



Forestry Act 1967

1967 CHAPTER 10

PART III

ADMINISTRATION AND FINANCE

Acquisition and disposal of land

39 Power of Minister to acquire and dispose of land.

- (1) Subject to the provisions of this Act, the Minister [^{F1}as regards England and Wales, and the Scottish Ministers as regards Scotland] may acquire (by purchase, lease or exchange) land which in his [^{F2}or their] opinion is suitable for afforestation or for purposes connected with forestry, together with any other land which must necessarily be acquired therewith, and may place any land acquired by him [^{F3}or them] under this section at the disposal of the Commissioners.
- [^{F4}(2) Subject to subsection (2A) below, the Minister [^{F5}and the Scottish Ministers] may dispose for any purpose of land acquired by him [^{F6}or them] under this section.
- (2A) Subsection (2) above shall not apply in relation to land acquired under this section which is in the Forest of Dean; but the Minister may sell any such land if in his opinion it is not needed, or ought not to be used, for the purpose of afforestation or any purpose connected with forestry, and may exchange any such land for other land more suitable for either of the said purposes and may pay or receive money for equality of exchange.]
- (3) The Minister [^{F7}and the Scottish Ministers] shall have power, in the case of land acquired by him [^{F8}or them] under this section,—
- (a) to manage and use the land for such purposes as he thinks [^{F9}or they think] fit (this power to include that of erecting buildings and other works on the land) where it is not for the time being placed at the disposal of the Commissioners under subsection (1) above; and
 - (b) to let the land, or grant any interest or right in or over it.
- (4)

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[^{F11}(5) Any instrument in connection with the management or disposal of land in Scotland acquired by the Minister under this section and for the time being placed at the disposal of the Commissioners shall, without prejudice to any other method of execution, be deemed to be validly executed by him if it is executed on his behalf by an officer of the Commissioners authorised by him for the purpose; and any instrument so executed shall, for the purposes of section 1(8) and (9) of the ^{M1}Reorganisation of Offices (Scotland) Act 1939, be deemed to have been executed by an officer of the Secretary of State duly authorised by him.]

(6) Schedule 4 to this Act shall have effect as respects the procedure applicable where the Minister acquires [^{F12}or the Scottish Ministers acquire] land under this section, except in a case of compulsory purchase in accordance with the following section.

Textual Amendments

- F1** Words in s. 39(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(28)(a)
F2 Words in s. 39(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(28)(b)
F3 Words in s. 39(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(28)(c)
F4 S. 39(2)(2A) substituted for s. 39(2) by Forestry Act 1981 (c. 39, SIF 54), s. 1
F5 Words in s. 39(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(29)(a)
F6 Words in s. 39(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(29)(b)
F7 Words in s. 39(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(30)(a)
F8 Words in s. 39(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(30)(b)
F9 Words in s. 39(3)(a) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(30)(c)
F10 Ss. 39(4), 41(7) repealed by Forestry Act 1981 (c. 39, SIF 54), s. 4(2), Sch.
F11 S. 39(5) repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), Sch. 5 (with ss. 9(3)(5)(7), 13, 14(3))
F12 Words in s. 39(6) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(31)

Modifications etc. (not altering text)

- C1** S. 39 extended by (S.) Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), s. 59 and Countryside Act 1968 (c. 41, SIF 46:1), (E.W.) s. 23(3) and (E.W.)(S.) s. 24(5)

Marginal Citations

- M1** 1939 c. 20(57)

40 Compulsory purchase of land.

- (1) Subject to the provisions of this section, the power of the Minister [^{F13}and the Scottish Ministers] to acquire land by purchase under section 39 above includes a power of compulsory purchase.
- (2) The following descriptions of land shall not be subject to compulsory purchase under this Act:—
- land which is the site of an ancient monument or other object of archaeological interest;
 - land which forms part of a park, garden or pleasure ground or which forms part of the home farm attached to, and usually occupied with, a mansion house or is otherwise required for the amenity or convenience of a dwelling-house;
 - land which is the property of a local authority, that is to say,—

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- (i) in England or Wales, the council of a county, . . . ^{F14}, county district or rural parish, [^{F15}the Greater London Council] the Common Council of the City of London or the council of a London borough; and
 - (ii) in Scotland, a [^{F16}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];
 - (d) land which has been acquired for the purpose of their undertaking by statutory undertakers, that is to say persons authorised by an enactment, or by an order or scheme made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, . . . ^{F17}, . . . ^{F18}, [^{F19}water] or other public undertaking.
 - [^{F20}(e) land held or used by a universal service provider (within the meaning of [^{F21}Part 3 of the Postal Services Act 2011]) for any purpose in connection with the provision of a universal postal service (within the meaning of [^{F22}that Part]).]
- (3) Land shall not be subject to compulsory purchase under this Act if a forestry dedication covenant or agreement is in force with respect to it and it is being used and managed in accordance with the provisions and conditions of a plan of operations approved by the Commissioners; and—
 - (a) any question arising under this subsection whether there has been a breach of any of the provisions and conditions of a plan of operations shall be referred for determination as follows, that is to say—
 - (i) in a case relating to England and Wales, by an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors; and
 - (ii) in a case relating to Scotland, by an arbiter appointed by the Chairman of the Scottish Committee of the said Institution; and
 - (b) such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the Commissioners requiring it to be remedied.
- [^{F23}(4) The power of compulsory purchase under this Act shall not be exercisable in relation to land held inalienably by the National Trust or by the National Trust for Scotland.]
- (5) The Minister's [^{F24}and the Scottish Ministers'] power of compulsory purchase under this Act shall be exercisable by means of a compulsory purchase order, and—
 - (a) the order shall be made in accordance with Part I of Schedule 5 to this Act;
 - (b) Part II of that Schedule shall apply with respect to the validity and date of operation of the order; and
 - (c) Part III of that Schedule shall apply with respect to the procedure for acquiring land by compulsory purchase.
- (6) If the said power of compulsory purchase is exercised in relation to land in respect of which an advance by way of grant has been made by the Commissioners—
 - (a) under section 4 of this Act; or
 - (b) under section 3(3) of the ^{M2}Forestry Act 1919 at any time after the 26th March 1945,

not being in either case an advance made more than thirty years before the date of the service of the notice to treat in the exercise of that power, the amount of the compensation for the compulsory purchase shall be reduced by the amount of the advance with compound interest thereon (calculated from the date of the advance to

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the date on which the compensation is paid) at the rate of £3 per cent. per annum with yearly rests:

Provided that, in the case of compensation for the compulsory purchase of one of several interests in such land, the amount of the reduction in the case of each interest purchased shall be equal to a part of the advance and interest proportionate to the value of that interest as compared with the value of the land.

Textual Amendments

- F13** Words in s. 40(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(32)(a)**
- F14** Words repealed by S.I. 1974/595, **Sch. 1 Pt. I**
- F15** Words inserted by S.I. 1970/211, **art. 3(7)**
- F16** Words in s. 40(2)(c)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 69**; S.I. 1996/323, **art. 4(1)(c)**
- F17** Word repealed by Gas Act 1986 (c. 44, SIF 44), s. 67(4), **Sch. 9 Pt. 1**
- F18** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F19** Word repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F20** S. 40(2)(e) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 23** (subject to art. 1(3))
- F21** Words in s. 40(2)(e) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 86(a)**; S.I. 2011/2329, art. 3
- F22** Words in s. 40(2)(e) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 86(b)**; S.I. 2011/2329, art. 3
- F23** S. 40(4) substituted by Forestry Act 1981 (c. 39, SIF 54), s. 2
- F24** Words in s. 40(5) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(32)(b)**

Modifications etc. (not altering text)

- C2** S. 40 extended with modifications by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7**, para. 2(1), (xviii), Sch. 8 para. 33
- C3** S. 40 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xvii), Sch. 17 paras. 33, **35(1)**
- C4** S. 40 extended (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 25 para. 1(1)(2)** (xiii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- C5** S. 40 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xiii)**; S.I. 1996/218, **art. 2**

Marginal Citations

- M2** 1919 c. 58

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