

*Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## FIRST SCHEDULE

Section 1.

### PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES

#### Modifications etc. (not altering text)

- C1 Sch. 1 applied by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s. 1, [Sch. 2 para. 1](#)
- C2 Sch. 1 extended by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s 1, [Sch. 2 para. 1\(1\)\(b\)](#)

## PART I

### PURCHASES BY LOCAL AUTHORITIES

#### Modifications etc. (not altering text)

- C3 Part I applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), ss. 4, 39, [Sch. 2 Pt. I](#) (as amended (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 38](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#))
- C4 Sch. 1 Pt. I applied (31.10.1994) by [1958 c. 69 s. 16\(5\)](#) (as substituted by [1994 c. 21, s. 52, Sch. 8 para. 14\(7\)](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#))

- 1 A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the “acquiring authority”) in a case falling within subsection (1) of section one of this Act shall be made by the acquiring authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the “confirming authority”) in accordance with the following provisions of this Schedule.
- 2 The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.
- 3 Before submitting the order to the confirming authority, the acquiring authority shall—
  - (a) 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 prescribed form 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, 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;
  - (b) serve on
    - [<sup>F1</sup>(i)] every owner, lessee and occupier (except tenants for a month or any period less than month) of any land comprised in the order
    - [<sup>F2</sup>(ii)] the holder of any personal real burden affecting that land if registration of the conveyance in implement of the order would vary or extinguish the title condition in question;
    - (iii) the owner of any land which is a benefited property (as defined by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9))

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in relation to any land comprised in the order if such registration would vary or extinguish the title condition in question; and

- (iv) the owners' association of the development in question if a development management scheme applies as respects any land comprised in the order and registration of the conveyance in implement of the order would disapply that scheme,]

a notice in the prescribed form 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.

#### Textual Amendments

- F1** Words in Sch. 1 para. 3(b)(i) in Sch. 1 para. 3(b) renumbered as Sch. 1 para. 3(b)(i) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with [ss. 119, 121](#)); S.S.I. 2003/454, [art. 2\(1\)](#)
- F2** Sch. 1 para. 3(b)(ii)-(iv) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with [ss. 119, 121](#)); S.S.I. 2003/454, [art. 2\(1\)](#)

#### Modifications etc. (not altering text)

- C5** Sch. 1 para. 3(b) modified by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), **s. 107(3)**

- [<sup>F3</sup>3A Service of notice under head (ii) or (iii) of paragraph 3(b) above shall be—
- (a) by sending (that expression being construed in accordance with section 124 of the said Act of 2003 and as if what was being done was being done under that Act);
- (b) by advertisement;
- (c) by affixing a conspicuous notice **No commentary item could be found for this reference c21065601**. . . to—
- (i) in a case where there exists one, and only one, lamp post which is situated within one hundred metres of that property, that lamp post; or
- (ii) in a case where there exists more than one lamp post so situated, each of at least two such lamp posts; or
- (d) by such other means as the acquiring authority think fit,
- and service of notice under head (iv) of that paragraph shall be by sending (as so construed) or by such other means as the acquiring authority think fit.

#### Textual Amendments

- F3** Sch. 1 para. 3A, 3B inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with [ss. 119, 121](#)); S.S.I. 2003/454, [art. 2\(1\)](#)Text here

- 3B Subsections (6) and (7) of section 21 of the said Act of 2003 apply in relation to affixing, and to a notice affixed, under paragraph 3A(c) above [(including that paragraph as it is applied by paragraph 6A below in relation to service of a notice under paragraph 6 below)] as they apply in relation to affixing, and to a notice affixed, under subsection (2)(b) of that section (the reference in paragraph (a)(ii) of the said subsection (6) to the date specified in the notice as the renewal date being

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construed as a reference to the last day of the period specified in the notice given under paragraph 3(b) above) [or, as the case may be, paragraph 6 below].]

#### Textual Amendments

**F3** Sch. 1 para. 3A, 3B inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. [109\(2\)](#), [129\(4\)](#) (with ss. [119](#), [121](#)); S.S.I. 2003/454, art. 2(1)Text here

- 4 (1) If no objection is duly made by any such person as aforesaid [<sup>F4</sup>or if no objection is duly made by the National Trust for Scotland in a case where the land comprised in the order was held inalienably by the Trust on the date of the passing of the Crofting Reform (Scotland) Act 1976 and was acquired from the Trust by a crofter as defined in section 3 of the Crofters (Scotland) Act 1955 in pursuance of an order under section 2(1) or 4(1) of the said Act of 1976] or if all objections so made are withdrawn, the confirming authority, on being satisfied that the proper notices have been published and served, may, if the authority think fit, confirm the order with or without modifications.
- (2) [<sup>F5</sup>Subject to sub-paragraph (2A),]If any objection duly made as aforesaid is not withdrawn, the confirming authority 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 confirming authority 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.
- [<sup>F6</sup>(2A) If the person by whom an objection is made states that he objects as mentioned in sub-paragraph (4)(b) or (c) below, sub-paragraph (2) above shall not apply as respects that objection provided that the acquiring authority give the person a written undertaking that any conveyance in implement of the acquisition will provide that the title condition in question is not varied or extinguished in respect of the enforcement rights of that person or as the case may be that the development management scheme is not disapplied; and any such undertaking shall—
- (a) identify the benefited property (if any) and burdened property or as the case may be the development to which the development management scheme applies;
  - (b) identify the order; and
  - (c) set out the manner in which the conveyance will fulfil the undertaking.
- (2B) The effect, under subsection (1) of section 106 of the Title Conditions (Scotland) Act 2003 (asp 9) (extinction of real burdens and servitudes etc. on compulsory acquisition of land), of registering the conveyance after an undertaking given under sub-paragraph (2A) above has been registered against the burdened property, or as the case may be against the units of the development, shall be subject to the terms of the undertaking irrespective of the terms of the conveyance.
- (2C) In sub-paragraphs (2A) and (2B) above, “conveyance” has the same meaning as in subsection (5) of that section. ]
- (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to

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any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.

- (4) Notwithstanding anything in the two last preceding sub-paragraphs, the confirming authority may require any person who has made an objection to state in writing
- [<sup>F7</sup>(a) the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.]
  - [<sup>F8</sup>(b) whether he objects as a person with title to enforce a title condition and, if he does so object, then in that statement to—
    - (i) identify the benefited property (if any) and burdened property;
    - (ii) identify the title condition (either by setting it out in full or by identifying the constitutive deed, saying where it is registered and giving the date of registration); and
    - (iii) if there is a benefited property, describe his connection with it;
  - (c) whether he objects as owners' association of the development to which a development management scheme applies and, if he does so object, then in that statement to identify—
    - (i) the development; and
    - (ii) the development management scheme (by identifying the deed of application, saying where it is registered and giving the date of registration).]

#### Textual Amendments

- F4** Words inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21, SIF 2:4\)](#), s. 22(1), **Sch. 2 para. 3**
- F5** Words in Sch. First para. 4(2) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(a), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)
- F6** Sch. 1 para. 4(2A)-(2C) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(b), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)
- F7** Words in Sch. First para. 4(4)(a) in Sch. 1 para. 4(4) renumbered as Sch. 1 para. 4(4)(a) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(c), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)
- F8** Sch. First para. 4(4)(b), (c) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(c), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)

- 5 The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.
- 6 As soon as may be after the 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 prescribed form 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 <sup>F9</sup>... on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

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#### Textual Amendments

**F9** Words in Sch. First para. 6 omitted (1.11.2003) by virtue of [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 109\(4A\)](#), [129\(4\)](#) (with [ss. 119](#), [121](#)) (as inserted by [S.S.I. 2003/503](#), art. 1, Sch. 1 para. 3(c)); [S.S.I. 2003/454](#), art. 2(1)

#### Modifications etc. (not altering text)

**C6** Sch. 1 para. 6 applied (with modifications) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), [ss. 93](#), [335](#), [Sch. 7 Pt. II para. 11](#)

**C7** Sch. 1 para. 6 modified (27.5.1997) by [1997 c. 8](#), [ss. 200\(3\)](#), [278\(2\)](#)

[<sup>F10</sup>6A Paragraph 3A above applies in relation to service of a notice under paragraph 6 above on any persons on whom notices with respect to the land were required to be served under heads (ii) and (iii) of paragraph 3(b) above as it applies in relation to service of a notice under those heads of the said paragraph 3(b).]

#### Textual Amendments

**F10** Sch. 1 para. 6A-6C inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 109\(4B\)](#), [129\(4\)](#) (with [ss. 119](#), [121](#)) (as inserted by [S.S.I. 2003/503](#), art. 1, Sch. 1 para. 3(c)); [S.S.I. 2003/454](#), art. 2(1)

6B Where a notice—

- (a) is required by paragraph 6 above to be served on any person mentioned in heads (ii) and (iii) of paragraph 3(b) above and service is by sending as mentioned in paragraph 3A(a) above, the acquiring authority shall send with the notice a copy of the order as confirmed;
- (b) is required by the said paragraph 6 to be served on any person mentioned in heads (i) and (iv) of the said paragraph 3(b), the acquiring authority shall serve with the notice a copy of that order.

6C In paragraph 6B(a) above, the requirement to send a copy of the order shall be construed in accordance with section 124 of the [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#) and as if what was being done was being done under that Act.

[<sup>F11</sup>6D In this Part, “ title condition ”, “ development management scheme ” and “ personal real burden ” have the same meanings as in the [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#). ]

#### Textual Amendments

**F11** Sch. 1 para. 6D inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 109\(5\)](#), [129\(4\)](#) (with [ss. 119](#), [121](#)) (as amended by [S.S.I. 2003/503](#), art. 1, Sch. 1 para. 3(d)); [S.S.I. 2003/454](#), art. 2(1)

## PART II

### PURCHASES BY MINISTERS

7 (1) A compulsory purchase order authorising a compulsory purchase by a Minister in a case falling within subsection (1) of section one of this Act shall be prepared in

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draft and made by the Minister in accordance with the following provisions of this Schedule.

- (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.
- (4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and 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 sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

### PART III

#### SPECIAL PROVISIONS AS TO CERTAIN DESCRIPTIONS OF LAND

**Modifications etc. (not altering text)**

- C8** Part III applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), **ss. 4, 39** Sch. 2 Pt. I (as amended (31.10.1994) by [1994 c. 21, s. 52](#), **Sch. 8 para. 38** (with [s. 40\(7\)](#); [S.I. 1994/2553](#), **art. 2**)
- C9** Sch. 1 Pt. III applied (31.10.1994) by [1958 c. 69, s. 16\(5\)](#) (as substituted by [1994 c. 21, s. 52](#), **Sch. 8 para. 14(7)** (with [s. 40\(7\)](#); [S.I. 1994/2553](#), **art. 2**)
- Sch. 1 Pt. III applied (with modifications) (26.3.2001) by [2000 c. 26, s. 95](#), **Sch. 5 Pt. III paras. 16-21**; [S.I. 2000/2957](#), **art. 2(3)**, **Sch. 3**

- 8 The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.

**Modifications etc. (not altering text)**

- C10** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 5**
- C11** Pt. III(paras. 8–14) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 9\(3\)](#), [Sch. 3 Pt. III paras. 16–21, 23](#)

- 9 A compulsory purchase order shall, in so far as it authorises the compulsory purchase 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 for Scotland which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection has been duly made by the local authority or the statutory undertakers or the National Trust for Scotland, as the case may be, and has not been withdrawn.



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**Modifications etc. (not altering text)**

- C12** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
- C13** Pt. III(paras. 8–14) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), [Sch. 3 Pt. III paras. 16–21, 23](#)
- C14** Pt. III para. 9 which was repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 237(1), [Sch 29](#) is revived by [Local Government \(Scotland\) Act 1975 \(c. 30, SIF 81:2\)](#), s. 38(1), [Sch. 6 Pt. II para. 58](#)
- C15** Pt. III para. 9 restricted [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1, 2\)](#), s. [120\(2\)](#)

10 Where a compulsory purchase 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 [<sup>F12</sup>Scottish Ministers] before the expiration of the time within which objections to the order can be made, the [<sup>F12</sup>Scottish Ministers are] 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,

[<sup>F13</sup>and, if the representation is not withdrawn,] the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the [<sup>F12</sup>Scottish Ministers are] satisfied as aforesaid except land as to which [<sup>F12</sup>they are] satisfied that its nature and situation are such—

- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
- (ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,

and certifies accordingly.

[<sup>F14</sup>(10A) In paragraphs 9 and 10 of this Schedule “statutory undertakers” include—

- (a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and
- (b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;

but in relation to a health service body, as so defined, any reference in those paragraphs to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for use by the Secretary of State for use or occupation by that body.]

**Textual Amendments**

- F12** Words in Sch. 1 Pt. III para. 10 substituted (1.7.1999 as specified in [S.I. 1998/3178](#), [art. 3](#)) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 20\(4\)](#)
- F13** Words in Sch. 1 Pt. III para. 10 inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79(a), [Sch. 17 Pt. I para. 2](#) (with s. 84(5)); [S.I. 1991/2092](#), [art. 3](#)
- F14** Pt. III para. 10A inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 60(2), [Sch. 8 Pt. II para. 5](#)

**Modifications etc. (not altering text)**

- C16** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)

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- C17** Pt. III(paras. 8–14) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), [Sch. 3 Pt. III paras. 16–21, 23](#)
- C18** Pt. III para. 10 excluded by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:1, 2\)](#), s. [218\(1\)](#)
- C19** Functions of Minister of Transport under para. 10 in relation to lighthouse undertakings now exercisable by Board of Trade or Secretary of State; [S.I. 1953/1204 \(1953 I, p. 1225\)](#), [1959/1768 \(1959 I, p. 1793\)](#), [1965/145](#) and [1970/1681](#)
- C20** Sch. 1 para. 10 excluded (27.5.1997) by [1997 c. 8, ss. 223\(2\), 278\(2\)](#), [Sch. 9 para. 15\(4\)](#), [Sch. 10 para. 13\(4\)](#)

11 (1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree) and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
- (b) [<sup>F15</sup>that the land does not exceed 250 square yards in extent or is] required for the widening of an existing [<sup>F16</sup>public road (within the meaning of the [Roads \(Scotland\) Act 1984](#))] and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

and certifies accordingly.

(2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall [<sup>F17</sup>direct the acquiring authority to] give public notice of his intention so to do, and—

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

he may, after considering representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.

<sup>F18</sup>[(3) Notice under sub-paragraph (2) of this paragraph shall be given in such form and manner as the Secretary of State may direct.]

#### Textual Amendments

- F15** Words substituted by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), s. [32\(1\)](#)
- F16** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 35](#)
- F17** Words in Sch. 1 Pt. III para. 11(2) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. [79\(a\)](#), [Sch. 17 Pt. I para. 3\(a\)](#) (with s. [84\(5\)](#)); [S.I. 1991/2092](#), [art.3](#)
- F18** Sch. 1 Pt. III para. 11(3) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. [79\(a\)](#), [Sch. 17 Pt. I para. 3\(b\)](#) (with s. [84\(5\)](#)); [S.I. 1991/2092](#), [art.3](#)



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**Modifications etc. (not altering text)**

- C21** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
- C22** Pt. III(paras. 8–14) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), [Sch. 3 Pt. III paras. 16–21, 23](#)
- C23** Pt. III para. 11 applied by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), [s. 111\(2\)](#)

12 ..... **F19**

**Textual Amendments**

- F19** Pt. III para. 12 repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), [Sch. 5](#) (by the note at the end of Sch. 5 it is provided that nothing in that Schedule shall affect the operation of any enactment in relation to which para. 1(1) of Sch. 3 to the repealing Act applies)

13 As soon as may be after the giving of a certificate under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared 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 prescribed form stating that the certificate has been given.

**Modifications etc. (not altering text)**

- C24** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
- C25** Pt. III(paras. 8–14) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), [Sch. 3 Pt. III paras. 16–21, 23](#)

14 In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule, a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said paragraphs.

**Modifications etc. (not altering text)**

- C26** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
- C27** Pt. III(paras. 8–14) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), [Sch. 3 Pt. III paras. 16–21, 23](#)

**PART IV**

VALIDITY AND DATE OF OPERATION OF COMPULSORY PURCHASE ORDERS

**Modifications etc. (not altering text)**

- C28** Pt. IV applied with modifications by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 7](#)
- C29** Part IV applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), ss. 4, 39, [Sch. 2 Pt. I](#) (as amended (31.10.1994) by [1994 c. 21, s. 52](#), [Sch. 8 para. 38](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#)) and [Gas Act 1965 \(c. 36\)](#), [s. 4\(8\)](#); Sch. 2 paras. 11, 17
- C30** Sch. 1 Pt. IV applied (31.10.1994) by [1958 c. 69, s. 16\(5\)](#) (as substituted by [1994 c. 21, s. 52](#), [Sch. 8 para. 14\(7\)](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#))

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- 15 (1) If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder 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 this Schedule in that behalf, make an application to the Court of Session, and on any such application the Court—
- (a) may by interim order suspend the operation of the compulsory purchase 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 purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

(2) ..... F20

**Textual Amendments**

**F20** Sch. 1 para. 15(2) repealed by [Tribunals and Inquiries Act 1958 \(c. 66\)](#), [Sch. 2 Pt. I](#)

**Modifications etc. (not altering text)**

**C31** Pt. IV para. 15 amended by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), [s. 60](#)

**C32** Pt. IV para. 15 applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 9\(3\)](#), [Sch. 3 Pt. III paras. 16, 23](#)

**C33** Pt. IV para. 15 applied (with modifications) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), [ss. 93, 335](#), [Sch. 7 Pt. II para. 11](#)

**C34** Para. 15 applied with modification by [Agriculture Act 1967 \(c. 22\)](#), [s. 45](#), [Sch. 5 Pt. I para. 7](#)

- 16 Subject to the provisions of the last foregoing paragraph a compulsory purchase order or a certificate under Part III of this Schedule 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 paragraph.

**Modifications etc. (not altering text)**

**C35** Pt. IV para. 16 applied (with modifications) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), [ss. 93, 335](#), [Sch. 7 Pt. II para. 11](#)

**C36** Para. 16 applied with modifications by [Agriculture Act 1967 \(c. 22\)](#), [s. 45](#), [Sch. 5 Pt. I para. 7](#)

- 17 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the

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Statutory Orders (Special Procedure) Act <sup>M1</sup>1945, or under section six of that Act, but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 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 this Schedule 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 paragraph 16 the words from “and shall become operative” to the end were omitted.

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**Marginal Citations**

**M1** 1945 c. 18 (9 & 10 GeO. 6).

**PART V**

GENERAL

- 18 Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations made by the Secretary of State.
- 19 (1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter.
- (2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.
- (3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, <sup>M2</sup>1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body and in any other case be the last known address of the person to be served: Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.
- [<sup>F21</sup>(4) Where the maker of the order in connection with which the document is to be served is satisfied, after reasonable inquiry, that it is not practicable to ascertain (either or both)—
- (a) the name;
  - (b) the address,
- of a person to be served, the document shall be taken to be duly served if, being addressed to that person either by name or by the description of “the owner”, “the lessee” or “the occupier” of the land (describing it) to which the order relates, as the case may be, and being plainly identifiable as a document of importance, it is delivered to some person on the land, or, if there is no such person thereon to whom it may be delivered, it (or a copy of it) is affixed to some conspicuous part of the land.]

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#### Textual Amendments

- F21** Pt. IV para. 19(4) substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), **Sch. 2 para. 6**

#### Modifications etc. (not altering text)

- C37** Pt. IV para. 19 applied by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 93, 335, **Sch. 7 Pt. III para. 13(5)**  
 Sch. 1 para. 19 applied (with modifications) (27.7.1993) by 1993 c. xii, s. 1, **Sch. Pt. II para. 15**  
 Sch. 1 para. 19 applied (with modifications) (24.3.1994) by 1994 c. i, s. 1, **Sch. 1 Pt. III, s. 28** (with Sch. ss. 29, 30, 34(2)(15))  
 Sch. 1 para. 19 applied (with modifications) (24.3.1994) by 1994 c. ii, s. 1, **Sch. Pt. III, s. 24** (with [Sch. s. 25](#))  
 Sch. 1 para. 19 applied (with modifications) (24.3.1994) by 1994 c. iii, s. 1, **Sch. Pt. III, s. 26** (with Sch. s. 27)
- C38** Para. 19 applied with modifications by [Agriculture Act 1967 \(c. 22\)](#), s. 45, **Sch. 5 Pt. I para. 7**
- C39** Sch. 1 para. 19 amended (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79(a), **Sch. 17 para. 4** (with s. 84(5)); S.I. 1991/2092, **art. 3**

#### Marginal Citations

- M2** 1889 c. 63.

## SECOND SCHEDULE

### INCORPORATION OF ENACTMENTS

#### Modifications etc. (not altering text)

- C40** [Sch. 2](#) modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), **Sch. 15 Pt. I para. 6**

## PART I

### THE LANDS CLAUSES ACTS AND THE RAILWAYS CLAUSES CONSOLIDATION (SCOTLAND) ACT 1845

#### Modifications etc. (not altering text)

- C41** Pt. I applied with modifications by [Land Commission Act 1967 \(c. 1\)](#), **s. 10(1)(4)**

- 1 In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply, the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, <sup>M3</sup>1845, are hereby incorporated with the enactment under which the purchase is authorised; and in construing those Acts as so incorporated—
- (a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act;

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- (b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.

**Modifications etc. (not altering text)**

**C42** Sch. 2 para. 1 modified (27.5.1997) by 1997 c. 8, ss. 200(4), 278(2)

**Marginal Citations**

**M3** 1845 c. 33.

2 The following sections of the Lands Clauses Consolidation (Scotland) Act, <sup>M4</sup>1845, shall be excepted from incorporation as aforesaid, that is to say—

- (a) sections one hundred and twenty to one hundred and twenty-five (which relate to the sale of superfluous land);
- (b) in the case of a purchase under the Housing (Scotland) Acts, 1925 to 1935, and in any other case in which the compulsory purchase order so provides, section one hundred and twenty-seven (which relates to promoters making good deficiencies in land tax and rates); and
- (c) sections one hundred and forty-two and one hundred and forty-three (which relate to access to the special Act).

**Marginal Citations**

**M4** 1845 c. 19.

3 (1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat and after serving on the owner, lessee and occupier of the land not less than fourteen days' notice, the authority or Minister may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.

(2) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.

**Modifications etc. (not altering text)**

**C43** Sch. 2 para. 3 modified by Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2) s. 51(1)

**C44** Para. 3 excluded by Agriculture Act 1967 (c. 22), s. 49(7)(ii); modified by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 14(3), Sch. 4 paras. 4, 5

**C45** Sch. 2 para. 3 modified (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 57(4), 89(2), Sch. 8, para. 6(b) (with s. 45(3), Sch. 12 para. 3)

**C46** Sch. 2 para. 3 extended (27.5.1997) by 1997 c. 8, ss. 105(7), 278(2)

**C47** Sch. 2 para. 3 excluded (27.5.1997) by 1997 c. 8, ss. 195, 278(2), Sch. 15 Pt. II para. 17

**C48** Sch. 2 para. 3 applied (27.5.1997) by 1997 c. 8, ss. 195, 278(2), Sch. 15 Pt. II para. 30

**C49** Sch. 2 para. 3(1) modified by Gas Act 1986 (c. 44, SIF 44:2), s. 9(3), Sch. 3 Pt. II para. 10, Pt. III para. 21

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**C50** Sch. 2 para. 3(1) excluded (25.9.1991) by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), [s. 48A\(9\)](#)(inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 73\(2\)](#)(with s. 84(5)); [S.I. 1991/2092](#), [art.3](#)

**F22**<sup>4</sup> The following provisions shall have effect in substitution for the provisions of section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

#### Textual Amendments

**F22** [Sch. 2 para. 4](#): by [Gas Act 1986 \(c. 44\)](#) , s. 9(3), [Sch. 3 para. 22](#) it is provided that for [para. 4](#) there shall be substituted the provisions substituted by paragraph 8 of that Schedule for section 8(1) of the [Compulsory Purchase Act 1965 \(c. 56\)](#), and that any reference in those provisions to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

#### Modifications etc. (not altering text)

**C51** [Sch. 2 para. 4](#) amended by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), [s. 54\(1\)](#)  
**C52** [Sch. 2 para. 4](#) modified by [Land Compensation \(Scotland\) Act 1973 \(c.56, SIF 28:2\)](#), [s. 63\(3\)](#)  
**C53** [Sch. 1 para. 4](#) excluded (27.5.1997) by [1997 c. 8, ss. 195, 278\(2\)](#), [Sch. 15 Pt. II para. 19](#)

**5** Notices required to be served by the acquiring authority may, notwithstanding anything in section eighteen of the Lands Clauses Consolidation (Scotland) Act, <sup>M5</sup>1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule.

#### Marginal Citations

**M5** [1845 c. 19](#).

**6** (1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy of the Railways Clauses Consolidation (Scotland) Act, <sup>M6</sup>1845 (which relates to the exception of minerals from purchases) and sections seventy-one to seventy-eight of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy only.

(2) Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order,



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and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order.

**Marginal Citations**

M6 1845 c. 20.

**PART II**

THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919

7 The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done, or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration directly or indirectly concerned, if the arbiter is satisfied that 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.

**PART III**

PURCHASES UNDER SECTION 2

8 ..... F23

**Textual Amendments**

F23 Sch. 2 Pt. III, Sch. 3 repealed by Statute Law Revision Act 1953 (c. 5)

F24F24**THIRD SCHEDULE**

**Textual Amendments**

F24 Sch. 2 Pt. III, Sch. 3 repealed by Statute Law Revision Act 1953 (c. 5)

F24  
.....

**FOURTH SCHEDULE**

Section 5.

**PUBLIC LOCAL INQUIRIES**

1 The Minister shall appoint a person to hold the inquiry and to report thereon to him.

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- 2 The person appointed to hold the inquiry shall notify any person who has lodged, and has not withdrawn, objections in relation to any matter in question at the inquiry, and shall publish in such newspaper or newspapers as the Minister may direct a notice of the time when and the place where the inquiry is to be held.
- 3 The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry:  
Provided that—
- (a) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and
  - (b) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- 4 The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
- 5 Any person who refuses or wilfully neglects to attend in obedience to a notice under paragraph 3 of this Schedule or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding [<sup>F25</sup>level 2 on the standard scale] or to imprisonment for a period not exceeding three months.

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#### Textual Amendments

**F25** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289C, 289G**

- 6 Where the inquiry arises out of a proposed acquisition of land by a local authority or the proposed extinction of a right of way over land acquired or proposed to be acquired by a local authority—
- (a) the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Minister may order; and
  - (b) the Minister may make orders as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.
- 7 Any order by the Minister under paragraph 6 of this Schedule may be enforced in like manner as a recorded decree arbitral.

FIFTH SCHEDULE

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F26F26 FIFTH SCHEDULE

**Textual Amendments**

**F26** Sch. 5 repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

.....  
F26

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [2021 asp 9 s. 68\(4\)](#)