



Local Government (Scotland) Act 1894

1894 CHAPTER 58

PART IV

NEW POWERS CONFERRED UPON PARISH COUNCILS IN LANDWARD PARISHES AND LANDWARD PARTS OF PARISHES

25 Powers for acquisition of land

- (1) For the purpose of the acquisition of land by a parish council, the Lands Clauses Acts shall be incorporated with this Act, except the provisions of these Acts relating to the purchase and taking of land otherwise than by agreement.
- (2) If a parish council are unable to acquire by agreement, and on reasonable terms, suitable land for any purpose for which they are authorised and desire to acquire it, they may make a representation to the county council, and the county council shall inquire into the representation.
- (3) If on any such representation, a county council are satisfied that suitable land for the purpose of the parish council cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to make it proper that the county council should proceed under this section, they shall publish once at least in each of two consecutive weeks in some newspaper circulating in the locality, an advertisement stating shortly the purpose for which the land is proposed to be taken, mentioning a place at which a plan of the proposed works, if any, may be seen at reasonable hours, and stating the quantity of land that is required. Thereafter they shall cause public inquiry to be made in the parish, and notice to be given, both publicly in the parish and severally to the owners, lessees, and occupiers of the land proposed to be taken, either by delivery at, or by post in a registered letter addressed to, the usual or last known place of abode of such owners, lessees, and occupiers, and all persons whose interests would be affected shall be permitted to attend at the inquiry, and to support or oppose the taking of the land.
- (4) After the completion of the inquiry, and after considering all objections made by any persons whose interests would be affected, the county council may make an order for putting in force, with respect to the said land or any part thereof, the provisions of the

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Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

- (5) If in any case the county council refuse to make such order, the parish council may appeal to the Board, and the Board after local inquiry may make the order, and this section shall apply as if the order had been made by the county council. Any order made under this sub-section overruling the decision of the county council shall be laid before Parliament.
- (6) A copy of any order made under this section shall be served by the county council in the manner in which and upon the person or persons upon whom notices in respect of such land are herein-before required to be served, together with a statement that the order will become final and have the effect of an Act of-Parliament, unless within a period of one month after such service, a memorial by some person whose interests would be affected is presented to the Board, praying that the order shall not become law without further inquiry.
- (7) The order shall be deposited with the Board, who shall inquire whether the provisions of this section have been in all respects complied with; and if the Board are satisfied that this has been done, then, after the expiration of the said period of one month—
- (a) if no memorial has been presented, or if every such memorial has been withdrawn, the Board shall without further inquiry confirm the order:
 - (b) if a memorial has been presented, the Board shall proceed to hold a local public inquiry, and shall, after such inquiry, either confirm, with or without amendment, or disallow the order:
 - (c) upon any such confirmation, the order, and if amended as so amended, shall become final, and have the effect of an Act of Parliament, and the confirmation by the Board shall be conclusive evidence that the order has been duly made, and is within the powers conferred by this Act, and that the requirements of this Act have been complied with.
- Provided always that the Board may, and when required within the said period of one month by any party interested who has presented a memorial against the order shall, state a special case on the question whether the proposed order is within the powers conferred by this Act for the opinion of either division of the Court of Session, who are hereby authorised finally to determine the same along with any question of expenses.
- (8) Where the Board are authorised, or required, to make any inquiry under this section, they may cause such inquiry to be made by any inspector or officer of the Board, or by any other person specially nominated in writing by the Board, and such inspector or officer or person shall be entitled to summon witnesses, and examine them on oath, and to call for the production of books, documents, and accounts. The costs incurred in relation to such inquiry, including the remuneration of any person specially nominated to hold the same, not exceeding three guineas a day, shall be paid by the county councils and other authorities concerned in such inquiry, or by such of them and in such proportions as the Board may direct, and the said Board may certify the amount of the costs incurred, and any sum so certified shall be a debt to the Board from the county council or authority directed to pay the same.
- (9) The order shall be carried into effect by the county council.
- (10) Any order made under this section for the purpose of the purchase of land otherwise than by agreement, shall incorporate the Lands Clauses Acts, and section six and sections seventy to seventy-eight (both inclusive) of the Railways Clauses (Scotland) Consolidation Act, 1845, with the necessary adaptations: Provided that—

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- (a) Any question of disputed compensation shall be referred to the arbitration of a sole arbiter appointed by the parties, or if the parties do not concur in the appointment of a sole arbiter then, on the application of either of them, by the Board, and the remuneration to be paid to the arbiter appointed by the Board shall be fixed by the Board. An arbiter appointed under this subsection shall be deemed to be an arbiter within the meaning of the Lands Clauses Acts, and the provisions of these Acts with respect to an arbitration shall apply accordingly; and the arbiter shall, notwithstanding anything in the said Acts, determine the amount of the expenses in the arbitration, and such determination shall be final; and
 - (b) In determining the amount of disputed compensation, the arbiter shall not make any allowance in respect of the purchase being compulsory,
 - (c) The parish council shall make and shall jointly with the proprietor maintain sufficient fences for separating the land taken from the lands not taken.
 - (d) In construing for the purposes of this section any section or Acts incorporated with or put in force under this section, this Act, together with any order under this section, shall be deemed to be the special Act.
- (11) At any inquiry or arbitration held under this section, the person or persons holding the inquiry or arbitration, shall hear any authorities or parties whose interests would be affected, by themselves or their agents, and may hear witnesses, but shall not, except with consent of the Board, hear counsel or expert witnesses.
- (12) A person holding a public inquiry for the purposes of this section on behalf of the county council shall have the same powers as, and may receive remuneration not exceeding that payable to, a person specially nominated by the Board to hold such an inquiry under this section.
- (13) The county council or Board, as the case maybe, shall not make any order for purchasing the whole or any part of any park, garden, pleasure ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway company or canal company which is or may be required for the purposes of their undertaking, or any land which in the opinion of the county council or Board is being held and may be required for the extension of a factory or public work.
- (14) The county council or Board, as the case may be, shall in making an order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner, and to the convenience of other property belonging to the same owner, and shall, so far as is practicable, avoid taking an undue or inconvenient quantity of land from any one owner.
- (15) Any land acquired under this section shall be vested in the parish council.
- (16) The expenses of a county council incurred under this section shall be defrayed by the parish council.
- (17) The Boards shall in their annual report include a statement of any proceedings under this section.