

## Appendix 4

### *Inclosure Act 1857 section 12 and Commons Act 1876 section 29*

#### **Inclosure Act 1857**

12. And whereas it is expedient to provide summary means of preventing nuisances in town greens and village greens, and on land allotted and awarded upon any inclosure under the said Acts as a place for exercise and recreation: If any person wilfully cause any injury or damage to any fence of any such town or village green or land, or wilfully and without lawful authority lead or drive any cattle or animal thereon, or wilfully lay any manure, soil, ashes, or rubbish or other matter or thing thereon, or do any other act whatsoever to the injury of such town or village green or land, or to the interruption of the use or enjoyment thereof as a place for exercise and recreation, such person shall for every such offence, upon a summary conviction thereof before two justices, upon the information of any churchwarden or overseer of the parish in which such town or village green or land is situate, or of the person in whom the soil of such town or village green or land may be vested, forfeit and pay, in any of the cases aforesaid, and for each such offence, over and above the damages occasioned thereby, any sum not exceeding level 1 on the standard scale\* and it shall be lawful for any such churchwarden or overseer or other person as aforesaid to sell and dispose of any such manure, soil, ashes, and rubbish, or other matter or thing as aforesaid; and the proceeds arising from the sale thereof, and every such penalty as aforesaid shall, as regards any such town, or village green not awarded under the said Acts or any of them to be used as a place for exercise and recreation, be applied in aid of the rates for the repair of the public highways in the parish, and shall, as regards the land so awarded, be applied by the persons or person in whom the soil thereof may be vested in the due maintenance of such land as a place for exercise and recreation; and if any manure, soil, ashes, or rubbish be not of sufficient value to defray the expense of removing the same, the person who laid or deposited such manure, soil, ashes, or rubbish shall repay to such churchwarden or

overseer or other person as aforesaid the money necessarily expended in the removal thereof; and every such penalty as aforesaid shall be recovered in manner provided by the Summary Jurisdiction Act 1848\*\*, and the amount of damage occasioned by any such offence as aforesaid shall, in case of dispute, be determined by the justices by whom the offender is convicted: and the payment of the amount of such damage, and the repayments of the money necessarily expended in the removal of any manure, soil, ashes, or rubbish, shall be enforced in like manner as any such penalty.

#### **Commons Act 1876**

29. An encroachment on or inclosure of a town or village green, also any erection thereon or disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance, and if any person does any act in respect of which he is liable to pay damages or a penalty under section 12 of the Inclosure Act 1857, he may be summarily convicted thereof upon the information of any inhabitant of the parish in which such town or village green or recreation ground is situate, as well as upon the information of such persons as in the said section mentioned.

This section shall apply only in cases where a town or village green or recreation ground has a known and defined boundary.

\* This amount is established by part III of the Criminal Justice Act 1982 and may be varied by statutory instrument.

\*\* This act was repealed by the Magistrates' Court Act 1952. Recovery is now governed by the Magistrates' Court Act 1980.

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