

SCHEDULE 1

PART 1

AMENDMENT OF PUBLIC GENERAL ACTS

Lands Clauses Consolidation (Scotland) Act 1845

1. The Lands Clauses Consolidation (Scotland) Act 1845(1) shall be amended in accordance with paragraph 2.

2. In Schedule A (form of conveyance) after the second “convey” insert–

“Registration of this conveyance shall not extinguish the following real burdens [or, as the case may be, servitudes, or shall not disapply the development management scheme applied by] [Here set out in full, or refer to a deed setting out in full in such a way as to identify them, any real burdens or servitudes which are not to be extinguished by virtue of the exception to section 107(1) of the Title Conditions (Scotland) Act 2003, or, as the case may be, identify by reference to its deed of application any development management scheme which is not to be disapplied by virtue of that exception.]”.

Abolition of Feudal Tenure etc. (Scotland) Act 2000

3. The Abolition of Feudal Tenure etc. (Scotland) Act 2000(2) shall be amended in accordance with paragraphs 4 and 5.

4. In section 20 (reallotment of real burden by order of Lands Tribunal)–

(a) in subsection (3) omit–

“and section 17(1) of this Act shall have no effect as regards a real burden in respect of which such a notice has been so executed and registered”;

(b) at the end of subsection (7) add– “or

(b) the Lands Tribunal is not so satisfied, it may make an order refusing the application.”

5. In section 77(2)(a) (commencement) omit “32,”.

Title Conditions (Scotland) Act 2003

6. The Title Conditions (Scotland) Act 2003(3) shall be amended in accordance with paragraphs 7 to 15.

7. In section 4(7) (creation) after “90(8)” insert “and (8A)”.

8. In section 37(2)(b) (preservation of community burden) after “set out” insert “or referred to”.

9. In section 90 (power of Lands Tribunal as respects title conditions)–

(a) in subsection (6) omit “, renewing”;

(b) in subsection (7)(a) at the end add–

“or variation;”; and

(c) after subsection (8) insert–

(1) 1845 c. 19.
(2) 2000 asp 5.
(3) 2003 asp 9.

“(8A) An order disapplying the development management scheme shall, where the deed of application makes such provision as is mentioned in section 73(2) of this Act, impose the real burdens in question.”

10. In section 99(4)(a) (granting applications as respects development management schemes) after “scheme” insert–

“or a real burden imposed by the deed of disapplication”.

11. In section 104(3) (taking effect of orders of Lands Tribunal)–

(a) after “scheme” insert–

“whether or not it imposes new burdens”;

(b) after “preserved” insert–

“and the burdens imposed”.

12. In section 106 (extinction of real burdens and servitudes etc. on compulsory acquisition of land)–

(a) in subsection (1) after “order” insert–

“to which this section applies”

(b) after subsection (4) insert–

“(4A) This section applies to a compulsory purchase order in respect of which notice is given under–

(a) paragraph 3 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) on or after the day on which section 109; or

(b) paragraph 2 of Schedule 5 to the Forestry Act 1967 (c. 10) on or after the day on which section 110,

of this Act comes into force.”

13. In section 109 (amendment of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947)–

(a) in subsection (3), in inserted sub-paragraph 3A(c), after “notice” omit “to the burdened property and”;

(b) in subsection (3), in inserted paragraph 3B, after—

(i) “paragraph 3A(c) above” insert “(including that paragraph as it is applied by paragraph 6A below in relation to service of a notice under paragraph 6 below)”;

(ii) after “paragraph 3(b) above” insert “or, as the case may be, paragraph 6 below”;

(c) after subsection (4) insert–

“(4A) In paragraph 6 (which requires an acquiring authority to notify certain persons that a compulsory purchase order has been confirmed) the words “and a copy of the order as confirmed” shall be omitted.

(4B) After paragraph 6 there shall be inserted–

“**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).

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.””

(d) in subsection (5) for “6A” substitute “6D”.

14. In section 110 (amendment of Forestry Act 1967) in subsection (2), in inserted sub-paragraph 1B(c), after “notice” omit “to the burdened property and”.

15. In section 122(1) (interpretation) in the definition of “holder” at the end add—
“but does not include a person who has title to enforce it only by virtue of any of paragraphs (a), (b) and (c) of section 8(2) of this Act”.