



# Small Holdings and Allotments Act 1908

## 1908 CHAPTER 36

### PART II

#### ALLOTMENTS

##### *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.
- (2) If a council are unable to acquire by agreement, and on reasonable terms, suitable land for the purpose of allotments, they may acquire land compulsorily in accordance with the provisions of this Act relating to compulsory acquisition of land.
- (3) A council shall not under this Act acquire land for allotments save at such price or rent that in their opinion all expenses, except such expenses as are incurred in making roads to be used by the public, incurred by them in acquiring the land and otherwise in relation to the allotments, may reasonably be expected to be recouped out of the rents obtained in respect thereof.

#### **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) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the council providing the allotments from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the council to require the payment of rent in advance.

(2) The council providing the allotments shall, for the purposes of all rates and taxes, and all tithe rentcharge payable by an occupier, be deemed to be the occupiers of the allotments which are let, but they shall cause the sums from time to time paid by way of such rates, taxes, and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the tenant in respect of such allotment, and shall be deemed to be part of the rent, and be recoverable accordingly :

Provided that for the purposes of the parliamentary franchise, and the municipal and all other local franchises, the tenants shall notwithstanding this provision be deemed to be the occupiers, and such rates shall be deemed to have been paid by them.

(3) One person shall not hold any allotment or allotments acquired under this Part of this Act, or any enactment hereby repealed, exceeding five acres :

Provided that any part of the land acquired by a council for the purposes of allotments which exceeds five acres may be adapted for letting and let as an allotment, if the county council are satisfied by the council that it is convenient and desirable that it should be so let and consent to such letting accordingly.

(4) An allotment shall not be sublet.

(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 or fine, 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 to an association formed for the purposes of creating or promoting the creation of allotments as may be exercised as respects shall holdings by a county council.

## **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.

Rules under this section shall not be of any force unless and until they have been confirmed by the Board in like manner and subject to the like provisions as in the case of byelaws required to be confirmed by the Local Government Board under the Public Health Acts.

- (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.

## **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 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 contributing to the rate out of which the expenses of the council under this Act are paid.
- (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.

## **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:

Provided that in every such case the council in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant, and the amount of

such compensation shall be assessed by an arbitrator appointed by the council or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or under the Agricultural Holdings Act, 1908.

- (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.

### **31 List of allotments**

- (1) The council of a borough, urban district, or parish shall cause a list to be kept showing the particulars of the tenancy, acreage, and rent of every allotment let, and of the unlet allotments.
- (2) The list shall be open to the inspection of ratepayers in the borough, district, or parish for which the allotments have been provided, in such manner as may be provided by the rules made under this Act by the council, and any ratepayer of such borough, district, or parish, without paying any fee, may take copies of or extracts from the list.

### **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, with the sanction of the county council, 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, and which is approved by the Local Government Board ; 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) Sections one hundred and twenty-eight to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands), shall apply upon any sale in pursuance of this section of any land, but, save as aforesaid, the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands shall not apply.

### **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) All trustees within the meaning of the Allotments Extension Act, 1882, required or authorised by that or any other Act to let lands in allotments to cottagers, labourers, journeymen, or others in any place, may, if they think fit, in lieu of letting the land in manner provided by the said Acts, sell or let the land to the council of the borough, urban district, or parish in which such place is wholly or partly situate, upon such terms as may be agreed upon, with the sanction, as regards the trustees, of the Charity Commissioners or the Board of Education, as the case may require.
- (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.
- (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.