

## No. XV.

COMMONS  
REGULATION ACT  
AMENDMENT  
(No. 3).

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### An Act to amend the “Commons Regulation Act of 1873” and to validate certain appointments of Trustees. [24th September, 1886.]

- Preamble.**      **W**HEREAS it is expedient to amend the “Commons Regulation Act of 1873” and to validate certain appointments of Trustees Be it therefore enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—
- Short title.**      1. This Act may be cited as the “Commons Regulation Act Amendment Act of 1886” It shall be read and construed together with the “Commons Regulation Act of 1873” hereinafter termed the Principal Act and the said Acts may be collectively cited as the “Commons Acts 1873–1886” For the purpose of interpreting this Act the expression “instruments under the hand of the Governor” contained in the preamble to the Principal Act shall be taken to include and to have included all notifications reservations or dedications of Commons whether permanent or temporary or for pasturage
- Interpretation.**      The word “Governor” shall mean the Governor with the advice of the Executive Council.
- “Commoner” shall mean any person whose name is contained in the Commoners’ roll in force for the time being as hereinafter provided.
- “Commoners boundaries” shall mean the boundaries of the area notified in the *Government Gazette* within or in respect of which the persons entitled to the use of the Commons mentioned in the notification reside or hold the prescribed qualification and
- “Minister” shall mean the Minister charged with the administration of this and the Principal Act.
- Commoners roll.**      2. The Trustees of every existing Common shall within six months after the passing of this Act and the Trustees of every Common notified or set apart after the passing of this Act shall within the like period after the notification or setting apart of such Common or such extended time in each case as the Minister may in any case allow make out a roll of the persons entitled to the use and enjoyment of such Common in accordance with the grant dedication or notification in the *Gazette* or with any proclamation or other declaration of the Governor and Executive Council relating to such Common And no person whose name is not on such Commoners roll shall be entitled to exercise any of the rights of Commoners under the “Commons Acts of 1873–1886” or any regulations made thereunder All such rolls shall be made out revised published and otherwise dealt with in accordance with regulations to be made under this Act.
- Fixing and alteration of Commoners boundaries.**      3. The Governor may with respect to any Common—whether dedicated or set apart before or after the passing of this Act—fix the boundaries within which rights of Commonage shall attach to such Common and may also alter or extend such boundaries and subject to the regulations in force with respect to any such Common all persons over the age of twenty-one years entitled to such right of Commonage shall

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shall be entitled to vote at all elections of Trustees for such Common Provided however that where land is in the occupation of any person other than the owner thereof such owner shall not be entitled to any Commonable rights in respect of such land No alteration of any such boundaries shall affect any right of Commonage vested at the time of such alteration.

4. If in any case it shall happen that no election for the Trustees of any Common has been held in terms of the Principal Act or that an insufficient number of Trustees has been elected or if from any cause there are no Trustees or an insufficient number of Trustees of any Common it shall be lawful for the Governor to appoint a sufficient number of Trustees for such Common.

Where election fail the Governor may appoint Trustees.

5. No person shall be eligible for election as Trustee of any Common who is not at the date of such election and who shall not for six months immediately preceding such date have been entitled to the use of such Common.

Persons who are not Commoners not to be eligible as Trustees.

6. The Governor may appoint the Council of any Municipality to be by their corporate name the Trustees of any Common situate within the boundaries of or adjacent to such Municipality And upon the publication of such appointment in the *Gazette* such Council and its successors shall be the Trustees of such Common for all purposes of this and the Principal Act Where any such Common is situated in more than one Municipality the Governor may declare which Municipal Council shall be the Trustees of such Common or may appoint other Trustees therefor The Governor may also appoint the first Trustees of every Common notified or set apart after the passing of this Act.

When Municipal Councils to be Trustees of Commons.

7. Upon proof to the satisfaction of the Governor that any Trustees neglect or refuse to exercise the powers vested in them for the protection of the Common or the Commoners rights or that they have permitted any person to occupy or enclose any portion of the Common or to divert the Common from the purpose for which it was granted the Governor may by notice in the *Gazette* declare that such Trustees have been removed from their office and every person or Corporation named in such notice shall thereupon cease to be a Trustee or Trustees of such Common as the case may be.

Disqualification of Trustees.

8. Every appointment of Trustees or a Trustee for any Common set apart as a Permanent or Temporary Common before the passing of this Act heretofore made by the Governor shall be deemed to be valid in law to all intents and purposes The Governor may by notice in the *Gazette* declare valid any election of Trustees the validity of which may be questionable by reason of some technical defect or irregularity in the mode of conducting the election or of convening a meeting to elect Trustees But nothing in this section contained shall affect any proceedings instituted or now pending in any Court in which the validity of any such appointment shall have been or shall be in question.

Validation of appointments or elections of Trustees.

9. Every Trustee of a Common whose term of office has expired shall hand over to his successor or to such person as the Minister charged with the administration of this and the Principal Act shall appoint all deeds books documents money and other property in his possession or control relating to the Common of which he was a Trustee and if any such Trustee shall refuse or neglect when called upon by such successor or Minister to hand over such deeds books documents money or property to such successor or person so appointed as aforesaid (as the case may be) such Trustee shall be liable to a penalty not exceeding fifty pounds but no proceedings under this section shall be a bar to any proceedings to recover possession of any deed book document money or other property as aforesaid.

Trustees to hand over deeds books &c.

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Limitation of  
Commoners rights.

10. The only rights to which a Commoner shall be entitled after the commencement of this Act in respect to any Common shall be the Common of pasturage of stock (including the right of watering such stock) upon the Common and with the permission of the Trustees of any common and subject to the payment of such charges as they shall by their rules and regulations impose the right to take fallen timber or underwood from the Common but the Minister may subject to the payment of such charges as he shall impose grant a license to any person to take and remove from a Common soil stone or minerals or to cut and remove therefrom any timber.

Carriers teamsters  
travellers and  
drovers privileges on  
Commons.

11. Any *bonâ fide* carrier teamster traveller or drover shall have the right of pasturage upon any Common for the animals actually in use by him for carriage riding or driving during three days consecutively without charge and for such longer period as may be rendered necessary by rain or floods but after such period in either case such animals if still depasturing on the Common may be impounded by the Trustees thereof Provided however that the Trustees of a Common may in the case of any such animals and also in that of any travelling stock upon the payment to the Trustees of such fees as shall be prescribed by regulations under this Act allow such animals or stock to be depastured upon such Common for any time not exceeding one week within any period of six months.

Drovers to give  
Trustees or herdsman  
notice.

12. Every drover of travelling stock taking such stock through or over or along any Common shall give the Trustees or herdsman thereof the like notice as he is by law required to give to any owner or occupier of land through or along which he intends to drive any stock.

Quorum of  
Commoners and  
Trustees and  
casting vote.

13. At any meeting of Commoners five Commoners shall form a quorum and at any meeting of Trustees three Trustees shall form a quorum and if at any such meeting the votes are equal the chairman shall in addition to his vote as Commoner or Trustee (as the case may be) have also a casting vote.

As to infected  
animals found on  
Commons.

14. Any animal infected with any contagious or infectious disease found on a Common may be destroyed by order of the Trustees of such Common after notice describing with reasonable accuracy the animal intended to be destroyed shall have been exhibited for twenty-four hours at the police station nearest to the Common and given to the owner of such animal if known to the Trustees stating that it is their intention to destroy such animal and no such destruction shall entail any liability at common law or otherwise upon any person giving or acting under any such order.

Regulations.

15. The Governor may in regard to any Common or class of Commons make regulations with respect to all or any of the following matters namely:—

- (i) The payment of fees by teamsters travellers and drovers of travelling stock for extended pasturage and for the appropriation of such fees and the like with regard to license fees for removing soil stone or minerals and for cutting and removing timber from any Common
- (ii) For their enforcement
- (iii) All other matters of detail necessary for carrying this and the Principal Act into effect

And all such regulations on being published in the *Gazette* shall have the full force of law.

General penalty.

16. Any person who shall commit a breach of any of the provisions of this Act or the Principal Act for which a penalty is not specially provided shall on conviction for every such offence incur a penalty not exceeding twenty pounds.