



# Town and Country Planning Act 1959

## 1959 CHAPTER 53

### PART II

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

#### 26 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 an open space (not being land which consists or forms part of a common or of a fuel or field garden allotment) 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 to 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 Minister of Housing and Local Government, 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) Except with the consent of the Minister of Housing and Local Government, an authority to whom this Part of this Act applies shall not sell, exchange or let any land, in the exercise of a power in relation to which subsection (1) of this section has effect, for a price, consideration or rent less than the best price, best consideration or best rent (as the case may be) that can reasonably be obtained, having regard to any restrictions or conditions (including conditions as to payment or the giving of security for payment) subject to which the land is sold, exchanged or let.
- (5) Subsection (1) of this section shall not apply—
- (a) to section forty-seven of the Housing Act, 1957 (which relates to land in, surrounded by or adjoining a clearance area);
  - (b) to any exercise of the powers conferred by section one hundred and four of the Housing Act, 1957 (which confers powers of disposing of houses provided under Part V of that Act) in respect of any house, if in respect of that house any payment has been made (whether before or after the commencement of this Act) to a local authority under any of the enactments mentioned in subsection (2) of section fifty-eight of the Housing (Financial Provisions) Act, 1958, or under any enactment repealed by that Act or any earlier Act and re-enacted (with or without modifications) by any of the provisions mentioned in the said subsection (2);
  - (c) to any exercise of the powers conferred by section nineteen of the Town and Country Planning Act, 1944 (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 IV of the Act of 1947) in respect of land falling within subsection (6) of the said section nineteen (which makes special provision as to land comprised in an area denned by a development plan as an area of comprehensive development and land contiguous or adjacent to any such area which is designated by the plan as subject to compulsory acquisition);
  - (d) to any disposal of land which, immediately before the disposal, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act;
  - (e) to any local enactment in so far as it provides (in whatsoever terms) that, except with the consent of a Minister specified therein, land shall not be disposed of thereunder for a price, consideration or rent of a value less than the current market value of the interest disposed of; and subsection (1) of this section shall not operate so as to dispense with any requirement for the consent of the Minister of Agriculture, Fisheries and Food—
    - (i) under subsection (7) of section two of the Small Holdings and Allotments Act, 1926, as applied by section twelve of the Agricultural Land (Utilisation) Act, 1931, or under subsection (1) of section six of the said Act of 1926, or
    - (ii) in respect of any disposal of land which, immediately before the disposal, is land held for use as allotments;
 but in relation to any disposal of land by an authority to whom this Part of this Act applies, where the consent of that Minister is required under section eight

of the Allotments Act, 1925, so much of that section as requires consultation with the Minister of Housing and Local Government shall not apply.

- (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 (e) of the last preceding subsection shall be disregarded.
- (7) In the application of this section to Scotland,—
- (a) for any reference to the Minister of Housing and Local Government there shall be substituted a reference to the Secretary of State ;
  - (b) for paragraph (a) of subsection (2) there shall be substituted the following paragraph, that is to say,—
    - “(a) of land which consists or forms part of a common or open space, or is held for use as allotments, or”;
  - (c) for subsections (4) and (5) there shall be substituted the following subsections, that is to say,—
    - “(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 Scottish 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 Scottish 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 whatsoever terms) that, except with the consent of a Minister specified therein, land shall not be disposal of thereunder for a rent, price, feu duty or other consideration of a value less than the current market value thereof.”

and

- (d) for any reference in subsection (6) to paragraph (e) of subsection (5) of this section there shall be substituted a reference to paragraph (d) of that subsection.