

Status: Point in time view as at 01/02/1991.

Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, First Schedule is up to date with all changes known to be in force on or before 10 July 2023. 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)

FIRST SCHEDULE

Section 1.

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES

Modifications etc. (not altering text)

- C1** Sch. 1 applied by Offshore Petroleum Development (Scotland) Act 1975 (c. 8, SIF 86), s. 1, **Sch. 2 para. 1**
- C2** 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)

- C3** 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**)
- C4** 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.

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Modifications etc. (not altering text)

C5 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 ^{F1}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

F1 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.

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Modifications etc. (not altering text)

- C6** 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](#)
- C7** 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)

- C8** 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](#)))
- C9** [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)

- C10** [Pt. III](#)(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)

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C11 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)

C12 Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)

C13 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](#)

C14 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](#)

C15 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 appropriate Minister before the expiration of the time within which objections to the order can be made, the appropriate Minister is 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,

the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the appropriate Minister is satisfied as aforesaid except land as to which he is 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.

[^{F2}(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

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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.]

Textual Amendments

F2 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)

C16 Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 5**

C17 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**

C18 Pt. III para. 10 excluded by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:1, 2\)](#), s. **218(1)**

C19 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](#)

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) [^{F3}that the land does not exceed 250 square yards in extent or is] required for the widening of an existing [^{F4}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 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.

Textual Amendments

F3 Words substituted by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), s. **32(1)**

F4 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 35**

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Modifications etc. (not altering text)

- C20** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 5**
- C21** 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**
- C22** Pt. III para. 11 applied by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), **s. 111(2)**

12 F5

Textual Amendments

- F5** 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)

- C23** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 5**
- C24** 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**

14 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)

- C25** Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 5**
- C26** 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**

PART IV

VALIDITY AND DATE OF OPERATION OF COMPULSORY PURCHASE ORDERS

Modifications etc. (not altering text)

- C27** Pt. IV applied with modifications by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), **Sch. 2 para. 7**
- C28** 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
- C29** 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**)

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- 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) F6

Textual Amendments

F6 Sch. 1 para. 15(2) repealed by Tribunals and Inquiries Act 1958 (c. 66), Sch. 2 Pt. I

Modifications etc. (not altering text)

C30 Pt. IV para. 15 amended by Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2), s. 60

C31 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

C32 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

C33 Para. 15 applied with modification by Agriculture Act 1967 (c. 22), s. 45, Sch. 5 Pt. I para. 7

- 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)

C34 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

C35 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

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Statutory Orders (Special Procedure) Act ^{M1}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

M1 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, ^{M2}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.
- [^{F7}(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.]

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Textual Amendments

- F7** 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)

- C36** 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)
- C37** [Para. 19](#) applied with modifications by [Agriculture Act 1967](#) (c. 22), s. 45, **Sch. 5 Pt. I para. 7**
- C38** [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

- M2** 1889 c. 63.

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