(6) COMPULSORY HIRING OF LAND

The Agriculture (Compulsory Hiring of Land) Regulations, 1949

1949 No. 795

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In pursuance of section ninety-three of the Agriculture Act, 1947(a), and of all other powers enabling him in that behalf, the Minister of Agriculture and Fisheries, with the approval of the Treasury, hereby makes the following regulations:—

1. The authorisation of any compulsory hiring of land under the provisions of the Agriculture Act, 1947, by a smallholdings authority or by the Minister shall be conferred by an order (hereafter in these regulations referred to as a "compulsory hiring order") in accordance with the provisions of these regulations.

Compulsory hiring by smallholdings authorities

2. A compulsory hiring order authorising a compulsory hiring by a smallholdings authority (hereafter in these regulations referred to as the "acquiring authority") shall be made by the acquiring authority and submitted to and confirmed by the Minister in accordance with the following provisions of these regulations.

3.—(1) The compulsory hiring order shall be in the form set out in the First Schedule hereto, or substantially to the like effect, and shall describe by reference to a map the land to which it applies.

(2) The compulsory hiring order shall determine the terms and conditions of the hiring other than the rent, and in particular—

(*a*) shall provide for the insertion in the lease of covenants by the acquiring authority to farm the land in accordance with the rules of good husbandry, and to pay the landlord at the determination of the tenancy, on quitting the land, compensation for any depreciation of the land by reason of any failure by the acquiring authority or any person deriving title under them to observe such covenants, or by reason of any user of the land by the acquiring authority or such person as aforesaid, and, unless otherwise agreed, to keep any buildings or premises demised in repair;

(*b*) shall not, except with the consent of the landlord, confer on the acquiring authority any right to fell or cut timber or trees or any right to take, sell or carry away any minerals, gravel, sand or clay, except so far as may be necessary or convenient for the purpose of erecting buildings on the land, or otherwise adapting or using the land for the purpose for which it is compulsorily hired, and except upon payment of compensation for minerals, gravel, sand or clay so taken, sold or carried away.

(a) 10 & 11 Geo. 6. c. 48.

4. Before submitting the compulsory hiring order to the Minister the acquiring authority shall—

(1) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the form set out in the Second Schedule hereto, or substantially to the like effect, stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, specifying the number of years (with a part of the year, if so desired) for which the land is proposed to be hired, not being longer than thirty-five years, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made;

(2) except in so far as the Minister directs that this provision shall not have effect in any particular case, serve on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land comprised in the order a notice in the form set out in the Third Schedule hereto, or substantially to the like effect, stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made;

(3) in the case of any land with respect to which a direction is given under sub-paragraph (2) of this paragraph, affix to some conspicuous object or objects on the land a notice or notices in the form set out in the said Third Schedule hereto, or substantially to the like effect, addressed to " the owners and any occupiers " of the land (describing it) containing the particulars specified in the said sub-paragraph (2):

Provided that no direction under sub-paragraph (2) of this paragraph shall have effect in relation to an owner, lessee or occupier being a local authority or statutory undertakers or the National Trust.

5.—(1) If no objection is duly made by any such owner, lessee or occupier as aforesaid or if all objections so made are withdrawn, the Minister, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, confirm the compulsory hiring order with or without modifications.

(2) If any objection duly made as aforesaid is not withdrawn, the Minister shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Minister shall afford to the acquiring authority, and to any other persons to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.

(4) Notwithstanding anything in the last two foregoing paragraphs, the Minister may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes

of this regulation if he is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom any rent or compensation is to be assessed.

6. The compulsory hiring order as confirmed by the Minister shall not, unless all persons interested consent, authorise the acquiring authority to hire compulsorily—

(1) any land which the order would not have authorised that authority so to hire if it had been confirmed without modification;

(2) any land for a term of years greater or less than the term for which the order would have authorised that authority so to hire such land if the order had been confirmed without modification.

7. Upon the application of any person interested in the land authorised to be hired, or in the interest of an existing tenant which will or may be extinguished by the compulsory hiring, the compulsory hiring order shall be so framed as to make such provision as is necessary for securing the interest of any party other than the owner or existing tenant in any compensation payable in respect of the compulsory hiring, and for that purpose there may be incorporated in the order, with such adaptations as are required, any of the provisions of the Lands Clauses Consolidation Act, 1845(**a**), which relate to compensation coming to parties having limited interests.

8. As soon as may be after the compulsory hiring order has been confirmed, the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the form set out in the Fourth Schedule hereto, or substantially to the like effect, describing the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under regulation 4 of these regulations.

Compulsory hiring by the Minister

9.—(1) A compulsory hiring order authorising a compulsory hiring by the Minister shall be prepared in draft and made by the Minister in accordance with the following provisions of this regulation and the provisions of the next following regulation.

(2) The order shall describe by reference to a map the land to which it applies.

(3) Subject as aforesaid, the form of the order shall be such as the Minister may determine, but the provisions of paragraph (2) of regulation 3 of these regulations shall (with the substitution for references to the acquiring authority of references to the Minister) apply, subject to such modifications as appear to the Minister to be requisite.

10. Regulations 4 to 8 of these regulations shall have effect in relation to the compulsory hiring order, with the substitution for references to the acquiring authority of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order, and with the omission in paragraph (3) of regulation 5 of the reference to the acquiring authority, so however that the publication and service or affixing of notices

(a) 8 & 9 Vict. c. 18.

required by regulation 4 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that regulation and the Schedules referred to therein as to the notices thereby required shall apply subject to such modifications of the form of the notices as appear to the Minister to be requisite.

Special provisions as to certain descriptions of land

11. Regulations 12 to 17 inclusive shall have effect in the case of land:

(1) which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking;

(2) forming part of a common, open space or fuel or field garden allotment, or held inalienably by the National Trust; or

(3) being, or being the site of, an ancient monument or other object of archaeological interest.

12. A compulsory hiring order shall, in so far as it authorises the compulsory hiring of land which is the property of a local authority, or has been acquired by statutory undertakers, not being a local authority, for the purposes of their undertaking, or of land belonging to the National Trust which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or statutory undertakers or the National Trust, as the case may be, and has not been withdrawn.

13. Where a compulsory hiring order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the Minister before the expiration of the time within which objections to the order can be made the Minister is satisfied—

(*a*) that any of the said land is used for the purposes of the carrying on of their undertaking, or

(*b*) that an interest in any of the said land is held for those purposes,

the compulsory hiring order shall not be confirmed or made so as to authorise the compulsory hiring of any land as to which the Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

(i) that it can be hired and not replaced without serious detriment to the carrying on of the undertaking, or

(ii) that if hired it can be replaced by other land belonging to, or available for purchase or hiring by, the undertakers without serious detriment to the carrying on thereof,

and certifies accordingly.

14. In so far as a compulsory hiring order authorises the hiring of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure.

15. A compulsory hiring order, in so far as it authorises the hiring of land being, or being the site of, an ancient monument or other object of archaeological interest, shall be subject to special parliamentary procedure unless the Minister of Works certifies that the acquiring authority has entered into an undertaking with the said Minister of Works to observe such conditions as to the use of the land as in his opinion are requisite having regard to the nature thereof.

16. As soon as may be after the giving of a certificate under regulation 13 or regulation 15 of these regulations, the acquiring authority or the Minister shall publish in one or more local newspapers circulating in the locality in which the land comprised in the compulsory hiring order is situated a notice in the form set out in the Fifth Schedule hereto, or substantially to the like effect, stating that the certificate has been given.

17. In the case of land falling within two or more of the preceding regulations, a compulsory hiring order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said regulations.

Validity and date of operation of compulsory hiring orders and certificates

18. If any person aggrieved by a compulsory hiring order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory hiring thereby granted is not empowered to be granted under the Agriculture Act, 1947, or if any person aggrieved by a compulsory hiring order or by a certificate under regulation 13 or regulation 15 of these regulations desires to question the validity thereof on the ground that any requirement of the aforesaid Act or of any regulation made thereunder (including these regulations) has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of these regulations in that behalf, make an application to the High Court, and on any such application the Court—

(*a*) may by interim order suspend the operation of the compulsory hiring order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(*b*) if satisfied that the authorisation granted by the compulsory hiring order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of the aforesaid Act or of any regulation made thereunder (including these regulations) not having been complied with, may quash the compulsory hiring order or any provision contained therein or the certificate either generally or in so far as it affects any property of the applicant.

19. Subject to the provisions of the last foregoing regulation, a compulsory hiring order or a certificate under regulation 13 or regulation 15 of these regulations shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the last foregoing regulation.

20. Regulations 18 and 19 of these regulations shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945(**a**), but except as aforesaid shall have effect in relation to a compulsory hiring order to which that Act applies as if in regulation 18 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of these regulations in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in regulation 19 the words from " and shall become operative " to the end were omitted.

(**a**) 9 & 10 Geo. 6. c. 18.

Procedure for enforcing compulsory hiring order, and ascertainment of compensation and rent

21.—(1) When the acquiring authority require to hire compulsorily any land authorised to be hired by a compulsory hiring order, they shall give notice to that effect to the owner of such land, and to any existing tenant thereof, or to such of the said parties as shall, after diligent inquiry, be known to the said authority, and by such notice shall demand from such parties the particulars of their estate and interest in such land, in so far as such particulars are required in order to ascertain the owner thereof and the interests of the existing tenants (if any); and every such notice shall state the particulars of the land required to be compulsorily hired, and the term for which the acquiring authority are authorised to hire the same, and that the said authority are willing to treat for the hiring thereof. Every such notice shall further state a date consistent with the terms of the compulsory hiring order on which it is required that the tenancy shall commence.

(2) Where the owner is a tenant the acquiring authority shall also give notice to the person in receipt of the rent reserved under the lease under which the owner holds as tenant that the said authority require to hire compulsorily the lands specified in such notice.

(3) The notices referred to in this regulation must be served within three calendar months after the date of confirmation of the compulsory hiring order by the Minister.

(4) Subject to the provisions of paragraph (2) of regulation 35 of these regulations, the acquiring authority may withdraw a notice given under this regulation in accordance with the provisions in that behalf of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919(a), subject to the payment of compensation as therein provided.

22. On receipt of the particulars of the interest of an existing tenant, the acquiring authority shall within twenty-one days give notice to the tenant, stating whether the said authority desire to extinguish the interest of such tenant or to hire the land subject to such interest, and if the said authority fail to give such notice they shall be deemed to desire to extinguish the interest of the tenant. Any interest of an existing tenant which is extinguished under the powers conferred by a compulsory hiring order shall be extinguished upon, and by reason of, the commencement of the tenancy of the acquiring authority.

23.—(1) An existing tenant whose interest in the land is extinguished upon, and by reason of, the commencement of the tenancy of the acquiring authority shall be entitled to recover from the said authority compensation for the value of his interest in the land and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury which the existing tenant may sustain, including compensation for the damage done to him in his tenancy by reason of the severance of the land to be compulsorily hired from land which is held by such tenant and is not required to be so hired;

Provided that any such compensation as last mentioned may be provided for by taking such compensation into account in fixing the rent to be paid for the residue of the holding during the remainder of the term for which it is held by the tenant.

(a) 9 & 10 Geo. 5. c. 57.

(2) If any person claims compensation in respect of any unexpired term or interest under any lease of lands by the compulsory hiring order authorised to be hired, the acquiring authority may require such person to produce the lease in respect of which such claim is made, or sufficient evidence thereof, and if, after demand made in writing by the said authority, such lease, or such evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

24. If the acquiring authority cannot after diligent inquiry ascertain the owner or existing tenant, or if for twenty-one days after the giving of such notice to treat to the owner or existing tenant as is required by these regulations, he fail to state the particulars demanded by the notice or fail to treat with the said authority in respect of his interest, or if agreement is not reached between the owner, the existing tenant, any other person entitled to compensation and the acquiring authority (or any of them) as to the amount of any rent or compensation payable in respect of the land authorised by a compulsory hiring order to be hired or any interest therein or any improvements executed on the land or otherwise, or (where part only of land held under a lease for an unexpired term is so hired) the amount of any rent to be paid for the residue of such land during the remainder of that term, the rent or compensation to be determined shall be determined under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and these regulations.

25. If the owner of land authorised by a compulsory hiring order to be hired is unable, except under powers conferred by these regulations, to lease the land for the term and on the conditions for and on which the acquiring authority are so authorised to hire the land, the rent to be paid by the authority shall be determined, as in default of agreement, under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and these regulations.

26. If an existing tenant is unable, except under powers conferred by these regulations, to dispose of the interest created by the lease under which he holds and to give an absolute discharge for the compensation for such interest, the amount payable by the acquiring authority to the existing tenant or any person claiming through him in respect of such interest or in respect of improvements executed on the land or otherwise, and, where part only of land held under a lease is hired, the rent to be paid for the residue of the land during the remainder of the term for which it is held under the lease shall be determined, as in default of agreement, under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and these regulations.

27. If the land authorised to be compulsorily hired is held by the owner subject to any reservation or exception or easement from which the acquiring authority require that the land when leased to them shall be exonerated during the existence of the lease, any person injuriously affected by the exoneration of the land from such reservation or exception or by the extinguishment of the easement effected by the lease to the acquiring authority shall be entitled to recover compensation for the injury from the said authority, and the amount of the compensation shall, in default of agreement between such person and the said authority, be determined under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and these regulations.

28. If any agricultural land authorised to be compulsorily hired is in the occupation of a tenant, he may by notice in writing served on the acquiring authority or (as the case may be) the landlord before the determination of his tenancy, require that any claim by him against the said authority, which under the provisions of the Agricultural Holdings Act, 1948(a), might be referred to arbitration under the said Act, or (where part only of an agricultural holding held for an unexpired term is hired) any question as to the rent to be paid to the landlord for the residue of the holding during the remainder of that term, shall be referred to arbitration as aforesaid, and in such case that claim or that question shall be determined by arbitration under the said Act and not under the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919.

29. The rent to be paid by the acquiring authority for land authorised to be compulsorily hired shall be the rent of the land if let for the purposes for which it is being used and in the state in which it is at the time of the compulsory hiring; and in determining such rent, regard shall be had to—

(1) the rent (if any) at which the land has been let and the annual value at which the land is assessed for purposes of income tax or rating;

(2) the terms and conditions of the hiring (including any reservation of sporting, fishing or other rights), any reservation, exception or easement affecting the land, and the interest of any existing tenant, and the land shall be valued as subject to any such reservation, exception, easement or interest as aforesaid;

(3) the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of such owner, or by reason of such other land being otherwise injuriously affected by the exercise of the powers conferred on the acquiring authority by the compulsory hiring order and by the Agriculture Act, 1947;

(4) all the other circumstances connected with the land;

Provided that:

(*a*) No allowance shall be made in respect of any use to which the land compulsorily hired might otherwise be put by the owner during the term of hiring, nor in respect of the hiring being compulsory;

(*b*) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of the acquiring authority or any Government department or any local or public authority;

(*c*) Where the value of the land or any interest in the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account;

(*d*) Where any person claims compensation in respect of an interest in the land compulsorily hired, or where any interest in the said land is increased by reason of any building erected, work done or improvement or alteration made, whether on the land compulsorily

(a) 11 & 12 Geo. 6. c. 63.

hired or on any other land with which the person claiming compensation is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, the value of that interest in the land or the amount of that increase shall not be taken into account if the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Provisions as to the lease and payment of compensation

30.—(1) As soon as the amount of the rent to be paid by the acquiring authority for the land proposed to be compulsorily hired, and the amount of any other compensation to be paid by the said authority to any person entitled thereto in respect of the land or any interest therein, or in respect of improvements executed on the land or otherwise, have been determined, so far as the same can be determined before the tenancy of the acquiring authority commences, the owner shall on the application of the said authority execute a lease of the land in accordance with the compulsory hiring order, subject only to the interest of any existing tenant which the said authority have given notice that they do not desire to extinguish, and to any reservation, exception, or easement subject to which the land is to be hired, and if the owner refuses or after notice in writing by the said authority fails within one month to execute the lease, or if the owner of the land cannot after diligent inquiry be ascertained by the said authority, the authority shall execute the lease in duplicate, and shall forward one copy to the owner, if he can be found, and a lease so executed shall take effect as if it had been duly executed by the owner.

(2) A lease executed by the owner, or by the acquiring authority under this regulation, shall be binding on and enure for the benefit of all persons interested in the land hired, and shall not cause any forfeiture of the land, or of any land held therewith, or create any right of entry on any such land, or any right of action for breach of a convenant not to assign, or like covenant.

(3) Where land authorised to be compulsorily hired by a compulsory hiring order is subject to a mortgage, any lease made in pursuance of the order by the mortgagor or mortgagee in possession shall have the like effect as if it were a lease authorised by section ninety-nine of the Law of Property Act, 1925(**a**).

31. The lease to the acquiring authority shall, when executed in accordance with these regulations, and subject as hereinafter provided, take effect as from the date specified by the said authority in the notice to treat given by the authority to the owner of the land, and in such case the authority shall on the date so specified be entitled to enter on the land, subject to the interest of any existing tenant which is not to be extinguished by the hiring ;

Provided that this regulation is subject to the exercise of the power of the acquiring authority under paragraph (4) of regulation 21 of these regulations to withdraw such notice to treat.

32.—(1) Costs reasonably incurred by the owner in connection with the preparation and execution of the lease and any counterpart and costs reasonably incurred by the owner or an existing tenant in furnishing any particulars of his estate and interest required by notice under these regulations, or otherwise required by the acquiring authority, shall be paid by the acquiring authority to the owner or tenant as the case may be.

(a) 15 & 16 Geo. 5. c. 20.

(2) If the acquiring authority and the party entitled to any such costs do not agree as to the amount thereof, such costs shall be taxed by one of the Taxing Masters of the High Court, upon an Order of the Court to be obtained upon petition in a summary way by either of the parties; and the acquiring authority shall pay what the said Master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an Order of the Court, and the expense of taxing such costs shall be borne by the acquiring authority unless upon such taxation one-sixth part of the amount of such costs be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said Master, and deducted by him accordingly in his certificate of such taxation.

33.—(1) Any compensation, other than rent, payable by the acquiring authority in respect of the compulsory hiring, including any compensation payable in respect of the interest of an existing tenant which is extinguished by such hiring, shall be payable by the acquiring authority in manner provided by these regulations on the execution of the lease, or if payable in respect of any matter not then determined, on the date when it is duly determined.

(2) Subject to any provision in the compulsory hiring order and these regulations, compensation so payable by the acquiring authority shall be paid on demand to the owner, or the existing tenant, as the case may be.

(3) Any sums agreed upon or awarded for the hiring of land belonging to an ecclesiastical benefice, or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land, shall, with respect to sums in the nature of income, be paid to the person or persons for the time being entitled to give a valid legal discharge for the rent of the land, and shall, with respect to sums in the nature of capital payments, be paid to the Church Commissioners to be applied in the same way as the proceeds of sale of such land under the Ecclesiastical Leasing Acts.

34. Subject to any provision in the compulsory hiring order relating to mines and minerals, there shall, unless the owner and the acquiring authority otherwise agree, be excepted and reserved out of the lease all the mines and minerals, metals, ores and other substrata, whether of coal, stone, clay, sand, or any other metalliferous or mineral substance or produce whatsoever, whether opened or unopened, worked or unworked, within or under the hired land (all which are hereinafter collectively referred to as "the said mines and minerals"); with full liberty and power for the persons entitled to the said mines and minerals at all times during the lease by underground workings only to win, work, and carry away the whole of the said mines and minerals, and also to carry away the produce of any other mines; nevertheless making reasonable compensation for any damage or subsidence which may be occasioned to any building on the land hired by reason of such working and carrying away of the said mines and minerals as aforesaid or the exercise of the powers to be reserved as aforesaid, such compensation to be settled in case of dispute by a single arbitrator in accordance with the Agricultural Holdings Act, 1948.

General

35.—(1) Where a smallholdings authority has been authorised in accordance with the provisions in that behalf of these regulations to hire any land compulsorily, then, at any time after serving notice under regulation 21 of these regulations and after serving on each owner, lessee or occupier of

the land not less than fourteen days' notice, the acquiring authority may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent:

Provided that the compensation payable in respect of the hiring of the land shall include such compensation by way of rent or otherwise, together with interest on such part of the compensation as is not paid by way of rent at the rate for the time being prescribed by the Treasury under section fifty-seven of the Town and Country Planning Act, 1947(**a**), from the time of entry on the land until such compensation is paid, as would have been payable if the acquiring authority had at the date of entry hired the land of which possession is taken and extinguished the interest therein of any existing tenant.

(2) In any case where entry is made in pursuance of this regulation, the acquiring authority shall not be entitled to exercise the power to withdraw a notice to treat conferred by paragraph (4) of regulation 21 of these regulations.

(3) Where a notice of entry under this regulation relates to land on which there is a dwelling-house and the length of notice is less than three calendar months, the occupier of the dwelling-house may, by notice served on the acquiring authority within ten days after the service on him of the notice of entry, appeal to the Minister against such notice, and if such an appeal is duly made, the acquiring authority shall not be entitled to enter on the land under this regulation except on such date and on such conditions as the Minister may determine.

36. If in any case the acquiring authority are authorised by a compulsory hiring order and these regulations to enter upon and hold any land authorised to be compulsorily hired, and the owner or occupier of any such land or any other person refuses to give up the possession thereof, or hinders the acquiring authority from entering upon the same, a court of summary jurisdiction, on complaint made by the acquiring authority, may require the owner or occupier of such land or other person to deliver possession of the same to the acquiring authority or permit them to enter thereon; and any order made under these provisions may be enforced as provided by section thirty-four of the Summary Jurisdiction Act, 1879(**b**).

37. Where under the Acquisition of Land (Assessment of Compensation) Act, 1919, any matter to which these regulations relate is determined by the Commissioners of Inland Revenue, any provision in these regulations applying to an official arbitrator shall, subject to the necessary modifications, apply to the Commissioners.

38.—(1) Any question of whatever nature arising between the acquiring authority and the landlord on the determination of a compulsory hiring shall be determined, in default of agreement between the parties, by arbitration under the Agricultural Holdings Act, 1948, and the provisions of that Act relating to the settlement of claims between landlord and tenant on termination of tenancy shall apply accordingly.

(2) The acquiring authority shall (subject to any provision to the contrary in the compulsory hiring order) be entitled at the termination of the tenancy on quitting the land to compensation under the Agricultural Holdings Act, 1948, for any improvement mentioned in the Fifth Schedule to that Act, (except for the erection, alteration or enlargement of buildings for the purpose of the trade or business of a market gardener), and for any improvement mentioned in Part I or Part II of the Second Schedule or (as the case may

(a) 10 & 11 Geo. 6. c. 51. (b) 42 & 43 Vict. c. 49.

be) Part I or Part II of the Third Schedule to the said Act which was necessary or proper to adapt the land for smallholdings, as if the land were a holding to which section sixty-seven of the said Act applied, and as if the said improvements were improvements mentioned in Part III of the Second Schedule or (as the case may be) Part I of the Fourth Schedule to the said Act:

Provided that the amount of the compensation payable to the acquiring authority for any such improvement as aforesaid shall be such an amount as is mentioned in section forty-eight of the said Act.

39. A compulsory hiring order shall incorporate these regulations, but shall not, unless therein otherwise expressly stated, incorporate any of the provisions of the Lands Clauses Acts or of sections 77 to 85 of the Railways Clauses Consolidation Act, 1845(**a**), except so far as any such provisions have been incorporated with or without adaptations in these regulations.

40. The provisions of these regulations (except regulations 2 to 8 other than as mentioned in regulations 9 and 10, and except paragraph (3) of regulation 35) shall with any necessary modifications apply to a compulsory hiring by the Minister as they apply to such a hiring by a smallholdings authority, and for the purpose of such application of the said provisions, the Minister shall be deemed to be the acquiring authority.

41. The compulsory hiring order and these regulations shall not extend and apply to any land belonging to His Majesty the King, his heirs and successors, in right of the Crown or in right of the Duchy of Lancaster, nor to any land belonging to the Duchy of Cornwall.

42.—(1) In these regulations, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them:—

" the Minister " means the Minister of Agriculture and Fisheries;

" compulsory hiring order " has the meaning assigned to it in regulation 1 of these regulations;

" acquiring authority " has the meaning assigned to it in regulation 2 of these regulations;

" owner " in relation to any land proposed or authorised to be compulsorily hired means the person who by himself or his agent is in actual possession or receipt of the rents and profits of the land (except a tenant thereof under a lease for a term no greater than the term for which the land is proposed or authorised to be compulsorily hired), and that without regard to the real amount of interest of such person;

" existing tenant " in relation to any land proposed or authorised to be compulsorily hired means a tenant thereof under a lease for a term no greater than the term for which the land is proposed or authorised to be compulsorily hired;

" lease " includes an agreement for a lease;

" land " includes stints and other alienable common rights of grazing;

" common " includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green;

" fuel or field garden allotment " means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

" held inalienably ", in relation to land belonging to the National Trust, means that the land is inalienable under section twenty-one of the National Trust Act, 1907(**b**), or section eight of the National Trust Act, 1939(**c**);

(a) 8 & 9 Vict. c. 20. (b) 7 Edw. 7. c. cxxxvi.
(c) 2 & 3 Geo. 6. c. lxxxvi.

"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground;

"National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907;

"local authority" and "statutory undertakers" have the same meanings as in the Acquisition of Land (Authorisation Procedure) Act, 1946(a);

"ancient monument" has the same meaning as in the Ancient Monuments Acts, 1913 and 1931.

(2) References in these regulations to any enactment shall be construed, except where the context otherwise requires, as references to that enactment as amended or extended by or under any other enactment.

(3) For the purposes of the Statutory Orders (Special Procedure) Act, 1945(b), these regulations shall be deemed to be an Act of Parliament passed after the passing of that Act.

(4) The Interpretation Act, 1889(c), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

43.—(1) These regulations may be cited as the Agriculture (Compulsory Hiring of Land) Regulations, 1949, and apply to England and Wales.

(2) These regulations shall come into operation on the second day of May 1949.

In witness whereof the Official Seal of the Minister of Agriculture and Fisheries is hereunto affixed this 14th day of April 1949.

(L.S.)

T. Williams,
Minister of Agriculture and Fisheries.

Approved.

Wm. Hannan,
J. W. Snow,
Two of the Lords Commissioners of His Majesty's Treasury.

FIRST SCHEDULE

FORM OF COMPULSORY HIRING ORDER

Agriculture Act, 1947

The.....
hereby make the following Order:—

1. In pursuance of the powers conferred by the Agriculture Act, 1947(1), and subject to the provisions of this Order, the said.....
.....are hereby authorised to hire compulsorily for the purposes of smallholdings the land which is described in the schedule hereto and is delineated and coloured..... on a map marked.....and sealed with the common seal of, and deposited at the offices of, the said.....
.....

2. This Order is made under and incorporates the provisions of the Agriculture (Compulsory Hiring of Land) Regulations, 1949(2).

3. The terms and conditions of the hiring shall include the following:—

(1) The tenancy of the said.....
shall commence either on the.....day of.....
19.. or on the.....day of.....19.., and shall be for a term of....years;

(a) 9 & 10 Geo. 6. c. 49. (b) 9 & 10 Geo. 6. c. 18.
(c) 52 & 53 Vict. c. 63. (1) 10 & 11 Geo. 6. c. 48.
(2) S.I. 1949 No. 795.

(2) The said.....
shall covenant to farm the land in accordance with the rules of good husbandry, and to pay the landlord at the determination of the tenancy, on quitting the land, compensation for any depreciation of the land by reason of any failure by the said.....
or any person deriving title under them to observe such covenant, or by reason of any user of the land by the said.....
or such person as aforesaid, and, unless otherwise agreed, to keep any buildings or premises demised in repair;

(3) The said.....
shall not, except with the consent of the landlord, have any right to fell or cut timber or trees or any right to take, sell or carry away any minerals, gravel, sand or clay, except so far as may be necessary or convenient for the purpose of erecting buildings on the land, or otherwise adapting or using the land for the purposes of smallholdings, and except upon payment of compensation for minerals, gravel, sand or clay so taken, sold or carried away;

(4) [*Here set out any other terms and conditions of the hiring, other than the rent.*]

4. The powers conferred by this Order shall cease after the expiration of three calendar months from the date of confirmation by the Minister of Agriculture and Fisheries.

5. This Order may be cited as the.....
Compulsory Hiring Order, 19..

Schedule to Compulsory Hiring Order

Number on Map (1)	Quantity, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers other than tenants for a month or less period than a month (5)

Note.—Cols. (3), (4) and (5) need not be completed in the case of any land in respect of which the Minister has dispensed with service on owners, lessees and occupiers under regulation 4 (2) of the Agriculture (Compulsory Hiring of Land) Regulations, 1949.

Given under the common seal of the.....
.....the.....day of.....in the year nineteen hundred and.....

SECOND SCHEDULE

FORM OF ADVERTISEMENT OF THE MAKING OF A COMPULSORY HIRING ORDER

Agriculture Act, 1947

Notice is hereby given that the.....
.....in exercise of the powers conferred upon them by the above-mentioned Act, on the.....day of..... 19.. made a compulsory hiring order entitled the..... Compulsory Hiring Order, 19.., which is about to be submitted to the Minister of Agriculture and Fisheries for confirmation, authorising them to hire compulsorily for the purposes of smallholdings the land described in the schedule hereto. A copy of the order and of the map referred to therein have been deposited at.....
and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to the Ministry of Agriculture and Fisheries, [*insert appropriate address*], before the .....day of.....19.., and should state the grounds of objection.

Schedule to Advertisement

Number on Map (1)	Quantity, description and situation of the land (2)

Dated the.....day of.....19...

(Signed).....

For and on behalf of the.....

THIRD SCHEDULE

FORM OF NOTICE TO OWNERS, LESSEES AND OCCUPIERS OF THE MAKING OF A COMPULSORY HIRING ORDER

Agriculture Act, 1947

TAKE NOTICE that the.....
in exercise of the powers conferred on them by the above-mentioned Act, on the.....day of.....19.. made a compulsory hiring order entitled the.....Compulsory Hiring Order, 19.., which is about to be submitted to the Minister of Agriculture and Fisheries for confirmation, authorising them to hire compulsorily for the purposes of smallholdings the land described in the schedule hereto. A copy of the order and of the map referred to therein have been deposited at.....
.....and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to the Ministry of Agriculture and Fisheries, [*insert appropriate address*], before the .....day of.....19.., and should state the grounds of objection.

If no objection is duly made by an owner, lessee or occupier, or if all objections so made are withdrawn, or if the said Minister is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed, the said

Minister may, if he thinks fit, confirm the order with or without modifications. In any other case where an objection has been duly made by an owner, lessee or occupier (other than a tenant for a month or less) the said Minister is required, before confirming the order, either to cause a public local inquiry to be held or to afford to the objector an opportunity of appearing before and being heard by a person appointed by the said Minister for that purpose, and may then, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, confirm the order with or without modifications.

Schedule to Notice

Number on Map (1)	Quantity, description and situation of the land (2)

Dated the.....day of.....19...

(Signed).....

For and on behalf of the.....

FOURTH SCHEDULE

FORM OF NOTICE OF CONFIRMATION (OR MAKING) OF COMPULSORY HIRING ORDER

Agriculture Act, 1947

Notice is hereby given that the Minister of Agriculture and Fisheries, in exercise of the powers conferred on him by the above-mentioned Act, on the.....day of.....19.. [confirmed] [with modifications] [made] a compulsory hiring order entitled the..... ..... Compulsory Hiring Order, 19.. [submitted to him by the.....].

The order provides for the hiring for the purposes of [smallholdings] [.....] of the land described in the schedule hereto. A copy of the order as [confirmed] [made] by the Minister and of the map referred to therein have been deposited at..... and may be seen there at all reasonable hours.

[The order becomes operative on the date on which this notice is first published, but if application is made to the High Court within a period of six weeks from that date by any person aggrieved by the order, the Court may, by interim order, suspend the operation of the order either generally or as respects any property of the applicant, and may if satisfied that the authorisation granted by the order is not empowered to be granted or that the interests of the applicant have been substantially prejudiced by any requirement of the Act or of any regulation made thereunder not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.]

[The order, being subject to special parliamentary procedure, will become operative as provided by the Statutory Orders (Special Procedure) Act, 1945. Except in a case where the order is confirmed by an Act of Parliament under section 6 of that Act, if application is made to the High Court within a period of six weeks from the date on which the order becomes operative as aforesaid by any person aggrieved by the order, the Court may, by interim order, suspend the operation of the order either generally or as respects any property of the

applicant, and may if satisfied that the authorisation granted by the order is not empowered to be granted or that the interests of the applicant have been substantially prejudiced by any requirement of the said Act of 1947 or of any regulation made thereunder not having been complied with, quash the order either generally or in so far as its affects any property of the applicant.]

Schedule to Notice

Number on Map (1)	Quantity, description and situation of the land (2)

Dated the.....day of.....19...

(Signed).....

For and on behalf of the.....

FIFTH SCHEDULE

FORM OF ADVERTISEMENT OF GRANTING OF A CERTIFICATE UNDER REGULATION 13 OR 15

Agriculture Act, 1947

Agriculture (Compulsory Hiring of Land) Regulations, 1949

Whereas a compulsory hiring order entitled the..... Compulsory Hiring Order, 19.., has been [made] [prepared in draft] by the [.....] [Minister of Agriculture and Fisheries] in respect of the land described in the schedule hereto [and submitted to the Minister of Agriculture and Fisheries for confirmation]:

[And whereas the said land includes land acquired by the..... .....for the purposes of their..... .....undertaking as respects which the said Minister is satisfied that it is used, or an interest is held therein, for the purposes of the carrying on of that undertaking]:

[And whereas the said land includes land which is, or is the site of, an ancient monument or other object of archaeological interest]:

Notice is hereby given that the [Minister of Agriculture and Fisheries] [Minister of Works] in exercise of the powers conferred on him by regulation [13] [15] of the Agriculture (Compulsory Hiring of Land) Regulations, 1949, has certified as respects the land indicated in that connection in the schedule hereto that..... ....

A map showing the land proposed to be compulsorily hired, and the land to which the certificate relates, may be inspected at..... at all reasonable hours.

The certificate becomes operative on the date on which this notice is first published, but if application is made to the High Court within a period of six weeks from that date by any person aggrieved by the certificate, the Court

may, by interim order, suspend the operation of the certificate either generally or as respects any property of the applicant, and may, if satisfied that the interests of the applicant have been substantially prejudiced by any requirement of the Act or of any regulation made thereunder not having been complied with, quash the certificate either generally or in so far as its affects any property of the applicant.

Schedule to Advertisement

Number on Map (1)	Quantity, description and situation of the land (2)	Land to which the certificate relates (3)

Dated the.....day of.....19...

(Signed).....

For and on behalf of the.....

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Powers to hire land compulsorily (parallel with powers of compulsory purchase) are conferred under Part IV of the Agriculture Act, 1947, upon smallholdings authorities, to be exercised on the authority of the Minister of Agriculture and Fisheries, and under Parts IV and V of the Act upon the said Minister. Under section 93 of the Act, the Minister is empowered to make regulations (with the approval of the Treasury) for giving effect to these provisions of the Act, and the present Regulations are made in the exercise of that power. They prescribe a procedure for the compulsory hiring of land which corresponds, as nearly as may be, with the procedure for the compulsory purchase of land under the Act. The Regulations apply or embody (with certain adaptations, exceptions and modifications) the relevant provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Acquisition of Land (Authorisation Procedure) Act, 1946, the Lands Clauses Acts, the Railways Clauses Consolidation Act, 1845, and certain provisions which had effect in relation to the compulsory hiring of land under enactments repealed or to be repealed by the Agriculture Act, 1947.

The Regulations come into operation on the 2nd day of May, 1949, in anticipation, so far only as concerns Part IV of the Agriculture Act, 1947, of the bringing into operation of that Part of the Act at a subsequent date. Until that date, the Small Holdings and Allotments (Compulsory Hiring) Regulations, 1936 (S.R. & O. 1936 No. 196)(a) will continue to apply. The Minister's powers under Part V of the Act are already in operation, and these Regulations apply to the exercise of such powers.

(a) Vol. II, p. 2499.