



# Commons Act 1899

## 1899 CHAPTER 30 62 and 63 Vict

An Act to amend the Inclosure Acts 1845 to 1882 and the Law relating to Commons and Open Spaces. [9th August 1899]

### Modifications etc. (not altering text)

C1 Act amended (E.W.) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), [Sch. 9 para.1\(3\)\(5\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))

Act: powers transferred (1.7.1999) by virtue of [S.I. 1999/672](#), art. 2, [Sch.1](#)

## PART I

### REGULATION OF COMMONS

### Modifications etc. (not altering text)

C2 [Pt. I](#) extended (E.W.) (30.1.2001) by 2000 c. 37, ss. [15\(2\)](#), 103(2)

## 1 Power for district council to make scheme for regulation of common.

- (1) The council of [<sup>F1</sup>a district] may make a scheme for the regulation and management of any common within their district with a view to the expenditure of money on the drainage, levelling, and improvement of the common, and to the making of bylaws and regulations for the prevention of nuisances and the preservation of order on the common.
- (2) The scheme may contain any of the statutory provisions for the benefit of the neighbourhood mentioned in section seven of the <sup>M1</sup>Commons Act 1876.
- (3) The scheme shall be in the prescribed form, and shall identify by reference to a plan the common to be thereby regulated, and for this purpose an ordnance survey map shall, if possible, be used.

[<sup>F2</sup>(4) Regulations under subsection (3) may—

*Status: Point in time view as at 31/03/2015.*

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- (a) prescribe alternative forms;
- (b) permit exceptions or modifications to be made to any prescribed form.]

#### Textual Amendments

- F1** Words substituted by virtue of [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)
- F2** [S. 1\(4\)](#) inserted (E.W.) (12.8.2007 for W. for specified purposes) by [Commons Act 2006 \(c. 26\), ss. 50\(4\), 56](#) (with s. 60); [S.I. 2007/2386, art. 2](#)

#### Modifications etc. (not altering text)

- C3** [S. 1](#) extended by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\), s. 2\(6\), Sch. 3 para. 38\(1\)\(a\)](#)
- C4** [S. 1](#) extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\), Sch. 9 para.1\(2\)\(a\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))
- C5** [Ss. 1-3](#) functions made exercisable concurrently (E.W.) (22.7.2004 with effect in accordance with [art. 25\(1\)](#)) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 25\(2\)\(ii\)](#) (with [art. 35](#))
- C6** [Ss. 1-3](#) functions made exercisable concurrently (E.W.) (1.2.2005 with effect in accordance with [art. 25\(1\)](#)) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\), arts. 2, 25\(1\)\(2\)\(ii\)](#) (with [art. 35](#))

#### Marginal Citations

- M1** [1876 c. 56.](#)

## 2 Procedure for making scheme.

- (1) Not less than three months before the making of a scheme under this Part of this Act the council shall give the prescribed notice of their intention to make it, and shall state thereby where copies of the draft of the scheme may be obtained, and where the plan therein referred to may be inspected. . . .<sup>F3</sup>
- (2) During the three months aforesaid any person may obtain copies of the draft on payment of a sum not exceeding [<sup>F4</sup>2½p] per copy, and may inspect the plan at the prescribed place, and may make in writing to the [<sup>F5</sup>council] any objection or suggestion with respect to the scheme or plan.
- (3) After the expiration of the said three months the [<sup>F6</sup>council] shall take into consideration any objections or suggestions so made, and for that purpose may, if they think fit, direct that an inquiry be held by an officer of the [<sup>F6</sup>council].
- (4) The [<sup>F6</sup>council] may by order approve of the scheme, subject to such modifications, if any, as they may think desirable, and thereupon the scheme shall have full effect. Provided that if, at any time before the [<sup>F6</sup>council] have approved of the scheme, they receive a written notice of dissent either—
  - (a) from the person entitled as lord of the manor or otherwise to the soil of the common; or
  - (b) from persons representing at least one-third in value of such interests in the common as are affected by the scheme,

and such notice is not subsequently withdrawn, the [<sup>F6</sup>council] shall not proceed further in the matter.

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#### Textual Amendments

- F3** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 194, **Sch. 34 Pt. III**
- F4** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. **10(1)**
- F5** Word substituted by virtue of [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 1(3), **Sch. 3 para. 2(1)(b)**
- F6** Word substituted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 1(3), **Sch. 3 para. 2(1)(c)**

#### Modifications etc. (not altering text)

- C5** Ss. 1-3 functions made exercisable concurrently (E.W.) (22.7.2004 with effect in accordance with art. 25(1)) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **25(2)(ii)** (with art. 35)
- C6** Ss. 1-3 functions made exercisable concurrently (E.W.) (1.2.2005 with effect in accordance with art. 25(1)) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 2, **25(1)(2)(ii)** (with art. 35)

### 3 Management of regulated common.

The management of any common regulated by a scheme made by a district council under this Part of this Act shall be vested in the district council.

#### Modifications etc. (not altering text)

- C5** Ss. 1-3 functions made exercisable concurrently (E.W.) (22.7.2004 with effect in accordance with art. 25(1)) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **25(2)(ii)** (with art. 35)
- C6** Ss. 1-3 functions made exercisable concurrently (E.W.) (1.2.2005 with effect in accordance with art. 25(1)) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 2, **25(1)(2)(ii)** (with art. 35)

### 4 Provision for delegation of powers of district council to parish council.

A rural district council may delegate to a parish council any powers of management conferred by this part of this Act on the district council in relation to any commons within the parish, and thereupon the Public Health Acts shall apply as if the parish council were a parochial committee.

#### Modifications etc. (not altering text)

- C7** The text of ss. 4, 13, 17 and 19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 5 Power for parish council to contribute to expenses.

A parish council may agree to contribute the whole or any portion of the expenses of and incidental to the preparation and execution of a scheme for the regulation and

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management of any common within their parish (including any compensation paid under this Act) . . . <sup>F7</sup>

#### Textual Amendments

**F7** Words repealed with savings by [Local Government Act 1933 \(c. 51\)](#), s. 307, **Sch. 11 Pt. IV**

### 6 Provision for compensation.

No estate, interest, or right of a profitable or beneficial nature in, over, or affecting any common shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by any scheme under this Part of this Act without compensation being made or provided for the same by the council making the scheme, and such compensation shall, in case of difference, be ascertained and provided in the same manner as if it were for the compulsory purchase and taking, or the injurious affecting, of lands under [<sup>F8</sup>Part I of the <sup>M2</sup>Compulsory Purchase Act 1965.]

#### Textual Amendments

**F8** Words substituted by virtue of [Compulsory Purchase Act 1965 \(c. 56\)](#), s. 39(2)

#### Marginal Citations

**M2** 1965 c. 56.

### 7 Power for district council to acquire property in regulated common.

A district council may acquire the fee simple or any estate in or any rights in or over any common regulated by a scheme under this Part of this Act by gift or by purchase by agreement, and hold the same . . . <sup>F9</sup> for the purposes of the scheme . . . <sup>F10</sup>

#### Textual Amendments

**F9** Words repealed by [Statute Law Revision Act 1963 \(c. 30\)](#)

**F10** Words repealed with savings by [Local Government Act 1933 \(c. 51\)](#), s. 307, **Sch. 11 Pt. IV**

#### Modifications etc. (not altering text)

**C8** [S. 7](#) extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 70, 125(2), **Sch. 9 para.1(3)** (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))

### 8 Digging of gravel.

Section twenty of the <sup>M3</sup>Commons Act 1876 (which relates to the digging of gravel), shall apply to any common regulated by a scheme under this Part of this Act.

#### Marginal Citations

**M3** 1876 c. 56.

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## [<sup>F11</sup>9] [<sup>F11</sup>Power to amend or revoke scheme]

- (1) A scheme under this Part of this Act for any common may, in prescribed circumstances, be amended in the prescribed manner.
- (2) A scheme under this Part of this Act for any common may, where a new scheme is made under this Part of this Act for the whole of that common, be revoked in the prescribed manner.]

### Textual Amendments

- F11** S. 9 substituted (12.8.2007 for W. for specified purposes) by Commons Act 2006 (c. 26), ss. 50(6), 56 (with s. 60); S.I. 2007/2386, art. 2

## 10 Provisions as to byelaws.

The provisions with respect to byelaws contained in [<sup>F12</sup>section two hundred and thirty-six of the <sup>M4</sup>Local Government Act 1972] shall apply to all byelaws made in pursuance of a scheme under this Part of this Act, and any fine imposed by any such byelaw shall be recoverable summarily and be payable to the council in whom the management of the common is vested.

- [<sup>F13</sup>(3) Sections 7, 8, 10 and 19 of the Local Government Byelaws (Wales) Act 2012 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding level 2 on the standard scale, and provide proof of byelaws in legal proceedings) apply to byelaws under this section made by a council in Wales.]

### Textual Amendments

- F12** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)  
**F13** S. 10(3) inserted (W.) (31.3.2015) by Local Government Byelaws (Wales) Act 2012 (anaw 2), s. 22(2), Sch. 2 para. 2(3); S.I. 2015/1025, art. 2(r) (with art. 3)

### Modifications etc. (not altering text)

- C9** Function of confirming byelaws or regulations made by district council under s. 1(1) exercisable by Secretary of State: S.R. & O. 1946/1757 (Rev. XV p. 112: 1946 I p. 1012)

### Marginal Citations

- M4** 1972 c. 70.

## [<sup>F14</sup>11] Expenses.

All expenses of and incidental to the preparation and execution of a scheme under this Part of this Act shall be paid by the district council.]

### Textual Amendments

- F14** S. 11 substituted by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1, 2), s. 1(3), Sch. 3 para. 2(2)

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## 12 Power for urban district council to contribute towards expenses.

The council of any [<sup>F15</sup>district] may, with a view to the benefit of the inhabitants of their district, . . . <sup>F16</sup>enter into an undertaking with any other council making or having made a scheme under this Part of this Act to contribute any portion of the expenses incurred by that council in executing the scheme.

### Textual Amendments

**F15** Words substituted by virtue of [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)

**F16** Words repealed by virtue of [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\), s. 194, Sch. 34 Pt. III](#)

### Modifications etc. (not altering text)

**C10** [S. 12](#) extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\), Sch. 9 para.1\(3\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))

## 13 Application to county boroughs.

This Part of this Act shall apply to the council of a county borough in like manner as if that council were the council of an urban district.

### Modifications etc. (not altering text)

**C11** The text of [ss. 4, 13, 17 and 19](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 14 Saving for commons regulated under other Acts.

A scheme under this Part of this Act shall not apply to any common which is or might be the subject of a scheme made under the <sup>M5</sup>Metropolitan Commons Acts 1866 to 1878 or is regulated by a Provisional Order under the Inclosure Acts 1845 to 1882 or has been acquired, or managed as an open space, under the powers of the Corporation of London (Open Spaces) Act 1878 or any Act therein referred to, or is the subject of any private or local and personal Act of Parliament having for its object the preservation of the common as an open space, or is subject to byelaws made by a parish council under section eight of the <sup>M6</sup>Local Government Act 1894.

### Marginal Citations

**M5** 1878 c. cxxvii.

**M6** 1894 c. 73.

## 15 Definitions.

In this Part of this Act, unless the context otherwise requires,—

The expression “common” shall include any land subject to be inclosed under the Inclosure Acts 1845 to 1882, and any town or village green;

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The expression “prescribed” shall mean prescribed by regulations made by the <sup>F17</sup>Secretary of State.]

#### Textual Amendments

**F17** Words substituted by virtue of [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](#)

## PART II

### MISCELLANEOUS

#### 16 Surplus rents from field gardens and recreation grounds.

- (1) Surplus rents arising from field gardens may, in addition to the purposes for which they are now applicable, be applied for any of the purposes for which surplus rents arising from recreation grounds may be applied.
- (2) Surplus rents arising from any field garden or recreation ground may be applied towards the redemption of any land tax, tithe rentcharge, or other charge on the garden or ground.

#### 17 Amendment of 50 & 51 Vict. c. 32 as to open spaces.

- (1) The powers exercisable by the district council of a rural district under section five of the Open Spaces Act, 1887, may be exercised whether the council has been invested by an order of the Local Government Board with the powers of the Open Spaces Acts, 1877 to 1890, or not.
- (2) A county council may invest a parish council with the powers of the Open Spaces Acts, 1877 to 1890, and thereupon those Acts shall apply in like manner as if the parish council were a district council, and the parish were the district thereof, except that any expenses incurred by the parish council shall be defrayed as expenses incurred under the Local Government Act, 1894, and be subject to the provisions of section eleven of that Act, and that byelaws made by a parish council need not be under common seal.
- (3) Section seven of the Open Spaces Act, 1887, shall apply to a parish council in like manner as it applies to a district council.
- (4) All the powers exercisable by the London County Council and other local authorities under the Open Spaces Acts, 1877 to 1890, may also be exercised by the county council of any administrative county, and any expenses incurred by a county council under the said Acts shall be defrayed as expenses incurred under the <sup>M7</sup>Local Government Act, 1888.

#### Modifications etc. (not altering text)

**C12** The text of ss. 4, 13, 17 and 19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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### Marginal Citations

M7 51 & 52 Vict. c. 41.

## 18 Power to modify provisions as to recreation grounds, &c.

Any provisions with respect to allotments for recreation grounds, field gardens, or other public or parochial purposes contained in any Act relating to inclosure or in any award or order made in pursuance thereof, and any provisions with respect to the management of any such allotments contained in any such Act, order, or award, may, on the application of any district or parish council interested in any such allotment, be dealt with by a scheme of the [<sup>F18</sup>Charity Commission] in the exercise of [<sup>F19</sup> its] ordinary jurisdiction, as if those provisions had been established by the founder in the case of a charity having a founder

[<sup>F20</sup>For the purposes of this section the Broads Authority shall be treated as a district council.]

### Textual Amendments

- F18** Words in s. 18 substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), **Sch. 8 para. 10(a)**; S.I. 2007/309, art. 2, Sch.
- F19** Word in s. 18 substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), **Sch. 8 para. 10(b)**; S.I. 2007/309, art. 2, Sch.
- F20** Paragraph added (E.W.) by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), s. 21, **Sch. 6 para. 1**

### Modifications etc. (not altering text)

- C13** S. 18 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 70, 125(2), **Sch. 9 para.1(4)(5)** (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))

## 19 Amendment of 8 & 9 Vict. c. 118.

Section one hundred and fifty of the Inclosure Act, 1845, shall have effect as if “two successive weeks” were therein inserted instead of “three successive weeks,” and as if “one month” were therein inserted instead of “three calendar months”.

### Modifications etc. (not altering text)

- C14** The text of ss. 4, 13, 17 and 19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 20 Amendment of law as to adjournment of meetings.

Where notice has been given of any sitting, whether original or by adjournment, to be held by an officer of the [<sup>F21</sup>Secretary of State] under the Metropolitan Commons Acts, 1866 to 1878, that officer may, by notice to be published in such manner as the [<sup>F21</sup>Secretary of State] direct, adjourn the sitting without attending for the purpose of the adjournment.



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#### Textual Amendments

- F21** Words substituted by virtue of [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

### <sup>F22</sup>21 Annual report to Parliament.

[<sup>F22</sup> . . . <sup>F23</sup> The [<sup>F24</sup>Secretary of State] shall include in an annual report to Parliament a statement of [<sup>F24</sup>his] proceedings under Part I. of this Act and under the Metropolitan Commons Acts 1866 to 1878 during the year ending the thirty-first day of December then last past, with such particulars as to [<sup>F24</sup>his] proceedings under the last-mentioned Acts as are required by section twenty-one of the <sup>M8</sup>Metropolitan Commons Acts 1866.]

#### Textual Amendments

- F22** 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)
- F23** Words repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)
- F24** Words substituted by virtue of [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

#### Marginal Citations

- M8** [1866 c. 122.](#)

### 22 Restrictions on inclosures under scheduled Acts.

- (1) A grant or inclosure of common purporting to be made under the general authority of any of the Acts mentioned in the First Schedule hereto or any Act incorporating the same, or any provisions thereof, shall not be valid unless it is either—
- specially authorised by Act of Parliament; or
  - made to or by any Government Department; or
  - made with the consent of the [<sup>F25</sup>Secretary of State.]
- (2) The [<sup>F25</sup>Secretary of State], in giving or withholding [<sup>F25</sup>his consent] under this section, shall have regard to the same considerations, and shall, if necessary, hold the same inquiries as are directed by the <sup>M9</sup>Commons Act 1876 to be taken into consideration and held by the [<sup>F25</sup>Secretary of State] before forming an opinion whether an application under the Inclosure Acts shall be acceded to or not.

#### Textual Amendments

- F25** Words substituted by virtue of [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

#### Modifications etc. (not altering text)

- C15** S. 22 excluded by [Countryside Act 1968 \(c. 41\), s. 9\(4\), Sch. 2 para. 3\(6\)](#)

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#### Marginal Citations

**M9** 1876 c. 56.

### 23 Repeal.

. . . <sup>F26</sup> This repeal shall not affect the construction or effect of any local and personal Act of Parliament passed before the commencement of this Act, whereby any provisions of the said enactments are intended to be incorporated.

#### Textual Amendments

**F26** Words repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

#### Modifications etc. (not altering text)

**C16** “This repeal” means repeal by s. 23 of enactments (made unnecessary by or inconsistent with subsequent enactments) mentioned in Sch. 2 to this Act

### 24 Short title.

This Act may be cited as the Commons Act 1899, and shall read with the Inclosure Acts 1845 to 1882.

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## SCHEDULES

### FIRST SCHEDULE

Section 22.

#### ENACTMENTS RELATING TO INCLOSURES SUBJECT TO RESTRICTION UNDER THIS ACT.

Session and Chapter.	Title or Short Title.
43 Eliz. c. 2.	[ <sup>F27</sup> The Poor Relief Act, 1601.]
..... F28	..... F28
51 Geo. 3. c. 115.	[ <sup>F27</sup> The Gifts for Churches Act, 1811.]
58 Geo. 3. c. 45.	[ <sup>F27</sup> The Church Building Act, 1818.]
1 & 2 Will. 4. c. 42.	[ <sup>F27</sup> The Poor Relief Act, 1831.]
1 & 2 Will. 4. c. 59.	[ <sup>F27</sup> The Crown Lands Allotments Act, 1831.]
5 & 6 Will. 4. c. 69.	[ <sup>F27</sup> The Union and Parish Property Act, 1835.]
4 & 5 Vict. c. 38.	[ <sup>F27</sup> The Schools Sites Act, 1841.]
8 & 9 Vict. c. 18.	The Lands Clauses Consolidation Act, 1845.
17 & 18 Vict. c. 112.	[ <sup>F27</sup> The Literary and Scientific Institutions Act, 1854.]
[ <sup>F29</sup> 1965 c. 56	Part I of the Compulsory Purchase Act, 1965.]

#### Textual Amendments

- F27** Entries in Sch. 1 repealed (E.W.) (1.10.2007 for E., 1.4.2012 for W.) by [Commons Act 2006 \(c. 26\)](#), s. 56, [Sch. 6 Pt. 3](#) (with s. 60); S.I. 2007/2584, art. 2(d)(ii); S.I. 2012/739, art. 2(h)
- F28** Entry in Sch. 1 repealed (1.4.1978) by [Endowment and Glebe Measure 1976 \(No. 4\)](#), [Sch. 8](#)
- F29** Entry in Sch. 1 added by [Compulsory Purchase Act 1965 \(c. 56\)](#), s. 39(3), [Sch. 7](#)

### <sup>F30</sup>F30 SECOND SCHEDULE

#### Textual Amendments

- F30** [Sch. 2](#) repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

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