

*Changes to legislation: There are currently no known outstanding effects for the Forestry Act 1967, SCHEDULE 5. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

#### COMPULSORY PURCHASE

##### PART I

###### PROCEDURE FOR MAKING COMPULSORY PURCHASE ORDERS

1 A compulsory purchase order shall describe by reference to a map the land to which it applies.

- 2 (1) Before making a compulsory purchase order, the Minister <sup>F1</sup>... shall—
- (a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that a compulsory purchase order is proposed to be made; and
  - (b) serve a copy of the notice in such manner as he thinks fit on [<sup>F2</sup>every person who is an owner, lessee, tenant (whatever the tenancy period) or occupier] of any land to which the order relates.

<sup>F3</sup>(1A) .....

<sup>F3</sup>(1B) .....

<sup>F3</sup>(1C) .....

(2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.

- (3) A notice under sub-paragraph (1) above shall—
- (a) describe the land,
  - (b) name the place where a copy of a draft of the compulsory purchase order and of the map referred to therein may be seen at all reasonable hours, and
  - (c) specify the time (not less than twenty-eight days from the date of the publication of the notice) within which, and the manner in which, objections to the order may be made.

#### Textual Amendments

**F1** Words in Sch. 5 para. 2(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(a)(i)**; S.S.I. 2019/47, reg. 2

**F2** Words in Sch. 5 para. 2(1)(b) substituted (E.W.) (24.5.2007) by Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 (S.I. 2007/1519), art. 1(1), **Sch. para. 7** (with art. 1(3))

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**F3** Sch. 5 para. 2(1A)-(1C) omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(a)(ii)**; S.S.I. 2019/47, reg. 2

- 3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or by any other person appearing to the Minister <sup>F4</sup>... to be affected, or if all objections so made are withdrawn, the Minister may, if he thinks fit <sup>F5</sup>... (but subject to sub-paragraph (3) below), make the order, either with or without modifications.
- (2) [<sup>F6</sup>Subject to paragraph 6B below,] in any other case the Minister <sup>F7</sup>... shall, before making the order, cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.
- (3) An order made by the Minister <sup>F8</sup>... with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications.

#### Textual Amendments

- F4** Words in Sch. 5 para. 3(1) omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(b)(i)**; S.S.I. 2019/47, reg. 2
- F5** Words in Sch. 5 para. 3(1) omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(b)(ii)**; S.S.I. 2019/47, reg. 2
- F6** Words in Sch. 5 para. 3(2) inserted (S.) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 110(3)**, 129(4) (with **ss. 119**, 121); S.S.I. 2003/454, art. 2(1)
- F7** Words in Sch. 5 para. 3(2) omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(b)(iii)**; S.S.I. 2019/47, reg. 2
- F8** Words in Sch. 5 para. 3(3) omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(b)(iv)**; S.S.I. 2019/47, reg. 2

- 4 Subject to [<sup>F9</sup>paragraph 5] below, where objection to a compulsory purchase order is duly made by a person mentioned in paragraph 3(1) above and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure and the <sup>M1M2</sup>Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.

#### Textual Amendments

- F9** Words in Sch. 5 para. 4 substituted (1.4.2019) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(c)**; S.S.I. 2019/47, reg. 2

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

- C1** Para. 4 excluded (E.W.) by [Mineral Workings Act 1985 \(c. 12, SIF 86\)](#), **s. 6(3)**

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**Marginal Citations**

- M1** 1945 c. 18 (9 & 10 Geo. 6)(89)
- M2** 1965 c. 43(89)

5 If an objection appears to the Minister <sup>F10</sup>... to relate exclusively to matters which can be dealt with by the tribunal by whom the compensation for the compulsory purchase would be assessed, the Minister <sup>F10</sup>... may disregard the objection for the purposes of paragraph 3 above, and may (whether he disregards it for those purposes or not) direct that it shall be disregarded for the purposes of paragraph 4 above.

**Textual Amendments**

- F10** Words in Sch. 5 para. 5 omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(d)**; S.S.I. 2019/47, reg. 2

<sup>F11</sup>6 .....

**Textual Amendments**

- F11** Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

<sup>F11</sup>6A .....

**Textual Amendments**

- F11** Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

<sup>F11</sup>6B .....

**Textual Amendments**

- F11** Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

<sup>F11</sup>6C .....

**Textual Amendments**

- F11** Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

<sup>F11</sup>6D .....

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### Textual Amendments

- F11** Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), [Sch. para. 46\(e\)](#); [S.S.I. 2019/47](#), reg. 2

## PART II

### VALIDITY AND OPERATION OF COMPULSORY PURCHASE ORDERS

- 7 (1) So soon as may be after a compulsory purchase order has been made by the Minister, he shall—
- (a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours; and
  - (b) serve a like notice on every person who made an objection to the order.
- (2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.
- [<sup>F12</sup>(2A) Sub-paragraphs (2B) to (2H) apply where a compulsory purchase order authorises the compulsory purchase of land in England or Wales.
- (2B) The appropriate national authority must serve the notice mentioned in sub-paragraph (1) on any person who, if Schedule 1 to the Acquisition of Land Act 1981 applied to the acquisition, would be entitled to a notice under paragraph 3 of that Schedule (notice to owners, lessees and occupiers).
- (2C) The notice must—
- (a) contain a statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981, and
  - (b) invite any person who would be entitled to claim compensation if a declaration were executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 to give the appropriate national authority information about the person's name, address and interest in land, using a form set out in the notice.
- (2D) The statement referred to in sub-paragraph (2C)(a) must be the same as the relevant statement prescribed under paragraph 6(4)(e) of Schedule 1 to the Acquisition of Land Act 1981, subject to any necessary modifications.
- (2E) The form mentioned in sub-paragraph (2C)(b) must be the same as the relevant form prescribed under paragraph 6(4)(f) of Schedule 1 to the Acquisition of Land Act 1981, subject to any necessary modifications.
- (2F) The appropriate national authority must send a copy of the notice to the Chief Land Registrar and it shall be a local land charge in respect of the land in England or Wales to which it relates.
- (2G) For the purposes of sub-paragraphs (2D) and (2E), a statement or a form is “relevant” if it was prescribed by the appropriate national authority which has to serve it.

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- (2H) In this paragraph, the “appropriate national authority” means—
- (a) in relation to the compulsory purchase of land in England, the Secretary of State, and
  - (b) in relation to the compulsory purchase of land in Wales, the Welsh Ministers.]
- (3) Where the order is subject to special parliamentary procedure, the notice to be published and served by the Minister under sub-paragraph (1) above shall contain a statement that the order is to be laid before Parliament under the<sup>M3M4</sup>Statutory Orders (Special Procedure) Acts 1945 and 1965.

#### Textual Amendments

- F12** Sch. 5 para. 7(2A)-(2H) inserted (E.W.) (2.2.2017) by The Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017 (S.I. 2017/16), reg. 1(2), **Sch. para. 3(1)** (with Sch. para. 3(2))

#### Marginal Citations

- M3** 1945 c. 18 (9 & 10 Geo. 6)(89)  
**M4** 1965 c. 43(89)

- 8 (1) Except where the order is confirmed by Act, if a person aggrieved by the order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may—
- (a) in the case of an order to which the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply, within a period of six weeks after the date on which the order becomes operative under those Acts; and
  - (b) in any other case, within a period of six weeks after the first publication of the notice of the order,
- make an application for that purpose to the court.
- (2) Where any such application is duly made, the court—
- (a) may by interim order suspend the operation of the compulsory purchase order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied upon the hearing of the application that the order is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.
- (3) In this paragraph—
- “confirmed by Act” means confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945<sup>F13</sup>... ; and
- “the court” means, in relation to England and Wales, the High Court<sup>F14</sup>... .

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**Textual Amendments**

- F13** Words in Sch. 5 para. 8(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(f)(i)**; S.S.I. 2019/47, reg. 2
- F14** Words in Sch. 5 para. 8(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(f)(ii)**; S.S.I. 2019/47, reg. 2

- 9 Subject to the foregoing provisions, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever either before or after the order is made.
- 10 The order, except where the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply to it, shall become operative at the expiration of six weeks from the date on which notice of it is first published in accordance with the provisions of this Part of this Schedule.

**PART III**

PROCEDURE FOR ACQUISITION OF LAND BY COMPULSORY PURCHASE

*England and Wales*

- 11 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by compulsory purchase, Part I of the <sup>M5</sup>Compulsory Purchase Act 1965 shall apply subject to and in accordance with the following provisions of this paragraph.
  - (2) In the said Part I as so applied—
    - (a) “the acquiring authority” means the Minister, and
    - (b) “the special Act” means section 39 of this Act and the compulsory purchase order under section 40.
  - (3) In relation to compulsory purchase under this Act, Part I of the said Act of 1965 shall be modified as follows:—
    - (a) ..... **F15**
    - <sup>F16</sup>(b) ..... **F15**
    - (c) ..... **F15**
  - (4) ..... **F17**

**Textual Amendments**

- F15** Para. 11(3)(a)(c)–(e) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. III**
- F16** Sch. 5 para. 11(3)(b) omitted (13.7.2016) by virtue of Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 16 para. 7**; S.I. 2016/733, reg. 3(j)
- F17** Sch. 5 para. 11(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. III**

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**Marginal Citations**

**M5** 1965 c. 56(28:1)

12 As regards land in England or Wales, a compulsory purchase order under this Act may provide that section 77 of the <sup>M6</sup>Railways Clauses Consolidation Act 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the <sup>M7</sup>Mines (Working Facilities and Support) Act 1923, shall be incorporated with section 39 of this Act, subject to such adaptations and modifications as may be specified in the order.

**Marginal Citations**

**M6** 1845 c. 20(102)

**M7** 1923 c. 20(102)

*Scotland*

<sup>F18</sup>13 .....

**Textual Amendments**

**F18** Sch. 5 para. 13 omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(g)**; S.S.I. 2019/47, reg. 2

<sup>F19</sup>14 .....

**Textual Amendments**

**F19** Sch. 5 para. 14 omitted (1.4.2019) by virtue of [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Provisions and Modifications\) Order 2019 \(S.I. 2019/734\)](#), reg. 1(2), **Sch. para. 46(g)**; S.S.I. 2019/47, reg. 2

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