2003 No. 446

ACQUISITION OF LAND

The Compulsory Purchase of Land (Scotland) Regulations 2003

Made	*22nd September 2003*
Laid before the Scottish Parliament	*23rd September 2003*
Coming into force	*1st November 2003*

The Scottish Ministers, in exercise of the powers conferred by paragraphs 2, 3, 6, 13 and 18 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(**a**) and by section 275 of and paragraphs 1, 2 and 4 of Schedule 15 to the Town and Country Planning (Scotland) Act 1997(**b**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Compulsory Purchase of Land (Scotland) Regulations 2003 and shall come into force on 1st November 2003.

Interpretation

2.—(1) In these Regulations–

"the Acquisition Act" means the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

"acquiring authority" has the meaning assigned to it by section 195(2) of the Planning Act;

"benefited proprietor" means an owner of land on whom a notice is to be served in accordance with paragraph 3(b)(iii) of the First Schedule to the Acquisition Act(**c**);

"holder of a personal real burden" means a person on whom a notice is to be served in accordance with paragraph 3(b)(ii) of the First Schedule to the Acquisition Act(**d**);

"owners' association" means an owners' association under a development management scheme (as defined in section 71(3) of the Title Conditions (Scotland) Act 2003(**e**)) on which a notice is to be served in accordance with sub-paragraph 3(b)(iv) of the First Schedule to the Acquisition Act(**f**);

"the Planning Act" means the Town and Country Planning (Scotland) Act 1997.

(2) In these Regulations, any reference to a numbered form is a reference to the form bearing that number in the Schedule to these Regulations.

(a) 1947 c.42; see paragraph 18 for the definition of "prescribed". The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) 1997 c.8; see section 277(1) for the definition of "prescribed". The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(c) Paragraph 3(b) was amended by section 109(2) of the Title Conditions (Scotland) Act 2003 (asp 9).
(d) Paragraph 3(b) was amended by section 109(2) of the Title Conditions (Scotland) Act 2003 (asp 9).
(e) 2003 asp 9.
(f) Paragraph 3(b) was amended by section 109(2) of the Title Conditions (Scotland) Act 2003 (asp 9).

Forms in connection with Compulsory Purchase Orders

3. The following forms, or forms substantially to the like effect, shall be used for the purposes of the First Schedule to the Acquisition Act (which sets out the procedure for authorising compulsory purchases):–

(a) Form 1 (form of compulsory purchase order), for the purposes of paragraph 2 of the First Schedule;

(b) Form 2 (form of advertisement and affixed notice of the making of a compulsory purchase order), for the purposes of–

(i) paragraph 3(a) of the First Schedule; and

(ii) paragraph 3(b) of the First Schedule where notice is served on a benefited proprietor or a holder of a personal real burden by means of advertisement under paragraph 3A(b) or affixed notice under paragraph 3A(c) of that Schedule(**a**);

(c) Form 3 (form of individual notice of the making of a compulsory purchase order), subject to the provisions of regulation 4 of these Regulations, for the purposes of paragraph 3(b) of the First Schedule–

(i) where notice is served on an owner, lessee, occupier or an owners' association; or

(ii) where notice is served on a benefited proprietor or a holder of a personal real burden by sending under paragraph 3A(a) of that Schedule or by other means under paragraph 3A(d) of that Schedule;

(d) Form 4 (form of advertisement and notice of confirmation of a compulsory purchase order), for the purposes of paragraph 6 of the First Schedule; and

(e) Form 5 (form of newspaper notice of the giving of a certificate under Part III of the First Schedule), for the purposes of paragraph 13 of the First Schedule.

Additional provisions with respect to listed buildings

4. Where a compulsory purchase order is made under section 42 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(**b**) (which empowers the compulsory acquisition of listed buildings in need of repair) there shall be included in Form 3 the additional paragraphs set out after the notes on that form, as follows:–

(a) the additional paragraph numbered 1 shall be included in every case;

(b) the additional paragraph numbered 2 shall be included in any case where the notice is required by section 45(3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (which provides for minimum compensation in the case of a building deliberately left derelict) to include a statement that the authority has made a direction for minimum compensation; and

(c) the additional paragraph numbered 3 shall be included in every case.

Forms in connection with General Vesting Declarations

5. The following forms, or forms substantially to the like effect, shall be used for the purposes of Schedule 15 to the Planning Act (general vesting declarations):–

(a) Form 6 (form of general vesting declaration), for the purposes of paragraph 1 of Schedule 15;

(b) Form 7 (form of statement to be published in newspapers by inclusion in Form 4 when a general vesting declaration is to be made), for the purposes of paragraph 2(1)(a) of Schedule 15;

(c) Form 8 (form of statement to be included in Form 4 when a general vesting declaration is to be made), for the purposes of paragraph 2(1)(a) of Schedule 15;

(d) Form 9 (form for the giving of information to an acquiring authority), for the purposes of paragraph 2(1)(b) of Schedule 15; and

(e) Form 10 (form of notice specifying the land comprised in, and stating the effect of, a general vesting declaration), for the purposes of paragraph 4 of Schedule 15.

(a) Paragraph 3A was inserted into the First Schedule by sections 109(3) of the Title Conditions (Scotland) Act 2003 (asp 9).

(b) 1997 c.9.

Revocation

6. The Compulsory Purchase of Land (Scotland) Regulations 1976(**a**) are hereby revoked.

MARY MULLIGAN
Authorised to sign by the Scottish Ministers

St. Andrew's House,
Edinburgh
22nd September 2003

(a) S.I. 1976/820.

Regulation 2(2)

SCHEDULE

List of Forms

Form	*Purpose*	*Reference to Act*
ACQUISITION OF LAND (AUTHORISATION PROCEDURE) (SCOTLAND) ACT 1947		
1.	Form of compulsory purchase order.	First Schedule, paragraph 2.
2.	Form of advertisement and affixed notice of the making of a compulsory purchase order.	First Schedule, paragraph 3(a) and (b)(ii) and (iii).
3.	Form of individual notice to owners, lessees, occupiers, holders of personal real burdens, benefited proprietors and owners' association of the making of a compulsory purchase order.	First Schedule, paragraph 3(b).
4.	Form of advertisement and notice of confirmation of a compulsory purchase order.	First Schedule, paragraph 6.
5.	Form of newspaper notice of the giving of a certificate under Part III of the First Schedule.	First Schedule, paragraph 13.
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997		
6.	Form of general vesting declaration.	Schedule 15, paragraph 1.
7.	Form of statement of the effect of paragraphs 1 to 8 of Schedule 15 to the Planning Act for the purposes of paragraph 2(1)(a) of that Schedule to be published in newspapers by inclusion in Form 4 when a general vesting declaration is to be made.	Schedule 15, paragraph 2(1)(a).
8.	Form of statement of the effect of paragraphs 1 to 8 of Schedule 15 to the Planning Act for the purposes of paragraph 2(1)(a) of that Schedule to be included in Form 4 when a general vesting declaration is to be made.	Schedule 15, paragraph 2(1)(a).
9.	Form for the giving of information to an acquiring authority in response to an invitation required to be notified under paragraph 2(1)(b) of Schedule 15 to the Planning Act.	Schedule 15, paragraph 2(1)(b).
10.	Form of notice specifying the land comprised in, and stating the effect of, a general vesting declaration.	Schedule 15, paragraph 4.

Regulation 3(a)

FORM 1

Form of Compulsory Purchase Order

(a) The Act and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

The *(b)* (hereinafter referred to as "the acquiring authority") in exercise of the powers conferred by section of the *(c)* Act hereby make the following compulsory purchase order–

1. This Order may be cited as the *(d)* Compulsory Purchase Order 20 .

2. Subject to the provisions of this Order, the acquiring authority are hereby authorised to purchase compulsorily for the purpose of *(e)* the land which is described in the *(f)* [First] Schedule hereto and is delineated and coloured *(g)* on the map signed with reference to this Order and marked "Map referred to in the *(d)* Compulsory Purchase Order 20 ".

(h) [**3.** In relation to the foregoing purchase section 70 of the 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 Mines (Working Facilities and Support) Act 1923] [is] [are] hereby incorporated with the enactment under which the said purchase is authorised, subject to the modifications that *(i)*].

(j) [**4**. In this article "the order land" means *(k)* [the land described in the First Schedule hereto] [the land described as in the First Schedule hereto] and "the exchange land" means the land which is described in the Second Schedule hereto and is delineated and coloured *(g)* on the said map. The exchange land is land which has been or will be given in exchange for the order land subject to like rights, trusts and incidents as attach to the order land.

(l) [**5.** The registration of a conveyance, as defined in section 106(5) of the Title Conditions (Scotland) Act 2003, in implement of this Order [shall not extinguish the real burdens or servitudes] [shall not disapply the development management scheme] described in the *(m)* [Third] Schedule hereto [but shall vary the real burdens and servitudes as specified in that Schedule] [shall extinguish all rights to enforce such real burdens or servitudes other than the rights of those benefited proprietors and holders of personal real burdens specified in that Schedule] [shall extinguish the real burdens and servitudes described in the *(m)* [Third] Schedule hereto only in relation to those parts of the burdened property specified in that Schedule.]

(n).....

(f) [FIRST] SCHEDULE

[Land to be purchased]

Number on Map	*Description of the land*	*Owners*	*Lessees and Occupiers*
(1)	(2)	(3)	(4)
(o)			

(p) [The order includes land falling within the special categories to which Part III of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 applies, namely–

Number on map Description]

(q) [SECOND SCHEDULE

Exchange Land]

(m) [THIRD] SCHEDULE

(r) [Preservation of real burdens and servitudes]

[Preservation of development management scheme]

NOTES

(a) Insert title of the Act authorising compulsory purchase. If the purpose of acquisition as stated in article 2 of the order is contained in some other Act or Acts insert the short or collective title of such Act or Acts.

(b) Insert the name of the acquiring authority.

(c) Insert the section and Act authorising the use of powers of compulsory purchase.

(d) Complete the title of the Order.

(e) Describe the purpose in precise terms. Where practicable, the words of the relevant Act may be used, but where those words are in general terms covering a range of purposes, the particular purposes for which the land is required should be stated if possible.

(f) Omit "First" if articles 4 and 5 are omitted and omit "Land to be purchased" if article 4 is omitted.

(g) Describe the colouring or other method used to identify the land on the map. The boundaries of each plot of land separately numbered in the Schedule to the order should be clearly delineated. Also, the map itself should contain sufficient topographical detail and be on a scale sufficient to enable the situation of the land to be readily identified on the Ordnance Map and related to the description given in the Schedule.

(h) This article may be omitted or may be inserted with or without the reference to sections 71 to 78.

(i) The modifications required should be indicated, e.g. by the provision – "References in the said section (5) to the company shall be construed as references to the said and references to the [railway or] works shall be construed as references to the land authorised to be purchased and any buildings or works constructed or to be constructed thereon."

(j) Omit the whole of article 4 if inappropriate.

(k) Use the first alternative if the whole land described in the First Schedule falls within paragraph 11 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (purchase of common or open space). Otherwise use the second alternative and describe the land, specifying the map number(s) of such part as given in column 1 of the First Schedule.

(l) If the order is to provide that, on registration of a conveyance in implement of the order, real burdens or servitudes affecting the land to be acquired are not to be extinguished or are to be varied or that certain rights to enforce such real burdens or servitudes are not to be extinguished or the development management scheme affecting the land is not to be disapplied, then this should be specified in a Schedule to the order and paragraph 5 should be included in appropriate form.

(m) Replace "Third" with "Second" if article 4 is omitted. Delete if article 5 is omitted.

(n) Authenticate in the manner appropriate to the authority making the order, giving the date and place of making.

(o) Column 1 need not be completed when the order relates only to one plot of land. Where there are two or more plots they should be numbered on the map and referred to accordingly in column 1. In the case where the maker of the order is satisfied, after reasonable inquiry, that it is not practicable to ascertain the name of the owners, lessees and occupiers of any land the appropriate columns should be endorsed "unknown". In columns (3) and (4), where the names of owners, lessees and occupiers are uncertain, persons reputed to be in the relevant category may be named and the entry in the column modified accordingly. In column (4), tenants for a month or a period less than a month should be excluded.

(p) The compulsory acquisition of land–

(1) which is the property of a local authority;

(2) which has been acquired by statutory undertakers for the purpose of their undertaking; or

(3) forming part of a common or open space or held inalienably by the National Trust for Scotland

is subject to Part III of the First Schedule to the Acquisition Act and consequently may be subject to Special Parliamentary Procedure in certain circumstances unless section 120 of the Local Government, Planning and Land Act 1980 applies. The column "Description" need only refer to the special category into which the relevant parcel of land falls.

(q) Insert description of the land to be given in exchange. Omit if article 4 is omitted.

(r) Delete as appropriate.

Regulation 3(b)

FORM 2

Form of Advertisement and Affixed Notice of the making of a Compulsory Purchase Order

(a) The Act and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

(b) The Compulsory Purchase Order 20 .

Notice is hereby given that the *(c)* in exercise of the powers conferred by the above mentioned Acts, on *(d)* 20 , made the above mentioned Compulsory Purchase Order which affects the land described in the Schedule hereto, for the purpose of *(e)* .

The Order is about to be submitted to *(f)* for confirmation and comes into operation only if confirmed. (*g*) [If the Order is confirmed, a conveyance registered in implement of the Order may [vary or extinguish rights to enforce real burdens and servitudes affecting the land] [disapply a development management scheme affecting the land].]

A copy of the Order and the map referred to therein have been deposited at *(h)* and may be seen there without payment of fee between the hours of and on business days.

Any objections to the Order must be made in writing stating the title of the Order and the grounds of objection and addressed to *(i)* by *(j)* 20 .

Date *(k)*.....

SCHEDULE

(l)

NOTES

(a) The references to the Acts should be in the same form in which they are included in the order.

(b) Complete the title of the order.

(c) Insert the name of the acquiring authority.

(d) Insert date.

(e) Insert the purpose as stated in the order.

(f) Insert the name of the confirming authority.

(g) Include these words in appropriate form where the order may vary or extinguish rights to enforce real burdens or servitudes or may disapply a development management scheme.

(h) The place of deposit must be "within the locality". It should therefore be within relatively easy reach of persons living in the area affected.

(i) Insert the name and address of the confirming authority.

(j) Insert a date at least 21 clear days from the date of first publication of the notice (i.e. 21 days excluding the date of first publication).

(k) Insert name and designation of authorised officer who signs the notice.

(l) Insert description of all the land comprised in the order. This need not repeat the Schedule to the order, but must be in terms which enable the reader to appreciate what land is included.

Regulation 3(c)

FORM 3

Form of Individual Notice of the Making of a Compulsory Purchase Order

WARNING
If in Doubt about the effect of this Notice
consult the Acquiring Authority or a Solicitor

(a) The Act and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

(b) The Compulsory Purchase Order 20 .

The *(c)* in exercise of the powers conferred by the above mentioned Acts, on the day of 20 , made the above mentioned Compulsory Purchase Order authorising them to purchase compulsorily the land described in the Schedule hereto for the purpose of *(d)*.

The Order includes land in which you are believed to have an interest as [owner] [lessee] [occupier] [holder of a personal real burden] [benefited proprietor] [owners' association].

The Order is about to be submitted to *(e)* for confirmation and comes into operation only if confirmed. *(f)*[If the Order is confirmed, a conveyance registered in implement of the Order may [vary or extinguish rights to enforce real burdens and servitudes affecting the land] [disapply a development management scheme affecting the land].]

A copy of the Order and of the map referred to therein have been deposited at *(g)* and may be seen there without payment of fee during the hours of and on business days.

Any objection to the Order must be made in writing stating the title of the Order and the grounds of objection and addressed to *(h)* by *(i)* 20 .

(j) If no objection is duly made by an owner, lessee or occupier (except a tenant for a month or less), *(k)* [the holder of a personal real burden, a benefited proprietor or owners' association,] or if all objections so made are withdrawn, or if *(e)* is satisfied that every objection so made relates *(l)* [either] exclusively to matters of compensation which can be dealt with by the Lands Tribunal for Scotland *(m)* [or amounts in substance to an objection to the provisions of the development plan defining the proposed use of the land comprised in the order or any other land], *(k)* [or, in the case of an objection made by a holder of a personal real burden, a benefited proprietor or owners' association if the *(c)* give a written undertaking that any conveyance in implement of the acquisition will provide that the real burden or servitude 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] *(e)* may, if *(e)* thinks fit, confirm the Order with or without modifications.

In any other case where an objection has been duly made by an owner, lessee or occupier (except a tenant for a month or less), *(k)* [holder of a personal real burden, a benefited proprietor or owners' association] *(e)* is required before confirming the Order, either to cause a public local inquiry to be held or to afford to the objector an opportunity of appearing before and being heard by a person appointed by *(e)* for that purpose, and may then, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, confirm the Order with or without modifications.

Date *(n)*.....

SCHEDULE

(o)

NOTES

(a) The references to the Acts should be in the form in which they are included in the order.

(b) Complete the title of the order.

(c) Insert the name of the acquiring authority.

(d) Insert the purpose as stated in the order.

(e) Insert the name of the confirming authority.

(f) Include these words in appropriate form where the order may vary or extinguish rights to enforce real burdens or servitudes or may disapply a development management scheme.

(g) The place of deposit must be "within the locality". It should therefore be within relatively easy reach of persons living in the area affected.

(h) Insert the name and address of the confirming authority.

(i) Insert a date at least 21 clear days from the date of service of the notice (i.e. 21 days excluding the date of service).

(j) Insert here the appropriate additional paragraphs annexed to this form where the compulsory purchase order has been made under section 42 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. (See Regulation 4.)

(k) The words in square brackets are required only where the acquisition of the land would extinguish or vary a real burden or servitude or extinguish a right to enforce a real burden or servitude or disapply a development management scheme under section 106 of the Title Conditions (Scotland) Act 2003.

(l) Delete or include as appropriate.

(m) The words in square brackets are required only where the order is made under sections 189 and 190 of the Planning Act.

(n) Insert name and designation of authorised officer who signs the notice.

(o) Insert description of all the land comprised in the order. This need not repeat the Schedule to the order, but must be in terms from which persons interested can readily see how their land is affected.

Regulation 4

Additional paragraphs to be included in Form 3 where a compulsory purchase order is made under section 42 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (listed buildings in need of repair)

1. Under section 42(4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, any person having an interest in a listed building which it is proposed to acquire compulsorily under that section may, within 28 days after the service of this notice, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order; and, if the sheriff is satisfied that reasonable steps have been taken for properly preserving the building, the sheriff shall make an order accordingly.

2. The *(a)* have *(b)* [made] *(c)* [included in the draft Order] a direction for minimum compensation (the meaning of which is explained *(d)*). Under section 45(6) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, any person having an interest in the building may, within 28 days after the service of this notice, apply to the sheriff for an order that *(b)* [the direction be reversed] *(c)* [such direction be not included in the Order as made]; and if the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site, the sheriff shall make the order applied for.

3. Subject to any action taken under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (which also provides for appeals against the decision of the sheriff) the position with respect to this Order is as set out (*d*) [below] [on the attached note].

NOTES

(a) Insert the name of the acquiring authority.

(b) Include if the order is made by the planning authority.

(c) Include if the order is published in draft by the Scottish Ministers.

(d) Insert a reference to the place where the meaning of "direction for minimum compensation" is explained – e.g. "below" or "on the attached note" and amend paragraph 3 accordingly. (This explanation is required by section 45(3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in any case where a direction has been made, or as the case may be, is included in a draft order; and it should include the text of section 45(4) and (5) modified as appropriate to the circumstances of the particular order and making reference to the Town and Country Planning (Scotland) Act 1997 and reference to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in place of references to the "principal act" and "this Act" respectively.)

Regulation 3(d)

FORM 4

Form of advertisement and Notice of Confirmation of a Compulsory Purchase Order

(a) WARNING
1. If in Doubt about the effect of this Notice consult the Acquiring Authority or a Solicitor.
2. Information on the rights to compensation payable and on any time limits may be obtained from the Acquiring Authority.

(b) The Act and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

(c) The Compulsory Purchase Order 20 .

1. Notice is hereby given that *(d)* in exercise of the powers conferred by section of the Act *(e)* has confirmed *(f)* [with modifications] the *(c)* Compulsory Purchase Order 20 submitted by the *(g)* (hereinafter referred to as "the acquiring authority").

2. The Order as confirmed provides for the purchase for the purpose of (*h*) of the land described in *(f)* [the] Schedule [1] hereto.

(f) [By a direction given under section 200 of the Town and Country Planning (Scotland) Act 1997 consideration of the Order, so far as it relates to the land described in Schedule 2 hereto has been postponed until .]

3. A copy of the Order as confirmed and of the map referred to therein have been deposited at *(i)* and may be seen there without payment of fee between the hours of and on business days.

4.*(j)* The Order as confirmed becomes operative on 20 being the date on which this notice is first published; but a person aggrieved by the Order may, in accordance with the provisions of paragraph 15 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as extended by section 60 of the Land Compensation (Scotland) Act 1973, by application to the Court of Session within 6 weeks from that date, question its validity on the grounds (i) that the authorisation granted by the Order is not empowered to be granted or (ii) that the applicant's interests have been substantially prejudiced by failure to comply with any statutory requirement relating to the Order.

OR

4.*(j)* The Order as confirmed being subject to special parliamentary procedure will become operative as provided by the Statutory Orders (Special Procedure) Act 1945. Except in a case where the Order is confirmed by an Act of Parliament under section 2(4) as read with section 10 or under section 6 of the said Statutory Orders (Special Procedure) Act 1945, a person aggrieved by the order may in accordance with the provisions of paragraph 15 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as extended by section 60 of the Land Compensation (Scotland) Act 1973, by application to the Court of Session within 6 weeks from the operative date, question its validity on the grounds (i) that the authorisation granted by the order is not empowered to be granted or (ii) that the applicant's interests have been substantially prejudiced by failure to comply with any statutory requirement relating to the Order.

OR

4.*(j)* The Order as confirmed being subject to special parliamentary procedure will become operative as provided by the Scotland Act 1998 (Transitory and Transitional Provisions) (Orders Subject to Special Parliamentary Procedure) Order 1999. A person aggrieved by the Order may in accordance with the provisions of paragraph 15 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as extended by section 60 of the Land Compensation (Scotland) Act 1973, by application to the Court of Session within 6 weeks from the operative date, question its validity on the grounds (i) that the authorisation granted by the Order is

not empowered to be granted or (ii) that the applicant's interests have been substantially prejudiced by failure to comply with any statutory requirement relating to the Order.

5.*(k)*

Date *(l)*.....

SCHEDULE *(f)*[1]

Land comprised in the Order as confirmed.

(f) [SCHEDULE 2

Land in respect of which consideration has been postponed.]

NOTES

(a) To be included only when this form is issued as a notice and in any copies thereof.

(b) The references to the Acts should be in the form in which they are included in the order.

(c) Complete the title of the order.

(d) Insert the name of the confirming authority.

(e) Insert the section and Act authorising the confirmation of the compulsory purchase order.

(f) Omit the words in square brackets where appropriate.

(g) Insert the name of the acquiring authority.

(h) Insert the purpose as stated in the order.

(i) The place of deposit should be "within the locality". It should therefore be within relatively easy reach of persons living in the area affected.

(j) This paragraph or in the alternative one of the following paragraphs, whichever is appropriate, should be inserted.

(k) Where this form is to include a statement concerning general vesting declarations the appropriate statement as contained in Form 7 for publication in a newspaper or in Form 8 for service on owners, lessees and occupiers should be included.

(l) Insert name and designation of authorised officer who signs the notice.

Regulation 3(e)

FORM 5

Form of Newspaper Notice of the Giving of a Certificate under Part III of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

1. (*a)* The Compulsory Purchase Order 20 , which has been submitted by *(b)* to *(c)* for confirmation, includes the land described in the Schedule hereto.

2. This land was acquired by *(d)* for the purposes of their undertaking and the Scottish Ministers are satisfied that *(e)* [it is used] [an interest is held in it] for the purposes of the carrying on of their undertaking.

OR

This land*(e)* [is] [forms part of] [a common] [an open space].

3. Notice is hereby given that the *(e)*[Scottish Ministers] [Secretary of State] in exercise of powers confirmed by paragraph *(e)* [10] [11] of Part III of the First Schedule to the above mentioned Act, *(e)*[have] [has] certified *(f)*.

4. A map showing the land to which the certificate relates *(e)* [and the land proposed to be given in exchange] has been deposited at *(g)* and may be seen there without payment of fee between the hours of and on business days.

5. The certificate becomes operative on *(h)* but a person aggrieved by the certificate may, by application to the Court of Session within 6 weeks from that date, question its validity on the ground that the applicant's interests have been substantially prejudiced by failure to comply with any statutory requirement relating to the certificate.

Date *(i)*.....

(j) SCHEDULE

NOTES

(a) Complete the title of the order.

(b) Insert the name of the acquiring authority.

(c) Insert the name of the confirming authority.

(d) Insert name of statutory undertakers.

(e) Delete as appropriate.

(f) Insert the terms of the certificate.

(g) The place of deposit should be "within the locality". It should therefore be within relatively easy reach of persons living in the area affected.

(h) Insert the date on which the notice is first published.

(i) Insert name and designation of authorised officer who signs the notice.

(j) Insert description of land to which the certificate relates.

Regulation 5(a)

FORM 6

Form of General Vesting Declaration

GENERAL VESTING DECLARATION

We (*a*) in exercise of the powers conferred by section 195 of the Town and Country Planning (Scotland) Act 1997 and the authorisation given to us by the *(b)* Compulsory Purchase Order 20 , *(c)* [recorded in the Division of the General Register of Sasines applicable to the County of on] [registered in the Land Register of Scotland under title number(s)] HEREBY DECLARE that the land described in the *(d)* [First] Schedule hereto, together with the right to enter upon and take possession of the same shall vest in us on *(e)* being the end of a period which meets the requirements of paragraph 1 as read with paragraph 4 of Schedule 15 to the Town and Country Planning (Scotland) Act 1997.

(f) [Registration of the general vesting declaration [shall not extinguish the real burdens or servitudes] [shall not disapply the development management scheme] described in the Second Schedule hereto [but shall vary the real burdens and servitudes as specified in that Schedule] [shall extinguish all rights to enforce such real burdens or servitudes other than the rights of those benefited proprietors and holders of personal real burdens specified in that Schedule] [shall extinguish the real burdens and servitudes described in the Second Schedule hereto only in relation to those parts of the burdened property specified in that Schedule].]

(g).....

(d) [FIRST] SCHEDULE

(h)

(i) [By virtue of paragraph 28 of Schedule 15 to the Town and Country Planning (Scotland) Act 1997 we *(a)* hereby alter the description of the land affected by the foregoing declaration in consequence of the service of a notice of objection to severance by *(j)* and the operation of paragraph *(k)* [24] [25] [27] of the said Schedule, and the said declaration *(k)* [and the *(b)* Compulsory Purchase Order 20] shall have effect in relation to the land described in the Schedule thereto, subject to the following modifications–

(g).....]

(l) SECOND SCHEDULE

NOTES

(a) Insert the name of the acquiring authority.

(b) Complete the title of the order.

(c) Complete date of recording of the order in the Register of Sasines and/or the title number(s) under which the order is registered in the Land Register of Scotland.

(d) Include ‘First’ if paragraph referred to in note (f) below is included.

(e) Insert a date not less than 28 days after the date on which service of the notices required by paragraph 4 of Schedule 15 to the Town and Country Planning (Scotland) Act 1997 will be completed.

(f) If the general vesting declaration is to provide that real burdens or servitudes affecting the land to be acquired are not to be extinguished or are to be varied or that certain rights to enforce such real burdens or servitudes are not to be extinguished or the development management scheme affecting the land is not be disapplied on registration then this should be specified in the Second Schedule and this paragraph should be included in appropriate form.

(g) Authenticate in the manner appropriate to the authority making the declaration or docquet annexed, giving the date and place of making.

(h) Insert a particular description of the lands affected or a description by reference in the manner provided by section 61 of the Conveyancing (Scotland) Act 1874 or, as the case may be, section 15 of the Land Registration (Scotland) Act 1979. Where appropriate the description should refer to a map annexed to the general vesting declaration.

(i) Add this docquet where appropriate, specifying the alteration of the description of the land in a manner suitable for registration in the Land Register of Scotland. The map should also be suitably amended. If this is done after recording of the declaration has taken place, re-recording is necessary.

(j) Insert name of person(s) concerned and if appropriate indicate the plot(s) in respect of which the objection was made.

(k) Delete as appropriate.

(l) Omit if paragraph referred to in note (f) is not included.

Regulation 5(b)

FORM 7

Form of Statement to be published in newspapers by inclusion in Form 4 when a General Vesting Declaration is to be made.

The acquiring authority may acquire the land to which this notice relates by making a general vesting declaration under section 195 of the Town and Country Planning (Scotland) Act 1997. Such a declaration shall not be executed before the end of the period of two months beginning with the date of the first publication of this notice except with the consent of every occupier of the land affected. The effect of the making of such a declaration is to vest the land in the acquiring authority at the end of the appropriate period and is more fully explained in Form 8 (statement to be included in Form 4 when a general vesting declaration is to be made) contained in the Compulsory Purchase of Land (Scotland) Regulations 2003. A copy of the said Regulations has also been deposited and may be seen as aforesaid.

Persons entitled to claim compensation in respect of any interest in the land are invited to give information with respect to their name and address and the land and their interest therein on the prescribed form, a copy of which will be sent by the acquiring authority on application to (*insert address*).

Regulation 5(c)

FORM 8

Form of Statement to be included in Form 4 when a General Vesting Declaration is to be made.

(1) The acquiring authority may acquire the land to which this notice relates by making a general vesting declaration under section 195 of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as "the Planning Act"). Such a declaration shall not be executed before the end of the period of two months beginning with the date of the first publication of this notice except with the consent of every occupier of the land affected.

(2) The effect of the making of such a declaration is to vest the land in the acquiring authority at the end of such period as may be specified in the declaration but which will be not less than twenty eight days from the date on which the service of notices required by paragraph 4 of Schedule 15 to the Planning Act is completed. These notices shall specify the land and state the effect of the declaration and shall be served on every occupier of any of the land specified in the declaration (other than land in which there subsists a short tenancy or a long tenancy which is about to expire as hereinafter defined) and on every other person who has given information to the acquiring authority with respect to any of the land to which this notice relates in pursuance of the invitation published and included in this notice.

(3) The effect of a general vesting declaration is as follows:–

At the end of the aforesaid period specified in the declaration the land specified in the declaration, together with the right to enter upon and take possession of it, shall vest in the acquiring authority and on being registered in the Land Register of Scotland the declaration shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation (Scotland) Act 1845. Also on the date of vesting, the Acts providing for compensation shall apply as if, on the date on which the declaration was made, a notice to treat had been served on every person on whom, under section 17 of the said Act of 1845, the acquiring authority could have served such a notice (other than any person entitled to an interest in the land in respect of which such a notice had actually been served before the date of vesting and any person entitled to a short tenancy or a long tenancy which is about to expire).

(4) Where any land specified in the declaration is land in which there subsists a short tenancy or a long tenancy which is about to expire the right of entry shall not be exercisable in respect of that land unless, after serving notice to treat in respect of that tenancy, the acquiring authority has served on every occupier of any land in which the tenancy subsists a notice stating that, at the end of such period as is specified in the notice (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired. The vesting of the land in the acquiring authority shall be subject to the tenancy until that period expires or the tenancy comes to an end whichever first occurs.

(5) Paragraph 38 of Schedule 15 to the Planning Act defines "short tenancy" and "long tenancy which is about to expire" as follows:–

"Short tenancy" means a tenancy for a year or from year to year or any lesser interest and "long tenancy which is about to expire", in relation to a general vesting declaration, means a tenancy granted for an interest greater than a short tenancy, but having at the date of the declaration a period still to run which is not more than the specified period (that is to say, such period longer than one year as may be specified in the declaration in relation to the land in which the tenancy subsists).

In determining what period a tenancy still has to run at the date of a general vesting declaration it shall be assumed–

(a) that the tenant will exercise any option to renew the tenancy and will not exercise any option to terminate the tenancy then or thereafter available to the tenant; and

(b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to the tenant.

(6) Persons entitled to claim compensation in respect of any interest in the land in respect of which a notice to treat has not been given are invited to give information with respect to their name and address and the land and their interest therein on the prescribed form (Form 9) a copy of which is sent with this notice.

Regulation 5(d)

FORM 9

Form for the giving of information to an Acquiring Authority.

(a) The Compulsory Purchase Order 20 .

To: *(b)*

[I] [We] being [a person] [persons] who, if a general vesting declaration were made under paragraph 1 of schedule 15 to the Town and Country Planning (Scotland) Act 1997 in respect of all the land comprised in the above compulsory purchase order in respect of which notice to treat has not been given, would be entitled to claim compensation in respect of [all] [part of] that land or [my] [our] interest in that land hereby give you the following information in terms of paragraph 2(1) of the said Schedule 15:

1.	Name and address of claimant	*(c)* ....
2.	Name and address of claimant's solicitor or other agent	....
3.	(i) Nature of interest in land (owner, tenant, etc)	*(d)* ....
	(ii) If claimant is not the owner, give owner's name and address	....
4.	Description of land to be acquired–	
	(i) address or location	(e) .....
	(ii) area, if known	.....
	(iii) brief description of any larger holding of which the land forms part	....
	(iv) date title deed recorded in General Register of Sasines or Land Register title number, if known	....
	(v) if (iv) not known, approximate date of last sale or transfer of the land	....
5.	Are there any loans or floating charges secured over the land?	....

IF YES, give details of–

	(i) the name and address of the creditor(s)	.....
	(ii) the amount of the loan or charge	.....

6.	Amount of any feu duty or other ground burden	....

Date

(Signed).....
[On behalf of]

NOTES

(a) Complete the title of the order.

(b) Insert the name of the acquiring authority.

(c) In the case of a joint interest, insert the names and addresses of all the claimants.

(d) If the interest is under a lease, the date of commencement and length of term should be given.

(e) The land should be described as concisely as possible.

Regulation 5(e)

FORM 10

Form of Notice specifying the Land comprised in, and stating the effect of, a General Vesting Declaration.

The Town and Country Planning (Scotland) Act 1997.

(a) The Compulsory Purchase Order 20 .

Notice is hereby given that *(b)* (hereinafter called "the acquiring authority") on *(c)* made a general vesting declaration under section 195 of the Town and Country Planning (Scotland) Act 1997 (hereinafter called "the Planning Act") vesting the land described in the Schedule to this notice (hereinafter called "the said land") in themselves on *(d)* being the end of a period of not less than twenty eight days from the date on which service of the notices required by paragraph 4 of Schedule 15 to the Planning Act is completed.

The effect of the general vesting declaration is as follows:–

> On the date of vesting, the said land, together with the right to enter upon and take possession of it, shall vest in the acquiring authority and the registration of the declaration in the Land Register of Scotland shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation (Scotland) Act 1845. Also, on the date of vesting, the Acts providing for compensation shall apply as if, on the date on which the general vesting declaration was made namely *(c)* , a notice to treat had been served on every person on whom the acquiring authority could have served such a notice under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845 (other than any person entitled to an interest in the said land in respect of which such a notice had actually been served before that date and any person entitled to a short tenancy or a long tenancy which is about to expire).

If the said land includes any land in which there is a short tenancy or a long tenancy which is about to expire (see Appendix A), the right of entry shall not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the acquiring authority have served on every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of a specified period (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired. The vesting of the land will then be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever first occurs.

Paragraphs 17 to 36 of Part II of Schedule 15 to the Planning Act contain supplementary provisions as to general vesting declarations. These provisions are set out in Appendix B to this notice.

Date *(e)*.....

SCHEDULE

[Description of the land vested in the acquiring authority by the general vesting declaration.]

APPENDIX A

[Here define "short tenancy" and "long tenancy which is about to expire" as set out in paragraph 38 of Schedule 15 to the Planning Act.]

APPENDIX B

[Here set out the provisions of paragraphs 17 to 36 of Schedule 15 to the Planning Act and include a Note after paragraph 34 that paragraphs 32 to 34 should be read with section 6 of the Land Tenure Reform (Scotland) Act 1974.]

NOTES

(a) Complete the title of the order.

(b) Insert the name of the acquiring authority.

(c) Insert date of making of general vesting declaration.

(d) Insert a date which conforms with the requirement stated.

(e) Insert name and designation of authorised officer who signs the notice.

EXPLANATORY NOTE

(This Note does not form part of the Regulations)

These Regulations replace and update the Compulsory Purchase of Land (Scotland) Regulations 1976 (S.I. 1976/820) which are revoked. The Regulations prescribe the forms in which compulsory purchase orders and general vesting declarations shall be made and also the notices, advertisements and other documents required in connection therewith.

The Regulations update the various statutory references to those currently in force and omit obsolete material relating to the repealed Community Land Act 1975. The Regulations also amend the forms of compulsory purchase order, notices and general vesting declaration to take account of changes to compulsory purchase procedure made by sections 106 and 109 of the Title Conditions (Scotland) Act 2003. The principal changes are–

(a) to amend the form of compulsory purchase order to make provision for the possibility that such an order may not extinguish real burdens and servitudes, or certain rights to enforce the same, or may not disapply a development management scheme. These possibilities are envisaged by section 106(1) and (2) of the Title Conditions (Scotland) Act 2003;

(b) to amend the various forms of notice to be given under paragraph 3(b) of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to take account of the amendments made to that paragraph by section 109 of the Title Conditions (Scotland) Act 2003;

(c) to remove references to the Community Land Act 1975 and to replace references to the Town and Country Planning (Scotland) Act 1972 with references to the Town and Country Planning (Scotland) Act 1997 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as appropriate.

SCOTTISH STATUTORY INSTRUMENTS

2003 No. 446

ACQUISITION OF LAND

The Compulsory Purchase of Land (Scotland) Regulations 2003

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