



Forestry Act 1967

1967 CHAPTER 10

PART III

ADMINISTRATION AND FINANCE

Acquisition and disposal of land

40 Compulsory purchase of land.

- (1) Subject to the provisions of this section, the power of the Minister [^{F1}and the Scottish Ministers] to acquire land by purchase under section 39 above includes a power of compulsory purchase.
- (2) The following descriptions of land shall not be subject to compulsory purchase under this Act:—
 - (a) land which is the site of an ancient monument or other object of archaeological interest;
 - (b) land which forms part of a park, garden or pleasure ground or which forms part of the home farm attached to, and usually occupied with, a mansion house or is otherwise required for the amenity or convenience of a dwelling-house;
 - (c) land which is the property of a local authority, that is to say,—
 - (i) in England or Wales, the council of a county, . . . ^{F2}, county district or rural parish, [^{F3}the Greater London Council] the Common Council of the City of London or the council of a London borough; and
 - (ii) in Scotland, a [^{F4}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];
 - (d) land which has been acquired for the purpose of their undertaking by statutory undertakers, that is to say persons authorised by an enactment, or by an order or scheme made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, . . . ^{F5}, . . . ^{F6}, [^{F7}water] or other public undertaking.

Status: Point in time view as at 01/07/1999. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Forestry Act 1967, Section 40. (See end of Document for details)

- (3) Land shall not be subject to compulsory purchase under this Act if a forestry dedication covenant or agreement is in force with respect to it and it is being used and managed in accordance with the provisions and conditions of a plan of operations approved by the Commissioners; and—
- (a) any question arising under this subsection whether there has been a breach of any of the provisions and conditions of a plan of operations shall be referred for determination as follows, that is to say—
 - (i) in a case relating to England and Wales, by an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors; and
 - (ii) in a case relating to Scotland, by an arbiter appointed by the Chairman of the Scottish Committee of the said Institution; and
 - (b) such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the Commissioners requiring it to be remedied.
- [^{F8}(4) The power of compulsory purchase under this Act shall not be exercisable in relation to land held inalienably by the National Trust or by the National Trust for Scotland.]
- (5) The Minister's [^{F9}and the Scottish Ministers'] power of compulsory purchase under this Act shall be exercisable by means of a compulsory purchase order, and—
- (a) the order shall be made in accordance with Part I of Schedule 5 to this Act;
 - (b) Part II of that Schedule shall apply with respect to the validity and date of operation of the order; and
 - (c) Part III of that Schedule shall apply with respect to the procedure for acquiring land by compulsory purchase.
- (6) If the said power of compulsory purchase is exercised in relation to land in respect of which an advance by way of grant has been made by the Commissioners—
- (a) under section 4 of this Act; or
 - (b) under section 3(3) of the ^{M1}Forestry Act 1919 at any time after the 26th March 1945,

not being in either case an advance made more than thirty years before the date of the service of the notice to treat in the exercise of that power, the amount of the compensation for the compulsory purchase shall be reduced by the amount of the advance with compound interest thereon (calculated from the date of the advance to the date on which the compensation is paid) at the rate of £3 per cent. per annum with yearly rests:

Provided that, in the case of compensation for the compulsory purchase of one of several interests in such land, the amount of the reduction in the case of each interest purchased shall be equal to a part of the advance and interest proportionate to the value of that interest as compared with the value of the land.

Textual Amendments

- F1** Words in s. 40(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(32)(a)**
- F2** Words repealed by S.I. 1974/595, **Sch. 1 Pt. I**
- F3** Words inserted by S.I. 1970/211, **art. 3(7)**
- F4** Words in s. 40(2)(c)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 69**; S.I. 1996/323, **art. 4(1)(c)**
- F5** Word repealed by Gas Act 1986 (c. 44, SIF 44), s. 67(4), **Sch. 9 Pt. 1**

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- F6** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F7** Word repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F8** S. 40(4) substituted by Forestry Act 1981 (c. 39, SIF 54), **s. 2**
- F9** Words in s. 40(5) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(32)(b)**

Modifications etc. (not altering text)

- C1** S. 40 extended with modifications by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7**, para. 2(1), (xviii), Sch. 8 para. 33
- C2** S. 40 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xvii), Sch. 17 paras. 33, **35(1)**
- C3** S. 40 extended (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 25 para. 1(1)(2)** (xiii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- C4** S. 40 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xiii)**; S.I. 1996/218, **art. 2**

Marginal Citations

- M1** 1919 c. 58

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Changes to legislation:

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