



# Commons Act 1876

## 1876 CHAPTER 56

### PART I

#### LAW AS TO THE REGULATIONS AND INCLOSURE OF COMMONS

##### *Applications in relation to Commons*

### **2 Alternative provisional order for regulation or inclosure of commons**

The Inclosure Commissioners may entertain an application made in manner in this Act mentioned for a provisional order—

- (1) For the regulation of a common; or
- (2) For the inclosure of a common or parts of a common; Further, an application may be made as respects the same common for the regulation of part of such common, specifying the part to be regulated, and for the inclosure of the residue, and in such case the application shall be dealt with as respects such parts as if they were separate commons, with this exception, that the boundaries as proposed in the application of the part to be regulated and the part to be inclosed may be modified by the provisional

The Commissioners shall not proceed to carry any application under this Act into effect until it is made to appear to them that the persons making the application represent at least one third in value of such interests in the common as are proposed to be affected by the provisional order.

### **3 "Regulation of common" includes adjustment of rights and improvement**

A provisional order for the regulation of a common may provide, generally or otherwise, for the adjustment of rights in respect of such common, and for the improvement of such common, or for either of such purposes, or for any of the things by this Act comprised under the expression "adjustment of rights" or "improvement of a common," or may state that all or any of such subjects are to be provided for in the proceedings subsequent to the confirmation of the provisional order by Parliament.

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*Status: This is the original version (as it was originally enacted).*

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#### **4 Explanation of adjustment of rights**

The adjustment of rights in respect of a common comprises for the purposes of this Act all or any of the following things :

- (1) As respects rights of common of pasture in a common being waste land of a manor,—the determination of the persons by whom, the stock by which, and the times at which such common of pasture is to be exercised;
- (2) As respects rights of common of turbary, or taking of estovers, or taking gravel, stone, or otherwise interfering with the soil of the common, being waste land of a manor,—the determination of the persons by whom, and the mode and place or places in which, and the times at which such rights are to be exercised, also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may permanently injure the common ;
- (3) As respects rights of common in land which is not waste land of a manor,—the stinting or other determination of such rights, and the persons by whom, and the mode in which, and the times at which such rights are to be exercised, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may be injurious to the general body of the commoners or to the proper cultivation of the land;
- (4) As respects any common whether it is or is not waste land of a manor,—the determination of the rights and obligations of the lord of the manor, severalty owners, or other person or persons entitled to the soil of such common, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights, and in particular in the case of severalty owners of all or any of such rights which may be injurious to the general body of the severalty owners or to the proper cultivation of the land ; and
- (5) Generally as respects any common, whether it is or is not waste land of a manor,—the determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil, or otherwise, whether arising between the commoners themselves, or between the commoners in relation to the lords of the manors, severalty owners, or other person or persons entitled to the soil of the common, which settlement may be conducive to the interests of all or any class of persons interested in the common.

#### **5 Explanation of improvement**

The improvement of a common comprises for the purposes of this Act all or any of the following things; that is to say

- (1) The draining, manuring, or levelling the common ; and
- (2) The planting trees on parts of such common, or in any other way improving or adding to the beauty of the common ; and
- (3) The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the common ; and
- (4) The general management of such common.

- (5) The appointment from time to time of conservators of the common for the purposes aforesaid.

## **6 Meaning of provisional order for inclosure of common**

A provisional order for the inclosure of a common means a provisional order for inclosing the common as provided by the Inclosure Acts, 1845 to 1868, as amended by this Act.

## **7 Provisions for the benefit of a neighbourhood applicable alike to orders for regulation and orders for inclosure**

In any provisional order in relation to a common, the Inclosure Commissioners shall, in considering the expediency of the application, take into consideration the question whether such application will be for the benefit of the neighbourhood, and shall, with a view to such benefit, insert in any such order such of the following terms and conditions (in this Act referred to as statutory provisions for the benefit of the neighbourhood) as are applicable to the case ; that is to say,

- (1) That free access is to be secured to any particular points of view; and
- (2) That particular trees or objects of historical interest are to be preserved; and
- (3) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times and in such manner and on such parts of the common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the common; and
- (4) That carriage roads, bridle paths, and footpaths, over such common are to be set out in such directions as may appear most commodious ; and
- (5) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.