



Improvement of Land Act 1864

1864 CHAPTER 114

Sanction of Improvements, and Rights thereunder

And with regard to the Sanction of any Improvements, and the Rights arising thereunder, be it enacted as follows :

Commissioners Order sanctioning Improvements.

- 25** If the Commissioners shall find that the proposed Improvements or any Part thereof, whether with or without any Alterations by them required or sanctioned would effect a permanent Increase of the yearly Value of the Lands proposed to be improved, or of any Part thereof, exceeding the yearly Amount proposed to be charged thereon, they shall sanction such Improvements, or such Part thereof as they shall think expedient, if under the preceding Sections it shall be lawful for them so to do, by an Order under their Hands and Seal; and they shall by the same Order fix the Rate of Interest to be allowed on the Cost of the sanctioned Improvements, having regard to the Market Value of Money at the Time, but such Interest shall never exceed Five per Cent, per Annum.

Forms of Orders sanctioning Improvements to be prepared by Commissioners ; what they must contain.

- 26** The Commissioners shall from Time to Time prepare Forms of Orders for sanctioning Improvements, and shall also, whenever required by the Landowner so to do, frame and entitle their said Orders under this Act in such Manner that they may also be and operate as provisional, sanctioning, or other corresponding Orders under the respective Acts applying to any Company with which he may have contracted relating to the Loan or Improvements in question: Provided that every Order operating under this Act to sanction any Improvements shall name the Landowner to whom it is issued; shall express the greatest Sum to be charged in addition to any Costs, Charges, and Expenses under the Fiftieth Section hereof, and the Rate of Interest and Term of Years for the Repayment thereof, the former not exceeding Five per Centum per Annum, and the latter not exceeding Twenty-five Years; shall specify the Lands on which such Repayment is to be charged; and shall either express or refer to some Contract or other Document expressing the general Scheme of the Improvements to be executed.

They may be called Provisional Orders, and may be assigned to Parties agreeing to execute Improvements.

- 27** Every Order operating under this Act alone to sanction any Improvement may be in the Form set forth in Schedule (A.) hereto, and shall be called a Provisional Order, and shall, subject to the following Section hereof, create in favour of the Landowner named therein the Title to an absolute Charge on the Completion of the sanctioned Improvements, which Title such Landowner may assign, either absolutely or by way of Security, to any Person; and such Assignment may be made by Endorsement on the Provisional Order.

Provision for Death of Landowner pending Completion of Improvements.

- 28** In case of the Death of any Landowner, or the Determination of his Interest, between the Date of the Provisional Order and the Completion of the Improvements sanctioned thereby, the Right to complete such Improvements, and to assign the Title to an absolute Charge, shall pass to the succeeding Landowner; but if the succeeding Landowner shall not within Three Calendar Months after his Succession proceed with the Works, so as to complete the same in conformity with the Provisional Order, the preceding Landowner, or in case of his Decease his Executors or Administrators, may complete such Improvements, and shall become entitled to have the absolute Charge executed to him or them. If the succeeding Landowner shall complete the Improvements there shall be distinct absolute Charges executed to such Landowner, and the preceding Landowner or his personal Representatives, for the Outlay made by the preceding and succeeding Landowners respectively, and in case of Difference the Commissioners shall determine the Proportions; provided that the succeeding Landowner may, with the Sanction of the Inclosure Commissioners, and after Notice to the Parties to whom Notice was originally given, or such of them as maybe living, and such other Persons, if any, as the Commissioners may direct, terminate the Proceedings under the Provisional Order, on Payment of the Outlay and Expenses made thereunder, and indemnifying the Person to whom the Title to the absolute Charge may have been assigned. Notwithstanding the foregoing Provisions, if the Title to an absolute Charge shall have been assigned by the preceding Landowner, the Assignee may complete the Improvements if he shall proceed therewith within One Calendar Month from the Time the preceding Landowner ceased to be such Landowner.

Provisional Orders may be modified.

- 29** The Commissioners may from Time to Time, on Application to be made by the Landowner, and after such Inquiry as they shall think fit, sanction any Modifications or Alterations either of the Scheme of the Improvements or of any other Matter expressed or referred to in the Provisional Order: Provided that no such Modification or Alteration shall increase the Sum to be charged in respect of the Improvements, or extend or curtail the Term of Repayment, beyond the greatest Amount which it was proposed so to charge, or the greatest or least Term over which it was proposed that the Rentcharge should be spread, as respectively stated in the Advertisement and Notices herein-before required: Provided also, that every such Modification or Alteration shall require the Consent of every Party who, by having contracted for the Execution of the Improvements, or by having taken an Assignment of the Title to an absolute Charge, or otherwise, may be interested therein; and the Modifying Order shall be in such Form as the Commissioners shall from Time to Time appoint, and shall be construed together with the original Order as One Order with respect to all Rights arising thereunder after the Date of the Modifying Order.