



Town and Country Planning (Scotland) Act 1959

1959 CHAPTER 70

PART II

ACQUISITION, APPROPRIATION AND DISPOSAL OF LAND BY LOCAL AUTHORITIES AND OTHER PUBLIC BODIES

23 Exercise of powers of acquisition by agreement

- (1) Where by any enactment—
- (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to acquire land by agreement, but
 - (b) that power is so conferred subject to a provision (in whatever terms the provision, is expressed, and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,

the enactment shall have effect, in relation to acquisitions to which this section applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.

- (2) This section applies to every acquisition of land by agreement by an authority to whom this Part of this Act applies, in pursuance of a contract made after the commencement of this Act.
- (3) In this Part of this Act " authority to whom this Part of this Act applies " means a body of any of the descriptions specified in the Fourth Schedule to this Act; " land " includes any servitude and any other interest in, or right over, land; " Minister " means a Minister of the Crown or a government department ; and " consent " includes approval, sanction and authorisation.

24 Exercise of powers of appropriation

- (1) Subject to the following provisions of this section, where by any enactment—
- (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to appropriate land for any purpose, whether the purpose is defined in the enactment specifically or by reference to some other power exercisable by the authority or class of authorities in question, but
 - (b) that power is so conferred subject to a provision (in whatever terms the provision is expressed, and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, or for a purpose approved by a Minister so specified, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,
- the enactment shall have effect, in relation to any exercise of the power after the commencement of this Act by an authority to whom this Part of this Act applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.
- (2) The exercise after the commencement of this Act, by any authority to whom this Part of this Act applies, of any power of appropriation in relation to which subsection (1) of this section has effect shall be subject to the following provisions, that is to say—
- (a) land which consists or forms part of a common or open space, or is held for use as allotments, shall not be appropriated except with the consent of the Secretary of State ;
 - (b) land which has been acquired (whether before or after the commencement of this Act) by an authority to whom this Part of this Act applies, and has been so acquired by that authority in the exercise (directly or indirectly) of compulsory powers, and has not subsequently been appropriated by that authority for any purpose other than that for which it was so acquired, shall not be appropriated by that authority for any other purpose except with the consent of the Minister who, at the time of the appropriation, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.
- (3) Subsection (1) of this section shall not apply to any appropriation of land in pursuance of an order under section thirty-nine of the Act of 1947.

25 Adjustment of accounts on appropriation of land

- (1) On an appropriation of land for any purpose by an authority to whom this Part of this Act applies, other than an appropriation falling within the next following subsection, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances.
- (2) Where land is appropriated for any purpose by an authority to whom this Part of this Act applies, and—
- (a) either the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function, or it is appropriated by the authority for the purposes of such a function, and
 - (b) apart from this section, a Minister would by virtue of any enactment have power to direct an adjustment to be made in the accounts of the authority in connection with that appropriation,

such adjustment shall be made in the accounts of the authority as the Secretary of State may direct.

- (3) The preceding provisions of this section shall have effect in substitution for the provisions of any enactment in force immediately before the commencement of this Act whereby an adjustment is required to be made in the accounts of an authority to whom this Part of this Act applies on an appropriation of land by such an authority.

26 Amendment of s. 21 of Land Settlement (Scotland) Act, 1919

Section twenty-one of the Land Settlement (Scotland) Act, 1919 (which relates to the temporary use for allotments of land acquired by local authorities for other purposes) shall have effect with the omission of any reference to the consent of the Secretary of State.

27 Exercise of powers of disposing of land

- (1) Subject to the following provisions of this section, where by any enactment—
- (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to dispose of land, but
 - (b) that power is so conferred subject to a provision (in whatever terms the provision is expressed and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,

the enactment shall have effect, in relation to any exercise of the power after the commencement of this Act by an authority to whom this Part of this Act applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.

- (2) A disposal by an authority to whom this Part of this Act applies—
- (a) of land which consists or forms part of a common or open space or is held for use as allotments, or
 - (b) of land which has been acquired (whether before or after the commencement of this Act) by that authority in the exercise (directly or indirectly) of compulsory powers, and has not subsequently been appropriated by that authority for any purpose other than that for which it was so acquired,

if (in either case) it is a disposal which, apart from this section, could not be effected except with the consent of a Minister, shall not be effected except with such consent as is mentioned in the next following subsection.

- (3) The said consent—
- (a) in a case falling within paragraph (a) of the last preceding subsection, is the consent of the Secretary of State, and
 - (b) in a case falling within paragraph (b) of that subsection, is the consent of the Minister who, at the time of the disposal, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.

- (4) Subject to the provisions of this Act, section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (which makes provision as to price and other matters relating to the disposal of land by local authorities) shall apply to any disposal

of land by an authority to whom this Part of this Act applies in the exercise of a power in relation to which subsection (1) of this section has effect (not being a power under Part VIII of the said Act of 1947) as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1947 in the exercise of any power under the said Part VIII.

- (5) Subsection (1) of this section shall not apply—
- (a) to any exercise of the powers conferred by paragraph (d) of subsection (1) of section sixty-five of the Housing (Scotland) Act, 1950 (which confers powers of disposing of houses provided under Part V of that Act), in respect of any house, if in respect of the provision of that house an Exchequer contribution has (whether before or after the commencement of this Act) been paid under any of the enactments specified in Part I of the Sixth Schedule to the said Act of 1950;
 - (b) to any exercise of the powers conferred by section eighteen of the Town and Country Planning (Scotland) Act, 1945 (which, as amended by the Act of 1947, relates to the disposal or appropriation by local authorities of land held by them for the purposes of Part III of the Act of 1947), in respect of land falling within subsection (5) of the said section eighteen (which makes special provision as to land comprised in an area defined by a development plan as an area of comprehensive development) and that subsection as extended by section seventeen of the Housing and Town Development (Scotland) Act, 1957;
 - (c) to any exercise of the powers conferred by subsection (2) of section one hundred and seventy-one of the Local Government (Scotland) Act, 1947 (which relates to the disposal in certain circumstances of land forming part of the common good of a burgh); or
 - (d) to any local enactment in so far as it provides (in what soever terms), that, except with the consent of a Minister specified therein, land shall not be disposed of thereunder for a rent, price, feu duty or other consideration of a value less than the current market value thereof.
- (6) In determining, for the purposes of subsection (2) of this section, whether a disposal of land under a local enactment is a disposal which apart from this section could not be effected except with the consent of a Minister, any such provision as is mentioned in paragraph (d) of the last preceding subsection shall be disregarded.

28 Amendment of s. 168 of Local Government (Scotland) Act, 1947, as to adjustment of accounts on disposal of land

Section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (which makes provision, among other things, for the adjustment in certain cases of the accounts of local authorities in respect of capital money received on the disposal of land), shall have effect as if for the proviso to subsection (1) of that section there were substituted the following proviso, that is to say—

“Provided that—

- (a) on any application by a local authority of capital money received by them as mentioned in this subsection, other than an application falling within the next following paragraph, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances;
- (b) where any capital money received by a local authority as mentioned in this subsection in respect of land held by them for the purposes of any

of their functions is applied by them for the purposes of some other function of theirs (including the purposes of the repayment of any debt incurred by them for the purposes of that other function), then, if either of those functions is a grant-aided function, such adjustment shall be made in the accounts of the authority as the Secretary of State may direct.”

29 Protection of persons deriving title under transactions requiring consent

- (1) Where after the commencement of this Act an authority to whom this Part of this Act applies purport to acquire, appropriate or dispose of land under an enactment whereby power to acquire, appropriate or dispose of land is conferred on that authority, or on a class of authorities to whom this Part of this Act applies, then—
 - (a) in favour of any person claiming under the authority, the acquisition, appropriation or disposal so purporting to be made shall not be invalid by reason that any consent of a Minister which (whether by virtue of this Part of this Act or otherwise) is required thereto has not been given, and
 - (b) a person dealing with the authority, or with a person claiming under the authority, shall not be concerned to see or inquire whether any such consent has been given.
- (2) The preceding subsection shall have effect in substitution for the provisions of subsection (2) of section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947, in so far as those provisions relate to the consent of a Minister, but without prejudice to the operation of those provisions in cases to which the preceding subsection does not apply.

30 General provisions relating to Part II

- (1) Any reference in this Part of this Act to a provision that a power is not to be exercised except with the consent of a Minister is a reference to a provision which either—
 - (a) requires such consent generally in respect of any exercise of the power, or
 - (b) requires such consent in respect of the exercise of the power in such circumstances as may be specified therein.
- (2) For the purposes of this Part of this Act any provision whereby a power is to be exercised only if a Minister specified therein is satisfied as to any matters so specified shall be taken to be a provision that the power shall not be exercised except with the consent of the Minister.
- (3) Any reference in this Part of this Act to an enactment whereby a power is conferred on an authority to whom this Part of this Act applies, or on a class of such authorities.—
 - (a) shall be taken to include any enactment whereby the power in question is conferred on local authorities generally, or on a class of local authorities which includes a class of authorities to whom this Part of this Act applies, or is conferred on a class of authorities to whom this Part of this Act applies together with any other class of local authorities, but
 - (b) shall not be taken to include any enactment whereby (without particular reference to local authorities, or to bodies of any description specified in the Fourth Schedule to this Act) a power is conferred generally on persons of a description specified in the enactment, notwithstanding that one or more

authorities to whom this Part of this Act applies may fall within the description specified in the enactment.

- (4) For the purposes of any provision of this Part of this Act whereby the consent of a Minister is required, or directions may be given by a Minister, for any purpose therein mentioned, the consent or directions may be given by that Minister either generally to all authorities to whom the provision relates, or to any class of such authorities, or may be given specifically in any particular case, and (whether given generally or otherwise) may be given either unconditionally or subject to such conditions as the Minister giving the consent or directions may consider appropriate.
- (5) For the purposes of this Part of this Act land shall be taken to have been acquired by an authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under an enactment to acquire the land compulsorily:

Provided that land shall not be taken to have been acquired by an authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.