



# Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

1947 CHAPTER 42 10 and 11 Geo 6

An Act to re-enact in the form in which they apply to Scotland the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946. [31st July 1947]

## Modifications etc. (not altering text)

- C1 Act extended by [Post Office Act 1969](#) (c. 48), s. 76, [Sch. 4 para. 93\(1\)](#); applied by acts listed in Chronological Table of the Statutes
- C2 Words of enactment omitted under authority of [Statute Law Revision Act 1945](#) (c. 62), [s. 3](#)
- C3 Act extended by [Land Compensation \(Scotland\) Act 1973](#) (c. 56, SIF 28:2), [s. 20\(5\)](#), by [Offshore Petroleum Development \(Scotland\) Act 1975](#) (c. 8, SIF 86), [s. 20\(3\)](#), by [Slaughter of Animals \(Scotland\) Act 1980](#) (c. 13, SIF 112), [s. 2\(2\)](#), by [Animal Health Act 1981](#) (c. 22, SIF 4:4), [s. 55\(3\)](#), by [Civil Aviation Act 1982](#) (c. 16, SIF 9), [Sch. 2 para. 4](#) and by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), [s. 110\(3\)](#)
- C4 Act extended by [Airports Act 1986](#) (c. 31, SIF 9), s. 58, [Sch. 2 para. 1\(1\)](#)
- C5 Act applied (with modifications) by [Housing Associations Act 1985](#) (c. 69, SIF 61), [s. 88\(3\)\(b\)](#)
- C6 Act applied (except ss. 4–8, 27 and 31) by [Airports Act 1986](#) (c. 31, SIF 9), [s. 59\(2\)\(b\)](#)
- C7 Act applied (with modifications) by [Gas Act 1986](#) (c. 44, SIF 44:2), s.9(3), [Sch. 3 Pt. III para. 14](#)
- C8 Act modified by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 9(3), [Sch. 3 Pt. III paras. 15, 23](#)
- C9 Act extended by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), [Sch. 7 para. 2\(1\)\(iv\)](#), [Sch. 8 para. 33](#)
- C10 Act applied by [Housing \(Scotland\) Act 1987](#) (c. 26, SIF 61), [ss. 10\(2\), 88\(4\), 335](#)
- C11 Act extended by [Housing \(Scotland\) Act 1987](#) (c. 26, SIF 61), [ss. 120\(2\), 121\(4\), 124\(2\), 251\(2\), 256\(1\), 335](#)
- C12 Act extended (with modifications) by [Housing \(Scotland\) Act 1987](#) (c. 26, SIF 61), [ss. 23\(3\), 335](#)
- C13 Act applied (with modifications) by [Housing \(Scotland\) Act 1987](#) (c. 26, SIF 61), [ss. 95\(2\), 335](#), [Sch. 8 Pt. II para. 5\(3\)](#)
- C14 Act applied by [Housing \(Scotland\) Act 1988](#) (c. 43, SIF 61), [s. 2\(5\)](#)
- C15 Act applied (with modifications) by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 10(1), [Sch. 3 Pt. III paras. 15–23](#), [Sch. 17 para. 35\(1\)](#)
- C16 Act extended by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 112(1)(3), [Sch. 16 para. 2\(2\)\(a\)\(9\)](#), [Sch. 17 paras 33, 35\(1\)](#)
- C17 Act applied (with modifications) by [Prisons \(Scotland\) Act 1989](#) (c. 45, SIF 39:1), [s. 38\(2\)](#)

**Status:** Point in time view as at 25/06/2003.

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- C18** Act applied (with modifications) (1.4.1991) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 8(12)**
- C19** Act applied by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 36(2)**
- C20** Definition of "owner" applied (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), **s. 5(5); S.I. 1991/2633, art. 4**
- C21** Act applied (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), **s. 5(9); S.I. 1991/2633, art.4**
- C22** Act applied (with modifications) (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), **s. 31(1)(6)** (with s. 30(2)); S.I. 1992/817, art. 3(2), **Sch.1**  
Act applied (with modifications)(27.7.1993) by 1993 c. xii, s. 1, **Sch. Pt. II para. 12(2)**.  
Act applied (with modifications) (30.10.1994) by S.I. 1994/2716, **reg. 98(4)**  
Act applied (with modifications) (27.5.1997) by 1997 c. 9, **ss. 42(3), 83(2)** (with s. 45(4))
- C23** Act extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(iii); S.I. 1996/218, art. 2**  
Act extended (with modifications) (1.4.1996) by 1995 c. 25, **s. 26(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**  
Act extended (27.5.1997) by 1997 c. 8, **ss. 189(7)(8), 278(2)**  
Act extended (27.5.1997) by 1997 c. 8, **ss. 190(5), 278(2)**
- C24** Act applied (23.12.1999) by S.S.I. 1999/201, **arts. 23(2)** (with art. 29)  
Act applied (23.12.1999) by S.S.I. 1999/203, **arts. 24(2)** (with art. 30)  
Act applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2 para. 5(3)** (with s. 32); S.S.I. 2000/312, **art. 2**  
Act applied (with modifications) (26.3.2001) by 2000 c. 26, s. 95, Sch. 5 Pt. III paras. 14, **15; S.I. 2000/2957, art. 2(3), Sch. 3**  
Act modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1** (with s. 106); S.I. 2001/869, **art. 2**

#### Commencement Information

- II** Act wholly in force at Royal Assent

## 1 Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport, the Minister of Civil Aviation and the Secretary of State for certain purposes.

- (1) The authorisation of any compulsory purchase of land—
- (a) by a local authority where, apart from this Act, power to authorise the authority to purchase land compulsorily is conferred by or under any enactment contained in a public general Act and in force immediately before the commencement of this Act, other than any enactment specified in subsection (4) of this section;
- [<sup>F1</sup>(b) by the Secretary of State under section 41 or 49 of the Civil Aviation Act 1982]
- (d) by the Secretary of State under section [<sup>F2</sup>79 of the National Health Service (Scotland) Act 1978];
- [<sup>F3</sup>(f) by Scottish Water under section 47 of the Water Industry (Scotland) Act 2002 (asp 3);]
- shall, subject to the provisions of this . . . <sup>F4</sup> section, be conferred by an order (in this Act referred to as a “compulsory purchase order”) in accordance with the provisions of the First Schedule to this Act.
- (2) The purchase, in a case falling within the last foregoing subsection, of land—
- (a) which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking,

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(b) forming part of a common or open space or held inalienably by the National Trust for Scotland, . . . <sup>F5</sup>

(c) . . . . . <sup>F5</sup>

shall be subject to the special provisions of Part III of the said First Schedule.

[<sup>F6</sup>(2A) The following sections of, and the Schedules to, this Act shall apply in relation to a compulsory purchase by Scottish Water as they apply in relation to a compulsory purchase by a local authority.]

(3) In relation to any compulsory purchase to which the provisions of the First Schedule to this Act apply, the Lands Clauses Acts and other enactments mentioned in Part I of the Second Schedule to this Act shall be incorporated in accordance with the provisions of the said Part I; and the Acquisition of Land (Assessment of Compensation) Act, <sup>M1</sup>1919, shall have effect in relation to any such compulsory purchase subject to the provisions of Part II of that Schedule.

(4) The enactments excepted from the operation of subsection (1) of this section are any enactment contained in—

(a) the Burial Grounds (Scotland) Act, <sup>M2</sup>1855;

(b) the Allotments (Scotland) Acts, 1892 to 1922;

(c) the Light Railways Acts, 1896 and 1912;

(d) . . . . . <sup>F7</sup>

(f) . . . . . <sup>F8</sup>

(5) . . . . . <sup>F9</sup>

**Textual Amendments**

- F1** S. 1(b) substituted for paras. (b) and (c) by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), **Sch. 15 para. 2(1)**
- F2** Words substituted by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), **Sch. 16 para. 2**
- F3** S. 1(1)(f) inserted (25.6.2003) by [Water Industry \(Scotland\) Act 2002 Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, **Sch. para. 1(a)**
- F4** Words repealed by [Statute Law Revision Act 1953 \(c. 5\)](#)
- F5** S. 1(2)(c) and “or” immediately preceding it repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), **Sch. 5** (by the note at the end of Sch. 5 it is provided that nothing in that Schedule shall affect the operation of any enactment in relation to which para. 1(1) of Sch. 3 to the repealing Act applies)
- F6** S. 1(2A) inserted (25.6.2003) by [Water Industry \(Scotland\) Act 2002 Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, **Sch. para. 1(b)**
- F7** S. 1(4)(d)(e) repealed by [Housing \(Scotland\) Act 1969 \(c. 34\)](#), s. 69(3), **Sch. 7**
- F8** S. 1(4)(f) repealed by [Town and Country Planning \(Scotland\) Act 1947 \(c. 53\)](#), **Sch. 9 Pt. II**
- F9** S. 1(5) repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), **Sch. 17 para. 35(1)**, **Sch. 18**

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

- C25** S. 1(1)(b) extended by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **s. 110(3)**

**Marginal Citations**

- M1** 1919 c. 57.
- M2** 1855 c. 68.

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### Textual Amendments

**F10** S. 2 repealed by Statute Law Revision Act 1953 (c. 5)

## 3 Power to extinguish certain public rights of way over land acquired.

(1) Subject to the provisions of this section, where land is acquired, or proposed to be acquired.—

- (a) in pursuance of a compulsory purchase order made under section one of this Act . . . <sup>F11</sup>, or
- (b) by agreement for a purpose, and by an authority, such that the compulsory acquisition of the land could be authorised by such an order . . . <sup>F12</sup> as aforesaid,

and there subsists over any part of the land a public right of way, not being a right enjoyable by vehicular traffic, then if the Secretary of State is satisfied that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required, he may by order extinguish the right of way as from such date as may be specified in the order, not being earlier than—

- (i) the making of the order;
- (ii) if in the exercise of any power conferred by this Act or by agreement the acquiring authority takes possession of the land before the acquisition thereof is completed, the date on which the authority takes possession of the land;
- (iii) if the acquiring authority does not take possession of the land in the exercise of any such powers aforesaid, the date on which the acquisition of land is completed:

Provided that where a right of way is extinguished under this subsection at a date before the acquisition of the land in question is completed, then if at any time thereafter it appears to the Secretary of State that the proposal to acquire the land has been abandoned, he shall by order direct that the right shall revive, without prejudice, however, to the making of a new order extinguishing the right.

(2) The Secretary of State shall cause a notice stating the effect of any order that he proposes to make under this section extinguishing a right of way, and specifying the time (not being less than twenty-one days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, to be published in such manner as appears to him to be requisite, and, in any case where the acquiring authority is not the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, [<sup>F13M3</sup>1947, for the district] in which the land is situated, shall serve a like notice on the said local planning authority.

(3) If any objection to the proposal is duly made and is not withdrawn, the Secretary of State shall, before making the order, cause a public local inquiry to be held.

(4) No order shall be made under subsection (1) of this section extinguishing a right of way over land, on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order, and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the [<sup>F14C</sup>Scottish Ministers].

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- [<sup>F15</sup>(4A) In subsection (4) above, the reference to apparatus belonging to statutory undertakers shall include a reference to apparatus kept installed for the purposes of a telecommunications code system; and in relation to any such apparatus the references to the undertakers shall have effect as references to the operator of the system.]
- (5) The foregoing provisions of this section shall not apply in any case where section twenty-two of the Town and Country Planning (Scotland) Act, <sup>M4</sup> 1945 (which relates to the extinction of public rights of way over land acquired or appropriated for the purposes of Part I of that Act) applies.
- (6) Except as provided by the foregoing provisions of this section or by the said section twenty-two, nothing in this Act shall be taken to authorise the extinction of any public right of way.
- (7) This section shall not have effect in relation to land acquired or proposed to be acquired [<sup>F16</sup>by the Secretary of State under section 41 of the Civil Aviation Act 1982].

#### Textual Amendments

- F11** Words repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), s. 1(1), **Sch. 1 Pt. IX**
- F12** Words repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), s. 1(1), **Sch. 1 Pt. IX**
- F13** Words substituted by [Town and Country Planning \(Scotland\) Act 1947 \(c. 53\)](#), **Sch. 8**
- F14** Words in s. 3(4) substituted (1.7.1999 as specified in S.I. 1998/3178, **art. 3**) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 20(2)**
- F15** S. 3(4A) inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 23, **Sch. 5 para. 45**
- F16** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), **Sch. 15 para. 2(2)**

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

- C26** S. 3 applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), s. 15.
- C27** Functions of Minister of Transport under s. 3(4) in relation to lighthouse undertakings now exercisable by Board of Trade or Secretary of State: [S.I. 1953/1204](#) (1953 I, p. 1225), [1959/1768](#) (1959 I, p. 1793), [1965/145](#) and [1970/1681](#)

#### Marginal Citations

- M3** 1947 c. 53.
- M4** 1945 c. 33.

4 ..... <sup>F17</sup>

#### Textual Amendments

- F17** S. 4 repealed by [War Damage Act 1964 \(c. 25\)](#), s. 9, **Sch. 3 Pt. II**

## 5 Provisions as to inquiries and as to service of certain notices.

- (1) For the purposes of the execution of his powers and duties under this Act, a Minister may cause to be held such public local inquiries as are directed by this Act and such other public local inquiries as he may think fit, and, subject to the provisions of the

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next following subsection, the provisions of the Fourth Schedule to this Act shall have effect with regard to any such inquiry.

- (2) Any inquiry in relation to a compulsory purchase order which, by virtue of Part III of the First Schedule to this Act, becomes in certain events subject to special parliamentary procedure shall, if the confirming authority so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, <sup>M5</sup>1936, and where any direction has been so given—
  - (a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, <sup>M6</sup>1945;
  - (b) if publication of notice in accordance with the provisions of head (a) of subparagraph (1) of paragraph 3 of the First Schedule to this Act has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with; and
  - (c) the provisions of the Fourth Schedule to this Act shall not apply to such inquiry.
- (3) Any provision contained in the Schedules to this Act requiring notice to be served on owners, lessees or occupiers of any land shall be deemed to be complied with if notice is served on all the persons appearing . . . <sup>F18</sup> to the acquiring authority to have an interest in the land, and any reference in the said Schedules to owners, lessees and occupiers shall be construed accordingly.

F18

.....

**Textual Amendments**

**F18** Words repealed by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), s. 149, **Sch. 13 Pt. IV**

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

**C28** [S. 5\(3\)](#) extended by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s. 1, **Sch. 1 para. 6**

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**Marginal Citations**

**M5** 1936 c. 52.

**M6** 1945 c. 18 (9 & 10 Geo. 6).

**6 Application of s. 1 to local Acts.**

- (1) Where, apart from this Act, power to authorise a local authority to purchase land compulsorily is conferred by any enactment contained in a local Act and in force immediately before the eighteenth day of April, nineteen hundred and forty-six, the Secretary of State may by order made on the application of the local authority direct that section one of this Act shall apply in relation to the enactment as if the enactment were contained in a public general Act:  
.....<sup>F19</sup>
- (2) Where an order has come into operation under this section or under section seven of the Acquisition of Land (Authorisation Procedure) Act, <sup>M7</sup>1946, the local Act shall have effect subject to the amendments thereof provided for in the order, being amendments appearing to the Secretary of State to be consequential on the making of the order, and as if the said amendments had been in force immediately before the eighteenth day of April, nineteen hundred and forty-six.



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(3) Any order under this section . . . <sup>F20</sup> shall be subject to special parliamentary procedure.

**Textual Amendments**

- F19** Definition of “appropriate Minister” repealed by S.I. 1970/1681
- F20** Words repealed by Statute Law Revision Act 1953 (c. 5)

**Marginal Citations**

- M7** 1946 c. 49.

**[<sup>F21</sup>6A Application for the purposes of the Opencast Coal Act 1958.**

In the application of this Act for the purposes of section 4(5) of the Opencast Coal Act 1958, Part III of Schedule 1 shall apply as if paragraph 9 were omitted and the acquisition to which the compulsory rights order related were not affected by section 120 of the Local Government, Planning and Land Act 1980.]

**Textual Amendments**

- F21** S. 6A inserted (31.10.1994) by 1994 c. 21, ss. 7(1), 67, Sch. 9 para. 4 (with s. 40(7)); S.I. 1994/2553, art. 2

**7 Interpretation.**

(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

. . . <sup>F22</sup>

. . . . . <sup>F23</sup>

- “common” includes any town or village green;
- “held inalienably”, in relation to land belonging to the National Trust for Scotland, means that the land is inalienable under section twenty two of the Order confirmed by the National Trust for Scotland Order Confirmation Act, <sup>M8</sup>1935;
- “land”, in relation to compulsory purchase under any enactment. includes anything falling within any definition of that expression in that enactment, and in relation to compulsory purchase under the Harbours, Piers and Ferries (Scotland) Act, <sup>M9</sup>1937, includes also a marine work within the meaning of that Act;
- “local authority” means any [<sup>F24</sup>any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] ;
- “National Trust for Scotland” means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935;
- “open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground;
- “owner”, in relation to any land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease the unexpired period of which exceeds three years;

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“statutory undertakers” means any persons authorised by any Act (whether public general or local), or by any order or scheme made under or confirmed by an Act, to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F25</sup>, . . . <sup>F26</sup>, hydraulic power or water [<sup>F27</sup>, or a universal service provider (within the meaning of the Postal Services Act 2000 ) in connection with the provision of a universal postal service (within the meaning of that Act)].

<sup>F28</sup>(2) . . . . .

(3) For the removal of doubt, it is hereby declared that any power conferred by or under this Act or any enactment passed before the commencement thereof to purchase land compulsorily is, except in so far as any express provision of any such enactment restricts the exercise of the power, exercisable notwithstanding any other enactment providing that the land shall be inalienable.

(4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including this Act.

#### Textual Amendments

- F22** Definition of “appropriate Minister” repealed by [S.I. 1970/1681](#)
- F23** Definition of “ancient monument” repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), [Sch. 5](#) (by the note at the end of Sch. 5 it is provided that nothing in that Schedule shall affect the operation of any enactment in relation to which para. 1(1) of Sch. 3 to the repealing Act applies)
- F24** [S. 7\(1\)](#): words in definition of “local authority” substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 28](#); [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)](#)
- F25** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 112\(3\)\(4\)](#), [Sch. 17 para. 35\(1\)](#), [Sch. 18](#)
- F26** Word repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 67\(4\)](#), [Sch 9 Pt. I](#)
- F27** Words in definition of “statutory undertakers” in [s. 7\(1\)](#) inserted by [S.I. 2001/1149, art. 3\(1\)](#), [Sch. 1 para. 15](#)
- F28** [S. 7\(2\)](#) repealed (1.7.1999 as specified in [S.I. 1998/3178, art. 3](#)) by [S.I. 1999/1820, arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 20\(3\)](#), Pt.IV

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

- C29** [S. 7\(3\)](#) applied by [New Towns \(Scotland\) Act 1968 \(c. 16\)](#), [s. 41\(3\)](#)

#### Marginal Citations

- M8** [1935 c. 11.](#)
- M9** [1937 c. 28.](#)

## 8 †Repeals and consequential and transitional provisions

(1) . . . . . <sup>F29</sup>

(2) References to the Acquisition of Land (Authorisation Procedure) Act, 1946, or to particular provisions thereof, contained in the Fourth Schedule to that Act (which sets forth minor and consequential amendments of various enactments) shall be construed as references to this Act or to the provisions of this Act corresponding to the particular provisions of the said Act of <sup>M10</sup>1946, as the case may require.



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(3) ..... F30

**Textual Amendments**

**F29** S. 8(1) repealed by Statute Law Revision Act 1950 (14 Geo. 6 c. 6)

**F30** S. 8(3) repealed by Statute Law Revision Act 1953 (c. 5)

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

**C30** A dagger appended to a marginal note means that it is no longer accurate

**Marginal Citations**

**M10** 1946 c. 49.

**9 Short title and extent.**

(1) This Act may be cited as the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

(2) This Act shall extend to Scotland only.

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## FIRST SCHEDULE

Section 1.

### PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES

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

- C31** Sch. 1 applied by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s. 1, **Sch. 2 para. 1**
- C32** Sch. 1 extended by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s 1, **Sch. 2 para. 1(1)(b)**

## PART I

### PURCHASES BY LOCAL AUTHORITIES

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

- C33** Part I applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), ss. 4, 39, **Sch. 2 Pt. I** (as amended (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 38](#) (with s. 40(7)); S.I. 1994/2553, **art. 2**)
- C34** Sch. 1 Pt. I applied (31.10.1994) by [1958 c. 69 s. 16\(5\)](#) (as substituted by [1994 c. 21, s. 52, Sch. 8 para. 14\(7\)](#) (with s. 40(7)); S.I. 1994/2553, **art. 2**)

- 1 A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the “acquiring authority”) in a case falling within subsection (1) of section one of this Act shall be made by the acquiring authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the “confirming authority”) in accordance with the following provisions of this Schedule.
- 2 The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.
- 3 Before submitting the order to the confirming authority, the acquiring authority shall—
- (a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made;
  - (b) serve on every owner, lessee and occupier (except tenants for a month or any period less than month) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made.

*Status: Point in time view as at 25/06/2003.*

*Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

**C35** Sch. 1 para. 3(b) modified by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), s. 107(3)

- 4 (1) If no objection is duly made by any such person as aforesaid [<sup>F31</sup>or if no objection is duly made by the National Trust for Scotland in a case where the land comprised in the order was held inalienably by the Trust on the date of the passing of the Crofting Reform (Scotland) Act 1976 and was acquired from the Trust by a crofter as defined in section 3 of the Crofters (Scotland) Act 1955 in pursuance of an order under section 2(1) or 4(1) of the said Act of 1976] or if all objections so made are withdrawn, the confirming authority, on being satisfied that the proper notices have been published and served, may, if the authority think fit, confirm the order with or without modifications.
- (2) If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.
- (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.
- (4) Notwithstanding anything in the two last preceding sub-paragraphs, the confirming authority may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.

#### Textual Amendments

**F31** Words inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21, SIF 2:4\)](#), s. 22(1), [Sch. 2 para. 3](#)

- 5 The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.
- 6 As soon as may be after the order has been confirmed, the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

*Status: Point in time view as at 25/06/2003.*

*Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

- C36** Sch. 1 para. 6 applied (with modifications) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 93, 335, [Sch. 7 Pt. II para. 11](#)
- C37** Sch. 1 para. 6 modified (27.5.1997) by [1997 c. 8, ss. 200\(3\), 278\(2\)](#)

## PART II

### PURCHASES BY MINISTERS

- 7 (1) A compulsory purchase order authorising a compulsory purchase by a Minister in a case falling within subsection (1) of section one of this Act shall be prepared in draft and made by the Minister in accordance with the following provisions of this Schedule.
- (2) The order shall describe by reference to a map the land to which it applies.
- (3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.
- (4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order, and with the omission in sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

## PART III

### SPECIAL PROVISIONS AS TO CERTAIN DESCRIPTIONS OF LAND

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

- C38** Part III applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), ss. 4, 39 Sch. 2 Pt. I (as amended (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 38](#) (with [s. 40\(7\)](#); S.I. 1994/2553, [art. 2](#))
- C39** [Sch. 1 Pt. III](#) applied (31.10.1994) by [1958 c. 69, s. 16\(5\)](#) (as substituted by [1994 c. 21, s. 52, Sch. 8 para. 14\(7\)](#) (with [s. 40\(7\)](#); S.I. 1994/2553, [art. 2](#))
- [Sch. 1 Pt. III](#) applied (with modifications) (26.3.2001) by [2000 c. 26, s. 95, Sch. 5 Pt. III paras. 16-21](#); S.I. 2000/2957, [art. 2\(3\), Sch. 3](#)

- 8 The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.

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

- C40** [Pt. III](#)(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)

*Status: Point in time view as at 25/06/2003.*

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**C41** Pt. III (paras. 8–14) applied (with modifications) by Gas Act 1986 (c. 44, SIF 44:2), s. 9(3), Sch. 3 Pt. III paras. 16–21, **23**

9 A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority, or has been acquired by statutory undertakers, not being a local authority, for the purposes of their undertaking or of land belonging to the National Trust for Scotland which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection has been duly made by the local authority or the statutory undertakers or the National Trust for Scotland, as the case may be, and has not been withdrawn.

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

**C42** Pt. III (paras. 8–14) applied with modifications by Water Act 1980 (c. 45, SIF 130), **Sch. 2 para. 5**

**C43** Pt. III (paras. 8–14) applied (with modifications) by Gas Act 1986 (c. 44, SIF 44:2), s. 9(3), Sch. 3 Pt. III paras. 16–21, **23**

**C44** Pt. III para. 9 which was repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 237(1), **Sch 29** is revived by Local Government (Scotland) Act 1975 (c. 30, SIF 81:2), s. 38(1), **Sch. 6 Pt. II para. 58**

**C45** Pt. III para. 9 restricted Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1, 2), **s. 120(2)**

10 Where a compulsory purchase order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the [<sup>F32</sup>Scottish Ministers] before the expiration of the time within which objections to the order can be made, the [<sup>F32</sup>Scottish Ministers are] satisfied—

- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
- (b) that an interest in any of the said land is held for those purposes,

[<sup>F33</sup>and, if the representation is not withdrawn,] the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the [<sup>F32</sup>Scottish Ministers are] satisfied as aforesaid except land as to which [<sup>F32</sup>they are] satisfied that its nature and situation are such—

- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
- (ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,

and certifies accordingly.

[<sup>F34</sup>(10A) In paragraphs 9 and 10 of this Schedule “statutory undertakers” include—

- (a) a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990; and
- (b) a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978;

but in relation to a health service body, as so defined, any reference in those paragraphs to land acquired or available for acquisition by the statutory undertakers shall be construed as a reference to land acquired or available for use by the Secretary of State for use or occupation by that body.]

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### Textual Amendments

- F32** Words in **Sch. 1 Pt. III para. 10** substituted (1.7.1999 as specified in **S.I. 1998/3178, art. 3**) by **S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 20(4)**
- F33** Words in **Sch. 1 Pt. III para. 10** inserted (25.9.1991) by **Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 79(a), Sch. 17 Pt. I para. 2** (with s. 84(5)); **S.I. 1991/2092, art. 3**
- F34** **Pt. III para. 10A** inserted by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), Sch. 8 Pt. II para. 5**

### Modifications etc. (not altering text)

- C46** **Pt. III**(paras. 8–14) applied with modifications by **Water Act 1980 (c. 45, SIF 130), Sch. 2 para. 5**
- C47** **Pt. III**(paras. 8–14) applied (with modifications) by **Gas Act 1986 (c. 44, SIF 44:2), s. 9(3), Sch. 3 Pt. III paras. 16–21, 23**
- C48** **Pt. III para. 10** excluded by **Town and Country Planning (Scotland) Act 1972 (c. 52, SIF 123:1, 2), s. 218(1)**
- C49** Functions of Minister of Transport under para. 10 in relation to lighthouse undertakings now exercisable by Board of Trade or Secretary of State; **S.I. 1953/1204** (1953 I, p. 1225), 1959/1768 (1959 I, p. 1793), 1965/145 and 1970/1681
- C50** **Sch. 1 para. 10** excluded (27.5.1997) by **1997 c. 8, ss. 223(2), 278(2), Sch. 9 para. 15(4), Sch. 10 para. 13(4)**

- 11 (1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree) and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
  - (b) [<sup>F35</sup>that the land does not exceed 250 square yards in extent or is] required for the widening of an existing [<sup>F36</sup>public road (within the meaning of the Roads (Scotland) Act 1984)] and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- and certifies accordingly.
- (2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall [<sup>F37</sup>direct the acquiring authority to] give public notice of his intention so to do, and—
- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
  - (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,
- he may, after considering representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.
- [<sup>F38</sup>(3) Notice under sub-paragraph (2) of this paragraph shall be given in such form and manner as the Secretary of State may direct.]



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#### Textual Amendments

- F35** Words substituted by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\), s. 32\(1\)](#)
- F36** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), Sch. 9 para. 35](#)
- F37** Words in [Sch. 1 Pt. III para. 11\(2\)](#) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\), s. 79\(a\), Sch. 17 Pt. I para. 3\(a\)](#) (with [s. 84\(5\)](#)); S.I. 1991/2092, [art.3](#)
- F38** [Sch. 1 Pt. III para. 11\(3\)](#) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\), s. 79\(a\), Sch. 17 Pt. I para. 3\(b\)](#) (with [s. 84\(5\)](#)); S.I. 1991/2092, [art.3](#)

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

- C51** [Pt. III\(paras. 8–14\)](#) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\), Sch. 2 para. 5](#)
- C52** [Pt. III\(paras. 8–14\)](#) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 9\(3\), Sch. 3 Pt. III paras. 16–21, 23](#)
- C53** [Pt. III para. 11](#) applied by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\), s. 111\(2\)](#)

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F39

#### Textual Amendments

- F39** [Pt. III para. 12](#) repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\), Sch. 5](#) (by the note at the end of [Sch. 5](#) it is provided that nothing in that Schedule shall affect the operation of any enactment in relation to which [para. 1\(1\)](#) of [Sch. 3](#) to the repealing Act applies)

13

As soon as may be after the giving of a certificate under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the certificate has been given.

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

- C54** [Pt. III\(paras. 8–14\)](#) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\), Sch. 2 para. 5](#)
- C55** [Pt. III\(paras. 8–14\)](#) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 9\(3\), Sch. 3 Pt. III paras. 16–21, 23](#)

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In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule, a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said paragraphs.

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

- C56** [Pt. III\(paras. 8–14\)](#) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\), Sch. 2 para. 5](#)
- C57** [Pt. III\(paras. 8–14\)](#) applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 9\(3\), Sch. 3 Pt. III paras. 16–21, 23](#)

*Status: Point in time view as at 25/06/2003.*

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## PART IV

### VALIDITY AND DATE OF OPERATION OF COMPULSORY PURCHASE ORDERS

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

- C58** Pt. IV applied with modifications by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 7**
- C59** Part IV applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), ss. 4, 39, **Sch. 2 Pt. I** (as amended (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 38** (with s. 40(7)); S.I. 1994/2553, **art. 2**) and [Gas Act 1965 \(c. 36\)](#), s. 4(8); Sch. 2 paras. 11, 17
- C60** Sch. 1 Pt. IV applied (31.10.1994) by 1958 c. 69, s. 16(5) (as substituted by 1994 c. 21, s. 52, **Sch. 8 para. 14(7)** (with s. 40(7)); S.I. 1994/2553, **art. 2**)

- 15 (1) If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session, and on any such application the Court—
- (a) may by interim order suspend the operation of the compulsory purchase order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
  - (b) if satisfied that the authorisation granted by the compulsory purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

(2) ..... F40

#### Textual Amendments

- F40** Sch. 1 para. 15(2) repealed by [Tribunals and Inquiries Act 1958 \(c. 66\)](#), **Sch. 2 Pt. I**

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

- C61** Pt. IV para. 15 amended by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), s. 60
- C62** Pt. IV para. 15 applied (with modifications) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), Sch. 3 Pt. III paras. 16, 23
- C63** Pt. IV para. 15 applied (with modifications) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 93, 335, **Sch. 7 Pt. II para. 11**
- C64** Para. 15 applied with modification by [Agriculture Act 1967 \(c. 22\)](#), s. 45, **Sch. 5 Pt. I para. 7**

*Status: Point in time view as at 25/06/2003.*

**Changes to legislation:** Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 16 Subject to the provisions of the last foregoing paragraph a compulsory purchase order or a certificate under Part III of this Schedule shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the last foregoing paragraph.

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

- C65** Pt. IV para. 16 applied (with modifications) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 93, 335, Sch. 7 Pt. II para. 11
- C66** Para. 16 applied with modifications by Agriculture Act 1967 (c. 22), s. 45, Sch. 5 Pt. I para. 7

- 17 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act <sup>M11</sup>1945, or under section six of that Act, but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in paragraph 16 the words from “and shall become operative” to the end were omitted.

**Marginal Citations**

- M11** 1945 c. 18 (9 & 10 GeO. 6).

**PART V**

**GENERAL**

- 18 Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations made by the Secretary of State.
- 19 (1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter.
- (2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.
- (3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, <sup>M12</sup>1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body and in any other case be the last known address of the person to be served: Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

*Status: Point in time view as at 25/06/2003.*

**Changes to legislation:** Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[<sup>F41</sup>(4) Where the maker of the order in connection with which the document is to be served is satisfied, after reasonable inquiry, that it is not practicable to ascertain (either or both)—

- (a) the name;
- (b) the address,

of a person to be served, the document shall be taken to be duly served if, being addressed to that person either by name or by the description of "the owner", "the lessee" or "the occupier" of the land (describing it) to which the order relates, as the case may be, and being plainly identifiable as a document of importance, it is delivered to some person on the land, or, if there is no such person thereon to whom it may be delivered, it (or a copy of it) is affixed to some conspicuous part of the land.]

#### Textual Amendments

**F41** Pt. IV para. 19(4) substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), **Sch. 2 para. 6**

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

**C67** Pt. IV para. 19 applied by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 93, 335, **Sch. 7 Pt. III para. 13(5)**

Sch. 1 para. 19 applied (with modifications) (27.7.1993) by 1993 c. xii, s. 1, **Sch. Pt. II para. 15**

Sch. 1 para. 19 applied (with modifications) (24.3.1994) by 1994 c. i, s. 1, **Sch. 1 Pt. III**, s. 28 (with Sch. ss. 29, 30, 34(2)(15))

Sch. 1 para. 19 applied (with modifications) (24.3.1994) by 1994 c. ii, s. 1, **Sch. Pt. III**, s. 24 (with Sch. s. 25)

Sch. 1 para. 19 applied (with modifications) (24.3.1994) by 1994 c. iii, s. 1, **Sch. Pt. III**, s. 26 (with Sch. s. 27)

**C68** Para. 19 applied with modifications by Agriculture Act 1967 (c. 22), s. 45, **Sch. 5 Pt. I para. 7**

**C69** Sch. 1 para. 19 amended (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 79(a), **Sch. 17 para. 4** (with s. 84(5)); S.I. 1991/2092, **art. 3**

#### Marginal Citations

**M12** 1889 c. 63.

## SECOND SCHEDULE

### INCORPORATION OF ENACTMENTS

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

**C70** Sch. 2 modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), **Sch. 15 Pt. I para. 6**

*Status: Point in time view as at 25/06/2003.*

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## PART I

### THE LANDS CLAUSES ACTS AND THE RAILWAYS CLAUSES CONSOLIDATION (SCOTLAND) ACT 1845

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

**C71** Pt. I applied with modifications by [Land Commission Act 1967 \(c. 1\), s. 10\(1\)\(4\)](#)

- 1 In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply, the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, <sup>M13</sup>1845, are hereby incorporated with the enactment under which the purchase is authorised; and in construing those Acts as so incorporated—
- (a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act;
  - (b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.

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

**C72** [Sch. 2 para. 1](#) modified (27.5.1997) by [1997 c. 8, ss. 200\(4\), 278\(2\)](#)

#### Marginal Citations

**M13** 1845 c. 33.

- 2 The following sections of the Lands Clauses Consolidation (Scotland) Act, <sup>M14</sup>1845, shall be excepted from incorporation as aforesaid, that is to say—
- (a) sections one hundred and twenty to one hundred and twenty-five (which relate to the sale of superfluous land);
  - (b) in the case of a purchase under the Housing (Scotland) Acts, 1925 to 1935, and in any other case in which the compulsory purchase order so provides, section one hundred and twenty-seven (which relates to promoters making good deficiencies in land tax and rates); and
  - (c) sections one hundred and forty-two and one hundred and forty-three (which relate to access to the special Act).

#### Marginal Citations

**M14** 1845 c. 19.

- 3 (1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat and after serving on the owner, lessee and occupier of the land not less than fourteen days' notice, the authority or Minister may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on

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the compensation awarded, as would have been payable if those provisions had been complied with.

(2) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.

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

- C73** Sch. 2 para. 3 modified by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#) s. 51(1)
- C74** Para. 3 excluded by [Agriculture Act 1967 \(c. 22\)](#), **s. 49(7)(ii)**; modified by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#), s. 14(3), Sch. 4 paras. 4, 5
- C75** Sch. 2 para. 3 modified (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 57(4), 89(2), **Sch. 8**, para. 6(b) (with s. 45(3), Sch. 12 para. 3)
- C76** Sch. 2 para. 3 extended (27.5.1997) by [1997 c. 8](#), **ss. 105(7)**, 278(2)
- C77** Sch. 2 para. 3 excluded (27.5.1997) by [1997 c. 8](#), ss. 195, 278(2), **Sch. 15 Pt. II para. 17**
- C78** Sch. 2 para. 3 applied (27.5.1997) by [1997 c. 8](#), ss. 195, 278(2), **Sch. 15 Pt. II para. 30**
- C79** Sch. 2 para. 3(1) modified by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), **Sch. 3 Pt. II para. 10**, Pt. III para. 21
- C80** Sch. 2 para. 3(1) excluded (25.9.1991) by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), **s. 48A(9)**(inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), **s. 73(2)**(with s. 84(5)); [S.I. 1991/2092](#), **art.3**

F42<sup>4</sup>

The following provisions shall have effect in substitution for the provisions of section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

#### **Textual Amendments**

- F42** [Sch. 2 para. 4](#): by [Gas Act 1986 \(c. 44\)](#) , s. 9(3), Sch. 3 para. 22 it is provided that for para. 4 there shall be substituted the provisions substituted by paragraph 8 of that Schedule for section 8(1) of the [Compulsory Purchase Act 1965 \(c. 56\)](#), and that any reference in those provisions to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

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

- C81** [Sch. 2 para. 4](#) amended by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), **s. 54(1)**
- C82** [Sch. 2 para. 4](#) modified by [Land Compensation \(Scotland\) Act 1973 \(c.56, SIF 28:2\)](#), **s. 63(3)**
- C83** [Sch. 1 para. 4](#) excluded (27.5.1997) by [1997 c. 8](#), ss. 195, 278(2), **Sch. 15 Pt. II para. 19**

5

Notices required to be served by the acquiring authority may, notwithstanding anything in section eighteen of the Lands Clauses Consolidation (Scotland) Act, <sup>M15</sup>1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule.



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**Marginal Citations**

**M15** 1845 c. 19.

- 6 (1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy of the Railways Clauses Consolidation (Scotland) Act, <sup>M15</sup>1845 (which relates to the exception of minerals from purchases) and sections seventy-one to seventy-eight of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy only.
- (2) Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order, and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order.

**Marginal Citations**

**M16** 1845 c. 20.

**PART II**

THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919

- 7 The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done, or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration directly or indirectly concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

**PART III**

PURCHASES UNDER SECTION 2

- 8 ..... <sup>F43</sup>

**Textual Amendments**

**F43** Sch. 2 Pt. III, Sch. 3 repealed by Statute Law Revision Act 1953 (c. 5)

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### F44F44 THIRD SCHEDULE

#### Textual Amendments

**F44** Sch. 2 Pt. III, Sch. 3 repealed by Statute Law Revision Act 1953 (c. 5)

F44

## FOURTH SCHEDULE

Section 5.

### PUBLIC LOCAL INQUIRIES

- 1 The Minister shall appoint a person to hold the inquiry and to report thereon to him.
- 2 The person appointed to hold the inquiry shall notify any person who has lodged, and has not withdrawn, objections in relation to any matter in question at the inquiry, and shall publish in such newspaper or newspapers as the Minister may direct a notice of the time when and the place where the inquiry is to be held.
- 3 The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry:  
Provided that—
  - (a) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and
  - (b) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- 4 The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
- 5 Any person who refuses or wilfully neglects to attend in obedience to a notice under paragraph 3 of this Schedule or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding [<sup>F45</sup>level 2 on the standard scale] or to imprisonment for a period not exceeding three months.

#### Textual Amendments

**F45** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289C, 289G

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- 6 Where the inquiry arises out of a proposed acquisition of land by a local authority or the proposed extinction of a right of way over land acquired or proposed to be acquired by a local authority—
- (a) the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Minister may order; and
  - (b) the Minister may make orders as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.
- 7 Any order by the Minister under paragraph 6 of this Schedule may be enforced in like manner as a recorded decree arbitral.

F46F46 FIFTH SCHEDULE

**Textual Amendments**

F46 Sch. 5 repealed by Statute Law Revision Act 1950 (14 Geo. 6 c. 6)

F46

**Status:**

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**Changes to legislation:**

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