

Allotments and the law

Allotments have their own legislation dating back hundreds of years. The most common acts still used today are the Small Holdings and Allotments Act 1908, Allotments Act 1922, Allotments Act 1925 and the Allotments Act 1950. This legislation sets out the definition of what an allotment is, how it is to be used and what duties are placed on local authorities and landlords in respect of their sites. One point which should be made clear to all tenants is that the produce grown is for the 'consumption by the occupier or his family' and is not to become a micro-business supplying for profit.

Glossary

Self-managed – This is where the management of a site is now in the hands of the association or group of allotment holders who garden the site. The landlord owns the site, but the day to day running of the site will fall to the association; including the charging and collection of rents, managing the waiting lists, maintenance, improvements and overseeing the behaviour of tenants. The association will have a lease between themselves and the landlord; usually a 5 to 25 year lease but the association will issue the agreements between themselves and the plot holders.

Become a member of The National Allotment Society

Membership of The National Allotment Society comes with a raft of benefits, from discounts on horticultural products through to initial legal advice and horticultural expertise. To become a member visit www.nsalg.org.uk or call **01536 266576**.

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Non-cultivation – This clause is very common in tenancy agreements and stipulates that a plot must be worked and cultivated on a regular basis. Failure to use your plot or cultivate it appropriately will result in you being asked to leave. The council or association will generally have a written procedure for cultivation which tenants must adhere to.



DCLG – Department for Communities and Local Government. This is the government department that has overall responsibility for allotments, and as such is involved in decisions relating to national allotment policy.

NPCU – National Planning Case Work Unit. This is a unit which sits within the DCLG and deals with issues of land planning and development on a day to day basis. The consideration of Section 8 applications for disposal of allotment land is a very small proportion of the units work.

DEFRA – Department for Environment, Food and Rural Affairs. This government department is responsible for policy and regulations covering the natural environment, biodiversity, plants and animals; sustainable development and the green economy; food, farming and fisheries; animal health and welfare; environmental protection and pollution control as well as rural communities and issues.

Direct lets – this is when a plot holder has his or her tenancy agreement directly between themselves and the landlord.



The National
Allotment Society

National Society of Allotment and Leisure Gardeners Ltd



Obtaining an allotment and what you can expect



Allotment gardening is great fun and extremely rewarding, but it is also a lot of hard work; so if you don't think you can manage a full sized plot, don't be put off asking for a smaller one.

Traditionally an allotment plot will measure 10 poles or rods, the equivalent of 250 square metres. Today landlords still use this measurement when talking about a full-sized plot. Because of the demand for allotments, many are renting out half plots or in some cases, even smaller ones.

Getting a plot

Local authority landlords

Most allotments are run by the local authority (parish or unitary council), so if you are interested in obtaining a plot, your first port of call should be to them.

Ask to speak to the allotment officer or the person in charge of green spaces for your area. The likelihood is that you will need to put your name down on a waiting list if all the sites are managed by the council, or you will be directed to talk to the individual site you are interested in, if that site is self-managed by the local allotment association.

Under Section 23 of the 1908 Small Holdings and Allotments Act, a duty is placed on all local authorities (outside of inner London) to provide allotments. As such, if your local authority does not provide any allotments, then using this Act you can make an application for allotments to be made available. Together with five council-tax paying residents, you should write to the head of the local authority outlining your case. However please note, the law does not stipulate a timeframe in which the authority must act.

Private landlords

Allotments can also be run by private landlords; for example, local farmers, businesses and the church – so it is worth investigating the allotments near you and finding out who the landlord is. Again you may need to put your name on the waiting list.

For further help in your region please contact The National Allotment Society's Regional Representatives and Allotment Mentors. (www.nsalg.org.uk).

Types of allotment sites

All allotment sites in the UK can be classified as private, temporary or statutory sites. Temporary sites can be owned by private or local authority landlords while statutory sites are owned by local authorities and are protected by law.

Temporary sites

Unfortunately temporary sites are vulnerable and come with very little protection for those that garden them. If a landlord wishes to have their land back to use it for another purpose, then they can close the site with as little as 12 months notice. Having said this though, most sites are created with some kind of lease in mind, usually between five and 25 years. So if you are able to secure a plot on a temporary site, it is always worth checking how much time is left on the lease; as there is no point in planting crops which need time to mature, if the site isn't going to be there in three years time.

Statutory sites

Statutory sites are protected by law and if the local authority does wish to change the use of the land then they must apply in writing to the Secretary of State. Known as a Section 8 Order, this application is then passed to The National Allotment Society for consultation. If an association wishes to contest the local authority's plans, then evidence and objections are lodged with The National Allotment Society and fed back to the Secretary of State via the Department for Communities and Local Government. Once the decision has been made by the Secretary of State, the only appeal action which can be taken is a judicial review – a costly process that comes with time constraints.

Tenancy agreements and rents

Once you have been offered a plot, your landlord will expect you to sign a tenancy agreement. This is a legal document that sets out what is expected of you (as tenant) and your landlord. The document will explain what you can and can't do on your plot, including if you can keep animals, plants trees, light bonfires and have a shed. Many tenancy agreements last one year, and are renewed annually. On local authority sites 12 months notice will usually be given for any rent increases.

To ensure you are adhering to the rules of the tenancy agreement, your plot will be inspected from time to time. The agreement will also explain how much rent you will be charged and what notice period you will be served with, if for any reason the landlord wants his or her land back (usually 12 months under the Allotments Act 1950). One of the most common reasons people are asked to leave their plot is due to issues of non-cultivation. So please do read and understand any clauses in your agreement or the allotment site rules, before signing it.

Allotments rents are currently being revised by many local authorities in line with the other leisure services they provide; such as swimming pools, gyms and sports clubs. As such allotment rents can be charged at anywhere between £25 - £125 a year, but most landlords will offer a discount to those on a pension or on a low income. The Allotments Act 1950 states that allotment rents should be charged at a 'reasonable rate' but provides no actual figure as to what this should be. The National Allotment Society expects any rent charged to reflect the services and facilities offered by the landlord, as well as the size of plot being rented.



If you are in any doubt about the safety of your soil, then request that your landlord carries out a contamination test.

Site facilities

The facilities available to allotment holders will differ from site to site, but as The National Allotment Society we would expect each site to provide the following as a minimum, in exchange for a basic level of rent paid:

- clearly defined plots
- accessible water supply
- secure fencing or hedging

Additional facilities on a site could include:

- communal building/trading shed
- toilet (compost or traditional)
- serviced recycling/refuse points
- car parking
- haulage ways and access roads
- land drainage
- services of an allotment officer/manager

Soil Conditions

If your allotment site used to be agricultural land then the soil should be of a relatively good standard. However if your allotment has been created on reclaimed land or landfill, then it should contain a substantial depth of topsoil (enough soil to allow for double digging) to prevent any toxins accidentally leaking into your produce. If you are in any doubt about the safety of your soil, then request that your landlord carries out a contamination test.

Further guidance can be sought from:

- the DEFRA website www.defra.gov.uk
- or the Soil Association, who undertake soil analysis tests www.soilassociation.org