



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 10

#### MISCELLANEOUS

##### *Compulsory acquisition of land*

#### **106 Extinction of real burdens and servitudes etc. on compulsory acquisition of land**

- (1) If land is acquired compulsorily by virtue of a compulsory purchase order then, except in so far as the terms of—
  - (a) the order; or
  - (b) the conveyance in implement of such acquisition,provide otherwise, on registration of the conveyance, any real burden, or servitude, over the land shall be extinguished and any development management scheme applying as respects the land disappplied.
- (2) Without prejudice to the generality of the exception in subsection (1) above, such terms as are mentioned in that exception may provide—
  - (a) for the variation of any of the real burdens or servitudes;
  - (b) that there shall be such extinction only—
    - (i) of certain of the real burdens and servitudes;
    - (ii) in relation to certain parts of the burdened property; or
    - (iii) in respect of the enforcement rights of the owners of certain of the benefited properties.
- (3) If the compulsory purchase order provides for an exception such as is mentioned in subsection (1) above, the conveyance in implement of the acquisition shall not, unless the owners of the benefited properties consent, or as the case may be the owners' association or the holder of any personal real burden consents, be registrable if its terms do not conform in that regard.
- (4) Where a personal real burden is extinguished by virtue of subsection (1) above, such person as immediately before the extinction held the right to enforce the burden shall

be entitled to receive compensation from the acquiring authority in question for any loss thereby occasioned that person.

(5) In this section—

“compulsory purchase order” has the meaning given by section 1(1) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) (procedure for compulsory purchase of land by local authorities etc.) except that it includes a compulsory purchase order made under the Forestry Act 1967 (c. 10); and

“conveyance” means—

(a) a—

(i) disposition;

(ii) notice of title; or

(iii) notarial instrument,

which includes a reference to the application of subsection (1) above;

(b) a conveyance in the form set out in Schedule A to the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19); or

(c) a general vesting declaration (as defined in paragraph 1(1) of Schedule 15 to the Town and Country Planning (Scotland) Act 1997 (c. 8)).