



Public Health (Scotland) Act 1897

1897 CHAPTER 38

PART VIII

ACQUISITION OF LANDS.

144 Power to acquire lands.

A local authority may for any of the purposes of Part II., Part III., and Part VI. of this Act in terms of the Lands Clauses Acts, and whether by agreement or otherwise, purchase any lands within or without their district, and may by agreement take on lease, sell or exchange any lands within or without their district; they may also buy up any water-milk dam, or weir, which interferes with the proper drainage of or supply of water to their district. They may also, with the sanction of the Board, sell or let any surplus land, and shall apply the proceeds in such manner, whether to the reduction of debt or otherwise, as the Board shall direct.

145 Regulations as to compulsory purchase of lands, &c.

The following regulations shall be observed with respect to the purchase and taking of land otherwise than by agreement by local authorities for the purposes herein-before mentioned :—

- (1) The local authority before applying to the Board for an order empowering them to put in force the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement shall—

publish once at least in each of two consecutive weeks in some newspaper circulated in the district or some part of the district where the land is proposed to be taken, an advertisement describing shortly the purpose for which it is proposed to be taken, naming a place where a plan of the proposed works and of the lands which may be taken and a book of reference to such plan may be seen at all reasonable hours, and stating the quantity of land they require ; and shall further serve a notice in manner herein-after mentioned on every owner or reputed owner, lessee or reputed lessee, and occupier of such land, defining in each case the particular land intended to be taken, and requiring an answer, stating whether

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the person so served assents, dissents, or is neuter in respect of taking such land ;
such notice to be served

by delivery of the same personally to the person on whom it is required to be
served, or, if such person is absent abroad, to his agent; or

by leaving the same at the usual or last known place of abode of such person
as aforesaid; or

by forwarding the same by post in a registered letter addressed to the usual or
last known place of abode of such person.

Every such plan shall be drawn on a scale of not less than four inches to a mile, and
the book of reference shall contain the names of the owners and lessees or reputed
owners and lessees and of the occupiers of the lands which may be taken :

- (2) Upon compliance with the provisions herein-before contained with respect to
advertisements and notices, the local authority may, if they shall think fit, present a
petition to the Board; the petition shall state the land intended to be taken, and the
purposes for which it is required, and the names of the owners, lessees, and occupiers
of land who have assented, dissented, or are neuter in respect of the taking of such land,
or who have returned no answer to the notice ; it shall pray that the local authority may,
with reference to such land, be allowed to put in force the powers of the Lands Clauses
Acts with respect to the purchase and taking of land otherwise than by agreement, and
such prayer shall be supported by such evidence as the Board requires:
- (3) Upon receipt of such petition, and upon due proof of the proper advertisements
having been published and notices served, the Board shall take such petition into
consideration, and may either dismiss the same or direct an inquiry in the district in
which the land is situate, or otherwise inquire as to the propriety of assenting to the
prayer of such petition ; but until such inquiry has been made in the district after such
notice as may be directed by the Board, no Order shall be made affecting any land
without the consent of the owners, lessees, and occupiers thereof.

Any such inquiry may be held by a person appointed by the Board in the manner and
with the powers herein-before provided, or if the Secretary for Scotland by any writing
under his hand shall so direct, such inquiry shall be held by the sheriff, not being a
sheriff substitute resident within the district:

- (4) After the completion of, the inquiry as last aforesaid, the Board may, by Provisional
Order, empower the local authority to put in force, with reference to the land or any
part of the land referred to in such Order, the powers of the Lands Clauses Acts with
respect to the purchase and taking of land otherwise than by agreement, and may make
such determination as they may think fit in regard to the payment of costs by the local
authority either to the Board or any person affected by the Order ; provision shall
be made by such Order for the incorporation therein of the Lands Clauses Acts and
(with the necessary modifications) of sections six and seventy to seventy-eight of the
Railways Clauses Consolidation (Scotland) Act, 1845. It shall be the duty of the local
authority to serve a copy of any Order so made in the manner and upon the persons
in which and upon whom notices in respect of such land are herein-before required
to be served, together with a statement that the Order will become final and have the
effect of an Act of Parliament, unless within two months a memorial shall be presented
to the Secretary for Scotland praying that the Order shall not become law without
confirmation by Parliament:
- (5) If no memorial shall be presented as aforesaid the Order shall become final and have
the effect of an Act of Parliament:

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- (6) If a memorial has been presented to the Secretary for Scotland, it shall be lawful for him, as soon as conveniently may be, to submit such Order to Parliament for confirmation, and any Act passed to confirm such Order shall be deemed to be a Public General Act of Parliament:
- (7) Every Bill for confirming any such Order shall, after the Second Reading in the House in which it originates, be referred to a Select Committee, or, if the two Houses of Parliament think fit so to order, to a Joint Committee:
- (8) If, before the expiration of seven days after the Second Reading of any such Confirmation Bill in the House in which it originates, a petition is presented against any Order comprised therein, the petitioner shall be allowed to appear and Oppose by himself, his agents, and witnesses :
- (9) The Committee by a majority may award costs, which shall, unless the Committee otherwise direct, include all costs from the date of the memorial :
- (10) All costs, charges, and expenses incurred in relation to any application for, or the grant of, such Order or Provisional Order shall, to such amount as the Board think proper to direct, become a charge upon the public health general assessment, or special sewer assessment, or special water assessment, levied in the district, or special drainage district or special water supply district, as the case may be, to which such Order or Provisional Order relates :
- (11)
 - (a) Any question of disputed compensation under an Order or Provisional Order made under this section shall be referred to the arbitration of a sole arbiter appointed by the parties, or if the parties do not concur in the appointment of a sole arbiter then, on the application of either of them, by the Board, and the remuneration to be paid to the arbiter shall be fixed by the Board. An arbiter appointed under this subsection shall be deemed to be a sole arbiter within the meaning of the Lands Clauses Acts, and the provisions of those Acts with respect to an arbitration shall apply accordingly ; and the arbiter shall, notwithstanding anything in the said Acts, determine the amount of the expenses in the arbitration, and such determination shall be final; and
 - (b) In construing for the purposes of this section any Acts incorporated with, or put in force under, this section, this Act, together with any Order or Provisional Order under this section, shall be deemed to be the special Act:
- (12) At any inquiry or arbitration held under this section, the person or persons holding the inquiry or arbitration shall hear any authorities or parties whose interests would be affected, by themselves or their counsel or agents, and may hear witnesses :
- (13) The Board shall not make any Order for purchasing the whole or any part of any park, garden, pleasure-ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway company or canal company which is or may be required for the purposes of their undertaking, or any land which, in the opinion of the Board, is being held or may be required for the extension of a factory or public work :
- (14) The Board shall, in making an Order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner, and to the convenience of other property belonging to the same owner, and shall, as far as is practicable, avoid taking an undue or inconvenient quantity of land from any one owner :

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- (15) The expression " Act of Parliament " in the Telegraph Act, 1878, shall include an Order under tin's section, although such Order may not have been confirmed by Parliament:
- (16) The Board shall in their annual report include a statement of any proceedings under this section.