



# Town and Country Planning Act 1959

## 1959 CHAPTER 53

### PART II

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

#### **22 Exercise of powers of acquisition by agreement**

- (1) 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 acquire land by agreement, 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 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.
- (2) 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, where either—
- (a) the land is immediately required by the purchasing authority for the purpose for which it is to be acquired, or
  - (b) if the land is not so required, it is land within the area of the purchasing authority.
- (3) Subsection (1) of section eighteen of the Mineral Workings Act, 1951 (which confers on local authorities a right of reimbursement in respect of certain expenditure incurred by them) shall have effect subject to the modification that paragraph (c) of that subsection (which relates to expenditure incurred in acquiring land) shall not apply to

any expenditure incurred in acquiring land by agreement without the consent of the Minister of Housing and Local Government.

- (4) In this Part of this Act " authority to whom this Part of this Act applies ", in relation to England and Wales, means a body of any of the descriptions specified in Part I of the Fourth Schedule to this Act, and, in relation to Scotland, means a body of any of the descriptions specified in Part II of that Schedule ; " land" includes any easement or 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.
- (5) In the application of this section to Scotland subsection (2) shall have effect with the omission of the words from "where either " to the end of the subsection, and subsection (3) shall be omitted.

### **23 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 the preceding subsection has effect shall be subject to the following provisions, that is to say,—
- (a) land which consists or forms part of an open space (not being land which consists or forms part of a common or of a fuel or field garden allotment) shall not be appropriated except with the consent of the Minister of Housing and Local Government;
  - (b) land which has been acquired (whether before or after the commencement of this Act) by an authority to whom this Part of this Act applies, and has been so acquired by that authority in the exercise (directly or indirectly) of compulsory powers, and has not subsequently been appropriated by that authority for any purpose other than that for which it was so acquired, shall not be appropriated by that authority for any other purpose except with the consent of the Minister who, at the time of the appropriation, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.
- (3) Subsection (1) of this section shall not apply—
- (a) to any appropriation of land in pursuance of an order under section forty-two of the Act of 1947 or under section twenty-eight of the Land Settlement (Facilities) Act, 1919, or

- (b) to any appropriation of land which, immediately before the appropriation, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act;

and shall not operate so as to dispense with any requirement for the consent of the Minister of Agriculture, Fisheries and Food—

- (i) under subsection (7) of section two of the Small Holdings and Allotments Act, 1926, as applied by section twelve of the Agricultural Land (Utilisation) Act, 1931 (whereby the consent of that Minister is required in certain cases in respect of transactions relating to cottage holdings), or
- (ii) in respect of any appropriation of land which, immediately before the appropriation, is land held for use as allotments;

but, in relation to any appropriation of land by an authority to whom this Part of this Act applies, where the consent of that Minister is required under section eight of the Allotments Act, 1925, so much of that section as requires consultation with the Minister of Housing and Local Government shall not apply.

- (4) Sub-paragraph (b) of paragraph (i) of the proviso to subsection (1) of section one hundred and sixty-three of the Local Government Act, 1933 (which prohibits a local authority from executing certain works on land appropriated by them, unless authorised to do so by the Minister of Housing and Local Government), shall cease to have effect.
- (5) In the application of this section to Scotland, for subsections (2) and (3) there shall be substituted the following subsections, that is to say,—

“(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 following provisions, that is to say,—

- (a) land which consists or forms part of a common or open space, or is held for use as allotments, shall not be appropriated except with the consent of the Secretary of State ;
- (b) land which has been acquired (whether before or after the commencement-of this Act) by an authority to whom this Part of this Act applies, and has been so acquired by that authority in the exercise (directly or indirectly) of compulsory powers, and has not subsequently been appropriated by that authority for any purpose other than that for which it was so acquired, shall not be appropriated by that authority for any other purpose except with the consent of the Minister who, at the time of the appropriation, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.

(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 Scottish Act of 1947.”; and subsection (4) shall be omitted.

## 24 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.

- (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 Minister of Housing and Local Government 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.
- (4) In the application of this section to Scotland, for any reference to the Minister of Housing and Local Government there shall be substituted a reference to the Secretary of State.

## **25 Amendment of s. 21 of Land Settlement (Scotland) Act, 1919**

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.

## **26 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—
- (a) of land which consists or forms part of an open space (not being land which consists or forms part of a common or of a fuel or field garden allotment) or
  - (b) of land which has been acquired (whether before or after the commencement of this Act) by that authority in the exercise (directly or indirectly) of

compulsory powers, and has not subsequently been appropriated to that authority for any purpose other than that for which it was so acquired, if (in either case) 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 such consent as is mentioned in the next following subsection.

- (3) The said consent—
- (a) in a case falling within paragraph (a) of the last preceding subsection, is the consent of the Minister of Housing and Local Government, and
  - (b) in a case falling within paragraph (b) of that subsection, is the consent of the Minister who, at the time of the disposal, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.
- (4) Except with the consent of the Minister of Housing and Local Government, an authority to whom this Part of this Act applies shall not sell, exchange or let any land, in the exercise of a power in relation to which subsection (1) of this section has effect, for a price, consideration or rent less than the best price, best consideration or best rent (as the case may be) that can reasonably be obtained, having regard to any restrictions or conditions (including conditions as to payment or the giving of security for payment) subject to which the land is sold, exchanged or let.
- (5) Subsection (1) of this section shall not apply—
- (a) to section forty-seven of the Housing Act, 1957 (which relates to land in, surrounded by or adjoining a clearance area);
  - (b) to any exercise of the powers conferred by section one hundred and four of the Housing Act, 1957 (which confers powers of disposing of houses provided under Part V of that Act) in respect of any house, if in respect of that house any payment has been made (whether before or after the commencement of this Act) to a local authority under any of the enactments mentioned in subsection (2) of section fifty-eight of the Housing (Financial Provisions) Act, 1958, or under any enactment repealed by that Act or any earlier Act and re-enacted (with or without modifications) by any of the provisions mentioned in the said subsection (2);
  - (c) to any exercise of the powers conferred by section nineteen of the Town and Country Planning Act, 1944 (which, as amended by the Act of 1947, relates to the disposal or appropriation by local authorities of land held by them for the purposes of Part IV of the Act of 1947) in respect of land falling within subsection (6) of the said section nineteen (which makes special provision as to land comprised in an area denoted by a development plan as an area of comprehensive development and land contiguous or adjacent to any such area which is designated by the plan as subject to compulsory acquisition);
  - (d) to any disposal of land which, immediately before the disposal, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act;
  - (e) 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 price, consideration or rent of a value less than the current market value of the interest disposed of; and subsection (1) of this section shall not operate so as to dispense with any requirement for the consent of the Minister of Agriculture, Fisheries and Food—

- (i) under subsection (7) of section two of the Small Holdings and Allotments Act, 1926, as applied by section twelve of the Agricultural Land (Utilisation) Act, 1931, or under subsection (1) of section six of the said Act of 1926, or
- (ii) in respect of any disposal of land which, immediately before the disposal, is land held for use as allotments;

but in relation to any disposal of land by an authority to whom this Part of this Act applies, where the consent of that Minister is required under section eight of the Allotments Act, 1925, so much of that section as requires consultation with the Minister of Housing and Local Government shall not apply.

- (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 (e) of the last preceding subsection shall be disregarded.

- (7) In the application of this section to Scotland,—

- (a) for any reference to the Minister of Housing and Local Government there shall be substituted a reference to the Secretary of State ;
- (b) for paragraph (a) of subsection (2) there shall be substituted the following paragraph, that is to say,—

“(a) of land which consists or forms part of a common or open space, or is held for use as allotments, or”;

- (c) for subsections (4) and (5) there shall be substituted the following subsections, that is to say,—

“(4) Subject to the provisions of this Act, section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (which makes provision as to price and other matters relating to the disposal of land by local authorities) 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 VIII of the said Act of 1947) as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1947 in the exercise of any power under the said Part VIII.

- (5) Subsection (1) of this section shall not apply—

- (a) to any exercise of the powers conferred by paragraph (d) of subsection (1) of section sixty-five of the Housing (Scotland) Act, 1950 (which confers powers of disposing of houses provided under Part V of that Act), in respect of any house, if in respect of the provision of that house an Exchequer contribution has (whether before or after the commencement of this Act) been paid under any of the enactments specified in Part I of the Sixth Schedule to the said Act of 1950;
- (b) to any exercise of the powers conferred by section eighteen of the Town and Country Planning (Scotland) Act, 1945 (which, as amended by the Scottish Act of 1947, relates to the disposal or appropriation by local authorities of land held by them for the purposes of Part III of the Scottish Act of 1947), in respect of land falling within subsection (5) of the said section eighteen (which makes special provision as to land comprised in an area defined by a development plan as

an area of comprehensive development) and that subsection as extended by section seventeen of the Housing and Town Development (Scotland) Act, 1957;

- (c) to any exercise of the powers conferred by subsection (2) of section one hundred and seventy-one of the Local Government (Scotland) Act, 1947 (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 disposal of thereunder for a rent, price, feu duty or other consideration of a value less than the current market value thereof.”

and

- (d) for any reference in subsection (6) to paragraph (e) of subsection (5) of this section there shall be substituted a reference to paragraph (d) of that subsection.

## **27 Application of capital money on disposal of land**

(1) Where by any enactment—

- (a) provision is made as to the application of capital money received by an authority to whom this Part of this Act applies, or by any class of such authorities, in respect of land disposed of by them, but
- (b) it is provided (in whatsoever terms) that the application of capital money thereunder shall be effected only with the consent of a Minister specified therein or in a manner approved by a Minister so specified,

the enactment shall have effect, in relation to the application after the commencement of this Act of capital money by an authority to whom this Part of this Act applies, in cases fulfilling any one or more of the conditions specified in the next following subsection, as if it made the provision referred to in paragraph (a) of this subsection without any such provision as is referred to in paragraph (b) of this subsection.

(2) The said conditions, in relation to capital money received by an authority in respect of land disposed of by them, are the following, that is to say,—

- (a) that the capital money received in respect of the disposal of that land does not exceed the relevant limit;
- (b) that the capital money is to be applied by the authority in or towards the repayment of a debt incurred by them wholly or in part for the purpose of acquiring or developing that land or otherwise in connection with that land;
- (c) that the capital money is to be applied by the authority in or towards the repayment of a debt of the authority which is repayable within a period of which, at the date of the application of the capital money, not less than fifteen years remain unexpired;
- (d) that the capital money is to be applied by the authority for a purpose for which they have obtained the consent of a Minister, or have been authorised by a local enactment, to borrow money on terms providing for repayment within a period of not less than fifteen years;
- (e) that the capital money is to be applied from a capital fund established under section one of the Local Government (Miscellaneous Provisions) Act, 1953, or established under a local enactment which includes a provision requiring

moneys derived from the sale of land which are applied from the fund to be repaid to the fund from the account to which the moneys are advanced.

- (3) For the purposes of paragraph (a) of the last preceding subsection the relevant limit shall be ascertained as follows, that is to say—
- (a) in the case of capital money received by the council of a county, county borough or metropolitan borough, or by the Common Council of the City of London, the relevant limit shall be the sum of one thousand pounds;
  - (b) in the case of capital money received by the council of a county district, or by the Council of the Isles of Scilly, the relevant limit shall be whichever is the lesser of the two following amounts, that is to say, the sum of one thousand pounds, and the amount estimated for the purposes of subsection (2) of section nine of the Rating and Valuation Act, 1925, to be the product, for the financial year in which the capital money is to be applied, of a rate of one penny in the pound for the rating area consisting of that county district, or of the Isles of Scilly, as the case may be ;
  - (c) in the case of capital money received by any other authority to whom this Part of this Act applies, the relevant limit shall be the sum of five hundred pounds.
- (4) On any application, by an authority to whom this Part of this Act applies, of capital money received by them as mentioned in paragraph (a) of subsection (1) of this section, other than an application falling within the next following subsection, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances.
- (5) Where after the commencement of this Act any capital money falls to be applied by an authority to whom this Part of this Act applies, in respect of the disposal by the authority of any land held by the authority for the purposes of any of their functions, and the capital money is applied for the purposes of some other function of the authority (including the purposes of the repayment of any debt incurred by the authority for the purposes of that other function), then, if either of those functions is a grant-aided function, such adjustment shall be made in the accounts of the authority as the Minister of Housing and Local Government may direct.
- (6) Nothing in the preceding provisions of this section shall be construed as affecting the operation of subsection (3) of section two of the Local Government (Miscellaneous Provisions) Act, 1953 (which provides, with respect to the application of capital money from a capital fund established under that Act, that the amount to be applied in any one transaction shall not exceed such sum as the Minister of Housing and Local Government may determine), or of any corresponding provision of a local enactment relating to the application of money from a capital fund.
- (7) The foregoing provisions of this section shall not apply to Scotland ; but section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (which makes provision, among other things, for the adjustment in certain cases of the accounts of local authorities in respect of capital money received on the disposal of land), shall have effect as if for the proviso to subsection (1) of that section there were substituted the following proviso, that is to say—
- “Provided that—
- (a) on any application by a local authority of capital money received by them as mentioned in this subsection, other than an application falling within the next following paragraph, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances;



- (b) where any capital money received by a local authority as mentioned in this subsection in respect of land held by them for the purposes of any of their functions is applied by them for the purposes of some other function of theirs (including the purposes of the repayment of any debt incurred by them for the purposes of that other function), then, if either of those functions is a grant-aided function, such adjustment shall be made in the accounts of the authority as the Secretary of State may direct.”

## **28 Appropriation of land by parish councils and parish meetings**

- (1) Any land belonging to a parish council which is not required for the purposes for which it was acquired or has since been appropriated may, subject to the following provisions of this section, be appropriated by the council for any other purpose approved by the Minister of Housing and Local Government and the parish meeting.
- (2) In the case of a rural parish not having a separate parish council, any land belonging to the parish meeting which is not required for the purposes for which it was acquired or has since been appropriated may, subject to the following provisions of this section, be appropriated by the parish meeting for any other purpose approved by the Minister of Housing and Local Government.
- (3) A parish council or parish meeting shall not create or permit any nuisance on land appropriated by them under this section.
- (4) The appropriation of land by a parish council or parish meeting under this section shall be without prejudice to any covenant or restriction affecting the use of the land in their hands.
- (5) In the case of an appropriation under this section of land acquired under any enactment or order incorporating the Lands Clauses Acts, any work executed on the land after the appropriation has been effected shall, for the purposes of section sixty-eight of the Lands Clauses Consolidation Act, 1845, be deemed to have been authorised by the enactment or order under which the land was acquired.
- (6) Where, by virtue of any enactment other than this section, a parish council have power, with or without the consent of a Minister, or may be authorised, to appropriate land for any purpose, the power conferred by subsection (1) of this section shall not be exercisable by the council for that purpose in relation to that land.
- (7) The power conferred by subsection (2) of this section shall not be exercisable by a parish meeting in relation to any land for any purpose for which the parish meeting are or could be empowered (subject to the requisite consents) to appropriate that land under section twenty-two of the Land Settlement (Facilities) Act, 1919, or for which they may be authorised to appropriate that land under section forty-two of the Act of 1947.
- (8) Subsections (1) and (2) of section twenty-four of this Act shall apply in relation to an appropriation of land by virtue of this section, as if parish councils and parish meetings were authorities to whom this Part of this Act applies.
- (9) This section shall not apply to Scotland.

**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) In relation to Scotland the preceding subsection shall have effect in substitution for the provisions of subsection (2) of section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947, in so far as those provisions relate to the consent of a Minister, but without prejudice to the operation of those provisions in cases to which the preceding subsection does not apply.

**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 that 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 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) For the purposes of this Part of this Act land shall be taken to have been acquired by an authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under an enactment to acquire the land compulsorily:

Provided that land shall not be taken to have been acquired by an authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.

- (6) Notwithstanding anything in the preceding provisions of this Part of this Act, nothing in those provisions in their application to England and Wales—
- (a) shall affect any acquisition of corporate land, or
  - (b) shall affect any appropriation of land which, immediately before the appropriation, is corporate land, or shall affect or require the making of any adjustment in the accounts of an authority to whom this Part of this Act applies in consequence of such an appropriation, or
  - (c) shall affect any disposal of land which, immediately before the disposal, is corporate land, or affect the application of any capital money received in respect of any corporate land disposed of by an authority to whom this Part of this Act applies, or affect or require any adjustment in the accounts of such an authority in consequence of any such disposal.