



# Small Holdings and Allotments Act 1908

1908 CHAPTER 36 8 Edw 7

## PART III

### GENERAL

#### *Provisions affecting Land acquired*

#### **44 Power of council to renew tenancy of land compulsorily hired.**

- (1) Where a council has hired land compulsorily for small holdings or allotments, the council may, by giving to the landlord not more than two years nor less than one year before the expiration of the tenancy notice in writing, renew the tenancy for such term, not being less than fourteen nor more than thirty-five years, as may be specified in the notice, and at such rent as, in default of agreement, may be determined by valuation by a valuer appointed by the Board, but otherwise on the same terms and conditions as the original lease, and so from time to time:

Provided that, if on any such notice being given, the landlord proves to the satisfaction of the Board that any land included in the tenancy is required for the amenity or convenience of any dwelling-house, then such land shall be excluded from the renewed tenancy.

- (2) In assessing the rent to be paid under this section the valuer shall not take into account any increase in the value of the holding—
- (a) due to improvements in respect of which the council would have been entitled to compensation, if instead of renewing the tenancy the council had quitted the land on the determination of the tenancy; or
  - (b) due to any use to which the land might otherwise be put during the renewed term, being a use in respect of which the landlord is entitled to resume possession of the land under this Act; or
  - (c) due to the establishment by the council of other small holdings or allotments in the neighbourhood,

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or any depreciation in the value of the land in respect of which the landlord would have been entitled to compensation if the council had so quitted the land as aforesaid.

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

**C1** S. 44 saved by Law of Property Act 1922 (c. 16), Sch. 15, para. 9; amended by Small Holdings and Allotments Act 1926 (c. 52), s. 18(1)

**45 Interchange of land for small holdings and allotments.**

A county council may sell or let to a borough, urban district, or parish council for the purpose of allotments any land acquired by them for small holdings, and a borough, urban district, or parish council may sell or let to the county council for the purpose of small holdings any land acquired by them for allotments . . . . .<sup>F1</sup>

**Textual Amendments**

**F1** Words repealed by Land Settlement(Facilities) Act 1919 (c. 59), Sch.3

**46 Power to resume possession of land hired compulsorily.**

(1) Where land has been hired by a council compulsorily for small holdings or allotments, and the land or any part thereof at any time during the tenancy thereof by the council is shown to the satisfaction of the Board to be required by the landlord to be used for building, mining, or other industrial purposes, or for roads necessary therefor, it shall be lawful for the landlord to resume possession of the land or part thereof upon giving to the council twelve months' previous notice in writing of his intention so to do [<sup>F2</sup>or such shorter notice as may be required by the order for the compulsory hiring of the land]; and, if a part only of the land is resumed, the rent payable by the council shall as from the date of resumption be reduced by such sum as in default of agreement may be determined by valuation by a valuer appointed by the Board.

(2) . . . . .<sup>F3</sup>

**Textual Amendments**

**F2** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

**F3** Ss. 1–22, 46(2), 55, 56, 58(2) repealed by Small Holdings and Allotments Act 1926 (c. 52), Sch. 2

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

**C2** S. 46 amended by Small Holdings and Allotments Act 1926 (c. 52), s. 18(2)

**47 Compensation for improvements.**

(1) Where a council has let a small holding or allotment to any tenant [<sup>F4</sup>otherwise than under a farm business tenancy], the tenant shall as against the council have the same rights with respect to compensation for the improvements mentioned in Part I. of the Second Schedule to this Act as he would have had if the holding had been a holding to which [<sup>F5</sup>subsections (2) to (5) of section 79 of the Agricultural Holdings Act 1986], applied:

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Provided that the tenant shall not be entitled to compensation in respect of any such improvement if executed contrary to an express prohibition in writing by the council affecting either the whole or any part of the holding or allotment; . . .<sup>F6</sup>

- (2) Where land has been hired by a council for small holdings or allotments [<sup>F7</sup>otherwise than under a farm business tenancy], the council shall (subject [<sup>F8F9</sup>to any provision to the contrary in the agreement or order for hiring]) be entitled at the determination of the tenancy on quitting the land to compensation under the [<sup>F10</sup>Agricultural Holdings Act 1986], for any improvement mentioned in Part I. of the Second Schedule to this Act, and for any improvement mentioned in Part II. of that Schedule which was necessary or proper to adapt the land for small holdings or allotments, as if the land were a holding to which [<sup>F10</sup>subsections (2) to (5) of section 79 of the Agricultural Holdings Act 1986], applied, and the improvements mentioned in Part II. of the said Schedule were improvements mentioned in [<sup>F10</sup>Schedule 8 to the Agricultural Holdings Act 1986]:

Provided that, in the case of land hired compulsorily, the amount of the compensation payable to the council for those improvements shall be such sum as fairly represents the increase (if any) in the value to the landlord and his successors in title of the holding due to those improvements.

- (3) The tenant of an allotment to which Part II. of this Act applies may, if [<sup>F11</sup>he is not a tenant under a farm business tenancy and]he so elects, claim compensation for improvements under [<sup>F12</sup>section 3 of the Allotments Act 1922], instead of under the [<sup>F13</sup>Agricultural Holdings Act 1986], as amended by this section, notwithstanding that the allotment exceeds two acres in extent.
- (4) A tenant of any small holding or allotment [<sup>F14</sup>who is not a tenant under a farm business tenancy]may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him for which he has no claim for compensation, and may remove any toolhouse, shed, greenhouse, fowl-house, or pigsty built or acquired by him for which he has no claim for compensation.
- [<sup>F15</sup>(5) In this section, “farm business tenancy” has the same meaning as in the Agricultural Tenancies Act 1995.]

#### Textual Amendments

- F4** Words in s. 47(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 1(2)** (with s. 37).
- F5** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 1(1)(2)**
- F6** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1\)](#), ss. 1(5), 194, **Sch. 5 para. 1(c)**, Sch. 34 Pt. V
- F7** Words in s. 47(2) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 1(3)** (with s. 37).
- F8** Words repealed by [Land Settlement\(Facilities\) Act 1919 \(c. 59\)](#), Sch.3
- F9** Words inserted by [Land Settlement\(Facilities\) Act 1919 \(c. 59\)](#), Sch.2
- F10** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 1(3)**
- F11** Words in s. 47(3) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 1(4)** (with s. 37).
- F12** Words in s. 47(3) substituted (5.11.1993) by 1993 c. 50, s. 1(2), **Sch. 2 Pt. II para. 19**
- F13** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 1(4)**
- F14** Words in s. 47(4) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 1(5)** (with s. 37).
- F15** [S. 47\(5\)](#) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 1(6)** (with s. 37).

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

**C3** S. 47 applied by [Opencast Coal Act 1958 \(c. 69\)](#), s. 41, [Sch. 8 para. 3\(2\)-\(4\)](#) (4)

**48 Provisions as to glebe lands.**

In the case of glebe land or other land belonging to an ecclesiastical benefice hired by a council for the purposes of . . . <sup>F16</sup> allotments—

- (1) The provisions of the <sup>M1</sup>Ecclesiastical Dilapidations Act, 1871, shall not during the continuance of the tenancy be applicable to the buildings upon the land:
- (2) At the determination of the tenancy, on the council quitting the land, or at any time within twelve months thereafter, the incumbent of the benefice to which the land belongs may apply to the Ecclesiastical Commissioners for their consent to the removal of any buildings which have been erected on the land for the purpose of adapting the land for . . . . . <sup>F16</sup> allotments, and, on proof to the satisfaction of the Commissioners that any such buildings are useless, and that it is to the interest of the benefice that they should be removed, the incumbent may, with the consent of the Commissioners, and subject to such directions as they may give, pull down any such buildings and dispose of the materials thereof, and any proceeds shall be paid to the Commissioners to be by them applied to the improvement of the benefice in such manner as the Commissioners may direct.

**Textual Amendments**

**F16** Words repealed with saving as to cottage holdings by [Agriculture Act 1970 \(c. 40\)](#), s. 65(1), [Sch. 3 para. 5](#), [Sch. 5 Pt. III](#)

**Marginal Citations**

**M1** 1871 c. 43.

**Changes to legislation:**

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