

*Status: Point in time view as at 01/02/1991.*

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

## SCHEDULES

### FIRST SCHEDULE **E+W**

Section 39.

#### PART I **E+W**

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

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

**C1** 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 I repealed as to compulsory purchase by Acquisition of Land ([Authorisation Procedure Act 1946](#) (c. 49), [Sch. 4](#))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>M1</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

**M1** 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to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, but, if such an objection has been presented and has not been withdrawn, the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the council and all persons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>F1</sup>counsel or] expert witnesses.

**Textual Amendments**

**F1** Words repealed except in their application to a public inquiry by [Lands Tribunal Act 1949 \(c. 42\)](#), s. 10(4), [Sch. 2](#)

(6) ..... <sup>F2</sup>

**Textual Amendments**

**F2** [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.

(8) Where the land is glebe land or other land belonging to an ecclesiastical benefice 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 Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

**PART II E+W**

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>M2</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**

**M2** 1845 c. 20.

(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,

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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>F3</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

**F3** Words inserted by Land Settlement(Facilities) Act 1919 (c. 59), Sch.2

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

**C2** 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>F4</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

**F4** 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 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.

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- (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>F5</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.

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**Textual Amendments**

**F5** 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.

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