

Status: Point in time view as at 01/07/1999.

Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, Part III 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)

FIRST SCHEDULE

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

PART III

SPECIAL PROVISIONS AS TO CERTAIN DESCRIPTIONS OF LAND

Modifications etc. (not altering text)

- C1 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**)
- C2 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)

- C3 Pt. III(paras. 8–14) applied with modifications by Water Act 1980 (c. 45, SIF 130), **Sch. 2 para. 5**
- C4 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local authority or the statutory undertakers or the National Trust for Scotland, as the case may be, and has not been withdrawn.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)

- C5 Pt. III(paras. 8–14) applied with modifications by Water Act 1980 (c. 45, SIF 130), **Sch. 2 para. 5**
- C6 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**
- C7 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**

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C8 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 ^[F1]Scottish Ministers] before the expiration of the time within which objections to the order can be made, the ^[F1]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,
- ^[F2]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 ^[F1]Scottish Ministers are] satisfied as aforesaid except land as to which ^[F1]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.

^[F3](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.]

Textual Amendments

- F1** 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\(4\)](#)
- F2** 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](#)
- F3** [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)

- C9** [Pt. III\(paras. 8–14\)](#) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
- C10** [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](#)
- C11** [Pt. III para. 10](#) excluded by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:1, 2\)](#), **s. 218(1)**
- C12** 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](#)

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C13 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) [^{F4}that the land does not exceed 250 square yards in extent or is] required for the widening of an existing [^{F5}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 [^{F6}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.

[^{F7}(3) Notice under sub-paragraph (2) of this paragraph shall be given in such form and manner as the Secretary of State may direct.]

Textual Amendments

F4 Words substituted by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\), s. 32\(1\)](#)

F5 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), Sch. 9 para. 35](#)

F6 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](#)

F7 [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)

C14 [Pt. III \(paras. 8–14\)](#) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\), Sch. 2 para. 5](#)

C15 [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](#)

C16 [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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Textual Amendments

F8 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)

C17 Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
C18 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)

C19 Pt. III(paras. 8–14) applied with modifications by [Water Act 1980 \(c. 45, SIF 130\)](#), [Sch. 2 para. 5](#)
C20 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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