



# Town and Country Planning (Scotland) Act 1947

## 1947 CHAPTER 53

### PART III

#### ACQUISITION OF LAND, ETC.

##### *Powers relating to highways.*

#### **44 Construction of highways on land acquired under Part III.**

- (1) Section ten of the Development and Road Improvement Funds Act, 1909 (which enables the Minister of Transport to authorise the construction of new roads in respect of which advances are made under that Act and provides for the expenses of the construction, and for the maintenance, of such roads) shall apply in relation to the construction of a new road by a local highway authority on land defined by a development plan as the site of a proposed road or on any other land acquired by or disposed of to them under this Part of this Act as if the road were a road in respect of the construction of which an advance were made to that authority under that section.
- (2) Without prejudice to the provisions of subsection (8) of section six of the Trunk Roads Act, 1936 (which provide for contributions by local authorities towards expenses incurred by the Minister of Transport under that Act) any local authority may contribute towards any expenses incurred by a local highway authority or by the Minister of Transport in the acquisition of land under this Part of this Act or in the construction or improvement of roads on land so acquired or in connection with any development required in the interests of the proper planning of the district of the local authority.

#### **45 Construction and improvement of private streets, etc.**

- (1) The provisions of this section shall apply in relation to any land defined by a development plan as the site of a proposed road or as land required for the widening of an existing road.
- (2) In relation to any such land as aforesaid situated in the landward area of a county the provisions of sections one hundred and thirty-three to one hundred and thirty-five, sections one hundred and thirty-seven to one hundred and forty-three, sections one hundred and fifty, one hundred and fifty-one and one hundred and fifty-four of the Burgh Police (Scotland) Act, 1892, and the provisions of sections sixteen to twenty-two of the Burgh Police (Scotland) Act, 1903 (which relate to private streets, the laying out of new streets and the improvement of streets), shall apply, subject to such adaptations and modifications as may be necessary, as if the land were a street to which those provisions apply.
- (3) In relation to any such land as aforesaid situated in a burgh to which the provisions of the Burgh Police (Scotland) Acts, 1892 to 1903, apply, the provisions of sections one hundred and fifty-one and one hundred and fifty-four of the Burgh Police (Scotland) Act, 1892 (which relate to the laying out and improvement of streets) shall have effect, subject to such adaptations and modifications as may be necessary, as if the land were a street to which those provisions apply, and in relation to any such land as aforesaid situated in any other burgh, the corresponding provisions of any local enactments shall have effect, subject to such adaptations and modifications as may be necessary, as if the land were a street to which the provisions of those enactments apply.
- (4) Regulations may be made under this section for the purpose of securing—
  - (a) that the amount of the expenses incurred by a local highway authority and charged by them on the owners of land, frontagers or other persons under the provisions of the enactments referred to in the last foregoing subsection shall not exceed the amount which would at the date of the commencement of the works have been the cost of the execution of street works in the course of the construction, widening or improvement if it had been carried out so as to comply with any enactments, byelaws, or regulations in operation in the area and, as respects matters for which no provision is made in any such enactments, byelaws or regulations, so as to comply with such specification as the local highway authority would at the date of the commencement of the works have required as a condition of taking over the street as a street maintainable by that authority;
  - (b) that as soon as the street has been made up or widened by or to the satisfaction of the local highway authority it shall become a street maintainable by that authority;
  - (c) that no expenses incurred in the execution of any street works shall be recoverable against agricultural land or buildings until the land or buildings cease to be agricultural land or buildings;
  - (d) that no expenses incurred in the execution of street works for the purpose of making a new street shall be recoverable in respect of any land (whether the site of a building or not) unless and until access is provided for and used by persons or vehicles from that land to the new street.
- (5) Regulations made under this section may also provide—
  - (a) for the inclusion in the expenses recoverable as aforesaid in respect of street works carried out by the local highway authority of any expenses incurred by a local authority, after the date on which the land is defined and designated as

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*Status: This is the original version (as it was originally enacted).*

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mentioned in subsection (1) of this section, and before a street is constructed on the land, in the construction of sewers in or under the land; and

- (b) for authorising the local highway authority to enter on any land adjoining the street for the purpose of executing street works on land comprised in the street.

- (6) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say—

" agricultural land " has the like meaning as is assigned ' to the expression " agricultural lands and heritages " by section nine of the Rating and Valuation (Apportionment) Act, 1928, and " agricultural buildings " means buildings (other than dwelling houses) occupied together with agricultural land and used solely in connection with agricultural operations thereon;

" construction " and " improvement ", in relation to a street, include the planting, laying out, maintenance and protection of trees, shrubs and grass margins in and beside the street;

" street works " means the sewerage, levelling, paving, metalling, flagging, channelling and making good a street or part of a street and providing proper means of lighting therefor.

#### **46 Power to stop up and divert highways, etc.**

- (1) Without prejudice to the provisions of section twenty-two of the Act of 1945, as incorporated with this Act, or section three of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, the Minister of Transport may, if he is satisfied that it is necessary so to do in order to enable development to be carried out in accordance with planning permission or to be carried out by a government department, by order made in accordance with the provisions of the Sixth Schedule to this Act authorise the stopping up or diversion of any highway.
- (2) Any order made under the foregoing subsection may make such provision as appears to the Minister of Transport to be necessary or expedient for the provision or improvement of any other highway, and may direct—
  - (a) that any highway so provided or improved shall be maintained and managed by the highway authority;
  - (b) that the said Minister, or any local authority specified in that behalf in the order, shall be the highway authority therefor;
  - (c) in the case of a highway for which the said Minister is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Trunk Roads Acts, 1936 and 1946.
- (3) The Minister of Transport or a local highway authority may be authorised to acquire land compulsorily for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order made under this section or for any other purpose for which land is required in connection with such an order; and 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; and
  - (b) as if this section were included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act:

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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 order made under this section may contain such incidental and consequential provisions as appear to the Minister of Transport to be necessary or expedient, including in particular provision for authorising that Minister, or requiring any other authority or person specified in the order—
- (a) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work; or
  - (b) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act, 1935, as respects any highway stopped up or diverted under the order:

Provided that if objection to any such provision is duly made in accordance with the Sixth Schedule to this Act by any authority or person who would be required thereby to make any such payment, repayment or contribution as aforesaid, and is not withdrawn, the order shall be subject to special parliamentary procedure.

- (5) Regulations made under this Act by the Minister of Transport may provide for securing that any proceedings required to be taken for the purposes of the acquisition of land under subsection (3) of this section may be taken concurrently with any proceedings required to be taken for the purposes of the order under this section.
- (6) Section twenty-four of the Act of 1945 (which provides for the extinguishment of rights of way, and rights as to apparatus, of statutory undertakers over land acquired under this Part of this Act) shall, subject to any necessary modifications, apply in relation to any highway to which an order under this section relates as it applies in relation to land acquired by a Minister under this Part of this Act, and sections twenty-five and twenty-six of that Act shall have effect accordingly.
- (7) The powers of the Minister of Transport under subsection (1) of this section shall include power to make an order authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Minister of Transport by any other enactment to authorise the stopping up or diversion of a highway.
- (8) Section three of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which enables the Secretary of State to extinguish certain public rights of way over land acquired under that Act), shall apply in relation to land acquired before the commencement of that Act by a local authority, being—
- (a) land acquired compulsorily under any such enactment as is specified in paragraph (a) of subsection (1) of section one of that Act, or
  - (b) land acquired by agreement for a purpose such that the land could have been so acquired compulsorily.
- (9) Any expenses incurred by the Minister of Transport in the construction or improvement of roads under this section shall be defrayed out of the Road Fund, and any other expenses of that Minister under this section shall be defrayed out of moneys provided by Parliament.