



Title Conditions (Scotland) Act 2003

2003 asp 9

PART 10

MISCELLANEOUS

Compulsory acquisition of land

106 Extinction of real burdens and servitudes etc. on compulsory acquisition of land

- (1) If land is acquired compulsorily by virtue of a compulsory purchase order [^{F1} to which this section applies] then, except in so far as the terms of—
- (a) the order; or
 - (b) the conveyance in implement of such acquisition,
- provide otherwise, on registration of the conveyance, any real burden, or servitude, over the land shall be extinguished and any development management scheme applying as respects the land disappplied.
- (2) Without prejudice to the generality of the exception in subsection (1) above, such terms as are mentioned in that exception may provide—
- (a) for the variation of any of the real burdens or servitudes;
 - (b) that there shall be such extinction only—
 - (i) of certain of the real burdens and servitudes;
 - (ii) in relation to certain parts of the burdened property; or
 - (iii) in respect of the enforcement rights of the owners of certain of the benefited properties.
- (3) If the compulsory purchase order provides for an exception such as is mentioned in subsection (1) above, the conveyance in implement of the acquisition shall not, unless the owners of the benefited properties consent, or as the case may be the owners' association or the holder of any personal real burden consents, be registrable if its terms do not conform in that regard.
- (4) Where a personal real burden is extinguished by virtue of subsection (1) above, such person as immediately before the extinction held the right to enforce the burden shall

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, Section 106. (See end of Document for details)

be entitled to receive compensation from the acquiring authority in question for any loss thereby occasioned that person.

[^{F2}(4A) This section applies to a compulsory purchase order in respect of which notice is given under paragraph 3 of schedule 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on or after the day on which section 109 of this Act comes into force.]

(5) In this section—

“compulsory purchase order” has the meaning given by section 1(1) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) (procedure for compulsory purchase of land by local authorities etc.) except that it includes a compulsory purchase order made under the Forestry Act 1967 (c. 10); and

“conveyance” means—

- (a) a—
- (i) disposition;
 - (ii) notice of title; or
 - (iii) notarial instrument,

which includes a reference to the application of subsection (1) above;

- (b) a conveyance in the form set out in Schedule A to the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19); or
- (c) a general vesting declaration (as defined in paragraph 1(1) of Schedule 15 to the Town and Country Planning (Scotland) Act 1997 (c. 8)).

Textual Amendments

- F1** Words in s. 106(1) inserted (22.10.2003) by [The Title Conditions \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/503\)](#), art. 2, **Sch. 1 para. 12(a)**
- F2** S. 106(4A) substituted (1.4.2019) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Amendments\) Regulations 2019 \(S.S.I. 2019/125\)](#), regs. 1(2), **10**

Modifications etc. (not altering text)

- C1** S. 106 applied (8.5.2007) by [Airdrie-Bathgate Railway and Linked Improvements Act 2007 \(asp 19\)](#), **s. 51** (with ss. 48, 59)
- S. 106 applied (1.6.2010) by [The Network Rail \(Waverley Steps\) Order 2010 \(S.S.I. 2010/188\)](#), **art. 32**
- C2** S. 106 applied (11.4.2017) by [The Network Rail \(Glasgow Queen Street Station\) Order 2017 \(S.S.I. 2017/100\)](#), arts. 1, **39** (with arts. 37, 39(9))

Changes to legislation:

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