



Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART VI

ACQUISITION AND APPROPRIATION OF LAND AND RELATED PROVISIONS

Acquisition and appropriation of land

102 Compulsory acquisition of land in connection with development and for other planning purposes.

[^{F1}(1) A local authority to whom this subsection applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—

- (a) any land within their area which is suitable for and is required in order to secure the carrying out of one or more of the following activities, namely, development, redevelopment and improvement;
- (b) any land which is in their area and which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(1A) A local authority and the Secretary of State in considering for the purposes of subsection (1)(a) above whether land is suitable for development, re-development or improvement shall have regard—

- (a) to the provisions of the development plan, so far as material;
- (b) to whether planning permission for any development on the land is in force; and
- (c) to any other consideration which, on an application for planning permission for development on the land, would be material for the purpose of determining that application.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Acquisition and appropriation of land. (See end of Document for details)

- (1B) Where a local authority exercise their powers under subsection (1) above in relation to any land, they shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—
- (a) any land adjoining that land which is required for the purposes of executing works for facilitating its development or use; or
 - (b) where the land forms part of a common or open space, any land which is required for the purpose of being given in exchange for the land which is being acquired.
- (1C) It is immaterial by whom the local authority propose any activity or purpose mentioned in subsection (1) or (1B)(a) above is to be undertaken or achieved (and in particular the local authority need not propose to undertake that activity or achieve that purpose themselves.)]
- (2) Where under subsection (1) of this section the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.
- (3) Before giving an authorisation under subsection (2) of this section, the Secretary of State shall—
- (a) where the land is [^{F2}in a region, consult with the regional council;
 - (b) where the land is in an islands area, consult with the islands council;
 - (c) where the land is in a district, consult with the district council.]
- (4) The ^{M1}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.
- (5) The local authorities to whom this section applies are [^{F3}regional, islands and district councils]

Textual Amendments

F1 S. 102(1)(1A)-(1C) substituted for S. 102(1) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 92\(4\)](#)

F2 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 21\(a\)](#)

F3 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 21\(b\)](#)

Modifications etc. (not altering text)

C1 S. 102 amended (1.4.1983) by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 154A\(5\)](#) (as inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 7](#))

Marginal Citations

M1 1947 c. 42.

103 Compulsory acquisition of land by Secretary of State for the Environment.

- (1) The Secretary of State for the Environment may acquire compulsorily any land necessary for the public service.

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- (2) The power of acquiring land compulsorily under this section shall include power to acquire a servitude or other right over land by the grant of a new right:

Provided that this subsection shall not apply to a servitude or other right over any land which would for the purposes of the ^{M2}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 form part of a common or open space.

- (3) The said Act of 1947 shall apply to any compulsory acquisition by the Secretary of State for the Environment under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

Modifications etc. (not altering text)

C2 S. 103 amended by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 122](#)

Marginal Citations

M2 1947 c. 42.

104 Compulsory acquisition of listed building in need of repair.

- (1) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Secretary of State may authorise the . . . ^{F4} planning authority for the district in which the building is situated to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.
- (3) This section applies to any listed building, not being an excepted building as defined in section 56(2) of this Act.
- (4) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.
- (5) ^{M3}The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—
- (a) as if this section had been in force immediately before the commencement of that Act; and
 - (b) as if references therein to the Minister of Transport and to the enactments specified in section 1(1)(b) of that Act included respectively references to the Secretary of State and to the provisions of this section.
- (6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the

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notice required to be served under paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order; and, if the sheriff is satisfied that reasonable steps have been taken for properly preserving the building, he shall make an order accordingly.

- (7) Any person aggrieved by the decision of the sheriff on an application under subsection (6) of this section may appeal against the decision to the Court of Session, but on a question of law only.

Textual Amendments

F4 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

Marginal Citations

M3 1947 c. 42.

105 Repairs notice as preliminary to compulsory acquisition under s. 104.

- (1) Neither a . . . ^{F5} planning authority nor the Secretary of State shall start the compulsory purchase of a building under section 104 of this Act unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (in this section referred to as a “repairs notice”)—
- (a) specifying the works which they consider reasonably necessary for the proper preservation of the building; and
 - (b) explaining the effect of sections 104 to 107 of this Act.
- (2) Where a . . . ^{F5} planning authority or the Secretary of State have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 104 of this Act to acquire compulsorily the site of the building, if the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished.
- (3) A . . . ^{F5} planning authority or the Secretary of State may at any time withdraw a repairs notice served by them; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.
- (4) For the purposes of this section a compulsory acquisition is started when the . . . ^{F5} planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the ^{M4}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

Textual Amendments

F5 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

Marginal Citations

M4 1947 c. 42.

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106 Compensation on compulsory acquisition of listed building.

Subject to section 107 of this Act, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, immediately before the date of the compulsory purchase order, was listed, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building, . . . ^{F6}, other than works in respect of which such consent has been applied for before the date of the order and refused by the Secretary of State, or granted by him subject to conditions, the circumstances having been such that compensation thereupon became payable under section 160 of this Act.

Textual Amendments

F6 Words repealed with saving by [Town and Country Amenities Act 1974 \(c. 32\), s. 6](#)

107 Minimum compensation in case of listed building deliberately left derelict.

- (1) A. . . ^{F7} planning authority proposing to acquire a building compulsorily under section 104 of this Act, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may [^{F8}make a direction for minimum compensation.]
- (2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 104 of this Act, he may, if he is satisfied as mentioned in subsection (1) of this section, include a direction for minimum compensation in the compulsory purchase order.
- (3) The notice required to be served in accordance with paragraph 3(b) of Schedule 1 to the ^{M5}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notices stating effect of compulsory purchase order or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made. . . ^{F9} a direction for minimum compensation or, as the case may be, that the Secretary of State has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case explain the meaning of the expression “direction for minimum compensation”.
- (4) a direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the ^{M6}Land Compensation (Scotland) Act 1963 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to, and maintaining it in, a proper state of repair; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (5) Where a. . . ^{F7} planning authority [^{F10}make] a direction for minimum compensation, or the Secretary of State includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within twenty-eight days after the service of the notice required by paragraph 3(b) of Schedule 1 to

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the said Act of 1947, apply to the sheriff for an order that the. . . ^{F7} planning authority's [^{F11}direction for minimum compensation be reversed] or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Secretary of State; and if the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, he shall make the order applied for.

- (6) a person aggrieved by the decision of the sheriff on an application under subsection (5) of this section may appeal against the decision to the Court of Session, but on a question of law only.
- (7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 104(6) and (7) of this Act.

Textual Amendments

- F7** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F8** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 22\(a\)](#)
- F9** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F10** Word substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 22\(c\)](#)
- F11** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 22\(c\)](#)

Marginal Citations

- M5** 1947 c. 42.
- M6** 1963 c. 51.

108 Extinguishment of rights over land compulsorily acquired.

- (1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Part of this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land and all other rights or servitudes in or relating to that land shall be extinguished, and any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) of this section shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking [^{F12}or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system.]
- (3) In respect of any right or apparatus not falling within subsection (2) of this section, subsection (1) of this section shall have effect subject—
- (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) of this section shall not apply to any right or apparatus specified in the direction; and
 - (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or servitude or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

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- (5) Any compensation payable under this section shall be determined in accordance with the ^{M7}Land Compensation (Scotland) Act 1963.

Textual Amendments

F12 Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(3), **Sch. 5 para. 45**

Modifications etc. (not altering text)

- C3** S. 108 extended by Offshore Petroleum Development (Scotland) Act 1975 (c.8), **s. 2(1)**
- C4** S. 108(2) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c.38), **Sch. 3 para. 10(2)(d)**
- C5** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 108(2), 117–119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**
- C6** S. 108(2) amended by the Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

Marginal Citations

M7 1963 c. 51.

109 Acquisition of land by agreement.

- (1) A . . . ^{F13} planning authority, . . . ^{F14} may acquire by agreement—
- any land which they require for any purpose for which a . . . ^{F13} planning authority may be authorised to acquire land under section 102 of this Act;
 - any building appearing to them to be of special architectural or historic interest; and
 - any land comprising or contiguous or adjacent to such a building which appears to [^{F15}them] to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) The Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the ^{M8}Lands Clauses Consolidation (Scotland) Act 1845) and sections 6 and 70 of the ^{M9}Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the ^{M10}Mines (Working Facilities and Support) Act 1923, shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking or to the company shall be construed as references to the authority authorised to acquire the land under this section.

Textual Amendments

- F13** Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
- F14** Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
- F15** Word substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 23**

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Modifications etc. (not altering text)

- C7** S. 109 amended (1.4.1983) by [Local Government \(Scotland\) Act 1973 \(c.65\), s. 154A\(5\)](#) (as inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), s. 7](#))
- C8** S. 109 restricted (30.10.1995 for specified purposes and otherwise 1.4.1996) by [1973 c. 65, s. 171C](#) (as inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by [1994 c. 39, s. 171](#); [S.I. 1995/2866, arts. 2\(f\), 3\(a\)](#))

Marginal Citations

- M8** 1845 c. 19.
- M9** 1845 c. 33.
- M10** 1923 c. 20.

110 Acquisition of land for purposes of exchange.

Without prejudice to the generality of the powers conferred by the preceding provisions of this Part of this Act, any power of a local authority to acquire land thereunder, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange for land appropriated under section 111 of this Act.

111 ^{F16}

Textual Amendments

- F16** Ss. 91(1), 111, 112 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 4](#)

Status:

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