

MALVERN HILLS BILL

HOUSE OF LORDS SELECT COMMITTEE 2024 - 2026 PARLIAMENTARY SESSION

PROMOTER'S BUNDLES OF DOCUMENTS

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CHAPTER clxxv.

An Act for the Prevention of Encroachments upon the Malvern Hills, and for other purposes. [28th July 1884.] A.D. 1884.

WHEREAS there are in the counties of Worcester and Hereford tracts of land forming part of or near to the Malvern Hills which were formerly part of the forest or chase of Malvern which tracts of land or some parts thereof are or are reputed to be subject to certain commonable rights :

And whereas by a decree made by the Court of Exchequer in Michaelmas term in the seventh year of the reign of His Majesty King Charles the First upon an information exhibited in the said court by His Majesty's Attorney-General on behalf of His said Majesty against the several lords freeholders copyholders tenants inhabitants and commoners of and within the several manors townships lands tenements and hereditaments within or near the said forest or chase of Malvern in the counties of Worcester Hereford and Gloucester it was decreed (among other things) that one-third part of the waste or commonable lands lying or being within the said forest or chase as well known by the name of the Bishop's Chase as by the name of the King's Chase should be set out and divided as therein mentioned from the other two parts thereof and be held and enjoyed by His Majesty His heirs successors and assigns in severalty freed and discharged from all manner of common claims of common and other interest or demands therein and that the other two parts should remain and continue unto and amongst the commoners and be held by them in common according to their several rights and interests discharged from His Majesty's game of deer there and of and from the forest laws and the liberties and franchises of forest and chase in such sort as by the said decree doth appear :

And whereas after the said decree the said forest was legally disafforested :

And whereas in the term of Trinity in the 8th year of the reign of His said Majesty a bill of review was exhibited in the said court

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by certain of the defendants and others praying that the said decree might be reversed. And by a decree made by the said court dated the 19th of November in the 8th year of His said Majesty after reciting the herein-before recited decree as herein-before recited and a certain order of the Court of Star Chamber dated the 5th of September 1632 the said Court of Exchequer did order declare and decree that the true meaning of His Majesty and of those that had formerly dealt for the country was that none of the lands of the said forest or chase being parcel of the said waste or commonable land either called by the name of the Bishop's Chase or the King's Chase should be taken in or enclosed but only His Majesty's third part for the use of Sir Cornelius Vermuyden and his heirs and assigns or His Majesty His heirs and successors and that the other two-third parts should be from thenceforth and for ever left free for the freeholders and tenants and commoners to take their common of pasture and common of estovers therein as theretofore they had been accustomed. And that no mean lords of fees or manors or other freeholders or owners whatsoever or the King's Majesty His heirs successors or assigns or any person or persons claiming from by or under them or any of them should enclose any part of the two other third parts of the said grounds were the same lying within the township or parish of Hanley Castle or elsewhere within the said chase or should fall any of the woods or trees growing or to be growing thereon whereby the commoners might be hindered of their estovers and it was thereby ordered and decreed that the said order of explanation now in recital should be held and construed to be part of the said decree firstly herein-before recited and in all things observed and performed on either side as part thereof :

And whereas by an Act passed in the 16th year of the reign of His late Majesty King Charles the Second intituled "An Act for Confirmation of the Inclosure and Improvement of Malvern Chase" after reciting among other things that His said Majesty King Charles the First was pleased to consent to the disafforestation of the forest or chase of Malvern in the counties of Worcester Hereford and Gloucester according to several treaties and agreements for that purpose between His said Majesty and the several lords freeholders tenants inhabitants and commoners of and within the several manors townships lands tenements and hereditaments within or near the said forest or chase as therein mentioned And reciting the said information in the Court of Exchequer and the making of the said decree in Michaelmas term in the seventh year of King Charles the First and the disafforestation of the said forest or chase and the setting out and enclosure of His Majesty's third part It was enacted among other things that the said decree so made for the division enclosure and disafforestation of the said

forest and chase of Malvern and all proceedings had thereupon or in pursuance thereof should be ratified confirmed and allowed and should be good effectual and binding in law against the King's Majesty His heirs and successors and all the respective lords freeholders copyholders tenants inhabitants and commoners of and within the said several manors townships lands tenements and hereditaments therein their heirs successors and assigns severally and respectively according to their several and respective estates and interest any law custom or usage to the contrary in any wise notwithstanding: And it was further enacted that certain persons therein named or referred to should hold and enjoy the lands tenements and hereditaments set out and allotted unto His Majesty in pursuance of the decree above recited according to the several grants and estates to him or them made of the same discharged of and from all manner of common claim of common or other interest or demands whatsoever as well of the said lords freeholders and tenants aforesaid as of all others within the said forest or chase and also that the said lords freeholders tenants and commoners interested in the said premises their heirs successors or assigns respectively according to their several and respective estates and titles to the same should and might have hold and enjoy the said other two parts residue of the said wastes as also their ancient enclosed grounds and severals within the said forest and chase freed and discharged from the game of His Majesty his heirs and successors deer and of and from all forest laws jurisdictions and charges whatsoever and of and from all other interests claims and demands by or from His Majesty His heirs or successors:

And whereas notwithstanding the said decrees and the provisions of the said Act numerous enclosures and encroachments have at various times and recently been made upon portions of the said waste or commonable land formerly within the said forest and not forming part of the King's third as herein-after defined and it is desirable as well in the interest of the freeholders tenants and commoners entitled to common rights on the said land as for the benefit of the public that provision should be made for the prevention of encroachments and enclosures upon and of injury to the said tracts of land and also for the management of the same:

And whereas John Vincent Hornyold, Thomas Charles Gandolfi Hornyold, Benjamin Bright, Stephen Ballard, Thomas Griffiths Peyton and the Ecclesiastical Commissioners for England claim to be respectively entitled to certain of the lands made subject to this Act and it is expedient that in consideration of the provisions with respect to those lands which are mentioned in this Act certain reservations affecting the said lands should be made as in this Act set forth:

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And whereas the freehold and copyhold tenants of the several manors formerly part of or within the said chase are or claim to be entitled to certain common rights including rights of estovers in or over the aforesaid tracts of land or parts thereof :

And whereas the lands described in the Third Schedule to this Act form part of what is commonly known as "Malvern Hills" and some of those lands are comprised within the King's third and it is expedient that the said lands described in the said Third Schedule should be preserved for the use and enjoyment of the public subject to and in accordance with the reservations and provisions hereinafter contained :

And whereas it is expedient that provision should be made as in this Act set forth :

But 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 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 :—

Short title.

1. This Act may be cited as the Malvern Hills Act 1884.

Interpretation.

2. The following words and expressions shall in this Act have the meanings herein-after expressed (that is to say) :—

"The Conservators" means the Conservators appointed for the purpose of this Act.

"Parish" where not otherwise expressed means a parish or place for which a separate poor rate is or can be made.

"Vestry" means the ratepayers of a parish meeting in vestry according to law.

"Person" includes a corporation.

"Ratepayers" includes all persons who under the provisions of the Poor Rate Assessment and Collection Act 1869 are deemed to be duly rated.

"The lands subject to this Act" means the lands described in the First Schedule to this Act and shown on the deposited map so far as the same are thereon coloured green and brown together with any lands hereafter made subject to this Act under the provisions herein-after contained.

"The Land Commissioners" means the Land Commissioners for England.

"The King's third" means the land set out and divided from the other two-thirds as aforesaid to be held by His Majesty King Charles the First.

3. And whereas a map has been prepared for the purposes of this Act and signed by Sir Arthur Otway Baronet the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred and deposited in the Private Bill Office of the House of Commons and such map is in this Act referred to as the deposited map Therefore within one month after the passing of this Act copies of the deposited map shall be deposited for public inspection with the respective clerks of the peace for the counties of Worcester and Hereford and the Act of the session of the seventh year of King William the Fourth and the first year of Her Majesty (chap. 83) "To compel Clerks of the Peace and other persons to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament" shall so far as applicable apply to the said deposited map and extracts from or copies thereof.

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As to copies of deposited map.

4. The provisions of the Commissioners Clauses Act 1847 with such exceptions and alterations as are specified in the **Second Schedule** hereto shall be incorporated with this Act and shall apply to the Conservators herein-after appointed as if they were a body of commissioners within the meaning of the said Act.

Incorporating Commissioners Clauses Act, 1847.

~~5. Conservators shall be appointed for the purposes mentioned in this Act and shall be a body corporate by the name of the Malvern Hills Conservators with power to hold and manage lands. The Conservators shall be appointed as herein-after expressed:~~

Appoint-ment of Conser-vators.

~~Five by the vestry of the parish of Great Malvern.~~

~~One by the person or persons for the time being entitled either beneficially or in trust to receive the rents and profits of Blackmore Park in the county of Worcester.~~

~~Two by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district or ecclesiastical parish of West Malvern.~~

~~One by the vestry of that part of the parish of Mathon which forms the ecclesiastical parish or district of West Malvern.~~

~~Two by the vestry of the parish of Colwall.~~

~~One by the person or persons entitled either beneficially or in trust to receive the rents of the Winnings the Court and the Grovesend estates in the parish of Colwall.~~

~~One by the lord or lady of the manor of Great Malvern for the time being but only from and after the time when by virtue of any such consent as herein-after provided the waste lands of the said manor shall have become subject in perpetuity to all the provisions of this Act.~~

Sections 5 to 8
repealed by s. 24 MH
Act 1924

A.D. 1884.

~~One by the Ecclesiastical Commissioners for England for the time being or their successors in title for the time being as lords of the manor of Mathon and the manor of Bosbury Colwall and Coddington respectively. Provided that if the said two last-mentioned manors shall hereafter become vested in different persons then the lords of the said two manors shall appoint alternately but so that the lord of the manor of Mathon shall have the appointment on the vacancy which shall first occur after the two manors shall have so vested in different persons as aforesaid.~~

~~One by Benjamin Bright and his successor in title for the time being as lord or lady of the manor of Farley and beneficial owner of the Malvern Wells and Colwall and Mathon estates,~~

~~And from time to time as every vacancy shall arise in the said body a new Conservator shall be appointed by the person or persons or vestry entitled to make such appointment as herein provided so that the said body shall as soon as may be after every such vacancy be made up to consist of such number of persons and appointed in such manner as is herein expressed.~~

Duration of
office.

~~6. One of the original Conservators to be appointed by the vestry of the parish of Colwall and one of the original Conservators to be appointed by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district or ecclesiastical parish of West Malvern and three of the original Conservators to be appointed by the vestry of the parish of Great Malvern shall go out of office at the expiration of two years from their respective appointments and the Conservators shall at their first meeting to be held in the year 1885 determine by lot as between the several Conservators appointed by the said respective vestries which of such Conservators respectively shall so go out of office. Save as aforesaid every Conservator shall hold office for three years from the date of his appointment.~~

Election of
Conservators.

~~7. For the purpose of electing the Conservators to be appointed as aforesaid by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district of West Malvern and by the vestry of that part of the parish of Mathon which forms such ecclesiastical district respectively each of the said several parts of the parish of Mathon shall be deemed to be a parish by itself and the ratepayers thereof may meet in vestry in the same manner in all respects as if they were the inhabitants of a parish and every such meeting shall be deemed to be a vestry and be subject to the Act of the 58th year of King George the Third chapter 69 and the Acts amending the same and the overseers of~~

~~the parish of Mathon shall be deemed to be the overseers of the~~ A.D. 1884.
~~said respective parts of that parish.~~

~~8. The several vestries herein-before authorised to appoint~~ Conserva-
~~Conservators shall proceed to make their respective appointments~~ tors to be
~~within three months after the passing of this Act and at all times~~ appointed
~~after the expiration of such three months the Conservators who~~ within three
~~shall from time to time have been appointed and be holding office~~ months.
~~shall notwithstanding any vacancies in the said body of Conser-~~
~~vators be competent to exercise all the powers and shall have~~
~~vested in them all the rights by this Act given to or vested in the~~
~~Conservators.~~

9. The Conservators may on their own behalf or on behalf of Power to
any freeholder or tenant of any manor or other person entitled to Conserva-
any rights of common or other commonable rights exerciseable upon tors to
or in any of the lands subject to this Act take any such proceedings prevent
and do any such things for or in the protection or defence of any of encroach-
the said rights or for preventing or remedying any enclosure or ments, &c.
encroachment as any person entitled to the said rights would be
capable of taking and doing and for that purpose the Conservators
shall be deemed to have and be entitled to all rights of common of
pasture and estovers and other commonable rights upon the lands
subject to this Act.

10. From and ever after the passing of this Act no enclosure Lands sub-
shall be made or building erected on the lands subject to this Act ject to Act
and subject to the provisions of this Act the Conservators may to be pre-
at all times take all necessary measures to keep the said lands as served as
open spaces free from enclosure and building to maintain all open spaces.
existing rights of common and commonable rights on and over the
same and to prevent any unlawful digging stone cutting turf
cutting or other injury to the said lands or the growth or produce
thereof and to regulate the user and enjoyment of any rights of
common or commonable rights in accordance so far as may be with
the ancient customs of the forest of Malvern or other customs
under which such rights are enjoyed and the Conservators may
make and enforce byelaws for any of the purposes aforesaid. And
(without prejudice to all other jurisdictions and remedies) any
court of summary jurisdiction shall have power to require any
person to abstain from enclosing or building upon any part of the
lands subject to this Act not now enclosed or built upon and from
suffering any new enclosure or building to continue or from
committing any such injury as aforesaid.

Byelaw powers
modified by s.10(3)
MH Act 1930

Provided that any proceedings under the powers of this section
with reference to any such new enclosure or building shall be com-

A.D. 1884. — menced before the expiration of six years from the making of such new enclosure or the erection of such new building.

Powers to extend to other waste lands (if any) in the parishes mentioned in schedule.

11. The Conservators may also exercise the powers conferred upon them by the two preceding sections over and with respect to all other (if any) lands in any of the parishes referred to in the said **First Schedule** which formerly formed part of the forest or chase of Malvern and which are subject to common or commonable rights exclusive of any lands which formerly formed part of the King's third.

Powers as to lands described in Third Schedule.

12. The Conservators may upon any part of the lands described in the **Third Schedule** to this Act and coloured upon the deposited map dark green and brown take all necessary measures to prevent nuisances and preserve order and may make and enforce byelaws for that purpose and they may from time to time plant protect maintain and manage trees and shrubs which trees and shrubs shall not be subject to estovers or commonable rights and make and maintain paths and roads provided that the expenses of planting such trees and shrubs and of making such paths and roads be defrayed by voluntary contributions and not otherwise. The powers of this section may from time to time be exercised by the Conservators upon and with respect to any other lands which may have been made subject to this Act under the provisions in that behalf herein-after contained.

Byelaw powers
modified by s. 10
(3) MH Act 1930

Reservations affecting lands described in Third Schedule.

13. The lands described in the **Third Schedule** to this Act which are distinguished on the deposited map by the colours green and brown shall from and after the passing of this Act be and remain under the management and control of the Conservators for the use and recreation of the public subject to any subsisting rights of common or commonable rights over or affecting the same and also subject to and in accordance with the reservations and conditions in this Act set forth.

There shall be reserved respectively to the several lords of the manor or owners of the soil of lands described in the said **Third Schedule** and their respective successors in title such estate and interest in the soil of the said lands as is now vested in them but (save as herein-after mentioned and save as to any of the said lands which shall be taken compulsorily under any statutory power for that purpose) without any of the rights or powers incidental to the ownership thereof and there shall also be reserved to them such rights as now belong to them of digging and getting by open quarrying or otherwise any stone mines or other minerals lying within or under the said lands (except so much as is described in the second part of the said schedule and is coloured brown on the

deposited map) and of carrying away selling and disposing of such stone or other minerals for their own benefit causing as little injury as possible to the surface of the said lands in the exercise of the said reserved rights and keeping all open pits shafts and quarries securely fenced where necessary for the protection of the public but not being liable otherwise to make any compensation or other payment in respect of such workings or any damage resulting therefrom. A.D. 1884.

There shall also be reserved to the said respective lords of the manor and owners and their successors in title respectively all such rights as the said lords and owners or any of them now have to springs of water naturally flowing or arising from the surface of any of the said lands forming part of the King's third and all such powers as they or any of them now respectively have for the enjoyment thereof.

There shall also be reserved in the lines marked on the said deposited map A B and C D a right of way twelve feet wide to the owner or owners of the soil thereof and their successors in title.

~~14. Any pecuniary penalty claimed to be due under any byelaw made in pursuance of this Act shall be deemed to be a civil debt for the purposes of the Summary Jurisdiction Act 1879.~~ Penalties.

S. 14 repealed
by s. 13(3) MH
Act 1909

15. No surveyor of highways or highway board or turnpike trustees shall search for dig or carry away gravel sand stone or other material in or from any part of the lands subject to this Act without an order (fourteen days notice in writing of the intention to apply for which shall have been left at the office of the Conservators) made by justices of the peace in petty sessions for the petty sessional division where the material is situate who may if they think fit refuse such an order or may in their order prescribe such conditions as to the mode of working and restoration of the surface as they shall think fit and the Conservators may if they think fit be heard upon any application for any such order. Restricting
digging of
gravel, &c.

16. All parts of the lands subject to this Act shall be deemed to be public places and places of public resort within the meaning of the statute of the fifth year of His Majesty King George the Fourth chapter 83 and the Acts amending the same and the statute of the 35th and 36th years of Her Majesty the Queen chapter 94 respectively. Lands sub-
ject to Act
to be place
of public
resort.

17. The Conservators may if they deem it necessary from time to time appoint a keeper or keepers for the purpose of enforcing byelaws and regulations to be made by them under this Act and the provisions of sections 5 6 7 and 8 of the Parks Regulation Act 1872 shall apply with regard to such keepers and to police Powers to
Conserva-
tors to
appoint
keepers.

A.D. 1884. constables upon the lands subject to this Act as if such lands were a park and such keepers were park keepers within the meaning of the said Act.

Byelaws
and pro-
ceedings.

~~18. The provisions of sections 182 183 184 185 and 186 and of sections 251 252 254 255 259 261 264 and 265 of the Public Health Act 1875 shall apply to byelaws to be made under this Act and to proceedings by and against the Conservators or under this Act as if the Conservators were a local authority within the meaning of the said sections and for this purpose the 184th section of the said Act shall be read as if the words "the First Commissioner of Her Majesty's Works and Public Buildings" were used therein instead of the words "the Local Government Board" and the words "this Act" in the said sections shall be read as referring to this Act and not to the Public Health Act 1875 and section 255 of the said Act shall apply with regard to any offence under this Act as if the same were a nuisance within the meaning of the Public Health Act 1875.~~

s. 18 repealed by
s. 27(4), Sched 3
MH Act 1995

Contribu-
tions from
parishes.

19. Save as herein otherwise provided the expenses of the Conservators shall be paid by them out of any moneys in their hands and they may raise any moneys required for meeting such expenses in manner following and they may raise such moneys either before or after they shall have actually become liable to the said expenses. They shall apportion the amount so required among the several parishes of ~~Colwall Mathon and Great Malvern~~ and may raise the same by their precept to be served on the overseers of each such parish requiring them to pay the amount specified in such precept to the treasurer clerk or other officer of the Conservators and the overseers of the said parishes of Colwall Mathon and Great Malvern shall pay the same out of the poor rate of such parishes. The receipt of the officer or officers of the Conservators named in such precept shall be a good discharge for the amount so paid. Provided always that the sum required by any such precept in any one year shall not exceed the amount which would be produced by a rate of ~~one halfpenny~~ in the pound and provided also that any voluntary contributions or subscriptions to be paid to the Conservators may be applied at the desire of the donors in reduction of the amount required by any such precept to be paid by the overseers of any such parish.

Deleted words
replaced by "Great
Malvern, Malvern
Link, Malvern
Wells, West
Malvern and
Guarlford in the
County of
Worcester and
Colwall or Mathon
in the County of
Hereford"
s. 4 MH Act 1909

Deleted words
replaced by "one
penny"
s. 4 MH Act 1909

Limiting
powers of
Act over
manor and
parish of
Great
Malvern.

20. (1) In order to preserve as open spaces free from enclosure and building the waste lands of the manor or parish of Great Malvern in the county of Worcester the Conservators may take all necessary measures to prevent or remedy any enclosure or encroachment thereon and to preserve and keep the same waste lands free from enclosure and building and (without prejudice to all other

A.D. 1884.

jurisdictions and remedies) any court of summary jurisdiction shall have power to require any person to abate or remove or abstain from making or erecting any enclosure or building upon any part of the said waste lands. Provided that no proceeding of the Conservators whether under this Act or otherwise for preventing remedying or abating any enclosure or encroachment on the said waste lands shall be made or taken by the Conservators concerning any such enclosure or encroachment which shall have been made more than 12 years before the passing of this Act.

(2) The Conservators may pay all expenses incurred by them under this section out of any moneys in their hands.

(3) Except as expressly provided in this and the preceding section of this Act nothing in this Act and no byelaw or power of the Conservators under this Act shall apply to or affect any lands tenements or hereditaments of the Honourable Emily Foley commonly called the Lady Emily Foley or of her successors in title in the manor or parish of Great Malvern aforesaid or any estate interest or property within the said manor or parish of the said Lady Emily Foley or of her successors in title or of her or their lessees tenants or grantees or of any person or persons claiming through or under her or them respectively.

(4) The said Lady Emily Foley or her successors in title may at any time consent that any of her or their lands tenements or hereditaments in the manor or parish of Great Malvern shall either in perpetuity or for a limited time become subject to the other provisions of this Act and of any byelaws of the Conservators under this Act.

21. Whereas Stephen Ballard of Colwall in the county of Hereford has enclosed a piece of land in the parish of Colwall numbered 959 and 960 both on the tithe commutation map of the said parish and on the deposited map through which is made a new footpath marked on the deposited map by the letters E F and it is proposed that a new carriage drive shall be made from the Wyche along the whole line of the said footpath as marked on the deposited map:

Provisions
with refer-
ence to
Stephen
Ballard's
enclosure.

And whereas it is desirable that in consideration of the title of the said Stephen Ballard to the land so enclosed not being disputed provision should be made as herein-after set forth: Therefore the said Stephen Ballard his heirs or assigns shall if required at the expiration of five years from the passing of this Act remove that portion of the fence of the said enclosed piece of land which is on the east side of the aforesaid footpath and shall leave open and unenclosed and allow the public to use for pleasure and recreation that portion of the said enclosed piece of land which lies on the

A.D. 1884. — east side of the said footpath retaining (subject to such use) the management of the same: Provided that one month's notice in writing under their common seal shall be given by the Conservators to the said Stephen Ballard his heirs or assigns if the removal of such fence be required by them. The said Stephen Ballard his heirs or assigns shall if requested by the Conservators at his or their own cost make those portions of the proposed new carriage drive which pass through the said enclosed piece of land and the cottage garden of the said Stephen Ballard (which is also marked on the deposited map) and shall give without charge the land necessary for those portions of the said proposed carriage drive: Provided that the said Stephen Ballard shall not be called upon to commence the portions of the said drive to be made by him until the Conservators are prepared to construct the remainder thereof.

No trees buildings or erections which shall obstruct or interfere with the view of the distant country from the said carriage drive shall at any time after notice in writing has been given as aforesaid be placed or maintained upon any part of the said enclosed piece of land lying to the west of the said footpath nor shall any fence of any greater height than four feet be placed or permitted on the west side of the said carriage drive. And if any such tree building or erection be placed or permitted on that part of the said enclosure lying on the west side of the said footpath or if any fence of a greater height than four feet be erected or permitted on the west side of the said drive it shall be lawful for the Conservators to enter upon the said land and remove the same.

In case the said Stephen Ballard make at the request of the Conservators the portions of the said carriage drive through the said enclosed piece of land and garden and the Conservators neglect or fail to make and complete the remainder of the carriage drive within five years from the date of such request then the Conservators shall pay to the said Stephen Ballard the amount that he may have expended on his portions of the said carriage drive.

The Conservators shall not dispute the title of the said Stephen Ballard to the said piece of land so enclosed by him.

Provision as
to lands of
Lady Henry
Somerset.

22. The pieces of land in the parish of Ledbury in the county of Hereford which are numbered on the tithe commutation map of that parish and on the deposited map 310 312 and 313 to the receipt of the rents and profits of which the Honourable Isabella Caroline Somerset commonly called Lady Henry Somerset is or is reputed to be beneficially entitled at the passing of this Act and which lands also form part of what is commonly known as the range of Malvern Hills shall so long as Lady Henry Somerset shall be beneficially

entitled to the receipt of the rents and profits thereof be deemed to form part of the lands subject to this Act in the same manner and to the same extent as if the same were coloured light green on the deposited map and described in the **First Schedule** to this Act provided that nothing in this Act contained shall (unless by virtue of an agreement under the subsequent provisions of this Act or otherwise) in any way affect any right title estate or interest to in over or affecting the said pieces of land or any part thereof other than the estate of the Lady Henry Somerset therein. A.D. 1884.

And provided that nothing in this Act contained shall prejudice or affect any right of the said Lady Henry Somerset to open or work any quarries gravel pits or other mines or minerals in under or upon the said lands or any part thereof or to make and do all things needful for such working or to cut and carry away any timber or other trees pollards or saplings growing thereupon or to exercise any rights of sporting or pasture on or over the same. All which rights may notwithstanding this Act be exercised and enjoyed by the said Lady Henry Somerset in all respects as they might have been if this Act had not been passed.

23. And whereas parts of the land described in the **Third Schedule** to this Act which are under the provisions of this Act to remain open for the use and recreation of the public are or are reputed to belong to Benjamin Bright and it is reasonable that in consideration of his not objecting to the said provisions of this Act in relation to the said lands other provisions should be made as herein-after set forth: Be it therefore enacted that the Conservators shall not dispute the title of the said Benjamin Bright to enclose the following parts of the said lands viz.:— For protection of Benjamin Bright.

(a) So much of the lands in the parish of Hanley Castle in the county of Worcester numbered in the said schedule 215 and 216 within the distance of 200 feet from the high road bounding the said lands on the east as is shown on the deposited map situate between the said road and the dotted red line.

(b) So much of the land in the parish of Colwall in the county of Hereford numbered in the said schedule 962 within the distance of 150 feet from the high road between the Wyche and the Wind's Point bounding the said land on the west as is shown on the deposited map situate between the said road and the dotted red line.

24. The Consolidated Bank Annuities and other moneys mentioned or referred to in the **Fourth Schedule** to this Act together with all other sums of stock or money (if any) held by the persons therein mentioned or any one or more of them in trust for the person or persons entitled to rights of common over any Certain funds transferred to Conservators.

A.D. 1884. — lands situate within the ambit of Malvern Chase shall on the requisition of the Conservators in writing be transferred and paid to them as soon as conveniently may be after the passing of this Act and shall be applied by them as moneys in their hands. And this Act and such requisition shall be a sufficient authority and discharge for such transfer and payment both to the banks and the persons in the said Fourth Schedule mentioned and shall release and discharge the said persons from any trusts to which the said sums or any of them were subject at the passing of this Act and from any future liability in respect thereof.

As to
opening of
new quarries.

25. Before any new quarry is opened on any part of the lands subject to this Act notice in writing thereof and a plan showing the intended position of such new quarry shall be served upon the Conservators and every such new quarry shall be so placed as to cause as little injury and disfigurement to the hills as reasonably practicable and shall be fenced for the protection of the public to the reasonable satisfaction of the Conservators. But the provisions of this section shall not apply to any lands belonging at the passing of this Act to John Vincent Hornyold and Thomas Charles Gandolfi Hornyold.

Saving
rights of
lords of
Manor.

26. Nothing in this Act shall prejudice or affect any rights of any lord of any manor on or over any of the lands subject to this Act other than the lands defined in the **Third Schedule** to this Act except that any such lord of the manor on the one hand and the Conservators on the other hand may from time to time with the approval of the Land Commissioners enter into and carry into effect any agreement for making lands subject to the provisions or any of the provisions of this Act.

Saving
rights of
commoners.

27. Nothing in this Act shall be deemed or construed to take away prejudice or affect any right of common or commonable or other right which may at the date of the passing of this Act be exercisable by any person or persons over or in respect of the lands subject to this Act or any other open or waste land within the ancient limits of the said forest or chase of Malvern.

Limiting
power of
Conser-
vators as to
remedying
encroach-
ments.

28. Nothing in this Act shall enable the Conservators to take any proceedings for preventing remedying or abating any enclosure or encroachment which shall have been made at any time more than twelve years before the passing of this Act but the Conservators may if they think fit enter into and carry into effect any agreement with any person or persons who may have made any enclosure or encroachment upon any of the lands subject to this Act for enabling any such person or persons to remain in possession of the whole or any of the lands so enclosed or encroached upon subject to such

terms and conditions as may be agreed between the Conservators and such person or persons. A.D. 1884.

29. For the purpose of preserving unenclosed and free from building any lands within nine miles of Great Malvern Abbey (in addition to those coloured on the deposited map) which the Conservators may regard as proper to be so preserved as part of or in connexion with the range of Malvern Hills or for the purpose of maintaining any common or commonable rights which may subsist over or affecting such lands or any of them the Conservators may either:

Power to
acquire
other lands.

- (a) Acquire by purchase or grant (whether absolutely or subject to conditions) any of such lands subject to all common or commonable rights (if any) subsisting over or affecting the same or any estate or interest therein with or without the minerals thereunder and the timber thereon or any rights privileges or easements over the same;
- (b) Enter into an agreement or agreements with any person or persons for making any of such lands subject to this Act or to any of the provisions thereof.

The Conservators by order under their seal may at any time and from time to time if they shall think fit declare that any person who shall have made any voluntary grant of such lands which shall have been accepted by the Conservators shall thereafter have for him and his heirs or successors in title to the estate of which such lands shall previously have formed part or for his life or for any term of years the right of appointing a person to be a conservator for the purpose of this Act but so that the Conservators appointed by meetings under this Act shall always form at least two-thirds of the total number of Conservators for the time being and for enabling any such order as aforesaid to be made having regard to the proviso lastly herein contained the Conservators may if they think fit at any time and from time to time by order under their common seal vary either permanently or for any period that they shall think fit the number of Conservators to be appointed by any vestries or vestry under this Act. Provided that no such order shall have any force or effect until it shall have been approved by the Land Commissioners under their common seal after such previous notice by advertisement or otherwise as they may prescribe for securing due publicity and after receiving any objections made in writing thereto.

30. Any sale or grant of lands and any agreement for subjecting lands to the provisions of this Act may be made by any corporation aggregate or sole or by any person or persons for the time being seised in fee tail or for life of and in or equitably entitled in

As to
agreement
by persons
under disa-
bility.

A.D. 1884. — possession for life or for any greater interest to such lands or by the guardians or committee of any infant or lunatic seised or entitled as aforesaid on behalf of such infant or lunatic and where any such person shall be a married woman or the husband of a married woman in her right such sale grant or agreement may be made by such married woman and her husband without any deed or acknowledgment being required and every sale grant or agreement given or made as aforesaid shall be binding upon the person or persons making the same and upon such infant or lunatic and upon all persons claiming any estate or interest in reversion or remainder expectant upon the estate or interest of such person or persons infant or lunatic or through under or in trust for such person or persons infant or lunatic: Provided always that no such sale grant or agreement made by or on behalf of any person seised or entitled only for life of and in any manor lands or hereditaments shall have effect as aforesaid unless the person or persons for the time being next entitled in remainder to the beneficial enjoyment of the same manor lands or hereditaments on the determination of such life estate or interest if there be any such person in existence and legally competent shall agree thereto.

Provision
for adding
other com-
mon or
waste lands.

31. Any common or waste lands within the said distance of nine miles from Great Malvern Abbey may be at any time and from time to time made subject to all or any of the provisions of this Act by agreement between the Conservators and the lord of the manor of which such lands form part: Provided that no such agreement shall be of force until allowed by the Land Commissioners under their seal, and upon allowing any such agreement it shall be lawful for the Land Commissioners if they shall think fit by order under their seal to vary the number of Conservators under this Act and the mode of their election and to provide for making the poor rate of any other parishes lands wherein shall become subject to this Act liable to contribute to the expenses of carrying out this Act in such manner and to such extent as the Land Commissioners shall think fit: Provided that the vestry of any parish subject to such liability shall be entitled to appoint or share in the appointment of one or more Conservators in such manner as the Land Commissioners shall determine.

Notice of
extending
powers of
Conser-
vators.

Act not to
limit existing
public rights.

32. Any order or agreement approved or allowed by the Land Commissioners under this Act shall be published in such manner as the Land Commissioners shall direct.

33. Except as expressly provided by this Act or by any byelaw made under the powers thereof nothing in this Act shall be deemed or construed to restrict any liberty or privilege which the public have hitherto exercised or enjoyed over or upon the lands subject to

this Act or any of them or to interfere with any public or common rights in or upon any open or waste land within the ancient limits of the forest or chase of Malvern. A.D. 1884. —

34. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities reserved by certain Letters Patent of the 12th day of May in the 7th year of the reign of His late Majesty King Charles the First belonging to or exerciseable on behalf of Her Majesty Her heirs or successors. Saving rights of Crown.

35. With respect to any lands hereafter added to the lands described in the **First Schedule** hereto this Act shall take effect as from the time of such lands being so added respectively. Extension of land subject to this Act.

36. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the Conservators out of any moneys in their hands. Costs of Act.

A.D. 1884.

THE FIRST SCHEDULE.

DESCRIPTION OF THE LANDS SUBJECT TO THIS ACT.

- (1) Lands in the parish of Great Malvern in the county of Worcester numbered on the tithe commutation map of that parish as follows:—Part of 1 viz. so much as lies to the east of a piece of land numbered 1,692 on the tithe commutation map for the parish of Cradley 2 3 4 279 1,096 and 1,097.
- (2) Lands in the parish of Mathon in the county of Worcester numbered on the tithe commutation map of that parish 886 946 956 957 958 959 960.
- (3) Lands in the parish of Hanley Castle in the county of Worcester numbered on the enclosure map of that parish 215 and 216.
- (4) Lands in the parish of Cradley in the county of Hereford numbered on the tithe commutation map of that parish 1,691 and 1,692.
- (5) Lands in the parish of Colwall in the county of Hereford numbered on the tithe commutation map of that parish 953 954 955 956 957 958 959 960 961 962 963 964 and 965.

THE SECOND SCHEDULE.

Exceptions :

Sections 12 to 35 inclusive, 54, 96, 97, 98 and 104.

Alterations :

In section 36 the day for the first meeting of the Conservators shall be the 1st of December next after the passing of this Act, and the place and hour shall be appointed by any three of the first Conservators by writing under their hands.

In section 40 the annual meeting of the Conservators shall be held on a day to be from time to time appointed by byelaw of the Conservators; and it shall not be necessary for them to hold monthly meetings, but they shall hold a meeting at least once in every three months.

"53" added
before "54"
s.27(1), Sch 2
Pt.1 MH Act
1995

THE THIRD SCHEDULE.

FIRST PART.

Lands in the parish of Great Malvern, in the county of Worcester, numbered on the tithe commutation map of that parish as follows:—Part of 1 (viz., so much as lies to the east of a piece of land numbered 1,692 on the tithe commutation map for the parish of Cradley) 2, 3, and part of 279, viz., so much as adjoins towards the west a piece of land numbered 959 on the tithe commutation map for the parish of Mathon, and is bounded on the north-east and south by other parts of the said piece of land numbered 279.

Lands in the parish of Mathon, in the county of Worcester, numbered on the tithe commutation map of that parish 886, 946, 956, 957, 958, 959, and 960. A.D. 1884.

Lands in the parish of Cradley, in the county of Hereford, numbered on the tithe commutation map of that parish 1,692.

Lands in the parish of Colwall, in the county of Hereford, numbered on the tithe commutation map of that parish as follows: 955, 956, 957, 958, 961, 962, 963, and 964.

Lands in the parish of Hanley Castle, in the county of Worcester, numbered 215 and 216 on the enclosure map of that parish.

SECOND PART.

(Lands not to be quarried.)

The part of the lands numbered 279 on the tithe commutation map of the parish of Great Malvern, which is described in the first part of this schedule.

Part of the above-mentioned land numbered 3 on the tithe commutation map of the parish of Great Malvern, on the south-eastern side thereof, and part of the above-mentioned land numbered 959 on the tithe commutation map of the parish of Mathon, on the eastern side thereof, which parts are distinguished on the deposited map by the colour brown.

THE FOURTH SCHEDULE.

SCHEDULE OF STOCK AND FUNDS TRANSFERRED TO THE CONSERVATORS.

1. 1,165*l.* 3*s.* Three per cent. Consolidated Bank Annuities standing in the books of the Bank of England to the account of William Corner West physician John Archer gentleman John Bullock gentleman and George Hicks gentleman all of Malvern Worcestershire.
2. The sum of 310*l.* 7*s.* 7*d.* cash arising from the dividends of the above-mentioned sum of Consolidated Bank Annuities now standing at the Worcestershire Old Bank at Malvern to the credit of the said William Corner West and John Bullock.
3. A sum of 431*l.* 2*s.* cash standing on deposit account at the Worcestershire Old Bank at Malvern to the credit of Stephen Ballard, Henry Lakin and George McCann.
4. A sum of 9*l.* 18*s.* at the Worcester Old Bank at Malvern standing on deposit account in the names of Edward Archer, John Severn Burrow, John Bullock senior, John Miles Evans and Thomas Edward Lucy.
5. All dividends or interest due or accruing due on the said sums or any of them up to the time of transfer or payment.



CHAPTER xxxvii.

An Act for conferring further powers upon the Malvern Hills Conservators and for other purposes. A.D. 1909.

[16th August 1909.]

WHEREAS under a decree of the Court of Exchequer in the 7th year of the reign of King Charles I. (as reviewed and explained by a decree of the same Court in the 8th year of the same reign) confirmed by an Act passed in the 16th year of the reign of King Charles II. intituled "An Act for Confirmation of the Inclosure and Improvement of Malvern Chase" the waste or commonable lands constituting the Forest or Chase of Malvern were divided and one-third part thereof was appropriated to be enclosed and held by the King in severalty and the other two-third parts were ordered to remain and continue unto and amongst the commoners and to be held by them in common according to their several rights and interests free from the King's rights of forest and such two-third parts were to be for ever left free for the freeholders and tenants and commoners to take their common of pasture and common of estovers therein as theretofore they had been accustomed and no mean lords of fees or manors or other freeholders or owners whatsoever or the King's Majesty His heirs successors or assigns or any person or persons claiming from by or under them or any of them were to enclose any part of such two-third parts or to fell any of the woods or trees growing or to be growing thereon whereby the commoners might be hindered of their estovers :

And whereas by the Malvern Hills Act 1884 (in this Act referred to as " the Act of 1884 ") the Malvern Hills Conservators (herein-after referred to as " the Conservators ") were incorporated for the purposes and with the constitution in that Act described

A.D. 1909. and were invested with certain powers of protection control and management with regard to the lands in that Act specified and provision was made for restricting the user and enjoyment of the said lands to the extent in the said Act appearing :

And whereas by the Act of 1884 the Conservators were authorised to raise any moneys required for meeting their expenses by precept to be served on the overseer of each of the parishes of Colwall Mathon and Great Malvern and the said overseers were directed to pay the amounts specified in the said precepts out of the poor rate of the said respective parishes Provided always that the sum required by any such precept in any one year should not exceed the amount which would be produced by a rate of one halfpenny in the pound :

And whereas since the passing of the Act of 1884 the then parish of Great Malvern has been divided into two parishes named respectively Great Malvern and Guarlford and the then parish of Mathon has been divided into two parishes named respectively Mathon and West Malvern :

And whereas the existing financial resources of the Conservators are or may be insufficient to provide for the carrying into effect of the purposes of this Act and it is expedient that the Conservators should be empowered to raise further moneys for meeting their expenditure :

And whereas it is expedient that the Conservators should be empowered to borrow money as in this Act provided :

And whereas it is expedient that the county councils of Worcestershire and Herefordshire should be empowered to contribute to the said funds :

And whereas it is expedient that the constitution of the Conservators should be altered as in this Act provided :

And whereas it is expedient that the Act of 1884 should be in part amended and repealed as in this Act provided :

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 :—

1. This Act may be cited as the Malvern Hills Act 1909 and A.D. 1909, this Act and the Malvern Hills Act 1884 may be cited together Short titles, as the Malvern Hills Acts 1884 and 1909.

2. In this Act unless the subject or context otherwise Interpretation, requires—

The expression "the Act of 1884" means the Malvern Hills Act 1884;

The expression "the Conservators" means the Malvern Hills Conservators incorporated by the Act of 1884;

The expression "the Board" means the Board of Agriculture and Fisheries;

The expression "the lands subject to the Act of 1884" has the same meaning as that given by the Act of 1884 to the expression in that Act "the lands subject to this Act."

3.—(1) ~~As from the 1st day of November 1909 section 5 (Appointment of Conservators) of the Act of 1884 shall be amended by striking out the words "Five by the vestry of the parish of Great Malvern" "Two by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district or ecclesiastical parish of West Malvern" "One by the vestry of that part of the parish of Mathon which forms the ecclesiastical parish or district of West Malvern" and "Two by the vestry of the parish of Colwall" and by inserting immediately after the words "The Conservators shall be appointed as herein-after expressed" the following words (that is to say):—~~ Amending provisions of Act of 1884 as to appointment of Conservators.

Section 3 repealed by s. 6 MH Act 1924

~~"Five by the parochial electors of the parish of Great Malvern:~~

~~"One by the parochial electors of the parish of Guarlford:~~

~~"Two by the parochial electors of the parish of Mathon:~~

~~"One by the parochial electors of the parish of West Malvern:~~

~~"Two by the parochial electors of the parish of Colwall:~~

~~"One by the parochial electors of the parish of Malvern Link:~~

~~"One by the parochial electors of the parish of Malvern Wells."~~

(2) ~~As from the 1st day of November 1909 the said section 5 of the Act of 1884 shall be further amended by inserting the words "parochial electors" in place of the word "vestry."~~

A D. 1909.

~~(3) As from the 1st day of November 1909 all the words in section 7 (Election of Conservators) of the Act of 1884 shall be repealed and the following provisions shall apply (that is to say):—~~

~~The Conservators to be appointed by the parochial electors of the parishes of Great Malvern West Malvern Malvern Link and Malvern Wells respectively shall be elected in the same manner as urban district councillors are for the time being elected and the Conservators to be appointed by the parochial electors of the parishes of Guarlford Mathon and Colwall respectively shall be elected in the same manner as rural district councillors are for the time being elected and subject to the provisions of the Act of 1884 and this Act the statutory provisions and rules for the time being in force and governing the elections of urban district councillors and rural district councillors respectively shall so far as applicable apply mutatis mutandis to the election of such Conservators as aforesaid.~~

~~Provided that—~~

~~(A) The day of election shall be the 1st day of November and the times for the several proceedings in connexion with any such election of Conservators shall bear the same relation to the day of election as in the case of the corresponding proceedings in connexion with first elections of urban district councillors or rural district councillors as the case may be;~~

~~(B) The clerk of the Conservators shall be the returning officer for every such election;~~

~~(C) Any sum which may be payable to the returning officer in respect of his services in the conduct of the election or in respect of expenses incurred in relation to the election shall be defrayed by the Conservators out of their funds.~~

~~(4) The first election of Conservators by the parochial electors of the said several parishes in pursuance of this section shall be held on the 1st day of November 1909 and on that day all the Conservators appointed by vestries under the Act of 1884 and then in office shall go out of office.~~

Amending
section 19 of
Act of 1884.

4. Section 19 (Contributions from parishes) of the Act of 1884 is hereby amended by the substitution of the words "Great

" Malvern Malvern Link Malvern Wells West Malvern and Guarlford in the county of Worcester and Colwall and Mathon in the county of Hereford " in the place of the words " Colwall Mathon and Great Malvern " and by the substitution of the words " one penny " in place of the words " one halfpenny " in that section.

A.D. 1909.

5. The Conservators shall maintain and repair the road known as the Jubilee Drive so far as the same passes along or by the lands subject to the Act of 1884 and also the hill paths over such lands and may pay all expenses incurred in connexion therewith out of their funds.

Maintenance of Jubilee Drive.

6. The Conservators may purchase or acquire and plant trees and shrubs upon any part of the lands subject to the Act of 1884 and may fence or protect the same and from time to time remove or transplant any of such trees or shrubs. Such trees and shrubs if planted elsewhere than upon any part of the lands described in the **Third Schedule to the Act of 1884** shall be deemed to be subject to estovers as regulated by the Conservators but shall not be liable to be cut down until they reach eighteen feet in girth according to the ancient rules of the Forest or Chase of Malvern.

Power to plant trees and shrubs.

7.—(1) The Conservators may provide construct fix and maintain seats and shelters upon any part of the lands subject to the Act of 1884 and may apply any of their funds for that purpose.

Power to provide seats and shelters and regulate use thereof.

(2) The Conservators may make byelaws for regulating the use of any seats and shelters for the time being provided by them or under their control or management and for preventing injury thereto.

8. Except as provided by the section of this Act of which the marginal note is " Amending section 19 of Act of 1884 " nothing in this Act and no byelaw or power of the Conservators under this Act shall apply to or affect any lands tenements or hereditaments of Sir Henry Foley Grey Baronet or of his successors in title in the manor or parish of Great Malvern or any estate interest or property within the said manor or parish of the said Sir Henry Foley Grey or of his successors in title or of his or their lessees tenants or grantees or of any person or persons claiming through or under him or them respectively.

For protection of Sir Henry Foley Grey Bart.

9. The county council of Worcestershire and the county council of Herefordshire or either of them may contribute to the funds of the Conservators such sums as they may respectively fix by resolution and the said county councils respectively shall pay

Contributions by county councils of Worcester

A.D. 1909.
and Here-
ford to funds
of Conser-
vators.

the amounts of such contributions out of their respective county funds and each of such county councils may in its discretion either treat the whole amount of any such contribution as general county expenses or treat the whole or any part thereof as special county expenses to be levied upon such parish or parishes in the county as the county council may think fit:

Provided always that no rate shall be raised for the purposes of this section within the urban district of Malvern save with the consent of a resolution of the urban district council of Malvern or within the parishes of Guarlford Mathon or Colwall save with the consent of a resolution of the respective parish councils of those parishes.

Power to
agree with
Worcester
County
Council or
Hereford
County
Council for
appointment
of a Conser-
vator.

10. The Conservators on the one hand and the county council of Worcestershire or the county council of Herefordshire on the other hand may at any time enter into and carry into effect an agreement providing for the appointment of an additional Conservator by the county council party to such agreement upon and subject to such terms and conditions as may by any such agreement be prescribed.

Power to
borrow
amount of
compensa-
tion and
costs under
this Act.

11.—(1) The Conservators may from time to time with the consent of the Board and upon and subject to such terms and conditions and for such period as the Board may sanction or direct and upon the security of the contributions authorised to be raised by precept from certain parishes and upon the security of any property belonging to the Conservators borrow any sum or sums of money that may be required by the Conservators for the purposes of this Act and the Act of 1884.

(2) The Conservators may mortgage or assign over to the persons by or on behalf of whom such sums are advanced the said contributions and property or any part thereof and the sections of the Commissioners Clauses Act 1847 with respect to mortgages to be created by the Commissioners shall form part of and be incorporated with this Act and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver.

Investment
of surplus
funds.

12. Any moneys from time to time in the hands of the Conservators and not immediately required for the purposes for which the same are applicable may be invested by the Conservators in any securities in which trustees are for the time being empowered by Act of Parliament to invest trust moneys and the

Conservators shall be at liberty from time to time to transpose any such investments. A.D. 1909.

S. 13 repealed by s.
27(4), Sch. 3 MHA
Act 1995

~~13. (1) From and after the passing of this Act section 18 (Byelaws and proceedings) of the Act of 1884 shall be read and construed as if the Secretary of State for the Home Department were therein referred to instead of "the First Commissioner of Her Majesty's Works and Public Buildings."~~

General provisions as to byelaws.

~~(2) Provided that nothing in this subsection shall invalidate any byelaws already made and in force at the passing of this Act~~

~~(3) Section 14 of the Act of 1884 is hereby repealed.~~

14. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities reserved by certain letters patent of the 12th day of May in the 7th year of the reign of His late Majesty King Charles the First belonging to or exerciseable on behalf of His Majesty His heirs or successors.

Saving rights of Crown.

15. All expenses (including interest and repayments of principal in respect of borrowed moneys) incurred by the Conservators in carrying into execution the purposes and provisions of this Act (other than expenses for the payment of which money is borrowed by the Conservators under the powers of this Act) may be paid by the Conservators out of any moneys for the time being in their hands and not exclusively applicable to any other purposes in pursuance of the provisions of this Act or the Act of 1884.

Expenses of execution of Act.

16. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the Conservators out of any moneys for the time being in their hands and not exclusively applicable to any other purposes in pursuance of the provisions of this Act or the Act of 1884.

Costs of Act.

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CHAPTER xxxvi.

An Act for conferring further powers upon the Malvern Hills Conservators and for other purposes. A.D. 1924
[14th July 1924.]

WHEREAS under a decree of the Court of Exchequer in the seventh year of the reign of King Charles I. (as reviewed and explained by a decree of the same Court in the eighth year of the same reign) confirmed by an Act passed in the sixteenth year of the reign of King Charles II. intituled "An Act for Confirmation of the Inclosure and Improvement of "Malvern Chase" the waste or commonable lands constituting the forest or chase of Malvern were divided and one-third part thereof was appropriated to be enclosed and held by the King in severalty and the other two-third parts were ordered to remain and continue unto and amongst the commoners and to be held by them in common according to their several rights and interests free from the King's rights of forest and such two-third parts were to be for ever left free for the freeholders and tenants and commoners to take their common of pasture and common of estovers therein as theretofore they had been accustomed and no mesne lords of fees or manors or other freeholders or owners whatsoever or the King's Majesty His heirs successors or assigns or any person or persons claiming from by or under them or any of them were to enclose any part of such two-third parts or to fell any of the

A.D. 1924. — woods or trees growing or to be growing thereon whereby the commoners might be hindered of their estovers :

And whereas prior to the year one thousand eight hundred and eighty-four numerous enclosures and encroachments had at various times been made upon portions of the said waste or commonable land formerly within the said forest and not forming part of the King's third and by the Malvern Hills Act 1884 provision was made for the prevention of encroachments and enclosures upon and of injury to the said tracts of land and also for the management of the same :

And whereas by the Act of 1884 the Malvern Hills Conservators (herein referred to as " the existing Conservators ") were incorporated and were invested with certain powers of protection control and management with regard to the lands in that Act specified and provision was made for restricting the user and enjoyment of the said lands :

And whereas by the Act of 1884 the existing Conservators were authorised to raise any moneys required for meeting their expenses by precept to be served on the overseer of each of the parishes of Colwall Mathon and Great Malvern and the said overseers were directed to pay the amounts specified in the said precepts out of the poor rate of the said respective parishes Provided always that the sum required by any such precept in any one year should not exceed the amount which would be produced by a rate of one halfpenny in the pound which amount was by the Act of 1909 increased to one penny in the pound :

And whereas the urban district of Malvern consists of the parishes of Great Malvern Malvern Link Malvern Wells and West Malvern and is divided into six wards :

And whereas by the Act of 1909 the constitution of the existing Conservators was altered and the county councils of Worcestershire and Herefordshire were authorised to contribute to the funds of the Conservators :

And whereas the lands under the jurisdiction of the existing Conservators and commonly known as the Malvern Hills have become widely known and admired for their natural beauties and have formed a centre of attraction to the inhabitants of the counties of Worcester and Hereford and to visitors coming from all parts of

the country for purposes of health recreation and enjoyment and the prosperity and development of the district depend upon the preservation of the amenities of the Malvern Hills: A.D. 1924.

And whereas in recent years the amenities of the Malvern Hills have been seriously interfered with by quarrying operations and by the erection of buildings sheds machinery and plant and those operations are being extended in such manner as to threaten to destroy the value of the Malvern Hills as objects of public interest as well as to impede the user and enjoyment thereof for purposes of public recreation and wholly to alter the state of the hills as they existed in the year one thousand eight hundred and eighty-four:

And whereas the powers of the existing Conservators are insufficient to preserve the Malvern Hills from such quarrying operations and to prevent the erection of such buildings sheds machinery and plant as aforesaid and it is desirable that further provision should be made for the acquisition by the existing Conservators of the manorial and other rights over the Malvern Hills and of other property or interests in the Malvern Hills or any part thereof and that further powers of protecting controlling and dealing with the Malvern Hills should be conferred upon the existing Conservators as in this Act provided:

And whereas it is expedient that the area of jurisdiction of the existing Conservators should be enlarged and their constitution altered as in this Act provided:

And whereas the financial resources of the existing Conservators are insufficient to provide for the carrying into effect of the purposes of this Act and it is expedient that the existing Conservators should be empowered to raise further moneys for meeting their expenditure:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

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

And whereas plans and books of reference to the plans containing the names of the owners or reputed owners and lessees or reputed lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerks of the peace for the counties of

A.D. 1924. — Worcester and Hereford respectively which plans and books of reference are in this Act referred to as the deposited plans and book of reference :

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 :—

Short and
collective
titles.

1. This Act may be cited as the Malvern Hills Act 1924 and this Act and the Malvern Hills Act 1884 and the Malvern Hills Act 1909 may be cited together as the Malvern Hills Acts 1884 to 1924.

Interpreta-
tion.

2. In this Act unless the subject or context otherwise requires :—

“ The Act of 1884 ” means the Malvern Hills Act 1884 and “ the Act of 1909 ” means the Malvern Hills Act 1909;

“ The Board of Conservators ” and “ the Conservators ” mean the Malvern Hills Conservators re-incorporated by this Act;

“ The existing Conservators ” means the existing Malvern Hills Conservators;

“ The Minister ” and “ the Ministry ” mean respectively the Minister and the Ministry of Agriculture and Fisheries;

“ Constituent authority ” means the respective authority entitled under this Act to nominate or appoint a conservator or conservators;

“ Contributory authority ” means any authority body or person authorised or required by this Act to contribute to the funds of the Conservators;

“ The county councils ” means the councils of the administrative counties of Hereford and Worcester respectively;

“ The Malvern Council ” means the urban district council of Malvern;

“ Revenues of the Conservators ” includes the revenues of the Conservators from time to time arising from the Malvern Hills or from any land or other property for the time being belonging to the Conservators and the money

receivable or received by them from the constituent authorities and the contributory authorities. A.D. 1924.
—

3. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act namely:— Incorporation of Acts.

(1) The Lands Clauses Acts with the following exception and modification:—

(a) Section 127 of the Lands Clauses Consolidation Act 1845 (relating to the sale of superfluous lands) is not incorporated with this Act;

(b) The bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the seal of the Conservators and shall be sufficient without the addition of the sureties mentioned in that section:

(2) The provisions of the Commissioners Clauses Act 1847—

With respect to the contracts to be entered into and the deeds to be executed by the Commissioners (except section 57);

With respect to the liabilities of the Commissioners and legal proceedings by or against the Commissioners;

With respect to mortgages to be executed by the Commissioners (except section 84):

And for the purposes of those Acts this Act shall be the special Act and the acquisition by the Conservators of lands properties and rights in the Malvern Hills shall be the undertaking and the Conservators shall be the promoters of the undertaking or the Commissioners respectively.

4. Subject to the provisions of this Act the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919 shall extend and apply with reference to the acquisition of lands and any interests in lands by the Conservators under the powers of this Act as if the Conservators were a local or public authority within the meaning of that Act and reference in this Act to the Lands Clauses Acts shall be construed as references to those Acts as amended by the said Act of 1919. Application of Acquisition of Land (Assessment of Compensation) Act 1919.

A.D. 1924.

—
Malvern
Hills
defined.

5. The area within the jurisdiction of the Conservators for the purposes of this Act and the Acts of 1884 and 1909 shall comprise the lands rights and interests described in the first second and third schedules to this Act together with all lands common or waste over which the Conservators now have or may hereafter acquire rights and interests all of which are in this Act referred to as "the Malvern Hills."

Repeal.

6. Section 5 (Appointment of Conservators) section 6 (Duration of office) section 7 (Election of Conservators) and section 8 (Conservators to be appointed within three months) of the Act of 1884 and section 3 (Amending provisions of Act of 1884 as to appointment of Conservators) of the Act of 1909 are hereby repealed as from the first day of October one thousand nine hundred and twenty-four.

Constitu-
tion of
Board of
Conser-
vators.

7.—(1) Notwithstanding the repeal of sections 5 6 7 and 8 of the Act of 1884 and section 3 of the Act of 1909 the existing Conservators as re-constituted by this Act and their successors shall continue to be a body corporate by the name of "the Malvern Hills Conservators" with a common seal having power to hold and manage lands.

(2) On and after the first day of October one thousand nine hundred and twenty-four the Malvern Hills Conservators who were incorporated by section 5 of the Act of 1884 for the purpose of carrying that Act into effect and upon whom the powers of that Act and the Act of 1909 have been conferred shall consist of the following persons namely:—

Deleted words replaced by
Two persons to be nominated by the
council of the County of
Worcestershire;
Two persons to be nominated by the
council of the district of
Herefordshire;
Eight persons to be nominated from
and by the council of the district of
Malvern Hills;

S.I. 1996/187 art. 18

~~Two persons to be nominated by the county council
of Hereford;~~

~~Two persons to be nominated by the county council
of Worcester;~~

~~Seven persons to be nominated from and by the
urban district council of Malvern;~~

~~One person to be nominated by the rural district
council of Upton-on-Severn;~~

One person to be nominated by the parish council of
Colwall;

One person to be nominated by the parish council of
Mathon Rural;

"Six" replaced by "Seven"
S.I. 1958/1986 art. 3

~~Six~~ persons to be elected by the local government
electors for the urban district of Malvern (one

person by each of the six wards of the said district); A.D. 1924.

Two persons to be elected by the local government electors for the parish of Colwall;

One person to be elected by the local government electors for the parish of Mathon;

One person to be elected by the local government electors for the parish of Guarlford; and

One person to be nominated by the Ecclesiastical Commissioners for England for the time being or their successors in title.

(3) The Conservators shall hold office for a period of three years* and at the end of each period of three years shall retire but shall be eligible for re-nomination or re-election provided that the Conservators nominated in the month of September one thousand nine hundred and twenty-four and elected on the first day of October one thousand nine hundred and twenty-four shall respectively remain in office until the first day of November one thousand nine hundred and twenty-seven.

(4) The existing Conservators in office at the passing of this Act shall cease to hold office on the first day of October one thousand nine hundred and twenty-four but shall be eligible for re-nomination or re-election as Conservators.

After first "three years", the following was added by s. 27(2), Sch 2 Pt. II of MH Act 1995:

"or such other term, not exceeding four years, as the board of conservators may by resolution determine"

After second "three years", the following was added by s. 27(2), Sch 2 Pt. II of MH Act 1995:

"or such other period as determined by the board of conservators"

8. Each constituent authority nominating one or more members of the Board of Conservators shall at a meeting of their body to be held in the month of September one thousand nine hundred and twenty-four nominate the number of Conservators whom they are by this Act authorised to nominate to hold office from the first day of October one thousand nine hundred and twenty-four to the first day of November one thousand nine hundred and twenty-seven and shall in the month of October one thousand nine hundred and twenty-seven similarly nominate such number of Conservators as aforesaid to hold office for three years and so on from time to time at the expiration of every successive period of three years.

Nomination
of Conser-
vators.

9. The Conservators to be elected by the local government electors of the urban district of Malvern shall be elected in the same manner as urban district

Election
of Conser-
vators.

A.D. 1924. — councillors are for the time being elected and the Conservators to be elected by the local government electors of the parishes of Colwall Mathon and Guarlford shall be elected in the same manner as rural district councillors are for the time being elected and subject to the provisions of this Act the statutory provisions and rules for the time being in force and governing the elections of urban district councillors and rural district councillors respectively shall so far as applicable apply mutatis mutandis to the election of such Conservators as aforesaid:

with necessary
changes

Provided that—

- (a) The day of election shall be the first day of October for the first election and the first day of November for subsequent elections and the times for the several proceedings in connection with any such election of Conservators shall bear the same relation to the day of election as in the case of the corresponding proceedings in connection with first elections of urban district councillors or rural district councillors as the case may be;
- (b) The clerk to the existing Conservators shall be the returning officer for the first election and the clerk to the Conservators shall be the returning officer for every subsequent election;
- (c) Any sum which may be payable to the returning officer, in respect of his services or in respect of expenses incurred in relation to the election shall be defrayed by the Conservators out of their funds.

Provision
on failure
to appoint
Conser-
vators.

10. If any constituent authority fails to nominate the first Conservators as by this Act provided it shall be competent nevertheless for the other Conservators to carry this Act and the Acts of 1884 and 1909 into execution and if any constituent authority fails to nominate Conservators at any subsequent period of three years the then existing Conservators representing such authority shall continue in office till their successors are nominated or elected.

Occasional
vacancies;

11. If any Conservator nominated by a constituent authority dies resigns becomes bankrupt or ceases to be a Conservator the constituent authority whom he repre-

sented may at any time after the happening of such vacancy nominate a Conservator in his place and every Conservator so nominated shall continue in office only so long as the person in whose place he is appointed would have been entitled to continue in office. A.D. 1924. —

12. Whenever a nomination or election of a Conservator has been made the clerk to the constituent authority or body by whom the appointment was made or the returning officer in the case of an election shall by writing under his hand certify the appointment to the clerk to the Conservators. Appointment of Conservators to be certified.

13. The first meeting of the Board of Conservators shall be convened by the clerk to the Conservators during the month of October one thousand nine hundred and twenty-four and other meetings of the Board of Conservators shall be held on such days at such times and at such places as the Conservators may from time to time appoint. First meeting.

14. In addition to the meetings to be held by appointment of the Conservators the chairman of the Board of Conservators for the time being or any four or more Conservators may at any time by writing addressed and sent to the clerk to the Conservators require a special meeting to be convened and the said clerk shall convene a meeting accordingly. Power to call special meetings.

15. Any act of the Board of Conservators or of any of the members thereof shall not be invalidated or be illegal 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 the part of the constituent authority or body to nominate or elect a Conservator or by reason of any other irregularity error failure or omission in or about any appointment or in or about any matter preliminary or incidental thereto. Acts of Conservators not to be invalidated.

16. The number of Conservators present to constitute a meeting of the Board of Conservators shall be six unless altered by special resolution of the Conservators. Quorum.

17. The clerk to the existing Conservators shall continue in office as clerk to the Board of Conservators on the same terms and conditions as theretofore. The Officers of Conservators.

A.D. 1924. — Conservators may appoint such officers clerks and servants as they think requisite and on such terms and conditions as they may think fit.

Arbitra-
tion.

18. If at any time any difference arises between the Conservators and any of the constituent authorities respecting any matter arising out of the provisions of this Act the same shall be referred to and be settled by arbitration under the Arbitration Act 1889.

Extension
of sections
of Public
Health
Act 1875
to Conser-
vators.

19. Section 176 (Regulations as to purchase of land) section 297 (As to Provisional Orders made by Local Government Board) and section 303 (Power to repeal and alter local Acts) of the Public Health Act 1875 shall extend and apply to and may be exercised by the Conservators as if they were a local authority within the meaning of those sections and the Malvern Hills were their district and the Minister of Health may make such Orders as he is by those sections empowered to make on the petition or application of a local authority.

Malvern
Hills to be
managed
by Conser-
vators.

20. The Malvern Hills shall be regulated and managed by the Conservators under and in accordance with this Act and the Acts of 1884 and 1909.

Natural
conditions
of Malvern
Hills to be
preserved.

21. The Conservators shall at all times as far as possible preserve the natural aspect of the Malvern Hills and shall protect the timber and other trees pollards shrubs underwood heather gorse turf and herbage growing on the Malvern Hills and subject to the provisions of this Act shall prevent all persons from unlawfully felling cutting lopping or injuring the same and from unlawfully digging or removing any stone gravel clay loam soil or turf forming part of the Malvern Hills.

Purchase of
lands and
manorial
rights by
Conser-
vators.

22.—(1) Notwithstanding anything contained in the Acts of 1884 and 1909 the Conservators are hereby authorised to purchase the whole or any portions of the lands properties quarries manorial rights and interests described in the **Second and Third Schedules** to this Act and the owners thereof and other persons interested therein shall sell the same subject and according to the provisions of this Act and the Acts incorporated herewith.

(2) In assessing the amount of compensation to be paid under this Act to the owner of any quarry any obligations such owner may be under in regard to his employees shall be taken into account.

23. The powers of the Conservators for the compulsory purchase of lands and other interests for the purposes of this Act shall cease after the expiration of five years from the thirty-first day of December one thousand nine hundred and twenty-four.

A.D. 1924.

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Compulsory
purchase of
lands.

24.—(1) On the Conservators giving notice of their intention to exercise their option to purchase the undertaking of the Pyx Granite Company Limited (in this section referred to as "the company") pursuant to the heads of agreement set forth in the **Fourth Schedule** to this Act the Conservators shall deposit in a bank in the joint names of themselves and the managing director of the company a sum equal to twenty-five times the assessable value to poor rate of the property of the company in the urban district of Malvern.

For protec-
tion of
quarry
owners.

(2) Within six months from the date of the passing of this Act the Conservators shall deposit in a bank in the joint names of themselves and William Berington or other the owner or owners for the time being of the mineral rights referred to in the section of this Act of which the marginal note is "For protection of William Berington." a sum equal to twenty-five times the assessable value to poor rate of the properties numbered 1 and 2 in the parish of Little Malvern on the deposited plans.

(3) The amounts deposited as aforesaid shall be applied towards payment of any purchase money or compensation that may be agreed or awarded in respect of the undertaking or rights to be acquired and any balance remaining after such payments shall be refunded to the Conservators.

25.—(1) The Conservators may make and enforce bye-laws to regulate quarrying in upon or under the Malvern Hills and to regulate the erection of buildings sheds cranes works and machinery on the Malvern Hills ~~Section 18 (Bye-laws and proceedings) of the Act of 1884 as amended by section 13 of the Act of 1909 shall apply to any such bye-laws as if such section had been re-enacted in this Act.~~

Bye-laws
to restrict
and
regulate
quarrying
&c.SEE SCHEDULE
2, PART II OF
1945 ACT

(2) In the event of the owner lessee or occupier of any quarry being injuriously affected by the operation of any bye-law made under this section the Conservators shall pay compensation to such owner lessee or occupier

* AND SUBSECTIONS (4) (5) (6) OF SECTION 10 (BYELAWS) OF THE MALVERN HILLS ACT 1930 SHALL APPLY IN RELATION TO ANY SUCH BYELAWS AS IF THEY WERE BYELAWS MADE UNDER THAT SECTION.

A.D. 1924. — and any such compensation shall be ascertained in accordance with the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

Power for
Minister
to make
orders
prohibiting
quarrying.

26.—(1) The Minister may at any time on the application of the Conservators and after holding a local inquiry at which all landowners and other persons affected by the application shall have the right to appear and be heard make an order or orders to prohibit quarrying upon any part of the Malvern Hills specified in such order or orders or to require that in the quarrying operations the surface of the ground shall not be removed.

(2) Any such order shall make provision for the payment of compensation by the Conservators to any landowners or other persons whose interest may be affected by such order and any such compensation shall be ascertained in accordance with the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

Provision
for tempor-
ary pro-
hibition of
quarrying.

27. After an application shall have been made by the Conservators to the Minister for an order under the last preceding section of this Act and before such application shall have been withdrawn or an order shall have been made thereon the Minister may at any time on the application of the Conservators and without holding any local inquiry or hearing any of the parties interested make a temporary order or temporary orders to prohibit quarrying on the lands to which such application relates for such period as the Minister thinks fit provided that the period of any such temporary order shall not exceed twelve months and any such temporary order may be made upon such terms and conditions (if any) as to compensation costs or otherwise as the Minister thinks fit.

Procedure
as to local
inquiries
and orders
of Minister.

28. The Minister shall give directions in writing as to the procedure to be followed with reference to the making of any application by the Conservators to the Minister and the holding of any local inquiry under this Act and as to the publication of any order made by the Minister under this Act and such directions shall have effect as if they were incorporated in this Act.

Costs of
local
inquiries.

29. The Minister may by any order made by him in pursuance of the section of this Act whereof the

marginal note is " Power for Minister to make orders prohibiting quarrying " or by a separate order or separate orders direct that the whole or any part of the costs of any local inquiry under this Act (including the expenses of any witnesses summoned by the inspector or other person holding the inquiry and a sum to be fixed by the Minister for the services of such inspector or person) shall be paid by the Conservators. A.D. 1924.
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30.—(1) Any person who shall offend against any provision contained in an order made by the Minister under this Act (other than an order for the payment of money) shall be liable to a penalty not exceeding five pounds in respect of every day on which the offence occurs or continues and all such penalties shall be recoverable summarily before a petty sessional court. Enforce-
ment of
orders of
Minister and
penalties
for breach
thereof.

(2) In addition and without prejudice to the provisions of subsection (1) of this section all the provisions of an order made by the Minister under this Act may be enforced by action in any court of competent jurisdiction.

31. The Conservators may grant licences to any local authority part of whose district is included in the Malvern Hills to obtain stone for the repair of roads which are situate within a radius of seven miles from the Priory Church at Malvern such stone to be obtained from such parts of the Malvern Hills as will not interfere with their natural aspect and subject to such terms and conditions (including the payment of rent or royalties) as the Conservators may think fit and the Conservators may enter into and carry into effect agreements with reference thereto. Quarrying
for local
public
purposes.

32.—(1) The Conservators may from time to time with the consent of the Minister of Health and upon and subject to such terms and conditions and for such period as the Minister of Health may sanction or direct and upon the security of the revenues and property of the Conservators borrow such sum or sums of money as may be required by the Conservators for the purposes of this Act or the Act of 1884 and the Act of 1909. Power to
borrow.

(2) The Conservators may mortgage or assign over to the persons by or on behalf of whom such sums are advanced the said revenues and property or any part thereof.

A.D. 1924.

—
Expenses to
be paid by
contribu-
tory autho-
rities.

33. The expenses incurred by the Conservators shall be paid by them out of any moneys in their hands or received from the contributory authorities and they may raise any moneys required for meeting such expenses whether before or after the same shall have actually become liable in manner following:—

- (a) They shall apportion the amount so required between the parishes of Great Malvern Malvern Link Malvern Wells West Malvern and Guarlford in the county of Worcester and Colwall and Mathon in the county of Hereford according to the respective assessable values of the said parishes at the time the apportionment is made such assessable value having the same meaning as in section 3 of the Agricultural Rates Act 1896 as amended by the Agricultural Rates Act 1923 :
- (b) The amounts due from the above-mentioned parishes may be raised by precept of the Board of Conservators on the overseers of each such parish requiring them to pay the amount specified in such precept to the treasurer clerk or other officer of the Conservators and the respective overseers shall pay the same accordingly out of the poor rate of their respective parishes :
- (c) The receipt of the officer or officers of the Conservators named in such precept shall be a good discharge for the amount so paid :
- (d) The amounts raised under this section shall be in addition to the amounts to be raised under the Acts of 1884 and 1909 :
- (e) No amount so apportioned shall include any sum of money payable on a date which is more than twelve months in advance of the date upon which the apportionment is made.

Limitation
of rate.

34. Notwithstanding anything contained in this Act:—

- (1) The sum required by any precept issued under the provisions of the last preceding section in any one year for the special purposes of this Act shall not exceed an annual sum calculated at the rate of threepence for every pound of assessable value such assessable value having

the same meaning as in section 3 of the Agricultural Rates Act 1896 as amended by the Agricultural Rates Act 1923 but this limitation shall not affect the rates authorised by the Acts of 1884 and 1909 : A.D. 1924.

- (2) The Minister of Health may on the application of the Conservators and after holding a public inquiry of which due notice shall be given by order sanction an increased rate for the special purposes of this Act for such period as may be specified in the order and in that case the limit fixed by this section shall be increased accordingly.

35. The Conservators shall create and form a general fund and they shall carry to the credit of that fund all sums payable by any contributory authority all moneys raised by precept under the provisions of the section of this Act of which the marginal note is " Expenses to be paid by contributory authorities " and all fines fees on licences and revenue of the Conservators other than interest on the compensation fund.

36. The Conservators shall pay out of the general fund all expenses of administration and also the interest and instalments of principal or payments to a sinking fund in respect of any moneys borrowed under the provisions of this Act. Application of general fund.

37. The Conservators shall create and form a fund to be called the compensation fund and they shall carry to the credit of the compensation fund :— Compensation fund.

- (a) All moneys borrowed by the Conservators under this Act other than money borrowed for the payment of the costs of this Act :
- (b) The balance at the end of each financial year of any moneys standing to the credit of the general fund after making allowance for any outstanding current liabilities :
- (c) Interest on the moneys forming the compensation fund :
- (d) Voluntary donations or subscriptions.

38. The Conservators shall pay out of the compensation fund all amounts that may be awarded by the arbitrator under the provisions of this Act to lords of the Application of compensation fund.

A.D. 1924. — manor owners or other persons and any costs and charges in connection therewith payable by the Conservators.

Mode of
raising
money.

39.—(1) The Conservators may raise all or any moneys which they are authorised to borrow or re-borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another or others and for the purposes of such issue under the last-mentioned Act the Conservators shall be deemed a local authority under that Act and the revenues of the Conservators shall be deemed to be the local rate as defined by the said Act :

Provided that the provisions of this Act in regard to the formation of sinking funds shall apply in substitution for the like provisions of the Local Loans Act 1875.

(2) Any constituent or contributory authority (other than a parish council or overseers of the poor) may with the consent of the Minister of Health lend to the Conservators any sum or sums of money on such terms and conditions and in such form as may be agreed between the Board of Conservators and such authority.

Provisions
of Public
Health Act
1875 as to
mortgages
to apply.

40. The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say) :—

Section 236. Form of mortgage;

Section 237. Register of mortgages;

Section 238. Transfer of mortgages.

Mode of
payment off
of money
borrowed.

41. The Conservators shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of these methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within one year or when the money is repaid by half-yearly instalments or by half-yearly payments to the sinking fund within six months from the date of borrowing.

Sinking
fund.

42.—(1) If the Conservators determine to repay by means of a sinking fund any moneys borrowed by virtue

of this Act such fund shall be formed and maintained either— A.D. 1924.

- (a) by payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called a “ non-accumulating sinking fund ”; or
- (b) by payment to the fund throughout the prescribed period of such equal yearly or half-yearly sums as with accumulations at a rate not exceeding three pounds ten shillings per centum per annum or such other rate as the Minister of Health may from time to time approve will be sufficient to pay off within the prescribed period the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called an “ accumulating sinking fund.”

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in statutory securities the Conservators being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Conservators towards the equal annual payments to the fund.

(4) The Conservators may at any time apply the whole or any part of any sinking fund in or towards the discharge of the moneys for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the Conservators shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) (a) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same

A.D. 1924.

—

were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Conservators.

(b) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Conservators in addition to the payments provided for by this Act.

(7) If it appears to the Conservators at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Conservators to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Minister of Health that any such increase is necessary the Conservators shall increase the payments to such extent as the Minister may direct.

(8) If the Conservators desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Minister of Health be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Conservators may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister of Health be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Minister of Health be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Conservators may with the consent of that Minister discontinue the annual payments to such sinking fund until the Minister shall otherwise direct. A.D. 1924.
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(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes as the Conservators with the consent of the Minister of Health may determine.

43.—(1) Any mortgagee of the Conservators by virtue of this Act may enforce the payment of arrears of interest or principal or of principal and interest by the appointment of a receiver. The amount of arrears of principal due to such mortgagee or in the case of a joint application by two or more mortgagees to such mortgagees collectively to authorise the appointment of a receiver shall not be less than one thousand pounds in the whole. Appoint-
ment of
receiver.

(2) The application for the appointment of a receiver shall be made to the High Court.

44.—(1) The Conservators shall have power—

(a) to borrow for the purpose of paying off any moneys previously borrowed under this Act which are intended to be forthwith repaid;
or

(b) to borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Conservators in repaying moneys previously borrowed under this Act and which at the time of such repayment it was intended to replace by borrowed moneys. Power to
re-borrow.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of

A.D. 1924. — that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to moneys borrowed under this section.

(3) The Conservators shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Conservators shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

- (a) by instalments or annual payments; or
- (b) by means of a sinking fund; or
- (c) out of moneys derived from the sale of land; or
- (d) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

Application
of money
borrowed.

45. All moneys borrowed by the Conservators under the powers of this Act shall be applied only to the purposes for which they are authorised to be borrowed and to which capital is properly applicable.

Power to
invest funds
in statutory
securities.

46.—(1) When under the provisions of any Act of Parliament or of any Order confirmed by or having the effect of an Act of Parliament whether passed confirmed or made before or after the passing of this Act the Conservators are empowered or required to form a sinking fund for the payment off of moneys borrowed or payable by them they may (in addition to any other powers for the time being vested in them) invest such sinking fund and the interest of the investments of such sinking fund in statutory securities and they may also invest moneys standing to the credit of the compensation fund required for other purposes in the like securities.

(2) In this Act the expression “statutory securities” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Conservators.

47.—(1) The clerk to the Conservators shall if and when he is requested by the Minister of Health so to do transmit to the Minister a return showing the provision made for the repayment of any loans raised by the Conservators under the authority of this Act.

A.D. 1924.

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Return to
Minister of
Health with
respect to
repayment
of debt.

(2) The return shall show such particulars and shall be made up to such date and in such form as the Minister may require and shall if so required by him be verified by statutory declaration of the clerk to the Conservators or other the chief accounting officer of the Conservators and shall be transmitted within one month after the making of the request and in the event of his failing to make such return the clerk to the Conservators shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by the Minister in a court of summary jurisdiction and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

(3) If it appears to the Minister by such a return as aforesaid or otherwise that the Conservators have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by this Act or by the Minister in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purpose other than those authorised the Minister may by order direct that the sum in such order mentioned not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date in such order mentioned and the Conservators shall notify the Minister as soon as the order is complied with and any such order shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

48.—(1) The Minister of Health may direct any inquiries to be held by his inspectors which he may deem necessary in regard to the exercise of any powers conferred upon him or the giving of any consents under this Act and the inspectors of the Ministry of Health shall for the purposes of any such inquiry have all such powers

Inquiries by
Minister of
Health.

A.D. 1924. as they may have for the purposes of inquiries directed by that Minister under the Public Health Act 1875.

(2) The Conservators shall pay to the Minister of Health any expenses incurred by that Minister in relation to any inquiries referred to in this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Minister not exceeding five guineas a day for the services of such inspector.

Conservators not to regard trusts.

49. The Conservators shall not be bound to see to the execution of any trust whether express implied or constructive to which any loan or security for a loan may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages of the Conservators shall be a sufficient discharge to the Conservators in respect thereof notwithstanding any trust to which such loan or security may be subject and whether or not the Conservators have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register.

Protection of lender from inquiry.

50. A person lending money to the Conservators under this Act shall not be bound to inquire as to the observance by the Conservators of any of the provisions of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof.

Judges not disqualified.

51. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

Incorporation of sections 259 and 265 of Public Health Act 1875.

52. Section 259 (Appearance of local authorities in legal proceedings) and section 265 (Protection of local authority and their officers from personal liability) of the Public Health Act 1875 shall apply to the Conservators and to the clerk and to any officer or member of the Board of Conservators or other person acting under the direction of the Conservators as if the Conservators were included in those sections in addition to the local and other authorities mentioned therein and any expense referred to in the said section 265 shall be borne and repaid out of the funds of the Conservators.

53. Nothing in this Act contained shall prejudice or affect the property rights or interest of the Great Western Railway Company.

For protection of Great Western Railway Company.

54. For the protection of the Pyx Granite Company Limited (in this section referred to as "the company.") the following provisions shall unless otherwise agreed in writing between the company and the Conservators and the Malvern Council have effect (that is to say):—

For protection of Pyx Granite Company Limited.

The heads of agreement as set forth in the **Fourth Schedule** to this Act are hereby confirmed and made binding on the company and the Conservators and the Malvern Council and the provisions of this Act shall only apply to or affect the undertaking property or rights of the company subject to the provisions of the said heads of agreement.

55. The Conservators shall pay to the Malvern Council compensation in respect of the value of the interest of that council as lessees licensees or tenants in the two quarries at North Malvern referred to in the **Fourth Schedule** to this Act other than the plant and machinery on or held in connection with those quarries and such value shall be ascertained as on the date upon which the interest of the Malvern Council in those quarries is transferred to the Pyx Granite Company Limited and unless the amount be agreed the same shall be settled by arbitration.

For protection of Malvern Council.

56. For the protection of William Berington of Little Malvern Court in the county of Worcester or other the owner or owners for the time being of the estate in the parish of Little Malvern in the said county known as the Little Malvern Court Estate (all of whom are in this section referred to as and included in the expression "the owner") the following provisions shall unless otherwise agreed in writing between the owner and the Conservators have effect (that is to say):—

For protection of William Berington.

- (1) The Conservators shall within twelve months from the date of the passing of this Act purchase and the owner shall sell to them subject to the existing lease granted by the owner to the Pyx Granite Company Limited the mineral rights of the owner (including stone) in the lands of the owner numbered on the deposited

A.D. 1924.

plans 1 and 2 in the parish of Little Malvern but notwithstanding anything contained in this Act or shown on the deposited plans the Conservators shall not acquire any surface rights in or over any lands of the owner or any greater or other estate or interest therein than such mineral rights as aforesaid :

- (2) The purchase money and compensation to be paid to the owner for the acquisition of the said mineral rights shall be such a sum as failing agreement between the owner and the Conservators shall be determined by a single arbitrator to be agreed upon between them or failing such agreement to be appointed on the application of either party after notice in writing to the other of them by the President of the Institute of Mining Engineers in accordance with the provisions of the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act 1919 shall not apply to such determination :
- (3) Upon the expiration of the said existing lease to the Pyx Granite Company Limited the owner shall not renew that lease :
- (4) The owner shall be entitled for building or road purposes on the Little Malvern Court Estate at any time to take stone sand and gravel from any quarry existing at the date of the passing of this Act on that estate :
- (5) In consideration of the elimination from the Bill for this Act of the provisions contained therein pursuant to which the parish of Little Malvern would have been subject to the provisions contained in the section of this Act of which the marginal note is " Expenses to be paid by contributory authorities " there shall be deducted from the purchase money and compensation payable to the owner under the provisions of this section and retained by the Conservators the sum of two hundred and fifty pounds :
- (6) The provisions of this Act other than this section shall not apply to or in any way affect the property or rights of the owner.

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57. Notwithstanding anything contained in this Act the Conservators shall not acquire any part of the lands of which Charles Frederick Price is the owner or reputed owner otherwise than by agreement nor shall any of the provisions of this Act apply to such lands.

For protec-
tion of
Charles
Frederick
Price.

58. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities reserved by certain letters patent of the twelfth day of May in the seventh year of the reign of His late Majesty King Charles the First and belonging to or exerciseable on behalf of His present Majesty His heirs or successors or affect prejudicially any estate right power privilege or exemption of the Crown.

Saving
rights of
Crown.

59. The costs charges and expenses of the Conservators and of the Malvern Council preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the Conservators out of any moneys for the time being in their hands or out of moneys to be borrowed by them under the provisions of this Act.

Costs of
Act.

A.D. 1924. The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

PROPERTY VESTED IN THE CONSERVATORS.

The lands shown upon the deposited plans and distinguished by the following numbers :—

In the urban district of Malvern—

Nos. 17 28 30.

In the parish of Colwall—

Nos. 4 5 6.

The waste lands of the manor or parish of Great Malvern.

The rights and interests of the Conservators over and in the lands described in the First and Third Schedules to the Act of 1884 as specified in that Act.

THE SECOND SCHEDULE.

LANDS AND QUARRIES AUTHORISED BY THIS ACT TO BE ACQUIRED BY THE CONSERVATORS.

The properties shown upon the deposited plan and distinguished by the following numbers :—

In the urban district of Malvern—

Nos. 1 5 6 7 8 10 12 13 15 16 19 21 22 23 24 25 26 27 29.

In the parish of Colwall—

Nos. 1 2 3 7.

In the parish of Ledbury Rural.

Nos. 1 2.

THE THIRD SCHEDULE.

A.D. 1924.

MANORIAL RIGHTS AUTHORISED BY THIS ACT TO BE ACQUIRED BY THE CONSERVATORS.

The rights of the following persons as lords of the manor in any of the lands quarries or properties described in the First and Second Schedules :—

The Ecclesiastical Commissioners for England.

The Malvern Urban District Council.

Lady Catherine Sarah Grey.

Mr. Thomas Read Quarrell.

Major C. F. Raper as Executor of R. W. Raper.

The Right Honourable Arthur Herbert Tennyson Baron Somers.

THE FOURTH SCHEDULE.

HEADS OF AGREEMENT BETWEEN THE PYX GRANITE COMPANY LIMITED AND THE CONSERVATORS AND THE MALVERN URBAN DISTRICT COUNCIL.

1. The Company's rights of quarrying to be limited (outside their freehold property) to the quarryable area at North Malvern defined on a plan to be signed by the Right Honourable the Lord Islington the Chairman of the Committee of the House of Lords to whom the Bill is referred a copy of which is to be supplied by the Conservators to the Company.

2. The Company to surrender the remaining area held by them under the Gandolfi Licences but to be at liberty to work under the Berington Lease until it expires That Lease is not to be renewed.

3. The Malvern Urban District Council (hereinafter referred to as "the Council") to transfer to the Company their interest as lessees or tenants of the two quarries at North Malvern which they hold and the Company to purchase by agreement or by valuation the plant and machinery of the Council now there.

4. The Company to supply the Council with all stone they require for repair of roads in their area at 7s. 9d. per ton at the quarry subject to variation of price according to variations in wages.

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14. A clause to be inserted in the Bill excluding the undertaking property and rights of the Company from its operation except that bye-laws may be made with the approval of the Home Secretary (after notice to the Company) in regard only to blasting operations in the Company's quarries for the protection of the public.

15. The Company to be at liberty to continue working under the existing licences without restriction until the new licences above mentioned are granted.

16. The Company undertake during the period within which the Conservators have power to give to the Company notice of their intention to purchase not to work the Council's quarries mentioned in clause 3 hereof in any other way than from the bases of the said quarries as they now exist such quarrying not to reach above a line marked A—B on plan drawn one hundred and forty feet south of the outer wall of the North Malvern Reservoir in a south-easterly direction to the present chestnut fence above the Scar Rock Quarry The Company may be allowed if found necessary to remove any dangerous rock now overhanging the face at their Scar Rock Quarry or liable to become dislodged by reason of the lower workings Any dispute on this point to be referred to His Majesty's Inspector of Mines.

17. The Company shall be at liberty to make and use a tunnel fifteen feet wide and ten feet high under the area of land dividing their freehold property from the Council's quarries at a point above the reservoir of the Council to be agreed between the Conservators and the Council in accordance with plans to be approved by their respective surveyors and regulations to be made by the Council for the protection of the public.

18. These provisions to be inserted in an agreement which shall contain an arbitration clause and to be executed in triplicate such agreement in case of difference to be settled by a conveyancing counsel to be agreed upon between the Company and the Conservators or failing such agreement to be nominated by the President of the Incorporated Law Society.

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**CHAPTER lxxii.**

An Act to confer further powers upon the Malvern Hills Conservators and for other purposes. A.D. 1930.

[4th June 1930.]

WHEREAS the Malvern Hills Conservators (herein referred to as "the Conservators") were incorporated by the Malvern Hills Act 1884 and were invested with certain powers of protection control and management with regard to the lands in that Act specified and provision was made for restricting the user and enjoyment of the said lands:

And whereas the lands under the jurisdiction of the Conservators and commonly known as the Malvern Hills have been widely known and admired for their natural beauty and have formed a centre of attraction to the inhabitants of the counties of Worcester and Hereford and to a largely increasing number of visitors coming from all parts of the country for the purposes of health recreation and enjoyment and the prosperity and development of the district depend upon the preservation of the amenities of the Malvern Hills:

And whereas further powers were conferred upon the Conservators by the Malvern Hills Act 1924 for the prevention of encroachments and enclosures on the lands forming the Malvern Hills and also for the management and control of the same:

And whereas the existing powers of the Conservators are insufficient to preserve the Malvern Hills and it is desirable that further powers of protecting controlling

A.D. 1930. — and dealing with the Malvern Hills should be conferred upon the Conservators as in this Act provided :

And whereas the Conservators have under their jurisdiction the lands specified in the schedule to this Act and which lands could without detriment to the enjoyment and user of the Malvern Hills by the public be disposed of and the proceeds arising from any such transaction used in the purchase of other lands and it is expedient that the Conservators should be invested with powers for the sale lease exchange or disposition of any such lands subject to the provisions of this Act :

And whereas it is expedient that for the purposes of adjusting defining or improving the boundaries of the Malvern Hills the Conservators should have power to exchange lands for other lands :

And whereas many persons resort to the Malvern Hills on holidays and during the summer months for the purpose of recreation and enjoyment and in order to meet the convenience and requirements of such persons it is expedient that the Conservators should have power to make provision for lavatories and parking places for vehicles and to license the erection of refreshment stalls on the Malvern Hills :

And whereas it is expedient that the Conservators should have power to set apart certain lands on those parts of the Malvern Hills known as the Malvern Common and Malvern Link Common for the purpose of games and for the holding of meetings and athletic sports and to enclose temporarily parts of the Malvern Link Common for the holding of agricultural and other exhibitions or shows :

And whereas it is expedient that the other provisions contained in this Act should be enacted :

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 :—

Short and
collective
titles.

1. This Act may be cited as the Malvern Hills Act 1930 and the Malvern Hills Act 1884 the Malvern Hills

Act 1909 the Malvern Hills Act 1924 and this Act may be cited together as the Malvern Hills Acts 1884 to 1930. A.D. 1930. —

2. In this Act unless the subject or context otherwise requires— Interpretation.

“The Malvern Hills” shall have the same meaning as defined in section 5 of the Malvern Hills Act 1924;

“The Act of 1884” “the Act of 1909” and “the Act of 1924” mean respectively the Malvern Hills Act 1884 the Malvern Hills Act 1909 and the Malvern Hills Act 1924;

“The Malvern Hills Acts” shall mean the Malvern Hills Act 1884 the Malvern Hills Act 1909 the Malvern Hills Act 1924 and this Act;

“The Conservators” shall mean the Malvern Hills Conservators as re-incorporated by the Act of 1924;

“The council” means the urban district council of Malvern.

3. The Malvern Hills shall be regulated and managed by the Conservators under and in accordance with the Malvern Hills Acts and there shall be imposed upon the Conservators the following duties (namely):— Management of Malvern Hills by Conservators.

(a) Except as in the Malvern Hills Acts otherwise provided they shall at all times keep the Malvern Hills unenclosed and unbuilt on as open spaces for the recreation and enjoyment of the public;

(b) They shall by all lawful means prevent resist and abate all enclosures and encroachments upon and all attempts to enclose or encroach upon the Malvern Hills or any part thereof or to appropriate or use the same or the timber or roads thereof or any part thereof for any purpose inconsistent with the Malvern Hills Acts.

4. The Conservators shall have with respect to the Malvern Hills the following powers (namely):— Powers exercisable over the Malvern Hills.

(a) They may drain any part or parts of the Malvern Hills so far as they may deem necessary or desirable and they may make temporary enclosures for the purposes of this subsection and for the purpose of protecting or renovating turf;

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- (b) They may fence or cause to be fenced dangerous places;
- (c) They may make and maintain or by agreement with the local authority may make and maintain footpaths and ways over the Malvern Hills;
- (d) They may on the Malvern Hills erect sheds for tools and materials and may maintain and repair such sheds;
- (e) They may set apart from time to time on the Malvern Common and the Malvern Link Common pieces of land not exceeding in the aggregate fifty acres upon which persons may play games or hold meetings or gatherings for athletic sports;
- (f) They may from time to time enclose for a period not exceeding one month and provided that such periods shall not exceed three months in any year land on the Malvern Link Common not exceeding fifty acres in extent for the purpose of the holding of agricultural or horticultural or other exhibition circus fair or show and may let the same on such terms as they shall think fit;
- ~~(g) They may grant leave or licence for any period not exceeding one year upon such terms as they may think fit to any person or persons to erect and maintain stalls to a number not exceeding three in all on the Malvern Hills for the purpose of purveying food and refreshment to the public:~~

See replacement paragraph (g)
in s. 4 MH Act 1995

~~Provided that—~~

- ~~(i) no such leave or licence in respect of any stall not in existence when the licence is applied for shall be granted unless and until the person or persons applying for the licence shall have furnished the Conservators with drawings (on a scale of not less than one inch to every eight feet) of the elevations of the proposed stall or stalls together with a specification or other sufficient indication of the materials to be used in those parts of the stall or stalls which are comprised in the elevations and such elevations and materials and the site on which the stall is proposed to be erected shall have been~~

~~approved by the Conservators in consultation with the advisory panel which has been set up by the Council for the Preservation of Rural England in conjunction with the Royal Institute of British Architects for the area in which the proposed stall or stalls is or are intended to be situated; and~~ ~~A.D. 1930.~~

- (ii) ~~no advertisements of any kind shall be exhibited on or about any such stall so as to be visible from outside the stall whether relating to any trade or business carried on at the stall or not except that the name of the stall and of the occupier thereof may be displayed thereon once in a position not higher than the level of the lowest part of the roof of the stall in letters not exceeding eight inches in height.~~

5. The Conservators may with the consent of the Minister of Agriculture and Fisheries construct and maintain or may grant licence to any local authority to construct and maintain in such positions and places as the Conservators think fit either above or below ground on the Malvern Hills lavatories and public conveniences with all necessary drains and works in connection therewith and may make all necessary provision for the construction use and maintenance thereof.

Provision
of lava-
tories.

6.—(1) The Conservators may set apart any part or parts of the Malvern Hills adjoining or near any public road and may use any land or lands so set apart as parking places for motor cars and other vehicles and may provide and maintain all necessary equipment in connection therewith and may make regulations as to the use of such parking places and a copy of any such regulations shall be exhibited on or near any parking place to which the regulations relate and may make such reasonable charges for the use of such parking places as they may from time to time determine.

Parking
places for
vehicles.

(2) In this section the expression “ parking places ” means places where vehicles or vehicles of any particular class or description may wait.

~~7. The Conservators may grant upon such terms and conditions and for such a period as they think~~

~~Power to
grant
easements.~~

After "vehicles" insert
"for use by persons
resorting to the Malvern
Hills for the purposes of
recreation and
enjoyment"

s.27(3), Sch 2 Pt. III MH
Act 1995

See s. 8 MH Act 1995
for replacement section
7

A.D. 1930. ~~fit easements over or under the Malvern Hills for the purpose of the laying of drains:~~

~~Provided that the surface of any part of the Malvern Hills that may be disturbed in connection with the exercise of any easement granted under this section shall be restored as soon as practicable by and at the expense of the persons to whom the easement is granted.~~

Power to
sell or lease
land
described in
schedule.

8. Subject to the provisions of this Act the Conservators may with the consent in writing of the Minister of Agriculture and Fisheries sell lease exchange or absolutely dispose of free from any rights or restrictions any part or parts of the Malvern Hills set out in the **schedule** to this Act upon such terms and conditions subject to the consent of the said Minister as they shall deem expedient:

Provided that all moneys received by the Conservators in connection with the said transactions or any of them shall be paid into a special fund and applied by the Conservators as occasion offers in the purchase of other land or lands on or adjacent to the Malvern Hills such other land or lands on completion to become and be for all purposes part of the Malvern Hills:

Provided also that notwithstanding any sale lease exchange or disposal by the Conservators of the part of the Malvern Hills set out in the **schedule** to this Act and known as Belle Vue Island Belle Vue Terrace Malvern to any person other than the council no buildings shall at any time be erected on the said part of the Malvern Hills so sold leased exchanged or disposed of without the consent in writing of the council.

Power to
adjust
boundaries.

9.—(1) For the purpose of adjusting defining or improving the boundaries of the Malvern Hills the Conservators may by agreement and with the consent of the Minister of Agriculture and Fisheries sell or exchange any part or parts of the Malvern Hills to the extent in the case of any one sale or exchange not exceeding one quarter of an acre:

Provided in the case of an exchange that the consent of the Minister shall not be given unless he is satisfied that in the place of the land proposed to be exchanged other land not less in area and equally advantageous to the persons (if any) entitled to commonable rights and to the public is offered in exchange

and provided also in the case of a sale that all moneys received in respect thereof shall be dealt with as specified in the first proviso to the preceding section of this Act. A.D. 1930.

(2) The Conservators shall give notice by advertisement in two local newspapers whenever they shall apply to the Minister of Agriculture and Fisheries for his consent to any sale or exchange under this section and such notice shall state the time and place to which any objections in writing may be sent to the said Minister.

10.—(1) For the regulation and protection of the Malvern Hills the Conservators may make byelaws for any of the following purposes (that is to say):— Byelaws.

- (a) For prohibiting any enclosure of any part of the Malvern Hills or the erection of any unauthorised building shed tent or other structure thereon and for preventing any interference with the rights of common or commonable rights existing on or over the Malvern Hills;
- (b) For prohibiting or regulating the placing on the Malvern Hills 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 Malvern Hills anything placed thereon in contravention of the byelaws;
- (c) For regulating games to be played and other means of recreation to be exercised on the Malvern Hills and assemblages of persons thereon;
- (d) For prohibiting any person without lawful authority from turning out or permitting to remain on the Malvern Hills any cattle sheep pigs goats or other animals and for authorising an officer of the Conservators to remove therefrom any cattle sheep pigs goats or other animal being thereon in contravention of the byelaws or suffering from disease;
- (e) For preventing any unlawful digging or taking of stone gravel or clay or cutting or taking of turf or sods or other injury to the Malvern Hills or the growth or produce thereof;

A.D. 1930.
—

- (f) For regulating the user and enjoyment of any rights of common or commonable rights in accordance so far as may be with the ancient customs of the forest of Malvern or other customs under which such rights are enjoyed;
- (g) For prohibiting any person from placing or depositing and leaving without lawful authority any glass china earthenware tin carton or paper or other refuse or litter on the Malvern Hills so as to affect or tend to affect injuriously the public amenities thereof;
- (h) For preventing nuisances and for the preservation of order;
- (i) For authorising an officer of the Conservators after due warning to remove or exclude from the Malvern Hills any person who within his view commits an offence against the byelaws made under the Malvern Hills Acts;
- (j) For prohibiting the hindrance or obstruction of an officer of the Conservators in the exercise of his powers or duties under the Malvern Hills Acts or under any byelaws made thereunder.

After (j) insert:

(k) For preventing or regulating vehicles, including cycles, being parked, driven or ridden on any part of the Malvern Hills not set apart for that purpose; and for regulating the use of parking places on any part of the Malvern Hills set apart for parking;

s. 27(3), Sch 2 Pt III MH Act 1995

(2) Provided that nothing contained in this section or any byelaw made thereunder shall prejudice or affect (except as provided by paragraph (f) of subsection (1) of this section) or take away any rights of common or commonable rights which are exerciseable by any person.

See subsections (4) to (8) added by s. 13 of MH Act 1995

(3) From and after the passing of this Act the power of making byelaws with regard to any of the above-mentioned matters or things contained in sections 10 and 12 of the Act of 1884 is hereby repealed.

For protection of Council.

11. Notwithstanding anything contained in this Act the following provisions shall apply and have effect for the protection of the council except so far as may be otherwise agreed in writing between the council and the Conservators (that is to say):—

- (1) The Conservators shall lease to the council for the term of ten years at an annual rent of one shilling the part of the Malvern Hills which is set out in the **schedule** to this Act and therein referred to as “Belle Vue Island Belle Vue Terrace Malvern” and the council may at any

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time during such term of ten years on giving three months' notice in writing require the Conservators to sell to them and thereupon the Conservators shall sell to the council the said part of the Malvern Hills for such price as may be determined by arbitration under the Lands Clauses Acts :

- (2) Before selling leasing exchanging or disposing of the part of the Malvern Hills set out in the **schedule** to this Act and therein referred to as "Edith Walk and the lands adjoining in Malvern" to any persons other than the council the Conservators shall give notice in writing to the council of their intention so to do and if within a period of three months after the receipt of such notice the council shall give notice in writing to the Conservators that they desire to purchase or take a lease of the said part of the Malvern Hills the Conservators shall sell or lease (as the case may be) to the council the said part of the Malvern Hills for such price or at such rent and on such terms as may be determined by arbitration (in the case of purchase) under the Lands Clauses Acts and (in the case of lease) under the Arbitration Act 1889 :
- (3) Before selling or exchanging the part of the Malvern Hills set out in the **schedule** to this Act and therein referred to as "St. Ann's Well" to any person other than the council the Conservators shall give notice in writing to the council of their intention so to do and if within three months after the receipt of such notice in writing to the Conservators that they desire to purchase the said part of the Malvern Hills the Conservators shall sell to the council the said part of the Malvern Hills for such price as may be determined by arbitration under the Lands Clauses Acts :
- (4) The Conservators shall not exercise the powers conferred upon them by paragraphs (d) (e) (f) and (g) of the section of this Act of which the marginal note is "Powers exercisable over the Malvern Hills" or the powers conferred upon

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them by the sections of this Act of which the marginal notes are "Provision of lavatories" and "Parking places for vehicles" in relation to any land belonging to the council without the consent in writing of the council:

- (5) The Conservators shall not in the exercise of any of the rights or powers conferred upon them by this Act do any act or thing which may injuriously affect any reservoir or waterworks of the council or any of the lines of pipes or works of any description in connection therewith.

For protection of
Pyx Granite
Company
Limited.

12. For the protection of the Pyx Granite Company Limited (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Conservators have effect (that is to say):—

Nothing in this Act or in any byelaw made thereunder shall—

(a) confer upon the Conservators or any officer of the Conservators any powers or jurisdiction with reference to the company or their undertaking property or rights; or

(b) in any manner prejudice affect or interfere with the said undertaking property or rights.

For protection
of Great Western
Railway
Company.

13. Nothing in this Act contained shall prejudice or affect the property rights or interests of the Great Western Railway Company.

For protection of
Shropshire
Worcester-
shire and
Staffordshire
Electric
Power
Company.

14. Nothing in this Act shall in any way prejudice or affect any right or power of the Shropshire Worcestershire and Staffordshire Electric Power Company under the Bromyard and Ledbury Rural Electricity Special Order 1929 to place electric lines or works upon or over the Malvern Hills or any part thereof.

Saving for
ancient
monuments.

15. Nothing in this Act authorises the Conservators to demolish or remove in whole or in part structurally alter or make additions to any ancient monument as defined by the Ancient Monuments Consolidation and Amendment Act 1913 without the consent in writing of the Commissioners of Works first had and obtained.

16. Notwithstanding anything contained in this Act the following provision for the protection of Edward Albert Berry or the owner for the time being of the British Camp Hotel shall unless otherwise agreed in writing apply and have effect (that is to say) :—

A.D. 1930.

—
For pro-
tection of
Edward
Albert Berry.

No stall for the purpose of purveying food or other refreshments to the public shall be erected on the Malvern Hills within a radius of three hundred yards from the centre point in the highway opposite to the southern corner of the building known as the British Camp Hotel.

17. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities reserved by certain letters patent of the twelfth day of May in the seventh year of the reign of His late Majesty King Charles the First and belonging to or exerciseable on behalf of His present Majesty His heirs or successors or affect prejudicially any estate right power privilege or exemption of the Crown.

Saving
rights of
Crown.

18. The costs charges and expenses of the Conservators preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the Conservators out of any moneys for the time being in their hands or out of moneys to be borrowed by them under the provisions of the Malvern Hills Act 1924.

Costs of Act.

[Ch. lxxii.]

Malvern Hills
Act, 1930.

[20 & 21 GEO. 5.]

A.D. 1930.
—

The SCHEDULE referred to in the
foregoing Act.

	Approximate area.	
	roods.	poles.
Belle Vue Island Belle Vue Terrace Malvern ...	—	33
St. Ann's Well	1	22
Edith Walk and lands adjoining in Malvern...	1	28
Back Lane Malvern and land adjoining ...	3	36

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Malvern Hills Act 1995

1995 CHAPTER iii

An Act to amend certain enactments relating to the Malvern Hills Conservators and the management of the Malvern Hills; to confer further powers on the Malvern Hills Conservators; to make further provision in relation to the Malvern Hills; and for other purposes. [28th June 1995]

WHEREAS—

- (1) By the Malvern Hills Act 1884 the Malvern Hills Conservators (in this Act called “the Conservators”) were incorporated and were invested with certain powers of protection, control and management with regard to the lands in that Act specified and provision was made for restricting the user and enjoyment of the said lands:
- (2) By the Malvern Hills Act 1909, the Malvern Hills Act 1924 and the Malvern Hills Act 1930 further powers were conferred upon the Conservators and further provision was made in relation to the lands under the Conservators' jurisdiction and commonly known as the Malvern Hills:
- (3) Under the Malvern Hills Act 1930 it is the general duty of the Conservators except as otherwise provided in the Malvern Hills Acts 1884 to 1930 to keep the Malvern Hills unenclosed and unbuilt on as open spaces for the recreation and enjoyment of the public:
- (4) The Malvern Hills have been widely known and admired for their natural beauty and have formed a centre of attraction to the inhabitants of the county of Hereford and Worcester and to visitors coming from all parts of the country for the purposes of health, recreation and enjoyment:
- (5) The area of land under the Conservators' jurisdiction has increased as has the number of visitors resorting to the Malvern Hills:
- (6) The existing powers of the Conservators are insufficient to enable the Conservators to make suitable provision to meet the convenience and requirements of the public, and to carry out their functions and to manage and deal with the Malvern Hills effectively and appropriately in the light of present day circumstances:
- (7) It is desirable that further provision should be made enabling certain facilities to be constructed or provided on the Malvern Hills:
- (8) It is expedient that further powers of protecting, controlling, regulating, managing and dealing with the Malvern Hills should be conferred upon the Conservators as in this Act provided:

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(9) It is expedient that the other powers of this Act should be conferred upon the Conservators and that the other provisions contained in this Act should be enacted:

(10) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it 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 Short and collective titles

(1) This Act may be cited as the Malvern Hills Act 1995.

(2) The Malvern Hills Acts 1884 to 1930 and this Act may be cited together as the Malvern Hills Acts 1884 to 1995.

2 Interpretation

In this Act—

“the Act of 1884” means the Malvern Hills Act 1884;

“the Act of 1909” means the Malvern Hills Act 1909;

“the Act of 1924” means the Malvern Hills Act 1924;

“the Act of 1930” means the Malvern Hills Act 1930;

“the Board” means the Board of the Conservators;

“the Conservators” means the Malvern Hills Conservators as defined in the Act of 1930;

“domestic fowl” includes turkeys, geese, ducks, guinea fowl, peacocks and quails;

“the existing Malvern Hills” means the lands under the jurisdiction of the Conservators for the purposes of the existing Malvern Hills Acts at the time of the passing of this Act;

“the existing Malvern Hills Acts” means the Malvern Hills Acts 1884 to 1930;

“horse” includes any mare, gelding, pony, foal, colt, filly or stallion and also any ass, mule or jennet;

“the Malvern Hills” means the lands from time to time under the jurisdiction of the Conservators for the purposes of the Malvern Hills Acts;

“the Malvern Hills Acts” means the Malvern Hills Acts 1884 to 1930 and this Act.

3 Provision of refreshment facilities

(1) (a) In the event of damage to or the destruction of the building known as St. Anne's Well the Conservators may repair, reconstruct or replace that building provided that any reconstruction or replacement shall be on the site of, and of a similar size and external character to, the existing building.

(b) The powers of this subsection shall extend in relation to any reconstruction or replacement building constructed under paragraph (a) above.

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- (2) The Conservators may maintain and operate a building constructed under this section and may at such a building sell meals and refreshments and provide such services and facilities as are reasonably ancillary to the use of the building as a restaurant or cafeteria.
- (3) The Conservators may let a building constructed under this section and may enter into and carry into effect agreements with respect to the exercise of the powers contained in subsections (1) and (2) above by any other person including the defraying of, or the making of contributions towards, the costs of the Conservators or any other person in connection with the exercise of such powers.

4 Licensing of stalls

The following paragraph is hereby substituted for paragraph (g) of section 4 (Powers exercisable over the Malvern Hills) of the Act of 1930 and the provisos thereto:—

- “(g) They may grant leave or licence for any period not exceeding one year upon such terms and conditions and subject to such restrictions as they think fit to any person or persons to erect, maintain and operate temporary or mobile stalls not exceeding six in all at any one time on the Malvern Hills for the purpose of purveying food and refreshment to the public, and without prejudice to the generality of the foregoing such restrictions may relate to locations on the Malvern Hills where such a stall may be erected or from where it may be operated and the display of advertisements of any kind visible from outside the stall whether relating to any trade or business carried on at the stall or not.”.

5 Provision of temporary lavatories

- (1) Subject to subsection (2) below, the Conservators may, without other sanction or authority—
 - (a) place or erect temporary lavatories in such positions and places on the Malvern Hills as they think fit;
 - (b) grant licence for any period not exceeding 14 days upon such terms and conditions as they think fit to any person to place or erect temporary lavatories in such positions and places on the Malvern Hills as the Conservators think fit and as may be specified in the licence.
- (2) The powers of this section may only be exercised if the temporary lavatories are to be provided in connection with an event authorised by the Conservators which in their opinion is likely to attract such a number of people onto the Malvern Hills that such facilities will be required.
- (3) Temporary lavatories placed or erected on the Malvern Hills under this section shall be removed from the Malvern Hills as soon as reasonably practicable after the event in connection with which they are provided has ended and in any case shall not remain on the Malvern Hills for a period exceeding 14 days.

6 As to disposal of land

- (1) Without prejudice to any other powers the Conservators have to sell, exchange, let, charge or otherwise dispose of land, and notwithstanding anything in the existing

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Malvern Hills Acts the Conservators may, with the consent of the Secretary of State, in respect of any land which—

- (a) is owned by them but has not been so owned for a continuous period of more than five years;
- (b) does not form part of the existing Malvern Hills;
- (c) is not registered as common land or a town or village green; and
- (d) the Conservators have not later than two years after the date of acquisition of it by them decided it is not desirable to retain for the benefit or recreation of the public as part of the Malvern Hills;

do any of the following:—

- (i) sell the whole or any part of or the whole or any part of any interest in any such land which is not required by them;
- (ii) exchange any such land which is not required by them for other land either with or without paying or receiving any money by way of equality of exchange;
- (iii) let any such land subject to such terms and conditions, covenants and arrangements as they think fit;

and the provisions of section 9 (Power to adjust boundaries) of the Act of 1930 shall not apply as respects any such sale or exchange.

- (2) Where land has become vested in the Conservators by virtue of a gift or bequest the powers conferred by this section shall not be exercisable as respects that land in any manner inconsistent with any condition attached to the gift or bequest, except with the consent of the donor or the personal representatives or trustees of the donor.
- (3) Where the Conservators exercise their powers under subsection (1) above in relation to any land by letting it, all the powers under that subsection shall continue to be available to them in relation to that land on the termination of the letting whether or not, at that termination, they have owned the land for more than five years.

7 Provision for capital and income

- (1) Capital money received by the Conservators from the sale, letting, grant or other disposal of land or interests in land under the provisions of this Act may be applied by them for any purpose for which capital money may be properly applied.
- (2) Any sums received by the Conservators from the sale, letting, grant or other disposal of land or interests in land under the terms of this Act other than capital money shall be treated as income of the Board and shall be used in defraying expenses incurred by the Conservators in the execution of their powers and duties.

8 Power to grant easements, etc

The following sections are hereby substituted for section 7 (Power to grant easements) of the Act of 1930:—

“7 Power to grant easements

- (1) Subject to subsection (5) below, the Conservators may grant upon such terms and conditions and for such a period as they think fit easements, rights, privileges or licences in, under or over the Malvern Hills for the provision

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of public or private underground or overground services relating to water, electricity, gas, oil, telecommunications, drainage and sewerage:

Provided that it shall be a term of any such grant that the surface of any part of the Malvern Hills that may be disturbed in connection with the exercise of any easement, right, privilege or licence so granted shall be restored as soon as practicable by and at the expense of the person to whom the easement, right, privilege or licence is granted.

- (2) Subject to subsection (3) below, the Conservators may with the consent of the owner exercise the powers of this section in relation to any land forming part of the Malvern Hills not owned by them as though they were the owners of that land.
- (3) The consent of the owner under subsection (2) above shall not be required in any case where the owner is not known.
- (4) For the purposes of this section and section 7A below the owner of land is not known where after diligent enquiry the Conservators are unable to discover his identity.
- (5) (a) The Conservators shall not exercise the powers of this section for the provision of any service, other than a temporary service, overground unless—
 - (i) in the opinion of the Conservators it is not reasonably practicable for the service to be other than overground;
 - (ii) the service is to be provided to a domestic property in existence at the time of the passing of this Act; and
 - (iii) in the opinion of the Conservators and the local planning authority the provision of the service overground is reasonable.
- (b) The Conservators shall not exercise the powers of this section for the provision of any service overground except by way of determinable licence.

7A Access roads

- (1) Subject to subsection (2) below, the Conservators may on such terms and conditions as they think fit (including terms and conditions as to the provision and maintenance of cattle grids and other works) authorise in writing any person to construct, maintain, alter or improve roads or ways over the Malvern Hills affording vehicular or other access from any highway to land being land lying within or adjacent to any part of the Malvern Hills and appearing to the Conservators to lack satisfactory access.
- (2) In granting authorisation under subsection (1) above the Conservators shall have regard to the effect of the works being so authorised on the natural aspect of the Malvern Hills and shall impose such terms and conditions as are necessary to ensure that any adverse effect is minimised.
- (3) The Conservators may, on such terms and conditions as they think fit, for the purpose of or in connection with the provision of roads or ways, grant licence to use and grant easements and rights in, under or over lands forming part of the Malvern Hills and on which roads or ways are authorised to be constructed pursuant to subsection (1) above.

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- (4) Subject to subsection (5) below, the Conservators may with the consent of the owner exercise the powers of this section in relation to any land forming part of the Malvern Hills not owned by them as though they were the owners of that land.
- (5) The consent of the owner under subsection (4) above shall not be required in any case where the owner is not known.”.

9 Power to provide buildings for use by the Conservators

- (1) The Conservators may acquire by means of purchase, lease or otherwise buildings (with or without the adjacent land) for use as their offices, for use as information centres, for the purpose of storage in connection with the carrying out of their functions and for the purpose of residential occupation by an employee of the Conservators in the interests of security of any building used by the Conservators and may furnish and equip such buildings for such purposes.
- (2) At buildings acquired under this section the Conservators may sell such goods, including books, maps, souvenirs and other goods as may be reasonably ancillary to the use of the Malvern Hills by the public for enjoyment and recreation or education.
- (3) Notwithstanding anything in subsection (1) (a) of section 6 (As to disposal of land) of this Act the Conservators may at any time sell, exchange or otherwise dispose of any buildings and land acquired under this section or (prior to the passing of this Act) section 53 of the Commissioners Clauses Act 1847 (power to provide offices, etc.).
- (4) Residential accommodation acquired under subsection (1) above may be made available to the employee of the Conservators on such terms and conditions as the Conservators think fit.
- (5) The Conservators may repair and maintain or reconstruct or extend buildings acquired under this section and may execute such works as may be necessary or expedient in connection with the furnishing and equipping of the buildings.
- (6) The Conservators may let parts of buildings acquired under this section which parts are surplus to their requirements on such terms and conditions as the Conservators think fit.

10 Power to borrow

- (1) The Conservators may from time to time, with the consent of the Secretary of State and upon and subject to such terms and conditions and for such period as the Secretary of State may direct, borrow by any method or methods such sums of money as may be required by them for the purposes of this Act and the Act of 1930.
- (2) Money borrowed by the Conservators may be borrowed upon the security of all or any of the revenues and property of the Conservators and the Conservators may mortgage or assign over to the persons by or on behalf of whom such money is advanced the said revenues and property or any part thereof.
- (3) Notwithstanding section 101 of the Law of Property Act 1925 (powers incident to estate or interest of mortgage) or anything in any deed, where the Conservators mortgage or assign over to any person any relevant land after the passing of this Act under the powers of this section, or of section 11 of the Act of 1909 or section 32 of

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the Act of 1924 (powers to borrow), the mortgagee or, as the case may be, the assignee shall not have a power to sell the land or a power to cut and sell, or to contract for the cutting and sale of, timber or other trees on the land.

- (4) For the purposes of this section “relevant land” means the existing Malvern Hills and any other land owned by the Conservators, other than any land and buildings acquired under section 9 (Power to provide buildings for use by the Conservators) of this Act or (prior to the passing of this Act) section 53 of the Commissioners Clauses Act 1847 (power to provide offices, etc.).

11 Amount for contingencies

Notwithstanding anything in the Act of 1884, the Act of 1909, or the Act of 1924, the Conservators may include in any precept or other demand which they may be authorised to levy or make on any local authority, or in any sum which they may request any local authority or other body to pay in any particular year, an amount for contingencies of up to 10 per cent. of the estimated expenditure for the year in respect of which the precept, demand or request is made.

12 Land acquisition fund

- (1) The Conservators may create and form a land acquisition fund and may in any particular year set aside, for credit to the land acquisition fund, from the general fund maintained by them such sum standing to the credit of the general fund as has been paid to them as a result of any precept or demand levied or made on any local authority or request made of any local authority or other body for the purpose of land acquisition during that year but which has not been required for such purpose provided that such sum set aside shall not exceed 5 per cent. of the total precept, demand or request for the Conservators' purposes generally including land acquisition in that year.
- (2) Any sums so set apart for the maintenance of a land acquisition fund may from time to time be invested in any manner prescribed for the investment of trust funds and the dividends and interest arising from such investment may also be invested in the same manner so as to accumulate at compound interest for the credit of the fund.

13 Confirmation of byelaws and fines thereunder

Section 10 (Byelaws) of the Act of 1930 is hereby amended by the addition after subsection (3) of the following subsections:—

- “(4) Before making any byelaws under this section the Conservators shall give notice to and consult the Central Council of Physical Recreation.
- (5) Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972 (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Conservators under this section as if the Conservators were a local authority and the Clerk to the Conservators were the proper officer (within the meaning of the said Act of 1972) of that local authority but, subject to subsection (6) below, the Secretary of State may confirm the byelaws with such modifications as he thinks fit.
- (6) Where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Conservators and require them to take any steps he considers necessary for informing persons likely to be concerned

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with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Conservators and by other persons who have been informed of it.

- (7) Byelaws made by the Conservators under this section may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and, in the case of a continuing offence, a daily fine not exceeding one-tenth of the amount which is equivalent to that level.
- (8) Nothing in subsection (5) above shall affect the continuance in effect of the byelaws of the Conservators made on 11th November 1982 and which came into force on 19th January 1983, and byelaw 36 thereof (which relates to fines for offences) shall have effect as from the passing into law of the Malvern Hills Act 1995 as if for the words “twenty pounds” there were substituted the words “level 2 on the standard scale” and for the words “two pounds” there were substituted the words “one-tenth of the amount which is equivalent to that level”:

Provided that the amendment so made to the said byelaw 36 shall not have effect in relation to any offence committed before the passing into law of the Malvern Hills Act 1995.”.

14 Further provision as to enforcement of byelaws

- (1) Where the driver of a vehicle is alleged to be guilty of an offence against any byelaw made by the Conservators which relates to the driving or parking of vehicles on the Malvern Hills—
 - (a) the person keeping the vehicle shall give such information as to the identity of the driver as he may be required in writing by or on behalf of the Conservators to give; and
 - (b) any other person shall, if required as mentioned in paragraph (a) above, give any information which it is in his power to give and which may lead to the identification of the driver.
- (2) A person who fails to comply with the requirements of subsection (1)(a) above shall be guilty of an offence unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, who was the driver of the vehicle; and a person who fails to comply with the requirements of subsection (1)(b) above shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

15 Public access to the Malvern Hills

- (1) Subject to the provisions of the Malvern Hills Acts and compliance with all rules, regulations or byelaws relating to the Malvern Hills and for the time being in force, the public shall have a right of access to the Malvern Hills on foot and on horseback for the purpose of open-air recreation; and a person who enters on the Malvern Hills for that purpose without breaking or damaging any wall, fence, hedge, gate or other thing, or who is on the Malvern Hills for that purpose having so entered, shall not be

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treated as a trespasser on the Malvern Hills or incur any other liability by reason only of so entering or being on the Malvern Hills.

- (2) A person entering upon the Malvern Hills in accordance with subsection (1) above is not, for the purposes of the Occupiers' Liability Act 1957, a visitor of any occupier of the Malvern Hills.
- (3) Nothing in this section shall prejudice or affect the exercise of powers under any enactment whereby access to the Malvern Hills may be regulated or prohibited; and, subject to subsections (4) and (6) below, the Conservators may by notices posted in such places on the Malvern Hills as they think fit regulate or prohibit for such period as may be reasonably necessary access by all, or any part of, the public to any part of the Malvern Hills—
- (a) after consultation with the Historic Buildings and Monuments Commission for England, for the protection, so far as is reasonably necessary, of any ancient monument or any area of archaeological or historical interest;
 - (b) for the protection and restoration of the natural beauty of the Malvern Hills and their suitability for rough grazing or recreation;
 - (c) for the preservation of trees on the Malvern Hills;
 - (d) if advised by the Nature Conservancy Council for England that regulation or prohibition of access would be desirable in the interests of protection or preservation of flora or fauna or any area of scientific interest on the Malvern Hills, for such protection or preservation, so far as is reasonably necessary;
 - (e) after consultation with the chief officer of police and the chief fire officer of the fire authority, for the prevention of the risk of fire on the Malvern Hills;
 - (f) for the prevention of accidents or injury or other damage to health at any place, which is in the opinion of the Conservators a source of danger, on the Malvern Hills;

and notwithstanding anything in the existing Malvern Hills Acts, the Conservators may post such notices and for the purposes of paragraphs (a), (b), (c), (d) and (f) above, may fence and enclose parts of the Malvern Hills for so long as may appear necessary for the attainment of the purposes of the regulation or prohibition of access; and during the currency of any such regulation or prohibition the right of access of the public shall be subject to the regulation or prohibition.

- (4) In exercise of the powers of paragraphs (e) and (f) of subsection (3) above the Conservators may regulate or prohibit access by the public to, over or along any footpath or bridleway on or over the Malvern Hills but the Conservators shall not in exercise of the powers of paragraphs (a) to (d) of that subsection regulate or prohibit such access.
- (5) A notice posted in accordance with this section shall include a statement of the reasons for that regulation or prohibition and of its duration.
- (6) Nothing in subsection (3) above shall authorise the Conservators to regulate or prohibit access to any part of the Malvern Hills by any person bona fide going to or from any land which is accessible only over that part of the Malvern Hills.
- (7) Except in case of emergency or in any case where the regulation or prohibition of access is for a period not exceeding 28 days, the Conservators shall, before exercising any of the powers conferred on them by subsection (3) above, consult with the Central Council of Physical Recreation and at least one local association, authority or other body having a substantial interest in the area to be affected by the exercise of those powers and the use of the Malvern Hills for recreational purposes.

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- (8) Except in case of emergency or in any case where the regulation or prohibition of access is for a period not exceeding 28 days, not less than 28 days before in any case exercising the powers of paragraph (a), (b) or (c) of subsection (3) above, the Conservators shall give notice by advertisement of the proposed regulation or prohibition of access by the public, its intended duration and the reasons for which it is proposed to be made and stating that written representations relative thereto may be notified to them within 28 days after the date of the publication of the notice, and, before giving effect to their proposals for regulating or prohibiting access, the Conservators shall consider all representations so made.
- (9) The notice required by subsection (8) above shall be given in one or more newspapers which individually or together circulate throughout the county of Hereford and Worcester.
- (10) The Conservators shall, on or before the date on which it is published, send a copy of any notice which is to be published in pursuance of subsection (8) above during a specified period, of a specified description and relating to land comprised in a specified area to any person who has previously—
 - (a) requested the Conservators to send him copies of all such notices as so specified; and
 - (b) paid to the Conservators such reasonable charges as the Conservators may have specified.
- (11) The Conservators may make byelaws providing that any person who, without reasonable excuse, contravenes a notice posted under subsection (3) above shall be guilty of an offence and subsections (4) to (7) of section 10 (Byelaws) of the Act of 1930 shall apply to byelaws made under this subsection as if references in the said subsections (4) to (7) to “this section” included references to this subsection.
- (12) Where the Conservators have exercised their powers under subsection (3) above they shall—
 - (a) review any continuing regulation or prohibition of access no later than one year after the regulation or prohibition was first implemented and thereafter at intervals of no more than a year;
 - (b) in the case of a continuing regulation or prohibition of access under paragraph (e) of that subsection, review that regulation or prohibition no later than two months after the regulation or prohibition was first implemented and thereafter at intervals of no more than two months;
 - (c) describe the nature and extent of the exercise of the powers in the form of an annual written report, copies of which shall be made available at the offices of the Conservators and a copy of which shall be delivered to all local authorities within whose areas the Malvern Hills lie.

16 Regulation of horse-riding on the Malvern Hills

- (1) If, in the opinion of the Conservators, it is necessary to do so to preserve the natural aspect of the Malvern Hills, or to prevent the injury or disfigurement thereof, or to protect the use of the Malvern Hills as an open space for the recreation and enjoyment of the public, they may from time to time—
 - (a) by notices or direction signs posted at such places on the Malvern Hills as they think fit, restrict or prohibit the riding or exercising of horses on the

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Malvern Hills or any part or parts of the Malvern Hills for such period as may be reasonably necessary; and

- (b) give directions to the owners of horses which are, or are intended to be, let to members of the public for hire or reward as to the tracks on the Malvern Hills which those horses may use, whilst being so let, and those owners shall take all reasonable steps to ensure that only those tracks are so used.
- (2) The Conservators may make byelaws providing that any person who, without the authority of the Conservators and without reasonable excuse, contravenes a notice or direction sign posted in pursuance of paragraph (a) of subsection (1) above or, without reasonable excuse, fails to comply with a direction given under paragraph (b) of the said subsection shall be guilty of an offence and subsections (4) to (7) of section 10 (Byelaws) of the Act of 1930 shall apply to byelaws made under this subsection as if references in the said subsections (4) to (7) to “this section” included references to this subsection.
- (3) (a) Nothing in this section shall authorise the Conservators to restrict or prohibit the lawful use of any bridleway shown on the definitive map and statement for any area of the county of Hereford and Worcester which includes any part of the Malvern Hills.
- (b) In this subsection “bridleway” shall have the meaning given by section 66 of the Wildlife and Countryside Act 1981 and “definitive map and statement” means the definitive map and statement operative under Part III of that Act.

17 Designated ways

- (1) The Conservators may designate ways on the Malvern Hills suitable for the riding or exercising of horses and any way so designated shall be marked in such manner as shall, in the opinion of the Conservators, be necessary to give notice of the designation.
- (2) A designation of a way as suitable for the riding or exercising of horses may from time to time be varied or rescinded by the Conservators.
- (3) The Conservators shall consult with the Central Council of Physical Recreation—
- (a) before designating a way under subsection (1) above where the Conservators propose that the designation should have effect for a period exceeding six months; and
 - (b) before extending any designation of a way, or making a successive designation, such that the total duration of the period for which the way will be designated will exceed six months.

18 New ways

- (1) The Conservators may, after consultation with the Central Council of Physical Recreation, make and maintain new ways and facilities on the Malvern Hills for the riding or exercising of horses and shall have power to make reasonable charges for the use of such new ways and facilities.
- (2) Charges made under this section shall be computed by reference to—
- (a) the reasonable cost of the construction and maintenance of the new ways and facilities; and
 - (b) the reasonable cost of the regulation of the use of the new ways and facilities.

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- (3) The amount raised by any charges made under subsection (1) above shall be wholly applied by the Conservators in undertaking the activities referred to in that subsection.
- (4) Charges made under subsection (1) above may make different provision for different cases or circumstances.

19 Seizure of stray animals

- (1) The Conservators may seize and impound any animal to which this section applies, which is on the Malvern Hills in contravention of any byelaw duly made by the Conservators.
- (2) The Conservators shall, within 24 hours after impounding any animal under this section, give notice of the impounding to the officer in charge of a police station and also to the owner of the animal if his identity be known to them or can reasonably be ascertained.
- (3) The Conservators shall—
 - (a) keep a register of all animals seized by them under this section containing a brief description of each animal, the date of seizure and a statement as to whether the animal was sold or otherwise disposed of or destroyed;
 - (b) make the register available for public inspection at all reasonable times.
- (4) If after seven clear days from the date of impounding the owner has not claimed an animal and paid all expenses incurred in seizing, impounding and maintaining it, the Conservators may sell or otherwise dispose of the animal otherwise than by destruction, and if after 14 clear days from the said date the owner has not claimed the animal and paid all such expenses the Conservators may destroy the animal in a manner to cause as little pain or distress as possible.
- (5) Whilst any animal is impounded by the Conservators under this section the Conservators shall cause it to be properly fed and maintained.
- (6) If any sums received on disposal of the animal are less than the expenses of the Conservators in seizing and maintaining the animal the Conservators may recover from the owner of the animal the difference.
- (7) Where the Conservators dispose of any animal under subsection (4) above, they shall be accountable to the owner of the animal for any money arising from the disposal after deducting all expenses incurred by reason of its seizure, impounding, maintenance and disposal; but nothing in this subsection shall render the Conservators so accountable if they have accounted to any other person whom they reasonably believed to be the owner.
- (8) The animals to which this section applies are cattle, horses, sheep, goats, pigs and domestic fowl.

20 Removal of placards and abandoned machinery and vehicles

- (1) The Conservators may remove bills, placards and signs posted or placed on any wall, railing, fence, tree, lamp post, walk, pavement or seat or elsewhere within the Malvern Hills and any other articles or things, including without prejudice to the generality of the foregoing, farm machinery placed or left on the Malvern Hills without proper

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authority or in contravention of any byelaw duly made by the Conservators or which appears to the Conservators to have been abandoned.

- (2) (a) This subsection applies in relation to items removed under subsection (1) above other than vehicles.
 - (b) (i) On removal the Conservators shall impound such items as are capable of impoundment in a convenient place and if on expiry of a period of 14 days beginning with the day of removal the owner has not claimed the item and paid all expenses incurred by reason of its removal, impoundment and storage the Conservators may dispose of the item in such a manner as they think fit.
 - (ii) In the case of farm machinery the Conservators shall give notice of the impounding to the officer in charge of a police station and also to the owner of the machinery if his identity be known to them or can reasonably be ascertained and shall not dispose of it in accordance with sub-paragraph (i) above until the expiry of a period of 28 days beginning with the day of removal.
- (3) (a) In the case of vehicles, the power of removal under this section applies only to relevant vehicles.
 - (b) Not less than 7 days before removing a relevant vehicle the Conservators shall cause to be affixed to the vehicle a notice stating that they propose to remove it when that period expires for disposal pursuant to subsections (5) and (6) below.
- (4) On removal the Conservators may impound a relevant vehicle in a convenient place and on such impoundment shall give notice of the impounding to the officer in charge of a police station and also to the owner of the vehicle if his identity be known to them or can reasonably be ascertained.
- (5) Subject to the following provisions of this section, the Conservators may, in such manner as they think fit, dispose of a relevant vehicle which has been removed under this section.
- (6) The time at which the Conservators may dispose of a vehicle under subsection (5) above is as follows:—
 - (a) in the case of a motor vehicle on which no current licence was displayed at the time of its removal, any time after its removal;
 - (b) in the case of a motor vehicle on which a current licence was so displayed, any time after the licence expires;
 - (c) in the case of a vehicle other than a motor vehicle, any time after the expiration of a period of 28 days beginning with the day of removal.
- (7) If, before the vehicle is disposed of by the Conservators in pursuance of subsections (5) and (6) above, the vehicle is claimed by a person who satisfies the Conservators that he is its owner and pays the Conservators all expenses incurred by reason of its removal, impoundment and storage, the Conservators shall permit him to remove the vehicle from their custody within the prescribed period.
- (8) If in the case of any vehicle it appears to the Conservators that more than one person is or was its owner at the relevant time, such one of them as the Conservators think fit shall be treated as its owner for the purposes of subsection (7) above.

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(9) The Conservators shall, in relation to the disposal, give to such persons as are prescribed by regulations under subsection (7) of section 101 of the Act of 1984 such information as is so prescribed, as if the Conservators were a competent authority within the meaning of that section and the disposal were a disposal in pursuance of that section.

(10) For the purposes of this section—

“the Act of 1984” means the Road Traffic Regulation Act 1984;

“licence”, “owner” and “vehicle” have the same respective meanings as in section 101 of the Act of 1984 and “motor vehicle” has the same meaning as in section 136 of that Act;

“prescribed period”, in relation to removal of a vehicle from the Conservators' custody, means the period commencing on the day on which the Conservators became satisfied that the person claiming the vehicle was its owner and ending on the expiration of the seventh day after that day, or at the time when the vehicle is disposed of, whichever is the later;

“relevant vehicle” means a vehicle which appears to the Conservators to be abandoned on the Malvern Hills and which, in the case of a motor vehicle, is in their opinion in such a condition that it ought to be destroyed.

21 Law of Property Act

(1) Subsection (4) of section 194 of the Law of Property Act 1925 (restrictions on the enclosure of commons) shall not operate to disapply the other provisions of that section from any building or fence erected or work constructed under or by virtue of this Act.

(2) For the purposes of the said section 194, land to which this Act applies which is registered under the Commons Registration Act 1965 shall be deemed—

- (a) to have been subject to rights of common at the commencement of the said Act of 1925; and
- (b) to remain subject to section 194 notwithstanding any express or implied extinguishment of rights of common since that date.

22 Local inquiries

(1) The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.

(2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 shall apply in relation to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Conservators were a local authority.

23 Display of advertisements

For the purposes of Regulation 6 of, and Class 1A of Schedule 3 to, the Town and Country Planning (Control of Advertisements) Regulations 1992 the Conservators shall, as respects their functions under sections 15 to 17 of this Act, be deemed to be a local authority.

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24 Saving for town and country planning

Any development authorised by this Act shall not be deemed for the purposes of the Town and Country Planning General Development Order 1988 (or any general order superseding that order made under section 59 of the Town and Country Planning Act 1990, or any corresponding provision of an Act repealing that section), to be development authorised by an Act which designates specifically both the nature of the development and the land upon which it may be carried out.

25 For protection of British Railways Board

Nothing in this Act shall prejudice or affect the property or rights of the British Railways Board.

26 Application of certain enactments

The enactments specified in column 1 of Schedule 1 to this Act shall apply to the Conservators in the manner specified in column 2 of that Schedule.

27 Amendments and repeals

- (1) The provisions of the Act of 1884 specified in column 1 of Part I of Schedule 2 to this Act are hereby amended as specified in column 2 of that Part.
- (2) The provisions of the Act of 1924 specified in column 1 of Part II of Schedule 2 to this Act are hereby amended as specified in column 2 of that Part.
- (3) The provisions of the Act of 1930 specified in column 1 of Part III of Schedule 2 to this Act are hereby amended as specified in column 2 of that Part.
- (4) The provisions of the existing Malvern Hills Acts specified in Schedule 3 to this Act are hereby repealed to the extent therein specified.

28 Costs of Act

All costs, charges and expenses of the Conservators preliminary to and of and incidental to the preparing for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Conservators out of any moneys for the time being in their hands and not exclusively applicable to any other purposes in pursuance of existing obligations of the Conservators or out of moneys borrowed or to be borrowed by them under the provisions of the Malvern Hills Acts.

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SCHEDULES

SCHEDULE 1

Name of enactment (1)	Manner in which applied to the Conservators (2)
Part VA of and Schedule 12A to the Local Government Act 1972	Whole of Part and Schedule to apply as though the Conservators were a principal council within the meaning of Part VA and references to a committee or sub-committee of a principal council included references to any committee or sub-committee appointed by the Conservators but subject to the following modifications, namely:— (a) The reference in section 100A (6) (c) to premises not belonging to a principal council shall be construed as a reference to premises not used as the offices of the Conservators, unless and until the Conservators acquire a building for use as their offices under section 9 of this Act. (b) The proper officer for the purposes of sections 100B, 100C and 100D shall be the Clerk to the Conservators. (c) Section 100G (1) (a) shall apply as though after the word “ward” there was inserted the word “, parish” and after the word “represents” there were inserted the words “or body by which he was appointed”.
Section 228 of the Local Government Act 1972	Section to apply with the omission of the reference to any proper officer as though the Conservators were a parish or Community Council and references in the section to a local government elector for the area of the authority shall be construed as references to a local government elector for the area of any of the local authorities from which members of the Conservators are elected or nominated.
Schedule 13 to the Defamation Act 1952	Schedule to apply as though the Conservators were a local authority and any committee or sub-committee of the Conservators were a committee of a local authority.

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SCHEDULE 2

PART I

PROVISIONS OF THE ACT OF 1884 AMENDED

Provision (1)	Amendment (2)
The Second Schedule	In the list of exceptions after the words “sections 12 to 35 inclusive” there shall be inserted “53,”.

PART II

PROVISIONS OF THE ACT OF 1924 AMENDED

Provision (1)	Amendment (2)
Section 7 (Constitution of Board of Conservators)	In subsection (3) after the words “three years” where they appear for the first time there shall be inserted “or such other term, not exceeding four years, as the Board of Conservators may by resolution determine” and after the words “three years” where they appear for the second time there shall be inserted “or such other period determined by the Board of Conservators”.
Section 25 (Bye-laws to restrict and regulate quarrying, &c.)	In subsection (1) for the words “Section 18 (Bye-laws and proceedings) of the Act of 1884 as amended by section 13 of the Act of 1909 shall apply to any such bye-laws as if such section had been re-enacted in this Act” there shall be substituted “and subsections (4) to (8) of section 10 (Byelaws) of the Malvern Hills Act 1930 shall apply in relation to any such byelaws as if they were byelaws made under that section”.

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PART III

PROVISIONS OF THE ACT OF 1930 AMENDED

Provision (1)	Amendment (2)
Section 6 (Parking places for vehicles)	In subsection (1) after the words “and other vehicles” there shall be inserted “for use by persons resorting to the Malvern Hills for the purpose of recreation and enjoyment”.
Section 10 (Byelaws)	In subsection (1) after paragraph (j) there shall be inserted “(k) For preventing or regulating vehicles, including cycles, being parked, driven or ridden on any part of the Malvern Hills not set apart for that purpose; and for regulating the use of parking places on any part of the Malvern Hills set apart for parking;”.

SCHEDULE 3

REPEALS

Chapter	Enactment	Extent of repeal
1884 c. clxxv.	Malvern Hills Act 1884.	Section 18.
1909 c. xxxvii.	Malvern Hills Act 1909.	Section 13.



Commissioners Clauses Act 1847

1847 CHAPTER 16 10 and 11 Vict

An Act for consolidating in One Act certain Provisions usually contained in Acts with respect to the Constitution and Regulation of Bodies of Commissioners appointed for carrying on Undertakings of a public Nature. [23rd April 1847]

Modifications etc. (not altering text)

- C1 Act amended (E.W.) (S.) by [Common Informers Act 1951 \(c. 39\)](#), [ss. 1, 3](#)
- C2 References to Ireland to be construed as exclusive of Republic of Ireland: S. R. & O. 1923/405 (Rev. X p. 298: 1923 p. 400), art. 2
- C3 Preamble omitted under authority of [Statute Law Revision Act 1891 \(c. 67\)](#)
- C4 This Act is not necessarily in the form in which it has effect in Northern Ireland
- C5 Act incorporated (E.W.) (1.12.1991) by [Land Drainage Act 1991 \(c. 59, SIF 73:1\)](#), [ss. 55\(6\), 76\(2\)](#) (with [ss. 67\(3\)\(5\)\(8\), 72\(6\), 74\(3\)\(4\)](#))
- C6 [Act](#) incorporated in part (with modifications) (E.W.S.) (1.7.2011) by [The Saundersfoot Harbour Empowerment Order 2011 \(S.I. 2011/1565\)](#), [arts. 3, 28\(4\)](#)

Commencement Information

- II Act wholly in force at Royal Assent

1 Extent of Act.

This Act shall extend only to such undertakings or commissioners as shall be authorized or constituted by any Act of Parliament hereafter to be passed, which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the commissioners constituted by such Act, and to the undertaking for carrying on which such commissioners shall be constituted, so far as the same shall be applicable thereto respectively; and such clauses, with the clauses of every other Act which shall be incorporated therewith, shall, save as aforesaid, form part of such Act, and be construed therewith as forming one Act.

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Modifications etc. (not altering text)

- C7** Ss. 1-4 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

Interpretations in this Act

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

2 The special Act: Prescribed: The undertaking: The commissioners.

The expression “the special Act” used in this Act shall be construed to mean any Act which shall be hereafter passed constituting a body of commissioners as herein-after defined for the purpose of carrying on any undertaking, and with which this Act shall be incorporated; and the word “prescribed” used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word “prescribed” the expression “prescribed for that purpose in the special Act” had been used; and the expression “the undertaking” shall mean the undertaking or works, of whatever nature, which shall by the special Act be authorized to be executed or carried on; and the expression “the commissioners” shall mean the commissioners, trustees, undertakers, or other persons, or body corporate, constituted by the special Act, or thereby entrusted with powers for executing the undertaking.

Modifications etc. (not altering text)

- C7** Ss. 1-4 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3
- C8** Ss. 58-60 incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.S.I. 2010/403\)](#), arts. 1(1), 3(1)
- C9** Ss. 58-60 incorporated (S.) (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\)](#), arts. 1(1), 3(1)
- C10** Ss. 2-4 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, 3 (with Sch. 3)
- C11** S. 2 incorporated (with modifications) (S.) (26.11.2016) by [The Gardenstown Harbour Revision Order 2016 \(S.S.I. 2016/396\)](#), arts. 1(1), 3(1)(3)
- C12** S. 2 incorporated (with modifications) (S.) (4.3.2021) by [The Eyemouth Harbour Revision Order 2021 \(S.S.I. 2021/118\)](#), arts. 1(1), 3(1)(3) (with arts. 36, 37)
- C13** S. 2 incorporated (with modifications) (S.) (7.11.2024) by [The Dumfries and Galloway Council \(Stranraer\) Harbour Revision Order 2024 \(S.S.I. 2024/325\)](#), arts. 1, 3(1)(3) (with arts. 42-44)

3 Interpretations in this and the special Act: Number: Gender: Person: Lands: Month: Superior courts: Justice: Two justices: Sheriff: Clerk: The town.

The following words and expressions both in this and the special Act, and any Act incorporated therewith, shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; (that is to say,)

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Words importing the masculine gender only shall include females:

The word “person” shall include a corporation, whether aggregate or sole:

The word “lands” shall extend to messuages, lands, tenements, and hereditaments, or heritages, of any tenure:

The word “month” shall mean calendar month:

The expression “superior courts,” where the matter submitted to the cognizance of the court arises in England or Ireland, shall mean her Majesty’s superior courts of record at [^{F1}the Royal Courts of Justice] or [^{F2}Belfast], as the case may require, . . . ^{F3}; and where such matter arises in Scotland shall mean the Court of Session:

. ^{F4}
^{F5} . . .

The word “justice” shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; [^{F6}and where any matter is authorized or required to be done by two justices, the expression “two justices” shall be understood to mean two or more justices met and acting together:]

The word “sheriff” shall mean the sheriff depute of [^{F7}the sheriffdom] . . . in Scotland in which any matter submitted to the cognizance of the sheriff arises, and shall include the substitutes of such sheriff depute.

^{F8} . . .

The expression “the clerk” shall mean the clerk of the commissioners, and shall include the word “secretary”:

The expression “the town” shall mean the town or district named in the special Act within which the powers of the commissioners are to be exercised.

And with respect to citing this Act or any part thereof, be it enacted as follows:

Textual Amendments

- F1** Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)
- F2** Word substituted by virtue of S. R. & O. 1921/1804 (Rev. XVI, p. 967: 1921, p. 422), art. 7(b)
- F3** Words repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)
- F4** Definition repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), s. 1\(1\), Sch. 1 Pt. VIII](#)
- F5** In S. 3 definition of “county” repealed (N.I.) by [Statute Law Revision \(Northern Ireland\) Act 1980 \(c. 59\), s. 1, Sch. Pt. I](#); definition of “county” wholly repealed (5.11.1993) by 1993 c. 50, s. 1(1), [Sch. 1 Pt. XIV](#) Group1
- F6** Words repealed (N.I.) by [Statute Law Revision \(Northern Ireland\) Act 1980 \(c. 59\), s. 1, Sch. Pt. I](#)
- F7** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\), Sch. 1 para. 1](#)
- F8** In s. 3 definition of “quarter sessions” repealed (E.W.N.I.) by (E.W.) [Courts Act 1971 \(c. 23\), Sch. 11 Pt. IV](#) and (N.I.) [Statute Law Revision \(Northern Ireland\) Act 1980 \(c. 59\), s. 1, Sch. Pt. I](#); definition of “quarter sessions” wholly repealed (5.11.1993) by 1993 c. 50, s. 1(1), [Sch. 1 Pt. XIV](#) Group1

Modifications etc. (not altering text)

- C7** Ss. 1-4 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\), arts. 1\(1\), 3](#)
- C12** S. 2 incorporated (with modifications) (S.) (4.3.2021) by [The Eyemouth Harbour Revision Order 2021 \(S.S.I. 2021/118\), arts. 1\(1\), 3\(1\)\(3\)](#) (with arts. 36, 37)
- C14** S. 3 incorporated (S.) (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\), arts. 1\(1\), 3\(1\)](#)

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C15** Ss. 2-4 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, 3 (with Sch. 3)
- C16** S. 3 incorporated (with modifications) (S.) (26.11.2016) by [The Gardenstown Harbour Revision Order 2016 \(S.S.I. 2016/396\)](#), arts. 1(1), 3(1)(3)
- C17** S. 3 incorporated (with modifications) (S.) (7.11.2024) by [The Dumfries and Galloway Council \(Stranraer\) Harbour Revision Order 2024 \(S.S.I. 2024/325\)](#), arts. 1, 3(1)(3) (with arts. 42-44)
- C18** References to sheriff depute and his substitutes to be construed as references to sheriff principal and sheriffs respectively: [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4

4 Short title of this Act.

In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression “The Commissioners Clauses Act 1847.”

Modifications etc. (not altering text)

- C7** Ss. 1-4 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3
- C19** Ss. 2-4 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, 3 (with Sch. 3)

^{F9}5

Textual Amendments

- F9** S. 5 repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. XIV](#) Group1

Commissioners

With respect to the qualification of commissioners, be it enacted as follows:

6 Joint owners or occupiers when qualified eligible as commissioners.

Where by the special Act the qualification of the commissioners is made to depend upon their being rated in respect of property of a given amount, then, if two or more persons be jointly rated in respect of any property, each of such persons shall, subject to the provisions herein and in the special Act contained, be eligible to be chosen a commissioner, provided the property in respect of which such persons are rated be of a rateable yearly value, which, when divided by the number of persons so rated, will give to each a sufficient rateable yearly value according to the provisions of this and the special Act.

Modifications etc. (not altering text)

- C20** Ss. 6-10 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

7 Same property not to give two qualifications.

The same property shall not at the same time give a qualification as commissioner to one person as the owner, and to another as the occupier thereof.

Modifications etc. (not altering text)

C20 Ss. 6-10 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

8 No bankrupt or insolvent to be a commissioner.

No bankrupt or insolvent, or person not qualified as required by the special Act, shall be capable of being or continuing a commissioner.

Modifications etc. (not altering text)

C20 Ss. 6-10 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

9 No person holding office or concerned in a contract to be a commissioner.

Any person who at any time after his appointment or election as commissioner shall accept or continue to hold any office or place of profit under the special Act, or be concerned or participate in any manner in any contract, or in the profit thereof, or of any work to be done under the authority of such Act, shall thenceforth cease to be a commissioner, and his office shall thereupon become vacant.

Modifications etc. (not altering text)

C20 Ss. 6-10 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

10 Shareholders in companies established by Act of Parliament not disqualified by reason of contracts.

Provided always, that no person being a shareholder or member of any joint stock company established by Act of Parliament shall be prevented from acting as a commissioner by reason of any contract entered into between such company and commissioners; but no such commissioner, being a member of such company, shall vote on any question relating to the execution of this or the special Act in which such company is interested.

Modifications etc. (not altering text)

C20 Ss. 6-10 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Sections 12 to 35 were excluded (see Second Schedule to MH Act 1884)

F10 11

Textual Amendments

F10 S. 11 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. I Group 1

12 ~~Declaration to be made by commissioners before acting.~~

~~No person shall be capable of acting as a commissioner, except in administering the declaration herein-after mentioned, until he shall have made and signed, before one of the commissioners, a declaration to the effect following:~~

~~“I, A.B. do solemnly declare, that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities reposed in me as a commissioner, by virtue of the [here name the special Act], and also that I [here set forth a statement of the possession of the qualification required by the special Act, in the terms thereof].”~~

Modifications etc. (not altering text)

C21 S. 12 incorporated (E.W.S.) (1.1.2000) by S.I. 1999/200, art. 3

S. 12 incorporated (E.W.S.) (4.3.2002) by S.I. 2002/306, art. 2

C22 S. 12 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3

13 FH

Textual Amendments

FH S. 13 repealed (E.W.S.) by (E.W.) Perjury Act 1911 (c. 6), Sch. and (S.) False Oaths (Scotland) Act 1933 (c. 20), Sch.

14 ~~Declaration to be taken at the first meeting.~~

~~Every person elected or appointed a commissioner shall, at the meeting of commissioners at which he first attends as a commissioner, make and subscribe the declaration herein required, and any commissioner, whether he himself have made such declaration or not, may administer such declaration.~~

Modifications etc. (not altering text)

C23 S. 14 incorporated (E.W.S.) (1.1.2000) by S.I. 1999/200, art. 3

S. 14 incorporated (with modifications) (E.W.S.) (25.8.2001) by S.I. 2001/2820, art. 3

Ss. 14-16 incorporated (E.W.S.) (4.3.2002) by S.I. 2002/306, art. 2

C24 Ss. 14-16 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

15 ~~Penalty on commissioner, not being qualified, acting.~~

~~Every person who shall act as a commissioner, being incapacitated or not duly qualified to act, or before he has made or subscribed such declaration as aforesaid, or after having become disqualified, shall for every such offence be liable to a penalty of fifty pounds, and such penalty may be recovered by any person, with full costs of suit, in any of the superior courts; and in every such action the person sued shall prove that at the time of so acting he was qualified, and had made and subscribed the declaration aforesaid, or he shall pay the said penalty and costs without any other evidence being required from the plaintiff than that such person had acted as a commissioner in the execution of this or the special Act; nevertheless all acts as a commissioner of any person incapacitated, or not duly qualified, or not having made or subscribed the declaration aforesaid, done previously to the recovery of the penalty, shall be as valid as if such person had been duly qualified.~~

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

- ~~€24~~ Ss. 14-16 incorporated (E.W.S.) (21.5.2010) by ~~The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~
- ~~€25~~ s. 15 amended (E.W.) (S.) by ~~Common Informers Act 1951 (c. 39), ss. 1, 3~~
- ~~€26~~ S. 15 incorporated (E.W.S.) (1.1.2000) by ~~S.S.I. 1999/200, art. 3~~
 - ~~S. 15 incorporated (with modifications) (E.W.S.) (25.8.2001) by S.I. 2001/2820, art. 3~~
 - ~~S. 15 incorporated (E.W.S.) (18.6.2001) by S.I. 2001/2185, art. 2~~
 - ~~S. 15 incorporated (E.W.S.) (18.6.2001) by S.I. 2001/2184, art. 2~~
 - ~~Ss. 14-16 incorporated (E.W.S.) (4.3.2002) by S.I. 2002/306, art. 2~~
 - ~~S. 15 incorporated (with modifications) (7.1.2003) by 2002 c. v, s. 3(3)(4) (with s. 23)~~
- ~~€27~~ S. 15 incorporated (with modifications) (E.W.S.) (29.12.2007) by ~~Maryport Harbour Revision Order 2007 (S.I. 2007/3463), arts. 1(1), 3(3), 3(4) (with arts. 78, 80, 81)~~
- ~~€28~~ S. 15 incorporated (E.W.S.) (1.6.2009) by ~~Berwick Upon Tweed Harbour Revision (Constitution) Order 2009 (S.I. 2009/1231), arts. 1(1), 2~~

16 ~~Commissioners neglecting to act to cease to be one.~~

~~Every commissioner who for the space of six months after his appointment neglects to make and subscribe the declaration hereinbefore required, or who for six months in succession is absent from all meetings of the commissioners, and to act in the execution of this and the special Act, shall be deemed to have refused to act, and shall cease to be a commissioner.~~

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

- ~~€24~~ Ss. 14-16 incorporated (E.W.S.) (21.5.2010) by ~~The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~
- ~~€29~~ S. 16 incorporated (with modifications) (E.W.S.) (1.1.2000) by ~~S.S.I. 1999/200, art. 3~~
 - ~~S. 16 incorporated (with modifications) (E.W.S.) (25.8.2001) by S.I. 2001/2820, art. 3~~
 - ~~Ss. 14-16 incorporated (E.W.S.) (4.3.2002) by S.I. 2002/306, art. 2~~

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Election and rotation of commissioners

~~And with respect to the election and rotation of the commissioners, where the commissioners are to be elected by the ratepayers or other like class of electors, be it enacted as follows:~~

17 ~~One-third of commissioners elected by Ratepayers and owners to go out of office every three years.~~

~~Where by the special Act it is provided that the commissioners shall be elected by the ratepayers within the town, or other like class of electors, the first body of commissioners, whether appointed by the special Act, or elected under the provisions of this and the special Act, shall go out of office according to the prescribed rotation, and at the prescribed times, and where no rotation or time of going out of office is prescribed they shall go out of office by rotation in the following manner (that is to say), on the first Thursday in the month of September in the year following that in which the special Act is passed one third of such body of commissioners shall go out of office, and on the first Thursday in September in the following year another third of such body of commissioners shall go out of office, and on the first Thursday in September in the year following the remainder of such body of commissioners shall go out of office, and on the first Thursday in the month of September in every subsequent year one third of the commissioners, being those who have been longest in office, shall go out of office; and in each instance the places of the retiring commissioners shall be supplied by the election of a like number of commissioners in the manner herein or in the special Act provided: Provided always, that if the prescribed number of commissioners be some number not divisible by three and the number of commissioners to retire be not prescribed, the commissioners shall in each case determine what number of commissioners, as nearly one-third as maybe, shall go out of office, so that no commissioner shall remain in office longer than three years without being re-elected.~~

18 ~~Commissioners eligible to be re-elected.~~

~~Every commissioner going out of office by rotation, or otherwise ceasing to be a commissioner, may be re-elected, and after such re-election he shall, with reference to going out by rotation, be considered as a new commissioner.~~

19 ~~Mode of supplying occasional vacancies.~~

~~If any of the commissioners die or resign, or be disqualified, or cease to be a commissioner from any other cause than that of going out of office by rotation, the remaining commissioners, if they think fit, may, within one month from the happening of such vacancy, elect another commissioner in his place, and every commissioner so elected shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office.~~

20 ~~Manner of making the rotation list.~~

~~In order to determine the rotation by which such first body of commissioners shall go out of office, the commissioners shall within one month after the passing of the special Act (or after the first election of commissioners, as the case may be,) meet at some convenient place for the purpose of forming a rotation list; and at such meeting~~

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

~~the clerk, or some person to be then appointed for that purpose by the commissioners, shall write the names of all the commissioners on separate slips of paper, all as nearly as may be of equal size, and having folded them up in the same manner he shall put them into a balloting box, and shall, in the presence of the meeting, draw out such slips of paper in succession, and the names upon the slips so drawn shall be written by the clerk or other person in a list in the order in which they are drawn, or, where the commissioners are elected for wards or other electoral divisions of the town, (and which electoral divisions are herein-after called wards,) in as many lists as there are wards or electoral divisions, and in the order aforesaid, each list containing the names of the commissioners for one such ward or electoral division only; and every such list shall be kept by the clerk among the papers of the commissioners, and the names therein shall be numbered consecutively, and the commissioners shall retire from office in the order in which their names appear on such list or lists, as the case may be, in the proportions herein-before or in the special Act mentioned.~~

21 ~~Annual meeting for election of commissioners.~~

~~For the purpose of electing commissioners from time to time in the place of those who go out by rotation, a meeting of the persons entitled to vote at such election shall be held at the prescribed place, and if no place be prescribed at the principal office of the commissioners, on the prescribed day, or if no day be prescribed on the first Thursday in the month of September in the year following that in which the special Act is passed, and on the first Thursday in September in each succeeding year, or, if the commissioners are to be elected for wards, a meeting of the persons entitled to vote in each ward shall on the same day be held at some place to be appointed by the commissioners, of which meetings, and the time and place of holding the same, public notice shall be given by the clerk by advertisement, and also by placards affixed on the principal doors of the parish churches or other public places in the town, seven clear days at the least before the day of election, and at such meeting or meetings the election of commissioners shall take place as herein-after mentioned.~~

22 ~~Returning officer at elections.~~

~~Where the appointment of the returning officer to act at the election of commissioners is not provided for by the special Act, the chairman of the commissioners shall be the returning officer; and if the commissioners are to be elected for wards, the said chairman shall act as the presiding officer at the election for the ward for which he was elected a commissioner, and he shall appoint some other commissioner for each of the other wards to be the presiding officer at the election for such ward, and in case of the death of any such presiding officer, or of his declining or becoming incapable to act, the commissioners shall appoint another of their body to be the presiding officer in the place of the person so dying or declining, or becoming incapable to act, and the clerk to the commissioners shall, two days at least before each election, by advertisement, placards, or otherwise, give public notice of every such appointment.~~

23 ~~Returning officer to appoint poll clerks.~~

~~At every such election of commissioners the commissioners shall cause to be printed a sufficient number of voting papers in blank, in the form given in the schedule (A.) to this Act annexed, or to the like effect, and shall furnish them to the returning officer for the use of the voters; and if it appear to the returning officer at any election expedient so to do, he may cause booths to be erected, or rooms to be hired and used as booths;~~

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

~~for taking the poll at such election, and he shall in such case appoint a clerk to take the poll at each booth, and shall cause to be affixed on the most conspicuous part thereof the name of the ward or district for which such booth is provided, and public notice of every election, and of the situation of the different polling places, and of the place where voting papers may be procured by electors, shall be given by the returning officer two days at least before the commencement of the poll.~~

24 ~~Scale of votes of owners and occupiers.~~

~~Where by the special Act the owners of property and ratepayers are entitled to vote in the election of commissioners, and no scale of voting is prescribed, every such owner and ratepayer shall have respectively the same number and proportion of votes according to the scale following, (that is to say,)~~

~~If the property in respect of which he is entitled to vote be rated upon a rateable value of less than fifty pounds, he shall have one vote:~~

~~If such rateable value amount to fifty pounds and be less than one hundred pounds, he shall have two votes:~~

~~If it amount to one hundred pounds and be less than one hundred and fifty pounds, he shall have three votes:~~

~~If it amount to one hundred and fifty pounds and be less than two hundred pounds, he shall have four votes:~~

~~If it amount to two hundred pounds and be less than two hundred and fifty pounds, he shall have five votes:~~

~~And if it amount to or exceed two hundred and fifty pounds, he shall have six votes.~~

25 ~~Electors to vote in ward where their property qualification is situate but not to vote for more than one ward.~~

~~Where by the special Act the commissioners are directed to be elected for wards, every person entitled to vote in the election of commissioners shall vote for commissioners for that ward only wherein the property or part thereof in respect of which his name appears in the rate book is situate; and if any person be rated in respect of property situate in more than one ward, he may vote for commissioners for any one of such wards, but having so voted he shall not afterwards, at the same election, vote for a commissioner for any other ward; and any vote so afterwards given by him shall be void.~~

26 ~~Commissioners may cause alphabetical list of voters to be made, and may defray the expence out of the rates.~~

~~Before any such election of commissioners the commissioners, if they think it necessary for enabling the returning officer to take the poll conveniently at such election, may cause an alphabetical list to be made out of the names of the persons entitled to vote at such election, as they appear in the rates made for the purposes of the special Act, and they shall deliver to the returning officer for the time being a sufficient number of copies of the list so prepared, to enable the returning officer to take the poll at the election, and they may defray the expence of making such list and copies out of the rates payable to them under the special Act.~~

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

**27 ~~Returning officer may summon rate collectors, &c. to attend the election.~~
~~Penalty on rate collector, &c. for neglect.~~**

~~If the qualification of the electors of the commissioners depend upon the rates payable by such electors, the returning officer may summon the overseers or inspectors of the poor, collectors, and other officers employed in the assessment or collection of the rates to attend the election, in order to assist in ascertaining that the persons presenting themselves to vote, or who have voted, are or were duly qualified to vote at such election, and such overseers or inspectors, rate collectors, or other officers shall attend with the rates and such other documents necessary for the purpose aforesaid as may be in their custody or power, at such places and at such times as the returning officer may direct, and shall answer all such questions as any presiding officer at the poll shall put to them respecting the title of any person to vote at the election, and any overseer or inspector, rate collector, or other officer who shall wilfully neglect or fail to perform the duties hereby imposed upon him shall for such neglect or failure be liable to a penalty not exceeding [F12] twenty pounds[[F12] level 2 on the standard scale.]~~

Textual Amendments

F12 ~~“level 2 on the standard scale”~~ substituted (E.W.) for ~~“twenty pounds”~~ by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

Modifications etc. (not altering text)

C30 ~~Functions of overseers of the poor now generally exercisable in City of London by Common Council, in Greater London (except the City and Temples) by London borough councils and elsewhere by rating authorities: London Government Act 1899 (c. 14), s. 11(1), City of London (Union of Parishes) Act 1907 (c. cxl), s. 11, Rating and Valuation Act 1925 (c. 90), s. 62(1), S. R. & O. 1927/55 (Rev. XIX, p. 599: 1927, p. 964), London Government Act 1963 (c. 33), s. 63(1) and General Rate Act 1967 (c. 9), s. 1(1)~~

28 ~~Mode of voting at elections.~~

~~At every such election of commissioners the voting shall commence at nine of the clock in the forenoon of the day fixed for the election as aforesaid, and shall finally close at four of the clock in the afternoon of the same day, (unless in case of riot or obstruction,) and shall be conducted in manner following; (that is to say,) every person entitled to vote may vote for any number of persons having the prescribed qualification, (not exceeding the number of commissioners then to be chosen for the town, or, where the commissioners are to be elected in wards, not exceeding the number to be elected for the ward in which such person is entitled to vote,) by delivering to the presiding officer at the poll a voting paper, containing a description of his qualification to vote, in the form contained in schedule (A.) to this Act annexed, or to the like effect, and also the names of the persons for whom he votes, such paper being previously signed with the name of the person voting, and the poll clerk shall thereupon openly record such vote in the poll book, and the voting paper shall be carefully preserved by the presiding officer; and the presiding officer shall, if he thinks fit, or if he be required so to do by any person entitled to vote at the said election, put to any voter at the time of his delivering in his voting paper the following questions, or either of them:~~

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1

~~Are you the person assessed as A.B., on the [] rate [specifying the rate which confers the right to vote], in respect of property described to be situated in [here specify the street, &c. as described in the rate]~~

~~Or, if the voter claim to vote as the owner of property;~~

~~Are you the person described as the owner of the property mentioned in [] rate [specifying the rate], and described as being situated in [here specify the street, &c. as described in the rate]~~

2

~~Have you already voted at the present election? [or, if the town be divided into wards], have you already voted for commissioners to be elected for this or any other ward at the present election~~

~~And no person required to answer either of the said questions shall be permitted or qualified to vote until he has answered the same; and if any person wilfully make a false answer to either of the questions aforesaid he shall be deemed guilty of a misdemeanor, or in Scotland shall be deemed guilty of perjury.~~

29

~~Poll may be closed if no voting paper be tendered for one hour.~~

~~The presiding officer at any place of voting may close the voting or poll at any time before four of the clock, if one hour have elapsed during which no voting paper has been tendered at such place of voting.~~

30

~~Returning officer to examine poll books and declare the poll.~~

~~After the close of the poll the returning officer, or, where the commissioners are elected for wards, the presiding officer in each ward, shall examine the poll books, and, if necessary, compare the entries therein with the rate book and with the voting papers so delivered as aforesaid, for the purpose of ascertaining the number of votes given for each person, and so many of such persons, being not more than the number of persons then to be chosen for the town, or for each ward, as the case may be, and having the prescribed qualification, as shall have the greatest number of votes shall be deemed to be elected; and in case of an equality in the number of votes for any two or more such persons, the presiding officer shall, if necessary to prevent an excess in the number of commissioners, decide by lot which of such persons shall be elected; and the presiding officer shall, not later than two of the clock in the afternoon of the day next but one following the day of such election, unless such day be Sunday, and then on the day following, publish a list of the names of the persons so elected, and he shall also send a notice to each person so elected, informing him of his being elected a commissioner.~~

31

~~Voting papers and poll books to be open to inspection for six months after election.~~

~~Within four days after every election the returning officer, or, where the commissioners are elected for wards, the presiding officer in each ward, shall cause the voting papers delivered as aforesaid to be arranged in alphabetical order, and numbered according to the names of the voters, and shall deliver them, together with the poll books, to the clerk to the commissioners; and such clerk shall, during six months at least after every such election, keep such voting papers and poll books at his office, and shall permit any person to inspect the same on payment of a fee of [^{F13}5p]; and if such clerk shall~~

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

~~refuse or fail to allow such inspection, he shall for every such refusal or failure be liable to a penalty of [F14] level 1 on the standard scale.]~~

Textual Amendments

~~F13~~ Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

~~F14~~ Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), ss. 289F, 289G

32 ~~Manner of proceeding if any person is elected a commissioner in more than one ward.~~

~~If any person be elected a commissioner in more than one ward, he shall within three days after notice thereof choose, or in default thereof the commissioners at their next meeting shall declare, for which one of the wards such commissioner shall serve, and he shall thereupon be held to be elected in that ward only which he shall so choose or which the commissioners shall so declare, and shall cease to be a commissioner for any other ward.~~

33 ~~If no election day appointed, it may be made on a subsequent day.~~

~~If from any cause no election take place on the day appointed for the same, either for the town or for any ward, the election shall stand adjourned until the same day of the following week, and the returning officer shall give not less than three days previous notice thereof, by advertisement, or by placards affixed in public places in the town; and in such case the commissioners who would on that day have retired from office by rotation shall continue in office until such adjourned election takes place.~~

34 ~~Election not to be void for want of title in presiding officer.~~

~~No election of commissioners shall be liable to be questioned by reason only of any defect in the title, or any want of title, of the person by or before whom such election shall have been held; provided that such person have been actually appointed to preside or have been acting in the office giving the right to preside at such election.~~

35 ~~Expences of presiding officer to be paid out of rates levied.~~

~~All expences of or incident to any election incurred by the returning officer or presiding officer shall be repaid to them by the commissioners out of the monies arising from the rates authorized to be levied for the purposes of the special Act; and all overseers and other parochial officers or other persons shall be in like manner paid a reasonable remuneration for attendance at the election with rate books, and for any other services performed in relation to such election; and any dispute respecting the amount of such expences and remuneration shall be determined by a justice, or by the sheriff, who shall have power also to fix the costs attending such determination and to order by whom the same shall be paid.~~

Modifications etc. (not altering text)

~~C31~~ Functions of overseers of the poor now generally exercisable in City of London by Common Council, in Greater London (except the City and Temples) by London borough councils and elsewhere by rating

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authorities: ~~London Government Act 1899 (c. 14), s. 11(1), City of London (Union of Parishes) Act 1907 (c. cxl), s. 11, Rating and Valuation Act 1925 (c. 90), s. 62(1), S. R. & O. 1927/55 (Rev. XIX, p. 599: 1927, p. 964), London Government Act 1963 (c. 33), s. 63(1) and General Rate Act 1967 (c. 9), s. 1(1)~~

Meetings of commissioners

And with respect to the meetings and other proceedings of the commissioners, and their liabilities, be it enacted as follows:

36 First meeting of the commissioners.

Section 36 was modified in its application - see Second Schedule to MH Act 1884

The commissioners shall hold their first meeting at the prescribed time and place, and if a time or place be not prescribed they shall hold their first meeting at some convenient place within the limits of the special Act on the third Wednesday next after the commencement thereof, or, if the first body of commissioners be not named in the special Act, on the first Wednesday after the first election of commissioners, or as soon after such periods respectively as conveniently may be, at the hour of ten of the clock in the forenoon, and shall proceed to put this and the special Act into execution.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

37 Election of chairmen of meetings.

At the first meeting of the commissioners they shall, by the majority of the votes of the commissioners present, elect one of their body to be their chairman until the next annual meeting of the commissioners, when, and at every subsequent annual meeting, the commissioners shall in like manner elect a chairman for the ensuing year; and in case the chairman die, or resign, or cease to be a commissioner, or otherwise become disqualified to act as such, the commissioners present at the meeting next after the occurrence of such vacancy shall choose some other of their body to fill such vacancy, and the chairman so elected shall continue in office so long only as the person in whose place he was elected would have been entitled to continue chairman; and if at any meeting of the commissioners the chairman be not present, one of the commissioners present shall be elected chairman of such meeting by the majority of the votes of the commissioners present at such meeting.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

C33 S. 37 incorporated (with modifications) (E.W.S.) (25.8.2001) by [S.I. 2001/2820](#), art. 3

38 Manner of voting.

At all meetings of the commissioners the questions there considered shall be decided by the votes of the majority present; and if there be an equal division of votes upon

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

any question the chairman or commissioner acting as chairman at such meeting shall, in addition to his own vote as a commissioner, have a second or casting vote; provided always, that if at any such meeting there be an equality of votes in the election of the chairman, it shall be decided by lot which of the commissioners having an equal number of votes shall be the chairman; provided also, that at every annual meeting the chairman going out of office at that meeting shall, if present and willing to act, be the chairman of such meeting.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

39 Quorum of commissioners.

All powers vested in the commissioners under this or the special Act may be exercised by the prescribed number, and where no number is prescribed by any five or more of the commissioners present at any meeting holden in pursuance of this and the special Act, and no business shall be transacted at any meeting of the commissioners unless the said number of commissioners be present.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

40 Commissioners to hold annual and monthly meetings.

Section 40 was modified in its application so as to provide that the annual meeting shall be held on a day appointed by byelaw and by saying that it shall not be necessary to hold monthly meetings, but that there shall be a meeting at least once in every 3 months. See Second Schedule to MH Act 1884.

The commissioners shall hold an annual meeting at the prescribed time and place, and if no time or place be prescribed then on the third Wednesday in the month of June in each year at a place to be appointed by the commissioners, and the first of such annual meetings shall be held in the year after that in which the special Act is passed; and they shall also hold monthly meetings for the transaction of general business, and the said monthly meetings shall be held at the office of the commissioners, on such day and hour in each month as the commissioners shall from time to time appoint, and when any such appointment is made the clerk shall give notice thereof to each of the commissioners, and they shall afterwards, until the time or place of such monthly meetings is changed, and notice of such change given to the commissioners, attend such monthly meetings without notice.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

41 Meetings of commissioners may be adjourned from time to time.

The commissioners present at such first meeting, or at any annual or monthly meeting, or at any adjourned meeting, may from time to time adjourn such meeting to the same, or any other place within the limits of the special Act, and if at any meeting

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

of the commissioners there be not the prescribed number, or where no number is prescribed five commissioners, present within one half-hour after the time appointed for such meeting, the commissioners present, or the major part of them, or any one commissioner if only one be present, or their clerk if no commissioner be present, may adjourn such meeting to another day at the same or any other place within the limits of the special Act.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C34** [S. 41](#) incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**
- C35** [Ss. 41-47](#) incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C36** [S. 41](#) incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)

42 Monthly meetings to be held for transacting the ordinary business under this and the special Act.

The said monthly meetings of the commissioners shall be held for transacting the ordinary business of the commissioners under this or the special Act, and amongst the rest for appointing and removing the inferior officers of the commissioners, and superintending their conduct, and for inquiring into the conduct of the contractors or other persons employed by them to execute any works, and into the state and progress of such works, and generally for giving such directions from time to time as may be necessary for carrying into effect the purposes of this and the special Act.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C35** [Ss. 41-47](#) incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C37** [S. 42](#) incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**
- C38** [S. 42](#) modified (S.) (15.1.2007) by [Tarbert \(Loch Fyne\) Harbour Revision \(Constitution\) Order 2007 \(S.S.I. 2007/5\)](#), art. 1(1), **Sch. 2 para. 9(4)**

43 No extraordinary business shall be transacted at monthly meetings, unless notice be given.

Where any business other than ordinary business is required or intended to be transacted at any monthly meeting, the clerk shall give notice thereof to each of the commissioners, and no such extraordinary business, nor any new rules or regulations, shall be adopted at the monthly meetings, unless due notice thereof have been given at a prior meeting and sent to each commissioner in the manner required for special meetings.

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C35** Ss. 41-47 incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C39** S. 43 incorporated (with modifications) (E.W.S.) (25.8.2001) by S.I. 2001/2820, **art. 3**
- C40** S. 43 modified (S.) (15.1.2007) by [Tarbert \(Loch Fyne\) Harbour Revision \(Constitution\) Order 2007 \(S.S.I. 2007/5\)](#), art. 1(1), **Sch. 2 para. 9(4)**
- C41** S. 43 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)

44 No resolution of commissioners to be revoked at a subsequent meeting unless under certain circumstances.

No resolution at any meeting of the commissioners shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given by the clerk to each of the commissioners seven days at least before holding the meeting, nor unless such revocation or alteration be determined upon by majority consisting of two-thirds of the commissioners present at such subsequent meeting, if the number of commissioners present at such subsequent meeting be not greater than the number present when such resolution was come to, or by a majority, if the number of commissioners present at such subsequent meeting be greater than the number present at such former meeting.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C35** Ss. 41-47 incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C42** S. 44 incorporated (with modifications) (E.W.S.) (25.8.2001) by S.I. 2001/2820, **art. 3**

45 As to the holding of special meetings.

The commissioners may hold special meetings, and any five or more of the commissioners may require a special meeting to be held, but no such meeting shall be held unless two clear days notice thereof at the least be given.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C35** Ss. 41-47 incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C43** S. 45 incorporated (with modifications) (E.W.S.) (25.8.2001) by S.I. 2001/2820, **art. 3**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C44** S. 45 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)

46 Notice to be given of things to be done by the commissioners by special order only.

Where by the special Act the commissioners are empowered to do any thing by special order only, they shall not do such thing unless the resolution to do the same have been agreed to by the commissioners in some meeting whereof special notice has been given, and have been confirmed in a subsequent meeting held not sooner than four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings, and special notice thereof given to each of the commissioners.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C35** Ss. 41-47 incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C45** S. 46 incorporated (with modifications) (E.W.S.) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**

47 How notices of meetings of commissioners are to be given.

All notices of any meeting of the commissioners shall be in writing or in print, or partly in writing and partly in print, and shall be by the clerk delivered or sent by the post, or otherwise, to the usual place of abode or place of business, if any, within the limits of the special Act, of each of the commissioners, two clear days at least previous to such meeting, and every such notice shall specify the time and place of meeting, and in case of a special meeting shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in the notice thereof.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C35** Ss. 41-47 incorporated (with modifications) by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C46** S. 47 incorporated (with modifications) (E.W.S.) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**
- C47** S. 47 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)

48 Expences of meetings.

At all meetings of the commissioners they shall defray their own expences, except what may be incurred for the use of the room in which the meeting is held, and for books, stationery, and fire.

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C48** [S. 48](#) incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**
[S. 48](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
[S. 48](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
- C49** [S. 48](#) incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

49 Power of commissioners to appoint committees.

The commissioners may at any meeting from time to time, appoint committees for any purposes which in the opinion of the commissioners would be better regulated and managed by means of such committee, and they may fix the quorum of any such committee, and may continue, alter, or discontinue such committee.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C50** [S. 49](#) incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**

50 Quorum of committee.

Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless the quorum of members, if any, fixed by the commissioners, and if no quorum be fixed, three members, be present; and at all meetings of the committee one of the members present shall be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C51** [S. 50](#) incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**

51 Acts of the commissioners not to be invalidated by reason of vacancies.

No proceeding of the commissioners or of any committee shall be invalidated or be illegal in consequence only of there being any vacancy in the number of commissioners at the time of such proceeding.

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

52 Informalities in appointment of commissioners not to invalidate proceedings.

All proceedings of the commissioners, or of a committee of commissioners, or of any person acting as a commissioners, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such commissioners or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a commissioner.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C52** [S. 52](#) incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**

Sections 53 and 54 were excluded (see Second Schedule to MH Act 1884)

53 ~~Commissioners may provide public offices, &c.~~

~~The commissioners may from time to time provide and maintain fit and convenient public offices, together with all necessary and proper furniture for the same, for holding the meetings and transacting the business of the commissioners, and for the use of their officers, and for the holding of such public meetings and transacting such public business relating to the town as the commissioners shall, from time to time, under the powers of this or the special Act, or any Act incorporated therewith, direct or allow to be held or transacted therein, and for such purpose may purchase or hire any lands or buildings which the commissioners think necessary, from any person willing to sell or let the same, or may cause any new building to be erected upon any land purchased or hired under the provisions of this or the special Act, or otherwise belonging to the commissioners.~~

Modifications etc. (not altering text)

- C32** ~~Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**~~
- C53** ~~S. 53 incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**~~
~~S. 53 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**~~
~~S. 53 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**~~
~~S. 53 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)~~
- C54** ~~S. 53 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, **3(4)** (with arts. 78, 80, 81)~~
- C55** ~~S. 53 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**~~
- C56** ~~S. 53 incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/403\)](#), arts. 1(1), **3(1)**~~
- C57** ~~S. 53 incorporated with modifications by [S.I. 2001/2820](#) art. 3(1) (as substituted (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))~~

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

~~C58~~ ~~S. 53 incorporated (with modifications) (E.W.S.) (1.11.2015) by The Great Yarmouth Port Authority (Constitution) Harbour Revision Order 2015 (S.I. 2015/1395), arts. 1(3), 2, 3 (with Sch. 3)~~

54 ~~Commissioners to provide daily attendance at their office to receive notices, &c.~~

~~The commissioners shall require their clerk, or some person duly authorized by them in that behalf, to attend to their office daily, Sundays, Christmas Days, and Good Fridays, and days appointed for general fasts or thanksgivings only excepted, for the purpose of receiving notices, and transacting the ordinary business of the commissioners, and due notice of the situation of the office of the commissioners, and of the hours during which attendance is given there, shall be published by the commissioners within the limits of the special Act, in such manner that the same may be fully and generally known.~~

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

~~C32~~ ~~Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~

55 Proceedings to be entered in a book, and, when signed, shall be received in evidence.

The commissioners shall cause entries of all the proceedings of the commissioners, and of every committee appointed by them, with the names of the commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the commissioners, and every such entry shall be signed by the chairman of the meeting at which the proceeding took place, and such entry so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being commissioners or members of committees respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the commissioners and of any mortgagee of the rates or property of the commissioners.

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

~~C32~~ ~~Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~

Contracts

And with respect to the contracts to be entered into and the deeds to be executed by the commissioners, be it enacted as follows:

56 Power to commissioners to enter into contracts.

The commissioners may enter into contracts with any persons for the execution of any works directed or authorized by this and the special Act to be done by the

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

commissioners, or for furnishing materials, or for any other things necessary for the purposes of this or the special Act, and every such contract for the execution of any work shall be in writing, and shall specify the work to be done, and the materials to be furnished and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof; and the power hereby granted to the commissioners to enter into contracts may lawfully be exercised as follows; [^{F15}(that is to say,)

Any contract which if made between private persons would be by law required to be in writing and [^{F16}under seal][^{F16}executed as a deed], or in Scotland by a probative deed, the commissioners may make in writing and under their common seal, if they be incorporated, or, if not incorporated, [^{F16}under the hands and seals][^{F16}executed as a deed by them], or in Scotland under the hands, of the commissioners, or any two of them acting by the direction and on behalf of the commissioners, and in the same manner may vary or discharge the same]:

Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith the commissioners may make in writing, signed by the commissioners, or any two of their number acting by the direction and on behalf of the commissioners, and in the same manner may vary or discharge the same:

Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, the commissioners, or any two of them acting by the direction and on behalf of the commissioners, may make by parol only, without writing, and in the same manner may vary or discharge the same:

And all contracts made according to the provisions herein contained, being duly executed by the persons contracting to perform the works therein comprised respectively, shall be effectual in law, and shall be binding on the commissioners, and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be, and in case of default in the execution of any such contract, either by the commissioners or by any other party thereto such actions or suits may be maintained thereon, and damages and costs recovered by or against the commissioners or the other parties failing in the execution thereof, as might have been maintained and recovered had the same contracts been made between private persons only.

Textual Amendments

- F15** Words in s. 56 repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))
- F16** Words in s. 56 substituted (N.I.) (15.11.2005) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2005 \(S.I. 2005/1452\)](#), art. 1(2), **Sch. 1 para. 7**; S.R. 2005/494, art. 2(1)(c)

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C59** S. 56 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
S. 56 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 56 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)
- C60** S. 56 incorporated (with modifications) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C61** S. 56 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C62** S. 56 incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.S.I. 2010/403\)](#), arts. 1(1), **3(1)**
- C63** S. 56 incorporated (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\)](#), arts. 1(1), **3(1)**
- C64** S. 56 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)

57 Notice to be given of contracts to the amount of 100 l. or upwards

[^{F17}Before any contract to the amount of one hundred pounds or upwards shall be entered into by the commissioners, ten days notice at the least shall be given in some one of the newspapers circulating within the limits of the special Act, expressing the purpose of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to the commissioners, and the commissioners shall accept the proposal which upon a view of all the circumstances shall appear to them to be most advantageous, and shall take security for the due and faithful performance of every such contract.]

Textual Amendments

- F17** S. 57 repealed (S.) (15.1.2007) by [Tarbert \(Loch Fyne\) Harbour Revision \(Constitution\) Order 2007 \(S.S.I. 2007/5\)](#), art. 1(1), **Sch. 3**

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

58 Commissioners may compound for breach of contract.

The commissioners may compound with any party who has entered into any such contract, or against whom any action or suit has been brought for any penalty contained in any such contract, or in any bond or other security for the performance thereof, or on account of any breach or non-performance of any such contract, bond, or security, for such sums of money or other recompence as the commissioners may think proper.

Modifications etc. (not altering text)

- C8** Ss. 58-60 incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.S.I. 2010/403\)](#), arts. 1(1), **3(1)**
- C9** Ss. 58-60 incorporated (S.) (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\)](#), arts. 1(1), **3(1)**
- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C65** S. 58 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 58 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
S. 58 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)
- C66** Ss. 58-60 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C67** Ss. 58-60 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

C68 Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, 3 (with Sch. 3)

59 As to the conveyance of lands by the commissioners. Receipt under seal to be a sufficient discharge.

Where by the special Act or any Act incorporated therewith the commissioners are authorized or required to sell or convey any lands vested in them, and no other mode of conveyance is provided, they may convey such lands, or such interest as the commissioners have therein, by deed under the common seal of the commissioners, if they be a corporation, or, if not a corporation, by deed executed by the commissioners, or any two of them acting by the authority of and on behalf of the commissioners; and a deed so executed, followed as to lands in Scotland by infetment duly recorded, shall be effectual to vest the lands comprised therein, or such interest as the commissioners have therein, in the grantee or other person to whom the same shall be so conveyed; and a receipt under such common seal, or under the hands of two of the commissioners acting as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

[^{F18}(2) This section shall apply to Scotland as if—

(a) for the words from “by deed under” to “recorded” there were substituted the words—

“by a document—

(a) if they are a corporation, subscribed [^{F19}in accordance with section 7 of, and paragraph 5 of Schedule 2 to,]^{F19}or authenticated in accordance with] the Requirements of Writing (Scotland) Act 1995;

(b) if they are not a corporation, [^{F20}subscribed in accordance with the said section 7]^{F20}so subscribed or authenticated] by the commissioners or any two of them acting by the authority of and on behalf of the commissioners;

and a document so subscribed^{F21}, followed by infetment duly recorded]^{F21}or authenticated, duly registered in the Land Register of Scotland],”;

(b) for the words from “under such” to “acting” there were substituted the [^{F22}word “subscribed”]^{F22}the words “subscribed or authenticated”].]

Textual Amendments

F18 S. 59(2) added (S.) (1.8.1995) by virtue of 1995 c.7, ss. 14(1), 15(2), [Sch. 4 para. 4](#) (with ss. 9(3)(5) (7), 13, 14(3))

F19 Words in s. 59(2)(a) substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 5 para. 2\(2\)\(a\)\(i\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

F20 Words in s. 59(2)(a) substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 5 para. 2\(2\)\(a\)\(ii\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

F21 Words in s. 59(2)(a) substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 5 para. 2\(2\)\(a\)\(iii\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

F22 Words in s. 59(2)(b) substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 5 para. 2\(2\)\(b\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

C8 Ss. 58-60 incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.S.I. 2010/403\)](#), arts. 1(1), 3(1)

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C9** Ss. 58-60 incorporated (S.) (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\)](#), arts. 1(1), **3(1)**
- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C66** Ss. 58-60 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C67** Ss. 58-60 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C68** Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)
- C69** S. 59 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 59 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
S. 59 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

Legal proceedings

And with respect to the liabilities of the commissioners, and to legal proceedings by or against the commissioners, be it enacted as follows:

60 Commissioners not to be personally liable for acts done in the capacity of a commissioner. Commissioners to be indemnified for acts done in the execution of their office.

No commissioner, by being party to or executing in his capacity of commissioner any contract or other instrument on behalf of the commissioners, or otherwise lawfully executing any of the powers given to the commissioners, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the several commissioners shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as commissioners; and the commissioners respectively, their heirs, executors, and administrators, shall be indemnified out of the rates and other monies coming to the hands of the commissioners by virtue of this and the special Act for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them.

Modifications etc. (not altering text)

- C8** Ss. 58-60 incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.S.I. 2010/403\)](#), arts. 1(1), **3(1)**
- C9** Ss. 58-60 incorporated (S.) (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\)](#), arts. 1(1), **3(1)**
- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C66** Ss. 58-60 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C67** Ss. 58-60 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C68** Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)
- C70** S. 60 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- S. 60 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
- S. 60 incorporated (with modifications) (E.W.S.) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**
- S. 60 incorporated (E.W.S.) (4.3.2002) by [S.I. 2002/306](#), **art. 2**
- S. 60 incorporated (E.W.S.) (10.6.2002) by [S.S.I. 2002/294](#), **art. 2**
- S. 60 incorporated (E.W.S.) (25.6.2002) by [S.S.I. 2002/310](#), **art. 2**
- S. 60 incorporated (4.11.2002) by [S.I. 2002/2730](#), **art. 2**
- C71** S. 60 incorporated (S.) (22.4.2003) by [Montrose Port Authority Harbour Revision \(Constitution\) Order 2003 \(S.S.I. 2003/258\)](#), arts. 1(1), **2**
- C72** S. 60 incorporated (S.) (11.9.2003) by [The Stornoway Harbour Revision \(Constitution\) Order 2003 \(S.S.I. 2003/435\)](#), arts. 1(1), **2**
- C73** S. 60 incorporated (S.) (1.10.2003) by [Cromarty Firth Port Authority \(Constitution\) Revision Order 2003 \(S.S.I. 2003/491\)](#), arts. 1(1), **2**
- C74** S. 60 incorporated (E.W.S.) (29.10.2003) by [Lancaster Port Commission Harbour Revision \(Constitution\) Order 2003 \(S.I. 2003/2724\)](#), arts. 1(1), **2**
- C75** S. 60 incorporated (E.W.S.) (28.5.2004) by [Bridlington Harbour Revision \(Constitution\) Order 2004 \(S.I. 2004/1426\)](#), arts. 1(1), **2**
- C76** S. 60 incorporated (S.) (5.10.2005) by [Peterhead Port Authority Harbour \(Constitution\) Revision Order 2005 \(S.S.I. 2005/491\)](#), arts. 1(1), **2** (with art. 17)
- C77** S. 60 incorporated (S.) (15.1.2007) by [Tarbert \(Loch Fyne\) Harbour Revision \(Constitution\) Order 2007 \(S.S.I. 2007/5\)](#), arts. 1(1), **2**
- C78** S. 60 incorporated by [S.S.I. 2001/457](#) art. 2A (as inserted) (S.) (21.12.2011) by [The Fraserburgh Harbour Revision Order 2011 \(S.S.I. 2011/447\)](#), arts. 1(1), **21** (with arts. 30-32))
- C79** S. 60 incorporated with modifications by [S.I. 2001/2820](#) art. 3(1) (as substituted (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C80** S. 60 incorporated (S.) by [S.S.I. 2002/5578](#) art. 2A (as inserted (8.11.2012) by [The Inverness Harbour Revision \(Constitution\) Order 2012 \(S.S.I. 2012/302\)](#), arts. 1(1), **3**)
- C81** S. 60 incorporated (with modifications) (S.) (26.11.2016) by [The Gardenstown Harbour Revision Order 2016 \(S.S.I. 2016/396\)](#), arts. 1(1), **3(1)(3)**
- C82** S. 60 incorporated (S.) (12.4.2019) by [The Lerwick Harbour Revision \(Constitution\) Order 2019 \(S.S.I. 2019/136\)](#), arts. 1(1), **2**
- C83** S. 60 incorporated (with modifications) (S.) (4.3.2021) by [The Eyemouth Harbour Revision Order 2021 \(S.S.I. 2021/118\)](#), arts. 1(1), **3(1)(3)** (with arts. 36, 37)
- C84** S. 60 incorporated (with modifications) (S.) (7.11.2024) by [The Dumfries and Galloway Council \(Stranraer\) Harbour Revision Order 2024 \(S.S.I. 2024/325\)](#), arts. 1, **3(1)(3)** (with arts. 42-44)

61 Actions or suits to be brought in the name of any two commissioners or their clerk.

In all actions and suits in respect of any matter or thing relating to the execution of this or the special Act, to be brought by or against the commissioners, it shall be sufficient, where such commissioners are not a body corporate, to state the names of any two of the commissioners, or the name of their clerk, as the party, plaintiff or defendant, representing the commissioners in any such action or suit, and no such action or suit shall abate or be discontinued, or required to be transferred, by reason of the death of any such commissioner, or by his ceasing to be a commissioner, or by the death, suspension, or removal of such clerk.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C68** Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)

62 Executions to be levied on the goods belonging to commissioners by virtue of their office only.

Execution upon every judgment or decree against the commissioners in any such action or suit shall be levied on the goods, chattels, or personal effects belonging to the commissioners by virtue of their office, and shall not in any manner extend to charge or make liable the persons, or private lands or goods, of any of the commissioners, or the heirs, executors, or administrators or any of them.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C68** Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)
- C85** [S. 62](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 62](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
[Ss. 62-64](#) incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)
- C86** [Ss. 62-65](#) incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C87** [Ss. 62-65](#) incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

63 Commissioners and clerk to be reimbursed all damages, &c.

Every commissioner or clerk in whose name any such legal proceedings shall be carried on, either as plaintiff or defendant, on behalf of the commissioners, shall be reimbursed, out of the monies which shall come into the hands of the treasurer of the commissioners by virtue of his office, all damages, costs, charges, and expences to which any such commissioner or clerk may be put, or with which he may become chargeable, by reason of being so made plaintiff or defendant.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C68** Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)
- C86** [Ss. 62-65](#) incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C87** [Ss. 62-65](#) incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C88** [S. 63](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 63](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
[Ss. 62-64](#) incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

64 How indictments to be preferred.

The commissioners may prefer a bill of indictment against any person who shall steal or wilfully injure any property or thing belonging to the commissioners, or under their management, or institute any other proceeding which may appear to them necessary for the protection of such property, and in every such case it shall be sufficient to state generally the property or thing in respect of which such proceeding shall have been taken to be the property of the commissioners, as they shall be described in the special Act, without naming the individual commissioners.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C68** Ss. 58-64 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)
- C86** Ss. 62-65 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C87** Ss. 62-65 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C89** [S. 64](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 64](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
[Ss. 62-64](#) incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

Officers

And with respect to the appointment and accountability of the officers of the commissioners, be it enacted as follows:

65 Power to commissioners to appoint clerk and other officers, and remove them from time to time.

The commissioners may from time to time appoint and employ a treasurer, clerk, collector, assessor, and all such other officers to assist in the execution of this and the special Act as they shall think necessary and proper, and from time to time remove any of such officers, and appoint others in the room of such as shall be so removed, or as may die, resign, or discontinue their offices, and may, out of the monies to be raised for the purposes of this and the special Act, pay such salaries and allowances to the said officers respectively as the commissioners shall think reasonable.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C86** Ss. 62-65 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C87** Ss. 62-65 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C90** [S. 65\(1\)](#) incorporated (S.) (18.11.2010) by [The St. Andrews Harbour Revision \(Constitution\) Order 2010 \(S.S.I. 2010/403\)](#), arts. 1(1), **3(1)**
- C91** [S. 65](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 65](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C92** S. 65 incorporated (S.) (5.6.2014) by [The Pennan Harbour Revision Order 2014 \(S.S.I. 2014/158\)](#), arts. 1(1), **3(1)**
- C93** S. 65 incorporated (with modifications) (S.) (26.11.2016) by [The Gardenstown Harbour Revision Order 2016 \(S.S.I. 2016/396\)](#), arts. 1(1), **3(1)(3)**

66 Offices of clerk and treasurer not to be held by same person.

The same person shall not be appointed to the office both of clerk and treasurer; and if any person being the clerk, or the partner of such clerk, or in the service of such clerk or of his partner, accept the office of treasurer, or if any person being the treasurer, or the partner of such treasurer, or in the service, of such treasurer or of his partner, accept the office of clerk, he shall forfeit the sum of one hundred pounds, and any person may sue for such penalty by action on the case in any of the superior courts, and shall on recovery thereof be entitled to full costs of suit.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

67 Officer taking fees other than those allowed to lose his office, and forfeit 50 l.

Every officer employed by the commissioners who shall . . . ^{F23} accept on account of anything done by virtue of his office, or in relation to the matters to be done under this or the special Act, any fee or reward whatsoever, other than the salary or allowances allowed by the commissioners, or who shall be in anywise concerned or interested in any bargain or contract made by the commissioners shall be incapable of being afterwards employed by the commissioners, and shall forfeit the sum of fifty pounds, and any person may sue for such penalty by action on the case in any of the superior courts, and shall on recovery thereof be entitled to full costs of suit.

Textual Amendments

- F23** Words repealed (E.W.) (S.) by [Theft Act 1968 \(c. 60\)](#), s. 33(3), **Sch. 3 Pt. I**

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C94** [S. 67](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 67](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
[S. 67](#) incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)
- C95** [S. 67](#) incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C96** [S. 67](#) incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

68 Security to be taken from all officers intrusted with money.

Before any person, whether treasurer, collector, or other officer intrusted by the commissioners with the custody or control of monies by virtue of his office, shall enter

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

upon such office, the commissioners shall take sufficient security from him for the faithful execution thereof.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

69 Collectors to pay over monies within seven days to the treasurer.

Every collector appointed or employed by the commissioners by virtue of this or the special Act to collect any rates shall, within seven days after he shall have received any monies on account of any such rates, pay over the same to the treasurer of the commissioners to their account, and the receipt of such treasurer for the monies so paid shall be a sufficient discharge to the collector; and every such collector shall, in such time and in such manner as the commissioners direct, deliver to them true and perfect accounts in writing under his hand of all monies received by him and of all monies paid by him to the said treasurer by virtue of this or the special Act, and also a list of the names of all persons who have neglected or refused to pay any rate or money owing by them, with a statement of the monies due from them respectively.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C97** [S. 69](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 69](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
- C98** [Ss. 69-74](#) incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C99** [Ss. 69-83](#) incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

70 Officers to account.

Every collector and other officer appointed or employed by the commissioners by virtue of this or the special Act, shall, from time to time when required by the commissioners make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all monies received by him on behalf of the commissioners, and such account shall state how and to whom and for what purpose such monies have been disposed of, and together with such account such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the commissioners, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- C98** Ss. 69-74 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C100** **S. 70** incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 70 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

71 Summary recovery against parties failing to account.

If any such collector or other officer fail to render such accounts as aforesaid, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for five days after being thereunto required he fail to deliver up to the commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects matters, and things, in his possession or power, relating to the execution of this or the special Act, or any Act incorporated therewith, or belonging to the commissioners, then on complaint thereof being made to a justice, or to the sheriff, such justice or sheriff shall summon such officer to appear before two or more justices, or before such sheriff, according as the summons may have been issued by a justice or by the sheriff, at a time and place to be set forth in such summons to answer such charge; and upon the appearance of such officer, or upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices or sheriff may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any monies of the commissioners are in the hands of such officer, or owing by him to the commissioners, such justices or sheriff may order such officer to pay the same . . .

F24

Textual Amendments

F24 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C98** Ss. 69-74 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C101** **S. 71** incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 71 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

72 Officers refusing to make out account and deliver up documents, &c. may be committed to prison.

If any such officer summoned as aforesaid refuse to make out such account in writing, or to produce and deliver to the justices or sheriff the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the commissioners, such justices or sheriff may commit such offender to gaol, there to remain until he shall

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

have delivered up all the vouchers and receipts in his possession or power relating to such accounts, and all the books, papers, writings, property, effects, matters, and things, in his possession or power, belonging to the commissioners.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C98** Ss. 69-74 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C102** [S. 72](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 72](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

73 Where officer about to abscond, a warrant may be issued in the first instance.

Provided always, that if any commissioner, or other person acting on behalf of the commissioners, shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and that he does believe, that it is the intention of any such officer as aforesaid to abscond, the justice or the sheriff before whom the complaint is made may, instead of issuing his summons, issue his warrant for bringing such officer before such two justices as aforesaid, if the warrant be issued by a justice, or before such sheriff, if the warrant be issued by him; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours without bringing him before some justice or the sheriff, according as he may be summoned before the one or the other; and the justice or sheriff before whom such officer may be brought may either discharge such officer, if he think there is no sufficient ground for his detention, or order such officer to be detained in custody so as to be brought before two justices at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices to answer the complaint of the commissioners.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C98** Ss. 69-74 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C103** [S. 73](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 73](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

74 Proceedings against officers not to discharge sureties.

No such proceeding against or dealing with any such officer as aforesaid shall deprive the commissioners of any remedy which they might otherwise have against any surety of such officer.

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C98** Ss. 69-74 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C104** **S. 74** incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 74 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

Mortgages

And with respect to the mortgages to be executed by the commissioners, be it enacted as follows:

Modifications etc. (not altering text)

- C105** Ss. 75–88 incorporated by [Land Drainage Act 1976 \(c. 70\)](#), **s. 87(5)**

75 Form of mortgage.

Every mortgage or assignation in security of rates or other property authorized to be made under the provisions of this or the special Act shall be by deed duly stamped, in which the consideration shall be truly stated; and every such deed shall be under the common seal of the commissioners, if they be a body corporate, or, if they be not a body corporate, shall be executed by the commissioners, or any five of them, and may be according to the form in the schedule (B.) to this Act annexed or to the like effect; and the respective mortgagees or assignees in security shall be entitled one with another to their respective proportions of the rates and assessments or other property comprised in such mortgages or assignations respectively, according to the respective sums in such mortgages or assignations mentioned to be advanced by such mortgagees or assignees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of the priority of advancing such monies, or of the dates of any such mortgages or assignations respectively.

[^{F25}(2) This section shall apply to Scotland as if for the words “by deed” to “five of them” there were substituted the words—in a document—

- (a) which is duly stamped;
- (b) in which the consideration is truly stated; and
- (c) which is subscribed, if the commissioners—
 - (i) are a corporation, in accordance with [^{F26}section 7 of, and paragraph 5 of Schedule 2 to,] the Requirements of Writing (Scotland) Act 1995;
 - (ii) are not a corporation, in accordance with the said [^{F27}section 7][^{F27}Act] by the commissioners or any five of them,]

Textual Amendments

- F25** S. 75(2) added (S.) (1.8.1995) by virtue of [1995 c.7](#), ss. 14(1), 15(2), **Sch. 4 para. 5** (with ss. 9(3)(5) (7), 13, 14(3))

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

- F26** Words in s. 75(2)(c)(i) repealed (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 5 para. 2(3)(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F27** Word in s. 75(2)(c)(ii) substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 5 para. 2(3)(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), 2
- C106** S. 75 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 75 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

76 Register of mortgages to be kept and to be open to inspection.

A register of mortgages or assignments in security shall be kept by the clerk to the commissioners, and where by the special Act the commissioners are authorized or required to raise separate sums on separate rates or other property a separate register shall be kept for each class of mortgages or assignments in security; and within fourteen days after the date of any mortgage or assignment in security an entry or memorial of the number and date thereof, and of the names of the parties thereto, with their proper additions, shall be made in the proper register, and every such register may be perused at all reasonable times by any person interested in any such mortgage or assignment in security, without fee or reward.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), 2
- C107** S. 76 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 76 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

77 Transfer of mortgages.

Any person entitled to any such mortgage or assignment may transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated, and every such transfer may be according to the form in the schedule (C.) to this Act annexed, or to the like effect.

[^{F28}(2) This section shall apply to Scotland as if for the words “by deed duly stamped” there were substituted the words “in a document which is duly stamped and which is subscribed in accordance with the Requirements of Writing (Scotland) Act 1995.”.]

Textual Amendments

- F28** [S. 77\(2\)](#) added (s.) (1.8.1995) by virtue of [1995 c. 7](#), ss. 14(1), 15(2), **Sch. 4 para. 6** (with ss. 9(3)(5) (7), 13, 14(3))

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Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C108** **S. 77** incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 77 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

78 Register of transfers to be kept.

Within thirty days after the date of every such transfer, if executed within the United Kingdom or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the clerk to the commissioners, and thereupon such clerk shall cause an entry or memorial thereof to be made, in the same manner as in the case of the original mortgage or assignation in security, and for such entry the clerk may demand a sum not exceeding [^{F29}25p]; and after such entry every such transfer shall entitle the transferee, his executors, administrators, or assigns, to the full benefit of the original mortgage or assignation in security, and the principal and interest thereby secured, and such transferee may in like manner assign or transfer the same again toties quoties, and it shall not be in the power of any person, except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, to make void, release, or discharge the mortgage or assignation so transferred, or any money thereby secured.

Textual Amendments

- F29** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. **10(1)**

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C109** **S. 78** incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 78 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

79 Interest on mortgages to be paid half-yearly.

Unless otherwise provided by any mortgage or assignation in security, the interest of the money borrowed thereupon shall be paid half-yearly to the several parties entitled thereto.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C110** **S. 79** incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 79 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

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80 Power to borrow money at a lower rate of interest to pay off securities at a higher rate.

If the commissioners can at any time borrow or take up any sum of money at a lower rate of interest than any securities given by them and then be in force shall bear, they may borrow such sum at such lower rate as aforesaid, in order to pay off and discharge the securities bearing such higher rate of interest, and may charge the rates and other property which they may be authorized to mortgage or assign in security under this or the special Act, or any part thereof, with payment of such sum and such lower rate of interest, in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage or assignation in security.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C111** [S. 80](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 80](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

81 Repayment of money borrowed at a time and place agreed upon.

The commissioners may, if they think proper, fix a period for the repayment of all principal monies borrowed under the provisions of this or the special Act, with the interest thereof, and in such case the commissioners shall cause such period to be inserted in the mortgage deed or assignation in security; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to receive such principal money and interest, and if no other place of payment be inserted in such deed such principal and interest shall be payable at the office of the commissioners.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C99** Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C112** [S. 81](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 81](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

82 Repayment of money borrowed when no time or place has been agreed upon.

If no time be fixed in the mortgage deed or assignation in security for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose, and in the like case the commissioners may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or creditor shall be delivered to the clerk or left at the office of the commissioners,

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and if given by the commissioners shall be given either personally to such mortgagee or creditor, or left at his residence, or if such mortgagee or creditor be unknown to the commissioners, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London Gazette, if the office of the commissioners is in England, the Edinburgh Gazette, if it is in Scotland, or in the [^{F30}Belfast Gazette], if it is in Ireland.

Textual Amendments

F30 Words substituted by virtue of S. R. & O. 1921/1804 (Rev. XVI p. 967: 1921 p. 422) art. 7(a)

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

C99 Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

C113 [S. 82](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 82](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

83 Interest to cease on expiration of notice to pay off a mortgage debt.

If the commissioners shall have given notice of their intention to pay off any such mortgage or assignation in security at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the commissioners fail to pay the principal and interest due at the expiration of such notice on such mortgage or assignation in security.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

C99 Ss. 69-83 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

C114 [S. 83](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 83](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

84 Monies borrowed on security of rates to be paid off in a limited period.

In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the commissioners shall every year appropriate and set apart out of such rates respectively a sum equal to the prescribed part, and if no part be prescribed one-twentieth part, of the sums so borrowed respectively, as a sinking fund to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of ^{F31} . . . government securities, or in Scotland deposited in one of the banks there incorporated by Act of Parliament or royal charter, and to be increased by accumulation in the way of compound interest or otherwise, until the same respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof which the commissioners shall think ought then to be paid off, at

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which time the same shall be so applied in paying off the same in manner herein-after mentioned.

Textual Amendments

F31 Words in [s. 84](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. IX](#) Group1

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), [arts. 1\(1\)](#), [3](#)

85 Mode of paying off mortgages.

Whenever the commissioners shall be enabled to pay off one or more of the mortgages or assignments in security which shall be then payable, and shall not be able to pay off the whole of the same class, they shall decide the order in which they shall be paid off by lot among the class to which such one or more of the mortgages or assignments in security belong, and shall cause a notice, signed by their clerk, to be given to the persons entitled to the money to be paid off, pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified, at the expiration of six months from the date of giving such notice.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), [arts. 1\(1\)](#), [3](#)

C115 [S. 85](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), [art. 2](#)

[S. 85](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), [art. 2](#)

C116 Ss. 85-88 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), [arts. 1\(1\)](#), [2](#)

86 Arrears of interest, when to be enforced by appointment of a receiver. Arrears of principal and interest.

Where by the special Act the mortgagees or assignees in security of the commissioners are empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due to them by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage or assignment in security has become payable, and after demand thereof in writing, the same be not paid, the mortgagee or assignee in security may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts, require the appointment of a receiver, by an application to be made as herein-after provided; and if within six months after the principal money owing upon any such mortgage or assignment in security has become payable, and after demand thereof in writing, the same be not paid, together with all interest due in respect thereof, the mortgagee or assignee in security, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts, may, if his debt amount to the prescribed sum, alone, or, if his debt do not amount to the prescribed sum, he may in conjunction with other mortgagees or assignees in security whose debts, being so in arrear, after demand as

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aforesaid, together with his amount to the prescribed sum, require the appointment of a receiver, by an application to be made as herein-after provided.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C116** Ss. 85-88 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C117** [S. 86](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 86](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

87 As to the appointment of receiver.

Every application for a receiver in the cases aforesaid shall in England or Ireland be made to two justices, and in Scotland to the sheriff, and on any such application such justices or sheriff may, by order in writing, after hearing the parties, appoint some person to receive the whole or a competent part of the rates or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the rates or sums aforesaid, be fully paid; and upon such appointment being made all such rates and sums of money as aforesaid, or such part thereof as may be ordered by the said justices or sheriff, shall be paid to the person so to be appointed, and the money so paid shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed, and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C116** Ss. 85-88 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C118** [S. 87](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 87](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**

88 Account books to be open to the inspection of mortgagees.

The books of account of the commissioners shall be open at all seasonable times to the inspection of the respective mortgagees or assignees in security of the commissioners, with liberty to take extracts therefrom without fee or reward.

Modifications etc. (not altering text)

- C32** Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C116** Ss. 85-88 incorporated (E.W.S.) (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

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C119 S. 88 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2184, art. 2](#)
S. 88 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2185, art. 2](#)

Accounts

And with respect to the accounts to be kept by the commissioners, be it enacted as follows:

89 Accounts to be kept of receipts and disbursements, which shall be open for inspection. Penalty for refusal.

The Commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this and the special Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any of the commissioners, and any mortgagee, assignee in security, or other creditor of the commissioners, without fee or reward, and the commissioners and persons aforesaid, or any of them, may take copies of or extracts from the said books, without paying any thing for the same; and any clerk or other person having the custody of the said books who shall not on any reasonable demand of any commissioner, mortgagee, or creditor as aforesaid permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall be liable to a penalty of [^{F32}level 1 on the standard scale] for every such offence.

Textual Amendments

F32 Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\), arts. 1\(1\), 3](#)

90 Statement of accounts to be prepared and to be open for inspection. Copies of such statement to be furnished.

The commissioners shall cause their accounts to be balanced in each year to a period not less than one month before the annual general meeting at which they are to be produced, as after mentioned; and fourteen days at the least before such meeting the commissioners shall cause a full and true statement and account to be drawn out of the amount of all rates or assessments made, and of all contracts entered into, and of all monies received and expended, by virtue of this or the special Act, during the preceding year, and also of all debts then owing by the commissioners, and they shall cause such statement and account to be printed, and shall allow the same to remain for inspection at the office of the commissioners; and every creditor on the rates and assessments by this or the special Act, or any Act incorporated therewith, authorized to be made, and every person paying any such rate or assessment, or any person acting on behalf of any such creditor or ratepayer, may, at all reasonable times, inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the commissioners; and the clerk shall, on demand, furnish a printed copy of the said statement and account to every such creditor and rate-

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

payer, without fee; and fourteen days at the least before the meeting for examining and settling such account the commissioners shall give public notice of such intended meeting, stating in such notice that the said statement and account are printed, and lie at the office of the commissioners ready for the inspection of the creditors and rate-payers or other parties interested.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

91 Accounts to be examined and settled at the annual meeting.

The accounts of the commissioners, so balanced as aforesaid, together with the said statement and account, shall be produced at the annual meeting of the commissioners, or at some adjournment thereof, at which meeting all creditors and rate-payers and other persons interested may be present, and the accounts shall be then finally examined and settled by the commissioners, and if the same be found just and true they shall be allowed by the commissioners, and certified accordingly under the hand of the chairman of such meeting; and after such accounts have been so allowed and signed by such chairman, and also by the auditors, as herein-after provided, the same shall be final in regard to all persons whomsoever, unless an appeal be prosecuted against such accounts, as herein-after provided.

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), 3

92 Auditors to be appointed. Qualifications of auditors.

Except in the cases where by the special Act provision is made for the appointment of a permanent auditor, and such auditor shall have been appointed accordingly, the rate-payers present at the said annual meeting may appoint two or more persons, not being commissioners, to be auditors of the accounts of the commissioners; and if no other person present at such meeting propose the names of two persons to be appointed auditors by such meeting, it shall be the duty of the chairman of the meeting to propose the names of two persons to be so appointed; and the persons so to be appointed auditors shall have the like qualification, and shall be subject to the like disqualification or disability, as the commissioners; and before entering on their office they shall make and sign before a justice or the sheriff a solemn declaration of the like purport and effect to that hereby required to be signed by the commissioners; and the auditors so appointed shall receive a reasonable remuneration for their time and trouble, not exceeding [^{F33}£2.10p] each for every day they shall be fully employed on such audit, and all such expences as they shall be put unto attending the auditing of the said accounts; and if any dispute arise as to the amount of the remuneration and expences to be paid to such auditors, it shall in England or Ireland be settled by two justices, and in Scotland by the sheriff.

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Textual Amendments

F33 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

Modifications etc. (not altering text)

C32 Ss. 36-92 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

S.93 repealed in England

^{F34} 93 ~~Auditors to inspect accounts, and may appeal against part of the same, if they think fit.~~

~~The auditors so nominated, or the said permanent auditor, if any shall have been appointed as aforesaid, shall attend as soon as conveniently may be after the said annual meeting, at the office of the commissioners, or at some other convenient place to be appointed by the commissioners, and from time to time shall, in the presence of the clerk to the commissioners, if he desire to be present, proceed to audit the accounts of the commissioners for the year preceeding the said annual meeting; and the commissioners shall by their clerk produce and lay before such auditors the accounts so allowed and certified as aforesaid, together with the statement and account hereinbefore mentioned, accompanied with proper vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto; and any person interested in the said account, either as a creditor of the commissioners or as a ratepayer, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such account; and if the said accounts be found correct, such auditors shall sign the same in token of their allowance thereof, but if such auditors think there is just cause to disapprove of any part of the said accounts, they or any other person interested in the said accounts as aforesaid may appeal against any such parts of the said accounts as shall be so disapproved of, to one of the two next quarter sessions in England or Ireland, and to the sheriff in Scotland, notice in writing of such appeal being given to the clerk of the commissioners fourteen days at the least before the hearing of such appeal.]~~

Textual Amendments

F34 [S. 93](#) repealed (E.W.) by [Courts Act 1971 \(c. 23\)](#), s. 56(4), **Sch. 11 Pt. IV**

94 The court may order payment of the costs of the appeal.

Upon the hearing of any such appeal the justices or the sheriff may make such order as they or he think fit respecting the payment of the costs of the appellant out of the monies coming to the hands of the commissioners under the special Act or otherwise, as they or he think fit, and such order shall be final.

Modifications etc. (not altering text)

C120 Ss. 94-97 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

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95 Annual account to be made up and transmitted to the clerk of the peace in England or Ireland, or to the sheriff clerk in Scotland, and to be open to inspection.

The commissioners shall every year cause an annual account in abstract to be prepared, showing the total receipt and expenditure of all funds levied by virtue of this and the special Act, and any Act incorporated therewith, for the year ending on the day down to which their accounts shall have been made up for the said annual meeting, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the commissioners, and also by the auditors thereof, and shall, if the undertaking is situated in England or Ireland, send a copy of the said account free of charge to [^{F35}the clerk of the peace for the county where the undertaking is situate][^{F35}the chief clerk], and, if the undertaking is situated in Scotland, shall send such copy to the sheriff clerk of such county, on or before the thirty-first day of January then next, or within one month after the same has been duly audited, which account shall be open to the inspection of the public at all reasonable hours, on payment of the sum of [^{F36}5p] for every such inspection; and if the commissioners shall omit to prepare and transmit such account as aforesaid, they shall be liable for every such omission to a penalty of [^{F37}level 2 on the standard scale][^{F38}level 1 on the standard scale.]

Textual Amendments

- F35** Words in s. 95 substituted (N.I.) (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 13\(1\)](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)](#) (with art. 3)
- F36** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F37** Words substituted (E.W.) by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)
- F38** Words substituted (S.) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)

Modifications etc. (not altering text)

- C120** Ss. 94-97 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\), arts. 1\(1\), 3](#)
- C121** References to clerk of the peace to be construed (E.W.) as references to proper officer of local authority: [Courts Act 1971 \(c. 23\), Sch. 8 para. 1\(2\)](#) and [Local Government Act 1972 \(c. 70\), Sch. 29 Pt. I para. 4\(1\)\(b\)](#)

Byelaws

And with respect to the making of byelaws, be it enacted as follows:

Sections 96, 97 and 98 were excluded (see Second Schedule to MH Act 1884)

96 ~~Power to make byelaws for regulating the conduct of the officers, &c. of the commissioners.~~

~~The commissioners may from time to time make such byelaws as they think fit, for the purpose of regulating the conduct of the officers and servants of the commissioners, and for providing for the due management of the affairs of the commissioners, and may from time to time or repeal any such byelaws, and make others, provided such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special Act; and such byelaws shall be reduced into writing, and shall have affixed thereto the common seal of the commissioners, where the commissioners are a body corporate, or shall be signed by~~

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~~the commissioners, or any two of them, where they are not a body corporate, and a copy of such byelaws shall be given to every officer and servant of the commissioners affected thereby.~~

Modifications etc. (not altering text)

£120 ~~Ss. 94-97 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~

£122 ~~S. 96 incorporated (E.W.S) (18.6.2001) by S.I. 2001/2185, art. 2~~

~~S. 96 incorporated (E.W.S) (18.6.2001) by S.I. 2001/2184, art. 2~~

£123 ~~S. 96 incorporated (E.W.S.) (1.6.2009) by Berwick Upon Tweed Harbour Revision (Constitution) Order 2009 (S.I. 2009/1231), arts. 1(1), 2~~

97 Fines for breach of such byelaws.

~~The commissioners may by such byelaws impose such reasonable penalties upon all persons, being officers or servants of the commissioners, offending against such byelaws as the commissioners think fit, not exceeding [^{F39}level 1 on the standard scale] for any one offence.~~

Textual Amendments

F39 ~~Words substituted ((E.W.S) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G~~

Modifications etc. (not altering text)

£120 ~~Ss. 94-97 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~

£124 ~~S. 97 incorporated (E.W.S) (18.6.2001) by S.I. 2001/2185, art. 2~~

~~S. 97 incorporated (E.W.S) (18.6.2001) by S.I. 2001/2184, art. 2~~

£125 ~~S. 97 incorporated (E.W.S.) (1.6.2009) by Berwick Upon Tweed Harbour Revision (Constitution) Order 2009 (S.I. 2009/1231), arts. 1(1), 2~~

^{F40}**98**

Textual Amendments

F40 ~~S. 98 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. 1 Group 3~~

Notices

And with respect to giving notices and orders, be it enacted as follows:

99 Service of notices upon commissioners.

Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the commissioners, may be served by the same being left at or sent through [^{F41}a post office of a postal operator ^{F42}...], directed to the commissioners, at their principal office, or one of their principal offices where there shall be more than

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one, or by being given personally to the clerk, or in case there be no clerk, then by being given to any one commissioner.

[^{F43}In this section “post office” has the meaning given by section 125(1) of the Postal Services Act 2000 and “postal operator” has the meaning given by section 27 of the Postal Services Act 2011.]

Textual Amendments

- F41** Words in s. 99 substituted (26.3.01) by [S.I. 2001/1149](#), art. 3(1), **Sch. 1 para. 1** (with art. 4(1))
- F42** Words in s. 99 omitted (1.10.2011) by virtue of [Postal Services Act 2011](#) (c. 5), s. 93(2)(3), **Sch. 12 para. 71(a)**; [S.I. 2011/2329](#), art. 3
- F43** Words in s. 99 inserted (1.10.2011) by [Postal Services Act 2011](#) (c. 5), s. 93(2)(3), **Sch. 12 para. 71(b)**; [S.I. 2011/2329](#), art. 3

Modifications etc. (not altering text)

- C126** S. 99 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 99 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
S. 99 incorporated (E.W.S.) (with modifications) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**
- C127** Ss. 99-102 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007](#) ([S.I. 2007/3463](#)), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C128** Ss. 99-102 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009](#) ([S.I. 2009/1231](#)), arts. 1(1), **2**
- C129** Ss. 99-102 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010](#) ([S.I. 2010/1462](#)), arts. 1(1), **3**
- C130** Ss. 99-101 incorporated with modifications by [S.I. 2001/2820](#) art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012](#) ([S.I. 2012/1777](#)), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C131** Ss. 99-101 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015](#) ([S.I. 2015/1395](#)), arts. 1(3), 2, **3** (with Sch. 3)

100 Notices by advertisement.

All notices required by this or the special Act, or any Act incorporated therewith, to be given by advertisement, shall be advertised in the prescribed newspaper, or if no newspaper be prescribed, or if the prescribed newspaper cease to be published, in a newspaper circulating in the district within which the undertaking shall be situated.

Modifications etc. (not altering text)

- C127** Ss. 99-102 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007](#) ([S.I. 2007/3463](#)), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C128** Ss. 99-102 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009](#) ([S.I. 2009/1231](#)), arts. 1(1), **2**
- C129** Ss. 99-102 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010](#) ([S.I. 2010/1462](#)), arts. 1(1), **3**
- C130** Ss. 99-101 incorporated with modifications by [S.I. 2001/2820](#) art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012](#) ([S.I. 2012/1777](#)), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C131** Ss. 99-101 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015](#) ([S.I. 2015/1395](#)), arts. 1(3), 2, **3** (with Sch. 3)
- C132** S. 100 incorporated (E.W.S.) (with modifications) (25.8.2001) by [S.I. 2001/2820](#), **art. 3**

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S. 100 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184, art. 2](#)
S. 100 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185, art. 2](#)

101 Authentication of notices and orders.

Every order, summons, notice, or other such document requiring authentication by the commissioners shall be sufficiently authenticated if signed by two commissioners, or by the clerk of the commissioners, and it need not be under the common seal of the commissioners, although they be incorporated, and the same may be in writing or in print, or partly in writing and partly in print.

Modifications etc. (not altering text)

- C127** Ss. 99-102 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C128** Ss. 99-102 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C129** Ss. 99-102 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C130** Ss. 99-101 incorporated with modifications by S.I. 2001/2820 art. 3(1) (as substituted (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), art. 1(2), **Sch. 3 para. 1** (with arts. 58, 59))
- C131** Ss. 99-101 incorporated (with modifications) (E.W.S.) (1.11.2015) by [The Great Yarmouth Port Authority \(Constitution\) Harbour Revision Order 2015 \(S.I. 2015/1395\)](#), arts. 1(3), 2, **3** (with Sch. 3)
- C133** S. 101 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184, art. 2](#)
S. 101 incorporated (with modifications) (E.W.S) (25.8.2001) by [S.I. 2001/2820, art. 3](#)
S. 101 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185, art. 2](#)

102 Proof of debts in bankruptcy.

And with respect to the proof of debts in bankruptcy . . . ^{F44}, be it enacted, that if any person against whom the commissioners have any claim or demand become bankrupt, . . . ^{F44}, the clerk or treasurer of the commissioners, in all proceedings against the estate of such bankrupt . . . ^{F44}, or under any fiat, sequestration, . . . ^{F44} against such bankrupt . . . ^{F44}, may represent the commissioners, and act in their behalf, in all respects as if such claim or demand had been the claim or demand of such secretary or treasurer, and not of the commissioners.

Textual Amendments

F44 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

Modifications etc. (not altering text)

- C127** Ss. 99-102 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C128** Ss. 99-102 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C129** Ss. 99-102 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C134** S. 102 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184, art. 2](#)

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

S. 102 incorporated (E.W.S) (18.6.2001) by S.I. 2001/2185, art. 2

103 F45

Textual Amendments

F45 S. 103 repealed by Public Authorities Protection Act 1893 (c. 61), Sch.

Section 104 was excluded (see Second Schedule to MH Act 1884)

Recovery of damages and penalties

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, be it enacted as follows:

104 ~~Railways Clauses Consolidation Acts 1845, as to damages, &c. to be incorporated with this and the special Act.~~

~~If the undertaking be situate in England or Ireland, the clauses of the ^{M1}Railways Clauses Consolidation Act 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and if the undertaking be situate in Scotland, the clauses of the ^{M2}Railways Clauses Consolidation Act (Scotland), 1845, with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the undertaking and to the commissioners respectively, and shall be construed as if the word “commissioners” had been inserted therein instead of the word “company.”~~

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

- ~~C135 S. 104 incorporated (18.6.2001) by S.I. 2001/2184, art. 2~~
~~S. 104 incorporated (18.6.2001) by S.I. 2001/2185, art. 2~~
- ~~C136 S. 104 incorporated (with modifications) (E.W.S.) (29.12.2007) by Maryport Harbour Revision Order 2007 (S.I. 2007/3463), arts. 1(1), 3(3), 3(4) (with arts. 78, 80, 81)~~
- ~~C137 S. 104 incorporated (1.6.2009) by Berwick Upon Tweed Harbour Revision (Constitution) Order 2009 (S.I. 2009/1231), arts. 1(1), 2~~
- ~~C138 S. 104 incorporated (E.W.S.) (21.5.2010) by The Newlyn Pier and Harbour Revision (Constitution) Order 2010 (S.I. 2010/1462), arts. 1(1), 3~~

Marginal Citations

- ~~M1 1845 c. 20.~~
- ~~M2 1845 c. 33.~~

F46 105

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Textual Amendments

F46 [S. 105](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIV](#) Group 1

^{F47} **106**

Textual Amendments

F47 [S. 106](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIV](#) Group 1

107 ^{F48}

Textual Amendments

F48 [S. 107](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

108 ^{F49}

Textual Amendments

F49 [S. 108](#) repealed (E.W.S.) by (E.W.) [Perjury Act 1911 \(c. 6\)](#), [Sch.](#) and (S.) [False Oaths \(Scotland\) Act 1933 \(c. 20\)](#), [Sch.](#)

109 Nothing in this or the special Act to affect the rights of the crown.

And be it enacted that nothing in this or the special Act shall be deemed to extend to or affect any Act of Parliament relating to her Majesty's duties of customs or excise, or any other revenue of the crown, or to extend to or affect any claim of her Majesty in right of her crown, or otherwise howsoever, or any proceedings at law or in equity by or on behalf of her Majesty, in any part of the United Kingdom of Great Britain and Ireland.

Modifications etc. (not altering text)

C139 [S. 109](#) incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2184, art. 2](#)

[S. 109](#) incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2185, art. 2](#)

[Ss. 109-111](#) incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

C140 [Ss. 109-111](#) incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), [3\(3\)](#), 3(4) (with arts. 78, 80, 81)

C141 [Ss. 109-111](#) incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), [2](#)

C142 [Ss. 109-111](#) incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), [3](#)

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847. (See end of Document for details)

Access to special Act

And with respect to access to the special Act, be it enacted as follows:

110 Copies of special Act, to be kept by commissioners at their office, and deposited with the clerks of the peace, &c. and to be open to inspection.

The commissioners shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months [^{F50}deposit in the office of the clerk of the peace in England or Ireland, and of the sheriff clerk in Scotland, of the county in which the undertaking is situate][^{F50}deposit in the office of the chief clerk], a copy of such special Act, so printed as aforesaid; and the said clerk of the peace and sheriff clerk respectively shall receive, and they and the commissioners respectively shall keep, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the ^{M3}Parliamentary Documents Deposit Act 1837.

Textual Amendments

F50 Words in s. 110 substituted (N.I.) (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 13\(2\)](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)](#) (with [art. 3](#))

Modifications etc. (not altering text)

C140 Ss. 109-111 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)

C141 Ss. 109-111 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**

C142 Ss. 109-111 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**

C143 References to clerk of the peace to be construed (E.W.) as references to proper officer of local authority: [Courts Act 1971 \(c. 23\)](#), **Sch. 8 para. 1(2)** and [Local Government Act 1972 \(c. 70\)](#), **Sch. 29 Pt. I para. 4(1)(b)**

C144 Reference to sheriff clerk of a county to be construed as reference to a sheriff clerk of sheriff court district concerned: [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. I para. 1(3)**

C145 S. 110 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2184, art. 2](#)

S. 110 incorporated (E.W.S.) (18.6.2001) by [S.I. 2001/2185, art. 2](#)

Ss. 109-111 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

Marginal Citations

M3 [1837 c. 83](#).

111 Penalty on commissioners failing to keep or deposit such copies.

If the commissioners fail to keep or deposit, as herein-before mentioned, any of the said copies of the special Act, they shall forfeit [^{F51}level 2 on the standard scale][^{F52}level 1 on the standard scale] for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

*Changes to legislation: There are currently no known outstanding effects
for the Commissioners Clauses Act 1847. (See end of Document for details)*

Textual Amendments

- F51** Words substituted (E.W.) by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**
- F52** Words substituted (S.) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**

Modifications etc. (not altering text)

- C140** Ss. 109-111 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)
- C141** Ss. 109-111 incorporated (1.6.2009) by [Berwick Upon Tweed Harbour Revision \(Constitution\) Order 2009 \(S.I. 2009/1231\)](#), arts. 1(1), **2**
- C142** Ss. 109-111 incorporated (E.W.S.) (21.5.2010) by [The Newlyn Pier and Harbour Revision \(Constitution\) Order 2010 \(S.I. 2010/1462\)](#), arts. 1(1), **3**
- C146** [S. 111](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
[S. 111](#) incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
[Ss. 109-111](#) incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

112 **F53**

Textual Amendments

- F53** [S. 112](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

SCHEDULES TO WHICH THE FOREGOING ACT REFERS

SCHEDULE (A)
VOTING PAPER

Section 23.

Town of
[or
district of]
Voting paper for the town [or district] of
[or, if divided into wards,
Voting paper for
ward, in the town [or district] of]

Name of the persons voted for as commissioners.	Christian name and surname of voter.	Description of property.	Number of votes.	
			As owner.	As occupier.

vote for the persons named in the above list as commissioners for this
town [or district, or ward, as the case may be].
(Signed)
Here the name of the voter should be written.

SCHEDULE (B)
FORM OF MORTGAGE

Section 75.

By virtue of [*here name the special Act*], we [*here name the corporation, if the commissioners be incorporated, or if not incorporated, five of the commissioners,*] appointed in pursuance of the said Act, in consideration of the sum of paid to the treasurer to the said commissioners by *A.B.* of , for the purposes of the said Act, do grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the rates, rents, profits, and other monies arising or accruing by virtue of the said Act from [*here describe the rates or other property proposed to be mortgaged*] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, rents, profits, or monies, to hold to the said *A.B.*, his executors, administrators, and assigns, from this day until the said sum of , with interest at per centum per annum for the same, shall be fully paid and satisfied (the principal sum to be repaid at the end of years from the date hereof [*in case any period be agreed upon for that purpose*]). Given under our corporate seal [*or*; In witness whereof we have [^{F54}hereunto set our hands and seals][^{F54}executed this instrument as a deed], ^{F55}[^{F56}*or, if the deed be granted in Scotland, insert the testing clause required by the law of Scotland, as the case may be, I*] this day of one thousand eight hundred and [^{F56}*or, if the document is granted under Scots law, insert testing clause+*]

Textual Amendments

F54

Words in Sch. substituted (N.I.) (15.11.2005) by The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/1452), art. 1(2), Sch. 1 para. 8; S.R. 2005/494, art. 2(1)(c)

F55

Words in Sch. B repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(1)(2), 15(2), Sch. 4 para. 7, Sch. 5 (with ss. 9(3)(5)(7), 13, 14(3))

F56

Words in Sch. B added (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 7 (with ss. 9(3)(5)(7), 13, 14(3))

+Note—As regards a document granted under Scots law, subscription of it by the granter will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

SCHEDULE (C)

Section 77.

FORM OF TRANSFER OF MORTGAGE

I *A.B.* of , in consideration of the sum of paid to me by *C.D.* of , do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage, [*or, if the deed be granted in Scotland, a certain assignation in security,*] number , made by "The Commissioners for executing "the [*here name the special Act*] to , bearing date the day of , for securing the sum of and interest, [*or, if such transfer be by endorsement, the within security,*] and all my right, estate, and interest in and to the money thereby secured, and in and to the rates, rents, profits, or other monies thereby assigned. In witness whereof I have [^{F57}hereunto set my hand and seal]^{F57}executed this instrument as a deed]^{F58}[*or, if the deed be granted in Scotland, insert the testing clause required by the law of Scotland,*]^{F59}this day of one thousand eight hundred and [^{F59}*or, if the document is granted under Scots law, insert testing clause+*]

Textual Amendments

F57

Words in Sch. substituted (N.I.) (15.11.2005) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2005 \(S.I. 2005/1452\)](#), art. 1(2), [Sch. 1 para. 9](#); [S.R. 2005/494](#), art. 2(1)(c)

F58

Words in Sch. C repealed (S.) (1.8.1995) by [1995 c. 7](#), ss. 14(1)(2), 15(2), [Sch. 4 para. 8\(a\)](#), [Sch. 5](#) (with ss. 9(3)(5)(7), [13](#), [14\(3\)](#))

F59

Words in Sch. C added (S.) (1.8.1995) by [1995 c. 7](#), ss. 14(1), 15(2), [Sch. 4 para. 8\(b\)](#) (with ss. 9(3)(5)(7), [13](#), [14\(3\)](#))

+Note—As regards a document granted under Scots law, subscription of it by the granter will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

F60F60

SCHEDULE (D)

Textual Amendments

F60

[Sch. \(D\)](#) repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)

F60

.....

Changes to legislation:

There are currently no known outstanding effects for the Commissioners Clauses Act 1847.

E. D. L. WHATLEY

CLERK

MALVERN HILLS CONSERVATORS

PRIORS CROFT,

STATUTORY

INSTRUMENTS

1958 No. 1986

LOCAL GOVERNMENT, ENGLAND AND WALES

ADAPTATION OF ENACTMENTS

**The Malvern Hills (Amendment of Local Enactment)
Order, 1958**

Made - - - 13th October, 1958

Coming into Operation 25th November, 1958

Whereas the Minister of Housing and Local Government is empowered by section 303 of the Public Health Act, 1875(a), as extended by section 19 of the Malvern Hills Act, 1924(b), to make an order for the purpose hereinafter appearing, but by virtue of the provisions of the said Act of 1875 and of the Statutory Orders (Special Procedure) (Substitution) Order, 1949(c), the order is subject to special parliamentary procedure:

Now therefore the Minister, on the application of the Malvern Hills Conservators and in exercise of the powers hereinbefore recited and of all other powers enabling him in that behalf, hereby orders as follows:—

1. This order may be cited as the Malvern Hills (Amendment of Local Enactment) Order, 1958.

2.—(1) The Interpretation Act, 1889(d), applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. In subsection (2) of section 7 of the Malvern Hills Act, 1924 (which makes provision for the constitution of the Malvern Hills Conservators), in the sub-paragraph—

“Six persons to be elected by the local government electors for the urban district of Malvern (one person by each of the six wards of the said district).”

for the word “six”, wherever occurring there shall be substituted the word “seven”, but no election shall be held for the No. 7 or Langedland ward until the ordinary election of Conservators in the year 1960.

4. The existing Conservators named in column 1 of the schedule to this order shall represent the wards of the urban district named in respect thereof in column 2 until the 1st day of November, 1960.

(a) 38 & 39 Vict. c. 55.

(c) S.I. 1949/2393 (1949 I, p. 3973).

(b) 14 & 15 Geo. 5. c. xxxvi.

(d) 52 & 53 Vict. c. 63.

[H.L.G. 7309]

SCHEDULE

1 Existing Conservators	2 Wards
George Ronald Lissimore	No. 1 or Priory
Norman James Maisey	No. 5 or Trinity
Kathleen Noyes-King	No. 2 or Chase
Joan Helena Lewis-Smith	No. 3 or Wells
Cecil Ernest Nash	No. 4 or West
Frederick Barrowclift	No. 6 or Link

Given under the official seal of the Minister of Housing and Local Government this thirteenth day of October, nineteen hundred and fifty-eight.

(L.S.)

D. P. Walsh,
Under-Secretary,
Ministry of Housing and Local Government.

Printed and published in Great Britain by
HER MAJESTY'S STATIONERY OFFICE: 1958
Price 3d. net

(35858) (Z. 6) K6 12/58 D.L.

STATUTORY INSTRUMENTS

1996 No. 1867

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Hereford and Worcester (Structural,
Boundary and Electoral Changes) Order 1996**

Made - - - - 18th July 1996

Coming into force

*For the purposes of articles
2(2), 3, 4, 6 to 11, 14, 15 and
19 to 23*

19th July 1996

For all other purposes

1st April 1998

Whereas the Local Government Commission for England, acting pursuant to section 15(4) of the Local Government Act 1992⁽¹⁾ has submitted to the Secretary of State a report on its review of the county of Hereford and Worcester together with its recommendations:

And whereas the Secretary of State has decided to give effect, with modifications, to those recommendations:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 17(2), 18(3)(a) and 26 of the Local Government Act 1992, and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before, and approved by a resolution of, each House of Parliament:

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the Hereford and Worcester (Structural, Boundary and Electoral Changes) Order 1996 and shall come into force for the purposes of articles 2(2), 3, 4, 6 to 11, 14, 15 and 19 to 23 on the day after the day on which it is made and for all other purposes on 1st April 1998.

(1) 1992 c. 19.

(2) Amended by section 39(4) and (5) of the Police and Magistrates' Courts Act 1994 (c. 29).

government superannuation)(21) together with all rights and liabilities in respect of the fund, shall vest in the council of the new county of Worcestershire.

Archives and other records

17.—(1) In this article, “relevant collection” means—

- (a) any collection of archives or other records of general or local interest held as such by the council of the existing county of Hereford and Worcester; or
- (b) any collection of a museum or gallery provided or maintained by that council.

(2) Any property forming part of a relevant collection and relating exclusively to the whole or any part of the area of the new district of Herefordshire, and any rights or liabilities exclusively in respect of any such property, shall vest in the council of that district.

(3) Any property forming part of a relevant collection and relating exclusively to the whole or any part of the area of the new county of Worcestershire, and any rights or liabilities exclusively in respect of any such property, shall vest in the council of that county.

Malvern Hills Conservators

18. In the Malvern Hills Act 1924(22), in subsection (2) of section 7 (constitution of Board of Conservators), for the words from “Two persons” (in the place where they first appear) to “Upton-upon-Severn” there shall be substituted the following:

- “Two persons to be nominated by the council of the county of Worcestershire;
- Two persons to be nominated by the council of the district of Herefordshire;
- Eight persons to be nominated from and by the council of the district of Malvern Hills;”

PART V

TRANSITIONAL PROVISION

Interpretation of Part

19. In this Part—

“transferor authority” means the council of the existing county of Hereford and Worcester, of the existing city of Hereford or of the existing districts of Leominster, Malvern Hills or South Herefordshire; and

“transferee authority” means the council of the new county of Worcestershire or of the new district of Herefordshire or Malvern Hills.

Shadow authorities

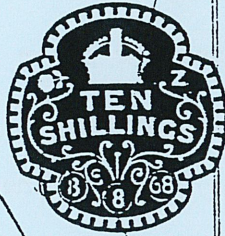
20. During the preliminary period, the transferee authorities—

- (a) shall not be local authorities for the purposes of the 1972 Act; and
- (b) shall be shadow authorities for the purposes of the Local Government Changes for England Regulations 1994(23);

(21) 1972 c. 11. The current regulations are in [S.I.1995/1019](#).

(22) 1924 c.xxxvi. On and after 1st April 1974, section 262 (local Acts and instruments) of the 1972 Act has had effect for the construction of references to councils and areas in section 7(2).

(23) [S.I.1994/867](#). See, in particular, Part 3 of the Regulations which has been amended by [S.I.1995/590](#), [1055](#) and [1748](#).



W. F. Saville
Clerk

Stamp 15/

AN AGREEMENT made the Twenty Second day
of July One thousand nine hundred and sixty
eight BETWEEN THE WORCESTERSHIRE COUNTY COUNCIL of
Shirehall Worcester (hereinafter called "the Council") of the
one part and MALVERN HILLS CONSERVATORS of Prior's Croft
Malvern in the County of Worcester (hereinafter called "the
Conservators") of the other part _____

WHEREAS

1. Under Section 10 of the Malvern Hills Act 1909 the Council
may with the agreement of the Conservators appoint additional
members to the Board of Conservators _____
2. The Conservators' jurisdiction has been extended to include
firstly Castlemorton Common in the Parish of Castlemorton
secondly the Old Hills Common in the Parish of Powick and
thirdly Newland Common in the parish of Newland and all in the
County of Worcestershire _____
3. Acting under powers given to it by Section 9 of the Malvern
Hills Act 1909 the Council has agreed to contribute to the
funds of the Conservators such sums as the Council may from
time to time fix (hereinafter called "the County Contribution") and
the Council has in consequence notified the Conservators of
its desire to appoint three additional members to the Board of
Conservators and the Conservators have agreed to such
appointments _____

NOW in pursuance of the said agreement and in consideration of

the premises above mentioned (1) the Conservators hereby agree to the appointment by the Council of three additional persons to their Board (one to hold office as from the first day of November One thousand nine hundred and sixty six and the other two as from the first day of January One thousand nine hundred and sixty eight) subject to the like conditions as apply to the two members of the Board nominated by the Council in accordance with Section 7 of the Malvern Hills Act 1924

(2) This Agreement shall continue until such time as either it shall be terminated by twelve months notice given by either party to the other expiring on the thirty first day of March in any year or the County Contribution shall cease which ever shall be the earlier

I N W I T N E S S whereof the Council and Conservators have respectively caused their Common Seals to be affixed the day and year first before written

THE COMMON SEAL of THE WORCESTERSHIRE
COUNTY COUNCIL was hereto affixed in
the presence of:-

Harry Handcock
A Member of the Council

W. S. Currie
Clerk of the Council
THE COMMON SEAL of MALVERN HILLS
CONSERVATORS was hereto affixed in
the presence of:-

