

Status: Point in time view as at 01/02/1991.

Changes to legislation: Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, SECOND SCHEDULE is up to date with all changes known to be in force on or before 16 July 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)

SECOND SCHEDULE

INCORPORATION OF ENACTMENTS

Modifications etc. (not altering text)

C1 Sch. 2 modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), Sch. 15 Pt. I para. 6

PART I

THE LANDS CLAUSES ACTS AND THE RAILWAYS CLAUSES CONSOLIDATION (SCOTLAND) ACT 1845

Modifications etc. (not altering text)

C2 Pt. I applied with modifications by Land Commission Act 1967 (c. 1), s. 10(1)(4)

- 1 In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply, the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, ^{M1}1845, are hereby incorporated with the enactment under which the purchase is authorised; and in construing those Acts as so incorporated—
- (a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act;
 - (b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.

Modifications etc. (not altering text)

C3 Sch. 2 para. 1 modified (27.5.1997) by 1997 c. 8, ss. 200(4), 278(2)

Marginal Citations

M1 1845 c. 33.

- 2 The following sections of the Lands Clauses Consolidation (Scotland) Act, ^{M2}1845, shall be excepted from incorporation as aforesaid, that is to say—
- (a) sections one hundred and twenty to one hundred and twenty-five (which relate to the sale of superfluous land);
 - (b) in the case of a purchase under the Housing (Scotland) Acts, 1925 to 1935, and in any other case in which the compulsory purchase order so provides, section one hundred and twenty-seven (which relates to promoters making good deficiencies in land tax and rates); and
 - (c) sections one hundred and forty-two and one hundred and forty-three (which relate to access to the special Act).

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Marginal Citations

M2 1845 c. 19.

- 3 (1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat and after serving on the owner, lessee and occupier of the land not less than fourteen days' notice, the authority or Minister may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.
- (2) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.

Modifications etc. (not altering text)

- C4** Sch. 2 para. 3 modified by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#) s. 51(1)
- C5** Para. 3 excluded by [Agriculture Act 1967 \(c. 22\)](#), [s. 49\(7\)\(ii\)](#); modified by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#), s. 14(3), Sch. 4 paras. 4, 5
- C6** Sch. 2 para. 3 modified (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 57(4), 89(2), [Sch. 8](#), para. 6(b) (with s. 45(3), Sch. 12 para. 3)
- C7** Sch. 2 para. 3 extended (27.5.1997) by 1997 c. 8, ss. [105\(7\)](#), 278(2)
- C8** Sch. 2 para. 3 excluded (27.5.1997) by 1997 c. 8, ss. 195, 278(2), [Sch. 15 Pt. II para. 17](#)
- C9** Sch. 2 para. 3 applied (27.5.1997) by 1997 c. 8, ss. 195, 278(2), [Sch. 15 Pt. II para. 30](#)
- C10** Sch. 2 para. 3(1) modified by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 9(3), [Sch. 3 Pt. II para. 10](#), Pt. III para. 21
- C11** Sch. 2 para. 3(1) excluded (25.9.1991) by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), [s. 48A\(9\)](#)(inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 73\(2\)](#)(with s. 84(5)); S.I. 1991/2092, [art.3](#)

- ^{F14} The following provisions shall have effect in substitution for the provisions of section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

Textual Amendments

- F1** [Sch. 2 para. 4](#): by [Gas Act 1986 \(c. 44\)](#), s. 9(3), Sch. 3 para. 22 it is provided that for para. 4 there shall be substituted the provisions substituted by paragraph 8 of that Schedule for section 8(1) of the

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Compulsory Purchase Act 1965 (c. 56), and that any reference in those provisions to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

Modifications etc. (not altering text)

C12 Sch. 2 para. 4 amended by Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2), s. 54(1)

C13 Sch. 2 para. 4 modified by Land Compensation (Scotland) Act 1973 (c.56, SIF 28:2), s. 63(3)

C14 Sch. 1 para. 4 excluded (27.5.1997) by 1997 c. 8, ss. 195, 278(2), Sch. 15 Pt. II para. 19

- 5 Notices required to be served by the acquiring authority may, notwithstanding anything in section eighteen of the Lands Clauses Consolidation (Scotland) Act, ^{M3}1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule.

Marginal Citations

M3 1845 c. 19.

- 6 (1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy of the Railways Clauses Consolidation (Scotland) Act, ^{M4}1845 (which relates to the exception of minerals from purchases) and sections seventy-one to seventy-eight of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy only.
- (2) Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order, and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order.

Marginal Citations

M4 1845 c. 20.

PART II

THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919

- 7 The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done, or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration directly or indirectly concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

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PART III

PURCHASES UNDER SECTION 2

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F2

Textual Amendments

F2 Sch. 2 Pt. III, Sch. 3 repealed by Statute Law Revision Act 1953 (c. 5)

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