



Small Holdings and Allotments Act 1908

1908 CHAPTER 36

PART I

SMALL HOLDINGS

Provision of Small Holdings

1 Power and duties of providing small holdings

A county council may if they are of opinion that there is such a demand for small holdings in their county as justifies them in putting into operation this Part of this Act, and shall if so required by a scheme under this Act, provide small holdings for persons who desire to buy or lease and will themselves cultivate the holdings.

Schemes as to the provision of Small Holdings

2 Appointment of Small Holdings Commissioners, &c

- (1) With a view to extending the provision of small holdings, there shall continue to be Small Holdings Commissioners (herein-after referred to as "the Commissioners"), and the Board of Agriculture and Fisheries (herein-after referred to as "the Board") may appoint two or more persons possessed of a knowledge of agriculture to be Commissioners and may appoint such other officers for the purposes of this Act as the Board may, with the consent of the Treasury, determine.
- (2) There shall continue to be paid out of money provided by Parliament to the Commissioners and officers so appointed such salaries or remuneration as the Treasury may from time to time determine ; and all expenses incurred by those Commissioners and officers in the execution of their duties under this Act, to such amount as may be sanctioned by the Treasury, shall (except as otherwise expressly provided by this Act) continue to be defrayed out of money provided by Parliament.

3 Inquiries and reports by Commissioners

- (1) The Commissioners, acting under the directions of the Board, shall ascertain the extent to which there is a demand for small holdings in the several counties or would be a demand if suitable land were available, and the extent to which it is reasonably practicable, having regard to the provisions of this Act, to satisfy any such demand, and for that purpose shall confer with the county councils and may co-operate with such other authorities, associations, and persons as they think best qualified to assist them, and take such other steps as they think-necessary.
- (2) The council of any county, borough, district, or parish may make representations to the Commissioners in respect of any such matters as aforesaid, and it shall be the duty of every council to furnish the Commissioners with such information, and to give them such other assistance, as they may reasonably require for the purposes of this section,
- (3) The Commissioners shall report the information acquired by them respecting any county to the Board, and shall state whether it is desirable, in the opinion of the Commissioners, that such a scheme as is herein-after mentioned should be made, and may indicate the nature of the proposals which the Commissioners consider ought to be embodied in the scheme.
- (4) If in the course of their inquiries the Commissioners receive any information- as to the existence of a demand for allotments, they shall communicate the information to the councils of the county, and of the borough, urban district, or parish concerned.

4 Preparation of draft schemes

- (1) Where the Board, after considering the report and such representations as aforesaid as respects any county, are of opinion that it is desirable that a scheme should be made, the Board shall forward the report of the Commissioners with such modifications or observations (if any) as the Board think desirable to the county council, and it shall be the duty of the county council to prepare one or more draft schemes to give effect to the report, subject to such modifications (if any) as aforesaid, or to such other modifications as the Board may make after considering any representations submitted to them by the county council, and in preparing the drafts the council shall have regard to the proposals (if any) of the Commissioners indicated in the report.
- (2) If the county council decline to undertake this duty, or within six months "after receiving the report or within such extended time as may be allowed by the Board, fail to prepare such one or more draft schemes as appear to the Board desirable, the Board may direct the Commissioners to prepare one or more .draft schemes.
- (3) A county council, if they think fit, may, without receiving any such report as aforesaid, prepare one or more draft schemes for the provision of small holdings for their county.
- (4) A draft scheme under this section may specify—
 - (a) the localities in which land is to be acquired for small holdings;
 - (b) the approximate quantity of land to be acquired, and the number, nature, and size of the small holdings to be provided, in each locality;
 - (c) whether, and to what extent, grazing or other similar rights, to be defined in the scheme, should be attached to the small holdings created in pursuance of the scheme, and, if so, the approximate quantity of land or extent and nature of the rights to be acquired for the purpose ;
 - (d) the time within which the scheme or any part thereof is to be carried into effect;

and the scheme may contain such incidental, consequential, or supplemental provisions (including provisions as to the subsequent variation of the scheme) as may appear necessary or proper for the purposes of the scheme.

- (5) Where the Commissioners report or the county councils concerned are of opinion that a scheme should be made affecting two or more counties, the scheme may, be prepared by the councils jointly, and may provide for joint action being taken by the councils.

5 Procedure as to schemes

- (1) A copy of any draft scheme shall if prepared by a county council be sent to the Board, and if prepared by the Commissioners be sent to the Board and to any county council concerned, and the draft scheme and any modifications therein which the Board may propose to make shall be published and advertised together with notice of the time within and manner in which objections are to be sent to the Board in such manner as the Board think best adapted for informing the persons affected and for insuring publicity.
- (2) The Board shall consider the draft scheme and any objections thereto duly made, and may in any case and shall if the county council object to the scheme, or, in the case of a scheme, prepared by the council, to any modifications therein which the Board propose to make, hold a public local inquiry, at which the county council, and such other persons as the person holding the inquiry may in his discretion think fit to allow, shall be permitted to appear and be heard.
- (3) The Board, after considering the objections and the report of the person holding the inquiry (if any), may settle, and confirm the scheme either without modification or subject to such modifications as the Board think fit, or may annul the scheme.

6 Duty of councils to carry schemes into effect

- (1) It shall be the duty of a county council on which obligations are imposed by a scheme to carry them into effect within such time as may be specified in the scheme, or within such further time as may be allowed by the Board, and for that purpose the council may exercise any of the powers conferred on them by the provisions of this Act relating to small holdings.
- (2) If the county council fail so to fulfil their obligations, the Board shall by order direct the Commissioners to take such steps as may be necessary for carrying the scheme into effect, and upon such order being made the Commissioners shall for the purpose have all the powers of a county council under the provisions of this Act relating to small holdings, and those provisions shall apply as if references to the Commissioners were substituted for references to a county council:

Provided that such expenses of the Commissioners as the Board certify to have been incurred by the Commissioners in the exercise of such powers in relation to any scheme and to be properly payable by the county council shall on demand be repaid to the Board by the county council in default out of the county fund, and shall be recoverable as a debt due to the Crown, and such sums as the Board certify to have been received by the Commissioners in respect of any land acquired shall be paid to the council.

- (3) Any order made by the Board directing the Commissioners to carry a scheme into effect shall be laid before both Houses of Parliament as soon as may be after it is made.

- (4) If it appears to the Board that the carrying out of a scheme under this Act has resulted or is likely to result in a loss, the Board may, with the consent of the Treasury, pay or undertake to pay out of the Small Holdings Account the whole or any part of that loss.

Powers of County Councils in relation to the provision of Small Holdings

7 Power to acquire land for small holdings

- (1) A county council may, for the purpose of providing small holdings for persons who desire to buy or lease and will themselves cultivate the holdings, by agreement purchase or take on lease land, whether situate within or without their county.
- (2) If a county council are unable to acquire by agreement and on reasonable terms suitable land for the purpose of providing small holdings for persons who desire to lease small holdings, they may for that purpose acquire land compulsorily in accordance with the provisions of this Act relating to compulsory acquisition of land.
- (3) A county council shall not acquire land for small holdings save such price or rent that, in the opinion of the council, all expenses incurred by the council in relation to the land will be recouped out of the purchase money for the land sold by the council, or in the case of land let out of the rent, and the council shall fix the purchase money or rent at such reasonable amount as will, in their opinion, guard them against loss.

8 Adaptation of land for small holdings

- (1) A county council may, if they think fit, before sale or letting, adapt for small holdings any land acquired by them for that purpose, by dividing and fencing it, making occupation roads, and executing any other works, such as works for the provision of drainage or water supply, which can in the opinion of the council be more economically and efficiently executed for the land as a whole.
- (2) A county council may also, if they think fit, as part of the agreement for the sale or letting of a small holding, adapt the land for a small holding by erecting thereon such buildings, or making such adaptations of existing buildings, as in their opinion are required for the due occupation of the holding, and cannot be made by the purchaser or tenant.

9 Sale or letting of small holdings

- (1) A county council shall apportion the total cost of the acquisition of the land, and of any adaptation thereof, among the several holdings in such manner as seems just, and shall, save as herein-after mentioned, offer the small holdings for sale or letting in accordance with rules under this Part of this Act.
- (2) A county council shall have power"—
- (a) to sell or to let one or more small holdings to a number of persons working on a co-operative system, provided such system be approved by the county council; and
 - (b) with the consent of the Board, to let one or more small holdings to any association formed for the purposes of creating or promoting the creation of small holdings, and so constituted that the division of profits amongst the members of the association is prohibited or restricted.

- (3) The cost of acquisition and adaptation shall for the purposes of this section include every expense incurred by the council in relation to the land, inclusive of any allowance to any officers of the council for work done in relation thereto.

10 Rules as to mode and conditions of sale and letting

- (1) A county council acquiring land for small holdings shall make rules for carrying into effect the provisions of this Act relating to small holdings and in particular—
- (a) as to the manner in which holdings are to be sold or let or offered for sale or letting ; and
 - (b) as to the notice to be given of the offer for sale or letting; and
 - (c) for guarding against any small holding being let or sold to a person who is unable to cultivate it properly, and otherwise for securing the proper cultivation of a holding ; and
 - (d) for prescribing the terms and conditions on or subject to which small holdings are to be sold or let by the county council.
- (2) s All rules made under this section shall be. subject to confirmation by the Board.

11 Regulations as to purchase money and sale

- (1) The purchase money for each small holding sold by a county council shall include the costs of registration of title, but shall not include any expense incurred by the purchaser for legal or other advice or assistance.
- (2) A purchaser shall, within such time, not less than one month after the agreement for purchase, as is fixed by rules under this Act, complete the purchase.
- (3) On such completion he shall pay not less than one fifth of the purchase money.
- (4) A portion representing not more than one fourth of the purchase money may, if the county council think fit, be secured by a perpetual rentcharge which shall be redeemable in manner directed by section forty-five of the Conveyancing and Law of Property Act, 1881, with respect to rentcharges to which that section' applies.
- (5) The residue (if any) of the purchase money shall be secured by a charge on the holding in favour of the council, and shall either be repaid by half-yearly instalments of principal with such interest, and within such term not exceeding fifty years from the date of the sale, as may be agreed on with the council, or shall, if the purchaser so requires, be repaid with such interest and within such term as aforesaid by a terminable annuity payable by equal half-yearly instalments. The amount for the time being unpaid may at any time be discharged, and any such- terminable annuity may at any time be redeemed, in accordance with tables fixed by the county council.
- (6) A council may, if they think fit, agree to postpone for a term not exceeding five years the time for payment of all or any part of an instalment either of principal or interest or of a terminable annuity, in consideration of expenditure by the purchaser which, in the opinion of the council, increases the value of the holding, but shall do so on such terms as will, in their opinion, prevent them from incurring any loss.
- (7) A small holding may be sold subject to such rights of way or other rights for the benefit of other small holdings as the council consider necessary or expedient.

12 Conditions affecting small holdings

- (1) A small holding sold by a county council under this Act or any enactment repealed by this Act shall for a term of twenty years from the date of the sale, and thereafter so long as any part of the purchase money remains unpaid, be held subject to the following conditions :—
- (a) any periodical payments due in respect of the purchase money shall be duly made ;
 - (b) the holding shall not be divided, subdivided, assigned, let, or sublet without the consent of the county council;
 - (c) the holding shall be cultivated by the owner or occupier as the case may be, and shall not be used for any purpose other than agriculture ;
 - (d) not more than One dwelling-house shall be erected on the holding;
 - (e) any dwelling-house erected on the holding shall comply with such requirements as the county council may , impose for securing healthiness and freedom from, overcrowding;
 - (f) no dwelling-house or building on the holding shall be used for the sale of intoxicating liquors ;
 - (g) in the case of any holding on which, in the opinion of the county council, a dwelling-house ought not to be erected, no dwelling-house shall be erected on the holding without the consent of the county council:

Provided that a county council may, if they think fit, relax the condition that not more than one dwelling-house shall be erected on a holding, if in their opinion such relaxation will be for the benefit of that or adjacent small holdings provided by the council, but so that the council shall not authorise more than one dwelling-house to be erected for occupation with any one small holding.

- (2) If any such condition is broken, the council may, after giving the owner an opportunity of remedying the breach (if it is capable of remedy), cause the holding to be sold.
- (3) If, on the decease of the owner while the holding is subject to the conditions imposed by this section, the holding would, by reason of any devise, bequest, intestacy, or otherwise, become subdivided, the council may require the holding to be sold within twelve months after such decease to some one person, and, if default is made in so selling the holding, the council may cause the holding to be sold.
- (4) Where under either of the two preceding subsections a county council have power to cause or require a small holding to be sold, the council may, in the event of their requiring such holding for the purposes of small holdings, by notice in writing require the holding to be sold to themselves at such price as, in default of agreement, may be determined by arbitration, and thereupon the council shall, after such date as may be specified by the notice, and on production to the registrar of the land registry of evidence of service of the notice and of the payment of the sum so agreed or determined, or of the tender of such payment, be registered as the proprietor of the land in place of the registered proprietor, and such registration shall operate as a registration on a transfer for valuable consideration under the Land Transfer Acts, 1875 and 1897.

A notice for the purposes of this subsection shall be deemed to be sufficiently served if sent by registered post addressed to the owner or the personal representatives of the deceased owner at his registered address or at his last known place of abode.

This subsection shall not apply in the case where a small holding has been let by a county council.

- (5) Any sale by a county council under this section may be made either subject to the charge in respect of purchase money or free, wholly or partly, from that charge, and in either case the provisions of this Act with respect to the purchase money shall apply in like manner as if the sale were the first sale of the holding.
- (6) The proceeds of the sale shall be applied in discharge of any unpaid purchase money for the holding, or redemption of any rentcharge or terminable annuity which is not to continue a charge on the holding, and, subject as aforesaid, shall be paid to the person appearing to the council to be entitled to receive the same.
- (7) A county council may, under special circumstances, to be recorded in their minutes, sell or consent to the sale under this section of a small holding free from all or any of the conditions imposed by this section, and may give such consent on such terms as they think fit.
- (8) A small holding let by a county council shall be held subject to the conditions on which it would under this section be held if it were sold, except so far as those conditions relate to the purchase money, and except so far as is otherwise expressly provided by this section ; and, if any such condition or any term of the letting is broken, the council may, after giving the tenant an opportunity of remedying the breach (if it is capable of remedy), determine the tenancy.
- (9) Nothing in or done under this section shall derogate from the effect of any building or sanitary byelaws for the time being in force.

13 Registration of title to small holdings

- (1) Where a county council have purchased land for small holdings, they shall apply to be registered as proprietors thereof under the Land Transfer Acts, 1875 and 1897, and may be registered as proprietors of the land with any title authorised by those Acts.
- (2) When a county council, after having been so registered, transfer any such land to a purchaser of a small holding, the purchaser shall be registered as proprietor of the land with an absolute title, subject only to such incumbrances as may be created under this Act; and in any case the remedy of any person claiming by title paramount to the county council in respect either of title or incumbrances shall be in damages only, and such damages shall be recoverable against the county council.
- (3) Rules under the Land Transfer Acts, 1875 and 1897, may—
 - (a) adapt those Acts to the registration of small holdings, with such modifications as appear to be required ; and
 - (b) on the application and at the expense of a county council, provide, by the appointment of local agents or otherwise, for the carrying into effect the objects of this section.

14 List to be kept by county council

A county council shall keep a list of the owners and occupiers of small holdings sold or let by them, and a map or plan showing the size, boundaries, and situation of each small holding so sold or let.

15 Right of purchase, if land diverted from agriculture

If, at any time after the restrictive conditions imposed by this Act have ceased to attach to a small holding, the owner of the holding desires to use the holding for purposes other than agriculture, he shall before so doing, whether the holding is situate within a town or built upon or not, offer the holding for sale, first to the county council from whom the holding was purchased, and secondly to the person or persons (if any) then entitled to the lands from which the holding was originally severed, and sections one hundred and twenty-seven to one hundred and thirty of the Lands Clauses Consolidation Act, 1845, shall apply as if the owner of the small holding were the promoter of the undertaking, and the holding were superfluous lands within the meaning of those sections.

16 Letting of land unsold, and sale of superfluous or unsuitable land

- (1) , A county council shall, if practicable, sell or let as small holdings, and in accordance with this Act, any land acquired by them for small holdings, but, if the council are of opinion that any such land is not needed, or is unsuitable, for small holdings, or cannot be sold or let under the provisions of this Act, or that some more suitable land is available, they may sell or let the land otherwise than under those provisions, or exchange the land for other land more suitable for small holdings, and may pay or receive money for equality of exchange, and may erect such buildings or execute such other works as will in the opinion of the council enable the land to be sold or let without loss.
- (2) The council may also, while any sale or lease of a holding is pending, temporarily let or manage the holding for such time and in such manner as they think expedient.
- (3) Sections one hundred and twenty-eight to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands), shall apply upon any sale in pursuance of this section before any such buildings or works as aforesaid are erected or executed on the land proposed to be sold, but, save as aforesaid, the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands shall not apply.

17 Restrictions on powers of council

- (1) A county council shall not take any proceedings under the provisions of this Act relating to small holdings whereby the annual charge for the time being on the county fund, for the purposes of those provisions and of any enactment repealed by this Act, including the annual payments in respect of the loans raised for those purposes, is, in the opinion of the council, likely to exceed in any one year the amount produced by a rate of a penny in the pound, and, where the said charge at any time is equal or nearly equal to that amount, no further land shall be purchased for small holdings until the charge has been decreased so as to admit of the further purchase without the charge exceeding the said amount.
- (2) For the purposes of this section the expression " charge " means the net charge on the county fund calculated in accordance with regulations made by the Local Government Board after taking into account all receipts from or on account of small holdings or otherwise under the provisions of this Act relating to small holdings.

18 Delegation of powers to councils of boroughs or urban districts

A county council may make arrangements with the council of any borough or urban district in the county for the exercise by the council of that borough or district, as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council in respect of the acquisition, adaptation, and management of small holdings for the borough or district, and the council of the borough or district may, as part of the arrangement, undertake to pay the whole or any part of the loss (if any) incurred in connexion with those small holdings, and any sum payable in pursuance of any such undertaking shall be defrayed as part of the general expenses of the council in the execution of the Public Health Acts.

Loans by County Councils to Tenants purchasing Small Holdings

19 Power of county council to advance money for purchase of small holdings

- (1) Where the tenant of a small holding has agreed with his landlord for the purchase of the holding, the county council of the county in which the holding or any part of it is situate may, if they think fit, advance to the tenant on the security of the holding an amount not exceeding four-fifths of the purchase money thereof.
- (2) The provisions of this Act with respect to the purchase money secured by a charge on a small holding sold by a county council, and with respect to any small holding so sold, shall apply to an advance made and a holding purchased under this section, as if the advance was the purchase money, save that the county council shall not guarantee the title of the purchaser of the holding.
- (3) No advance shall be made by a county council under this section, unless they are satisfied that the title to the holding is good, that the sale is made in good faith, and that the price is reasonable.

Powers of Board of Agriculture and Fisheries

20 Power of Board to provide small holdings

The Board may, if after inquiry they think it advisable to do so with a view to demonstrating the feasibility of the establishment of small holdings in any locality, exercise the powers conferred on county councils by the provisions of this Act relating to Small holdings (except the powers of acquiring land compulsorily and of borrowing), and those provisions shall apply as if references to the Board were substituted for references to a county council; but the expenses of the Board shall be defrayed out of, and their receipts paid into, the Small Holdings Account, and no part thereof shall be paid out of any rate.

21 Power of Board to repay part of expenses incurred by council

The Board may, if they think fit, and subject to regulations made by the Board with the approval of the Treasury, repay or undertake to repay to a county council, out of the Small Holdings Account, the whole or any part of the expenses incurred by the council in proceedings in relation to the acquisition of land for the purposes of smallholdings, and the amount so repaid shall not be treated as part of the costs incurred by the council in relation to land for the purposes of sections seven and nine of this Act,

but nothing in this section shall authorise the repayment of any part of any purchase money, compensation, or rent payable in respect of the land.

22 Appointment of advisory and managing committees by Board

Where the Commissioners acting in default of a county council, or the Board for the purpose of demonstrating the feasibility of the establishment of small holdings, exercise the powers of a county council under the provisions of this Act relating to small holdings, the Board may appoint such advisory and managing committees as they think fit, with such powers and duties as may be conferred or imposed on them, and may, with the consent of the Treasury, pay out of the Small Holdings Account all reasonable travelling and out-of-pocket" expenses of the members of committees so appointed:

Provided that where the expenses are incurred for the purposes of the powers exercised by the Commissioners acting in default of a county council, those expenses shall be treated as expenses incurred by the Commissioners in the exercise of the powers of the county council.