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SCHEDULES

SCHEDULE 1

THE FORESTRY COMMISSION AND ITS STAFF

Modifications etc. (not altering text)

- C1** Sch. 1: functions exercisable by the Minister for Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly transferred (27.3.2002) to the Secretary of State by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\)](#), **art. 3(5)** (with **art. 6**)

PART I

ADMINISTRATION

The Commissioners

- 1 The Commissioners may for all purposes be described by the name of “The Forestry Commissioners”.
- 2 (1) Each Forestry Commissioner shall hold and vacate office in accordance with the terms of his warrant of appointment, and one who vacates office shall be eligible for reappointment.
- (2) There shall be paid to such Forestry Commissioners as may be determined by the Ministers, with the approval of the Treasury, such salaries or other emoluments as may be so determined.

Modifications etc. (not altering text)

- C2** Sch. 1 para. 2: functions of the Treasury transferred to the Minister (1.4.1995) by [S.I. 1995/269](#), **art. 3**, **Sch. para.2**

- 3 The Commissioners may act by three of their number and notwithstanding a vacancy in their number, and may regulate their own procedure.
- 4 (1) The Commissioners shall have an official seal, which shall be officially and judicially noticed.
- (2) The seal shall be authenticated by a Forestry Commissioner, or by the secretary to the Commissioners, or by some person authorised by the Commissioners to act on behalf of the secretary.
- 5 (1) Every document purporting to be an order or other instrument issued by the Commissioners and to be sealed with the seal of the Commissioners authenticated in manner provided by paragraph 4(2) above, or to be signed by the secretary to the Commissioners or any person authorised by the Commissioners to act on behalf

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of the secretary, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

- (2) The ^{M1}Documentary Evidence Act 1868, as amended by the ^{M2}Documentary Evidence Act 1882, shall apply to the Commissioners as though the Commissioners were included in the first column of the Schedule to the said Act of 1868, and the chairman or any other Commissioner, or the secretary, or any person authorised to act on behalf of the secretary, were mentioned in the second column of that Schedule, and as if the regulations referred to in those Acts included any document issued by the Commissioners.

Marginal Citations

- M1** 1868 c. 37(47)
M2 1882 c. 9(47)

Staff

- 6 (1) The Commissioners may, subject to such limit as to number as the Treasury may determine, appoint and employ such officers and servants for the purposes of this Act as the Commissioners think necessary, and may remove any officer or servant so appointed or employed.
- (2) There shall be paid to officers and servants appointed or employed by the Commissioners such salaries or remuneration as the Ministers may, with the approval of the Treasury, determine.

Modifications etc. (not altering text)

- C3** Sch. 1 para. 6: functions of the Treasury transferred to the Minister (1.4.1995) by [S.I. 1995/269](#), [art. 2\(2\)](#)
C4 Sch. 1 para. 6(1) modified (1.7.1999) by [S.I. 1999/672](#), [art. 5](#), [Sch.2](#)

Committees appointed under section 2(3)

- 7 (1) An order of the Commissioners under section 2(3) of this Act appointing a committee shall make provision as to the constitution (including the terms of office of members), quorum and procedure of the committee.
- (2) There shall be paid ^{F1}. . . to the members of any committee appointed [^{F2}for England or Wales] under section 2(3) who are not Forestry Commissioners or officers of the Commissioners such travelling and other allowances as the Ministers may, with the approval of the Treasury, determine.
- [^{F3}(3) There shall be payable out of the Scottish Consolidated Fund to the members of any committee appointed for Scotland under section 2(3) who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Scottish Ministers may determine.]

Textual Amendments

- F1** Words in Sch. 1 para. 7(2) omitted (16.3.2000) by virtue of [S.I. 2000/746](#), [art. 2 Sch. para. 5\(7\)\(a\)](#)
F2 Words in Sch. 1 para. 7(2) inserted (1.7.1999) by [S.I. 1999/1747](#), [art. 3](#), [Sch. 12 Pt. II para. 4\(39\)\(b\)](#)

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F3 Sch. 1 para. 7(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(c)**

Supplementary

8 The functions of the Ministers under this Part of this Schedule shall be exercised by them jointly, except in so far as they make arrangements that this paragraph shall not apply.

[^{F4}8A In this Part of this Schedule, “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.]

Textual Amendments

F4 Sch. 1 para. 8A inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(d)**

PART II

SUPERANNUATION OF FORESTRY COMMISSIONERS AND COMMISSION STAFF

9 (1) This paragraph applies to Forestry Commissioners and to such [^{F5}classes of officers employed by the Commissioners as may be] determined by the Ministers with the approval of the Treasury.

(2) Subject to the following provisions, there may be granted to or in respect of persons to whom this paragraph applies the same superannuation benefits as can be granted in respect of persons in the civil service under the [^{F5}principal civil service pension scheme within the meaning of section 2 of the ^{M3}Superannuation Act 1972 and for the time being in force, and the relevant provisions of that scheme . . . ^{F6}] shall have effect accordingly with respect to persons to whom this paragraph applies as they have effect with respect to persons in the civil service.

^{F7}(3)

(4) In this Part of this Schedule—

. ^{F8}
“superannuation benefits” includes a superannuation allowance, additional allowance, annual allowance, retiring allowance, compensation allowance, gratuity, pension, compensation and annuity.

Textual Amendments

F5 Words substituted by [Superannuation Act 1972 \(c. 11, SIF 101A:1\)](#), **Sch. 6 para 60**

F6 Words repealed by [Finance Act 1972 \(c. 41, SIF 63:1\)](#), **Sch. 28 Pt. IV**

F7 Sch. 1 para. 9(3) repealed (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 5(7)(b)**

F8 Words repealed by [Superannuation Act 1972 \(c. 11, SIF 101A:1\)](#), **Sch.8**

Modifications etc. (not altering text)

C5 Sch. 1 para. 9: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para. 2**

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Marginal Citations

M3 1972 c. 11(101A:1)

- 10 (1) The Ministers may with the approval of the Treasury make schemes to supplement or replace (either as a whole or in part) paragraph 9(2) above, being schemes for the grant of superannuation and other allowances and gratuities to or for the benefit of persons to whom paragraph 9 applies; and, without prejudice to the foregoing,—
 - (a) the superannuation benefits to be granted in accordance with the scheme may include those which may be granted under the said paragraph 9(2), subject to the provisions of that sub-paragraph in the case of contributory pensions; and
 - (b) on the coming into force of a scheme made under this paragraph, paragraph 9(2) shall, to the extent that the scheme makes any provision different therefrom, cease to have effect.

^{F9}(2)

[^{F10}(3) A scheme made under this paragraph may be made so as to take effect from such date, not being earlier than 14th July 1949, as may be specified in the scheme.]

Textual Amendments

F9 Sch. 1 para. 10(2) repealed (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 5(7)(b)**

F10 Para 10(3) substituted by **Superannuation Act 1972 (c. 11, SIF 101A:1), Sch. 6 para 61**

Modifications etc. (not altering text)

C6 Sch. 1 para. 10: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para. 2**

11 **F11**

Textual Amendments

F11 Sch. 1 para. 11 repealed by **Superannuation Act 1972 (c. 11, SIF 101A:1), Sch. 8**

12 Where on the death of a person to whom paragraph 9 above applies any sum not exceeding [^{F12}£5,000] is due to that person or his legal personal representative in respect of salary, wages or superannuation benefits, then, subject to any regulations made by the Treasury, probate or other proof of the title of the legal personal representatives may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the Commissioners to be beneficially entitled to the personal estate of the deceased person, or to or among any one or more of those persons, or, in the case of the illegitimacy of the deceased person or any of his children, to or among such persons as the Commissioners may think fit, and the Commissioners or other person responsible for the payment of any such sum shall be discharged from all liability in respect of any such payment or distribution.

[^{F13}This paragraph shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the ^{M4}Administration of Estates (Small Payments) Act 1965 substituting for references to [^{F12}£5,000] such higher amount as may be specified in the order.]

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Textual Amendments

F12 Words substituted by virtue of S.I. 1984/539, **art. 2(c)**

F13 Words inserted by **Superannuation Act 1972 (c. 11, SIF 101A:1), Sch. 6 para. 62**

Modifications etc. (not altering text)

C7 Sch. 1 para. 12 first sub-paragraph: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, **art. 3, Sch. para.2**

Marginal Citations

M4 1965 c. 32(116:1)

13 The functions of the Ministers under this Part of this Schedule shall be exercisable by them jointly, except in so far as they make arrangements that this paragraph shall not apply.

[^{F14}13A In this Part of this Schedule, “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.]

Textual Amendments

F14 Sch. 1 para. 13A inserted (1.7.1999) by S.I. 1999/1747, **art. 3, Sch. 12 Pt. II para. 4(39)(e)**

SCHEDULE 2

CONVEYANCING AND OTHER PROVISIONS CONNECTED WITH FORESTRY DEDICATION

Modifications etc. (not altering text)

C8 Sch. 2 extended (E.W.S.) by s. 15(5) and (E.W.) by s. 45(2) of the **Countryside Act 1968 (c. 41, SIF 46:1), Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 39(4) and Agriculture Act 1986 (c. 49, SIF 2:1), s. 18(9)(10)**

Sch. 2 applied (E.W.) (30.1.2001) by **2000 c. 37, ss. 16(5), 103(2)** (with ss. 16(7), 43)

England and Wales

1 (1) In the case of settled land in England or Wales, the tenant for life may enter into a forestry dedication covenant relating to the land or any part thereof either for consideration or gratuitously.

(2) The ^{M5}Settled Land Act 1925 shall apply as if the power conferred by subparagraph (1) above had been conferred by that Act; and for the purposes of section 72 of that Act (which relates to the mode of giving effect to a disposition by a tenant for life and to the operation thereof), and of any other relevant statutory provision applying to England or Wales, entering into a forestry dedication covenant shall be treated as a disposition.

(3) The foregoing provisions of this paragraph shall be construed as one with the Settled Land Act 1925.

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[^{F15}(4) Section 28 of the ^{M6}Law of Property Act 1925 (which confers the powers of a tenant for life on trustees for sale) shall apply as if the power of a tenant for life under subparagraph (1) above had been conferred by the Settled Land Act 1925.]

Textual Amendments

F15 Sch. 2 para. 1(4) repealed (E.W.) (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4), 25(5)); S.I. 1996/2974, **art.2**

Marginal Citations

M5 1925 c. 18(**98:3**)

M6 1925 c. 20(**98:1**)

2 A university or college to which the ^{M7}Universities and Colleges Estates Act 1925 applies may enter into a forestry dedication covenant relating to any land belonging to it in England or Wales either for consideration or gratuitously, and that Act shall apply as if the power conferred by this paragraph had been conferred by that Act.

Marginal Citations

M7 1925 c. 24(**41:3**)

3 In the case of glebe land or other land belonging to an ecclesiastical benefice, the incumbent of the benefice and, in the case of land which is part of the endowment of any other ecclesiastical corporation, the corporation may with the consent of the Church Commissioners enter into a forestry dedication covenant relating to the land either for consideration or gratuitously, and the Ecclesiastical Leasing Acts shall apply as if the power conferred by this paragraph had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice shall not be requisite.

Modifications etc. (not altering text)

C9 Para. 3 excluded as to incumbents by **Endowments and Glebe Measure 1976** (No. 4, SIF 21:8), s. 47(3), **Sch. 7**

Scotland

4 [^{F16}(1) In the case of land in Scotland, a liferenter in possession of the land shall have power to enter into forestry dedication agreements relating to, or to any part of, the land.]

(2) The ^{M8}Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general powers of trustees) there were included a power to enter into forestry dedication agreements relating to the trust estate or any part thereof.

Textual Amendments

F16 Sch. 2 para. 4(1) substituted (S.) (28.11.2004) by **Abolition of Feudal Tenure etc. (Scotland) Act 2000** (asp 5), ss. 71, 77(2), **Sch. 12 para. 27(5)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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Modifications etc. (not altering text)

C10 Para. 4 extended (S.) with modifications by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 46(3)

Marginal Citations

M8 1921 c. 58(128)

SCHEDULE 3

PROCEEDINGS UNDER TOWN AND COUNTRY PLANNING ACTS IN RELATION TO TREE PRESERVATION ORDERS

- 1 Provisions of section 15 of this Act requiring an application for a felling licence to be dealt with under the Town and Country Planning Acts shall be construed in accordance with this Schedule.
- 2 Where under section 15(2)(a) an application, on being referred to the Minister, falls to be dealt with under the said Acts, the following shall apply:—
- (a) if the tree preservation order applies [^{F17}section 77 of the Town and Country Planning Act 1990] or the corresponding provision of the ^{M9}Town and Country Planning Act 1947 replaced thereby, or (for Scotland) [^{F18}section 46 of the Town and Country Planning (Scotland) Act 1997] the provisions of the order and any provisions of the said Acts relating to the order shall apply as if the application—
 - (i) had been one made under the order for the felling of the trees; and
 - (ii) had been referred to the Minister in pursuance of the said section as so applied;
 - (b) if the order contains no such provisions as aforesaid it shall have effect for the purposes of this paragraph as if [^{F19}the said section 77] or (for Scotland) [^{F18}the said section 46] were incorporated therein subject to such modifications as the Minister may direct.

Textual Amendments

F17 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, **Sch. 2**, para. 14(3)(a)(i)

F18 Words in Sch. 3 para. 2 substituted (27.5.1997) by virtue of 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 13(3)(a)**

F19 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, **Sch. 2**, para. 14(3)(a)(ii)

Marginal Citations

M9 1947 c. 51(123:1)

- 3 Where under section 15(3)(a) of this Act an application, on being referred to an authority who have made a tree preservation order, falls to be dealt with under the Town and Country Planning Acts, the provisions of the order and any provisions of [^{F20}the Town and Country Planning Act 1990] or (for Scotland) [^{F21}the Town and Country Planning (Scotland) Act 1997] relating to the order shall apply as if the application were an application made to the said authority for consent for the felling of the trees to which the application for a felling licence relates.

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Textual Amendments

- F20** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2, para. 14\(3\)\(6\)](#)
- F21** Words in [Sch. 3 para. 3](#) substituted (27.5.1997) by virtue of [1997 c. 11, ss. 4, 6\(2\), Sch. 2 para. 13\(3\)\(b\)](#)

4 **F22**

Textual Amendments

- F22** [Sch. 3 para. 4](#) repealed (27.3.2004) by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\), art. 5\(2\), Sch. 2 \(with art. 6\)](#)

SCHEDULE 4

PROCEDURE FOR ACQUISITION OF LAND UNDER S. 39 BY AGREEMENT

England and Wales

- 1 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by agreement, Part I of the ^{M10}Compulsory Purchase Act 1965 shall apply 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;
 - (b) “the special Act” means section 39 of this Act; and
 - (c) for references to land subject to compulsory purchase there shall be substituted references to land which may be acquired by agreement under the said section 39.
- (3) In relation to the acquisition of land by agreement under section 39, Part I of the said Act of 1965 shall be modified as follows:—
- (a) sections 4 to 8, 10, 27 and 31 shall not apply;
 - (b) section 30(3) shall not apply, but notices required to be served by the Minister under any provision of the said Act of 1965 as applied by this paragraph may, notwithstanding anything in section 30(1) of that Act, be served and addressed in the manner specified in section 30 of this Act.

Marginal Citations

M10 [1965 c. 56\(28:1\)](#)

Scotland

- 2 (1) For the purpose of any acquisition by the [^{F23}Scottish Ministers] of land in Scotland, where the acquisition is by agreement, the Lands Clauses Acts, except the following enactments in the ^{M11}Lands Clauses Consolidation (Scotland) Act 1845, that is to say—

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sections 120 to 125,
section 127, and
sections 142 and 143,

are hereby incorporated with section 39 of this Act, subject to the following subparagraphs.

- (2) In construing the Lands Clauses Acts as incorporated by this paragraph, section 39 of this Act shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the [^{F23}Scottish Ministers].
- (3) Notices required to be served by the [^{F23}Scottish Ministers] under any provision of the Lands Clauses Acts as incorporated by this paragraph may, notwithstanding anything in section 18 of the ^{M12}Lands Clauses Consolidation (Scotland) Act 1845, be served and addressed in the manner specified in section 30 of this Act.

Textual Amendments

F23 Words in [Sch. 4 para. 2](#) substituted (1.7.1999) by [S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4\(40\)](#)

Marginal Citations

M11 1845 c. 19(28:2)

M12 1845 c. 19(28:2)

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 [^{F24}or, as the case may be, the Scottish Ministers] 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 every owner, lessee and occupier (except tenants for a month or less period than a month) of any land to which the order relates.
- [^{F25}(1A) *Before making a compulsory purchase order the Scottish Ministers shall give notice of their intention in that regard to—*
- (a) *the holder of any personal real burden affecting the land to which the order relates if registration of the conveyance in implement of the order would vary or extinguish the title condition in question;*

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- (b) *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*
 - (c) *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.*
- (1B) *Notice under sub-paragraph (1A)(a) or (b) above may be given—*
- (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 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 Scottish Ministers think fit,*
and service of notice under sub-paragraph (1A)(c) above shall be by sending (as so construed) or by such other means as the Scottish Ministers think fit.
- (1C) *Subsections (6) and (7) of section 21 of the said Act of 2003 apply in relation to affixing, and to a notice affixed, under sub-paragraph (1B)(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 2(1)(b) above).]*
- (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

- F24** Words in Sch. 5 para. 2(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(41)(a)
- F25** Sch. 5 para. 2(1A)-(1C) inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(2), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

- 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 [^{F26}or, as the case may be, the Scottish Ministers] to be affected, or if all objections so made are withdrawn,

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the Minister may, if he thinks fit ^{F27} and the Scottish Ministers may if they think fit] (but subject to sub-paragraph (3) below), make the order, either with or without modifications.

(2) [^{F28} Subject to paragraph 6B below,] in any other case the Minister [^{F29} or the Scottish Ministers] 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 [^{F29} or the Scottish Ministers] 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

- F26** Words in Sch. 5 para. 3(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(41)(a)
F27 Words in Sch. 5 para. 3(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(41)(b)
F28 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)
F29 Words in Sch. 5 para. 3(2)(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 41(c)

4 Subject to paragraph 5 [^{F30} paragraphs 5 and 6B] 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 ^{M13}^{M14} Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.

Textual Amendments

- F30** Words in Sch. 5 para. 4 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)

Modifications etc. (not altering text)

- C11** Para. 4 excluded (E.W.) by Mineral Workings Act 1985 (c. 12, SIF 86), s. 6(3)

Marginal Citations

- M13** 1945 c. 18 (9 & 10 Geo. 6)(89)
M14 1965 c. 43(89)

5 If an objection appears to the Minister [^{F31} or, as the case may be, the Scottish Ministers] 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 [^{F31} or, as the case may be, the Scottish Ministers] 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.

Status: Point in time view as at 28/11/2004.

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Textual Amendments

F31 Words in Sch. 5 para. 5 inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(41)(a)

- 6 ^[F32] *Subject to paragraph 6B below,* An inquiry in relation to a compulsory purchase order affecting land in Scotland, being an order which becomes subject to special parliamentary procedure, shall, if the Minister so directs, be held by Commissioners under the ^{M15}Private Legislation Procedure (Scotland) Act 1936; and, where any direction has been so given,—
- (a) it shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945;
 - (b) the provisions of section 2(1) of that Act with regard to advertisement of notice shall be deemed to have been complied with.

Textual Amendments

F32 Words in Sch. 5 para. 6 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)

Marginal Citations

M15 1936 c. 52(89)

- ^[F33]6A The Scottish Ministers may require an objector to state in writing whether he objects—
- (a) 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 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) describe his connection with the benefited property.
 - (b) as owners' association 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

F33 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

- 6B If in compliance with paragraph 6A above an objector states that he objects as mentioned in sub-paragraph (a) or (b) of that paragraph, paragraphs 3(2), 4 and 6 above shall not apply as respects that objection provided that the Scottish Ministers give him a written undertaking that any conveyance in implement of the acquisition will provide—

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- (a) where the objector is as mentioned in paragraph 6A(a) above, that the title condition in question is not varied or extinguished in respect of the enforcement rights of that person, any such undertaking—
 - (i) identifying the benefited property (if any) and burdened property;
 - (ii) identifying the order; and
 - (iii) setting out the manner in which the conveyance will fulfil the undertaking; or
- (b) where the objector is as mentioned in paragraph 6A(b) above, that the development management scheme will not be disapplied, any such undertaking—
 - (i) identifying the development;
 - (ii) identifying the order; and
 - (iii) setting out the manner in which the conveyance will fulfil the undertaking.

Textual Amendments

F33 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

- 6C 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 paragraph 6B 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.

Textual Amendments

F33 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

- 6D In this Part, “title condition”, “development management scheme” and “personal real burden” have the same meanings as in that Act; and in paragraphs 6B and 6C above, “conveyance” has the same meaning as in section 106(5) of that Act.]

Textual Amendments

F33 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

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

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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.

(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 ^{M16M17}Statutory Orders (Special Procedure) Acts 1945 and 1965.

Marginal Citations

M16 1945 c. 18 (9 & 10 Geo. 6)(89)

M17 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 or (in relation to Scotland) that section and section 2(4) of the Act as read with section 10 thereof; and

“the court” means, in relation to England and Wales, the High Court and, in relation to Scotland, the Court of Session.

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.

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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 ^{M18}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) F34
 - (b) in section 11 (power of entry after notice of treat), subsection (1) shall not apply and subsection (2) shall apply with the omission of the word “also”;
 - (c) F34
- (4) F35

Textual Amendments

F34 Para. 11(3)(a)(c)–(e) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. III**

F35 Sch. 5 para. 11(4) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. III**

Marginal Citations

M18 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 ^{M19}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 ^{M20}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

M19 1845 c. 20(102)

M20 1923 c. 20(102)

Scotland

- 13 (1) For the purpose of any acquisition by the Minister of land in Scotland, where the acquisition is by compulsory purchase, the Lands Clauses Acts, except the following enactments in the ^{M21}Lands Clauses Consolidation (Scotland) Act 1845, that is to say—

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sections 120 to 125,
section 127, and
sections 142 and 143,

are hereby incorporated with section 39 of this Act, subject to the modifications and adaptations specified in the following two sub-paragraphs.

- (2) In construing the Lands Clauses Acts as incorporated by this paragraph, section 39 of this Act and the compulsory purchase order under section 40 shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the Minister.
- (3) Notices required to be served by the Minister under any provision of the Lands Clauses Acts as incorporated by this paragraph may, notwithstanding anything in section 18 of the ^{M22}Lands Clauses Consolidation (Scotland) Act 1845, be served and addressed in the manner specified in section 30 of this Act.
- (4) For the purposes of section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (which provides that powers of compulsory purchase shall not be exercised after the expiration of the prescribed period) the prescribed period shall be three years from the coming into operation of the compulsory purchase order.

Marginal Citations

M21 1845 c. 33(102)

M22 1845 c. 19(28:2)

- 14 As regards land in Scotland, a compulsory purchase order under this Act may provide that section 70 of the ^{M23}Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act as originally enacted and not as amended for certain purposes by section 15 of the ^{M24}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

M23 1845 c. 19(28:2)

M24 1923 c. 20(102)

SCHEDULE 6

Section 50.

TRANSITIONAL PROVISIONS

- 1 (1) In so far as any appointment, order, regulation, byelaw, application, claim for compensation or reference made, or notice or directions given, or other thing done under an enactment repealed by this Act could have been made, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, given or done under that corresponding provisions.
- (2) Anything begun under an enactment repealed by this Act may be continued under this Act as if begun thereunder.

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- (3) Any reference in this Act to things done, suffered or occurring in the past shall, so far as the context requires for the purpose of continuity of operation between an enactment repealed by this Act and the corresponding enactment in this Act, be construed as including a reference to things done, suffered or occurring before the commencement of this Act.
- (4) So much of any document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the context permits, be construed as referring to this Act or the corresponding enactment therein.
- (5) The generality of sub-paragraphs (1) to (4) above shall not be prejudiced by anything in the subsequent provisions of this Schedule.
- 2 For the purposes of section 16(4) of this Act, any such anniversary of an application as is there referred to shall, in the case of an application made before the commencement of this Act and having effect as if made under this Act, be taken as falling on the date on which it would have fallen if this Act had not been passed.
- 3 A notice given by the Commissioners under section 11(1) of the ^{M25}Forestry Act 1951 and having effect as if given under section 24 of this Act shall, in a case where the notice was by virtue of section 11(4) of that Act inoperative immediately before the commencement of this Act, remain inoperative under section 25(2) of this Act for as long as, and no longer than, it would have so remained but for the passing of this Act.

Marginal Citations

M25 1951 c. 61.

- 4 (1) References in this Act to land acquired by the Minister thereunder shall include references to land which, immediately before the commencement of this Act, was vested in that Minister having been acquired by him or any predecessor of his under section 4 of the ^{M26}Forestry Act 1945, or vested by that section in the appropriate Minister for the purposes of that Act, or transferred to the Minister by the operation of Article 9(1) of the ^{M27}Secretary of State for Wales and Minister of Land and Natural Resources Order 1965 (which Order transferred functions of the Minister of Agriculture, Fisheries and Food under the Forestry Acts 1919 to 1951 partly to the Minister of Land and Natural Resources and partly to the Secretary of State for Wales) or of Article 2 of the ^{M28}Ministry of Land and Natural Resources (Dissolution) Order 1967 (which dissolved the Ministry of Land and Natural Resources and transferred its principal functions under the said Acts to the Ministry of Agriculture, Fisheries and Food).
- (2) For the purposes of this Act, any land which was immediately before the commencement of this Act for the time being placed or deemed to have been placed at the disposal of the Commissioners under the Forestry Act 1945 shall be treated as continuing after that commencement to be so placed by virtue of section 39(1) of this Act, without prejudice to the power of the Minister to make any other disposition with regard to that land.

Marginal Citations

M26 1945 c. 35.

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M27 S.I. 1965/319.

M28 S.I. 1967/156.

- 5 The references to the Forestry Commissioners in section 48 of the ^{M29}Settled Land Act 1925 (which contains regulations respecting forestry leases) and in the definition of “forestry lease” in section 117 of that Act shall be construed as references to the Minister, and the reference in the said definition to the ^{M30}Forestry Act 1919 shall be construed as a reference to this Act.

Marginal Citations

M29 1925 c. 18(98:3)

M30 1919 c. 58.

- 6 Any power under any enactment to amend or repeal an enactment repealed by this Act includes power to amend or repeal the corresponding provision of this Act.

SCHEDULE 7

Section 50.

REPEALS AND SAVINGS

^{X1}PART I

REPEALS

Editorial Information

- X1** The text of s. 47(2) and Sch. 7 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 30.	The Board of Agriculture Act 1889.	In section 2(2) and (3), the words “and, forestry” and “or forestry”, wherever occurring. In section 4, the words “or forestry”.
3 Edw. 7. c. 31.	The Board of Agriculture and Fisheries Act 1903.	In section 1(3) the words “or forestry”.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act 1911.	In section 4(2), (3) and (4), the word “forestry”, wherever occurring.
9 & 10 Geo. 5. c. 58.	The Forestry Act 1919.	The whole Act except so much of section 3(2)

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		as transfers to the Commissioners the power of making orders under the Destructive Insects and Pests Acts 1877 to 1927.
17 Geo. 5. c. 6.	The Forestry Act 1927.	The whole Act.
1 & 2 Geo. 6. c. 13.	The Superannuation (Various Services) Act 1938.	The entries in all three columns of the Schedule relating to the Forestry (Transfer of Woods) Act 1923 and the Forestry Act 1945.
8 & 9 Geo. 6. c. 35.	The Forestry Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 21.	The Forestry Act 1947.	The whole Act.
12 & 13 Geo. 6. c. 44.	The Superannuation Act 1949.	Section 52(1), so far as applying to the superannuation of Forestry Commissioners and officers employed by the Commissioners.
14 & 15 Geo. 6. c. 61.	The Forestry Act 1951.	The whole Act.
9 & 10 Eliz. 2. c. 55.	The Crown Estate Act 1961.	Section 8(1).
10 & 11 Eliz. 2 c. 38.	The Town and Country Planning Act 1962.	In section 29(8), paragraph (a).
1963 c. 23.	The Forestry (Sale of Land) (Scotland) Act 1963.	The whole Act.
1964 c. 83.	The New Forest Act 1964.	Section 13.

PART II

SAVINGS

- 1 The repeal of section 2 of the ^{M31}Forestry (Transfer of Woods) Act 1923 shall not affect any rights or liabilities of the Commissioners transferred to them under that section, in so far as any such rights and liabilities continued to subsist immediately before the commencement of this Act.

Marginal Citations

M31 1923 c. 21.

- 2 The repeal of section 4(5) of the ^{M32}Forestry Act 1945 shall not be taken as affecting the Minister's obligation to hold land subject to any terms and conditions applicable by virtue of that subsection, so far as any obligation arising under that subsection continued to subsist immediately before the commencement of this Act; nor shall the said repeal alter the construction of any conveyance, lease or other

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instrument for whose construction the subsection had effect immediately before the said commencement.

Marginal Citations

M32 1945 c. 35.

- 3 The repeal of sections 1 to 4 of the ^{M33}Forestry Act 1947 shall not affect the application of any of those sections, or any part of them, for the purposes of—

Marginal Citations

M33 1947 c. 21.

M34 1949 c. 97(46:1)

M35 1950 c. 24.

M36 1959 c. 25.

- 4 Notwithstanding the repeal of section 8(1) of the ^{M37}Crown Estate Act 1961, the powers of the Minister over land transferred as mentioned in that subsection shall not be subject to any restrictions which may have applied to the land as being part of the Royal forests, parks and chases or any of them.

Marginal Citations

M37 1961 c. 55(29:7)

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