



Isle of Man

Ellan Vannin

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THE ALLOTMENTS ACT 1928



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**Isle of Man***Ellan Vannin*

THE ALLOTMENTS ACT 1928

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| <i>Received Royal Assent:</i> | 6 February 1928 |
| <i>Passed:</i> | 17 February 1928 |
| <i>Commenced:</i> | 17 February 1928 |

AN ACT to provide for the acquisition and letting of Allotments and to make provision with respect to Allotments.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

1 Short title

This Act may be cited as “The Allotments Act, 1928”.

2 Definitions

(1) The terms and expressions in this Act not expressly defined shall have the same meanings as assigned to them in the *Local Government Consolidation Act, 1916*; and for the purpose of this Act, where the context permits, the expression —

“**allotment**” means an allotment not exceeding 40 poles in extent, which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family:

“**landlord**” means in relation to any land the person for the time being entitled to receive the rents and profits of the land:

“**local authority**” means, in the case of the borough of Douglas, the Mayor, Aldermen, and Burgesses of such borough, and elsewhere the town, village, or parish commissioners:

“**the Board**” [Repealed]¹

“**Department**” means the Department of Infrastructure.²

(2) Compensation recoverable by a tenant under this Act for crops or other things shall be based on the value thereof to an incoming tenant.

- (3) Where land is used by the tenant thereof as an allotment, then, for the purposes of this Act, unless the contrary is proved —
- (a) the land shall be deemed to have been let to him to be used by him as an allotment; and
 - (b) where the land has been sub-let to him by a local authority or association which holds land under a contract of tenancy, the land shall be deemed to have been let to that local authority or association for the purpose of being sub-let for such use as aforesaid.

3 Local authorities to establish allotments committee

- (1) Every local authority to which this Act applies shall establish an allotments committee, which may be an existing committee of the local authority, or a sub-committee of an existing committee, and all matters relating to the exercise and performance by the local authority of its powers and duties under this Act (except the power of raising a rate or borrowing money), shall stand referred to such committee, and the local authority may delegate to the committee, with or without restrictions, any of its said powers except as aforesaid. The local authority before exercising any such powers shall, unless in its opinion the matter is urgent, receive and consider the report of the allotments committee with respect to the matter in question.
- (2) An allotments committee established under this section shall comprise persons, other than members of the local authority, being persons experienced in the management and cultivation of allotments or gardens, and representative of the interests of occupiers of allotments in the district, provided that the number of such representative members shall be as near as may be one-third of the total number of the members of the committee, and in no case shall the number of representative members be less than two.
- (3) The accounts of any receipts or payments by or to a committee under powers delegated under this section shall be accounts of the local authority and made up and audited accordingly.

4 Duty of local authority to provide allotments

- (1) If a local authority to which this Act applies is of opinion that there is a demand for allotments in the district of such authority, such local authority shall provide a sufficient number of allotments and shall let such allotments to persons resident in the district of such local authority and desiring to take the same.
- (2) On any representation in writing to the local authority by any six ratepayers resident in the district of such local authority that the circumstances of the district are such that it is the duty of the local

authority to take proceedings under this Act, the local authority shall take such representation into consideration.

- (3) If the Department, after holding a public local inquiry, at which the local authority and such other persons as the Department in their discretion see fit to allow shall be permitted to appear and be heard, are satisfied that such local authority has failed to fulfill its obligations under this Act, the Department may by order direct such local authority to provide allotments under this Act in the manner and to the extent specified in such order, and within the time therein prescribed, and should such local authority fail to carry into effect the provisions of such order, it shall be deemed to be a local authority in default within the meaning and for the purposes of the *Local Government Consolidation Act, 1916*.³

5 Powers of local authority

- (1) A local authority may for the purposes of this Act do all or any of the following things: —
- (a) may let any land vested in the local authority for allotments;
 - (b) may acquire on lease any land required by the local authority for letting for allotments;
 - (c) may purchase any land for the like purpose;
 - (d) may improve any land vested in or acquired by the local authority for allotments, and adapt the same for letting in allotments;
 - (e) may purchase and sell to the allotment holders fruit trees, seeds, plants and fertilizers, and may purchase and hire to the allotment holders tools and implements required for the cultivation of allotments.
- (2) A local authority may acquire land compulsorily for the letting of allotments.⁴
- (2A) A local authority may acquire compulsorily a tenancy in land for letting for allotments, subject to the terms provided for by this Act, at such rent and subject to such other terms (not being inconsistent with those terms) as may be agreed between the local authority and the owner or, in default of agreement, determined by an arbitrator appointed in accordance with section 3 of the *Acquisition of Land Act 1984*.⁵
- (3) The arbitrator in fixing the rent to be paid for the land a tenancy in which is acquired compulsorily under subsection (2A), shall take into consideration the rent (if any) at which the land has been let and the annual value at which the land is assessed for the purposes of rating, the loss (if any) caused to the owner by severance, the terms and conditions of the tenancy (including any reservation of sporting or fishing rights), and all the other circumstances connected with the land, but shall not make any allowance in respect of any use to which the land might

otherwise be put by the owner during the term of the tenancy, being a use in respect of which the owner is entitled to resume possession of the land under this Act.⁶

- (3A) Subject to subsection (4), the *Acquisition of Land Act 1984* shall apply, with any necessary modifications, to the compulsory acquisition of a tenancy under subsection (2A) as it applies to the compulsory acquisition of land.⁷
- (4) The powers in this Act contained for the compulsory acquisition of land for allotments shall not apply to —
- (a) any park or land occupied with a mansion house if required for the amenity or convenience of the mansion house;
 - (b) any garden or pleasure ground, or any land required for the amenity or convenience of any dwelling house;
 - (c) the site of an ancient monument;
 - (d) any land used for the growing of trees.

6 Letting of allotments

- (1) Subject to the provisions of this Act, a local authority may make such rules as appear to be necessary or proper for regulating the letting of allotments under this Act and generally for carrying the provisions of this Act into effect.
- (2) Rules under this section may define the persons eligible to be tenants of allotments; the notice to be given for the letting thereof; the size of the allotments; the conditions under which they are to be cultivated, and the rent to be paid for them.
- (3) All such rules shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy.

Rules under this section shall not be of any force until approved by the Department.⁸

7 Rent

Land let by a local authority under this Act for use as an allotment shall be let at the full fair rent for such use, and not more than a quarter's rent shall be required to be paid in advance.

8 [Repealed]⁹

9 Agreement with an association

A local authority may enter into arrangements with an association of allotment holders for letting any land to such association for the use of the same as allotments by members of the association.

10 Termination of tenancy by owner

Where land is let on a tenancy for use by the tenant as an allotment, or is let to any local authority or association for the purpose of being sublet for such use, the tenancy of the land or any part shall not, except as hereinafter provided, be terminable by the landlord by notice to quit or re-entry, notwithstanding any agreement to the contrary, except by —

- (a) a six months' or longer notice to quit, expiring on the 12th day of March, or the 12th day of November in any year;
- (b) re-entry after three months' previous notice in writing to the tenant under a power of re-entry contained in or affecting the contract of tenancy on account of the land being required for building, mining, or any other industrial purpose, or for roads or sewers necessary in connection with any of those purposes; or
- (c) re-entry under a power in that behalf contained in or affecting the contract of tenancy in the case of land let by a corporation or company being the owners or lessees of any public undertaking on account of the land being required for the purposes of such public undertaking (other than the use of the land for agriculture); or
- (d) re-entry for non-payment of rent or breach of any term or condition of the tenancy or on account of the tenant becoming bankrupt or making a deed of arrangement or compounding with his creditors, or, where the tenant is an association, on account of its liquidation.

11 Termination of tenancies

The tenancy of any land taken or held by a local authority under section 5(2) of this Act for the purposes of this Act may be terminated —

- (a) by not less than six months' notice in writing to that effect given by the local authority to the landlord, and expiring on the 12th day of November, or the 12th day of March, in any year; or
- (b) by not less than three months' notice in writing given by the landlord to the local authority in any case where the land is required for any purpose other than the use of the land for agriculture, sport, or recreation, and by not less than six months' notice in writing so given and expiring on the 12th day of November, or the 12th day of March, where the land is required for sport or recreation.¹⁰

12 Tenant's compensation

- (1) Where under any contract of tenancy land is, before or after the passing of this Act, let for use by a tenant as an allotment, the tenant shall, subject to the provisions of this section, and notwithstanding any agreement to

the contrary, be entitled at the termination of the tenancy on quitting the land, to obtain from the landlord compensation as provided by this section.

- (2) Subject to the provisions of this section, compensation shall be recoverable under this section only if the tenancy is terminated by the landlord and is so terminated either —
 - (a) between the 12th day of March and the 12th day of November; or
 - (b) by re-entry at any time under paragraph (b) or (c) of section 10 of this Act.
- (3) Compensation recoverable from the landlord under this section shall be for crops growing upon the land in the ordinary course of the cultivation of the land as an allotment, and for manure applied to the land.
- (4) A tenant whose tenancy is terminated by the termination of the tenancy of his landlord shall be entitled to recover from his landlord such compensation (if any) as would have been recoverable if his tenancy had been terminated by notice to quit given by his landlord.
- (5) Any sum due to the landlord from the tenant in respect of rent, or of any breach of the contract of tenancy under which the land is held, or wilful or negligent damage committed or permitted by the tenant, shall be taken into account in reduction of the compensation.
- (6) This section shall also apply to any contract of tenancy made after the passing of this Act by which land is let to any local authority or association for the purpose of being sublet for use by the tenants as allotments, and notwithstanding that the crops have been grown and the manure applied by the tenants of the local authority or association.
- (7) This section shall apply to the termination of the tenancy of the whole or any part of the land the subject of a contract of tenancy.
- (8) Except as provided by this section, or by the contract of tenancy, the tenant of land under a contract of tenancy to which this section applies shall not be entitled to recover compensation from the landlord at the termination of the tenancy.
- (9) Where the tenancy is terminated by notice to quit given by the landlord, or by the termination of the tenancy of the landlord, the tenant shall be entitled at any time within twenty-one days after the termination of the tenancy to remove any crops growing on the land.
- (10) This section shall not apply to any parcel of land attached to a cottage.

13 Removal of fruit trees, etc, and erections

- (1) A tenant of an allotment to which this Act applies may, before the termination of the tenancy, remove any fruit trees or bushes provided and planted by the tenant, and any erection, fencing, or other

improvement erected or made by and at the expense of the tenant, making good any injury caused by such removal.

Expenses and borrowings

- (2) Where a tenant of an allotment has paid compensation to an outgoing tenant for any fruit trees or bushes, or other improvement, he shall have the same rights as to compensation or removal as he would have had under this Act if the fruit trees or bushes had been provided and planted or the improvement had been made by him and at his expense.

14 Payment of expenses of local authorities

All expenses incurred by a local authority under the provisions of this Act, and any sums under those provisions payable by the authority, shall be defrayed as part of the expenses of the local authority. A separate account shall be kept of the receipts and expenditure of the local authority under this Act.

15 Local authority may dispose of land acquired by it for allotments

- (1) Where a local authority is of opinion that any land acquired by it for allotments or any part thereof is not needed for the purpose of allotments, or that some more suitable land is available, it may, with the sanction of the Department, sell or let such land otherwise than under the provisions of this Act, or exchange the land for other land more suitable for allotments, and may pay or receive money for equality of exchange.¹¹
- (2) The proceeds of a sale under this Act of land acquired for allotments, and any money received by the local authority on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the local authority in respect of the land acquired by the local authority for allotments, or in acquiring, adapting, and improving other land for allotments, and any surplus remaining may be applied for any purpose for which capital money may be applied, and which is approved by the Department; and the interest thereon (if any) and any money received from the letting of the land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable.¹²

16 Report of local authorities

The local authority shall annually forward to the Department a statement of the receipts and expenditure of the local authority under this Act for the preceding year, and the Department shall cause a summary of such accounts to be laid before Tynwald. The local authority shall, when required by the Department, furnish the Department with such particulars of the operation of this Act in the district of the local authority as the Department may require.¹³

17 Penalties

Any person who, by any act done without lawful authority, or by negligence, causes damage to any allotment or any crops, fences or buildings thereon, shall be liable on summary conviction at the suit of the local authority or any officer of police, or of the tenant of such allotment, to a penalty not exceeding £1,000.

18 Rateable value of allotments

Where, after the passing of this Act, land which is not used for allotments commences to be so used, the rateable value of such land shall not be increased during the first three years of such user, and where the land so used was immediately before such user included with other land in one assessment in the valuation list in force, the rateable value of the allotment shall be the proper proportion according to acreage as between the land used for allotments and the other land.

19 Commencement of Act

This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald, and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

ENDNOTES

Table of Legislation History

| Legislation | Year and No | Commencement |
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Table of Renumbered Provisions

| Original | Current |
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Table of Endnote References

¹ Definition of “the Board” repealed by GC192/86.

² Definition of “Department” inserted by GC192/86 and amended by SD155/10 Sch 5.

³ Subs (3) amended by GC192/86.

⁴ Subs (2) substituted by Acquisition of Land Act 1984 Sch 4.

⁵ Subs (2A) inserted by Acquisition of Land Act 1984 Sch 4.

⁶ Subs (3) amended by Acquisition of Land Act 1984 Schs 4 and 5.

⁷ Subs (3A) inserted by Acquisition of Land Act 1984 Sch 4.

⁸ Subs (3) amended by GC192/86.

⁹ S 8 repealed by Local Government Act 1985 Sch 6.

¹⁰ S 11 amended by Acquisition of Land Act 1984 Sch 4.

¹¹ Subs (1) amended by GC192/86.

¹² Subs (2) amended by GC192/86.

¹³ S 16 amended by Governor’s General Functions (Transfer) Act 1980 Sch 1 and by GC192/86.