



Local Government (Scotland) Act 1894

1894 CHAPTER 58

PART IV

NEW POWERS CONFERRED UPON PARISH COUNCILS IN LANDWARD PARISHES AND LANDWARD PARTS OF PARISHES

26 Leasing of land for allotments or common pasture

- (1) A parish council shall have power to take land on lease for allotments or, not exceeding .twenty acres in extent, for common pasture, and if they are satisfied that allotments or common pasture are required, and are unable to obtain on lease by agreement on reasonable terms suitable land for allotments or for common pasture, they shall represent the case to the county council, and the county council may, subject to the restrictions in this section, make an order authorising the parish council to take on lease compulsorily for allotments, for a period of not less than ten years nor more than thirty-five years, such land in or near the parish as is specified in the order, and the order shall, as respects confirmation and otherwise, be subject to the like provisions as if it were an order of the county council made under the last preceding section of this Act, and that section shall apply as if it were herein re-enacted with the substitution of taking on lease for purchase, and with the other necessary modifications.
- (2) A sole arbiter, who shall be appointed in accordance with the provisions of the preceding section, and to whom the provisions of that section shall apply, shall have power to determine any question—
 - (a) as to the terms and conditions of the proposed lease; or
 - (b) as to the amount of compensation for severance; or
 - (c) as to the compensation payable to any tenant in respect of the land taken forming part of an existing tenancy; or
 - (d) as to the apportionment of the rent between the land taken by the parish council and the land retained by the tenant; or
 - (e) as to any other matter incidental to the taking on lease of the land by the council, or the surrender thereof at the end of their tenancy;

but the arbiter, in fixing the rent, shall not make any allowance in respect of the lease being compulsory.

- (3) 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 taken on lease by the parish council, shall, as far as possible, be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the parish council for the land taken on lease by them, and the apportioned rent, if any, to be paid by the tenant for that portion of the holding which is not taken on lease by the parish council: Provided always that during the unexpired period of the tenant's lease the sum in cumulo of the apportioned portions of rent shall not be less than the rent formerly paid by the tenant.
- (4) The award of the arbiter, or a copy thereof, together with a report signed by him as to the condition of the land taken by the parish council, shall be deposited and preserved with the public books and papers of the parish council, and any person interested shall at all reasonable times be at liberty to inspect the same, and to take copies thereof.
- (5) Save as herein-after mentioned, sections five to eight inclusive, and section fourteen and the proviso to section twelve of the Allotments (Scotland) Act, 1892, shall apply to any allotment taken on lease by a parish council in like manner as if that council were the local authority and also the allotment managers:
 Provided that the parish council—
 - (a) may let to one person an allotment or allotments exceeding one acre, but, if the land is taken on lease compulsorily, either not exceeding in the whole four acres of pasture or one acre of arable and three acres of pasture, or not exceeding four pounds in annual value ; and
 - (b) may permit to be erected, on the allotment, any stable, byre, or barn : provided that such stable, byre, or barn shall not, unless erected with the assent in writing of the landlord, be the subject of compensation, but may be removed by the tenant on the determination of the tenancy ; and
 - (c) shall not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlord.
- (6) On the determination of any tenancy created by a compulsory lease, a sole arbiter who shall be appointed in accordance with the provisions of the last preceding section and to whom the provisions of that section shall apply, shall have power to determine the amount due by the landlord for compensation for improvements, or by the parish council for depreciation.
- (7) The order for compulsory taking on lease may apply, with any adaptations which may be prescribed by general or special order of the Board, such of the provisions of the Lands Clauses Acts (including those relating to the acquisition of land otherwise than by agreement) as appear to the county council or Board sufficient for carrying into effect the order, and for the protection of the persons interested in the land and of the parish council.
- (8) Nothing in this section shall authorise the compulsory taking on lease of any mines or minerals, or confer the right to take, sell, or carry away, any stone, gravel, sand, or clay, or authorise the taking on lease of any land which is already owned, or occupied, as a small holding within the meaning of the Small Holdings Act, 1892, or under the Crofters Holdings Act, 1886, or any Act amending the same.

- (9) If the land taken on lease under this section shall at any time, during the tenancy thereof by the parish council, be shown to the satisfaction of the county council to be required by the landlord for the purpose of working and winning the mines, minerals, or surface minerals thereunder, or for feuing for building, or for any road or work to be used in connexion with such working or winning or feuing, it shall be lawful for the landlord of such land to resume possession thereof upon giving to the parish council twelve calendar months previous notice in writing of his intention so to do, and upon such resumption the landlord shall pay to the parish council and to the allotment holders of the land for the time being such sum by way of compensation for the loss of such land for the purposes of allotments as may be agreed upon by the landlord and the parish council, or, in default of such agreement, as may be awarded by a sole arbiter, who shall be appointed in accordance with the provisions of the last preceding section and to whom the provisions of that section shall apply.

The word " landlord " in this sub-section means the person for the time being entitled to receive the rent of the land taken on lease by the parish council.

- (10) The Board shall in their annual report include a statement of any proceedings under this section.