

Status: Point in time view as at 28/12/2017.

Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, Part I is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

FIRST SCHEDULE

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES

Modifications etc. (not altering text)

- C1 Sch. 1 applied by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s. 1, [Sch. 2 para. 1](#)
- C1 Sch. 1 extended by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\)](#), s. 1, [Sch. 2 para. 1\(1\)\(b\)](#)

PART I

PURCHASES BY LOCAL AUTHORITIES

Modifications etc. (not altering text)

- C1 Part I applied with modifications by [Opencast Coal Act 1958 \(c. 69\)](#), ss. 4, 39, [Sch. 2 Pt. I](#) (as amended (31.10.1994) by [1994 c. 21, s. 52](#), [Sch. 8 para. 38](#) (with s. 40(7); S.I. 1994/2553, [art. 2](#)))
- C2 Sch. 1 Pt. I applied (31.10.1994) by [1958 c. 69 s. 16\(5\)](#) (as substituted by [1994 c. 21, s. 52](#), [Sch. 8 para. 14\(7\)](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#))

- 1 A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the “acquiring authority”) in a case falling within subsection (1) of section one of this Act shall be made by the acquiring authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the “confirming authority”) in accordance with the following provisions of this Schedule.
- 2 The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.
- 3 Before submitting the order to the confirming authority, the acquiring authority shall—
 - (a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made;
 - (b) serve on
 - [^{F1}(i)] every owner, lessee and occupier (except tenants for a month or any period less than month) of any land comprised in the order
 - [^{F2}(ii)] the holder of any personal real burden affecting that land if registration of the conveyance in implement of the order would vary or extinguish the title condition in question;
 - (iii) 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))

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in relation to any land comprised in the order if such registration would vary or extinguish the title condition in question; and

- (iv) 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,]

a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made.

Textual Amendments

- F1** Words in Sch. 1 para. 3(b)(i) in Sch. 1 para. 3(b) renumbered as Sch. 1 para. 3(b)(i) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with **ss. 119, 121**); S.S.I. 2003/454, art. 2(1)
- F2** Sch. 1 para. 3(b)(ii)-(iv) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with **ss. 119, 121**); S.S.I. 2003/454, art. 2(1)

Modifications etc. (not altering text)

- C3** Sch. 1 para. 3(b) modified by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), **s. 107(3)**

- [^{F3}3A Service of notice under head (ii) or (iii) of paragraph 3(b) above shall be—
- (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 **No commentary item could be found for this reference c21065601**. . . 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
- (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 acquiring authority think fit,
- and service of notice under head (iv) of that paragraph shall be by sending (as so construed) or by such other means as the acquiring authority think fit.

Textual Amendments

- F3** Sch. 1 para. 3A, 3B inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with **ss. 119, 121**); S.S.I. 2003/454, art. 2(1)Text here

- 3B Subsections (6) and (7) of section 21 of the said Act of 2003 apply in relation to affixing, and to a notice affixed, under paragraph 3A(c) above [(including that paragraph as it is applied by paragraph 6A below in relation to service of a notice under paragraph 6 below)] 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

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construed as a reference to the last day of the period specified in the notice given under paragraph 3(b) above) [or, as the case may be, paragraph 6 below].]

Textual Amendments

F3 Sch. 1 para. 3A, 3B inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(2), 129(4)** (with **ss. 119, 121**); [S.S.I. 2003/454](#), **art. 2(1)**Text here

- 4 (1) If no objection is duly made by any such person as aforesaid [^{F4}or if no objection is duly made by the National Trust for Scotland in a case where the land comprised in the order was held inalienably by the Trust on the date of the passing of the Crofting Reform (Scotland) Act 1976 and was acquired from the Trust by a crofter as defined in section 3 of the Crofters (Scotland) Act 1955 in pursuance of an order under section 2(1) or 4(1) of the said Act of 1976] or if all objections so made are withdrawn, the confirming authority, on being satisfied that the proper notices have been published and served, may, if the authority think fit, confirm the order with or without modifications.
- (2) [^{F5}Subject to sub-paragraph (2A),]If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.
- [^{F6}(2A) If the person by whom an objection is made states that he objects as mentioned in sub-paragraph (4)(b) or (c) below, sub-paragraph (2) above shall not apply as respects that objection provided that the acquiring authority give the person a written undertaking that any conveyance in implement of the acquisition will provide that the title condition in question is not varied or extinguished in respect of the enforcement rights of that person or as the case may be that the development management scheme is not disapplied; and any such undertaking shall—
- (a) identify the benefited property (if any) and burdened property or as the case may be the development to which the development management scheme applies;
 - (b) identify the order; and
 - (c) set out the manner in which the conveyance will fulfil the undertaking.
- (2B) 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 sub-paragraph (2A) 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.
- (2C) In sub-paragraphs (2A) and (2B) above, “conveyance” has the same meaning as in subsection (5) of that section.]
- (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to

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any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.

- (4) Notwithstanding anything in the two last preceding sub-paragraphs, the confirming authority may require any person who has made an objection to state in writing
- [^{F7}(a) the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.]
 - [^{F8}(b) whether he objects 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 (if any) 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) if there is a benefited property, describe his connection with it;
 - (c) whether he objects as owners' association of the development to which a development management scheme applies 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

- F4** Words inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21, SIF 2:4\)](#), s. 22(1), **Sch. 2 para. 3**
- F5** Words in Sch. First para. 4(2) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(a), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)
- F6** Sch. 1 para. 4(2A)-(2C) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(b), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)
- F7** Words in Sch. First para. 4(4)(a) in Sch. 1 para. 4(4) renumbered as Sch. 1 para. 4(4)(a) (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(c), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)
- F8** Sch. First para. 4(4)(b), (c) inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 109(4)(c), 129(4)** (with [ss. 119, 121](#)); [S.S.I. 2003/454](#), art. 2(1)

- 5 The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.
- 6 As soon as may be after the order has been confirmed, the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order 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 as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice ^{F9}... on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

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Textual Amendments

F9 Words in Sch. First para. 6 omitted (1.11.2003) by virtue of [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 109\(4A\)](#), 129(4) (with [ss. 119](#), 121) (as inserted by [S.S.I. 2003/503](#), art. 1, Sch. 1 para. 3(c)); [S.S.I. 2003/454](#), art. 2(1)

Modifications etc. (not altering text)

C4 Sch. 1 para. 6 applied (with modifications) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), [ss. 93](#), 335, [Sch. 7 Pt. II para. 11](#)

C5 Sch. 1 para. 6 modified (27.5.1997) by [1997 c. 8](#), [ss. 200\(3\)](#), 278(2)

[^{F10}6A Paragraph 3A above applies in relation to service of a notice under paragraph 6 above on any persons on whom notices with respect to the land were required to be served under heads (ii) and (iii) of paragraph 3(b) above as it applies in relation to service of a notice under those heads of the said paragraph 3(b).]

Textual Amendments

F10 Sch. 1 para. 6A-6C inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 109\(4B\)](#), 129(4) (with [ss. 119](#), 121) (as inserted by [S.S.I. 2003/503](#), art. 1, Sch. 1 para. 3(c)); [S.S.I. 2003/454](#), art. 2(1)

6B Where a notice—

(a) is required by paragraph 6 above to be served on any person mentioned in heads (ii) and (iii) of paragraph 3(b) above and service is by sending as mentioned in paragraph 3A(a) above, the acquiring authority shall send with the notice a copy of the order as confirmed;

(b) is required by the said paragraph 6 to be served on any person mentioned in heads (i) and (iv) of the said paragraph 3(b), the acquiring authority shall serve with the notice a copy of that order.

6C In paragraph 6B(a) above, the requirement to send a copy of the order shall be construed in accordance with section 124 of the [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#) and as if what was being done was being done under that Act.

[^{F11}6D In this Part, “ title condition ”, “ development management scheme ” and “ personal real burden ” have the same meanings as in the [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#).]

Textual Amendments

F11 Sch. 1 para. 6D inserted (1.11.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), [ss. 109\(5\)](#), 129(4) (with [ss. 119](#), 121) (as amended by [S.S.I. 2003/503](#), art. 1, Sch. 1 para. 3(d)); [S.S.I. 2003/454](#), art. 2(1)

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