

Small Holdings and Allotments Act, 1926.

[16 & 17 GEO. 5. CH. 52.]

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CHAPTER 52.

An Act to amend the Small Holdings and Allotments Acts, 1908 to 1919. A.D. 1926.

[15th December 1926.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

SMALL HOLDINGS.

Provision of Small Holdings.

1. Where a county council are satisfied that there is a demand for small holdings in their county by persons who desire to buy or lease and will themselves cultivate the holdings and are able to cultivate them properly, it shall be the duty of the county council to provide small holdings if they are of opinion that they can do so without incurring loss, and, subject to the provisions of this Part of this Act, it shall be lawful for them to do so notwithstanding that it appears to them that a loss may thereby be incurred.

Duties and powers of providing small holdings.

2.—(1) Where it appears to a county council that the provision of any small holdings will entail a loss, the council shall submit their proposals to the Minister of Agriculture and Fisheries (hereinafter referred to as the Minister), together with estimates in the prescribed form

Power of Minister to contribute towards losses.

A.D. 1926. of the expenses (whether on capital or income account) in relation thereto likely to be incurred by the council and of the sums likely to be received by the council either by way of rent or purchase money or otherwise.

(2) If the Minister approves the proposals and estimates of the council, either without modifications or with such modifications as he may require, the Minister may, subject to such conditions as to records, certificates, audit or otherwise as, with the approval of the Treasury, he may determine, make, or undertake to make, contributions out of moneys provided by Parliament towards the losses likely to be incurred in carrying out the proposals to such an amount as may be specified in the approval; so, however, that the contribution in respect of any year shall not exceed seventy-five per cent. of the amount of loss shown in the approved estimates as likely to be incurred in that year:

Provided that the Minister in considering the estimates submitted to him shall satisfy himself that the estimates are made on the basis of the full fair rent being charged for each holding, and, in the case of any part of the land not being required for the provision of small holdings, of the best price that could reasonably be obtained therefor, if sold, being attributed thereto.

(3) Where the proposals, after having been approved by the Minister, are subsequently varied, then—

(a) if the variation is made by the county council without his consent, the Minister may, if he thinks fit, reduce the amount of his contribution;

(b) if the variation is made with his consent, the Minister may, subject to the limitation hereinbefore mentioned, vary his contribution either by way of increase or decrease, according to the nature of the variation.

(4) The Minister may, subject to the approval of the Treasury, make regulations for carrying this section into effect:

Provided that every regulation so made shall be laid before both Houses of Parliament as soon as may be after it is made, and if an address is presented by either House within twenty-one days during which that House

has sat next after any regulation is laid before it praying that the regulation may be annulled, His Majesty in Council may annul the regulation without prejudice to the validity of anything previously done thereunder. A.D. 1926.

(5) Where land has been acquired for the purposes of small holdings before the commencement of this Act, or where land is, after the commencement of this Act, acquired under this Part of this Act without the consent of the Minister, this section shall apply with respect to such expenses only as are likely to be incurred in equipping the land and adapting it for small holdings.

(6) For the purposes of this Part of this Act, the expression "full fair rent" in relation to a small holding means the rent which a tenant might reasonably be expected to pay for the holding if let as such and the landlord undertook to bear the cost of structural repairs.

3. A county council shall have power—

- (a) to sell or let one or more small holdings to a number of persons working on a co-operative system, provided such system is approved by the county council; and
- (b) with the consent of the Minister, to sell or let one or more small holdings to any association formed for the purposes of creating or promoting the creation of small holdings, and so constituted that the division of profits amongst the members of the association is prohibited or restricted.

Power to sell or let to co-operative societies, &c.

4. For the purpose of providing small holdings for persons who desire to buy or lease and will themselves cultivate the holdings and are able to cultivate them properly, a county council may purchase or take on lease land (whether situate within or without the county) by agreement, or, if the council are unable to obtain by agreement and on reasonable terms suitable land for the purpose, may purchase or take on lease such land compulsorily in accordance with the provisions of the Small Holdings and Allotments Act, 1908 (hereinafter referred to as the principal Act) relating to the compulsory acquisition of land :

Power to acquire land for small holdings.

8 Edw. 7. c. 36.

A.D. 1926.

Provided that the county council shall not acquire land for such purpose as aforesaid without the consent of the Minister unless the council are satisfied that the transaction will not involve any loss to the council, and where land is so acquired without the consent of the Minister, it shall not be lawful for the Minister to make or undertake to make any contribution under the foregoing provisions of this Act towards the cost of the acquisition of the land :

Provided also that the county council before acquiring any land outside the county shall consult with the council of the county in which the land is situated.

Regulations
as to purchase money
and sale.

5.—(1) Where a county council sell a small holding, the consideration (except where otherwise specifically provided in this Act) shall be a terminable annuity of an amount equal to the full fair rent of the holding for a period of sixty years, or, at the option of the purchaser, a terminable annuity for a period of less than sixty years of an equivalent capital value.

(2) The terminable annuity shall be payable by equal half-yearly instalments, the first instalment being payable on completion, and shall, so far as not paid on completion, be secured by a charge on the holding in favour of the council.

(3) The council may, if they think fit, postpone for a term not exceeding five years, the payment of all or any part of the terminable annuity, except so much as is payable on completion, in consideration of capital expenditure by the purchaser which in the opinion of the council increases the value of the holding, but shall do so on such terms as will in their opinion prevent them from incurring any loss or increased loss.

(4) A small holding may be sold subject to such rights of way or other rights as the council may consider necessary or expedient.

(5) Any question under this section as to what is the full fair rent of a small holding, or the amount of a terminable annuity, shall be determined by the county council.

Conditions
affecting
small holdings.

6.—(1) A small holding sold by a county council under this Act, shall for a term of forty years from the date of the sale, and thereafter so long as the holding

remains charged with the terminable annuity, be held subject to the following conditions:—

- (a) Any periodical payments due in respect of the terminable annuity shall be duly made :
- (b) The holding shall not be divided, sold, assigned, let, or sublet without the consent of the county council :
- (c) The holding shall be cultivated by the owner or occupier as the case may be, in accordance with the rules of good husbandry as defined in the Agricultural Holdings Act, 1923, and shall not be used for any purpose other than agriculture : 13 & 14
Geo. 5. c. 9.
- (d) Not more than one dwelling-house shall be erected on the holding unless, in the opinion of the council, additional accommodation is required for the proper cultivation of the holding :
- (e) Any dwelling-house erected on the holding shall comply with such requirements as the county council may impose for securing healthiness and freedom from overcrowding :
- (f) Any dwelling-house or other building erected on the holding shall be kept in repair and insured against fire by the owner to the satisfaction of the county council, and the receipts for premiums produced when required by them :
- (g) No dwelling-house or building on the holding shall be used for the sale of intoxicating liquors :
- (h) In the case of any holding on which, in the opinion of the county council, a dwelling-house ought not to be erected, no dwelling-house shall be erected on the holding without the consent of the county council :

Provided that a county council may, if they think fit, subject, in the case of a holding in respect of which a contribution is payable by the Minister, to the consent of the Minister, as respects the whole or any part of the holding, either at the time of the sale or subsequently, and either without consideration or for such consideration as they think fit, relax or dispense with any of the above conditions.

A.D. 1926.

The Minister may, in giving his consent to any such relaxation or dispensation, impose such terms as he thinks fit, including a requirement as to the consideration to be charged, and the application thereof in whole or in part in satisfaction of any contributions payable by him under this Part of this Act.

(2) If any such condition is broken, the council may, after giving the owner an opportunity of remedying the breach (if it is capable of remedy), either take possession of the holding or order the sale of the holding without taking possession.

(3) If, on the decease of the owner while the holding is subject to the conditions imposed by this section, the holding would, by reason of any devise, bequest, intestacy, or otherwise, become subdivided, the council may require the holding to be sold within twelve months after such decease to some one person, and if default is made in so selling the holding, the council may either take possession of the holding or order the sale of the holding without taking possession.

(4) A small holding let by a county council shall be held subject to the conditions on which it would under this section be held if it were sold, except so far as those conditions relate to the terminable annuity and to repairs and insurance against fire; and, if any such condition or any term of the letting is broken, the council may, after giving the tenant an opportunity of remedying the breach (if it is capable of remedy), determine the tenancy.

7.—(1) Where a county council take possession of a small holding under the last foregoing section, all the estate, right, interest, and claim of the owner in or to the small holding shall, subject as in this section mentioned, vest in and become the property of the county council, and the county council may either retain the small holding under their own management or sell or otherwise dispose of it as they think expedient.

(2) Where a county council take possession of a small holding as aforesaid they shall, save as hereinafter mentioned, pay to the owner either—

(a) such sum as may be agreed upon; or

(b) a sum equal to the value of the interest in the small holding at the disposal of the county

Recovery of possession and disposal of small holdings.

council, after deducting therefrom the amount at which the annuity charged on the holding may be redeemed under the Law of Property Act, 1925, together with any arrears of such annuity then due; and the said value, in the absence of a sale and in default of agreement, shall be settled by an arbitrator appointed under the Agricultural Holdings Act, 1923.

A.D. 1926.

(3) The sum so paid to the owner if not paid within three months after the date of taking possession shall carry interest at the rate of five per centum per annum from the date of taking possession.

(4) All costs of or incidental to the taking possession, sale or other disposal of the small holding (including the costs of the arbitration, if any) incurred by the county council before the amount payable to the owner has been settled either by agreement or arbitration, shall be deducted from the amount otherwise payable to the owner.

(5) Where the county council are entitled under this Act to take possession of a small holding, possession may be recovered (whatever may be the value of the holding) by or on behalf of the county council either under sections one hundred and thirty-eight to one hundred and forty-five of the County Courts Act, 1888, or under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, and in either case may be recovered as if the county council were the landlord and the owner of the holding were the tenant.

51 & 52
Vict. c. 43.
1 & 2 Vict.
c. 74.

(6) In the event of the value of the holding, ascertained in accordance with the provisions of this section, being less than the amount at which the annuity charged on the holding may be redeemed together with any arrears of such annuity due from the owner, the council may recover from the owner summarily as a civil debt the amount of the deficiency.

8.—(1) Where a county council order the sale of a small holding without taking possession, they shall cause it to be put up for sale by auction, and out of the proceeds of sale retain a sum equal to the amount for which the terminable annuity (if any) charged on the holding may be redeemed, unless the holding is sold subject to the terminable annuity, together with any arrears of the

Procedure
as to
ordering
sale of
small
holdings.

A.D. 1926. — annuity which may be then due and all costs, charges and expenses properly incurred by them in or about the sale of the holding, and pay over the balance (if any) to the owner.

(2) If the county council are unable to sell the holding for such sum as will allow the payment out of the proceeds of sale of such amounts as aforesaid, they may take possession of the holding in manner provided by the last foregoing section, but shall not be liable to pay any sum to the owner, and may recover from the owner summarily as a civil debt the amount of the deficiency.

(3) Any sale by a county council under this section may be made either subject to the charge in respect of terminable annuity or free, wholly or partly, from that charge, and in either case the provisions of this Act with respect to the purchase money shall, where the land is sold as a small holding, apply in like manner as if the sale were the first sale of the holding.

9. A county council may make arrangements with the council of any borough or urban or rural district in the county for the exercise by the council of that borough or district, as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council in respect of the acquisition, adaptation and management of small holdings for the borough or district, and the council of the borough or district may, as part of the arrangement, undertake to pay the whole or any part of the loss (if any) incurred by the county council in connection with those small holdings, and any sum payable in pursuance of any such undertaking shall be defrayed as part of the general expenses of the council in the execution of the Public Health Acts :

Provided that the arrangements shall not authorise the exercise on behalf of the county council by any other council of the powers of submitting to the Minister proposals and estimates for the purpose of obtaining contributions under this Act.

10. A county council shall keep a list of the owners and occupiers of small holdings sold or let by them, and a map or plan showing the size, boundaries and situation of each small holding so sold or let.

Delegation of powers to councils of boroughs or urban or rural districts.

List to be kept by county council.

11. Where a county council have purchased land for small holdings they shall apply to be registered as proprietors thereof under the Land Registration Act, 1925.

Registration of title of land purchased for small holdings.
15 Geo. 5.
c. 21.

Cottage Holdings.

12.—(1) The power of providing small holdings for persons who desire to buy them conferred by this Part of this Act shall include power of providing cottage holdings, that is to say, holdings comprising a dwelling-house together with not less than forty perches and not more than three acres of agricultural land which can be cultivated by the occupier of the dwelling-house and his family; and all the provisions of the Small Holdings and Allotments Acts, 1908 to 1919, and of this Act, with respect to small holdings, other than those relating to the letting of holdings, shall apply to cottage holdings as if the expression "small holding" included a cottage holding:

Provision of cottage holdings.

Provided that—

- (a) the power of providing cottage holdings shall not be exerciseable by the council of a county borough:
- (b) a county council shall not sell a cottage holding unless they are satisfied that the person to whom it is to be sold is a bona fide agricultural labourer or a person employed in a rural industry within or adjacent to their county, and that he has the intention, knowledge and capital to cultivate satisfactorily the land forming part of the cottage holding.

(2) For the purposes of this section the expression "rural industry" means an industry carried on in or adjacent to a village being an industry ancillary to the industry of agriculture or horticulture for the time being approved by the Minister.

Loans by County Councils to Persons purchasing Small Holdings.

13.—(1) Where a person being desirous of purchasing a small holding which he is able to cultivate properly has agreed with the owner for the purchase

Power of county council to advance

A.D. 1926.
—
money for
purchase of
small hold-
ings.

thereof, the county council of the county in which the holding or any part of it is situate may, if they think fit, advance to the purchaser on the security of the holding an amount not exceeding nine-tenths of the value of the holding as ascertained to the satisfaction of the county council repayable by a terminable annuity for a period not exceeding sixty years.

(2) The provisions of this Act with respect to the terminable annuity secured by a charge on a small holding sold by a county council, and with respect to any small holding so sold, shall apply to a terminable annuity charged and a holding purchased under this section, as if the advance was the purchase money.

(3) No advance shall be made by a county council under this section unless they are satisfied that the title to the holding is good, that the sale is made in good faith, and that the price is reasonable.

(4) Where the person desirous of effecting the purchase is a person for whom a cottage holding could be provided by the county council, this section shall apply as if references therein to small holdings included references to cottage holdings.

Power of
councils to
make ad-
vances for
equipment
of small
holdings.

14.—(1) A county council may—

- (a) subject to the provisions hereinafter contained, advance money to owners of small holdings provided by the council under the principal Act as amended by this Act for the purpose of constructing, altering or adapting or undertaking to construct, alter or adapt houses and farm buildings on such small holdings; and
- (b) undertake to guarantee the repayment to a society incorporated under the Building Societies Acts, 1874 to 1894, or the Industrial and Provident Societies Acts, 1893 to 1913, of any advances made by the society to any of its members, being the owners of small holdings provided by the council as afore-said, for the purpose of enabling them to construct, alter or adapt houses or farm buildings on such small holdings, and the interest on such advances.

A.D. 1926.

(2) The county council before granting such assistance shall satisfy themselves that the houses or farm buildings in respect of which assistance is to be given will, when the construction, alteration or adaptation is completed, in the case of houses, be in all respects fit for human habitation, and in the case of houses and farm buildings be in all respects suitable and necessary for the requirements of the small holdings.

(3) Any such advance as aforesaid shall be subject to the following conditions :—

(a) The advance with interest thereon shall be secured by mortgage, and the advance shall not exceed ninety per cent. of the value of the interest of the mortgagor in the property, and the mortgage deed may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined, so, however, that in the event of any of the conditions subject to which the advance is made not being complied with the balance for the time being unpaid shall become repayable on demand by the council ;

(b) The advance may be made by instalments from time to time as the construction, alteration or adaptation of the house or farm building progresses, so, however, that the total of the advance does not at any time before the completion of the construction, alteration or adaptation exceed fifty per cent. of the value of the work done up to that time on the construction, alteration or adaptation of the house or farm building, or on works incidental thereto ; and

(c) The advance shall not be made except after a valuation duly made on behalf of the council.

(4) The making of advances and the fulfilling of guarantees under this section (except a guarantee of interest) shall be purposes for which a council may borrow under section fifty-two of the principal Act.

Construction.

15. This Part of this Act shall have effect as if it were substituted for Part I. of the principal Act :

Construc-
tion of
Part I.

A.D. 1926.

Provided that nothing in this Act shall affect the terms and conditions on which a small holding purchased or leased before the commencement of this Act is held.

PART II.

MISCELLANEOUS AMENDMENTS OF THE SMALL
HOLDINGS AND ALLOTMENTS ACTS.

Amend-
ment of
definition of
"small
holding."

16. In the definition of "small holding" contained in section sixty-one of the principal Act, for the words "fifty pounds," there shall be substituted the words "one hundred pounds."

Amend-
ment of law
as to the
acquisition
of land.
8 & 9 Vict.
c. 18.

17.—(1) The provisions of the Lands Clauses Acts incorporated with the principal Act by section thirty-eight thereof for the purpose of the purchase of land by agreement under that Act shall not include section eighty-two of the Lands Clauses Consolidation Act, 1845, relating to the costs of conveyances.

(2) Where one or more objections to an order for the compulsory acquisition of land under Part I. of the First Schedule to the principal Act have been presented and not withdrawn, the Minister may dispense with the holding of a public inquiry and may confirm the order without holding such an inquiry in any case where he is of opinion that the objection or all the objections presented relate exclusively to matters which could be dealt with by the arbitrator to whom questions of disputed compensation are to be referred under the said Schedule, and the Minister may for that purpose require any objector to state in writing the grounds of his objection.

9 & 10
Geo. 5. c. 57.

(3) For removing doubts as to the effect of the Acquisition of Land (Assessment of Compensation) Act, 1919, it is hereby declared:—

(a) that the said Act does not apply to the determination of a dispute as to the amount of compensation payable on the withdrawal of a notice to treat under subsection (8) of section thirty-nine of the principal Act;

(b) that the said Act has not affected the power of the Minister under paragraphs (5) and (6) of Part I. of the First Schedule to the principal Act to give directions with respect to the

hearing of counsel or expert witnesses and of fixing scales of costs, and that any directions so given and scales so fixed apply to arbitrations before an official arbitrator both when assessing the compensation in the case of the compulsory purchase of land and when assessing the rent or other compensation to be paid in the case of the compulsory hiring of land. A.D. 1926.

18.—(1) Where a council in pursuance of the powers conferred by section forty-four of the principal Act have given notice to the landlord of land compulsorily hired by them to renew the tenancy, it shall be lawful for the council to withdraw the notice at any time not less than three months before the expiration of the tenancy if it appears to the council that the rent assessed in pursuance of the said section is such as will involve loss to the council, but in any such case the landlord shall be entitled to obtain from the council compensation for any loss or expenses which he may have sustained or incurred by reason or in consequence of the notice to renew and of the notice to withdraw, such compensation to be determined in like manner as the compensation for withdrawal of notice to treat under subsection (8) of section thirty-nine of the principal Act. Provisions as to land compulsorily hired.

(2) A notice to resume possession of the whole or part of land hired by a council compulsorily for small holdings or allotments given under section forty-six of the principal Act shall not be valid if given before it has been shown to the satisfaction of the Minister that the land, possession of which is proposed to be resumed, is required for such a purpose as is mentioned in that section, and where an applicant has failed to satisfy the Minister that any land is required for such a purpose, any further application to the Minister with a view to the resumption of possession of the same land or any part of it for the same purpose shall not be entertained if made within two years after the previous application.

19.—(1) Subsection (3) of section eleven of the Land Settlement (Facilities) Act, 1919 (which enables the tenant of a holding provided by a county council on land purchased by the council to purchase the holding) shall apply only in the case of a tenant in occupation of a small holding at the commencement of this Act; and Power of tenant to purchase small holding held from a

A.D. 1926. nothing in this Act or in any repeal effected thereby shall affect the terms on which such a tenant is so entitled to purchase his holding.

county
council.
9 & 10

Geo. 5. c. 59.

(2) In the case of a tenant of a small holding whose occupation thereof commences after the commencement of this Act, it shall be lawful for the county council to sell the small holding to him, subject to the provisions of this Act relating to the sale of small holdings.

Power to
sell land
without
consent of
Minister in
certain
cases.

20.—(1) Notwithstanding anything in section twelve of the Land Settlement (Facilities) Act, 1919, it shall not be necessary for a county council to obtain the consent of the Minister to the sale of any land where the land forms part of land which they have acquired under Part I. of this Act without such consent.

(2) Section thirteen of the Land Settlement (Facilities) Act, 1919, shall not exempt any county council from obtaining the consent of the Minister in any case where such consent is required by this Act.

Minor
amend-
ments.

21. The amendments specified in the second column of the First Schedule to this Act (which relate to minor details) shall be made in the provisions of the Small Holdings and Allotments Acts, 1908 to 1919, specified in the first column of that schedule.

PART III.

GENERAL.

Repeals.

22.—(1) The enactments mentioned in the Second Schedule to this Act (including those relating to the Small Holdings Commissioners) are hereby repealed to the extent specified in the third column of that schedule.

(2) Any references in any other Act to the Small Holdings Commissioners shall be construed as references to such officers of the Ministry of Agriculture and Fisheries as the Minister may appoint for the purpose.

Short title
and con-
struction.

23.—(1) This Act may be cited as the Small Holdings and Allotments Act, 1926, and the Small Holdings and Allotments Acts, 1908 to 1919, and this Act, may be cited together as the Small Holdings and Allotments Acts, 1908 to 1926.

(2) This Act shall be construed as one with the principal Act.

SCHEDULES.

A. D. 1926.

FIRST SCHEDULE.

section 21.

MINOR AMENDMENTS.

Enactment to be amended.	Amendment.
The Small Holdings and Allotments Act, 1908—	
Section 49, subsection (2).	At end, add the following words :— “ The council may also let to the “ society accommodation for “ the storage or sale of goods.”
Section 50 - -	After the words “ Every county “ council,” at the beginning of the section, there shall be inserted the words “ other than the London “ County Council.”
Second Schedule -	At the end of Part II. there shall be inserted :— “ (18) Provision of permanent “ sheep-dipping accommodation. “ (19) In the case of arable “ land, the removal of bracken, “ gorse, tree roots, boulders, “ and other like obstructions to “ cultivation.”
The Land Settlement (Facilities) Act, 1919—	
Section 7 - -	After the words “ fee farm rent ” there shall be inserted the words “ or “ terminable rentcharge,” and after the words “ the rent ” there shall be inserted the words “ or rentcharge.”
Section 11 - -	In subsection (3) the words “ six “ months ” shall be substituted for the words “ one month.”
Section 16 - -	In subsection (2) for the words “ fifty “ pounds ” there shall be substituted the words “ one hundred pounds.” In subsection (3) the words “ the “ Board or ” in both places where they occur, and the words “ as the “ case may be,” shall be omitted.
Section 18 - -	The whole section shall be omitted.

A.D. 1926.

SECOND SCHEDULE.

Section 22.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Edw. 7. c. 36.	The Small Holdings and Allotments Act, 1908.	<p>Sections one to twenty-two inclusive.</p> <p>In subsection (8) of section thirty-nine the proviso.</p> <p>Subsection (2) of section forty-six.</p> <p>Section fifty-five.</p> <p>Section fifty-six.</p> <p>In subsection (1) of section fifty-seven the words "and the " Small Holdings Commission- " ers " and " other."</p> <p>Subsection (2) of section fifty-eight.</p> <p>In section fifty-nine the words " and of the proceedings of " the Commissioners."</p>
9 & 10 Geo. 5. c. 59.	The Land Settlement (Facilities) Act, 1919.	<p>Section one.</p> <p>Section ten.</p> <p>In subsection (1) of section eleven the words " be sold or " let by the council at the " best price or sum that can " reasonably be obtained " and " and subsections (2), (5), (6) and (7) of the same section.</p> <p>In subsection (3) of section sixteen the words " the Board " or " in both places where they occur and the words " as " the case may be."</p> <p>Section eighteen.</p> <p>Section twenty.</p> <p>Section twenty-six.</p>

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