



# Small Holdings and Allotments Act 1908

1908 CHAPTER 36 8 Edw 7

An Act to consolidate the enactments with respect to small holdings and allotments in England and Wales. [1st August 1908]

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## Modifications etc. (not altering text)

- C1** Act repealed as to small holdings by [Agriculture Act 1947 \(c. 48\), s. 67\(2\)](#) and [Agriculture Act 1970 \(c. 40\), s. 65\(1\), Sch. 5 Pt. III](#)
- C2** Act applied with modification by [Agricultural Land \(Utilisation\) Act 1931 \(c. 41\), s. 12\(1\)](#); restricted by [Allotments Act 1950 \(c. 31\), s. 9](#)
- C3** Certain provisions of this Act as to compensation excluded by [Opencast Coal Act 1958 \(c. 69\), s. 41, Sch. 8 para. 3\(1\)](#)
- C4** Functions of Board (Board of Agriculture and Fisheries) now exercisable by Minister of Agriculture, Fisheries and Food: [Ministry of Agriculture and Fisheries Act 1919 \(c. 91\), s. 1\(1\)](#) and [S.I. 1955/554 \(1955 I, p. 1200\)](#)
- C5** Functions of Minister of Agriculture, Fisheries and Food as to allotments now exercisable by Secretary of State: [S.I. 1965/143, 1967/156 and 1970/1681](#)
- C6** Functions of Local Government Board under this Act now exercisable by Secretary of State: [Ministry of Health Act 1919 \(c. 21\), s. 3\(1\)\(a\)](#), [S.I. 1951/753, 1900 \(1951 I, pp. 1354, 1347\), 1965/319 and 1970/1681](#)
- C7** Functions of Ecclesiastical Commissioners now exercisable by Church Commissioners: [Church Commissioners Measures 1947 \(No. 2\), s. 2](#)
- C8** Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)
- C9** Certain functions of Minister of Agriculture, Fisheries and Food transferred by [S.I. 1978/272, art. 2](#)  
Functions of a Minister of the Crown transferred to the National Assembly for Wales (W.) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

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## Commencement Information

- I1** Act wholly in force at 1.1.1909 by s. 63(2)

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

**PART I**

SMALL HOLDINGS

1–22 ..... F1

**Textual Amendments**

F1 Ss. 1–22, 46(2), 55, 56, 58(2) repealed by Small Holdings and Allotments Act 1926 (c. 52), **Sch. 2**

**PART II**

ALLOTMENTS

*Provision of Allotments*

**23 Duty of certain councils to provide allotments.**

- (1) If the council of any borough, urban district, or parish are of opinion that there is a demand for allotments . . . F2 in the borough, urban district, or parish, . . . F2 the council shall provide a sufficient number of allotments, and shall let such allotments to persons . . . F2 resident in the borough, district, or parish, and desiring to take the same.
- (2) On a representation in writing to the council of any borough, urban district, or parish, by any six registered parliamentary electors or [F3 persons who are liable to pay an amount in respect of council tax] resident in the borough, urban district, or parish, that the circumstances of the borough, urban district, or parish are such that it is the duty of the council to take proceedings under this Part of this Act therein, the council shall take such representation into consideration.
- (3) ..... F4
- (4) ..... F5

**Textual Amendments**

F2 Words repealed by Land Settlement(Facilities) Act 1919 (c. 59), Sch.3

F3 Words in s. 23(2) substituted (1. 4. 1993) by virtue of Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para.4** (with s. 118(1)(2)(4); S.I. 1992/2454, **art. 3(1)(a)**).

F4 Ss. 23(3), 27(2), 31, 32(3), 41(3) repealed by Land Settlement (Facilities) Act 1919 (c. 59), **Sch. 3**

F5 S. 23(4) repealed by Allotments Act 1950 (c. 31), **Sch.**

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

C10 S. 23 modified (London) by London Government Act 1963 (c. 33), **S. 55(4)**

24 ..... F6

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### Textual Amendments

**F6** S. 24 repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), **Sch. 30**

## *Powers of Councils in relation to the provision of Allotments*

### 25 Acquisition of land for purpose of Act.

(1) The Council of a borough, urban district, or parish may, for the purpose of providing allotments, by agreement purchase or take on lease land, whether situate within or without their borough, district, or parish [<sup>F7</sup>or may purchase such land compulsorily in accordance with the provisions of this Act and of the [<sup>F8</sup>Acquisition of Land Act 1981], in that behalf].

(2) ..... **F9**

(3) ..... **F10**

### Textual Amendments

**F7** Words added by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), Sch. 4

**F8** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 4 para. 1** Table

**F9** S. 25(2) repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 6**

**F10** Ss. 25(3), 27(1) repealed by [Allotments Act 1922 \(c. 51\)](#), **Sch.**

### 26 Improvement and adaptation of land for allotments.

(1) The council of a borough, urban district, or parish may improve any land acquired by them for allotments and adapt the same for letting in allotments, by draining, fencing, and dividing the same, acquiring approaches, making roads and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition.

(2) The council may also adapt the land for allotments by erecting buildings and making adaptations of existing buildings, but so that not more than one dwelling-house shall be erected for occupation with any one allotment; and no dwelling-house shall be erected for occupation with any allotment of less than one acre.

### 27 Provisions as to letting of allotments.

(1) ..... **F11**

(2) ..... **F12**

(3) ..... **F13**

(4) An allotment shall not be sublet [<sup>F14</sup>except with the consent of the council.]

(5) If at any time an allotment cannot be let in accordance with the provisions of this Act and the rules made thereunder, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium <sup>F15</sup> . . . ,

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and on such terms as may enable possession thereof to be resumed within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

- (6) A council shall have the same power of letting one or more allotments to persons working on a co-operative system or [<sup>F16</sup>of letting or selling] to an association formed for the purposes of creating or promoting the creation of allotments as may be exercised as respects small holdings by a county council.

#### Textual Amendments

- F11** Ss. 25(3), 27(1) repealed by Allotments Act 1922 (c. 51), **Sch.**  
**F12** Ss. 23(3), 27(2), 31, 32(3), 41(3) repealed by Land Settlement (Facilities) Act 1919 (c. 59), **Sch. 3**  
**F13** S. 27(3) repealed by Local Government Act 1972 (c. 70, SIF 81:1), ss. 272(1), 273(1), **Sch. 30**  
**F14** Words added by Land Settlement (Facilities) Act 1919 (c. 59), **Sch. 2**  
**F15** Words in s. 27(5) repealed (5.11.1993) by 1993 c. 50, s.1(1), **Sch. 1 Pt. III**  
**F16** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

## 28 Rules as to letting allotments.

- (1) Subject to the provisions of this Act, a borough, urban district, or parish council may make such rules as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Part of this Act into effect.
- (2) Rules under this section may define the persons eligible to be tenants of allotments, the notices to be given for the letting thereof, the size of the allotments, the conditions under which they are to be cultivated, and the rent to be paid for them.
- (3) All such rules shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy.
- ..... **F17** .....
- (4) Rules for the time being in force under this section shall be binding on all persons whatsoever; and the council shall cause them to be from time to time made known, in such manner as the council think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

#### Textual Amendments

- F17** Words repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1), ss. 1(5), 194, **Sch. 5 para. 1(a)**, Sch. 34 Pt. V

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

- C11** S. 28 extended by Land Settlement (Facilities) Act 1919 (c. 59), **s. 21(3)**

## 29 Management of allotments.

- (1) The council of a borough, urban district, or parish may from time to time appoint, and, when appointed, remove allotment managers of land acquired by the council for allotments, and the allotment managers shall consist either partly of members of the

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council and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and [<sup>F18</sup>liable to pay to the district or London borough council in whose area the land is situated an amount in respect of council tax.]

- (2) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be directed by the council; the allotment managers may be empowered by the council to do anything in relation to the management of the allotments which the council are authorised to do and to incur expenses to such amount as the council authorise, and any expenses properly so incurred shall be deemed to be expenses of the council under this Act.

#### Textual Amendments

**F18** Words in s. 29(1) substituted (1. 4. 1993) by virtue of [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para.5](#) (with s. 118(1)(2)(4); [S.I. 1992/2454](#), [art. 3\(1\)\(a\)](#)).

### 30 Recovery of rent and possession of allotments.

- (1) The rent for an allotment let by a council in pursuance of this Act, and the possession of such an allotment in the case of any notice to quit, or failure to deliver up possession thereof as required by law, may be recovered by the council as landlords, in the like manner as in any other case of landlord and tenant.
- (2) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the council that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the rules affecting the allotment made by or in pursuance of this Act, or is resident more than one mile out of the borough, district, or parish for which the allotments are provided, the council may serve upon the tenant, or, if he is residing out of the borough, district, or parish, leave at his last known place of abode in the borough, district, or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon the tenancy shall be determined accordingly:

... <sup>F19</sup>

- (3) Upon the recovery of an allotment from any tenant, the court directing the recovery may stay delivery of possession until payment of the compensation (if any) due to the outgoing tenant has been made or secured to the satisfaction of the court.

#### Textual Amendments

**F19** Proviso repealed by [Allotments Act 1922 \(c. 51\)](#), [Sch.](#)

### 31 ..... <sup>F20</sup>

#### Textual Amendments

**F20** [Ss. 23\(3\), 27\(2\), 31, 32\(3\), 41\(3\)](#) repealed by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), [Sch. 3](#)

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**32 Sale of superfluous or unsuitable land.**

- (1) Where the council of any borough, urban district, or parish are of opinion that any land acquired by them for allotments or any part thereof is not needed for the purpose of allotments, or that some more suitable land is available, they may, . . . <sup>F21</sup>sell or let such land otherwise than under the provisions of this Act, or exchange the land for other land more suitable for allotments, and may pay or receive money for equality of exchange.
- (2) The proceeds of a sale under this Act of land acquired for allotments, and any money received by the council on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the council in respect of the land acquired by the council for allotments, or in acquiring, adapting, and improving other land for allotments, and any surplus remaining may be applied for any purpose for which capital money may be applied, . . . <sup>F22</sup>; and the interest thereon (if any) and any money received from the letting of the land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable.
- (3) . . . . . <sup>F23</sup>

**Textual Amendments**

**F21** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), **Sch. 30**

**F22** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1\)](#), ss. 1(5), 194, **Sch. 5 para. 1(b)**, Sch. 34 Pt. V

**F23** Ss. 23(3), 27(2), 31, 32(3), 41(3) repealed by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), **Sch. 3**

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

**C12** S. 32 excluded by [Allotments Act 1925 \(c. 61\)](#), s. 8 and [Agricultural Land \(Utilisation\) Act 1931 \(c. 41\)](#), s. 13(1)

**33 Transfer of allotments to borough, district and parish councils.**

- (1) The allotment wardens under the Inclosure Acts, 1845 to 1882, having the management of any land appropriated under those Acts either before or after the passing of this Act for allotments or field gardens for the labouring poor of any place, may, by agreement with the council of the borough, urban district, or parish, within whose borough, district, or parish that place is wholly or partly situate, transfer the management of that land to the council, upon such terms and conditions as may be agreed upon with the sanction, as regards the allotment wardens, of the Board, and thereupon the land shall vest in the council.
- (2) . . . . . <sup>F24</sup>
- (3) Where, as respects any rural parish, any Act constitutes any persons wardens of allotments, or authorises or requires the appointment or election of any wardens, committee, or managers for the purpose of allotments, the powers and duties of the wardens, committee, or managers shall, subject to the provisions of this Act, be exercised and performed by the parish council, or, in the case of a parish not having a parish council, by persons appointed by the parish meeting, and it shall not be necessary to make the said appointment or to hold the said election.

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- (4) The provisions of this Act relating to allotments shall apply to land vested in, or the management whereof has been transferred to, a council under this section or the corresponding provision of any enactment repealed by this Act in like manner as if the land had been acquired by the council under the general powers of this Part of this Act.

#### Textual Amendments

**F24** S. 33(2) repealed by [Charities Act 1960 \(c. 58\)](#), [Sch. 7 Pt. I](#)

### *Supplemental*

#### **34 Power to make scheme for provision of common pasture.**

- (1) Where it appears to the council of any borough, urban district, or parish that, as regards their borough, district, or parish, land can be acquired for affording common pasture at such price or rent that all expenses incurred by the council in acquiring the land and otherwise in relation to the land when acquired may reasonably be expected to be recouped out of the charges paid in respect thereof, and that the acquisition of such land is desirable in view of the wants and circumstances of the . . . . .<sup>F25</sup> population, the council may [<sup>F26</sup>prepare and carry into effect]a scheme for providing such common pasture.
- (2) [<sup>F26</sup>Upon such a scheme being carried into effect], the provisions of this Act relating to allotments shall, with the necessary modifications, apply in like manner as if “allotments” in those provisions included common pasture, and “rent” included a charge for turning out an animal:

Provided that the rules made under those provisions may extend to regulating the turning out of animals on the common pasture, to defining the persons entitled to turn them out, the number to be turned out, and the conditions under which animals may be turned out, and fixing the charges to be made for each animal, and otherwise to regulating the common pasture.

#### Textual Amendments

**F25** Words repealed by [Land Settlement\(Facilities\) Act 1919 \(c. 59\)](#), [Sch.3](#)

**F26** Words substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 251(2), [Sch. 29 para. 9\(2\)\(3\)](#)

#### **35 Use of schoolroom free of charge.**

- (1) Any room in a public elementary school in respect of which a grant is made out of moneys provided by Parliament may, except while the room is being used for educational purposes, be used free of charge for the purposes of this Part of this Act . . .<sup>F27</sup>, with the consent of any two managers, for the purpose of holding public meetings to discuss any question relating to allotments under this Act, but any damage done to the room and any expense incurred by the person having control over the room on account of its being so used shall be paid by . . .<sup>F27</sup>the persons calling the meeting.
- (2) Nothing in this section shall give any right to hold a public meeting in a schoolroom—

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- (a) Unless not less than six days before the meeting a notice of the intention to hold the meeting on the day and at the time specified in the notice, signed by the persons calling the meeting, being not less than six in number, and being persons qualified to make a representation to the council of a borough, urban district, or parish under this Part of the Act, has been given, in the case of a school provided by the local education authority to the clerk of that authority, and in any other case to one of the managers of the school; or
- (b) if the use of the schoolroom on the said day and at the said time has previously to the receipt of the notice of the meeting been granted for some other purpose; but in that case the clerk or manager, or some one on his behalf, shall forthwith, after the receipt of the notice, inform in writing one of the persons signing it that the use of the school has been so granted for some other purpose, and name some other day on which the schoolroom can be used for the meeting.

<sup>F28</sup>(3) .....

(4) ..... <sup>F29</sup>

**Textual Amendments**

- F27** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), **Sch. 30**
- F28** [S. 35\(3\)](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), **Sch. 1 Pt.III**
- F29** [Ss. 35\(4\), 52\(4\)](#) repealed by [Local Government Act 1933 \(c. 51\)](#), s. 307, **Sch. 11 Pt. IV**

**36** ..... <sup>F30</sup>

**Textual Amendments**

- F30** [S. 36](#) repealed by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**

**37** ..... <sup>F31</sup>

**Textual Amendments**

- F31** [S. 37](#) repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), **Sch. 30**

**PART III**

GENERAL

*Acquisition of Land*

**38 Purchase of land by agreement.**

For the purpose of the purchase of land by agreement under this Act by a council, [<sup>F32</sup>the provisions of Part I of the <sup>M1</sup>Compulsory Purchase Act 1965 (so far as



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applicable) other than sections 4 to 8, section 10, subsections (1) to (5) of section 23, and section 31, shall apply]. . .

#### Textual Amendments

**F32** Words substituted by [Compulsory Purchase Act 1965 \(c. 56\), s. 38\(2\), Sch. 6](#)

#### Marginal Citations

**M1** [1965 c. 56.](#)

### 39 Procedure for compulsory acquisition of land.

- (1) Where a council propose to purchase land compulsorily under this Act, the council may [<sup>F33</sup>be authorised so to do by the Minister of Agriculture and Fisheries].
- (2) Where a council propose to hire land compulsorily, the council may submit to the Board an order for the compulsory hiring of the land specified in the order for a period not less than fourteen nor more than thirty-five years, and the provisions of Part I. of the First Schedule to this Act shall apply to the order in like manner as it applies to an order for compulsory purchase, with the substitution of “hiring” for “purchase”, and with the modifications set out in Part II. of that Schedule.
- (3) An order under [<sup>F33</sup>the last foregoing subsection] shall be of no force unless and until it is confirmed by the Board, and the Board may, subject to the provisions of the First Schedule to this Act, confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall become final . . . <sup>F34</sup>; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.
- (4) An order [<sup>F33</sup>for the compulsory purchase or hiring of land under this Act] may provide for the continuance of any existing easement or the creation of any new easement over the land authorised to be acquired, and every such order shall, if so required by the owner of the land to be acquired, provide for the creation of such new easements as are reasonably necessary to secure the continued use and enjoyment by such owner and his tenants of all means of access, drainage, water supply, and other similar conveniences theretofore used or enjoyed by them over the land to be acquired: Provided that, notwithstanding anything contained in this subsection, no new easement created by or in pursuance of the order over land hired by a council shall continue beyond the determination of such hiring.
- (5) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase or hiring being compulsory.
- (6) Where land authorised to be compulsorily hired by an order under this section is subject to a mortgage, any lease made in pursuance of the order by the mortgagor or mortgagee in possession shall have the like effect as if it were a lease authorised by section eighteen of the <sup>M2</sup>Conveyancing and Law of Property Act, 1881.
- (7) Where the council proposing to acquire land compulsorily is a parish council, the council shall, instead of themselves making and submitting to the Board the order, represent the case to the [<sup>F35</sup>district]council, and thereupon the [<sup>F35</sup>district]council may, on behalf of the parish council, exercise the powers in relation to compulsory purchase

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or hiring conferred on councils by this Act, and the order shall be carried into effect by the [<sup>F35</sup>district]council, but the land shall be assured or demised to the parish council, and all expenses incurred by the [<sup>F35</sup>district]council shall be paid by the parish council:

Provided that, if the parish council are aggrieved by the refusal of the [<sup>F35</sup>district]council to proceed under this section, the parish council may petition the Board, and thereupon the Board, after such inquiry as they think fit, may make such an order as the [<sup>F35</sup>district]council might have made, and this subsection shall apply as if the order had been made by the [<sup>F35</sup>district]council.

- (8) If, after the determination of the amount of the compensation (including in the case of land hired compulsorily the rent) to be paid to any person in respect of his interest in the land proposed to be compulsorily acquired, it appears to the council that the land cannot be let for small holdings or allotments, as the case may be, at such a rent as will secure the council from loss, the council may at any time within six weeks after the determination of the amount by notice in writing withdraw any notice to treat served on that person or on any other person interested in the land, and in such case any person on whom such a notice of withdrawal has been served shall be entitled to obtain from the council compensation for any loss or expenses which he may have sustained or incurred by reason or in consequence of the notice to treat and of the notice of withdrawal, and the amount of such compensation shall in default of agreement, be determined by arbitration: . . . . .<sup>F36</sup>

#### Textual Amendments

- F33** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), Sch. 4](#)  
**F34** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\), s. 1\(1\), Sch. 1 Pt. XII](#)  
**F35** Word substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\), s. 251\(2\), Sch. 29 para. 9\(4\)](#)  
**F36** Proviso repealed by [Small Holdings and Allotments Act 1926 \(c. 52\), Sch. 2](#)

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

- C13** Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by [S.I. 1955/554 \(1955 I, p. 1200\)](#) and functions of that Minister as to allotments now exercisable by Secretary of State: [S.I. 1965/143, 1967/156 and 1970/1681](#)  
**C14** [S. 39\(8\)](#) excluded by [Land Settlement \(Facilities\) Act 1919 \(c. 59\), s. 2\(1\)](#)

#### Marginal Citations

- M2** [1881 c. 41.](#)

## 40 †Powers of certain limited owners to sell and lease land for small holdings or allotments.

- (1) Any person having power to lease land for agricultural purposes for a limited term, whether subject to any consent or conditions or not, may, subject to the like consent and conditions (if any), lease land to a council for the purposes of . . .<sup>F37</sup> allotments for a term not exceeding thirty-five years, either with or without such right of renewal as is conferred by this Act in the case of land hired compulsorily for those purposes.
- (2) The like powers of leasing may be exercised . . .<sup>F38</sup> in the case of land forming part of the possessions of . . .<sup>F39</sup> the Duchy of Cornwall, by the Duke of Cornwall or other the persons for the time being having power to dispose of land belonging to that Duchy.

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- (3) The like powers of leasing may be exercised in the case of glebe land or other land belonging to an ecclesiastical benefice by the incumbent thereof with the consent of the Ecclesiastical Commissioners alone upon such terms and conditions and in such manner as the Ecclesiastical Commissioners may approve.
- (4) ..... F40
- (5) ..... F40

**Textual Amendments**

- F37** Words repealed by [Agriculture Act 1970 \(c. 40\), s. 65\(1\), Sch. 5 Pt. III](#)
- F38** Words repealed by [Crown Estate Act 1961 \(c. 55\), Sch. 3 Pt. II](#)
- F39** Words repealed by [Duchy of Lancaster Act 1988 \(c. 10, SIF 29:10\), s. 1\(4\), Sch.](#)
- F40** [Ss. 40\(4\)\(5\) repealed by Settled Land Act 1925 \(c. 18\), Sch. 5](#)

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

- C15** A dagger appended to a marginal note means that it is no longer accurate
- C16** [S. 40](#) saved by [Law of Property Act 1922 \(c. 16\), s. 145, Sch. 15 para. 9](#)

**41 Restrictions on the acquisition of land.**

- (1) No land shall be authorised by an order under this Act to be acquired compulsorily which at the date of the order forms part of any park, garden, or pleasure ground, or forms part of the home farm attached to and usually occupied with a mansion house, or is otherwise required for the amenity or convenience of any dwelling-house, or which is woodland not wholly surrounded by or adjacent to land acquired by a council under this Act . . . F41
- (2) A council in making, and the Board in confirming, an order for the compulsory acquisition of land shall have regard to the extent of land held or occupied in the locality by any owner or tenant and to the convenience of other property belonging to or occupied by the same owner or tenant, and shall, so far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner or tenant, and for that purpose, where part only of a holding is taken, shall take into consideration the size and character of the existing agricultural buildings not proposed to be taken which were used in connection with the holding, and the quantity and nature of the land available for occupation therewith, and shall also, so far as practicable, avoid displacing any considerable number of agricultural labourers or others employed on or about the land.
- (3) ..... F42

**Textual Amendments**

- F41** Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), Sch. 6](#)
- F42** [Ss. 23\(3\), 27\(2\), 31, 32\(3\), 41\(3\)](#) repealed by [Land Settlement \(Facilities\) Act 1919 \(c. 59\), Sch. 3](#)

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

- C17** [S. 41](#) by [Land Settlement \(Facilities\) Act 1919 \(c. 59\), s. 16](#) and [Allotments Act 1922 \(c. 51\), s. 8\(2\)](#)

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

#### 42 **Grazing rights, &c., to be attached to small holdings or allotments.**

- (1) The powers of a council to acquire land for small holdings or allotments shall, subject to the restrictions by this Act imposed, include power to acquire land for the purpose of [<sup>F43</sup>letting to tenants of small holdings and allotments] rights of grazing and other similar rights over the land so acquired, and to acquire for that purpose stints and other alienable common rights of grazing.
- (2) Any rights created or acquired by the council under this section shall be [<sup>F43</sup>let to tenants of] small holdings or allotments in such manner and subject to such regulations as the council think expedient.
- (3) Where any right of grazing, sheepwalk, or other similar right is attached to land acquired by a county council for the purposes of small holdings, the council may attach any share of the right to any small holding in such manner and subject to such regulations as they think expedient.

##### **Textual Amendments**

**F43** Words substituted by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), [Sch. 2](#)

#### 43 **Compensation for loss of employment by labourers.**

Where a labourer, who has been regularly employed on any land acquired by a county council for small holdings, proves to the satisfaction of the county council that the effect of the acquisition was to deprive him of his employment, and that there was no employment of an equally beneficial character available to him in the same locality, the county council [<sup>F44</sup>shall] pay to him such compensation as they think just for his loss of employment or for his expenses in moving to another locality, and any sum so paid shall be treated as part of the expenses of the acquisition of the land.

##### **Textual Amendments**

**F44** Words substituted by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), [Sch. 2](#)

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

**C18** [S. 43](#) excluded by [Agricultural Land \(Utilisation\) Act 1931 \(c. 41\)](#), [s. 21\(2\)](#)

#### *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

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

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,
- 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)**

**C19** 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>F45</sup>

**Textual Amendments**

**F45** 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>F46</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>F47</sup>

**Textual Amendments**

**F46** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

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*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

**F47** 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)**

**C20** 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>F48</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>F49</sup>subsections (2) to (5) of section 79 of the Agricultural Holdings Act 1986], applied:

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>F50</sup>

- (2) Where land has been hired by a council for small holdings or allotments [<sup>F51</sup>otherwise than under a farm business tenancy], the council shall (subject [<sup>F52F53</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>F54</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>F54</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>F54</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>F55</sup>he is not a tenant under a farm business tenancy and]he so elects, claim compensation for improvements under [<sup>F56</sup>section 3 of the Allotments Act 1922], instead of under the [<sup>F57</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>F58</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>F59</sup>(5) In this section, “farm business tenancy” has the same meaning as in the Agricultural Tenancies Act 1995.]

**Textual Amendments**

**F48** Words in s. 47(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 1(2)** (with s. 37).

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

- F49** 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)**
- F50** 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
- F51** Words in s. 47(2) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 1(3)** (with s. 37).
- F52** Words repealed by [Land Settlement\(Facilities\) Act 1919 \(c. 59\)](#), Sch.3
- F53** Words inserted by [Land Settlement\(Facilities\) Act 1919 \(c. 59\)](#), Sch.2
- F54** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 1(3)**
- F55** Words in s. 47(3) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 1(4)** (with s. 37).
- F56** Words in s. 47(3) substituted (5.11.1993) by [1993 c. 50, s. 1\(2\)](#), **Sch. 2 Pt. II para. 19**
- F57** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 1(4)**
- F58** Words in s. 47(4) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 1(5)** (with s. 37).
- F59** [S. 47\(5\)](#) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 1(6)** (with s. 37).

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

- C21** [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>F60</sup> allotments—

- (1) The provisions of the <sup>M3</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>F60</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**

- F60** 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**

- M3** 1871 c. 43.

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

*Co-Societies, &c. Societies,&c.*

**49 Co-operative societies, &c.**

- (1) A county [<sup>F61</sup>or borough or urban district] council may promote the formation or extension of, and may, subject to the provisions of this section, assist, societies on a co-operative basis, having for their object, or one of their objects, the provision or the profitable working of small holdings or allotments, whether in relation to the purchase of requisites, the sale of produce, credit banking, or insurance, or otherwise, and may employ as their agents for the purpose any such society as is mentioned in subsection (4) of this section.
- (2) The county [<sup>F61</sup>or borough or urban district] council, . . . <sup>F62</sup>may for the purpose of assisting a society make grants or advances to the society, or guarantee advances made to the society, upon such terms and conditions as to rate of interest and repayment or otherwise, and on such security, as the council think fit. [<sup>F63</sup>The council may also let to the society accommodation for the storage or sale of goods.]
- (3) Where the Board themselves provide small holdings . . . <sup>F64</sup> they may, with respect to any such society carrying on business or intending to carry on business in the neighbourhood of those small holdings, exercise the powers of a county council under this section, and the provisions of this section shall apply accordingly, <sup>F65</sup> . . .
- (4) The Board with the consent of the Treasury may <sup>F66</sup> . . . make grants, upon such terms as the Board may determine, to any society having as its object or one of its objects the promotion of co-operation in connection with the cultivation of small holdings or allotments.

**Textual Amendments**

**F61** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

**F62** Words repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1), ss. 1(5), 194, Sch. 5 para. 1(d), **Sch. 34 Pt. V**

**F63** Words added by Small Holdings and Allotments Act 1926 (c. 52), **Sch. 1**

**F64** Words repealed by Land Settlement(Facilities) Act 1919 (c. 59), Sch.3

**F65** Words in s. 49(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.III**

**F66** Words in s. 49(4) repealed (5.11.1993) by 1993 c. 50. s. 1(1), Sch. Pt.III

*Small Holdings and Allotments Committees*

**50** ..... <sup>F67</sup>

**Textual Amendments**

**F67** S. 50 repealed by Agriculture Act 1947 (c. 48), **Sch. 13**

*Expenses and Borrowing*

**51** ..... <sup>F68</sup>



*Status: Point in time view as at 01/10/2006.*

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**Textual Amendments**

**F68** S. 51 repealed by Statute Law (Repeals) Act 1973 (c. 39), s. 1(1), **Sch. 1 Pt. VIII**

**52 Borrowing powers and expenses.**

(1) A county council may borrow money for the purposes of the provisions of this Act relating to small holdings and for the purpose of making grants or advances to co-operative societies . . . . <sup>F69</sup>

- (2) . . . . . <sup>F70</sup>
- (3) . . . . . <sup>F71</sup>
- (4) . . . . . <sup>F72</sup>

**Textual Amendments**

- F69** Words repealed by Local Government Act 1929 (c. 17), **Sch. 12 Pt. V**; Local Government Act 1933 (c. 51), s. 307, **Sch. 11 Pt. IV** and S.I. 1970/211
- F70** S. 52(2), 53(5) repealed by National Loans Act 1968 (c. 13), **Sch. 6 Pt. II**
- F71** S. 52(3) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194, Sch. 11 para. 2, **Sch. 12**
- F72** Ss. 35(4), 52(4) repealed by Local Government Act 1933 (c. 51), s. 307, **Sch. 11 Pt. IV**

**53 Expenses and borrowing.**

- (1) . . . . . <sup>F73</sup>
- (2) . . . . . <sup>F74</sup>
- (4) The council of a borough, urban district, or parish may borrow for the purposes of acquiring, improving, and adapting land for allotments [<sup>F75</sup>and the council of a borough or urban district may borrow for the purpose of grants or advances to a co-operative society]—
  - (a) . . . . . <sup>F73</sup>
  - (b) . . . . . <sup>F73</sup>
- (5) . . . . . <sup>F76</sup>

**Textual Amendments**

- F73** Ss. 53(1), 53(4)(a)(b) repealed by Local Government Act 1933 (c. 51), s. 307, **Sch. 11 Pt. IV** and S.I. 1970/211
- F74** S. 53(2) repealed by Local Government Act 1972 (c. 70, SIF 81:1), ss. 272(1), 273(1), **Sch. 30**
- F75** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2
- F76** S. 52(2), 53(5) repealed by National Loans Act 1968 (c. 13), **Sch. 6 Pt. II**

**54** . . . . . <sup>F77</sup>

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

**Textual Amendments**

**F77** S. 54 repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1\)](#), ss. 1(5), 194, Sch. 5 para. 2, **Sch. 34 Pt. V**

*Supplemental*

**55, 56.** ..... **F78**

**Textual Amendments**

**F78** Ss. 1–22, 46(2), 55, 56, 58(2) repealed by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), **Sch. 2**

**57 Local inquiries.**

- (1) The Board . . . <sup>F79</sup> and . . . <sup>F79</sup> officers of the Board shall have for the purpose of an inquiry in pursuance of this Act the same powers as the Local Government Board and their inspectors respectively have for the purpose of an inquiry under the Public Health Acts.
- (2) Notices of the inquiries shall be given and published in accordance with such general or special directions as the Board may give.
- (3) ..... <sup>F80</sup>

**Textual Amendments**

**F79** Words repealed by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), **Sch. 2**

**F80** S. 57(3) repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), **Sch. 30**

**58 Arbitrations and valuations.**

- (1) All questions which under this Act are referred to arbitration shall, unless otherwise expressly provided by this Act, be determined by a single arbitrator in accordance with the [<sup>F81</sup>Agricultural Holdings Act 1986]
- (2) ..... <sup>F82</sup>
- (3) The remuneration of an arbitrator or valuer appointed under this Act shall be fixed by the Board.

**Textual Amendments**

**F81** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 2**

**F82** Ss. 1–22, 46(2), 55, 56, 58(2) repealed by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), **Sch. 2**

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*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

59 ..... F83

**Textual Amendments**

**F83** S. 59 repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1), ss. 1(5), 194, Sch. 5 para. 2, **Sch. 34 Pt. V**

F84 60 .....

**Textual Amendments**

**F84** S. 60 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.III**

**61 Interpretation.**

(1) For the purposes of this Act—

The expression “small holding” means an agricultural holding which exceeds one acre and either does not exceed fifty acres, or, if exceeding fifty acres, is at the date of sale or letting of an annual value for the purposes of income tax not exceeding [<sup>F85</sup>one hundred pounds]:

The expression “allotment” includes a field garden;

The expressions “agriculture” and “cultivation” shall include horticulture and the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry, or bees, and the growth of fruit, vegetables, and the like:

..... F86

..... F87

The expression “prescribed” means prescribed by regulations made by the Board:

The expression “landlord,” in relation to any land compulsorily hired by a council, means the person for the time being entitled to receive the rent of the land from the council.

(2) In this Act and in the enactments incorporated with this Act the expression “land” shall include any right or easement in or over land.

(3) For the purposes of this Act, any expenses incurred by a council <sup>F88</sup> . . . in the purchase or redemption or . . . <sup>F89</sup> any quit rent, chief rent, tithe, or other rentcharge, or other perpetual annual sum issuing out of land so acquired, shall be deemed to have been incurred in the purchase of the land.

(4) In this Act references to a parish council shall, in the case of a rural parish not having a parish council, include references to the parish meeting.

(5) Any notice required by this Act to be served or given may be sent by registered post.

**Textual Amendments**

**F85** Words substituted by **Small Holdings and Allotments Act 1926 (c. 52), s. 16**

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

- F86** Definition of “county” repealed by [Local Government Act 1985 \(c. 51, SIF 81\)](#), s. 102, [Sch. 17](#)
- F87** Definition of “county council” repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), [Sch. 30](#)
- F88** Words in [s. 61\(3\)](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.III](#)
- F89** Words repealed by [Statute Law Revision Act 1964 \(c. 79\)](#)

<sup>F90</sup>**62** .....

**Textual Amendments**

- F90** [S. 62](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.III](#)

**63** †**Short title, commencement and extent.**

- (1) This Act may be cited as the Small Holdings and Allotments Act, 1908.
- (2) ..... <sup>F91</sup>
- (3) This Act shall not extend to Scotland or Ireland.

**Textual Amendments**

- F91** [S. 63\(2\)](#), [Sch. 3](#) repealed by [Statute Law Revision Act 1927 \(c. 42\)](#)

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

- C22** A dagger appended to a marginal note means that it is no longer accurate

*Status: Point in time view as at 01/10/2006.*

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## SCHEDULES

### FIRST SCHEDULE

Section 39.

#### PART I

#### PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND BY A COUNCIL

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

**C23** Pt. I repealed as to compulsory purchase by Acquisition of Land ([Authorisation Procedure Act 1946](#) (c. 49), [Sch. 4](#))

- (1) The order shall be in the prescribed form, and shall contain such provisions as the Board may prescribe for the purposes of carrying the order into effect, and of protecting the council and the persons interested in the land, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts and sections seventy-seven to eighty-five of the <sup>M4</sup>Railways Clauses Consolidation Act, 1845, but subject to this modification, that any question of disputed compensation shall be determined by a single arbitrator appointed by the Board, who shall be deemed to be an arbitrator within the meaning of the Lands Clauses Acts, and the provisions of those Acts with respect to arbitration shall, subject to the provisions of this schedule, apply accordingly.

##### Marginal Citations

**M4** 1845 c. 20.

- (2) The order shall be published by the council in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and the owners, lessees, and occupiers of that land, as may be prescribed.
- (3) If within the prescribed period no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, but, if such an objection has been presented and has not been withdrawn, the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the council and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry.
- (4) Before confirming the order the Board shall consider the report of the person who held the inquiry, and all objections made thereat.
- (5) The arbitrator shall, so far as practicable, in assessing compensation act on his own knowledge and experience, but, subject as aforesaid, at any inquiry or arbitration held under this schedule the person holding the inquiry or arbitration shall hear, by

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themselves or their agents, any authorities or parties authorised by or under this Act to appear, and shall hear witnesses, but shall not, except in such cases as the Board otherwise direct, hear [<sup>F92</sup>counsel or] expert witnesses.

#### Textual Amendments

**F92** Words repealed except in their application to a public inquiry by [Lands Tribunal Act 1949 \(c. 42\)](#), s. 10(4), [Sch. 2](#)

(6) ..... <sup>F93</sup>

#### Textual Amendments

**F93** [Sch. 1 Pt.I para.\(6\)](#) repealed by [Lands Tribunal Act 1949 \(c. 42\)](#), [Sch. 2](#)

(7) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act and the council shall be deemed to be the promoters of the undertaking.

(<sup>F94</sup>8) Where the land is vested in the incumbent of a benefice of the Church of England the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Diocesan Board of Finance for the diocese in which the land is situated to be applied by the Board for the purposes for which the proceeds of a sale by agreement of the fee simple in the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale.]

#### Textual Amendments

**F94** [Sch. 1 para. 8](#) substituted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 1](#); 2006 No. 2, Instrument made by [Archbishops](#)

## PART II

### PROVISIONS AS TO THE COMPULSORY HIRING OF LAND BY A COUNCIL

(1) The Board shall make regulations for the purpose of carrying the order into effect and of protecting the council and the persons interested in the land, and the order shall incorporate such regulations, together with such provisions of the Lands Clauses Acts and of sections seventy-seven to eighty-five of the <sup>M5</sup>Railways Clauses Consolidation Act, 1845, as may, subject to the prescribed adaptations, appear to the Board necessary or expedient for that purpose.

#### Marginal Citations

**M5** 1845 c. 20.

*Status: Point in time view as at 01/10/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908. (See end of Document for details)*

- (2) The order authorising the land to be hired compulsorily shall determine the terms and conditions of the hiring other than the rent, and in particular—
- (a) shall provide for the insertion in the lease of covenants by the council to cultivate the land in a proper manner and to pay to the landlord at the determination of the tenancy on the council quitting the land compensation for any depreciation of the land by reason of any failure by the council, or any persons deriving title under them, to observe such covenants, or by reason of any user of the land by the council or such person as aforesaid, and (unless otherwise agreed) to keep the buildings and premises demised in repair; and
  - (b) shall not authorise the breaking up of pasture unless the Board are satisfied that it can be so broken up without depreciating the value of the land, or that the circumstances are such that small holdings [<sup>F95</sup>or allotments as the case may be] cannot otherwise be successfully cultivated; and
  - (c) shall not, except with the consent of the landlord, confer on the council any right to fell or cut timber or trees or any right to take, sell or carry away any minerals, gravel, sand, or clay, except so far as may be necessary or convenient for the purpose of erecting buildings on the land or otherwise adapting the land for small holdings or allotments, and except upon payment of compensation for minerals, gravel, sand, or clay so used.

#### Textual Amendments

**F95** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

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

**C24** Para (2)(b) excluded by Allotments Act 1922 (c. 51), s. 8(5)

- (3) The determination of—
- (a) The amount of the rent to be paid by the council for the land compulsorily hired;
  - (b) The amount of any other compensation to be paid by the council to any person entitled thereto in respect of the land or any interest therein, or in respect of improvements executed on the land or otherwise; and
  - (c) Where part only of a holding held for an unexpired term is hired, the rent to be paid for the residue of the holding during the remainder of that term;
- shall in default of agreement be by valuation by a single valuer appointed by the Board: Provided that, if the land hired is in the occupation of a tenant, he may, by notice in writing served on the council before the determination of his tenancy, require that any claim by him against the council which, under the [<sup>F96</sup>Agricultural Holdings Act 1986], might be referred to arbitration under that Act, shall be so referred, and in such case those claims shall be determined by arbitration under that Act and not by valuation under this Act.

#### Textual Amendments

**F96** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, Sch. 14 para. 3

- (4) The valuer, in fixing the rent to be paid for the land compulsorily hired, shall take into consideration the rent (if any) at which the land has been let and the

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annual value at which the land is assessed for purposes of income tax or rating, the loss (if any) caused to the owner by severance, the terms and conditions of the hiring (including any reservation of sporting or fishing rights), and all the other circumstances connected with the land, but shall not make any allowance in respect of any use to which the land compulsorily hired might otherwise be put by the owner during the term of hiring, being a use in respect of which the owner is entitled to resume possession of the land under this Act.

- (5) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land compulsorily hired shall, as far as possible, be provided for by taking such compensation into account in fixing the rent to be paid for the residue of the holding during the remainder of the term for which it is held by the tenant.
- (6) Any person interested in any valuation shall give the valuer all such assistance, information, and explanations as he may require, and shall produce to the valuer, or give him access to, all such books, accounts, vouchers, and other documents relating to the land to be compulsorily hired as he may reasonably require for the purposes of valuation, and such expenses [<sup>F97</sup>as the council shall consider or] as the valuer certifies to have been properly incurred by any person in furnishing such assistance, information, and explanations, or otherwise, in relation to the valuation, shall be paid by the council.

**Textual Amendments**

**F97** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

- (7) On the determination of any tenancy created by compulsory hiring any questions as to the amount due by the council for depreciation shall in default of agreement be determined by arbitration.

## SECOND SCHEDULE

### IMPROVEMENTS REFERRED TO IN SECTION FORTY-SEVEN

#### PART I

- (1) Planting of standard or other fruit trees permanently set out;
- (2) Planting of fruit bushes permanently set out;
- (3) Planting of strawberry plants;
- (4) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years.

#### PART II

- (1) Erection, alteration, or enlargement of buildings;
- (2) Formation of silos;



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- (3) Laying down of permanent pasture;
- (4) Making and planting of osier beds;
- (5) Making of water meadows or works of irrigation;
- (6) Making of gardens;
- (7) Making or improving of roads or bridges;
- (8) Making or improving of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes;
- (9) Making or removal of permanent fences;
- (10) Planting of hops;
- (11) Planting of orchards or fruit bushes;
- (12) Protecting young fruit trees;
- (13) Reclaiming of waste land;
- (14) Warping or weiring of land;
- (15) Embankments and sluices against floods;
- (16) The erection of wireworks in hop gardens;
- (17) Drainage;
- (<sup>F98</sup>18) Provision of permanent sheep-dipping accommodation;]

**Textual Amendments**

**F98** Paras.(18),(19) added by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), **Sch. 1**

- (<sup>F99</sup>19) In the case of arable land, the removal of bracken, gorse, tree roots, boulders, and other like obstructions to cultivation.]

**Textual Amendments**

**F99** Paras.(18),(19) added by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), **Sch. 1**

**F100** THIRD SCHEDULE

**Textual Amendments**

**F100** S. 63(2), Sch. 3 repealed by [Statute Law Revision Act 1927 \(c. 42\)](#)

**Status:**

Point in time view as at 01/10/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Small Holdings and Allotments Act 1908.