

Status: Point in time view as at 22/04/2011.

Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Sections 7, 8, 10.

PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITIONS

PART I

Acquisitions by development corporations and local highway authorities

- 1 (1) A compulsory purchase order made under this Act by a development corporation or local [^{F1}roads] authority—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
 - (b) subject to that, shall be in such form as may be prescribed.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.

Textual Amendments

F1 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(a\)](#)

- 2 (1) After submitting the order to the Secretary of State, the acquiring authority—
- (a) shall publish a notice in the prescribed form describing the land, stating that an order authorising the compulsory acquisition thereof has been submitted to the Secretary of State, naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the first local advertisement) within which, and the manner in which, objections to the order may be made; and
 - (b) shall serve on every person appearing from the valuation roll to have an interest in any of the land to which the order relates and on such other persons as the Secretary of State may specify, whether individually or as members of a class of persons, a notice to the like effect as the notice required to be published under head (a) above;
- Provided that head (b) above shall not apply if the order relates only to land within the area of a new town.
- (2) The notice required to be published by sub-paragraph (1)(a) above shall be published in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land to which the order relates is situated, and by affixing a copy of the notice, addressed to “the owners and any occupiers” of the land (describing it), to some conspicuous object or objects on the land.

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- (3) Publication and, if applicable, service in accordance with the foregoing provisions of this paragraph shall be effected—
- (a) in the case of an order relating only to land within the area of a new town, as soon as may be after the order has been submitted;
 - (b) in any other case, as soon as may be after the order has been submitted and service as aforesaid has been effected.
- (4) In this paragraph “the first local advertisement”, in relation to a notice, means the first publication of the notice in a newspaper circulating in the locality where the land to which the notice relates is situated, and includes, in relation to a notice so published once only, the publication thereof.
- 3 Subject to the provisions of paragraph 4 below in any case in which those provisions have effect, the Secretary of State may confirm the order with or without modification, but shall not, unless all persons interested consent, so modify it as to extend it to any land which was not designated by the order as submitted.
- 4 (1) If any objection is duly made to the order and is not withdrawn, the following provisions of this paragraph shall have effect.
- For the purposes of this Schedule an objection shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by paragraph 2 above, and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Unless the Secretary of State decides apart from the objection not to confirm the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and any such further statement, is satisfied—
- (a) that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, or
 - (b) in the case of an order relating to land within the area of a new town, that the objection is made on the ground that the acquisition is unnecessary or inexpedient,
- the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.
- (4) If, after considering the grounds of the objection as set out in the original statement and any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.
- (5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before and being heard by a person appointed for the purpose by the Secretary of State; and

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if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the acquiring authority and to any other persons to whom it appears to the Secretary of State to be expedient to afford it.

- (6) Notwithstanding anything in the foregoing provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time when he so determines shall be dispensed with.
- (7) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to confirm the order or what modification, if any, ought to be made.
- 5 As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more newspapers circulating in the locality in which the land thereby designated 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 and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and shall serve a like notice on—
- (a) any owner or occupier of any of the land thereby designated who, at any time after the publication of the notice of the order as submitted, has sent to the acquiring authority a request in writing to serve him with the notice required by this paragraph giving an address for service and the prescribed particulars of his interest;
 - (b) any person who has duly made an objection to the order and at the time of making it or thereafter has sent to the acquiring authority such a request as aforesaid; and
 - (c) such other persons, if any, as the Secretary of State may specify, whether individually or as members of a class of persons.
- 6 The Secretary of State may by regulations make provisions for enabling proceedings required to be taken for the purposes of paragraphs 1, 2 and 4 above in relation to an order authorising a compulsory acquisition of land in an area proposed to be designated as the site of a new town by an order a draft of which has been published in accordance with Schedule 1 to this Act, to be taken, so far as may be practicable, contemporaneously with the proceedings on the last-mentioned order.

PART II

Special provisions applying to acquisitions by local highway authorities

- 7 (1) Subject to this paragraph, where a compulsory purchase order under section 8(1) of this Act is submitted to the Secretary of State, the notice required to be published under paragraph 2 above shall be published not only as mentioned in that paragraph but also by being exhibited at such places in the locality to which the order relates as appear to the acquiring authority to be suitable for bringing it to the attention of all persons concerned.

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- (2) Sub-paragraph (1) above shall not apply in any case where the Secretary of State is satisfied that the land to which the compulsory purchase order relates is required for the purpose of a project—
- (a) which was adequately set out in a statement prepared for the purposes of an order under section 1 of this Act which has been made, or
 - (b) which has been the subject of an inquiry for the purposes of [F²section 5 or 15 of the M¹Roads (Scotland) Act 1984, or of either of the following enactments no longer in force—
 - (i) section 1 of the M²Trunk Roads Act 1946 (additional trunk roads and reorganisation of trunk road system);
 - (ii) section 14(1) of the M³Special Roads Act 1949 (amendments of law relating to trunk roads).]

Textual Amendments

F2 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 61\(16\)\(b\)](#)

Marginal Citations

M1 1984 c. 54(108).
M2 1946 c. 30.
M3 1949 c. 32.

- 8 Where there is submitted to the Secretary of State a compulsory purchase order under section 8(1) of this Act authorising the acquisition of any land forming a frontage to, or abutting on or adjacent to, a road, and the Secretary of State is satisfied as respects the whole or any part of the land—
- (a) that the acquisition would be requisite only for the purpose of controlling development, and
 - (b) that every owner has entered, or is willing to enter, into such an agreement with the local [F³roads] authority or the Secretary of State as is provided for by section 6(4) of this Act, or is bound by such an agreement, and that the agreement or proposed agreement is satisfactory for the said purpose.
- the order shall not be confirmed so as to authorise the acquisition of any part of the land as to which the Secretary of State is satisfied as aforesaid.

Textual Amendments

F3 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 61\(16\)\(c\)](#)

PART III

Acquisitions by Secretary of State

- 9 (1) A compulsory purchase order made under section 8(2) of this Act by the Secretary of State—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
 - (b) subject to that, shall be in such form as the Secretary of State may determine.

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- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.
- 10 Where the Secretary of State proposes to make such an order, he shall prepare a draft thereof, and as soon as may be thereafter shall—
- (a) publish in the manner mentioned in paragraph 2 above, and
 - (b) serve on every person appearing from the valuation roll to have an interest in any of the land to which the draft relates and on any other persons on whom he may think it proper to effect such service,
- a notice, in such form as he may determine, similar, with requisite adaptations, to the notice mentioned in paragraph 2(1) above.
- 11 Paragraphs 3, 4, 5, 7 and 8 above shall have effect in relation to such an order—
- (a) with the substitution, for references to the acquiring authority, of references to the Secretary of State;
 - (b) with the substitution, for references to an order as submitted and to the confirmation of an order, of references respectively to an order as prepared in draft and to the making of an order;
 - (c) with the omission, in paragraph 4(5), of the reference to the acquiring authority;
 - (d) with the substitution, for the references to a compulsory purchase order under section 8(1) of this Act and to the notice required by paragraph 2 above, of references respectively to a compulsory purchase order under section 8(2) of this Act and to the notice required by paragraph 10 above; and
 - (e) with the substitution, in paragraph 8, of the words “the Secretary of State proposes to make” for the words “there is submitted to the Secretary of State”.

PART IV

Special provisions as to certain descriptions of land

- 12 In so far as a compulsory purchase order authorises the acquisition of land which is the property of a local authority, or of land belonging to the National Trust which is held by the Trust inalienably, the order shall be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or the National Trust, as the case may be, and has not been withdrawn.
- 13 (1) In so far as a compulsory purchase order authorises the acquisition of any land forming part of any 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 acquired was vested, and subject to the like rights, trusts and incidents as attached to the land acquired; or

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- (b) that the land is required for the widening of an existing [^{F4}road] 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,
- the Secretary of State may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who made the inquiry, give the certificate.
- (3) As soon as may be after the giving of a certificate under this paragraph the acquiring authority shall publish in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land designated by the order is situated, a notice in the prescribed form stating that the certificate has been given.

Textual Amendments

F4 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(d\)](#)

PART V

Validity and date of operation of compulsory purchase orders and certificates

- 14 If any person aggrieved by a compulsory purchase order, or by a certificate under paragraph 13 above, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or 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 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; and
- (b) if satisfied that the order or any provision contained therein, or the certificate, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

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- 15 Subject to the provisions of paragraph 14 above, a compulsory purchase order or a certificate under paragraph 13 above shall not, either before or after it has been made or confirmed 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 said paragraph 14.
- 16 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section 2(4) or 6 of the ^{M4}Statutory Orders (Special Procedure) Act 1945 but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in paragraph 14 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 said Act of 1945, and as if in paragraph 15 the words from “and shall become operative” to the end were omitted.

Marginal Citations

M4 1945 c. 18 (9 & 10 Geo. 6)(89).

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