



Metropolitan Commons Act 1866

1866 CHAPTER 122 29 and 30 Vict

An Act to make Provision for the Improvement, Protection, and Management of Commons near the Metropolis. [10th August 1866]

Modifications etc. (not altering text)

- C1** Functions of Inclosure Commissioners for England and Wales 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](#)

1 Short title.

This Act may be cited as “The Metropolitan Commons Act 1866.”

2 Definition of local authority and local rate.

For the purposes of this Act the local authority in relation to each metropolitan common shall be the authority described as such in connexion therewith in the first schedule to this Act; and for the purposes of this Act the local rate in relation to each metropolitan common shall be the rate described in connexion therewith in the same schedule.

3 Interpretation of terms.

In this Act—

The term “common” means land subject at the passing of this Act to any right of common, [^{F1}and any land subject to be included under the provisions of the ^{M1}Inclosure Act 1845]; the term “commoner” means a person having any such right of common; the term “manor” includes reputed manor; and those terms as used in this Act respectively refer to any particular common to which this Act applies, and to every person having a right of common in, over, or affecting that common, and to the manor of the wastes whereof that common is part:

Changes to legislation: There are currently no known outstanding effects for the Metropolitan Commons Act 1866. (See end of Document for details)

The term “the Commissioners” means the Inclosure Commissioners for England and Wales, and the term “assistant commissioner” means the assistant commissioner appointed by the Inclosure Commissioners.

Textual Amendments

F1 Words added by [Metropolitan Commons Amendment Act 1869 \(c. 107\)](#), **s. 2**

Marginal Citations

M1 [1845 c. 118](#).

4 To what Commons Act applies.

This Act shall apply to any common the whole or any part whereof is situate within the Metropolitan Police District as defined at the passing of this Act (referred to in this Act as a metropolitan common).

^{F2}5 Exclusion of authority of commissioners to inclose, etc.

The Commissioners shall not entertain an application for the inclosure of a metropolitan common^{F2} which is under the control and management of a London borough council], or any part thereof; . . . ^{F3} and notwithstanding any proceedings taken under any Act other than this Act, or any provisional order of the Commissioners made but not already confirmed by Act of Parliament, proceedings may be taken under this Act in relation to any metropolitan common.

Textual Amendments

F2 Words in s. 5 inserted (E.W.) (1.10.2007 for E. and 1.4.2012 for W.) by [Commons Act 2006 \(c. 26\)](#), s. **56, Sch. 4 para. 1** (with s. 60); [S.I. 2007/2584](#), art. 2(d)(i); [S.I. 2012/739](#), art. 2(h)(i)

F3 Words repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

6 Memorial for scheme as to common.

A scheme for the establishment of local management with a view to the expenditure of money on the drainage, levelling, and improvement of a metropolitan common, and to the making of byelaws and regulations for the prevention of nuisances and the preservation of order thereon, may be made under this Act on a memorial in that behalf presented to the Commissioners by the lord of the manor or by any commoners, or by the local authority, or in case of a common extending into the districts of two or more of the bodies described in the first schedule to this Act, then by any one or more of such bodies.

7 Inquiry into memorial.

On the presentation of any memorial under this Act the Commissioners (if on consideration of the memorial they think fit) may make such examination and inquiry as they think necessary or proper in relation to the subject matter of the memorial.

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8 Preparation of draft scheme.

On such examination and inquiry the Commissioners may, if they think fit, prepare the draft of a scheme respecting the common or any part thereof.

9 Printing and publication of draft scheme.

Where the Commissioners prepare the draft of a scheme, they shall cause it to be printed, and printed copies of it to be delivered to the memorialists and to the lord of the manor and to the local authority, and shall also cause it, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all parties interested.

10 Objections and suggestions respecting scheme.

During two months after the first publication of the draft of a scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting the scheme.

11 Inquiry into scheme by public sittings.

At any time after the expiration of those two months the Commissioners, if they think fit, may refer the draft of the scheme to an assistant commissioner.

On any such reference the assistant commissioner shall proceed to make an inquiry concerning the subject matter of the scheme, and for that purpose to hold a sitting or sittings in some convenient place in the neighbourhood of the common, and thereat to take and receive any evidence and information offered, and hear and inquire into any objections or suggestions made or to be made during the sitting or sittings, respecting the scheme or the common, with power from time to time to adjourn any sitting.

Notice shall be published, in such manner as the Commissioners direct, of every such sitting (except an adjourned sitting), fourteen days at least before the holding thereof.

12 Report of assistant commissioner.

The assistant commissioner to whom the draft of a scheme is referred shall make a report in writing to the Commissioners, setting forth the result of the inquiry, and whether in his opinion the draft of the scheme should be approved with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objection and suggestions, if any, made on the inquiry, and his opinion thereon.

13 Final settlement and approval of scheme.

As soon as may be after the expiration of the said two months, or the receipt by the Commissioners of the report of the assistant commissioner (as the case may be), the Commissioners shall proceed to consider any objections or suggestions made to them in writing respecting the scheme, and the report (if any), and thereupon they shall, if they think fit, finally settle and approve of the scheme in such form as they think expedient.

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14 Scheme to state rights affected.

Every scheme shall state what rights (if any) claimed by any person or class of persons are affected by the scheme, and in what manner and to what extent they are affected thereby, and whether or not the scheme has been in relation thereto consented to by that person or class of persons, or any of them.

15 Provision for compensation.

No estate, interest, or right of a profitable or beneficial nature in, over, or affecting a common shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by any scheme, without compensation being made or provided for the same; and such compensation shall, in case of difference, be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase and taking or the injurious affecting of lands under the provisions of the ^{M2}Lands Clauses Consolidation Act 1845 and the ^{M3}Lands Clauses Consolidation Acts Amendment Act 1860.

Marginal Citations

M2 [1845 c. 18.](#)

M3 [1860 c. 106.](#)

16 Appeal against determinations of Commissioners.

If any person claiming any estate, interest, or right in, over, or affecting the common to which any scheme relates is dissatisfied with any determination made or implied by the Commissioners or by the scheme concerning any estate, interest, or right in, over, or affecting the common, every such person may obtain a decision thereon in an action at law in the manner provided by section fifty-six of the ^{M4}Inclosure Act 1845.

Marginal Citations

M4 [1845 c. 118. s. 56.](#)

17 Printing and sale of scheme.

Every scheme shall contain a provision for the sale at all times of printed copies thereof to all persons desiring to buy the same, at a price not exceeding a reasonable sum to be fixed by the scheme.

18 Scheme when approved to be certified.

Every scheme, when approved by the Commissioners, shall be certified by them, and sealed with their common seal.

19 Printing and publication of scheme.

Where the Commissioners certify a scheme they shall cause printed copies of it to be delivered to the memorialists and to the lord of the manor and to the local authority,

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and shall also cause it, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all parties interested.

20 F4

Textual Amendments

F4 S. 20 repealed by [Commons Act 1899 \(c. 30\)](#), s. 21

21 Contents of report.

[^{F5}The Commissioners in such annual report shall set forth in full every scheme certified by them during the year to which the report relates, and shall state the grounds of their approval thereof, and the objections, if any, made thereto and over-ruled, and all proceedings had in respect of those objections, and the grounds on which they were over-ruled.]

Textual Amendments

F5 S. 21 repealed (E.W.) (1.10.2006 for E., 6.9.2007 for W.) by [Commons Act 2006 \(c. 26\)](#), s. 56, [Sch. 6 Pt. 2](#) (with s. 60); [S.I. 2006/2504](#), art. 2(i); [S.I. 2007/2386](#), art. 3(q)

Modifications etc. (not altering text)

C2 S. 21 extended by [Commons Act 1889 \(c. 30\)](#), s. 21.

22 Confirmation of scheme by Act of Parliament.

A scheme certified by the Commissioners shall not of itself have any operation, but the same shall have full operation when and as confirmed by Act of Parliament, with such modifications, if any, as to Parliament seem fit.

23 Reference of scheme to select committee if opposed.

If in the progress through Parliament of a Bill confirming any scheme certified by the Commissioners a petition is presented to either House of Parliament against the scheme, the Bill, as far as it relates to the scheme petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in case of a private Bill.

24 Expenses of scheme to be defrayed by memorialists, &c.

All expenses incurred by the Commissioners in relation to any memorial, or to any scheme consequent thereon, shall be defrayed by the memorialists, or by any ratepayers or inhabitants of the parish or district in or near to which the common is situate, or of the Metropolis, willing and offering to defray those expenses, or by the local authority if willing and offering to defray the same; and the Commissioners may, if they think fit, on or at any time after the presentation of the memorial, require the memorialists or those ratepayers or inhabitants, or any of them, or the local authority having offered as aforesaid (as the case may be), to pay to the Commissioners such sum

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as the Commissioners think requisite for or on account of those expenses, or to give security to the satisfaction of the Commissioners for the payment of those expenses on demand.

25 Power for local authority to contribute for purposes of scheme.

The local authority may in relation to any metropolitan common for which they are the local authority . . . ^{F6}contribute such amount as they think fit (in a gross sum or by annual payments or otherwise) towards the expenses of executing any scheme under this Act when confirmed by Act of Parliament, including the payment of the compensation (if any) to be paid in pursuance thereof.

Textual Amendments

F6 Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

26 ^{F7}

Textual Amendments

F7 S. 26 repealed by [London Government Act 1939 \(c. 40\)](#), [Sch. 8](#)

27 Amendment of schemes.

The Commissioners may from time to time approve and certify a scheme for amending any scheme confirmed by Act of Parliament; and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, mutatis mutandis.

28 Provision for case of disability.

Where any lord of a manor, commoner, or other person having any estate, interest, or right in, over, or affecting a common is under the disability of infancy, [^{F8}unsoundness of mind], or coverture, or other legal disability, or is beyond the seas, his or her guardian, trustee, committee of the estate, husband, or attorney (as the case requires), or in default thereof a person nominated in that behalf by the Commissioners under their common seal (which nomination they are hereby empowered to make as occasion requires), shall for the purposes of this Act be deemed to be substituted in the place of such lord, commoner, or other person.

Textual Amendments

F8 Words substituted by virtue of [Mental Treatment Act 1930 \(c. 23\)](#), s. 20(5)

Modifications etc. (not altering text)

C3 S. 28 excluded by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 113, [Sch. 3](#)

Changes to legislation: There are currently no known outstanding effects for the Metropolitan Commons Act 1866. (See end of Document for details)

29 †Consent with respect to Crown or Duchy rights.

Where any estate, interest, or right, in, over, or affecting a common belongs to or is enjoyed by Her Majesty, in right of the Crown, or forms part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall, any consent for the purposes of any scheme under this Act may be given in respect of that estate, interest, or right as follows; namely,—

In the first-mentioned case, if the estate, interest, or right is under the management of [^{F9}the Crown Estate commissioners], then by those Commissioners or one of them, with the approval of the Treasury; and if it is under the management of [^{F10}the Secretary of State], then by [^{F10}the Secretary of State], with the like approval;

In the secondly-mentioned case, by the Chancellor of the Duchy of Lancaster by writing under his hand attested by the clerk of the council of the Duchy;

In the thirdly-mentioned case, by the Duke of Cornwall, or other the persons for the time being empowered to dispose for any purpose of lands of the Duchy of Cornwall.

Textual Amendments

F9 Words substituted by virtue of [Forestry \(Transfer of Woods\) Act 1923 \(c. 21\), s. 4](#), S.R. & O. 1924/1370 (Rev. V p. 443: 1924 p. 228), [Crown Lands Act 1927 \(c. 23\), s. 1](#), [Crown Estate Act 1956 \(c. 73\), s. 1](#) and [Crown Estate Act 1961 \(c. 55\), s. 1\(1\)](#)

F10 Words substituted by virtue of S.R. & O. 1945/991, art. 1 (Rev. XV p. 232: 1945 I p. 1414), [S.I. 1962/1849, art. 2](#) and 1970/1651, art. 2

Modifications etc. (not altering text)

C4 Unreliable marginal note.

30 Power for lord of manor, &c. to appoint agent.

Any lord of a manor, commoner, or other person having any estate, interest, or right in, over, or affecting a common may, by a power of attorney in writing under his hand (which shall be exempt from stamp duty), appoint an agent to act for him for the purposes of any memorial or scheme under this Act.

All things by this Act directed or authorized to be done by or with relation to any lord of a manor, commoner, or other person as aforesaid may be lawfully done by or with relation to his agent so appointed.

Every such agent may, in the name and on behalf of his principal, sign, concur in, and execute any memorial or act, or signify consent or dissent on any matter arising out of the execution of this Act.

Every person shall be bound by the acts of any such agent according to the authority committed to him as fully as if the principal had himself acted.

Every such power of attorney, or a copy thereof examined and authenticated as a true copy by the signature of a witness or witnesses, shall be deposited with the Commissioners.

Any such power of attorney may be in the form given in the second schedule to this Act or to the like effect.

Changes to legislation: There are currently no known outstanding effects for the Metropolitan Commons Act 1866. (See end of Document for details)

31 ^{F11}

Textual Amendments

F11 S. 31 repealed by [Charities Act 1960 \(c. 58\)](#), [Sch. 7 Pt. II](#)

32 Power for Crown to vest manorial, &c. rights in commissioners.

Notwithstanding anything in any other Act, it shall be lawful for Her Majesty, from time to time, for the purposes of a scheme under this Act, to grant to any persons or body, for such estate or interest, and on such terms and subject to such conditions as to Her Majesty, seem meet, all or any part or parts of the open and uninclosed lands being wastes of the Royal Manor of East Greenwich in the county of Kent, and also to so grant all or any of the rights of common which Her Majesty, has for the time being in, over, or affecting any metropolitan common, and which might by law be so granted by a private person entitled absolutely thereto, and in every such case such persons or body, their heirs, successors, executors, or administrators, shall have full capacity to take and hold the same lands or rights.

Whenever it is the pleasure of Her Majesty to make a grant as aforesaid, the Treasury may issue a warrant to such persons or body.

Every such warrant shall be exempt from stamp duty, and shall be inrolled as conveyances of lands forming part of the land revenues of the Crown in England are required to be inrolled, and the inrolment thereof shall be certified at the foot or on the back thereof by the proper officer by whom the same is inrolled under his hand, and the same when inrolled shall be returned with the certificate of inrolment to the grantees named in the warrant.

From and immediately after the inrolment of the warrant the grantees by force of this Act shall be deemed to be in the actual seisin or possession of the lands or rights in the warrant specified, and shall hold and enjoy the same according to the warrant, for the purposes therein specified.

^{F12}**33. Stamp duty land tax**

- (1) A land transaction effected in pursuance of a grant under section 32 above is exempt from charge for the purposes of stamp duty land tax.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this section—
 - “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act.]

Changes to legislation: *There are currently no known outstanding effects for the Metropolitan Commons Act 1866. (See end of Document for details)*

Textual Amendments

F12 [S. 33](#) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 2**

SCHEDULES

THE FIRST SCHEDULE

Modifications etc. (not altering text)

- C5 References to local rate to be construed as references to general rate: [General Rate Act 1967 \(c. 97\)](#), [s. 116\(2\)](#)

Description of Local Authority and Local Rate

Metropolitan Common	Local Authority	...
		F13
A metropolitan common the whole or any part whereof is situate within the Metropolis, as defined by the Metropolis Management Act 1855.	[^{F14} The council of the London borough within which the whole or part is situate or, where there are two or more boroughs within which parts are situate and the councils of those boroughs agree that one of them shall be the local authority in relation to the whole, that council.]	... F13
A metropolitan common the whole or any part whereof is situate within the district of a local board constituted under the Public Health Act 1848, and the Local Government Act 1858, or one of them, and no part whereof is situate within the Metropolis, as defined as aforesaid.	The local board—	... F13
Any other metropolitan common.	The vestry of the parish in which the common or any part thereof is situate.	... F13

Textual Amendments

- F13 In the First Schedule, the third column is repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), [s. 102](#), [Sch. 17](#)
- F14 Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 16, [Sch. 8 para. 10\(1\)](#)

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THE SECOND SCHEDULE

Sect. 30.

Form of Power of Attorney

The Metropolitan Commons Act, 1866

I, *A.B.*, of , in pursuance of the above-mentioned Act, appoint , of , to be my agent for all the purposes of that Act [*or for a specified purpose under the Act.*]

Dated this day of , 18 .

(Signed) *A.B.*

Witness, *C.D.*

Changes to legislation:

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