



# Small Holdings and Allotments Act 1908

1908 CHAPTER 36 8 Edw 7

## PART III

### GENERAL

#### *Acquisition of Land*

#### **39 Procedure for compulsory acquisition of land.**

- (1) Where a council propose to purchase land compulsorily under this Act, the council may [<sup>F1</sup>be authorised so to do by the Minister of Agriculture and Fisheries].
- (2) Where a council propose to hire land compulsorily, the council may submit to the Board an order for the compulsory hiring of the land specified in the order for a period not less than fourteen nor more than thirty-five years, and the provisions of Part I. of the First Schedule to this Act shall apply to the order in like manner as it applies to an order for compulsory purchase, with the substitution of “hiring” for “purchase”, and with the modifications set out in Part II. of that Schedule.
- (3) An order under [<sup>F1</sup>the last foregoing subsection] shall be of no force unless and until it is confirmed by the Board, and the Board may, subject to the provisions of the First Schedule to this Act, confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall become final . . . <sup>F2</sup>; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.
- (4) An order [<sup>F1</sup>for the compulsory purchase or hiring of land under this Act] may provide for the continuance of any existing easement or the creation of any new easement over the land authorised to be acquired, and every such order shall, if so required by the owner of the land to be acquired, provide for the creation of such new easements as are reasonably necessary to secure the continued use and enjoyment by such owner and his tenants of all means of access, drainage, water supply, and other similar conveniences theretofore used or enjoyed by them over the land to be acquired: Provided that, notwithstanding anything contained in this subsection, no new easement created by

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*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908, Section 39. (See end of Document for details)*

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or in pursuance of the order over land hired by a council shall continue beyond the determination of such hiring.

- (5) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase or hiring being compulsory.
- (6) Where land authorised to be compulsorily hired by an order under this section is subject to a mortgage, any lease made in pursuance of the order by the mortgagor or mortgagee in possession shall have the like effect as if it were a lease authorised by section eighteen of the <sup>M1</sup>Conveyancing and Law of Property Act, 1881.
- (7) Where the council proposing to acquire land compulsorily is a parish council, the council shall, instead of themselves making and submitting to the Board the order, represent the case to the [<sup>F3</sup>district]council, and thereupon the [<sup>F3</sup>district]council may, on behalf of the parish council, exercise the powers in relation to compulsory purchase or hiring conferred on councils by this Act, and the order shall be carried into effect by the [<sup>F3</sup>district]council, but the land shall be assured or demised to the parish council, and all expenses incurred by the [<sup>F3</sup>district]council shall be paid by the parish council:
- Provided that, if the parish council are aggrieved by the refusal of the [<sup>F3</sup>district]council to proceed under this section, the parish council may petition the Board, and thereupon the Board, after such inquiry as they think fit, may make such an order as the [<sup>F3</sup>district]council might have made, and this subsection shall apply as if the order had been made by the [<sup>F3</sup>district]council.
- (8) If, after the determination of the amount of the compensation (including in the case of land hired compulsorily the rent) to be paid to any person in respect of his interest in the land proposed to be compulsorily acquired, it appears to the council that the land cannot be let for small holdings or allotments, as the case may be, at such a rent as will secure the council from loss, the council may at any time within six weeks after the determination of the amount by notice in writing withdraw any notice to treat served on that person or on any other person interested in the land, and in such case any person on whom such a notice of withdrawal has been served shall be entitled to obtain from the council compensation for any loss or expenses which he may have sustained or incurred by reason or in consequence of the notice to treat and of the notice of withdrawal, and the amount of such compensation shall in default of agreement, be determined by arbitration: . . . . .<sup>F4</sup>

#### Textual Amendments

- F1** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 4**
- F2** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), **Sch. 1 Pt. XII**
- F3** Word substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 251(2), **Sch. 29 para. 9(4)**
- F4** Proviso repealed by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), Sch. 2

#### Modifications etc. (not altering text)

- C1** Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by [S.I. 1955/554 \(1955 I, p. 1200\)](#) and functions of that Minister as to allotments now exercisable by Secretary of State: [S.I. 1965/143, 1967/156 and 1970/1681](#)
- C2** [S. 39\(8\)](#) excluded by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), **s. 2(1)**

#### Marginal Citations

- M1** 1881 c. 41.

**Changes to legislation:**

There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908, Section 39.