place be paid out of such compensation monies, and the residue of the said monies shall be paid and divided between and amongst the said several parties to be named in the said award, and in the shares and proportions to be ascertained and set forth in such award.

19 Compensation for limited interests to be paid to trustees.

When it shall appear to the commissioners or assistant commissioner that any of the parties entitled to such rights or interests are only entitled thereto for a limited interest, then it shall be lawful for them or him, by their or his award, to direct that the monies to be paid in respect of such right or interest, where the same shall exceed twenty pounds, shall be paid to the trustees acting under the will, conveyance, or settlement under which such person having such limited interest shall be interested in such rights or interests, and where there are no trustees then into the hands of trustees to be appointed under the hands and seal of the commissioners, to be held by them on trusts similar to the uses or trusts to which such rights or interests had been immediately before the payment of such monies into the Bank subject to, or as near thereto as the said commissioners or assistant commissioner can ascertain; and the receipts of any trustees to whom any such monies shall be paid as aforesaid shall be good and sufficient discharges for the same: Provided always, that the payment of all such sums shall from time to time be subject to such rules and regulations, for the purpose of ensuring the payment thereof to the person or persons duly entitled to receive the same, as the said commissioners shall by any order direct.

20 As to sums payable in respect of lands not exceeding 20/.

In all cases where the sum payable by virtue of such award in respect of any estate, right, or interest shall not exceed twenty pounds, and the person entitled to such estate, right, or interest shall be under any disability or incapacity, such sum shall and may

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be paid to the guardian, committee, or husband of such person; and where any such person shall have a limited interest only in such estate, right, or interest, the whole of such sum shall and may nevertheless be paid to the person having such limited interest, to his or her guardian, committee, or husband, as the case may be.

21 Act deemed part of “The Acts for the Inclosure, etc. of Land.”

This Act shall be taken to be a part of the said Acts, and shall be construed therewith, and be deemed to be included under any reference to “The Acts for the inclosure, exchange, and improvement of land.”

Changes to legislation:

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