



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 10

#### MISCELLANEOUS

##### *Amendments*

#### **109 Amendment of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947**

- (1) The First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) shall be amended in accordance with the following subsections.
- (2) In paragraph 3(b) (which requires a local authority to notify certain persons that a compulsory purchase order is about to be submitted by the authority for confirmation etc.), the existing words from “every owner” to “order”, where it first occurs, shall be head (i); and after that head there shall be inserted the following heads—
  - “(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)) 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.”.
- (3) After paragraph 3 there shall be inserted—
  - “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);

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*Status: This is the original version (as it was originally enacted).*

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- (b) by advertisement;
  - (c) by affixing a conspicuous notice to the burdened property and 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.

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 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 construed as a reference to the last day of the period specified in the notice given under paragraph 3(b) above).”.

(4) In paragraph 4 (powers in relation to objectors)—

- (a) in sub-paragraph (2), at the beginning there shall be inserted “Subject to sub-paragraph (2A),”;
- (b) after sub-paragraph (2) there shall be inserted—

“(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 disappplied; 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.”;

- (c) in sub-paragraph (4), the existing words from “the grounds thereof” to the end shall be head (a) and after that head there shall be inserted the following heads—
    - “(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).”.
- (5) After paragraph 6 there is inserted—
- “6A 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).”.