

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

10 & 11 GEO. 6. CH. 42.

ARRANGEMENT OF SECTIONS.

Section

1. Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport, the Minister of Civil Aviation and the Secretary of State for certain purposes.
2. Temporary powers for speedy acquisition of land in urgent cases.
3. Power to extinguish certain public rights of way over land acquired.
4. Notification of purchase of war-damaged land to War Damage Commission.
5. Provisions as to inquiries and as to service of certain notices.
6. Application of s. 1 to local Acts.
7. Interpretation.
8. Repeals and consequential and transitional provisions.
9. Short title and extent.

SCHEDULES.

First Schedule.—Procedure for authorising compulsory purchases.

Part I.—Purchases by local authorities.

Part II.—Purchases by Ministers.

Part III.—Special provisions as to certain descriptions of land.

Part IV.—Validity and date of operation of compulsory purchase orders.

Part V.—General.

Second Schedule.—Incorporation of enactments.

Part I.—The Lands Clauses Acts and the Railways Clauses Consolidation (Scotland) Act, 1845.

Part II.—The Acquisition of Land (Assessment of Compensation) Act, 1919.

Part III.—Purchases under Section 2.

Third Schedule.—Provisions as to authorisations under Section 2.

Fourth Schedule.—Public local inquiries.

Fifth Schedule.—Enactments repealed.



CHAPTER 42.

An Act to re-enact in the form in which they apply to Scotland the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946.

[31st July 1947.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

- 1.—(1) The authorisation of any compulsory purchase of land—
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| <p>(a) by a local authority where, apart from this Act, power to authorise the authority to purchase land compulsorily is conferred by or under any enactment contained in a public general Act and in force immediately before the commencement of this Act, other than any enactment specified in subsection (4) of this section ;</p> <p>(b) by the Minister of Transport under section eleven of the Development and Road Improvement Funds Act, 1909, or that section as applied by section three of the Roads Improvement Act, 1925, or under section thirteen of the Restriction of Ribbon Development Act, 1935, as applied by section four of the Trunk Roads Act, 1936, or by section five of the Trunk Roads Act, 1946, or under section twenty-eight of the Civil Aviation Act, 1946 ;</p> <p>(c) by the Minister of Civil Aviation under section twenty-six of the Civil Aviation Act, 1946 ;</p> <p>(d) by the Secretary of State under section fifty-seven of the National Health Service (Scotland) Act, 1947 ;</p> | <p>Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport, the Minister of Civil Aviation and the Secretary of State for certain purposes.</p> <p>9 Edw. 7. c. 47.
15 & 16 Geo. 5. c. 68.
25 & 26 Geo. 5. c. 47.
1 Edw. 8. & 1 Geo. 6. c. 5.
9 & 10 Geo. 6. c. 30.
9 & 10 Geo. 6. c. 70.
10 & 11 Geo. 6. c. 27.</p> |
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shall, subject to the provisions of this and the next following section, be conferred by an order (in this Act referred to as a "compulsory purchase order") in accordance with the provisions of the First Schedule to this Act.

(2) The purchase, in a case falling within the last foregoing subsection, of land—

- (a) which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking,
- (b) forming part of a common or open space or held inalienably by the National Trust for Scotland, or
- (c) being, or being the site of, an ancient monument or other object of archaeological interest,

shall be subject to the special provisions of Part III of the said First Schedule.

9 & 10 Geo. 5.
c. 57.

(3) In relation to any compulsory purchase to which the provisions of the First Schedule to this Act apply, the Lands Clauses Acts and other enactments mentioned in Part I of the Second Schedule to this Act shall be incorporated in accordance with the provisions of the said Part I; and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect in relation to any such compulsory purchase subject to the provisions of Part II of that Schedule.

18 & 19 Vict.
c. 68.

(4) The enactments excepted from the operation of subsection (1) of this section are any enactment contained in—

- (a) the Burial Grounds (Scotland) Act, 1855;
- (b) the Allotments (Scotland) Acts, 1892 to 1922;
- (c) the Light Railways Acts, 1896 and 1912;
- (d) Part I of the Housing (Scotland) Act, 1930;
- (e) Part I of the Housing (Scotland) Act, 1935;
- (f) the Town and Country Planning (Scotland) Act, 1945.

20 & 21 Geo. 5.
c. 40.
25 & 26 Geo. 5.
c. 41.
8 & 9 Geo. 6.
c. 33.

(5) Nothing in this Act shall prevent the authorisation by special order or Provisional Order of the compulsory purchase of land under the Electricity (Supply) Acts, 1882 to 1936.

Temporary powers for speedy acquisition of land in urgent cases.

2.—(1) Where during the period of five years beginning with the eighteenth day of April, nineteen hundred and forty-six, any authority (hereinafter referred to as a "confirming authority") having power to authorise the compulsory purchase of land by a local authority for any purpose is satisfied—

- (a) that it is expedient that the local authority (hereinafter referred to as the "acquiring authority") should purchase any land for the said purpose, and

- (b) that it is urgently necessary in the public interest that the acquiring authority should be enabled to obtain possession of the land without delay,

then, if apart from this section the acquiring authority could be authorised by the confirming authority under any enactment to purchase the land compulsorily for the said purpose in accordance with the provisions of the foregoing section or of the Town and Country Planning (Scotland) Act, 1945, the acquiring authority may, in lieu of being so authorised in accordance with the said provisions, be so authorised, subject to the provisions of the Third Schedule to this Act, by an authorisation in writing given by the confirming authority under this subsection.

(2) Where during the period aforesaid the Minister of Transport is satisfied that it is expedient that he should purchase any land under any enactment mentioned in paragraph (b) of subsection (1) of the foregoing section except section twenty-eight of the Civil Aviation Act, 1946, or the Board of Trade are satisfied that it is expedient that they should purchase any land under the Distribution of Industry Act, 1945, and the Minister or the Board are satisfied that it is urgently necessary in the public interest that the Minister or the Board should be enabled to obtain possession of the land without delay, the Minister or the Board may, in lieu of being authorised to purchase the land in accordance with the provisions of the foregoing section or of the Distribution of Industry Act, 1945, be so authorised, subject to the provisions of the Third Schedule to this Act, by an authorisation in writing given by the Minister or the Board under this subsection. 8 & 9 Geo. 6.
c. 36.

In the following provisions of this section and in the Third Schedule to this Act, the expressions "acquiring authority" and "confirming authority" include the Minister of Transport or the Board of Trade acting under this subsection.

(3) At any time not earlier than seven days nor later than three months after the giving of an authorisation under this section, the acquiring authority may enter on, and take possession of, the land to which the authorisation relates, notwithstanding that the purchase of the land has not been completed.

(4) Where the acquiring authority has taken possession of land pursuant to an authorisation under this section, the authority shall have power to purchase the land compulsorily as if authorised so to do under the enactment referred to in subsection (1) or (2) of this section and in accordance with the provisions of the foregoing section, the Town and Country Planning (Scotland) Act, 1945, or the Distribution of Industry Act, 1945, as the case may be, and the provisions of Part III of the Second Schedule to this Act; and the authority shall as soon as may be after taking possession of the land, serve notice under section seventeen

8 & 9 Vict.
c. 19.

of the Lands Clauses Consolidation (Scotland) Act, 1845, of its intention to take the land and shall in all respects be liable as if such notice had been given on the date of the authority's entering on the land, except that the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw such a notice shall not be exercisable.

(5) A power to enter on and take possession of land conferred by an authorisation given under this section may, save as provided in the Third Schedule to this Act, be exercised without notice to, or the consent of, any person and without compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to payment of the like compensation, and interest on the compensation agreed or awarded, as the acquiring authority would have been required to pay if the provisions of those sections had been complied with.

(6) Notwithstanding anything in the two last foregoing subsections, where apart from this subsection the compensation for the compulsory purchase of land in respect of which an authorisation has been given under this section would be reduced by virtue of paragraph 8 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1945 (which relates to purchases under that Act of houses unfit for human habitation) the reduction shall not be made unless an order under the said paragraph 8 has come into operation before the date on which the acquiring authority took possession of the land.

(7) While the acquiring authority is in possession of land pursuant to an authorisation given under this section, the authority shall be treated, as regards the use of the land and the rights of other persons affected by the use thereof, as if the authority had completed the purchase of the land; and in particular any provision for the extinction of rights over the land on completion of the purchase thereof shall apply as if the authority had completed the purchase thereof at the time when possession was taken.

(8) In this section references to the use of land include references to the erection of buildings or structures on the land and the carrying out of work thereon.

(9) If at any time before the expiration of the period during which authorisations may be given under this section an address is presented to His Majesty by each House of Parliament praying that the said period shall be extended for a further year from the time at which it would otherwise expire, His Majesty may by Order in Council direct that the said period shall be so extended.

(10) This section shall not apply to any compulsory purchase of land under section eleven of the Police (Scotland) Act, 1946 or under section two of the Civic Restaurants Act, 1947, or under section fifty-seven of the National Health Service (Scotland) Act, 1947.

9 & 10 Geo. 6.
c. 71.
10 & 11
Geo. 6. c. 22.

- 3.—(1) Subject to the provisions of this section, where land is acquired, or proposed to be acquired,—
- (a) in pursuance of a compulsory purchase order made under section one of this Act or an authorisation given under section two thereof, or
- (b) by agreement for a purpose, and by an authority, such that the compulsory acquisition of the land could be authorised by such an order or authorisation as aforesaid,

Power to extinguish certain public rights of way over land acquired.

and there subsists over any part of the land a public right of way, not being a right enjoyable by vehicular traffic, then if the Secretary of State is satisfied that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required, he may by order extinguish the right of way as from such date as may be specified in the order, not being earlier than—

- (i) the making of the order ;
- (ii) if in the exercise of any power conferred by this Act or by agreement the acquiring authority takes possession of the land before the acquisition thereof is completed, the date on which the authority takes possession of the land ;
- (iii) if the acquiring authority does not take possession of the land in the exercise of any such powers aforesaid, the date on which the acquisition of land is completed :

Provided that where a right of way is extinguished under this subsection at a date before the acquisition of the land in question is completed, then if at any time thereafter it appears to the Secretary of State that the proposal to acquire the land has been abandoned, he shall by order direct that the right shall revive, without prejudice, however, to the making of a new order extinguishing the right.

(2) The Secretary of State shall cause a notice stating the effect of any order that he proposes to make under this section extinguishing a right of way, and specifying the time (not being less than twenty-one days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, to be published in such manner as appears to him to be requisite, and, in any case where the acquiring authority is not the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1945, for the area in which the land is situated, shall serve a like notice on the said local planning authority.

(3) If any objection to the proposal is duly made and is not withdrawn, the Secretary of State shall, before making the order, cause a public local inquiry to be held.

(4) No order shall be made under subsection (1) of this section extinguishing a right of way over land, on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order, and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister.

(5) The foregoing provisions of this section shall not apply in any case where section twenty-two of the Town and Country Planning (Scotland) Act, 1945 (which relates to the extinction of public rights of way over land acquired or appropriated for the purposes of Part I, of that Act) applies.

(6) Except as provided by the foregoing provisions of this section or by the said section twenty-two, nothing in this Act shall be taken to authorise the extinction of any public right of way.

(7) This section shall not have effect in relation to land acquired or proposed to be acquired by the Minister of Civil Aviation under section twenty-six of the Civil Aviation Act, 1946.

Notification
of purchase of
war-damaged
land to War
Damage
Commission.

4.—(1) On the date on which any such action as the following is taken, that is to say—

- (a) notice to treat is served for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which has not been made good at that date,
- (b) any other action is taken by virtue of which compulsory purchase under any enactment of an interest in such land becomes obligatory, or
- (c) there is withdrawn a notice to treat for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which had not been made good at the time when the notice to treat was served,

or as soon as may be after that date, the person or body of persons by whom the action is taken shall notify the War Damage Commission that the action has been taken :

Provided that this subsection shall not apply to a notice to treat deemed to have been served by virtue of the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1945.

(2) If any person or body of persons, being authorised under any enactment to purchase compulsorily land which has sustained war damage, enter into an agreement for the purchase of an interest in the land and at the date when the agreement is made any of the damage has not been made good, the person or body of persons shall, on or as soon as may be after that date, notify the War Damage Commission that they have entered into the agreement.

(3) Any notification under this section may be given to the War Damage Commission by delivering it to an officer of the Commission at any office of the Commission, or by sending it in a registered letter addressed to the Commission at any office of the Commission.

(4) In this section the expression "war damage" has the same meaning as in the War Damage Act, 1943, and the expression "enactment" includes an enactment passed after the commencement of this Act. 6 & 7 Geo. 6.
c. 21.

5.—(1) For the purposes of the execution of his powers and duties under this Act, a Minister may cause to be held such public local inquiries as are directed by this Act and such other public local inquiries as he may think fit, and, subject to the provisions of the next following subsection, the provisions of the Fourth Schedule to this Act shall have effect with regard to any such inquiry. Provisions as
to inquiries
and as to
service of
certain notices.

(2) Any inquiry in relation to a compulsory purchase order which, by virtue of Part III of the First Schedule to this Act, becomes in certain events subject to special parliamentary procedure shall, if the confirming authority so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction has been so given— 26 Geo. 5 & 1
Edw. 8. c. 52.

(a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945; 9 & 10 Geo. 6.
c. 18.

(b) if publication of notice in accordance with the provisions of head (a) of sub-paragraph (1) of paragraph 3 of the First Schedule to this Act has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with; and

(c) the provisions of the Fourth Schedule to this Act shall not apply to such inquiry.

(3) Any provision contained in the Schedules to this Act requiring notice to be served on owners, lessees or occupiers of any land shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll or otherwise

known to the acquiring authority to have an interest in the land, and any reference in the said Schedules to owners, lessees and occupiers shall be construed accordingly.

Service of a notice on a person so appearing to have an interest may be effected by sending the notice in a registered letter addressed to him at his address as entered in the valuation roll.

Application
of s. 1 to
local Acts.

6.—(1) Where, apart from this Act, power to authorise a local authority to purchase land compulsorily is conferred by any enactment contained in a local Act and in force immediately before the eighteenth day of April, nineteen hundred and forty-six, the Secretary of State may by order made on the application of the local authority direct that section one of this Act shall apply in relation to the enactment as if the enactment were contained in a public general Act :

Provided that nothing in an order under this section shall empower the authorisation of a compulsory purchase in accordance with the provisions of section two of this Act.

9 & 10 Geo. 6.
c. 49.

(2) Where an order has come into operation under this section or under section seven of the Acquisition of Land (Authorisation Procedure) Act, 1946, the local Act shall have effect subject to the amendments thereof provided for in the order, being amendments appearing to the Secretary of State to be consequential on the making of the order, and as if the said amendments had been in force immediately before the eighteenth day of April, nineteen hundred and forty-six.

(3) Any order under this section made after the seventeenth day of April, nineteen hundred and forty-eight, shall be subject to special parliamentary procedure.

Interpretation.

7.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“ appropriate Minister ” means—

(a) in relation to any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, the Minister of Transport,

(b) in relation to any undertaking for the supply of electricity, gas or hydraulic power (other than that of the North of Scotland Hydro-Electric Board), the Minister of Fuel and Power.

(c) in relation to any undertaking for the supply of water or to the undertaking of the North of Scotland Hydro-Electric Board, the Secretary of State ;

“ ancient monument ” has the same meaning as in the Ancient Monuments Acts, 1913 and 1931 :

“ common ” includes any town or village green ;

“ held inalienably ”, in relation to land belonging to the National Trust for Scotland, means that the land is inalienable under section twenty-two of the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935 ; 26 Geo. 5 &
1 Edw. 8. c. ii.

“ land ”, in relation to compulsory purchase under any enactment, includes anything falling within any definition of that expression in that enactment, and in relation to compulsory purchase under the Harbours, Piers and Ferries (Scotland) Act, 1937, includes also a marine work within the meaning of that Act ; 1 Edw. 8 &
1 Geo. 6. c. 28.

“ local authority ” means any county council, town council or district council, or any other authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, and includes any joint board or joint committee of which all the constituent authorities are such local authorities as aforesaid ; 54 & 55 Vict.
c. 34.

“ National Trust for Scotland ” means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935 ;

“ open space ” means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground ;

“ owner ”, in relation to any land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease the unexpired period of which exceeds three years ;

“ statutory undertakers ” means any persons authorised by any Act (whether public general or local), or by any order or scheme made under or confirmed by an Act, to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water.

(2) If any question arises under this Act which Minister is the appropriate Minister, the question shall be determined by the Treasury.

(3) For the removal of doubt, it is hereby declared that any power conferred by or under this Act or any enactment passed before the commencement thereof to purchase land compulsorily

is, except in so far as any express provision of any such enactment restricts the exercise of the power, exercisable notwithstanding any other enactment providing that the land shall be inalienable.

(4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including this Act.

8.—(1) The enactments specified in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) References to the Acquisition of Land (Authorisation Procedure) Act, 1946, or to particular provisions thereof, contained in the Fourth Schedule to that Act (which sets forth minor and consequential amendments of various enactments) shall be construed as references to this Act or to the provisions of this Act corresponding to the particular provisions of the said Act of 1946, as the case may require.

(3) Where before the commencement of this Act proceedings for obtaining authorisation of a compulsory purchase in accordance with the provisions of any enactment in force at the time have been begun but not completed, the proceedings may be completed as if this Act had not been passed.

9.—(1) This Act may be cited as the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

(2) This Act shall extend to Scotland only.

Repeals and consequential and transitional provisions.

Short title and extent.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES.

PART I.

Purchases by local authorities.

1. A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the "acquiring authority") in a case falling within subsection (1) of section one of this Act shall be made by the acquiring authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the "confirming authority") in accordance with the following provisions of this Schedule.

2. The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.

3. Before submitting the order to the confirming authority, the acquiring authority shall—

(a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made;

(b) serve on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made.

4.—(1) If no objection is duly made by any such person as aforesaid or if all objections so made are withdrawn, the confirming authority, on being satisfied that the proper notices have been published and served, may, if the authority think fit, confirm the order with or without modifications.

1ST SCH.
—cont.

(2) If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.

(4) Notwithstanding anything in the two last preceding subparagraphs, the confirming authority may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.

5. The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.

6. As soon as may be after the order has been confirmed, the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

PART II.

Purchases by Ministers.

7.—(1) A compulsory purchase order authorising a compulsory purchase by a Minister in a case falling within subsection (1) of section one of this Act shall be prepared in draft and made by the Minister in accordance with the following provisions of this Schedule.

(2) The order shall describe by reference to a map the land to which it applies.

(3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.

(4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order, and with the omission in sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

PART III.

Special provisions as to certain descriptions of land.

8. The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.

9. A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority, or has been acquired by statutory undertakers, not being a local authority, for the purposes of their undertaking, or of land belonging to the National Trust for Scotland which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection has been duly made by the local authority or the statutory undertakers or the National Trust for Scotland, as the case may be, and has not been withdrawn.

10. Where a compulsory purchase order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the time within which objections to the order can be made, the appropriate Minister is satisfied—

- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
- (b) that an interest in any of the said land is held for those purposes,

the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the appropriate Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
- (ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,

and certifies accordingly.

1ST SCH.
—cont.

11.—(1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree) and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
- (b) that the land is required for the widening of an existing highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

(2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall give public notice of his intention so to do, and—

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

he may, after considering representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.

12. A compulsory purchase order, in so far as it authorises the purchase of land being, or being the site of, an ancient monument or other object of archaeological interest, shall be subject to special parliamentary procedure unless the Minister of Works certifies that the acquiring authority has entered into an undertaking with the Minister to observe such conditions as to the use of the land as in his opinion are requisite having regard to the nature thereof.

13. As soon as may be after the giving of a certificate under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the certificate has been given.

14. In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule, a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said paragraphs.

PART IV.

1ST SCH.
—cont.

Validity and date of operation of compulsory purchase orders.

15.—(1) If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session, and on any such application the Court—

- (a) may by interim order suspend the operation of the compulsory purchase order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;
- (b) if satisfied that the authorisation granted by the compulsory purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

(2) Except by leave of the Court of Session, no appeal shall lie to the House of Lords from a decision of the Court of Session under the last foregoing sub-paragraph.

16. Subject to the provisions of the last foregoing paragraph a compulsory purchase order or a certificate under Part III of this Schedule shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the last foregoing paragraph.

17. This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in paragraph 16 the words from " and shall become operative " to the end were omitted.

1ST SCH.
—cont.

PART V.

General.

18. Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations made by the Secretary of State.

19.—(1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body and in any other case be the last known address of the person to be served :

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the Minister having jurisdiction to confirm or make the order in connection with which the document is to be served is satisfied that reasonable inquiry has been made and that it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

Section 1.

SECOND SCHEDULE.

INCORPORATION OF ENACTMENTS.

PART I.

The Lands Clauses Acts and the Railways Clauses Consolidation (Scotland) Act, 1845.

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, 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.

2. The following sections of the Lands Clauses Consolidation 8 & 9 Vict. (Scotland) Act, 1845, shall be excepted from incorporation as aforesaid, c. 19. 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).

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.

4. 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.

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

2ND SCH.
—cont.

13 & 14 Geo. 5.
c. 20.

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, 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.

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.

PART III.

Purchases under Section 2.

8. In relation to a compulsory purchase authorised in accordance with section two of this Act references in sub-paragraph (b) of paragraph 2 and in paragraph 6 of this Schedule, or in subsection (4) of section seventeen of the Town and Country Planning (Scotland) Act, 1945, to an order authorising a compulsory purchase of land shall be construed as references to the authorisation under section two of this Act.

THIRD SCHEDULE.

Section 2.

PROVISIONS AS TO AUTHORISATIONS UNDER SECTION 2.

1.—(1) No authorisation under section two of this Act shall be given with respect to land of any description specified in subsection (2) of section one thereof or with respect to any dwelling house.

(2) In this paragraph the expression "dwelling house" means any building or part of a building in which persons are residing, and includes any other building or part of a building in which persons normally reside but from which they are temporarily absent.

2.—(1) Before an authorisation is given under section two of this Act the acquiring authority must—

- (a) have published in one or more local newspapers circulating in the locality in which any of the land to which the authorisation relates is situated a notice stating that the confirming authority is about to take into consideration the giving of an authorisation under section two of this Act with respect to land described in the notice, being land consisting of or comprised in the land to which the authorisation relates, and that representations which any person desires to make must be made to the confirming authority in writing within fourteen days from the date of the publication of the notice; and
- (b) have served on every owner and occupier of any of the land to which the authorisation relates a notice in writing stating that the confirming authority is about to take into consideration the giving of an authorisation as aforesaid, and that representations which any of the persons required to be served desires to make must be made to the confirming authority in writing within fourteen days from the date of the service of the notice on him.

(2) A notice under the last foregoing subsection may be served on a person being an owner or occupier by addressing the notice to him by name and by delivering it to him or leaving it at, or sending it in a registered letter by post to, his usual or last known place of abode.

3. Before giving an authorisation under section two of this Act the confirming authority shall consider any representations duly made to the authority; and as soon as may be after the authorisation has been given or the decision has been taken to refuse it the confirming authority shall send to any person who has made representations with respect thereto, specifying an address for the purposes of this paragraph, notification thereof in a registered letter by post to the address specified.

4. Anything authorised or required by this Schedule or by section two of this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

FOURTH SCHEDULE.

Section 5.

PUBLIC LOCAL INQUIRIES.

1. The Minister shall appoint a person to hold the inquiry and to report thereon to him.

2. The person appointed to hold the inquiry shall notify any person who has lodged, and has not withdrawn, objections in relation to any matter in question at the inquiry, and shall publish in such newspaper or newspapers as the Minister may direct a notice of the time when and the place where the inquiry is to be held.

4TH SCH.
—cont.

3. The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry :

Provided that—

- (a) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him ; and
- (b) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

4. The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

5. Any person who refuses or wilfully neglects to attend in obedience to a notice under paragraph 3 of this Schedule or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.

6. Where the inquiry arises out of a proposed acquisition of land by a local authority or the proposed extinction of a right of way over land acquired or proposed to be acquired by a local authority—

- (a) the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Minister may order ; and
- (b) the Minister may make orders as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.

7. Any order by the Minister under paragraph 6 of this Schedule may be enforced in like manner as a recorded decree arbitral.

FIFTH SCHEDULE.

Section 8.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of repeal.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act, 1946.	The whole Act except subsection (1) of section six and the Fourth Schedule.
9 & 10 Geo. 6. c. 68.	The New Towns Act, 1946.	Subsection (4) of section four.
9 & 10 Geo. 6. c. 70.	The Civil Aviation Act, 1946.	Subsection (2) of section twenty-six, and in subsection (6) of section twenty-eight, the words from "and the provisions" to the end of the subsection.
9 & 10 Geo. 6. c. 71.	The Police (Scotland) Act, 1946.	Subsection (3) of section eleven.
9 & 10 Geo. 6. c. 72.	The Education (Scotland) Act, 1946.	Subsection (4) of section twenty-one.
10 & 11 Geo. 6. c. 22.	The Civic Restaurants Act, 1947.	In subsection (1) of section two the words from "and the Acquisition" to "the passing of that Act", and the words from "section two" to "of this Act and".
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act, 1947.	Subsection (4) of section fifty-seven.

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