Inclosure Act 1773

1773 CHAPTER 81 13 Geo 3

An Act for the better Cultivation, Improvement, and Regulation of the Common Arable Fields, Wastes, and Commons of Pasture in this Kingdom.

Preamble.

Whereas there are in several parishes and places in this kingdom several wastes and commons, and several open and common fields, which, by reason of the different interests the several land owners and occupiers, or persons having right of common, have in such wastes, commons and fields, cannot be improved, cultivated or enjoyed to such great advantage for the owners and occupiers thereof, and persons having right of common, as they might be and are capable of if an improved course of husbandry was to be pursued respecting such open and common fields in each parish respectively, and such wastes or commons of pasture were to be properly drained or otherwise amended:

Modifications etc. (not altering text)

C1 Short title given by Short Titles Act 1896 (c. 14)

[I.] How arable lands shall be fenced.

In every parish or place in this kingdom where there are open or common field lands, all the tillage or arable lands lying in the said open or common fields shall be ordered, fenced, cultivated and improved in such manner by the respective occupiers thereof, and shall be kept, ordered and continued in such course of husbandry, and be cultivated under such rules, regulations and restrictions, as three-fourths in number and value of the occupiers of such open or common field lands in each parish or place, cultivating and taking the crops of the same, and having the consent of the owners in manner hereinafter mentioned, and likewise the consent of the rector, impropriator or tithe owner, or the lessee of either of them respectively, first had in writing, shall, at a meeting (in pursuance of notice for that purpose in writing under the hands of one-third of such occupiers, to be affixed on one of the principal doors of the parish church, chapel or place where meetings have been usually held for such parish or place respectively, twenty one days at least before such meeting, specifying the time and

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place of such meeting), by writing under their hands, constitute, direct and appoint, and which notice any of such occupiers are hereby authorised and impowered to give.

2 Rules not to be longer binding than 6 years.

Provided always, that the rules, regulations and restrictions so agreed upon shall not be in force or binding upon any of the parties thereto for any longer term than six years, or two rounds, according to the ancient and established course of each parish or place respectively.

3 Field master how to be appointed.

And at every such meeting to be had as aforesaid it shall and may be lawful to and for the major part in number and value of the occupiers (then present) of such open or common field lands, in each parish or place respectively, to elect and chuse one or more proper person or persons as field master or field reeve, field masters or field reeves to superintend the ordering, fencing, cultivating and improving of such open and common fields, and to see that the same are kept, ordered and continued in such a course of husbandry as shall be constituted, directed and appointed at such meeting in manner aforesaid; and such field master or field reeve so to be elected and chosen as aforesaid shall continue in the said office until the twenty-first day of May then next following, or within three days after, and no longer, unless he or they shall be thereto re-elected and chosen in manner herein-after directed.

4 Expences how to be defrayed.

And all costs, charges and expences necessary for the carrying on any such plan of ordering, fencing, cultivating, or improving into execution as shall be agreed upon in manner aforesaid, and which shall, at any meeting to be held after six days notice having been given in manner herein-before directed, by the major part in number and value of the occupiers aforesaid then present, be deemed common expences, and for the general benefit of the said occupiers, shall be borne, paid and defrayed proportionably by all the occupiers of such open and common field lands, according to the value of the lands and grounds each person or persons shall have in such open and common field lands; and for the raising the same, one or more assessment or assessments upon all and every the occupiers of common field lands in each parish respectively shall be made, levied and collected by such person and persons, and allowed in such manner, as such majority of the occupiers of such open and common field lands, at such meeting to be had as aforesaid, shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for, according to the orders and directions of such majority of the occupiers of such common field lands, for and towards the better cultivation of the said common field lands, from time to time, as need shall require; and the said assessment shall, by virtue of a warrant under the hand and seal of one justice of peace of the county wherein such common field lands shall lie, be levied by distress and sale of the goods and chattels of every person so assessed and not paying the same within ten days after demand, rendering the overplus of the value of the goods so distrained (if any) to the owner or owners of such goods and chattels, after deducting the cost and charges of taking and making such distress and sale.

Modifications etc. (not altering text)

C2 S. 4 modified (E.W.S) (1.4.1996) by S.I. 1996/674, reg. 2, **Sch. Pt. II para. 5(1)(2)(c)**

C3 S. 4 modified (E.W.) (1.4.1996) by S.I. 1996/675, art. 2, **Sch. Pt. II para. 7(1)(2)(c)**

5 Occupiers of common field lands in every parish how to assemble and elect field reeves.

And it shall and may be lawful to and for the occupiers of open and common field lands in any parish or place where any rules, orders or regulations shall have been agreed upon for the ordering, fencing, cultivating or improving of such lands, in pursuance of this Act, and they are hereby required, to meet and assemble at some convenient place, yearly and every year, on the twenty-first day of May, or within three days after, in pursuance of six days notice to be given of the time and place of such meeting by one-third of the occupiers in manner aforesaid, then and there to elect and chuse one or more proper person or persons to be the field master or field reeve, field masters or field reeves, for the year ensuing; and such person or persons who shall, by the major part of the occupiers of the said lands present at such meeting, be chosen field master or field reeve, field masters or field reeves, to superintend the ordering, fencing, cultivating and improving of the said common field lands, and to see that the same are cultivated according to the rules, orders and regulations agreed upon at the general meeting for that purpose, and shall continue in the said office for one whole year, unless he shall die, or be removed by virtue of the power and authority herein-after given in that behalf.

6 New field reeves to be appointed in place of those who shall die or refuse to attend.

Provided always that if any field master or field reeve so to be chosen in pursuance of this Act shall, within the year in which he shall be so chosen, refuse or neglect to attend the said business, or shall die, or remove to an inconvenient distance, or become bankrupt, or have execution against his body or goods, or by sickness or otherwise be rendered incapable of executing his said office, that then, and in either of the said cases, it shall and may be lawful to and for the occupiers of the said lands (after six days notice for that purpose to be given in manner aforesaid) to elect and chuse in manner aforesaid one other fit and proper person to be the field master or field reeve for the remainder of that year, in the place and stead of the former field master or field reeve falling under either of the descriptions aforesaid.

7 Occupiers at meetings to settle the time of opening common field lands.

And it shall and may be lawful to and for three-fourths in number and value of the occupiers of open and common field lands present at any meeting to be held in pursuance of fourteen days notice at least previous to the usual time of opening such common field lands to be given for that purpose in manner aforesaid, to postpone the opening such common field lands for such reasonable time as at such meeting shall be thought necessary by such majority as aforesaid, and to settle and determine how long such common fields shall continue open, and to limit and settle the number of cattle each occupier in such parish or place shall respectively turn on such common fields, in due proportion to the stint or established usage in such parish or place.

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8 Cottagers not to be excluded having right of common.

Provided always nevertheless, that nothing in this Act contained shall be construed to extend to exclude any cottager, or other person or persons whomsoever, having right of common, and having no land in any of the said common fields, from having and enjoying his or their right of common in as full and ample manner as he could and might have enjoyed the same before the passing of this Act, unless each cottager or other person shall, at any meeting to be held by the occupiers of such common field lands, in manner aforesaid, consent or agree in writing to a composition for such right by an annual payment, or other annual advantage or compensation, or to a limitation thereof; in which case such consent and agreement shall be binding and conclusive upon every such person so agreeing, his heirs and assigns, tenants and occupiers, until such time as the rules, orders and regulations for the ordering, fencing, cultivating and improving of the said common field lands existing at the time of giving such consent shall expire.

9 How common field lands may be enjoyed differently by occupiers.

Provided always nevertheless, that if the occupiers of the said common field lands shall, at times when the said fields have been usually enjoyed in common, consent and agree not to depasture the same in common, and shall allot and set apart what shall be deemed by a majority of such cottagers who shall not have agreed to compound for or limit their right of common as aforesaid a sufficient and equivalent common for such cottagers and other persons as aforesaid, to be enjoyed exclusively by them, that then and in such case such cottagers and other persons shall not use, exercise or enjoy their right of common over such parts of the said common field lands as are not used in common by the occupiers thereof, but only over such part thereof as shall for such time be allotted them for that purpose and set apart as aforesaid, any law, usuage or statute to the contrary notwithstanding.

10 Saving of right to persons possessed of separate sheep walks, &c.

Provided always, that nothing herein contained shall exclude any person or persons seized or possessed of a separate sheep walk or pasture of cattle in or over all or any of the common field lands in any parish or place, or in or over any part thereof, from using, exercising and enjoying such right in as full and ample manner, to all intents and purposes, as he might or could have enjoyed the same before the passing of this Act, unless such person or persons having such right as aforesaid shall consent or agree in writing at any meeting of occupiers, to be held as aforesaid, to a composition for the same or a limitation thereof, in which case every such consent and agreement shall be binding and conclusive upon every person so agreeing, and upon every other person coming to the possession of such sheep walk or pasture for cattle by descent or otherwise, until such time as the rules, orders and regulations for the cultivation of the said common field lands existing at the time of entering into such agreement shall expire.

11 Balks, slades, &c., with consent of the lords of manors, &c. may be ploughed.

And whereas balks, slades or meers which may be waste, do often lie very inconveniently interspersed amongst the arable lands in common fields, it shall and may be lawful to and for any person or persons whomsoever having land in any open or common fields adjoining to any such balks, slades or meers, being waste, with the consent of the lord or lords, lady or ladies of the respective manors wherein such balks,

slades or meers do lie, and likewise of the person or persons who may have a separate sheep walk in the said fields, and with the consent of three-fourths in number and value of the occupiers of such common field lands, to be signified at any meeting to be held in manner aforesaid, to plough up any of the said balks, slades or meers and convert the same into tillage under the regulations to be settled as aforesaid.

12 Balks, &c. used as roads not to be ploughed.

Provided always nevertheless, that no baulk or meer that has heretofore been used as a public road, or as a private road by any person or persons to or from his or their own house or lands, be so ploughed up.

13 Regulations to be observed by persons having a licence to plough balks, &c.

Provided also, that all and every person and persons who shall have licence in manner aforesaid to plough up and convert into tillage any balk, slade, or meer shall, before he or they begin to plough up the same, lay down in an husband-like manner under the direction of the field master or field reeve for the time being, in a more convenient part of the said field, as much of his or their own land as shall be equal in value to the land he or they shall so have licence to plough as aforesaid, and that such land so laid down shall be common land, and so continue until the regulations then existing for cultivating such common field lands shall expire.

14 Boundary stones to ascertain every person's property may be erected.

Provided also, that the person or persons ploughing any such balk, slade or meer shall, by proper bound stones, sufficiently mark and distinguish the several lands ploughed, and the several lands laid down in lieu thereof, so that the property thereof, and each person's right therein, may be clearly known and ascertained.

15 Lords of manors, &c. with consent of three-fourths of persons having right of common, may lease, a twelfth part of wastes, and the net rents to be applied for improving the residue of such wastes.

And it shall and may be lawful to and for the lord or lords, lady or ladies of any manor, with the consent of three-fourths of the persons having right of common upon the wastes and commons within his, her or their manor, at a meeting to be held after fourteen days notice, such notice to be given in manner herein-before directed by the lord or lords, lady or ladies of the manor, or their agent respectively, at any time or times to demise or lease for any term or number of years not exceeding four years any part of such wastes and commons, not exceeding a twelfth part thereof, for the best and most improved yearly rent that can by publick auction be got for the same; and the clear net rents reserved to the lord or lords, lady or ladies, his, her or their heirs, executors, administrators or assigns, by any lease or leases to be granted as aforesaid, shall be by him, her or them, and the major part of his, her or their tenants, applied in the draining, fencing or otherwise improving of the residue of such wastes and commons.

16 Assessments to be levied for the improving of wastes where there are stinted commons.

Provided always nevertheless, that in every manor where there are stinted commons, in lieu of demising or leasing part thereof, one or more assessment or assessments

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upon the lord or lords, lady or ladies of such manor, and the persons being owners or occupiers of such commons, or their agent or managers, shall or may, at their option, be made, levied and collected by such person and persons, and allowed in such manner as the lord or lords, lady or ladies of such manor, and the major part in number and value of the owners or occupiers of such commons present at a meeting to be held within the said manor, in pursuance of fourteen days notice to be given by the lord or lords, lady or ladies, or his, her or their agent, in manner aforesaid, of the time and place of meeting for that purpose, shall direct and appoint in that behalf; and the money thereby raised shall be employed and accounted for, according to the orders and directions of the said lord or lords, lady or ladies, and such majority of the owners or occupiers as aforesaid, in the improvement of such commons, from time to time as need shall require; and the said assessments shall, by virtue of a warrant under the hand and seal of one justice of the peace, be levied by distress and sale of the goods and chattels of every person so assessed, and not paying the same within ten days after being demanded, rendering the overplus of the value of the goods so distrained (if any) to the owner and owners thereof, the necessary charges of making such distress and sale being first deducted.

17 Stinted commons to be opened at a certain time as owners, &c. at a meeting shall direct.

And whereas there are in many parts of this kingdom certain stinted commons of pasture which are never enjoyed in severalty, but which are at certain times shut up for the better growth of the pasture, and opened on certain fixed days, from which, in particular circumstances and seasons, great inconveniencies do and may arise: it shall and may be lawful for the major part in number and value of the owners and occupiers of such common pastures present at a meeting to be held after six days notice at least given in manner herein-before directed, with the consent of the lord or lords, lady or ladies, of the manor, or his, her or their steward or agent, to postpone the opening of the said common pastures for a time not exceeding twenty-one days.

18 Two thirds of commoners, with consent of the lord of the manor, &c., may direct the opening and shutting of commons, pastures, &c.

And whereas there are in many places common pastures, with stinted or limited rights of common therein, which are open the whole year, and it would be attended with great advantages to the commoners to shut up and unstock the same at particular seasons: It shall and may be lawful to and for two-thirds in number and value of such commoners, at a meeting to be holden after fourteen days notice given in manner herein-before directed, with the consent of the lord or lords, lady or ladies of the manor or manors in which such commons are situated, his, her, or their steward or stewards, agent or agents, to direct, order and fix the time when such common pastures shall be broke or depastured, and when the same shall be shut up and unstocked, such orders to continue in force for one whole year, and no longer.

19 Proviso respecting persons not consenting to the above regulations.

Provided nevertheless, that a portion of such common pastures shall be separated and set apart for the use of such commoners exclusively as shall not consent to such regulation, and the portion so set apart shall be adjudged by a majority of such commoners not consenting as aforesaid an equivalent for their rights of common.

20 Persons having right of common may depasture sheep instead of other cattle.

And whereas many stinted common pastures in this kingdom are fed and depastured by horses, beasts or neat cattle, and in many instances it would tend to the improvement of such common pastures, and to the better manuring and cultivation of the arable lands in common fields, or otherwise, to which such common pastures may belong, if the same were fed with sheep: It shall and may be lawful to and for the major part in number and value of the persons having right of common in such common pastures, at any meeting to be held in pursuance of notice in writing under the hands of a major part of such owners and occupiers of such common pastures, or persons having right of common therein, to be affixed on the principal door of the parish church of the parish where such common pastures shall lie, or of the nearest parish church where such lands shall lie in an extraparochial place, ten days at least previous to such meeting, specifying the time and place and intent of such meeting, by writing under their hands to alter and change the manner and custom of feeding and depasturing such common pastures, so far as, instead of horses, cows and other cattle, to allow the same to be fed and depastured with sheep, at the option of each person respectively having right of common, and to limit and stint the number of sheep each such person having right of common in such common pastures shall respectively feed and depasture thereon, in due proportion to their respective stints or rights.

21 Rams not to remain upon wastes between Aug. 25 and Nov. 25.

And whereas the improvement of the breed of sheep is a matter of great national importance, and the turning of rams upon wastes and open common fields at certain times of the year has been found to be very prejudicial: No ram shall be turned upon or be suffered to remain upon any wastes or common fields between the twenty-fifth day of August and the twenty-fifth day of November in every year.

22 Persons formerly under disability under this Act may sign agreements.

And whereas several of the owners and proprietors of wastes, commons, and common field lands may, at the time of any meeting to be held in pursuance of this Act, be incapable, through various impediments, of entering into any of the agreements hereby authorised to be made for the better ordering fencing, cultivating and improving of common arable fields wastes and commons of pasture in this kingdom, without the aid and authority of Parliament: It shall and may be lawful to and for the husbands, guardians, trustees, committees or known agent or receiver of any owner and proprietor of wastes, commons and common field lands, and of any person having a right or interest therein, being under coverture, minors, **[**[F1]persons of unsound mind**]** or beyond the seas, and for every or any of them for the time being, and also to and for all and every or any of the said owners and occupiers, being tenants in tail, . . . [F2] or tenants for life only, and to and for every or any of them respectively for the time being, to enter into and sign any agreement to be made in pursuance of this Act.

Textual Amendments

F1 Words substituted by virtue of Mental Treatment Act 1930 (c. 23), **s. 20(5)**

F2 Words repealed by Statute Law Revision Act 1948 (11 & 12 Geo. 6, c. 62)

Modifications etc. (not altering text)

C4 Ss. 22, 24 excluded by Mental Health Act 1983 (c. 20, SIF 85), s. 113, **Sch. 3**

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23 Rector or Tithe owners not to receive gratuity for letting Tithes other than by half-yearly or yearly payments.

Provided also, that no rector or tithe owner, in right of his rectory, vicarage, or curacy, or the lessee of either of them respectively, who shall agree for or let his tithes of the said common field lands during the said term of six years, or any part thereof, shall receive any fine, foregift, gratuity or compensation whatever, other than by equal half-yearly or yearly payments.

24 All agreements made to be valid in law.

And every agreement so entered into in pursuance of this Act shall be good, valid and effectual in the law for the purposes thereby intended, notwithstanding the want of legal title in the said owner or owners, or in the said husbands, guardians, trustees, committees, agents, or receivers, or in the persons acting as such, or in the said tenants in tail, . . . [F3] or tenants for life only, any settlement or settlements, will or wills, to the contrary in anywise notwithstanding.

Textual Amendments

F3 Words repealed by Statute Law Revision Act 1948 (11 & 12 Geo. 6, c. 62)

Modifications etc. (not altering text)

C5 Ss. 22, 24 excluded by Mental Health Act 1983 (c. 20, SIF 85), s. 113, **Sch. 3**

25 Consent of occupier not to be valid without a written authority under the hand of the owner, &c.

Provided always, that no consent of any occupier of lands in such common arable fields, or of a separate sheep walk therein, to any such first agreement for the ordering, fencing, cultivating and improving of such common fields, to be made by the authority of or in pursuance of this Act, shall be good and valid unless such occupier shall, at the time of entering into such agreement, produce a written authority for that purpose, under the hand of the owner or proprietor, guardian or trustee, or in case of such owner not being a minor, and being in parts beyond the seas, of the known agent of such owner.

26 Actions may be brought at Westminster.

And if any owner or occupier of any common field lands, or of any part thereof, for the better cultivation whereof any rules and regulations shall have been agreed upon in pursuance of the powers and authorities given by this Act, shall not conform to such rules and regulations, or shall wilfully deviate therefrom in any respect whatsoever, then and in such case it shall and may be lawful to and for any owner or owners, or occupier or occupiers, of any part of such common field lands, who may have been damnified by a breach of the regulations aforesaid, to bring one or more action or actions of trespass, or upon the case, **[**[F4]in the High Court**]** against the person or persons so offending; and if in any such action so to be brought as aforesaid a verdict shall be given for the plaintiff, or he shall recover judgment by default, then and in such case the party or parties so offending shall answer to the party grieved all such damages as shall be recovered in such action, . . . [F5]

Textual Amendments

F4 Words substituted by virtue of Supreme Court of Judicature (Consolidation) Act 1925 (c. 49), **s. 224(1)**

F5 Words repealed by Statute Law Revision Act 1861 (c. 101)

27 No person is hereby prevented from inclosing his lands for his own use.

Provided that nothing in this Act contained shall prevent or extend to prevent any person or persons from inclosing all or any part or parts of his, her or their land to and for his, her or their own use or benefit, such person or persons having full power or right so to do.

28 Saving all rights to his Majesty, lords of manors, &c.

Saving always to the King's most excellent Majesty, his heirs and successors, and to all and every lord or lords, lady or ladies of any manor or manors, and to all and every other person and persons, bodies politick or corporate, his, her and their heirs, successors, executors and administrators, (other than and except the respective persons, their heirs, successors, executors and administrators, who may in consequence of this Act being duly carried into execution become subject to the provisions and regulations thereby authorised to be made,) all such estate, interest and rights as they, every or any of them, had or enjoyed in and over the said common arable fields, wastes and commons of pasture before the passing of this Act, or could or might have had and enjoyed in case the same had not been made.

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