



Town and Country Planning (Scotland) Act 1959

1959 CHAPTER 70 7 and 8 Eliz 2

PART II

ACQUISITION, APPROPRIATION AND DISPOSAL OF LAND
BY LOCAL AUTHORITIES AND OTHER PUBLIC BODIES

Modifications etc. (not altering text)

C1 Pt. II extended by [Local Government \(Scotland\) Act 1973 \(c. 65\), ss. 73\(1\), 74\(1\)](#)

23 Exercise of powers of acquisition by agreement.

- (1) Where by any enactment—
- power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to acquire land by agreement, but
 - that power is so conferred subject to a provision (in whatever terms the provision is expressed, and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,

the enactment shall have effect, in relation to acquisitions to which this section applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.

- This section applies to every acquisition of land by agreement by an authority to whom this Part of this Act applies, in pursuance of a contract made after the commencement of this Act.
- In this Part of this Act “authority to whom this Part of this Act applies” means a body of any of the descriptions specified in the Fourth Schedule to this Act; “land” includes

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any servitude and any other interest in, or right over, land; “Minister” means a Minister of the Crown or a government department; and “consent” includes approval, sanction and authorisation.

24 Exercise of powers of appropriation.

- (1) Subject to the following provisions of this section, where by any enactment—
- (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to appropriate land for any purpose, whether the purpose is defined in the enactment specifically or by reference to some other power exercisable by the authority or class of authorities in question, but
 - (b) that power is so conferred subject to a provision (in whatever terms the provision is expressed, and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, or for a purpose approved by a Minister so specified, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,
- the enactment shall have effect, in relation to any exercise of the power after the commencement of this Act by an authority to whom this Part of this Act applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.
- (2) The exercise after the commencement of this Act, by any authority to whom this Part of this Act applies, of any power of appropriation in relation to which subsection (1) of this section has effect shall be subject to the ^[F1]provision that land which is held for use as allotments shall not be appropriated except with the consent of the Secretary of State.]
- ^[F2](2A) Before exercising any power of appropriation in relation to land which consists, or forms part of a common or of an open space (not being land which is held for use as allotments) an authority to whom this Part of this Act applies—
- (a) shall, for at least two consecutive weeks in a newspaper circulating in their area, publish a notice of the proposed appropriation; and
 - (b) shall consider any objections to that appropriation which may be made to them.]
- (3) Subsection (1) of this section shall not apply to any appropriation of land in pursuance of an order under section thirty-nine of the Act of 1947.

Textual Amendments

- F1** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 2](#)
- F2** [S. 24\(2A\)](#) inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 2 para. 9](#)

25 Adjustment of accounts on appropriation of land.

- (1) On an appropriation of land for any purpose by an authority to whom this Part of this Act applies, other than an appropriation falling within the next following subsection, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances.

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- (2) Where land is appropriated for any purpose by an authority to whom this Part of this Act applies, and—
- (a) either the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function, or it is appropriated by the authority for the purposes of such a function, and
 - (b) apart from this section, a Minister would by virtue of any enactment have power to direct an adjustment to be made in the accounts of the authority in connection with that appropriation,
- such adjustment shall be made in the accounts of the authority as the Secretary of State may direct.
- (3) The preceding provisions of this section shall have effect in substitution for the provisions of any enactment in force immediately before the commencement of this Act whereby an adjustment is required to be made in the accounts of an authority to whom this Part of this Act applies on an appropriation of land by such an authority.

Modifications etc. (not altering text)

- C2** S. 25 excluded by [Housing \(Financial Provisions\) \(Scotland\) Act 1972 \(c. 46\), s. 75\(3\)](#)
- C3** S. 25 excluded by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), s. 209\(3\)](#)
- C4** S. 25(1) applied by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\), s. 111\(6\)](#)

26 Amendment of s. 21 of Land Settlement (Scotland) Act, 1919 c. 97.

Section twenty-one of the Land Settlement (Scotland) Act, 1919 (which relates to the temporary use for allotments of land acquired by local authorities for other purposes) shall have effect with the omission of any reference to the consent of the Secretary of State.

27 Exercise of powers of disposing of land.

- (1) Subject to the following provisions of this section, where by any enactment—
- (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to dispose of land, but
 - (b) that power is so conferred subject to a provision (in whatever terms the provision is expressed and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,
- the enactment shall have effect, in relation to any exercise of the power after the commencement of this Act by an authority to whom this Part of this Act applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.
- (2) A disposal by an authority to whom this Part of this Act applies [^{F3}of land held for use as allotments, if it is a disposal which apart from this section could not be effected except with the consent of a Minister, shall not be effected except with the consent of the Secretary of State.]

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- [^{F4}(2A) Before disposing of any land which consists, or forms part, of a common or of an open space (not being land which is held for use as allotments) an authority to whom this Part of this Act applies—
- (a) shall, for at least two consecutive weeks in a newspaper circulating in their area, publish a notice of the proposed disposal; and
 - (b) shall consider any objections to that disposal which may be made to them.]
- (3) ^{F5}
- [^{F6}(4) Subject to the provisions of this Act, section 74(2) of the Local Government (Scotland) Act 1973 (consideration for disposal of land) shall apply to any disposal of land by an authority to whom this Part of this Act applies in the exercise of a power in relation to which subsection (1) of this section has effect (not being a power under Part VI of the said Act of 1973) as it applies to the like disposal of land by a local authority in the exercise of any power under the said Part VI.]
- (5) Subsection (1) of this section shall not apply—
- (a) ^{F7}
 - [^{F8}(b) to [^{F9}section 191 of the Town and Country Planning (Scotland) Act 1997]]
 - (c) to any exercise of the powers conferred by [^{F10}section 75(1) of the ^{M1}Local Government (Scotland) Act 1973] (which relates to the disposal in certain circumstances of land forming part of the common good of a burgh); or
 - (d) to any local enactment in so far as it provides (in whatsoever terms), that, except with the consent of a Minister specified therein, land shall not be disposed of thereunder for a rent, price ^{F11}... or other consideration of a value less than the current market value thereof.
- (6) In determining, for the purposes of subsection (2) of this section, whether a disposal of land under a local enactment is a disposal which apart from this section could not be effected except with the consent of a Minister, any such provision as is mentioned in paragraph (d) of the last preceding subsection shall be disregarded.

Textual Amendments

- F3** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 3\(a\)](#)
- F4** S. 27(2A) inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 2 para. 10](#)
- F5** S. 27(3) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 3\(b\)](#), Sch. 4
- F6** S. 27(4) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 238(2), [Sch. 23 para. 4\(a\)](#)
- F7** S. 27(5)(a) repealed by [Housing \(Scotland\) Act 1966 \(c. 49\)](#), [Sch. 10 Pt. I](#)
- F8** S. 27(5)(b) substituted by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 21 Pt. II](#)
- F9** Words in s. 27(5)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 7\(1\)](#)
- F10** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 238(2), [Sch. 23 para. 4\(b\)](#)
- F11** Words in s. 27(5)(d) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C5** S. 27(1) excluded by [Housing \(Scotland\) Act 1966 \(c. 49\)](#), s. 145 (6) as amended by [Housing \(Financial Provisions\) \(Scotland\) Act 1972 \(c. 46\)](#), [Sch. 9 para. 7](#)
- C6** S. 27(1) excluded by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 12(7)

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Marginal Citations

M1 1973 c. 65.

28 F12

Textual Amendments

F12 S. 28 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [Sch. 29](#)

29 Protection of persons deriving title under transactions requiring consent.

(1) Where after the commencement of this Act an authority to whom this Part of this Act applies purport to acquire, appropriate or dispose of land under an enactment whereby power to acquire, appropriate or dispose of land is conferred on that authority, or on a class of authorities to whom this Part of this Act applies, then—

- (a) in favour of any person claiming under the authority, the acquisition, appropriation or disposal so purporting to be made shall not be invalid by reason that any consent of a Minister which (whether by virtue of this Part of this Act or otherwise) is required thereto has not been given, and
- (b) a person dealing with the authority, or with a person claiming under the authority, shall not be concerned to see or inquire whether any such consent has been given.

(2) F13

Textual Amendments

F13 S. 29(2) repealed (16.5.1975) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 238(2), [Sch. 29](#)

Modifications etc. (not altering text)

C7 S. 29 extended by [Housing Act 1964 \(c. 56\)](#), s. 1(4)(9)

30 General provisions relating to Part II.

(1) Any reference in this Part of this Act to a provision that a power is not to be exercised except with the consent of a Minister is a reference to a provision which either—

- (a) requires such consent generally in respect of any exercise of the power, or
- (b) requires such consent in respect of the exercise of the power in such circumstances as may be specified therein.

(2) For the purposes of this Part of this Act any provision whereby a power is to be exercised only if a Minister specified therein is satisfied as to any matters so specified shall be taken to be a provision that the power shall not be exercised except with the consent of the Minister.

(3) Any reference in this Part of this Act to an enactment whereby a power is conferred on an authority to whom this Part of this Act applies, or on a class of such authorities,—

- (a) shall be taken to include any enactment whereby the power in question is conferred on local authorities generally, or on a class of local authorities

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which includes a class of authorities to whom this Part of this Act applies, or is conferred on a class of authorities to whom this Part of this Act applies together with any other class of local authorities, but

- (b) shall not be taken to include any enactment whereby (without particular reference to local authorities, or to bodies of any description specified in the Fourth Schedule to this Act) a power is conferred generally on persons of a description specified in the enactment, notwithstanding that one or more authorities to whom this Part of this Act applies may fall within the description specified in the enactment.

- (4) For the purposes of any provision of this Part of this Act whereby the consent of a Minister is required, or directions may be given by a Minister, for any purpose therein mentioned, the consent or directions may be given by that Minister either generally to all authorities to whom the provision relates, or to any class of such authorities, or may be given specifically in any particular case, and (whether given generally or otherwise) may be given either unconditionally or subject to such conditions as the Minister giving the consent or directions may consider appropriate.

- (5) F14

Textual Amendments

F14 S. 30(5) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 4](#)

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