



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART VI

MISCELLANEOUS POWERS OF LOCAL AUTHORITIES

Land transactions

70 Acquisition of land by agreement.

- (1) For the purposes of—
 - (a) any of their functions under this or any other enactment, or
 - (b) the benefit, improvement or development of their area,a local authority may acquire by agreement any land, whether situated inside or outside their area.
- (2) A local authority may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the authority's functions.
- (3) For the purpose of the purchase of land by agreement by a local authority, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the ^{M1}Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the ^{M2}Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the ^{M3}Mines (Working Facilities and Support) Act 1923) are hereby incorporated with this section, and, in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the local authority shall be deemed to be the promoters of the undertaking or company, as the case may require.
- (4) Where two or more local authorities acting together would have power to acquire any land by agreement by virtue of this section, nothing in any enactment shall prevent

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one of those authorities from so acquiring the land on behalf of both or all of them in accordance with arrangements made between them, including arrangements as to the subsequent occupation and use of the land.

- (5) References in the foregoing provisions of this section to acquisition are references to acquisition by purchase, feu, lease or excambion.

Modifications etc. (not altering text)

- C1** S. 70 extended by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. **10(1)**, 335
- C2** S. 70 amended (*temp.* from 4.1.1995 until 1.4.1996) by 1994 c. 39, s. **182(1)(a)**; S.I. 1994/2850, art. 3(a), **Sch. 2**
- C3** S. 70(1) modified (28.12.2016) by [Burial and Cremation \(Scotland\) Act 2016 \(asp 20\)](#), ss. **101**, 112(2) (with s. 111); S.S.I. 2016/417, reg. 2, sch.

Marginal Citations

- M1** 1845 c. 19.
- M2** 1845 c. 33.
- M3** 1923 c. 20.

71 Acquisition of land compulsorily.

- (1) Subject to subsection (2) below, for the purposes of any of their functions under this or any other enactment, a local authority may be authorised by the Minister concerned with the function in question to purchase compulsorily any land, whether situated inside or outside their area.
- (2) A local authority may not be authorised under subsection (1) above to purchase land compulsorily for any purpose in relation to which their power of acquisition is by any enactment expressly limited to acquisition by agreement.
- (3) Where one or more local authorities propose, in exercise of the power conferred by subsection (1) above, to acquire any land for more than one purpose, the Minister or Ministers whose authorisation is required for the exercise of that power shall not be concerned to make any apportionment between those purposes nor, where there is more than one local authority, between those authorities, and—
- (a) the purposes shall be treated as a single purpose and the compulsory acquisition shall be treated as requiring the authorisation of the Minister, or the joint authorisation of the Ministers, concerned with those purposes; and
 - (b) where there is more than one local authority concerned, the authorities may nominate one of them to acquire the land on behalf of them all and the authority so nominated shall accordingly be treated as the acquiring authority for the purposes of any enactment relating to the acquisition.
- (4) The ^{M4}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land in pursuance of subsection (1) above as if that subsection were contained in an Act in force immediately before the commencement of that Act.

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Modifications etc. (not altering text)

- C4** S. 71 amended (*temp.* from 4.1.1995 until 1.4.1996) by 1994 c. 39, s. **182(1)(b)**; S.I. 1994/2850, art. 3(a), **Sch. 2**
- C5** S. 71 applied (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), ss. 4, 90, **Sch. 1 para. 2(2)** (with s. 77); S.S.I. 2005/392, **art. 2(k)**
- C6** S. 71(1) modified (28.12.2016) by Burial and Cremation (Scotland) Act 2016 (asp 20), **ss. 101**, 112(2) (with s. 111); S.S.I. 2016/417, **reg. 2**, **sch.**

Marginal Citations

- M4** 1947 c. 42.

72 Title to land.

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

73 Appropriation of land.

- (1) Subject to Part II of the ^{M5}Town and Country Planning (Scotland) Act 1959 and to the following provisions of this section, a local authority may appropriate for the purpose of any function, whether statutory or otherwise, land vested in them for the purpose of any other such function.
- (2) A local authority may ^{F1}... exercise their power of appropriation under subsection (1) above with respect to any land specified in subsection [^{F2}(3)] below [^{F3}subject to sections 117 and 118 of the Community Empowerment (Scotland) Act 2015].
- (3) The land to which subsection (2) above applies is [^{F4}land which] is held for use as allotments [^{F5}(within the meaning of section 107 of that Act)].

Textual Amendments

- F1** Word in s. 73(2) repealed (1.4.2018) by Community Empowerment (Scotland) Act 2015 (asp 6), s. 142(1), **sch. 4 para. 5(a)(i)**; S.S.I. 2017/458, art. 2, **sch.** (with art. 4)
- F2** Word substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 33(a)**
- F3** Words in s. 73(2) substituted (1.4.2018) by Community Empowerment (Scotland) Act 2015 (asp 6), s. 142(1), **sch. 4 para. 5(a)(ii)**; S.S.I. 2017/458, art. 2, **sch.** (with art. 4)
- F4** Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 33(b)**
- F5** Words in s. 73(3) inserted (1.4.2018) by Community Empowerment (Scotland) Act 2015 (asp 6), s. 142(1), **sch. 4 para. 5(a)(iii)**; S.S.I. 2017/458, art. 2, **sch.** (with art. 4)

Marginal Citations

- M5** 1959 c. 70.

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74 Disposal of land.

- (1) Subject to Part II of the ^{M6}Town and Country Planning (Scotland) Act 1959 and to subsection (2) below, a local authority may dispose of land held by them in any manner they wish.
- (2) Except [^{F6}in accordance with regulations under subsection (2C) below,] a local authority shall not dispose of land under subsection (1) above for a consideration less than the best that can reasonably be obtained.
- [^{F7}(2A) Subsection (2) does not extend to a disposal where—
- (a) the best consideration that can reasonably be obtained is less than the threshold amount; or
 - (b) the difference between that consideration and the proposed consideration is less than the marginal amount.
- (2B) The Scottish Ministers shall, by regulations, fix the threshold amount and the marginal amount for the purposes of subsection (2A) above.
- (2C) The Scottish Ministers may, by regulations, provide as to the circumstances in which and procedure by which local authorities may, under this section, dispose of land for a consideration less than the best that can reasonably be obtained.
- (2D) Those regulations may include provision—
- (a) requiring a local authority proposing to dispose of land at less than the best consideration that can reasonably be obtained to appraise and compare the costs and other disbenefits and the benefits of the proposal;
 - (b) requiring the local authority, before deciding in favour of the proposal, to be satisfied that so deciding would be reasonable; and
 - (c) setting out factors to which the local authority must have regard when considering whether its decision would be reasonable.
- (2E) References in this section to the best consideration that can reasonably be obtained by a local authority are references to that consideration as assessed by a suitably qualified valuer.
- (2F) In appointing and instructing a suitably qualified valuer for the purposes of subsection (2E) above, the local authority shall have regard to any guidance provided by the Scottish Ministers on—
- (a) what are suitable qualifications;
 - (b) what factors are to be or not to be taken into account by the valuer in assessing the consideration referred to in that subsection.
- (2G) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (2H) Before making such regulations, the Scottish Ministers shall consult such associations of local authorities and such other persons as they think fit.]
- ^{F8}(3)

Textual Amendments

- F6** Words in s. 74(2) substituted (20.4.2010 for certain purpose, otherwise 1.6.2010) by Local Government in [Scotland Act 2003 \(asp 1\)](#), **ss. 11(1)(a), 62(2)**; [S.S.I. 2010/119](#), {arts. 2, 3} (with art. 4)

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F7 S. 74(2A)-(2H) inserted (20.4.2010 for certain purposes, otherwise 1.6.2010) by Local Government in Scotland Act 2003 (asp 1), **ss. 11(1)(b), 62(2)**; S.S.I. 2010/119, {arts. 2, 3} (with art. 4)

F8 S. 74(3) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Modifications etc. (not altering text)

C7 S. 74 applied with modifications by Housing (Scotland) Act 1987 (c. 26, SIF 61), **ss. 12(9)(10)**, 335

C8 S. 74 excluded by Self Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s. 43(4)**

C9 S. 74 excluded (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), **s. 28(6)** (with s. 30(2)); S.I. 1992/817, art. 3(2), **Sch. 1**.

C10 S. 74(2) excluded by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 26(5)(a)**

C11 S. 74(2)-(2H) applied (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 4, 54(2), **Sch. 1 para. 2(2)**; S.S.I. 2005/454, {art. 2 Table}, Sch. 2

Marginal Citations

M6 1959 c. 70.

74A

F9

Textual Amendments

F9 S. 74A repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. XIII**

75 Disposal, etc., of land forming part of the common good.

(1) The provisions of this Part of this Act with respect to the appropriation or disposal of land belonging to a local authority shall apply in the case of land forming part of the common good of an authority with respect to which land no question arises as to the right of the authority to alienate.

(2) Where a local authority desire to [^{F10}appropriate or] dispose of land forming part of the common good with respect to which land a question arises as to the right of the authority to alienate, they may apply to the Court of Session or the sheriff to authorise them to [^{F10}appropriate or] dispose of the land, and the Court or sheriff may, if they think fit, authorise the authority to [^{F10}appropriate or] dispose of the land subject to such conditions, if any, as they may impose, and the authority shall be entitled to [^{F10}appropriate or] dispose of the land accordingly.

(3) The Court of Session or sheriff acting under subsection (2)

above may impose a condition requiring that the local authority shall provide in substitution for the land proposed to be [^{F11}appropriated or] disposed of other land to be used for the same purpose for which the former land was used.

Textual Amendments

F10 Words in s. 75(2) inserted (28.6.2016) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 77(2)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), sch.

F11 Words in s. 75(3) inserted (28.6.2016) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 77(3)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), sch.

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

Where an heir of entail in possession of land disposes of 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 disposal, 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 in the heritable securities or charges other than the land being acquired by the local authority afford adequate security.

77 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.

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