



Town and Country Planning Act 1971

1971 CHAPTER 78

PART VI

ACQUISITION AND APPROPRIATION OF LAND AND RELATED PROVISIONS

Powers exercisable in relation to land held for planning purposes, and other related powers

122 Appropriation of land held for planning purposes

- (1) Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority (subject to the following provisions of this section) may appropriate the land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment not contained in this Part of this Act.
- (2) The consent of the Secretary of State shall be requisite to any appropriation under this section—
 - (a) by an authority which is not an authority to whom Part II of the Act of 1959 applies; or
 - (b) of land which, immediately before the appropriation, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act, and any such consent may be given either in respect of a particular appropriation or in respect of appropriations of any class, and may be given either subject to or free from any conditions or limitations.
- (3) For the purposes of subsection (2) of section 23 of the Act of 1959 (consent of Ministers to appropriations in certain cases) the power of appropriation conferred by subsection (1) of this section shall (except in respect of any exercise thereof in circumstances falling within subsection (2) of this section) be deemed to be a power in relation to which subsection (1) of that section has effect.
- (4) In relation to any appropriation under this section—

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- (a) subsection (2) of section 163 of the Local Government Act 1933 (which relates to the operation of section 68 of the Lands Clauses Consolidation Act 1845 and section 10 of the Compulsory Purchase Act 1965); and
 - (b) subsections (5) and (6) of section 121 of this Act,
- shall have effect as they have effect in relation to appropriations under those sections respectively.
- (5) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of section 163(1) of the Local Government Act 1933.

123 Disposal of land held for planning purposes

- (1) Where any land has been acquired or appropriated by a local authority for planning purposes, and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as may appear to them to be expedient in order to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.
- (2) The consent of the Secretary of State shall be requisite to any disposal under this section—
- (a) by an authority which is not an authority to whom Part II of the Act of 1959 applies; or
 - (b) of land acquired or appropriated for planning purposes for a reason mentioned in section 112(1)(a) to (c) of this Act; or
 - (c) of land which, immediately before the disposal, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act,
- and any such consent may be given either in respect of a particular disposal or in respect of disposals of any class, and may be given either subject to or free from any conditions or limitations.
- (3) For the purposes of subsections (2) and (3) of section 26 of the Act of 1959 (consent of Ministers to disposals in certain cases), any disposal of land under this section shall be deemed to be a disposal which, apart from that section, could not be effected except with the consent of a Minister; and for the purposes of subsection (4) of that section (disposals for a price, consideration or rent less than the best reasonably obtainable) the power, of disposal conferred by subsection (1) of this section shall (except in respect of any exercise thereof in circumstances falling within subsection (2) of this section) be deemed to be a power in relation to which subsection (1) of that section has effect.
- (4) Subject to subsection (5) of this section, if it appears to the Secretary of State that it is expedient as mentioned in subsection (1) of this section that a local authority should dispose of land under this section to any person, and the authority have refused to dispose of it to him or are unable to reach agreement with him as to the manner in which, or the terms or conditions on or subject to which, it is to be disposed of to him, the Secretary of State may, after consultation with the authority and that person, require the authority to offer to dispose of it to him, and give directions as to the manner of

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the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him.

- (5) A local authority shall not be required by any directions given under subsection (4) of this section (except to such extent as may appear to the Secretary of State to be requisite in any particular case for giving effect to subsection (7) of this section) to offer to dispose of land for a money consideration less than the best that can reasonably be obtained, having regard to the other terms and conditions on and subject to which the offer is to be made; and any difference as to what is the best consideration shall be referred to and determined by an arbitrator agreed between the Secretary of State and the authority, or, in default of such agreement, shall be referred to and determined by the Lands Tribunal.
- (6) In estimating the best consideration for the purposes of subsection (5) of this section, any amount which only a particular purchaser might be prepared to offer by reason of special needs of his shall be disregarded.
- (7) In relation to land acquired or appropriated for planning purposes for a reason mentioned in section 112(1)(a) to (c) of this Act the powers conferred by this section on a local authority, and on the Secretary of State in respect of the giving of consent to disposals under this section, shall be so exercised as to secure, so far as may be practicable, to persons who were living or carrying on business or other activities on any such land which the authority have acquired as mentioned in subsection (1) of this section, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, an opportunity to obtain thereon accommodation suitable to their reasonable requirements, on terms settled with due regard to the price at which any such land has been acquired from them.

In this subsection "development" includes redevelopment.
- (8) Subject to the provisions of section 27 of the Act of 1959 (which enables capital money in certain cases to be applied without the consent or approval of a Minister which would otherwise be required), section 166 of the Local Government Act 1933 (which relates to the application of capital money received from the disposal of land) shall have effect in relation to capital money received in respect of transactions under this section as it has effect in relation to capital money received in respect of such transactions as are mentioned in that section.
- (9) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of sections 164 and 165 of the Local Government Act 1933.

124 Development of land held for planning purposes

- (1) The functions of a local authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of the authority by virtue of its constitution, to erect, construct or carry out any building or work on any land to which this section applies, not being a building or work for the erection, construction or carrying out of which, whether by that local authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment.

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- (2) This section applies to any land which has been acquired or appropriated by a local authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated.
- (3) The consent of the Secretary of State shall be requisite to any exercise by a local authority of the power conferred on them by subsection (1) of this section; and any such consent may be given either in respect of a particular operation or in respect of operations of any class, and either subject to or free from any conditions or limitations.
- (4) Where a local authority propose to carry out any operation which they would have power to carry out by virtue only of subsection (1) of this section, they shall notify the Secretary of State of their proposal, and the Secretary of State may direct such advertisement by the authority as appears to him to be requisite for the purposes of subsection (3) of this section.
- (5) The functions of a local authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to repair, maintain and insure any buildings or works on land to which this section applies, and generally to deal therewith in a proper course of management.
- (6) A local authority may, with the consent of the Secretary of State, enter into arrangements with an authorised association for the carrying out by the association of any operation which, apart from the arrangements, the local authority would have power under this section to carry out, on such terms (including terms as to the making of payments or loans by the authority to the association) as may be specified in the arrangements:

Provided that nothing in this section shall be construed as authorising such an association to carry out any operation which they would not have power to carry out apart from this subsection.
- (7) Nothing in this section shall be construed as authorising any act or omission on the part of a local authority which is actionable at the suit of any person on any grounds other than such a limitation as is mentioned in subsection (1) of this section.
- (8) In this section " alternative enactment" means any enactment which is not contained in this Part of this Act, in section 2 or 14 of the Local Employment Act 1960, in section 2, 5 or 6 of the Local Authorities (Land) Act 1963, or in section 20 or 21(4) of the Industrial Development Act 1966; and " authorised association " means any society, company or body of persons approved by the Secretary of State whose objects include the promotion, formation or management of garden cities, garden suburbs or garden villages, and the erection, improvement or management of buildings for the working classes and others, and which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being fixed by the Treasury.

125 Special provisions as to features and buildings of architectural and historic interest

- (1) In the exercise of the powers of appropriation, disposal and development conferred by the provisions of sections 122, 123 and 124(1) of this Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings; and the Secretary of State shall not give his consent to the appropriation or disposal thereunder of any land comprising a listed

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building, or to the erection, construction or carrying out of any building or work on any such land, unless either—

- (a) the consent is given subject to such conditions or limitations as in the opinion of the Secretary of State will secure the preservation of the listed building; or
 - (b) the Secretary of State, after giving the requisite notice of the application for his consent, is satisfied that the purpose which the local authority seek to achieve by the proposed exercise of their powers is one which ought in the public interest to be carried out, and that the carrying out of that purpose, whether by the use of the land in question or otherwise, either—
 - (i) would be prevented by the preservation of the listed building; or
 - (ii) would be so affected by the preservation thereof that, notwithstanding the desirability of preserving the building, it is inexpedient to do so.
- (2) For the purposes of subsection (1)(b) of this section the requisite notice of an application for the consent of the Secretary of State is a notice which—
- (a) contains such particulars of the appropriation, disposal or operation for which his consent is sought as appear to him to be requisite; and
 - (b) not less than twenty-eight days before he gives his decision on the application, is published in the London Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land is situated.
- (3) In this section "preservation", in relation to a building, means the preservation thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and "development" includes redevelopment.
- (4) This section is without prejudice to the provisions of section 277(5) of this Act.

126 Management etc. of listed buildings acquired by local authority or Secretary of State

- (1) Where a local authority acquire any building or other land under section 114(1) or 119(1)(b) of this Act, they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.
- (2) Where the Secretary of State acquires any building or other land under section 114(2) of this Act, subsection (3) of section 5 of the Historic Buildings and Ancient Monuments Act 1953 (management, custody and disposal), except so much of it as refers to subsection (4) of that section, shall apply in relation thereto as it applies in relation to property acquired under that section.

127 Power to override easements and other rights

- (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a local authority for planning purposes, whether done by the local authority or by a person deriving title under them, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the user of land arising by virtue of a contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or

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over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

- (2) This section applies to the following interests and rights, that is to say, any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (3) In respect of any interference or breach in pursuance of subsection (1) of this section, compensation shall be payable under section 63 or 68 of the Lands Clauses Consolidation Act 1845 or under section 7 or 10 of the Compulsory Purchase Act 1965 to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase under those Acts or the injury arises from the execution of works on land acquired under those Acts.
- (4) Where a person deriving title under the local authority by whom the land in question was acquired or appropriated is liable to pay compensation by virtue of subsection (3) of this section, and fails to discharge that liability, the liability shall be enforceable against the local authority:

Provided that nothing in this subsection shall be construed as affecting any agreement between the local authority and any other person for indemnifying the local authority against any liability under this subsection.
- (5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in subsection (1) of this section,

128 Use and development of consecrated land and burial grounds

- (1) Any consecrated land, whether or not including a buildings which has been acquired by a Minister, a local authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a local authority for planning purpose, may, subject to the following provisions of this section—
 - (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land ; and "
 - (b) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land :

Provided that this subsection does not apply to land which consists or forms part of a burial ground.
- (2) Any use of consecrated land authorised by subsection (1) of this section, and the use of any land, not being consecrated land, acquired or appropriated as therein mentioned which at the time of acquisition or appropriation included a church or other building used or formerly used for religious worship or the site thereof, shall be subject to compliance with the prescribed requirements with respect to the removal and reinterment of any human remains, and the disposal of monuments and fixtures and furnishings; and, in the case of consecrated land, shall be subject to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or

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until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on the land.

- (3) Any regulations made for the purposes of subsection (2) of this section—
- (a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the like control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;
 - (b) shall contain requirements relating to the disposal of any such land as is mentioned in subsection (2) of this section such as appear to the Secretary of State requisite for securing that the provisions of that subsection shall be complied with in relation to the use of the land; and
 - (c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.
- (4) Any land consisting of a burial ground or part of a burial ground, which has been acquired or appropriated as mentioned in subsection (1) of this section, may—
- (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and
 - (b) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds :

Provided that this subsection shall not have effect in respect , of any land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, in or upon the land have been complied with.

- (5) Provision shall be made by any regulations made for the purposes of subsection (2) of this section and the proviso to subsection (4) of this section—
- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;
 - (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed;
 - (c) for requiring compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal, and the place and manner of reinterment of any human remains, and the disposal of any monuments, and with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.

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- (6) Subject to the provisions of any such regulations, no faculty shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments, and the provisions of section 25 of the Burial Act 1857 (prohibition of removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations.
- (7) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in subsection (1) or subsection (4) of this section.
- (8) In this section "burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and "monument" includes a tombstone or other memorial.

129 Use and development of land for open spaces

- (1) Any land being, or forming part of, a common, open space or fuel or field garden allotment, which has been acquired ' by a Minister, a local authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a local authority for planning purposes, may—
 - (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and
 - (b) in any other case, be used by any person in any manner in accordance with planning permission,
 notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.
- (2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in subsection (1) of this section.

130 Displacement of persons from land acquired or appropriated

- (1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, and the carrying out of redevelopment on the land will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.
- (2) Section 144 of the Housing Act 1957 (obligations as to the provision of housing accommodation where land is acquired under statutory powers) shall not have effect in relation to an acquisition by a local authority under section 112 of this Act.
- (3) If the Secretary of State certifies that possession of a house which has been acquired or appropriated by a local authority for planning purposes, and is for the time being held by the authority for the purposes for which it was acquired or appropriated, is immediately required for those purposes, nothing in the Rent Act 1968 shall prevent the acquiring or appropriating authority from obtaining possession of the house.

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- (4) Where any land has been acquired by a Minister or a local authority under this Part of this Act, or has been appropriated by a local authority for planning purposes, that Minister or the local authority in question, as the case may be—
- (a) may pay to any person who is displaced in the carrying out of redevelopment on the land such reasonable allowance as he or they think fit towards his expenses in removing; and
 - (b) may pay to a person carrying on any business in a building from which he is so displaced such reasonable allowance as he or they think fit towards the loss which, in his or their opinion, that person will sustain by reason of the disturbance to his business consequent on his having to quit the building.
- (5) In estimating loss for the purposes of paragraph (b) of subsection (4) of this section, the Minister or local authority in question shall have regard to the period for which the premises occupied by the person referred to in that paragraph might reasonably have been expected to be available for the purpose of that person's business, and to the availability of other premises suitable for that purpose.

131 Constitution of joint body to hold land acquired for planning purposes

- (1) If it appears to the Secretary of State, after consultation with the local authorities concerned, to be expedient that any land acquired by a local authority for planning purposes should be held by a joint body, consisting of representatives of that authority and of any other local authority, he may by order provide for the establishment of such a joint body and for the transfer to that body of the land so acquired.
- (2) Any order under this section providing for the establishment of a joint body may make such provision as the Secretary of State considers expedient with respect to the constitution and functions of that body, including provisions—
- (a) for incorporating the joint body ;
 - (b) for conferring on them, in relation to land transferred to them as mentioned in subsection (1) of this section, any of the powers conferred on local authorities by this Part of this Act in relation to land acquired and held by such authorities for the purposes of this Part of this Act;
 - (c) for determining the manner in which their expenses are to be defrayed.
- (3) Regulations under this Act may make such provision consequential upon or supplementary to the provisions of this section as appears to the Secretary of State to be necessary or expedient.