



Small Holdings and Allotments Act 1908

1908 CHAPTER 36 8 Edw 7

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, [^{F1}the provisions of Part I of the ^{M1}Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10, subsections (1) to (5) of section 23, and section 31, shall apply] and section one hundred and seventy-eight of the ^{M2}Public Health Act, 1875, shall apply as if the council were referred to therein.

Textual Amendments

F1 Words substituted by [Compulsory Purchase Act 1965 \(c. 56\), s. 38\(2\), Sch. 6](#)

Marginal Citations

M1 [1965 c. 56.](#)

M2 [1875 c. 55.](#)

39 Procedure for compulsory acquisition of land.

- (1) Where a council propose to purchase land compulsorily under this Act, the council may [^{F2}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

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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 [F²the 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 . . . F³; 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 [F²for 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 ^{M³}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 [F⁴district]council, and thereupon the [F⁴district]council may, on behalf of the parish council, exercise the powers in relation to compulsory purchase or hiring conferred on councils by this Act, and the order shall be carried into effect by the [F⁴district]council, but the land shall be assured or demised to the parish council, and all expenses incurred by the [F⁴district]council shall be paid by the parish council:
- Provided that, if the parish council are aggrieved by the refusal of the [F⁴district]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 [F⁴district]council might have made, and this subsection shall apply as if the order had been made by the [F⁴district]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

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of withdrawal, and the amount of such compensation shall in default of agreement, be determined by arbitration:^{F5}

Textual Amendments

- F2** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 4**
- F3** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), **Sch. 1 Pt. XII**
- F4** Word substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 251(2), **Sch. 29 para. 9(4)**
- F5** Proviso repealed by [Small Holdings and Allotments Act 1926 \(c. 52\)](#), Sch. 2

Modifications etc. (not altering text)

- C1** 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](#)
- C2** [S. 39\(8\)](#) excluded by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), **s. 2(1)**

Marginal Citations

- M3** [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 . . .^{F6} 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 . . .^{F7} in the case of land forming part of the possessions of . . .^{F8} 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.
- (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)^{F9}
- (5)^{F9}

Textual Amendments

- F6** Words repealed by [Agriculture Act 1970 \(c. 40\)](#), s. 65(1), **Sch. 5 Pt. III**
- F7** Words repealed by [Crown Estate Act 1961 \(c. 55\)](#), **Sch. 3 Pt. II**
- F8** Words repealed by [Duchy of Lancaster Act 1988 \(c. 10, SIF 29:10\)](#), s. 1(4), **Sch.**
- F9** [Ss. 40\(4\)\(5\)](#) repealed by [Settled Land Act 1925 \(c. 18\)](#), **Sch. 5**

Modifications etc. (not altering text)

- C3** A dagger appended to a marginal note means that it is no longer accurate
- C4** [S. 40](#) saved by [Law of Property Act 1922 \(c. 16\)](#), s. 145, **Sch. 15 para. 9**

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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 . . . ^{F10}
- (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) ^{F11}

Textual Amendments

F10 Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 6**

F11 [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)

C5 [S. 41](#) by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), **s. 16** and [Allotments Act 1922 \(c. 51\)](#), **s. 8(2)**

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 [^{F12}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 [^{F12}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

F12 Words substituted by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), **Sch. 2**

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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 [^{F13}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

F13 Words substituted by [Land Settlement \(Facilities\) Act 1919 \(c. 59\)](#), [Sch. 2](#)

Modifications etc. (not altering text)

C6 [S. 43](#) excluded by [Agricultural Land \(Utilisation\) Act 1931 \(c. 41\)](#), [s. 21\(2\)](#)

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