



Compulsory Purchase Act 1965

1965 CHAPTER 56

PART I

COMPULSORY PURCHASE UNDER ACQUISITION OF LAND ACT OF 1946

Acquisition of special interests

14 Mortgages

- (1) The acquiring authority may purchase or redeem the interest of the mortgagee of any of the land subject to compulsory purchase in accordance with either of the two following subsections.
- (2) The acquiring authority may pay or tender to the mortgagee the principal and interest due on the mortgage, together with his costs and charges, if any, and also six months additional interest, and thereupon the mortgagee shall immediately convey or release his interest in the land comprised in the mortgage to the acquiring authority, or as they may direct.
- (3) Alternatively, the acquiring authority may give notice in writing to the mortgagee that they will pay all the principal and interest due on the mortgage at the end of six months, computed from the day of giving the notice; and if they have given any such notice, or if the person entitled to the equity of redemption has given six months notice of his intention to redeem, then at the expiration of either of the notices, or at any intermediate period, on payment or tender by the acquiring authority to the mortgagee of the principal money due on the mortgage, and the interest which would become due at the end of six months from the time of giving either of the notices, together with his costs and expenses, if any, the mortgagee shall convey or release his interest in the land comprised in the mortgage to the acquiring authority, or as they may direct.
- (4) If, in a case under subsection (2) or subsection (3) of this section, on such payment or tender the mortgagee fails to convey or release his interest in the mortgage as directed by the acquiring authority, or fails to make out a good title to that interest to the satisfaction of the acquiring authority, it shall be lawful for the acquiring authority to

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pay into court the sums payable under subsection (2) or subsection (3) of this section, as the case may be.

- (5) When the acquiring authority have paid those sums into court, it shall be lawful for them to execute a deed poll in the manner provided by section 9(3) of this Act.
- (6) On execution of the deed poll, as well as in the case of a conveyance by the mortgagee, all the estate and interest of the mortgagee (and of all persons in trust for him, or for whom he may be a trustee) in the land shall vest in the acquiring authority and, where the mortgagee was entitled to possession of the land, the acquiring authority shall be entitled to possession of the land.
- (7) This section shall apply—
 - (a) whether or not the acquiring authority have previously purchased the equity of redemption,
 - (b) whether or not the mortgagee is a trustee,
 - (c) whether or not the mortgagee is in possession of the land, and
 - (d) whether or not the mortgage includes other land in addition to the land subject to compulsory purchase.

15 Mortgage debt exceeding value of mortgaged land

- (1) If the value of any such mortgaged land is less than the principal, interest and costs secured on the land, the value of the land, or the compensation to be paid by the acquiring authority in respect of the land, shall be settled by agreement between the mortgagee and the person entitled to the equity of redemption on the one part, and the acquiring authority on the other part, or, if they fail to agree, shall be determined by the Lands Tribunal.
- (2) The amount so agreed or awarded shall be paid by the acquiring authority to the mortgagee in satisfaction or part satisfaction of his mortgage debt.
- (3) On payment or tender of the amount so agreed or awarded the mortgagee shall convey or release all his interest in the mortgaged land to the acquiring authority or as they direct, and if he fails to do so, or fails to adduce a good title to that interest to the satisfaction of the acquiring authority, it shall be lawful for the acquiring authority to pay into court the amount agreed or awarded.
- (4) When the acquiring authority have so paid into court the amount agreed or awarded, it shall be lawful for them to execute a deed poll in the manner provided by section 9(3) of this Act.
- (5) On execution of the deed poll the land, as to the estate and interest which were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the acquiring authority and, where the mortgagee was entitled to possession of the land, the acquiring authority shall be entitled to possession of the land.
- (6) The making of payment to the mortgagee or into court of the amount agreed or awarded shall be accepted by the mortgagee in satisfaction, or part satisfaction, of his mortgage debt, and shall be a full discharge of the mortgaged land from all money due thereon.
- (7) All rights and remedies possessed by the mortgagee against the mortgagor by virtue of any bond or covenant or other obligation, other than the right to the land, shall remain in force in respect of so much of the mortgage debt as has not been satisfied by payment to the mortgagee or into court.

16 Acquisition of part of land subject to mortgage

- (1) If a part only of any mortgaged land is required by the acquiring authority, and—
 - (a) the part so required is of less value than the principal, interest and costs secured on such land, and
 - (b) the mortgagee does not consider the remaining part of the land a sufficient security for the money charged thereon, or is not willing to release the part so required,then the value of that part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of that land on the one part and the acquiring authority on the other and, if the parties fail to agree, shall be determined by the Lands Tribunal.
- (2) The amount so agreed or awarded shall be paid by the acquiring authority to the mortgagee in satisfaction or part satisfaction of his mortgage debt.
- (3) On payment or tender of the amount so agreed or awarded the mortgagee shall convey or release all his interest in the land to be taken to the acquiring authority or as they direct.
- (4) A memorandum of what has been so paid shall be endorsed on the deed creating the mortgage and shall be signed by the mortgagee; and a copy of the memorandum shall at the same time (if required) be furnished by the acquiring authority at their expense to the person entitled to the equity of redemption of the land comprised in the mortgage.
- (5) If, on payment or tender to any such mortgagee of the amount of compensation agreed or awarded, the mortgagee fails to convey or release to the acquiring authority, or as they direct, his interest in the land in respect of which the compensation has been so paid or tendered, or if he fails to adduce a good title thereto to the satisfaction of the acquiring authority, it shall be lawful for the acquiring authority to pay into court the amount of the compensation; and subsections (4) to (6) of the last foregoing section shall apply as if references in those subsections to the land were references to the part of the land comprised in the mortgage which is required by the acquiring authority.
- (6) Notwithstanding the foregoing provisions of this section the mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money or the residue of it (as the case may be), and the interest thereon, as against the remaining land comprised in the mortgage, as he would have had for recovering or compelling payment thereof as against the whole of the land originally comprised in the mortgage.

17 Compensation where mortgage paid off before stipulated time

- (1) If in the mortgage deed a time was limited for the payment of the principal secured and under the three last foregoing sections the mortgagee has been required to accept payment of the principal at a time earlier than the time so limited, the amounts payable under those sections shall include—
 - (a) all such costs and expenses as may be incurred by the mortgagee in respect of, or as incidental to, the re-investment of the sum paid off, and
 - (b) if the rate of interest secured by the mortgage is higher than can reasonably be expected to be obtained on re-investment at the time the mortgage is paid off, regard being had to the current rate of interest, compensation in respect of the loss thereby sustained.

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- (2) The costs under paragraph (a) of the foregoing subsection shall, in case of difference, be taxed and their payment enforced in the manner provided in section 23 of this Act for costs of conveyances, and the amount of compensation under paragraph (b) of the foregoing subsection shall, in case of difference, be referred to and determined by the Lands Tribunal.

18 Rentcharges

- (1) If any difference arises between the acquiring authority and a person entitled to a rentcharge on any of the land subject to compulsory purchase as to the compensation to be paid for the release of the land from the rentcharge, or from the part of the rentcharge affecting the land, it shall be referred to and determined by the Lands Tribunal.
- (2) If part only of the land charged with a rentcharge is comprised in the land required by the acquiring authority the apportionment of the rentcharge—
- (a) may be settled by agreement between the person entitled to the rentcharge and the owner of the land on the one part and the acquiring authority on the other part, and
 - (b) if not so settled, shall be referred to and determined by the Lands Tribunal,
- but if the remaining part of the land so charged is a sufficient security for the rentcharge the person entitled to the rentcharge may, with the consent of the owner of that part of the land, release from the rentcharge the land required by the acquiring authority on condition or in consideration of that part of the land remaining exclusively subject to the whole of the rentcharge.
- (3) If the person entitled to a rentcharge on any of the land subject to compulsory purchase, on payment or tender to him of the compensation agreed or awarded, fails to execute in favour of the acquiring authority a release of the rentcharge, or if he fails to make out a good title to the rentcharge to the satisfaction of the acquiring authority, it shall be lawful for the acquiring authority to pay into court the amount of the compensation.

When the acquiring authority have paid the compensation into court, it shall be lawful for them to execute a deed poll in the manner provided by section 9(3) of this Act, and on execution of the deed poll the rentcharge, or the part of the rentcharge in respect of which the compensation was paid, shall be extinguished.

- (4) If any of the land subject to compulsory purchase is so released from a rentcharge, or part of a rentcharge, to which it was subject jointly with other land, the last-mentioned land shall alone be charged with the whole of the rentcharge, or, as the case may be, with the remainder of the rentcharge, and the person entitled to the rentcharge shall have all the same rights and remedies over the last-mentioned land, for the whole, or as the case may be for the remainder, of the rentcharge as he had previously over the whole of the land subject to the rentcharge.
- (5) If upon any rentcharge or part of a rentcharge being so released the deed or instrument creating or transferring the charge is tendered to the acquiring authority for the purpose, the acquiring authority shall affix their common or official seal to a memorandum of the release endorsed on the deed or instrument declaring—
- (a) what part of the land originally subject to the rentcharge has been purchased by virtue of this Act, and
 - (b) if the land is released from part of the rentcharge, what part of the rentcharge has been released and how much of it continues payable, and

- (c) if the land has been released from the whole of the rentcharge, then that the remaining land is thenceforward to remain exclusively charged with the rentcharge,

and the memorandum shall be made and executed at the expense of the acquiring authority and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

- (6) In this section "rentcharge", in relation to any land, includes any other payment or incumbrance charged on the land not provided for in the foregoing provisions of this Act.

19 Apportionment of rent under leases

- (1) If part only of the land comprised in a lease for a term of years unexpired is required by the acquiring authority, the rent payable in respect of the land comprised in the lease shall be apportioned between the land so required and the residue of the land.
- (2) The apportionment may be settled by agreement between the lessor and lessee of the land on the one part, and the acquiring authority on the other part, and" if the apportionment is not so settled by agreement between the parties, it shall be settled by the Lands Tribunal.
- (3) After the apportionment the lessee shall, as to all future accruing rent, be liable only for so much of the rent as is apportioned in respect of the land not required by the acquiring authority.
- (4) As respects the land not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of the apportioned rent as, before the apportionment, he had for the recovery of the whole rent reserved by the lease; and all the covenants, conditions and terms of the lease, except as to the amount of rent to be paid, shall remain in force with regard to the part of the land not so required in the same manner as they would have done if that part only of the land had been included in the lease.
- (5) Every such lessee shall be entitled to receive from the acquiring authority compensation for the damage done to him in his tenancy by reason of the severance of the land required by the acquiring authority from that not required, or otherwise by reason of the execution of the works.

20 Tenants at will, etc.

- (1) If any of the land subject to compulsory purchase is in the possession of a person having no greater interest in the land than as tenant for a year or from year to year, and if that person is required to give up possession of any land so occupied by him before the expiration of his term or interest in the land, he shall be entitled to compensation for the value of his unexpired term or interest in the land, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain.
- (2) If a part only of such land is required, he shall also be entitled to compensation for the damage done to him in his tenancy by severing the land held by him or otherwise injuriously affecting it.

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- (3) If the parties differ as to the amount of compensation payable under the foregoing provisions of this section the dispute shall be referred to and determined by the Lands Tribunal.
- (4) On payment or tender of the amount of such compensation all such persons shall respectively deliver up to the acquiring authority, or to the person appointed by them to take possession, any such land in their possession required by the acquiring authority.
- (5) If any person having a greater interest than as tenant at will claims compensation in respect of any unexpired term or interest under any lease or grant of the land subject to compulsory purchase, the acquiring authority may require that person to produce the lease or grant, or the best evidence thereof in his power; and if, after demand in writing by the acquiring authority, the lease or grant, or that best evidence, is not produced within twenty-one days, that person shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.
- (6) This section has effect subject to section 39 of the Landlord and Tenant Act 1954.

21 Common land

- (1) Schedule 4 to this Act (which relates to common land) shall apply for the purposes of this Act.
- (2) The said Schedule and the other provisions of this Act relating to common land have effect—
 - (a) subject to the provisions of the Inclosure Act 1852, the Inclosure Act 1854 and the Commonable Rights Compensation Act 1882 relating to the application of compensation money, and
 - (b) subject to section 22 of the Commons Act 1899 (which restricts grants or inclosures of commons).