



Inclosure Act 1847

1847 CHAPTER 111 10 and 11 Vict

An Act to extend the Provisions of the Act for the Inclosure and Improvement of Commons. [23d July 1847]

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble (which recites [Inclosure Act 1845 \(c. 118\)](#)) omitted under authority of [Statute Law Revision Act 1891 \(c. 67\)](#)
- C3 “The commissioners” means the Inclosure Commissioners for England and Wales whose functions are now exercisable by Secretary of State: [Settled Land Act 1882 \(c. 38\)](#), [s. 48\(1\)](#), [Board 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
Act: powers transferred (1.7.1999) by virtue of S.I. 1999/672, art. 2, [Sch.1](#)

[1.] Where the title to a manor, &c. is litigated the consent of both claimants to be equivalent to consent of an actual owner.

Where an action, suit, or difference shall be pending concerning the title to any manor, land, or right, or to an estate or interest therein, of which the actual owner would, under the definitions of the said Act, be (in respect of such manor, land, or right,) the person interested in the land concerning which any application or proceeding may be made or be pending under the said Act, the consent of both the persons between whom such action, suit, or difference may be pending to any application inclosure, or other proceeding under the said Act shall be as effectual as the consent of the actual owner of the manor, land, or right, or of such estate or interest therein, would have been in case no action, suit, or difference had been pending.

2 Provision for the case of more than one person claiming to be interested.

Provided always, that where, according to the claim of a party to such action, suit, or difference, more than one person would be or become interested as aforesaid in respect of such manor, land, or right, such consent of such number or portion, or (as the case

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may require) such nonsignification of dissent by such number or portion of the persons who would so become interested, to the application, inclosure, or other proceeding, as would have been sufficient in case such claim had been established shall be equivalent to the consent of the party to claiming under the provisions of this Act.

3 Saving Rights of the Crown and others to the soil of encroachments.

Where any lands shall have been inclosed, by way of encroachment or otherwise, from any land subject to be inclosed under the said recited Act, for more than twenty years next preceding the day of the first meeting for the examination of claims in the matter of an inclosure under the provisions of the said Act, and shall not, with such consent as in the said Act provided, be directed by the valuer to be considered as allottable, and parcel of the land to be inclosed, neither the award in the inclosure under the provisions of the said Act, nor any consents or orders previous thereto, shall be taken to divest, defeat, or prejudice any property, estate, right, or title of her Majesty or of any other person in or to the lands so inclosed for twenty years or upwards as aforesaid, or the minerals or sub-strata under the same, or in or to any rent or payment payable in respect thereof (except only any rights of common intended to be extinguished by the inclosure under the provisions of the said Act.)

4 Exchanges may be made of lands, excepting or reserving minerals and easements.

Where an exchange shall be made under the said Act of lands not subject to be inclosed under such Act, or of lands subject to be so inclosed as to which no proceedings for an inclosure shall be pending, it shall and may be lawful for the commissioners, in conformity with the terms of the application for such exchange, to except or reserve out of such exchange the property or right of or to all or any of the mines or minerals under all or any part of the land given by both or either of the parties, together with rights and easements for or auxiliary to the exercise or enjoyment of the right or property of such excepted or reserved mines and minerals, and (whether such mines and minerals shall or shall not be reserved) such rights of way and other easements as the parties to such application may have agreed on.

5 Recital of provision as to commissioners not proceeding to amend any award under any local Act, &c. until notice of application shall have been given by advertisement &c. Recited provision repealed, and if Commissioner think fit to proceed on any application, they may refer the same to any Assistant Commissioner, &c. 8 & 9 Vict. c. 118.

.....^{F1} In case the commissioners shall think fit to proceed on any such application as aforesaid the commissioners shall refer such application to an assistant commissioner, and such assistant commissioner shall hold such meeting or meetings to hear any objections which may be made to such application, and any information or evidence which may be offered in relation thereto, or to the matter thereof, and shall report his opinion as to the expediency or in expediency of proceeding upon such application, having regard to all rights which may be disturbed or affected thereby, in such and the same manner, and subject to such and the same provisions concerning notices of such meetings, as are in the Inclosure Act, 1845, contained concerning inquiries as to the expediency or in expediency of a proposed inclosure; and upon the report of such assistant commissioner it shall be lawful for the commissioners to proceed or to abstain from proceeding further on such application, as they may think fit; and it

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shall be lawful for the commissioners (where they shall so think fit) to cause such further meetings to be held, and inquiries made in relation to such application, or to the report thereupon, as might have been held or made in the matter of a proposed inclosure, and to give such directions in relation to the matter of such application, or to the execution of the powers or authorities thereby proposed to be revived or executed, as the circumstances of each case shall appear to them to require.

Textual Amendments

F1 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#) and [Statute Law Revision Act 1891 \(c. 67\)](#)

Modifications etc. (not altering text)

C4 “Any such application” means any application to the commissioners to amend any award under any local Act of inclosure or under the Act 6 & 7 Will. 4 c. 115 or such other application as is mentioned in [Inclosure Act 1845 \(c. 118\)](#), s. 155 repealed by s. 5 of this Act

6 †Lands taken in exchange, &c. in respect of copyhold or customary lands shall be held to be copyhold, and shall be held of the same lord &c.

And whereas it is provided by the said Act that any land taken in exchange or on partition or allotted in respect of copyhold or customary land shall be deemed copyhold or customary land, and shall be held of the lord of the same manor, under the same rent, and by the same customs and services, as the copyhold or customary land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary land in respect whereof such exchanges, partitions, or allotments shall be made: And whereas it is expedient to enable the parties so taking such lands in exchange or on partition or as allotments to hold the same of freehold tenure: Be it enacted, that, by and with the consent of the lord of the manor, and of the parties so taking such lands in exchange or on partition or as allotments, it shall and may be lawful for the said [F²commissioners] to declare that the same shall be held as of freehold tenure, on such terms and conditions as may be agreed upon between the parties, and as may be deemed just by the said commissioners, and the same land shall be held as freehold accordingly.

Textual Amendments

F2 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#) and [Statute Law Revision Act 1891 \(c. 67\)](#)

7 Meeting may be adjourned without the attendance of Commissioner or Assistant Commissioner.

Where notice shall have been given of any meeting, whether original or by adjournment, to be held by the [F³commissioners] or by an assistant commissioner, or otherwise, it shall be lawful for the commissioners or an assistant commissioner by notice to adjourn such meeting, without any commissioner or assistant commissioner giving attendance for the purpose of making such adjournment; and where notice shall have been given of a meeting by a valuer, it shall be lawful for him by notice to adjourn such meeting, without giving attendance for the purpose of making such adjournment.

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Textual Amendments

F3 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#) and [Statute Law Revision Act 1891 \(c. 67\)](#)

8 Notices may be given by the secretary of the commissioners, or other person appointed for that purpose.

All notices by the Inclosure Act, 1845, or by any Act amending the same or referring thereto, or by this Act, directed or authorized to be given by the [^{F4}commissioners] and assistant commissioners respectively may be given by the secretary of the commissioners, or by any person whom the commissioners or any assistant commissioner, in conformity with the power delegated to him by the commissioners, may appoint or authorize for that purpose.

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Textual Amendments

F4 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#) and [Statute Law Revision Act 1891 \(c. 67\)](#)

9 Recited Act deemed part of this Act.

This Act shall be taken to be a part of the Inclosure Act 1845, and be construed therewith, and with any Act amending the same or referring thereto.

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Textual Amendments

F5 [S. 10](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

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