



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

PART III

ACQUISITION OF LAND, ETC.

Acquisition and disposal of land for planning purposes.

34 Compulsory acquisition by Ministers, local authorities and statutory undertakers.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition by any Minister, local authority or statutory undertakers, that Minister or authority or those undertakers may be authorised to acquire that land compulsorily in accordance with the provisions of this section.
- (2) If, during the period before a development plan has become operative under this Act with respect to any district—
 - (a) the Secretary of State and the Minister of Works are satisfied that the acquisition of any land in that district is necessary for the public service or otherwise for the purposes of any of the functions of the Minister of Works; or
 - (b) the Secretary of State and the Postmaster-General are satisfied that the acquisition of any such land is necessary for the purposes of the Post Office,the Minister of Works or the Postmaster-General, as the case may be, may be authorised to purchase that land compulsorily in accordance with the provisions of this section.
- (3) The compulsory acquisition of land under this section may be authorised—
 - (a) in the case of land designated by a development plan as subject to acquisition by a Minister, by that Minister;
 - (b) in the case of land so designated as subject to acquisition by a local authority, by the Minister concerned with the function in question;

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- (c) in the case of land so designated as subject to acquisition by any statutory undertakers, by the Minister who is the appropriate Minister for the purposes of those undertakers;
 - (d) in the case of such land as is mentioned in subsection (2) of this section, by the Minister of Works or the Postmaster-General, as the case may be.
- (4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—
- (a) as if this section had been in force immediately before the commencement of that Act;
 - (b) as if any reference in that Act to a local authority (except the references thereto in subsection (2) of section one and in paragraph 9 of the First Schedule) included a reference to statutory undertakers; and
 - (c) as if references therein to the Minister of Transport and to the enactments specified in paragraph (b) of subsection (1) of section one of that Act included respectively references to any Minister and to the provisions of this section.
- (5) Any expenses incurred by the Minister of Transport in the acquisition of land under this section for the purpose of the construction or improvement of a road shall be defrayed out of the Road Fund.

35 Compulsory acquisition by local planning authorities of land for development.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority, then if the Secretary of State is satisfied—
- (a) in the case of land comprised in an area defined by the plan as an area of comprehensive development, that the land is required in order to secure the development or redevelopment of the said area or that it is expedient in the public interest that the land should be held together with land so required;
 - (b) in any other case, that it is necessary that the land should be acquired under this section for the purpose of securing its use in the manner proposed by the plan,
- he may authorise the local planning authority to acquire the land compulsorily in accordance with the provisions of this section.
- (2) If, during the period before a development plan has become operative under this Act with respect to any area, the Secretary of State is satisfied that the acquisition of any land under this section is expedient
- (a) for any purpose which appears to him to be immediately necessary in the interests of the proper planning of that area (not being a purpose for which a local authority could be authorised to acquire the land compulsorily under any other enactment);
 - (b) for any other purpose for which, by virtue of paragraph (c) or (d.) of subsection (1) of section ten of the Act of 1945 a local planning authority could be authorised to acquire land before the appointed day,
- he may authorise the local planning authority to acquire the land compulsorily in accordance with the provisions of this section.
- (3) Where, under the foregoing provisions of this section, the Secretary of State has power to authorise the local planning authority to acquire any land compulsorily, he may, if he thinks fit after consultation with the local planning authorities concerned, authorise

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the land to be so acquired by any other local planning authority instead of by that authority.

- (4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the compulsory acquisition of land under this section.

36 Power to expedite completion of purchase under s. 35.

- (1) If the Secretary of State is satisfied, in the case of a compulsory purchase order submitted to him under the last foregoing section by a local planning authority, that it is urgently necessary in the public interest to empower that authority to enter on the whole or any part of the land to which the order relates and secure its vesting in them before the expiration of the time which would be required for the service of notices to treat, he may include in the order as confirmed by him a direction that the provisions of the Sixth Schedule to the Act of 1945 shall apply to the order so far as it relates to that land :

Provided that no such direction shall be so included in a compulsory purchase order unless application in that behalf is included in the order as submitted to the Secretary of State.

- (2) A compulsory purchase order which contains any such direction as aforesaid shall, as soon as may be after the order becomes operative, be recorded in the appropriate Register of Sasines by the local planning authority.
- (3) Where a compulsory purchase order containing any such direction as aforesaid is made in respect of any interest in land which has sustained war damage, then, if any of that damage has not been made good at the date on which notice to treat is deemed to have been served, the local planning authority shall, when they record the order in the appropriate Register of Sasines, notify the War Damage Commission of that action having been taken.
- (4) Any reference in the Sixth Schedule to the Act of 1945 to a purchase order providing for expedited completion, or to the purchasing authority, shall be construed as a reference to a compulsory purchase order containing any such direction as aforesaid, and to the local planning authority authorised to acquire land by that order, as the case may be.
- (5) Paragraph 3 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which provides for entry on land before the purchase money has been paid, notwithstanding the provisions of sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845) and paragraph 4 of that Schedule (which makes special provision, in substitution for section ninety of the said Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the sale of parts of houses and other premises) shall not apply to a compulsory purchase order containing any such direction as aforesaid.

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37 Acquisition of land by agreement for development.

- (1) A local planning authority may, with the consent of the Secretary of State, acquire by agreement any land (whether or not being land designated by a development plan as subject to compulsory acquisition) which they require for any purpose for which a local planning authority may be authorised to acquire land compulsorily under section thirty-five of this Act.
- (2) 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 one hundred and twenty to one hundred and twenty-five of the Lands Clauses Consolidation (Scotland) Act, 1845) and sections six and seventy of the Railways Clauses Consolidation (Scotland) Act, 1845, and sections seventy-one to seventy-eight of that Act, as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking or to the company shall be construed as references to the authority authorised to acquire the land under this section.

38 Power to acquire buildings of special architectural or historic interest.

- (1) Where a building preservation order is in force as respects any building and it appears to the Secretary of State that reasonable steps are not being taken for properly preserving the building, the Secretary of State may authorise the local planning authority to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access thereto, or for the proper control or management thereof.
- (2) Where a building preservation order is in force as respects any building and it appears to the Minister of Works that reasonable steps are not being taken for properly preserving the building, that Minister may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required as mentioned in the foregoing subsection.
- (3) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—
 - (a) as if this section had been in force immediately before the commencement of that Act;
 - (b) as if references therein to the Minister of Transport and to the enactments specified in paragraph (b) of subsection (1) of section one of that Act included respectively references to the Minister of Works and to the provisions of this section:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the compulsory acquisition of land under this section.

- (4) Any person having an interest in any building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, apply to the sheriff for an

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order prohibiting further proceedings on the compulsory purchase order, and if the sheriff is satisfied that reasonable steps are being taken for properly preserving the building, he shall make an order accordingly.

- (5) Without prejudice to the generality of the powers conferred by the foregoing provisions of this Part of this Act, any power of a local planning authority to acquire land by agreement there under shall include power to acquire by agreement any building as respects which a building preservation order is in force or could be made, and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for the purposes specified in subsection (1) of this section.
- (6) Where any building as respects which a building preservation order is in force is acquired by a local planning authority under the provisions of this section the authority shall observe the provisions of that order.

39 Power of local authorities to appropriate certain land for planning purposes.

- (1) Any local authority may be authorised, by order made by that authority and confirmed by the Secretary of State, to appropriate for any purpose specified in a development plan (being a purpose for which that authority can be authorised to acquire land under any enactment) any land for the time being held by them for other purposes, being land which is or forms part of a common or open space (including any such land which is specially regulated by any enactment, whether public general or local or private).
- (2) Paragraph 11 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which makes special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common or open space) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act.
- (3) Without prejudice to the generality of the powers conferred by the foregoing provisions of this Part of this Act, any power of a local authority to acquire land (whether compulsorily or by agreement) thereunder shall include power to acquire land required for giving in exchange for land appropriated under this section for any purpose specified in a development plan.
- (4) Section one hundred and sixty-three of the Local Government (Scotland) Act, 1947 (which empowers local authorities to appropriate land belonging to them) shall not apply to land which a local authority have power to appropriate under subsection (1) of this section.
- (5) Where any land appropriated under this section was acquired under any enactment incorporating the Lands Clauses Acts, any work executed on the land after the appropriation has been effected shall, for the purposes of section six of the Railways Clauses Consolidation (Scotland) Act, 1845, be deemed to have been authorised by the enactment under which the land was acquired.

40 Acquisition of land by Central Land Board.

- (1) The Central Land Board may, with the approval of the Secretary of State, by agreement acquire land for any purpose connected with the performance of their functions under the following provisions of this Act, and in particular may so acquire any land for the purpose of disposing of it for development for which planning permission has been

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granted on terms inclusive of any development charge payable under those provisions in respect of that development.

- (2) If the Secretary of State is satisfied that it is expedient in the public interest that the Board should acquire any land for any such purpose as aforesaid, and that the Board are unable to acquire the land by agreement on reasonable terms, he may authorise the Board to acquire the land compulsorily in accordance with the provisions of this section.
- (3) Subsection (4) of section thirty-five and section thirty-six of this Act shall apply to the compulsory acquisition of land by the Central Land Board under this section as they apply to the compulsory acquisition of land by local planning authorities under the said section thirty-five; and for the purposes of this section the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall have effect as if any reference therein to a local authority (except the references thereto in subsection (2) of section one and in paragraph 9 of the First Schedule) included a reference to the Board.
- (4) Any land acquired by the Central Land Board under the provisions of this section shall be disposed of by them by way of sale, feu or lease in accordance with such directions as may be given to them in that behalf by the Secretary of State, and until the land is so disposed of the Board shall manage it in accordance with such directions:

Provided that nothing in this section shall be construed as authorising the Board to carry out any development of land acquired by them thereunder.
- (5) Any expenses incurred by the Central Land Board in the acquisition of land under this section shall be paid out of moneys provided by Parliament; and any sums received by the Board in respect of the disposal of any such land shall be paid into the Exchequer.
- (6) Provision may be made by regulations under this Act for requiring the Central Land Board to keep a register in Scotland containing such particulars as may be prescribed by the regulations of land acquired and disposed of under this section, and for the inspection of any such register by the public on payment of such reasonable fee, if any, as may be so prescribed.

41 Incorporation of certain provisions of Act of 1945.

- (1) Sections eighteen to twenty-nine of the Act of 1945 (which provide for the disposal and appropriation by local planning authorities of land acquired or appropriated under Part I of that Act, for the carrying out by such authorities of development of such land, and for other matters arising in relation to the acquisition of land under that Part) shall, except so far as repealed by this Act, be incorporated with this Part of this Act, subject to the amendments specified in the second column of the Eighth Schedule to this Act and to the following provisions of this section.
- (2) Subsection (3) of section nineteen of the Act of 1945 (which provides that in certain cases the Secretary of State shall not give his consent to the carrying out of any operation by the local planning authority under that section if a person other than that authority is able and willing to carry out the operation) shall cease to have effect.
- (3) Paragraph 8 of the Fifth Schedule to the Act of 1945 (which relates to the assessment of compensation in respect of the compulsory acquisition of certain dwelling houses unfit for human habitation) shall apply in relation to the compulsory acquisition of land under this Part of this Act subject to the amendments specified in the second column of the Eighth Schedule to this Act.

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42 Amendment of 10 & 11 Geo. 6. c. 42, in relation to acquisition of land under Part III.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition for any purpose, then, if a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part I of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, or, as the case may be, is made in draft by a Minister in accordance with Part II of that Schedule, the confirming authority or that Minister, as the case may be, may disregard for the purposes of that Schedule any objection to the order or draft which, in the opinion of that authority or Minister, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.
- (2) Where a compulsory purchase order authorising the acquisition of any land under section thirty-five of this Act is submitted to the Secretary of State in accordance with Part I of the said First Schedule, then if he is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised therein, but has not for the time being determined whether or not it ought to be confirmed so far as it relates to any other such land, he may confirm the order so far as it relates to the first-mentioned land and give directions postponing consideration of the order so far as it relates to any other land specified in the directions until such time as may be so specified; and in any such case the notices required by paragraph 6 of the said First Schedule to be published and served shall include a statement of the effect of the directions.
- (3) Paragraph 9 of the said First Schedule (which makes special provision in relation to the compulsory acquisition of land of local authorities and statutory undertakers and inalienable land of the National Trust for Scotland) shall not apply to land which is designated by a development plan as subject to compulsory acquisition.
- (4) Notwithstanding anything in paragraph 10 of the said First Schedule, a compulsory purchase order may be confirmed or made under this Act authorising the acquisition of land which has been acquired by statutory undertakers for the purposes of their undertaking (whether or not the land is designated as mentioned in the last foregoing subsection) without any such certificate as is mentioned in the said paragraph 10:

Provided that except where such a certificate is given as aforesaid, or the land is designated as mentioned in the last foregoing subsection.—

- (a) the order shall be of no effect unless it is confirmed or made by the appropriate Minister jointly with the Minister or Ministers who would apart from this provision have power to make or confirm it; and
 - (b) if any objection to the order is duly made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.
- (5) Where any such land as is mentioned in the last foregoing subsection is compulsorily acquired without any such certificate as is therein referred to, any compensation payable to the statutory undertakers in respect of the purchase shall be assessed in accordance with the provisions of the Fourth Schedule to the Act of 1945.
 - (6) Regulations made under this Act may provide for securing that any proceedings required by the said First Schedule to be taken for the purposes of the compulsory acquisition of any land under this Act may be taken concurrently with any proceedings required by or under this Act to be taken in connection with the approval, making or amendment of a development plan designating that land as subject to compulsory acquisition.

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- (7) In construing the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, 1845, as incorporated by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, with Part III of this Act—
- (a) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section twenty-one of the Act of 1945 (as incorporated with this Part of this Act by virtue of section forty-one of this Act), and in relation to any such erection, construction or carrying out any reference in section six of the Railways Clauses Consolidation (Scotland) Act, 1845, to the company shall notwithstanding anything in subparagraph (b) of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, be construed as a reference to the person by whom the buildings or works in question are erected, constructed or carried out;
 - (b) references to the execution of the works or to the construction of the railway shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister, or by or on behalf of statutory undertakers, on land acquired by that Minister or those undertakers, for the purposes for which the land was acquired.

43 Acquisition of land by Development Corporations under New Towns Act, 1946.

- (1) For the avoidance of doubt it is hereby declared that the powers of acquiring land conferred by the New Towns Act, 1946, on a development corporation established for the purposes of a new town include power to acquire any land within the area designated under that Act as the site of the new town whether or not it is proposed to develop or redevelop that particular land.
- (2) Section five of the said Act (which regulates the disposal of land by development corporations) shall have effect as if in subsection (1), after the words " this Act " in the second place where those words occur, there were inserted the words " or for purposes connected therewith. "