



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART VIII

ACQUISITION OF AND DEALINGS IN LAND BY LOCAL AUTHORITIES.

Acquisition of Land by Agreement.

156 Acquisition of land by agreement.

Subject to the provisions of this Part of this Act, a local authority may, for the purpose of any of their functions under this or any other enactment, by agreement acquire whether by way of purchase, feu, lease or excambion any land whether situated within or without the area of the authority.

157 Acquisition of land in advance of requirements.

- (1) A local authority may, with the consent of the Minister concerned, by agreement acquire whether by way of purchase, feu, lease or excambion any land whether situated within or without the area of the authority for any purpose for which the authority are authorised by this or any other public general Act to acquire land, notwithstanding that the land is not immediately required for that purpose.
- (2) Any land acquired under this section may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the local authority, subject to the authority making such adjustments, if any, in their accounts as seem to them equitable and proper, having regard to the purposes for which the land was acquired and is being used.

158 Application of Lands Clauses Acts and other enactments to acquisition of land by agreement.

Where under this Part of this Act a local authority are authorised to acquire land by agreement, the Lands Clauses Acts except—

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- (a) the provisions relating to the acquisition of land otherwise than by agreement;
- (b) sections one hundred and twenty to one hundred and twenty-five of the Lands Clauses Consolidation (Scotland) Act, 1845 (which relate to the sale of superfluous land); and
- (c) sections one hundred and forty-two and one hundred and forty-three of the said Act of 1845 (which relate to access to the special Act);

and sections six and seventy of the Railways Clauses Consolidation (Scotland) Act, 1845, and sections seventy-one to seventy-eight of that Act as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall be incorporated with this Act, and in construing those provisions for the purposes of this section, this Act shall be deemed to be the special Act and the local authority to be the promoters of the undertaking, or company, as the case may require.

Compulsory Acquisition of Land.

159 Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, other than section two thereof shall apply in relation to the compulsory purchase of land under the immediately succeeding section of this Act as if that section had been in force immediately before the commencement of the said Act of 1947.

160 Compulsory purchase of land for particular purposes.

- (1) The town council of a burgh may be authorised by the Secretary of State to purchase land compulsorily for the purposes of section two hundred and seventy-eight of the Burgh Police (Scotland) Act, 1892, which relates inter alia to the provision of slaughter houses.
- (2) A local authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of section seventy-four of this Act.

161 Expenses relating to compulsory purchase order.

- (1) The reasonable expenses incurred by a local authority in relation to a compulsory purchase order, including any inquiry held in connection therewith, shall be deemed to be expenses properly incurred by the authority and shall be defrayed as part of such branch or branches of expenditure as the authority may determine, having regard to the purpose for which the land proposed to be purchased is required.
- (2) The powers of a local authority to borrow under Part XII of this Act shall apply for the purpose of defraying expenses incurred by the authority in connection with any compulsory purchase order under the said section, so however that any sum so borrowed shall be repaid within such period as the authority determine, being a period not exceeding five years from the date of the order.

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Title to Land.

162 Title to land.

The title to all land acquired by a local authority shall be taken in the corporate name of the authority.

Appropriation of Land.

163 Power to appropriate land.

A local authority may with consent of the Secretary of State appropriate for the purpose of any function, whether statutory or otherwise, land vested in them for the purpose of any other function, subject to proper adjustments in respect thereof being made in the accounts of the authority.

Erection of Buildings, &c.

164 Power to erect buildings, and &c.

A local authority may for the purpose of any of their functions erect buildings or execute any other works on any land belonging to the authority or, where they are satisfied that the terms of the lease of the land are such as to make it prudent for them to do so, on land leased by the authority, or convert, alter, enlarge or improve any existing building or other works belonging to the authority or, where they consider it prudent, any existing building or other works let to them:

Provided that this section shall not of itself authorise a local authority to do anything contrary to the conditions contained in the title to or lease of any such land or building or other works or authorise lands held for one purpose to be used for another purpose.

Disposal of Land.

165 Power to let land.

A local authority may let any land belonging to them—

- (a) without any consent, for a term not exceeding seven years; or
- (b) by public roup or with consent of the Minister concerned, for a term exceeding seven years.

166 Power to sell land.

- (1) A local authority may sell or feu any land belonging to them and not required for the purpose for which it is held by the authority—
 - (a) by public roup; or
 - (b) with the consent of the Minister concerned, by private bargain.
- (2) For the purposes of this and the immediately preceding sections notice shall be given of any exposure of land to public roup by advertisement published once weekly for at least three weeks immediately preceding the day of the roup in a newspaper circulating

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in the area of the local authority, and a certificate by the publishers of the newspaper of the appearing of the advertisement shall be sufficient evidence of the publication and of the date thereof.

167 Power to excamb land.

A local authority may with consent of the Minister concerned excamb any land belonging to the authority for other land, either with or without paying or receiving any money for equality of exchange.

168 Land to be sold for best price and application of capital moneys.

- (1) Land belonging to a local authority let, sold or feued under the provisions of this Part of this Act shall, except with the sanction of the Minister concerned, be let, sold or feued for the best rent or at the best price or for the best feuduty that can be reasonably obtained, and any capital money received in respect of any such transaction or any excambion shall be applied towards the discharge of capital debt of the authority or otherwise for any purpose for which capital money may be properly applied:

Provided that where capital money is applied under this section for a purpose other than that for which the land which was the subject of the transaction was held, such adjustment as the Minister or Ministers concerned may approve shall be made in the accounts of the local authority.

- (2) A purchaser of or other person acquiring right to land from a local authority shall not be concerned to see that the provisions of this section are complied with in the case of his purchase or acquisition.

169 Payment of purchase or compensation money by one local authority to another.

Any purchase money or compensation payable in pursuance of this Part of this Act by a local authority in respect of land acquired from another local authority which would but for this section be required to be paid into court in manner provided by the Lands Clauses Acts may, if the Minister concerned with the purpose for which "the land was held by the last mentioned authority consents, instead of being paid into court, be paid and applied as that- Minister may determine, and the decision of that Minister shall be final.

General.

170 Special provisions as to land acquired for public recreation from heir of entail.

Where an heir of entail in possession of land sells or feus land to a local authority for the purpose of public recreation under the provisions of this Act or any other enactment (not being land within a quarter of a mile of the mansion house in the natural possession of the heir of entail or part of any garden, orchard or enclosure adjacent to the mansion house which has usually been in the natural possession of the proprietor) and such land does not exceed in all twenty acres, and where the persons in right of heritable securities or other charges affecting such land refuse to consent to such sale or feu, such lands shall be disburdened of the said heritable securities and charges if the sheriff, upon the application of the heir of entail in possession duly intimated to the said persons who shall be entitled to appear and object, finds that the lands comprised

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in the heritable securities or charges other than the land being acquired by the local authority afford adequate security.

171 Provisions as to sale, and &c. of land to apply to land forming part of common good.

- (1) The provisions of this Part of this Act with respect to the appropriation, letting, selling, feuing or ex-cambing of land belonging to a local authority and the application of capital moneys received in respect of land shall, notwithstanding any law or practice to the contrary, apply in the case of land forming part of the common good of a burgh with respect to which land no question arises as to the right of the town council to alienate.

For the purposes of this subsection the Minister concerned shall be the Secretary of State.

- (2) A town council may, with consent of and subject to such conditions as may be imposed by the Secretary of State, sell or feu land forming part of the common good of the burgh where such land or the buildings thereon have at some time been used as a town hall or offices or buildings for the transaction of the business of the burgh and have ceased or are about to cease to be so used, notwithstanding any question as to the right of the council to alienate such land or buildings.
- (3) Where the town council of a burgh desire to sell or feu land forming part of the common good (other than lands to which the preceding subsections of this section apply), they may, notwithstanding any question as to the right of the council to alienate the same, make application to the Court of Session or the sheriff to authorise them to sell or feu the land, and the Court or the sheriff, if they or he thinks fit to do so after such inquiry as is considered necessary, may, notwithstanding any law or practice to the contrary and subject to such conditions, if any, as they or he may impose, authorise the council to sell or feu the land and do otherwise in the petition as appears to be just, and the council shall be entitled to sell or feu the land in accordance with the authority so obtained.
- (4) Conditions imposed by the Secretary of State under subsection (2) of this section or by the Court of Session or the sheriff under subsection (3) of this section may, if it is thought proper, require that the town council shall provide in substitution for the land proposed to be sold or feued other land belonging to or proposed to be purchased by the council, which land shall be used for the purpose for which the land proposed to be sold or feued was used.

172 Interpretation.

For the purposes of this Part of this Act the functions of a local authority shall be deemed to include the provision of accommodation for any committee or court or other body which the authority may be required Or are authorised to provide, notwithstanding that the committee, court or body may exercise functions not vested in the authority.

173 Savings.

Nothing in this Part of this Act—

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- (a) (except so far as relating to the compulsory purchase of land) shall affect the provisions of the Ancient Monuments Acts, 1913 and 1931, or empower a local authority to acquire or to dispose of whether by lease, sale, feu or excambion or to appropriate any ancient monument within the meaning of those Acts; or
- (b) shall authorise the disposal of land by a local authority whether by lease, sale, feu or excambion in breach of any trust, undertaking or agreement binding on the authority; or
- (c) shall affect any provisions relating to the acquisition by agreement, appropriation, letting or disposal of land, the erection of buildings or the execution of works by a local authority contained in any of the enactments set out in the Fourth Schedule to this Act or in any statutory order made thereunder, or the application of any capital money arising from such disposal, or, in so far as any of those enactments or orders contain provisions relating to the acquisition by agreement, appropriation, letting or disposal of land or the erection of buildings or the execution of works or the application of capital money arising from land, empower a local authority to effect any transaction or do anything which might be effected or done under those provisions otherwise than under those provisions and in accordance therewith; or
- (d) shall authorise a local authority to acquire by agreement, or appropriate land or erect buildings on land or execute other works for the purpose of any function of the authority or to appropriate, let or dispose of land held for the purpose of any such function where any enactment or statutory order relating to the function (not being an enactment set out in the said Fourth Schedule) requires that a consent be obtained or some provision, limitation or condition be complied with in the case of such a transaction under that enactment or order except subject to such consent or subject to compliance with such provision, limitation or condition.