

Status: Point in time view as at 24/05/2007.

Changes to legislation: There are currently no known outstanding effects for the Forestry Act 1967, Part I. (See end of Document for details)

SCHEDULES

SCHEDULE 5

COMPULSORY PURCHASE

PART I

PROCEDURE FOR MAKING COMPULSORY PURCHASE ORDERS

- 1 A compulsory purchase order shall describe by reference to a map the land to which it applies.
- 2 (1) Before making a compulsory purchase order, the Minister [^{F1}or, as the case may be, the Scottish Ministers] shall—
- (a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that a compulsory purchase order is proposed to be made; and
 - (b) serve a copy of the notice in such manner as he thinks fit on [^{F2}every owner, lessee and occupier (except tenants for a month or less period than a month)] [^{F2}every person who is an owner, lessee, tenant (whatever the tenancy period) or occupier] of any land to which the order relates.
- [^{F3}(1A) Before making a compulsory purchase order the Scottish Ministers shall give notice of their intention in that regard to—
- (a) the holder of any personal real burden affecting the land to which the order relates if registration of the conveyance in implement of the order would vary or extinguish the title condition in question;
 - (b) the owner of any land which is a benefited property (as defined by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) in relation to any land comprised in the order if such registration would vary or extinguish the title condition in question; and
 - (c) the owners' association of the development in question if a development management scheme applies as respects any land comprised in the order and registration of the conveyance in implement of the order would disapply that scheme.
- (1B) Notice under sub-paragraph (1A)(a) or (b) above may be given—
- (a) by sending (that expression being construed in accordance with section 124 of the said Act of 2003 and as if what was being done was being done under that Act);
 - (b) by advertisement;
 - (c) by affixing a conspicuous notice to the burdened property and to—
 - (i) in a case where there exists one, and only one, lamp post which is situated within one hundred metres of that property, that lamp post;or

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- (ii) in a case where there exists more than one lamp post so situated, each of at least two such lamp posts; or
- (d) by such other means as the Scottish Ministers think fit, and service of notice under sub-paragraph (1A)(c) above shall be by sending (as so construed) or by such other means as the Scottish Ministers think fit.
- (1C) Subsections (6) and (7) of section 21 of the said Act of 2003 apply in relation to affixing, and to a notice affixed, under sub-paragraph (1B)(c) above as they apply in relation to affixing, and to a notice affixed, under subsection (2)(b) of that section (the reference in paragraph (a)(ii) of the said subsection (6) to the date specified in the notice as the renewal date being construed as a reference to the last day of the period specified in the notice given under paragraph 2(1)(b) above).]
- (2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.
- (3) A notice under sub-paragraph (1) above shall—
- describe the land,
 - name the place where a copy of a draft of the compulsory purchase order and of the map referred to therein may be seen at all reasonable hours, and
 - specify the time (not less than twenty-eight days from the date of the publication of the notice) within which, and the manner in which, objections to the order may be made.

Textual Amendments

- F1** Words in Sch. 5 para. 2(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(41)(a)**
- F2** Words in Sch. 5 para. 2(1)(b) substituted (E.W.) (24.5.2007) by **Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 (S.I. 2007/1519)**, art. 1(1), **Sch. para. 7** (with art. 1(3))
- F3** Sch. 5 para. 2(1A)-(1C) inserted (S.) (1.11.2003) by **Title Conditions (Scotland) Act 2003 (asp 9)**, **ss. 110(2), 129(4)** (with **ss. 119, 121**); **S.S.I. 2003/454**, art. 2(1)

- 3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or by any other person appearing to the Minister [^{F4}or, as the case may be, the Scottish Ministers] to be affected, or if all objections so made are withdrawn, the Minister may, if he thinks fit [^{F5}and the Scottish Ministers may if they think fit] (but subject to sub-paragraph (3) below), make the order, either with or without modifications.
- (2) [^{F6}Subject to paragraph 6B below,] in any other case the Minister [^{F7}or the Scottish Ministers] shall, before making the order, cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.
- (3) An order made by the Minister [^{F7}or the Scottish Ministers] with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications.

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Textual Amendments

- F4** Words in Sch. 5 para. 3(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(41)(a)**
F5 Words in Sch. 5 para. 3(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(41)(b)**
F6 Words in Sch. 5 para. 3(2) inserted (S.) (1.11.2003) by **Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(3), 129(4)** (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)
F7 Words in Sch. 5 para. 3(2)(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 41(c)**

- 4 Subject to paragraph 5^{F8} paragraphs 5 and 6B] below, where objection to a compulsory purchase order is duly made by a person mentioned in paragraph 3(1) above and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure and the^{M1M2} Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.

Textual Amendments

- F8** Words in Sch. 5 para. 4 inserted (S.) (1.11.2003) by **Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(3), 129(4)** (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

Modifications etc. (not altering text)

- C1** Para. 4 excluded (E.W.) by **Mineral Workings Act 1985 (c. 12, SIF 86), s. 6(3)**

Marginal Citations

- M1** 1945 c. 18 (9 & 10 Geo. 6)(89)
M2 1965 c. 43(89)

- 5 If an objection appears to the Minister [^{F9}or, as the case may be, the Scottish Ministers] to relate exclusively to matters which can be dealt with by the tribunal by whom the compensation for the compulsory purchase would be assessed, the Minister [^{F9}or, as the case may be, the Scottish Ministers] may disregard the objection for the purposes of paragraph 3 above, and may (whether he disregards it for those purposes or not) direct that it shall be disregarded for the purposes of paragraph 4 above.

Textual Amendments

- F9** Words in Sch. 5 para. 5 inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(41)(a)**

- 6 [^{F10}Subject to paragraph 6B below,]An inquiry in relation to a compulsory purchase order affecting land in Scotland, being an order which becomes subject to special parliamentary procedure, shall, if the Minister so directs, be held by Commissioners under the^{M3} Private Legislation Procedure (Scotland) Act 1936; and, where any direction has been so given,—
- (a) it shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945;
- (b) the provisions of section 2(1) of that Act with regard to advertisement of notice shall be deemed to have been complied with.

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Textual Amendments

F10 Words in [Sch. 5 para. 6](#) inserted (S.) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 110\(3\), 129\(4\)](#) (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), [art. 2\(1\)](#)

Marginal Citations

M3 [1936 c. 52\(89\)](#)

- [^{F11}6A** The Scottish Ministers may require an objector to state in writing whether he objects—
- (a) as a person with title to enforce a title condition and if he does so object then in that statement to—
 - (i) identify the benefited property and burdened property;
 - (ii) identify the title condition (either by setting it out in full or by identifying the constitutive deed, saying where it is registered and giving the date of registration); and
 - (iii) describe his connection with the benefited property.
 - (b) as owners' association and if he does so object then in that statement to identify—
 - (i) the development; and
 - (ii) the development management scheme (by identifying the deed of application, saying where it is registered and giving the date of registration).

Textual Amendments

F11 [Sch. 5 paras. 6A-6D](#) inserted (S.) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 110\(4\), 129\(4\)](#) (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), [art. 2\(1\)](#)

- 6B** If in compliance with paragraph 6A above an objector states that he objects as mentioned in sub-paragraph (a) or (b) of that paragraph, paragraphs 3(2), 4 and 6 above shall not apply as respects that objection provided that the Scottish Ministers give him a written undertaking that any conveyance in implement of the acquisition will provide—
- (a) where the objector is as mentioned in paragraph 6A(a) above, that the title condition in question is not varied or extinguished in respect of the enforcement rights of that person, any such undertaking—
 - (i) identifying the benefited property (if any) and burdened property;
 - (ii) identifying the order; and
 - (iii) setting out the manner in which the conveyance will fulfil the undertaking; or
 - (b) where the objector is as mentioned in paragraph 6A(b) above, that the development management scheme will not be disapplied, any such undertaking—
 - (i) identifying the development;
 - (ii) identifying the order; and
 - (iii) setting out the manner in which the conveyance will fulfil the undertaking.

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Textual Amendments

F11 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

- 6C The effect, under subsection (1) of section 106 of the Title Conditions (Scotland) Act 2003 (asp 9) (extinction of real burdens and servitudes etc. on compulsory acquisition of land), of registering the conveyance after an undertaking given under paragraph 6B above has been registered against the burdened property, or as the case may be against the units of the development, shall be subject to the terms of the undertaking irrespective of the terms of the conveyance.

Textual Amendments

F11 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

- 6D In this Part, “title condition”, “development management scheme” and “personal real burden” have the same meanings as in that Act; and in paragraphs 6B and 6C above, “conveyance” has the same meaning as in section 106(5) of that Act.]

Textual Amendments

F11 Sch. 5 paras. 6A-6D inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 110(4), 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

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