



# Town and Country Planning Act 1971

## 1971 CHAPTER 78

### PART VI

#### ACQUISITION AND APPROPRIATION OF LAND AND RELATED PROVISIONS

##### *Acquisition and appropriation of land*

#### **112 Compulsory acquisition of land in connection with development and for other planning purposes**

- (1) The Secretary of State may authorise a local authority to whom this section applies to acquire compulsorily any land within their area if he is satisfied—
  - (a) that the land is required in order to secure the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of the land or of any area in which the land is situated; or
  - (b) that it is expedient in the public interest that the land should be held together with land so required; or
  - (c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement, or both, of another area as a whole ; or
  - (d) that it is expedient to acquire the land immediately for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
- (2) Where under subsection (1) of this section the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.
- (3) Before giving an authorisation under subsection (2) of this section, the Secretary of State shall—
  - (a) where the land is in a county borough, consult with the council of the borough;

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- (b) where the land is in a county district, consult with the councils of the county and the county district;
  - (c) where the land is in a London borough, consult with the council of the borough and with the Greater London Council.
- (4) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.
- (5) The local authorities to whom this section applies are the councils of counties, county boroughs, and county districts, the Greater London Council and the councils of London boroughs.

### **113 Compulsory acquisition of land by Secretary of State for the Environment**

- (1) The Secretary of State for the Environment may acquire compulsorily any land necessary for the public service.
- (2) The power of acquiring land compulsorily under this section shall include power to acquire an easement or other right over land by the grant of a new right:
- Provided that this subsection shall not apply to an easement or other right over any land which would for the purposes of the Acquisition of Land (Authorisation Procedure) Act 1946 form part of a common, open space or fuel or field garden allotment.
- (3) The said Act of 1946 shall apply to any compulsory acquisition by the Secretary of State for the Environment under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

### **114 Compulsory acquisition of listed building in need of repair**

- (1) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Secretary of State may authorise the council of the county, county borough or county district in which the building is situated or, in the case of a building situated in Greater London, the Greater London Council or the London borough council, to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.
- (3) This section applies to any listed building, not being an excepted building as defined in section 58(2) of this Act.
- (4) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

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- (5) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—
  - (a) as if this section had been in force immediately before the commencement of that Act; and
  - (b) as if references therein to the enactments specified in section 1(1)(b) of that Act included references to the provisions of this section.
- (6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required by paragraph 3(1)(b) of Schedule 1 to the said Act of 1946, apply to a magistrates' court acting for the petty sessions area within which the building is situated for an order staying further proceedings on the compulsory purchase order; and, if the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.
- (7) Any person aggrieved by the decision of a magistrates' court on an application under subsection (6) of this section may appeal against the decision to the Crown Court.

#### **115 Repairs notice as preliminary to compulsory acquisition under s.114**

- (1) Neither a council nor the Secretary of State shall start the compulsory purchase of a building under section 114 of this Act unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (in this section referred to as a "repairs notice")—
  - (a) specifying the works which they consider reasonably necessary for the proper preservation of the building; and
  - (b) explaining the effect of sections 114 to 117 of this Act.
- (2) Where a council or the Secretary of State have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 114 of this Act to acquire compulsorily the site of the building, if the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished.
- (3) A council or the Secretary of State may at any time withdraw a repairs notice served by them; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.
- (4) For the purposes of this section a compulsory acquisition is started when the council or the Secretary of State, as the case may be, serve the notice required by paragraph 3(1)(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946.

#### **116 Compensation on compulsory acquisition of listed building**

Subject to section 117 of this Act, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, immediately before the date of the compulsory purchase order, was listed, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building, or for its demolition, other than works in respect of which such consent has been applied for before the date of the order and refused by the Secretary of State, or granted by him subject to conditions, the circumstances having been such that compensation thereupon became payable under section 171 of this Act.

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## **117 Minimum compensation in case of listed building deliberately left derelict**

- (1) A council proposing to acquire a building compulsorily under section 114 of this Act, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may include in the compulsory purchase order as submitted to the Secretary of State for confirmation, an application for a direction for minimum compensation ; and the Secretary of State, if he is so satisfied, may include such a direction in the order as confirmed by him
- (2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 114 of this Act, he may, if he is satisfied as mentioned in subsection (1) of this section, include a direction for minimum compensation in the compulsory purchase order.
- (3) The notice required to be served in accordance with paragraph 3(1)(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 (notices stating effect of compulsory purchase order or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made application for a direction for minimum compensation or, as the case may be, that the Secretary of State has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case explain the meaning of the expression " direction for minimum compensation ".
- (4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the Land Compensation Act 1961 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to, and maintaining it in, a proper state of repair; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (5) Where the local authority include in a compulsory purchase order made by them an application for a direction for minimum compensation, or the Secretary of State includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within twenty-eight days after the service of the notice required by paragraph 3(1)(b) of Schedule 1 to the said Act of 1946, apply to a magistrates' court acting for the petty sessions area in which the building is situated for an order that the local authority's application for a direction for minimum compensation be refused or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Secretary of State; and if the court is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, the court shall make the order applied for.
- (6) A person aggrieved by the decision of a magistrates' court on an application under subsection (5) of this section may appeal against the decision to the Crown Court.
- (7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 114(6) and (7) of this Act.

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## **118 Extinguishment of rights over land compulsorily acquired**

- (1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Part of this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) of this section shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking.
- (3) In respect of any right or apparatus not falling within subsection (2) of this section, subsection (1) of this section shall have effect subject—
  - (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) of this section shall not apply to any right or apparatus specified in the direction ; and
  - (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.
- (5) Any compensation payable under this section shall be determined in accordance with the Land Compensation Act 1961.

## **119 Acquisition of land by agreement**

- (1) The council of any county, county borough, London borough or county district may acquire by agreement—
  - (a) any land which they require for any purpose for which a local authority may be authorised to acquire land under section 112 of this Act;
  - (b) any building appearing to them to be of special architectural or historic interest; and
  - (c) any land comprising or contiguous or adjacent to such a building which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) The powers conferred by subsection (1) of this section shall not be exercisable by a council except with the consent of the Secretary of State, unless the land which is to be acquired either—
  - (a) is immediately required by the council for the purpose for which it is to be acquired ; or
  - (b) if it is not so required, is land within the area of the council.
- (3) The provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, section 10 and section 31, shall apply in relation to the acquisition of land under this section.
- (4) The powers conferred by this section on the councils of London boroughs shall be exercisable also by the Greater London Council—

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- (a) in a London borough, with the consent of the council of the borough; or
- (b) in the Inner Temple or the Middle Temple with the consent of the Sub-Treasurer or, as the case may be, Under-Treasurer thereof; or
- (c) in any of the areas aforesaid if the appropriate consent aforesaid is withheld, with the consent of the Secretary of State; or
- (d) in relation to land in any of the areas aforesaid, without any such consent as aforesaid, if the land is used for the purposes of an industrial or commercial undertaking and is to be acquired incidentally to the removal of that undertaking from Greater London.

## **120 Acquisition of land for purposes of exchange**

Without prejudice to the generality of the powers conferred by the preceding provisions of this Part of this Act, any power of a local authority to acquire land thereunder, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange—

- (a) for land appropriated under section 121 of this Act; or
- (b) for Green Belt land, within the meaning of the Green Belt (London and Home Counties) Act 1938, appropriated in accordance with that Act for any purpose specified in a development plan.

## **121 Appropriation of land forming part of common etc.**

- (1) Any local authority may be authorised, by an order made by that authority and confirmed by the Secretary of State, to appropriate for any purpose for which that authority can be authorised to acquire land under any enactment any land for the time being held by them for other purposes, being land which is or forms part of a common, open space or fuel or field garden allotment (including any such land which is specially regulated by any enactment, whether public general or local or private), other than land which is Green Belt land within the meaning of the Green Belt (London and Home Counties) Act 1938.
- (2) Paragraph 11 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 (special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common, open space or fuel or field garden allotment) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act.
- (3) Section 163 of the Local Government Act 1933 (general provisions as to the appropriation of land by local authorities) shall not apply to land which a local authority have power to appropriate under subsection (1) of this section.
- (4) Where land appropriated under this section was acquired under an enactment incorporating the Lands Clauses Acts, any works executed on the land after the appropriation has been effected shall, for the purposes of section 68 of the Lands Clauses Consolidation Act 1845 and section 10 of the Compulsory Purchase Act 1965 be deemed to have been authorised by the enactment under which the land was acquired.
- (5) On an appropriation of land by a local authority under this section, where—
  - (a) the authority is not an authority to whom Part II of the Act of 1959 applies ; or

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- (b) the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function within the meaning of the Act of 1959, or is appropriated by the authority for the purposes of such a function, there shall be made in the accounts of the local authority such adjustments as the Secretary of State may direct.
- (6) On an appropriation under this section which does not fall within subsection (5) of this section, there shall be made such adjustment of accounts as is required by section 24(1) of the Act of 1959.