



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART IX **S**

ACQUISITION, TRANSFER, VESTING AND COMPENSATION

Acquisition

103 General provision as to acquisition of land. **S**

Subject to any express provision to the contrary, any power under this Act to acquire land may be exercised compulsorily or by agreement.

104 Acquisition of land for construction, improvement or protection of public roads etc. **S**

- (1) Subject to section 109 of this Act, a roads authority may acquire land required—
- (a) in connection with the construction, improvement or protection of a public road under or by virtue of this Act; or
 - (b) for the purpose—
 - (i) of providing or improving a road which is to be provided or improved in pursuance of an order under [^{F1}section 202, 203 or 207 of the Town and Country Planning (Scotland) Act 1997]; or
 - (ii) of providing a public right of way which is to be provided as an alternative to a right of way extinguished under [^{F1}section 206(1)(a) or (b)],
- or for any other purpose for which land is required in connection with such an order as is mentioned in sub-paragraph (i) above.
- (2) Subject to section 109 of this Act, the Secretary of State may acquire land which is required in connection with—
- (a) the carrying out of any works authorised by an order relating to a trunk road under section 12 of this Act; or

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- (b) the provision of buildings or facilities for the purposes of constructing, improving, maintaining or servicing a trunk road other than a special road.
- (3) Subject to section 109 of this Act, the special road authority may acquire land which is required—
- (a) in connection with the improvement of a road which is included in the route of a special road but has not been transferred to the authority by means of an order under section 9 of this Act,
 - (b) for the purpose of any order made in relation to a special road under the said section 9, or
 - (c) in connection with the provision of service stations or other buildings or facilities to be used in connection with a special road.
- (4) Where, in the exercise of any of the powers conferred by subsections (1) to (3) above or section 106 of this Act, a roads authority have acquired, or propose to acquire, land forming part of a common or open space, and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land as if it were land required by them in connection with the construction or improvement of a public road; and nothing in section 109 of this Act applies to an acquisition by virtue of this subsection.
- (5) In the foregoing provisions of this section any reference to—
- (a) a public road shall be construed as including a reference to a proposed public road;
 - (b) a trunk road shall be construed as including a reference to a proposed public road which is to be a trunk road; and
 - (c) a special road shall be construed as including a reference to a proposed public road which is to be a special road.

Textual Amendments

F1 Words in [s. 104\(1\)\(b\)](#) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2](#), para. 38(7)

Modifications etc. (not altering text)

C1 [S. 104\(1\)\(b\)\(ii\)](#): power to modify conferred (27.5.1997) by [1997 c. 8 ss. 211\(2\)\(b\), 278\(2\)](#)

C2 [S. 104\(3\)\(c\)](#) extended (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 39\(3\)](#)(with savings in [s. 47\(4\), 167\(2\)](#)); [S.I. 1991/2286, art. 2\(1\)](#), [Sch. 1](#)

105 Further provision as regards acquisition of land for construction, improvement etc. of public roads. **S**

- (1) The roads authority may acquire, but, under this subsection, only by agreement, any land in the neighbourhood of a public road (or proposed public road) being land which they consider it desirable to acquire for preserving or improving the amenity of the road.
- (2) Subject to section 109 of this Act, the roads authority may acquire land wherever situated which in their opinion is required in connection with the carrying out of works authorised by section 12, 69 or 70 of this Act.
- (3) The local roads authority may acquire land wherever situated which in their opinion is required for the provision of any buildings or facilities needed for the purpose of

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constructing, improving, maintaining or servicing a public road (or proposed public road).

- (4) The foregoing provisions of this section are without prejudice to section 104 of this Act.
- (5) Any power of a roads authority under section 104 of this Act or subsection (1) or (3) above to acquire land by agreement for the purpose mentioned in the provision in question shall be exercisable in respect of any land which, in the opinion of the roads authority, may be required for that purpose, notwithstanding that the land is not immediately required for that purpose.

106 Acquisition of land for mitigating adverse effects of construction of road. S

- (1) Subject to subsection (3) below, the roads authority may acquire land for the purpose of mitigating any adverse effect which the existence or use of a road constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the road.
- (2) Subject to subsection (3) below, the roads authority may acquire, but only by agreement—
 - (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a road;
 - (b) land the enjoyment of which is seriously affected by the use of a road which the authority have constructed or improved,

if the interest of the seller is one which falls within [^{F2}section 100(2) of the Town and Country Planning (Scotland) Act 1997] (interests qualifying for protection under blight provisions) taking references to the date of service of a notice under [^{F2}section 101] of that Act as references to the date on which the purchase agreement is made.

[^{F3}(2A) Where the roads authority propose to carry out works on land to which this subsection applies for the construction or improvement of a road, they may acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the road if the interest of the seller is an interest such as is mentioned in [^{F4}section 100(2) (interests qualifying for protection under blight provisions) of the Town and Country Planning (Scotland) Act 1997]].

(2B) Subsection (2A) above applies to any land such as is mentioned in [^{F5}Schedule 14 to the said Act of 1997].

- (3) The powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless the acquisition is begun before the date on which the road or, as the case may be, the improved road is opened to public traffic; and the powers conferred by subsection (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after that date.
- (4) For the purposes of subsection (3) above the acquisition of land is begun—
 - (a) if it is compulsory, on the date on which the notice required by paragraph 3(1)(a) of Schedule 1 to the ^{M1}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is first published;
 - (b) if it is by agreement, on the date on which the agreement is made;

and where the compulsory acquisition of land under subsection (1) above is begun in accordance with subsection (3) above but is not proceeded with, any subsequent

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compulsory acquisition of that land under the said subsection (1) shall be treated for the purposes of this section as begun in accordance with the said subsection (3).

- (5) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section the land shall be treated as if it were being acquired for the construction of the road or, as the case may be, the improvement in question.
- (6) In this section references to the construction or improvement of a road include references to the construction or improvement of a road under an order under section 9 or 12 of this Act.
- (7) In ^{F6}paragraph 11 of Schedule 14 to the Town and Country Planning (Scotland) Act 1997—
- (a) the reference to a power of compulsory acquisition there mentioned shall include a reference to the power of compulsory acquisition conferred by subsection (1) above; and
 - (b) the reference to land acquired for purposes of construction, improvement or alteration as indicated in an order or scheme there mentioned shall include a reference to land required for the purposes of subsection (1) above.
- (8) ^{F7}The said Schedule 14]

shall have effect as if the land specified therein included land which—

- (a) is land shown in plans approved by a resolution of a local roads authority as land proposed to be acquired by them for the purposes of subsection (1) above; or
- (b) is land shown in a written notice given by the Secretary of State to the local planning authority as land proposed to be acquired in connection with a trunk road or special road which he proposes to provide.

Textual Amendments

- F2** Words in s. 106(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(8)(a)**
- F3** S. 106(2A)(2B) inserted (25.09.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 76(2)(with saving s. 84(5)); S.I. 1991/2092, art. 3.
- F4** Words in s. 106(2A) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(8)(b)**
- F5** Words in s. 106(2B) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(8)(c)**
- F6** Words in s. 106(7) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(8)(d)**
- F7** Words in s. 106(8) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(8)(e)**

Marginal Citations

- M1** 1947 c. 42

107 Acquisition of land in connection with cattle-grids. **S**

A roads authority may acquire land for the purpose of providing, altering or improving a cattle-grid (or a by-pass in relation to a cattle-grid) in the exercise of powers conferred by this Act; and where they so acquire land by agreement the acquisition may be by way of purchase, lease or otherwise.

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108 Acquisition of land for provision of picnic site. S

Subject to section 109 of this Act, the Secretary of State may acquire land required in connection with the provision under section 55 of this Act of a picnic site.

109 Distance limits for purposes of compulsory acquisition. S

- (1) Subject to subsection (3) below, a roads authority shall not, in the exercise of a power to acquire land under any of the provisions of this Act specified in column 1 of Part I of Schedule 5 to this Act, acquire compulsorily land lying beyond the limit specified in relation to that power in column 2 of that Part of that Schedule.
- (2) Part II of that Schedule shall have effect with respect to limits specified in Part I of that Schedule.
- (3) Nothing in this section applies to land required for purposes connected with the drainage or protection of a public road.
- (4) In subsection (3) above and in Schedule 5 to this Act, references to a road and to a public road shall be construed, respectively, as including references to a proposed road and to a proposed public road.

110 General provisions as to acquisition of land. S

- (1) Any power to acquire land compulsorily conferred by sections 104 to 107 of this Act on a local roads authority shall be exercisable in any particular case on their being authorised to do so by the Secretary of State.
- (2) Any power to acquire land compulsorily conferred by any of the said sections shall include power to acquire a servitude or other right in or over land by the creation of a new right.
- (3) In relation to the compulsory acquisition of land under any of sections 104 to 108 of this Act by a roads authority, the ^{M2}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall have effect as if this Act had been in force immediately before the commencement of that Act and, in a case where the compulsory acquisition is by the Secretary of State, as if the said sections were included among the enactments specified in section 1(1)(b) of that Act.
- (4) In assessing the compensation payable in respect of the compulsory acquisition of land by a roads authority under powers conferred by section 104 or sections 106 to 108 of this Act, the Lands Tribunal for Scotland—
 - (a) shall have regard to the extent to which the remaining contiguous land belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired;
 - (b) without prejudice to the generality of paragraph (a) above shall, in the case of land authorised to be acquired for widening a public road, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue to him by reason of the creation of a frontage to the road as widened;
 - (c) shall take into account, and embody in its award, any undertaking given by the authority as to the use to which the land, or any part of it, will be put;

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and the ^{M3}Land Compensation (Scotland) Act 1963 shall, in its application to a compulsory acquisition by a roads authority under any of the said sections, have effect subject to the provisions of this subsection.

- (5) Where under any of sections 104 to 108 of this Act a roads authority are authorised to acquire land by agreement, the Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the ^{M4}Lands Clauses Consolidation (Scotland) Act 1845) and sections 6 and 70 of the ^{M5}Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the ^{M6}Mines (Working Facilities and Support) Act 1923, shall be incorporated with this Act; and in construing those Acts for the purposes of this subsection this Act shall be deemed to be a special Act, and the roads authority to be the promoters of the undertaking or company, as the case may require, and the word “land” shall have the meaning assigned to it by Schedule 1 to the ^{M7}Interpretation Act 1978.

Marginal Citations

- M2** 1947 c. 42.
M3 1963 c. 51.
M4 1845 c. 19.
M5 1845 c. 33.
M6 1923 c. 20.
M7 1978 c. 30.

111 Concurrent proceedings for special and trunk roads schemes and orders. **S**

- (1) Proceedings required by Schedule 1 to the ^{M8}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to be taken in respect of the compulsory acquisition of land for purposes connected with a special road or trunk road may be taken concurrently with proceedings required to be taken for the purposes of a scheme under section 7, or an order under section 9, of this Act relating to the special road, or, as the case may be, an order under section 5 or 12 of this Act relating to the trunk road.
- (2) An order under section 9 or 12 of this Act or an order for the compulsory acquisition of land for purposes connected with a special road or trunk may be made to come into operation on the same day as a scheme under section 7 of this Act authorising the provision of a special road or, as the case may be, an order under section 5 of this Act directing that a road shall become a trunk road.
- (3) In the foregoing provisions of this section, references to special roads or to trunk roads shall be construed as including references to proposed public roads which are to be special roads or as the case may be are to be trunk roads.

Marginal Citations

- M8** 1947 c. 42.

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