

THE NETTLEBED AND DISTRICT COMMONS
(PRESERVATION) ACT 1906

Arrangement of sections

Preamble	Section
Short title	1
Incorporation of Acts	2
Interpretation	3
Added lands to form part of Commons	4
Constitution of Conservators	5
Appointment of Conservators	6
Quorum	7
Conservators not to be remunerated	8
Proceedings of Conservators not to be invalidated by failure to appoint or irregularity of appointments	9
Management of Commons vested in Conservators	10
Duties and powers of Conservators	11
Bye-laws	12
Application of certain provisions of Public Health Acts	13
Power to Act as Conservators for other Commons in locality	14
Exhibition of copies of bye-laws	15
Contributions by local authorities	16
Public right of access to the Commons	17
Restricting certain manorial rights	18
Exercise of certain rights over the Commons	19
Chalk pits to be provided	20
Enclosure of portion of Commons	21
Certain new footpaths to be provided	22
Recreation ground to be provided	23
Surveyors of highways not to obtain materials from Commons	24
Saving Rights	25
Costs of Act	26

An Act

To incorporate a Body of Conservators for the Preservation and Management as Public Open Spaces of certain Commons in the Rural District of Henley in the County of Oxford; and for other purposes.

(Royal Assent, 4th August, 1906)

Preamble

WHEREAS there are large areas of unenclosed Common land in the county of Oxford known as Nettlebed Common, Lower Common Wood, Oxlands Bottom, Highmoor Common Wood, Highmoor Common, Witheridge Hill Common, Kingwood Common and Peppard Common which Commons and a piece of enclosed land adjoining the same are shown upon the signed plan hereinafter referred to:

And whereas it is expedient that provision should be made as in this Act contained with the object of securing the preservation and maintenance of all of the said land as public open spaces:

And whereas Robert Fleming as Lord of the Manor is or is reputed to be the owner of the said Common land and is willing subject to the reservation of his estate and interest therein as hereinafter provided to consent to the control and management of the said Common land being vested in a body of Conservators to be incorporated as is provided in this Act and to add to such Common land the enclosed land coloured blue upon the signed Plan and to set out and dedicate to the public the footway shown by blue dotted lines upon the signed plan in consideration of the extinction of all rights of Common on the portion of Nettlebed Common coloured red upon the signed Plan and the stopping up of the public rights of way (if any) in or over the paths or trackways shown upon the signed plan by red lines:

And whereas it would be of public and local advantage that the arrangements aforesaid should be carried into effect:

And whereas it is expedient that the other provisions of this Act should be made:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

MAY IT THEREFORE PLEASE YOUR MAJESTY

That it may BE ENACTED AND BE IT ENACTED by the KING'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 (that is to say) :-

1. This Act may be cited as "The Nettlebed and District Commons (Preservation) Act 1906"
Short title
2. The Lands Clauses Acts (except the provisions of those Acts with respect to the taking of land otherwise than by Agreement) and "The Commissioners Clauses Act 1847" (except sections 12 to 35 (inclusive) 37, 54, 84, 96, 97, 98 and 104) are so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act hereby incorporated with this Act. Provided that in "The Commissioners Clauses Act 1847" for the purposes of this Act the expression "Commissioner" shall mean Conservator and the prescribed time for the annual meeting of the Conservators shall be the first Wednesday in May. Provided also that it shall not be necessary for the Conservators to hold monthly meetings but they shall hold a meeting for the transaction of general business at least once in every three months.
Incorporation of Acts
3. IN this Act unless the subject or context otherwise require:-
Interpretation
 - "The Commons" means all the Common land shown upon the signed plan and thereon coloured green and includes the added land;
 - "The added land" means the land shown upon the signed plan and thereon coloured blue;
 - "Nettlebed Common", "Lower Common Wood", "Oxlands Bottom", "Highmoor Common Wood", "Highmoor Common", "Witheridge Hill Common", "Kingwood Common", and "Peppard Common" respectively mean the Commons so respectively named and shown upon the signed plan and coloured green;
 - "The signed Plan" means the Plan signed in triplicate by the Right Honourable the Earl of Onslow, the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred of which one copy has been deposited in the Parliament office of the House of Lords, another copy in the Private Bill Office of the House of Commons and another shall be deposited with the Conservators;
 - "The Conservators" means the body of Conservators incorporated by this Act;
 - "The Owner" means Robert Fleming and includes with respect to each of the Commons the owner or owners for the time being of any part of that Common.
4. The added land is hereby added to and shall form part of the Commons to all intents and purposes as if it had always formed part thereof.
Added lands to form part of Commons
5. There shall be a body of Conservators for carrying into execution certain provisions of this Act the full number of whom shall be nine and who are hereby incorporated by the name of "The Nettlebed and District Commons Conservators" and by that name shall be one Body corporate with perpetual succession and a Common Seal and with power to take and hold and to dispose of grant demise or otherwise deal with land and other property.
Constitution of Conservators

*Appointment
of
Conservators*

6. The Conservators shall be constituted as follows:-
- a) One Conservator shall be appointed in writing by the owner for the time being of Nettlebed Common and he shall be the Chairman of the Conservators;
 - One Conservator shall be appointed in writing by the owner for the time being of Witheridge Hill Common;
 - One Conservator shall be appointed in writing by the owner for the time being of Kingwood Common;
 - Two Conservators shall be appointed by resolution of the Henley Rural District Council;
 - Four Conservators who shall be the representatives for the time being on the Henley Rural District Council of the parishes of Nettlebed, Bix, Rotherfield, Peppard and Rotherfield Greys respectively;
- b) Each Conservator appointed by the owner of a Common shall hold office until some other person shall be appointed in his place or until he dies or resigns his office of Conservator;
- c) Each Conservator appointed by the Henley Rural District Council shall hold office for one year but shall be eligible for re-appointment.

Quorum

7. The Quorum of a meeting of Conservators shall be five.

*Conservators
not to be
remunerated*

8. No Conservator shall receive any remuneration or hold any office of profit under this Act.

*Proceedings
of Conser-
vators not to
be invalidated
by failure to
appt or
irregularity of
apptment*

9. (1) Any Act or proceeding of the Conservators shall not be invalidated or be illegal by reason of there being any vacancy among the Conservators or by reason of any irregularity in the appointment of any Conservator or by reason of any person not qualified or ceasing to be qualified acting as a Conservator or by reason of any failure or omission on any occasion to appoint any Conservator or by reason of any other irregularity failure or omission in or about any appointment; but
- (2) A Conservator who is also a District Councillor shall not be disabled by reason of his office of Conservator from voting upon any question relative to the Commons or the Conservators under consideration by the Henley Rural District Council.

*Management
of Commons
vested in
Conservators*

10. The management maintenance and regulation of the Commons shall be and the same are hereby vested in the Conservators.

*Duties and
powers of
Conservators*

11. By virtue of this Act there shall be imposed upon the Conservators the following duties and they shall (subject to the provisions of this Act) have the following powers namely:-
- (a) Except as in this Act otherwise provided they shall at all times keep the Commons unenclosed and unbuilt on as open spaces for the recreation and enjoyment of the public and they shall as from the passing of this Act be entitled to require the Commons to remain unenclosed and may and shall do all such acts and things and institute all such proceedings as may be necessary for that purpose;
 - (b) They shall at all times preserve the natural aspect and state of the Commons and shall subject to the provisions of this Act protect the trees, shrubs, plants, turf and

herbage growing on the same and prevent all persons other than the owner of the Commons and the persons acting in exercise of any common rights from felling, lopping, cutting or injuring the same and from digging chalk, clay, loam and soil therefrom;

(c) They may appoint and dismiss officers and servants for the purposes of this Act and pay them salaries wages and pensions:

(d) They may improve any part or parts of the Commons so far as may be necessary or desirable for the purposes of health, recreation, enjoyment and convenience;

(e) They may make and maintain roads, footpaths and ways over the Commons;

(f) They may set apart from time to time parts of the Commons upon which persons may play games, hold athletic sports and agricultural or other shows or exhibitions and entertainments or for the assemblage of persons thereon.

Provided that they shall not set apart for any of such purposes any portion of the Commons situated between the Oxford and Henley Road and the property known as Joyce Grove nor situated so near to any dwelling-house as to create a nuisance or be an annoyance to the inhabitants thereof;

(g) Any part of the Commons set apart by the Conservators for any purpose may be closed and exclusively appropriated by the Conservators for any period or periods not exceeding twenty-one days in any one year and for not more than four consecutive days on any one occasion and may demand and take or permit to be demanded and taken reasonable sums for the exclusive occupation of such part or for the admission of persons, vehicles, goods and things on to such part as set apart and the Conservators may exclude therefrom all persons, vehicles, goods and things unless payment be made of the reasonable sums demanded.

(h) They may permit the erection upon each of the said Commons of a building to be used as a pavilion in connection with any ground set apart for any game or other recreation.

12. *Bye-laws* For the prevention of nuisances and the preservation of order the Conservators may make, revoke and alter bye-laws for any of the following purposes relating to the Commons (that is to say):-

(a) For prohibiting the deposit on the Commons or in any pond thereon of road-sand materials for repair of roads or wood or any dung rubbish or other offensive matter;

(b) For prohibiting any person without lawful authority from digging, cutting or taking turf sods, gravel, sand, clay or other substance on or from the Commons and from cutting, felling or injuring any gorse, heather, timber or other tree, shrub, brushwood or other plant growing on the Commons;

(c) For regulating the place and mode of digging and taking turf sods, gravel, sand, clay or other substance and cutting, felling and taking trees or underwood on or from the Commons in exercise of any right of common or other right over the Commons;

(d) For prohibiting the injury, defacement or removal of seats, fences, notice boards or other things put up or maintained by the Conservators on the Commons;

(e) For prohibiting or regulating the posting or painting of bills, placards, advertisements or notices on trees or fences or notice boards on the Commons;

(f) For prohibiting any person without lawful authority from bird catching, setting traps or nets or liming trees or laying snares for birds or other animals, taking birds' eggs or nests and shooting or chasing game or other animals on the Commons;

(g) For prohibiting or regulating the drawing or propelling upon the Commons without lawful authority of any carriage, cart, caravan, truck, motor car, cycle or other vehicle and the erecting or permitting to remain on the Commons without the consent of the Conservators or other lawful authority, any building, shed, tent, fence post, railing or other structure whether used in connection with the playing of games or not and for authorising an officer of the Conservators to remove from the Commons any vehicle drawn or propelled upon the Commons and any structure erected thereon in contravention of the bye-laws and prescribing the roads other than public roads upon which motor cars and cycles may be used.

(h) For prohibiting or regulating the placing on the Commons of any photographic cart or of any show exhibition, swing, roundabout or other like thing and for authorising an officer of the Conservators to remove from the Commons anything placed upon the Commons in contravention of the bye-laws;

(i) for prohibiting or regulating the lighting of any fire on the Commons;

(j) For prohibiting or regulating the firing or discharge of firearms or the throwing or discharge of missiles on the Commons without lawful authority;

(k) For regulating games to be played and other means of recreation to be exercised on the Commons and assemblages of persons thereon;

(l) For regulating the use of any portion of the Commons temporarily closed or set apart under this Act for any purpose;

(m) For prohibiting or regulating horses being exercised or broken in on the Commons without lawful authority;

(n) For prohibiting any person without lawful authority from turning out or permitting to remain on the Commons any cattle, sheep or other animals and for authorising an officer of the Conservators to remove from the Commons any cattle, sheep or other animal being upon the Commons in contravention of the bye-laws or suffering from disease;

(o) Generally for prohibiting or regulating any act or thing tending to injury or disfigurement of the Commons or to interference with the use thereof by the public for the purposes of exercise and recreation;

(p) For authorising an officer of the Conservators after due warning to remove or exclude from the Commons any person who within his view commits an offence against the bye-laws made under this Act or against "The Vagrancy Act 1824";

(q) For prohibiting the hindrance or obstruction of an officer of the Conservators in the exercise of his powers or duties under this Act or under any bye-laws made thereunder.

13. *Application of certain provisions of Public Health Acts* The provisions of Sections 182, 183, 184, 185, 186, 251, 254, 258, 259, 260, 263 and 265 of the "Public Health Act 1875" shall apply to bye-laws to be made under this Act and to proceedings by and against the Conservators under this Act and in the said Sections for the purposes of this Act:-

The expression "this Act" shall mean this Act;

The expression "Local Authority" shall mean the Conservators; and

The expression "ratepayer" shall mean any person entitled to rights of Common over the Commons and any inhabitant householder in the said parishes of Nettlebed, Bix, Rotherfield Greys and Rotherfield Peppard.

Provided that in section 184 (confirmation of bye-laws) of the said Act the secretary of state for the home department shall for the purposes of this section be deemed to be substituted for the local government board.

14. *Power to act as Conservators for other Commons in locality* If an application made under “the Commons Act 1876” for a Provisional Order for the regulation of any Common in the parishes of Nettlebed, Bix, Rotherfield Peppard and Rotherfield Greys which is not subject to the provisions of this Act the Conservators may agree to act as the Conservators under the provisional order and if they are constituted the Conservators by the Order of the Councils mentioned in the Section of this Act the marginal note of which is “Contributions by Local Authorities” may respectively contribute to their expenses as such Conservators and sub-section 3 of that Section shall apply to such contributions.
15. *Exhibition of copies of bye-laws* Copies of the bye-laws for the time being in force shall be put up by the Conservators on the Commons at such places and in such manner as they think best calculated to give information to the persons using the Commons.
16. *Contributions by local authorities* (1) The Council of the Administrative County of Oxford, the Rural District Council of Henley and the Parish Councils of the aforesaid Parishes of Nettlebed, Bix, Rotherfield Peppard and Rotherfield Greys and the Parish Council of any other Parish in the Rural District of Henley may respectively contribute towards the expenses of the Conservators such annual sums as they may respectively think fit.
(2) The Rural District Council of Henley shall pay annually on the twenty-fifth day of March not less than one-fourth of the expenses of the Conservators for the preceding year as shown by the accounts of the Conservators.
(3) Any such contribution or payment shall be deemed to be a purpose for which the Authority making the same is authorised to expend money and in the case of the County Council may be paid out of the County Fund and in the case of a Rural District Council out of the District Fund as general expenses and in the case of a Parish Council may be raised as part of the expenses of the Parish Council.
17. *Public right of access to the Commons* On the passing of this Act there shall be by virtue of this Act a public right of access to the Commons for the perpetual use thereof by the public for exercise and recreation but subject at all times to the bye-laws and regulations of the Conservators and the rights saved by this Act.
18. *Restricting certain manorial rights* As from the passing of this Act the following provisions shall apply and have effect (that is to say):-
(1) The right of the owner to dig clay on the Commons shall be restricted to the areas on Nettlebed Common shown upon the signed plan and surrounded by brown lines thereon;
(2) No timber (including cherry trees) shall at any time be felled, topped or lopped on Highmoor Common or upon the added lands or on such parts of the Commons as are shown upon the signed plan, and are thereon hatched red on the colour green, except in order to preserve the ornamental character of the same and except so far as is consistent with good forestry.
19. *Exercise of certain rights over the Commons* On and after the passing of this Act:-
(1) The occupiers of cottages within and the labouring poor of the parishes of Nettlebed, Bix and Rotherfield Greys shall be entitled subject to the bye-laws and regulations of the Conservators to cut and carry away a reasonable quantity of undergrowth and scrub from Oxlands Bottom for fuel and litter to be consumed or used upon their cottage holdings;
(2) The occupiers of cottages within and the labouring poor of the parish of Rotherfield

Peppard shall be entitled subject to the bye-laws and regulations of the Conservators to cut and carry away a reasonable quantity of undergrowth and scrub from Peppard and Kingwood Commons for fuel and litter to be consumed or used upon their cottage holdings;

(3) The Conservators shall every year set out a portion of Oxlands Bottom and Kingwood Common respectively for the purposes aforesaid;

(4) The occupiers of cottages within the Parish of Peppard shall be entitled to turn out for grazing upon Kingwood Common and Peppard Common not exceeding in all fifty head of cattle, sheep and donkeys subject to such regulations and conditions as the Conservators by bye-laws made in accordance with the provisions of this Act relating to bye-laws may prescribe;

(5) The owner shall have a right to make a reasonable number of roads in order to provide access from any of his land adjoining to the Commons to the nearest public highway.

20. *Chalk pits to be provided* The owner shall set out and appropriate land not exceeding five acres in extent on Peppard Common to be used as chalk pits from which the occupiers of cottages in the parishes of Rotherfield Greys and Rotherfield Peppard shall be entitled subject to the regulations of the Conservators but without any charge therefor to dig and take chalk for one on their holdings but such chalk pits shall not be used for the purpose of obtaining chalk for erecting new buildings or walls or making new roads or ways.

21. *Enclosure of portion of Commons* All rights of Common and rights of way shall as from the passing of this Act be absolutely extinguished and cease to exist upon that part of Nettlebed Common which lies between Joyce Grove and the road leading from Reading to Nettlebed and Oxford and is shown by pink colour upon the signed plan. Provided that if at any time hereafter such piece of Common land shall be enclosed the fence enclosing the same shall not exceed six feet in height and shall not be erected nearer to the said road than eight feet.

22. *Certain new footpaths to be provided* Within six months from the passing of this Act the said Robert Fleming shall set out and dedicate to the public a convenient footway along the line shown upon the signed plan by a blue dotted line and shall construct a carriage-way between the points marked A and B on the signed plan and thereon indicated by a blue dotted line and upon such dedication and construction all public rights of way (if any) shall be absolutely extinguished and cease to exist upon the road and footpaths shown by red lines upon the signed plan.

23. *Recreation ground to be provided* Within two years from the passing of this Act the said Robert Fleming shall set out, level and form a recreation ground upon Nettlebed Common for the use of the inhabitants of Nettlebed and such recreation ground shall be not less than three acres in extent and shall be on or about the site marked recreation ground on the signed Plan or upon such other site within one quarter of a mile from Nettlebed Parish Church as may be agreed upon between the said Robert Fleming and the Nettlebed Parish Council or failing agreement as may be settled by some person nominated by the Chairman of the Commons and Footpaths Preservation Society.

24. *Surveyors of highways not* No Surveyor of highways or other Highway Authority shall except, as is hereinafter provided, be entitled to search for, dig or carry away gravel, sand or stone or other material in or from any part of the Commons except with the consent of the

*to obtain
materials from
Commons*

Conservators and under such regulations and in such places as they shall be prescribe.
Provided that such Surveyors and Highway Authorities shall be entitled hereafter to take such materials from the Hoptarden Pit as far as the same is situated upon Lower Common Wood as is shown upon the signed plan.

Saving rights

25. Save as in this Act expressly provided nothing contained in or done under or in pursuance of this Act shall take away, abridge or prejudicially affect any estate vested in or any right belonging to and previously to the passing of this Act exercisable by the owner and unless by this Act otherwise expressly provided all rights of common, commonable or other like rights or any rights of way or other right in over or affecting the Commons shall remain and be unaffected by the provisions of this Act.

Costs of Act

26. The costs, charges and expenses of and incidental to the preparation, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the owner.