

[52 & 53 VICT.] *Commons Regulation (Amberswood)* [Ch. xliv.]  
*Provisional Order Confirmation Act, 1889.*



CHAPTER xliv.

An Act to confirm a Provisional Order for the Regulation of certain lands forming part of Amberswood Common, situate in the township of Ince-in-Makerfield, in the parish of Wigan, in the county of Lancaster, in pursuance of a report from the Land Commissioners for England. A.D. 1889.

[24th June 1889.]

WHEREAS the Land Commissioners for England did, in pursuance of the Inclosure Acts, 1845–1878, issue, in the year one thousand eight hundred and eighty-eight, the Provisional Order of Regulation set forth in the schedule hereto, and in a special report certified that it was expedient that the same should be confirmed by Parliament: 8 & 9 Vict.  
c. 118, &c.

And whereas a Committee of the House of Commons, to which the same Provisional Order was referred, recommended that the same should be confirmed without modification:

And whereas the said Regulation cannot be proceeded with without the previous authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The Provisional Order of Regulation set forth in the schedule to this Act is hereby confirmed. Order in  
schedule  
confirmed.
2. This Act may be cited as the Commons Regulation (Amberswood) Provisional Order Confirmation Act, 1889. Short title.

A.D. 1889.

SCHEDULE.

PROVISIONAL ORDER for the Regulation of AMBERSWOOD COMMON,  
LANCASTER.

WHEREAS the Local Board for the District of Ince-in-Makerfield, being the urban sanitary authority of the said district, have, with a view to the benefit of their town and the improvement of the common lands herein-after mentioned, and with the consent of persons representing at least one third in value of the interests in certain common lands forming part of Amberswood Common, situate in the township of Ince-in-Makerfield, in the parish of Wigan, in the county of Lancaster, such common lands being a suburban common within the meaning of the Inclosure Acts, 1845 to 1878, made application to the Land Commissioners for England to issue a Provisional Order for the regulation of such common lands, and to certify that it is expedient that such Provisional Order should be confirmed by Parliament :

And whereas the said Commissioners, having taken the said application into consideration, were satisfied that a *prima facie* case had been made out, and that, regard being had to the benefit of the neighbourhood as well as to private interests, it was expedient to proceed further in the matter, and accordingly ordered a local inquiry to be held by an Assistant Land Commissioner :

And whereas the said Assistant Commissioner, having caused public notice to be given, as required by the said Acts, held, pursuant to the said notice, public meetings at the offices of the said Local Board, and at the Ince Central Schools, on the 26th and 27th days of September 1888, at the respective hours of eleven in the morning and seven in the evening, to hear all persons desirous of being heard on the subject-matter of the said application, and any information or evidence which might be offered in relation thereto, and inquired into the correctness of the statements in the said application, and otherwise into the expediency of making the Provisional Order applied for, and into the nature of the provisions to be inserted in such Provisional Order :

And whereas the said Assistant Commissioner inspected the said common lands, as required by the said Acts :

And whereas the said Assistant Commissioner duly reported in writing to the said Commissioners the result of the local inquiry, and of the public meetings held by him, together with the information obtained by him as to the several particulars in the said application, and all other information required by the said Acts, and annexed to his report a sketch map of the said common lands, a copy of which map is deposited in the office of the said Commissioners :

And whereas Humphrey Jeffrey Walmesley, Esq., as lord of the manor of Ince-in-Makerfield, is entitled, as tenant for life under the will of the late Captain William Gerard Walmesley, dated the 30th day of October 1874, to the soil of the said common lands, and to the mines and minerals thereunder, and, by virtue of such estate and interest, and of any powers vested in him in this behalf by the said will and the Settled Land Act, 1882, has agreed (as testified by his consenting to this Provisional Order) to transfer without any consideration the soil of the said common lands, and all his right and interest therein, except the mines and minerals thereunder, to the said Local Board, to be held by them on trust as an open space for the benefit of their town :



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And whereas William Arthur Ince Anderton, Frederick Stapleton Bretherton, George Caldwell, John Thomas Crank, Sigismund Cathcart de Trafford, Edmund Ellison, the Right Honourable Lord Gerard, Birkenhead Glegg, James Hart, James Heaton, Dorothy Hennessy, John Fowden Hodges, Solomon Horrocks, John Irlam, Charles Gidlow Jackson, Helen James, William Johnson, Alice Kerfoot, Richard Kerfoot, Thomas Kerfoot, Mary Knowles, Isaac Wilson Lawrence, Samuel Herbert Lawrence, William John Legh, Roger Leigh, Abraham Lord, the trustees of the will of the late John Pickup Lord, Walter Mayhew, the Moss Hall Coal Company, Limited, the executors of the late Richard Pennington, Richard Gardner Preston, Thomas Sixsmith, John Stopford, Margaret Taylor, Henry Ashton Case Walker, Richard Walmesley, James Whitfield, the Wigan Coal and Iron Company, Limited, and Robert Winstanley, being or claiming to be parties interested as commoners in the rights of common exerciseable over and upon the said common lands, have agreed (as testified by their consenting to this Provisional Order) to transfer without any consideration all their rights and interests in the said common lands to the said Local Board, to be held by them on such trust as aforesaid, and it is expedient that all the rights and interests in the said common lands (except as aforesaid) should be transferred to and vested in the said Local Board :

And whereas the said Local Board have, with the sanction of the said Commissioners, and for the purpose of securing greater privileges for the benefit of their town, entered into an undertaking to pay compensation in respect to the rights and interests of such of the commoners as have not agreed, or shall not agree, to transfer their rights and interests without any consideration as aforesaid, and have also, with the like sanction, undertaken to contribute out of their funds such sums as may, from time to time, be necessary for the laying out and maintenance of the said common lands as a recreation ground, and for the payment of such compensation as aforesaid :

Now, therefore, in pursuance of the powers given to us by the said Acts, we the Land Commissioners for England, being satisfied that, having regard to the benefit of the neighbourhood as well as to private interests, the regulation of the said common lands is desirable, have framed, for the consideration of the persons interested, this our Draft Provisional Order, specifying the provisions of the said Acts which are to be put in force, and the terms and conditions on which, provided the necessary consents are given thereto, we are prepared to certify that it is expedient the Provisional Order should be confirmed by Parliament, that is to say :—

That the rights of common to which the said common lands are subject, and the parties entitled to such rights, shall be determined by the valuer to be appointed pursuant to the said Acts, and that all such rights, and also the rights of the said lord of the manor in the said common lands, except his right to the mines and minerals thereunder, shall, by virtue of the award of the valuer in the matter of the regulation, be transferred to and vested in the said Local Board, who shall pay compensation to such of the parties entitled to such right as have not agreed, or shall not agree, to transfer their rights without any consideration, the amount to be paid by the said Local Board as such compensation to be in each case settled by agreement, or, failing agreement, then under the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, so far as the same relate to the purchase and taking of lands otherwise than by agreement, and as if in all cases the word "lands" included interests, rights, and easements.



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That, in consideration of the said Local Board, as such urban sanitary authority as aforesaid, having undertaken to contribute out of their funds such sums as may be required for the laying out and maintenance of the said common lands as a recreation ground, and for the payment of compensation in respect of the rights of the commoners, the general management of the said common lands be vested in the said Local Board, who shall have power to drain, manure, level, fence, plant, lay out, make paths or walks over, place seats on, or in any other way improve or add to the beauty of the said common lands, and to execute any works which may be necessary to form the same into a recreation ground, and also to make byelaws and regulations for the prevention of or protection from nuisances, or for keeping order on the said common lands.

That the said Local Board may authorise the temporary inclosure, with posts and chains or other open fence, of such parts of the said common lands as shall be set apart for cricket or other games.

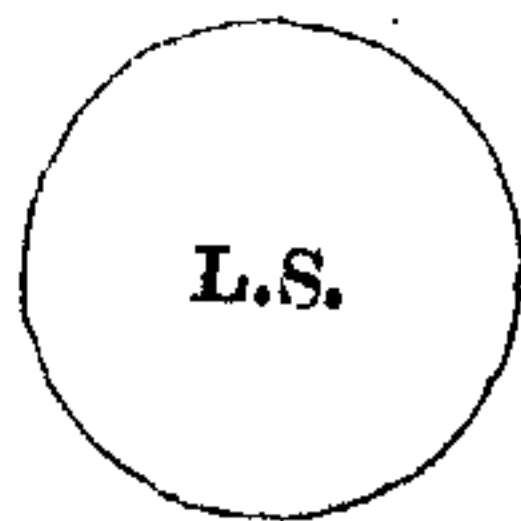
That there be reserved for the inhabitants of the neighbourhood a right of free access to the said common lands for the purpose of enjoying lawful recreation, subject as aforesaid, and also subject to such byelaws and regulations, as may, from time to time, be framed by the said Local Board.

That the costs and expenses incurred by the said Local Board under or in pursuance of this Provisional Order shall be defrayed by means of any voluntary contributions applicable to the purpose that may come into their hands, and subject thereto in manner provided by the said Acts, and that the receipts and expenditure of the said Local Board under or in pursuance of this Provisional Order shall, for the purposes of Sections 245, 247 (except so much thereof as is repealed by the District Auditors Act, 1879), 249, and 250 of the Public Health Act, 1875, be deemed to be receipts and expenditure under the last-mentioned Act.

That this Provisional Order be without prejudice to the rights of the lord of the manor of Ince-in-Makerfield in the mines and minerals under the said common lands, and he and his lessees are to be at full liberty to work the same by underground workings and shafts sunk upon other land, but not by shafts sunk upon the said common lands, the subject of this Provisional Order, and if in such working any damage shall be done to the surface of the said common lands, or to any building erected or to be erected thereon, by subsidence or otherwise, no claim shall be made for compensation for such damage.

That, for the purpose of giving complete effect to this Provisional Order, there shall be inserted in the award to be made in pursuance of the said Acts such provisions, not inconsistent with such Acts, as the said Land Commissioners shall think desirable and proper.

In witness whereof we have hereunto affixed our Official Seal, this  
Twentieth day of December One thousand eight hundred and eighty-eight.



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Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY FIGOTT, Esq., the Queen's Printer of Acts of Parliament.

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