



# Open Spaces Act 1906

1906 CHAPTER 25 6 Edw 7

## POWER TO TRANSFER OPEN SPACES AND BURIAL GROUNDS TO LOCAL AUTHORITIES

### **2 Power of trustees under local Act to transfer open space to local authority or admit other persons to enjoyment thereof.**

- (1) Where an open space is, in pursuance of a local or private Act of Parliament, placed under the care and management of trustees or other persons (in this section referred to as trustees), with a view to the preservation and regulation thereof as a garden or open space, the trustees may, in pursuance of a special resolution, and with the consent, signified by a special resolution, of the owners and occupiers of any houses which front upon the open space, or of which the owners and occupiers are liable to be specially rated for the maintenance of the open space,—
  - (a) convey, for or without any consideration, to any local authority, their estate or interest in the open space or, if they have no such estate or interest, transfer to any local authority the entire care and management of the open space, to the end that the space may be preserved for the enjoyment of the public; or
  - (b) grant, for or without any consideration, to any local authority any term of years or other limited interest in or any right or easement over the open space; or
  - (c) make any agreement with any local authority for the opening to the public of the open space and the care and management thereof by the local authority, either at all times or at any specified time or times; or
  - (d) notwithstanding anything in the Act or any instrument under which the trustees are constituted or act, admit persons not owning, occupying, or residing in any house fronting on the open space to the enjoyment of the open space, either at all times or at any specified time or times, and regulate the admission of such persons thereto on such terms and conditions as the trustees think proper.
- (2) Where the freehold of the open space and the freehold of all or the greater part of the houses round the open space are vested in the same person the powers conferred by this section shall not be exercised without the consent of that person.
- (3) Any such conveyance, transfer, grant, or agreement shall be made, if the trustees are a corporation, by an instrument under the common seal of the trustees, and if the

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*Changes to legislation: There are currently no known outstanding effects for the Open Spaces Act 1906, Section 2. (See end of Document for details)*

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trustees are not a corporation, by an instrument [<sup>F1</sup>executed as a deed by] any five of the trustees, or of all the trustees if for the time being they are less than five in number.

- (4) Any conveyance, transfer, grant, or agreement under this section shall be deemed a good execution of the trusts, powers, and duties imposed or conferred upon the trustees by the Act or instrument under which they are constituted or act, and where the trustees convey their entire interest in, or transfer the entire care and management of, the open space they shall, on the execution of the conveyance or transfer, be relieved and discharged from all trusts, powers, and duties under the Act or instrument or otherwise with reference to the open space.
- (5) The trustees shall hold any purchase money or rent paid for or in respect of the open space in trust for the benefit of the persons or class of persons for whose benefit the open space was previously preserved and managed by the trustees, or, as the case may be, for the benefit of the objects to which any rates previously imposed in respect of the open space had been applied, and such persons or class of persons shall be discharged either absolutely, or, if the grant was for a term of years or other limited interest, during the continuance of that interest, from any special rate or other obligation previously imposed on them in respect of the open space.

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#### **Textual Amendments**

- F1** Words in s. 2(3) substituted (N.I) (15.11.2005) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2005 \(S.I. 2005/1452\)](#), art. 1(2), [Sch. 1 para. 12](#); S.R. 2005/494, art. 2(1)(c)

**Changes to legislation:**

There are currently no known outstanding effects for the Open Spaces Act 1906, Section 2.