

Electricity Act 1989 c. 29

s. 10 Powers etc. of licence holders.



Law In Force With Amendments Pending

[View proposed draft amended version](#)

Version 4 of 4

10 November 2011 - Present

Subjects

Energy; Utilities

Keywords

Abstraction of water; Authorisations; Compensation; Compulsory purchase; Electricity licences; Electricity lines; Hydroelectric power; Licence holders; Ministers' powers and duties; Powers rights and duties; Scotland

10.— Powers etc. of licence holders.

(1) Subject to subsection (2) below, [Schedule 3](#) to this Act (which provides for the compulsory acquisition of land) and [Schedule 4](#) to this Act (which confers other powers and makes other provision) shall have effect—

(a) in relation to [...] ¹ [the holder of a transmission licence] ² ; and

(b) to the extent that his licence so provides, in relation to [an electricity distributor or] ³ any other licence holder;

and references in those Schedules to a licence holder shall be construed accordingly.

(2) Where any provision of either of the Schedules mentioned in subsection (1) above is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence for the purpose of qualifying that provision as so applied or any power or right conferred by or under it.

(3) [A generation licence] ⁴ may provide that Schedule 4 to this Act shall have effect in relation to the licence holder as if—

(a) any reference to any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on included a reference to any purpose connected with the supply to any premises of heat produced in association with electricity and steam produced from and air and water heated by such heat; and

(b) any reference to electric lines or electrical plant included a reference to pipes and associated works used or intended to be used for conveying heat so produced, and steam produced from and air and water heated by such heat;

and in this subsection “*associated works*”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as may be prescribed.

[

(3A) Subsection (3) applies in relation to any purpose connected with the supply to any premises of any gas or liquid subjected to a cooling effect produced in association with electricity as it applies to a purpose mentioned in that subsection.

] ⁵ [

(4) A transmission licence may provide that, where the licence is modified under [[section 6\(6B\)](#) or [11A](#)] ⁷ above so as to reduce in any respect the area in which the licence holder may carry on activities, [Schedule 4](#) to this Act shall have effect in

relation to him as if any reference to the activities which he is authorised by his licence to carry on included a reference to the activities which he was previously so authorised to carry on.

] ⁶

(5) The provisions of [Schedule 5](#) to this Act (which provide for the acquisition of water rights for hydro-electric stations in Scotland) shall have effect.

Notes

- 1 Words repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 [Sch.8 para.1](#) (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- 2 Words substituted by Energy Act 2004 c. 20 [Sch.19 para.9\(2\)](#) (September 1, 2004)
- 3 Words added by Utilities Act 2000 c. 27 [Pt IV s.53\(2\)](#) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- 4 Words substituted by Utilities Act 2000 c. 27 [Pt IV s.53\(3\)](#) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- 5 Added by Utilities Act 2000 c. 27 [Pt IV s.53\(4\)](#) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- 6 Substituted by Energy Act 2004 c. 20 [Sch.19 para.9\(3\)](#) (September 1, 2004)
- 7 Words repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 [Pt 9 reg.45\(1\)](#) (November 10, 2011)

Part I ELECTRICITY SUPPLY > Licensing of supply etc. > s. 10 Powers etc. of licence holders.

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 1



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Ministers' powers and duties

1.—

(1) Subject to paragraph 2 below, the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on.

(2) In this paragraph and paragraph 2 below “*land*” includes any right over land (other than, in Scotland, a right to abstract, divert and use water); and the power of the Secretary of State under this paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY
LICENCE HOLDERS > Part I POWERS OF ACQUISITION > para. 1*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 2



Law In Force

Version 3 of 3

20 December 2000 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Consent; Electricity licences; Licence holders; Ministers' powers and duties; OFGEM; Powers rights and duties

2.—

(1) No order shall be made under paragraph 1 above authorising the compulsory purchase of land belonging to another licence holder except with the consent of the [Authority]¹.

(2) The [Authority]¹ shall not give [their]¹ consent under this paragraph if—

(a) the land is being used by the licence holder to whom it belongs for the purposes of an installation necessary for the carrying on of the activities which he is authorised by his licence to carry on; or

(b) it appears to the [Authority]¹ that the land will be so used and that the use will commence, or any necessary planning permission or consent under [section 36 or 37](#) of this Act will be applied for, within the period of five years beginning with the date of the application for his consent.

(3) The Secretary of State may by order provide that sub-paragraph (2) above shall have effect as if for the period mentioned in paragraph (b) there were substituted such other period as may be specified in the order.

(4) A consent under this paragraph which is not acted on within the period of six months beginning with the day on which it is granted shall cease to have effect at the end of that period.

(5) In this paragraph—

“*the Planning Act*” means [the [Town and Country Planning Act 1990](#)]² or the [the [Town and Country Planning \(Scotland\) Act 1997](#)]³;

“*planning permission*” means a planning permission granted under [Part III](#) of the [Planning Act](#).

Notes

¹ Word substituted by Utilities Act 2000 c. 27 [Pt I s.3\(2\)](#) (December 20, 2000)

² Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11), s. 4, Sch. 2 para. 83(1)

³ Words substituted by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 [Sch.2 para.44\(1\)](#) (May 27, 1997: with transitional provisions in 1997 c.11 Sch.3 relating to repeals and consequential amendments made by this Act)

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY
LICENCE HOLDERS > Part I POWERS OF ACQUISITION > para. 2*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 3



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Acquisition of land; Allotments; Commons; Compulsory purchase; Electricity licences; Licence holders; Ministers' powers and duties; Open spaces

3.—

(1) This paragraph applies to land which—

- (a) for the purposes of the [Acquisition of Land Act 1981](#), is or forms part of a common, open space or a fuel or field garden allotment; or
- (b) for the purposes of the [Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947](#), is or forms part of a common or open space.

(2) Where for any purpose a licence holder has acquired, or proposes to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise the licence holder to purchase that other land compulsorily, or he may acquire it by agreement.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY
LICENCE HOLDERS > Part 1 POWERS OF ACQUISITION > para. 3*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 4



Law In Force

Version 2 of 2

20 December 2000 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Consent; Disposition of property; Electricity licences; Licence holders; OFGEM; Powers rights and duties

4.

Where a licence holder has acquired any land by virtue of [paragraph 1](#) above, he shall not dispose of that land or of any interest in or right over it except with the consent of [the Authority] ¹ .

Notes

¹ Words substituted by Utilities Act 2000 c. 27 [Pt I s.3\(2\)](#) (December 20, 2000)

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY
LICENCE HOLDERS > Part I POWERS OF ACQUISITION > para. 4*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 5



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Statutory undertakings

5.—

(1) Subject to sub-paragraph (2) below, the [Acquisition of Land Act 1981](#) shall apply to a compulsory purchase by a licence holder of land or rights in England and Wales; and [Schedule 3](#) to that Act shall apply in the case of a compulsory acquisition by a licence holder of a right by the creation of a new right.

(2) [Section 16](#) of, and [paragraph 3 of Schedule 3](#) to, the said Act of 1981 (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE
HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND
WALES) > Application of Acquisition of Land Act 1981 generally > para. 5*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 6



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights

6.

The [Compulsory Purchase Act 1965](#) shall have effect with the modifications necessary to make it apply to a licence holder's compulsory acquisition of a right in England and Wales by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS
> Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)
> New rights: general adaptation of Compulsory Purchase Act 1965 > para. 6

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 7



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights

7.

Without prejudice to the generality of paragraph 6 above, [Part I](#) of the [Compulsory Purchase Act 1965](#) shall apply in relation to a licence holder's compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in [paragraphs 8 to 13](#) below.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 7

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 8



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Utilities

8.

For [section 7](#) of that Act (measure of compensation) there shall be substituted the following section—

“

7.

In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.

”

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 8

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 9



Law In Force

Version 3 of 3

3 February 2017 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Interpretation; Licence holders; Proprietary rights

[

9.

[Section 8\(1\)](#) of the [Compulsory Purchase Act 1965](#) has effect as if references to acquiring land were to acquiring a right in the land, and [Schedule 2A](#) to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1

(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.

(2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).

2

In this Schedule “*house*” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3

A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4

A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5

On receiving a counter-notice the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6

The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7

If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8

If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9

If the authority serve notice of a decision to accept the counternotice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10

On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11

In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the proposed use of the right, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12

If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.

13

If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14

(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

] ¹

Notes

- 1 Substituted by Housing and Planning Act 2016 c. 22 [Sch.17\(2\) para.7](#) (February 3, 2017 as specified in SI 2017/75 reg.3(g) subject to transitional provisions specified in SI 2017/75 reg.5)

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 9

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 10



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Commons; Compulsory purchase; Deeds; Electricity licences; Licence holders; Owners; Proprietary rights

10.

The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

[section 9\(4\)](#) (refusal by owners to convey);

[Schedule 1, paragraph 10\(3\)](#) (owners under incapacity);

[Schedule 2, paragraph 2\(3\)](#) (absent and untraced owners); and

[Schedule 4, paragraphs 2\(3\) and 7\(2\)](#) (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 10

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 11



Law In Force

Version 2 of 2

1 April 2008 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Powers of entry; Proprietary rights

11.

[Section 11](#) of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and [sections 12](#) (penalty for unauthorised entry) and [13](#) (entry on [enforcement officer's or sheriff's warrant]¹ in the event of obstruction) shall be modified correspondingly.

Notes

¹ Words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 [Sch.22 para.7](#) (April 1, 2008)

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 11

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 12



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compensation; Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Tenants' rights

12.

[Section 20](#) of that Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 12

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 13



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights

13.

[Section 22](#) of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: specific adaptations of Act of 1965 > para. 13

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 14



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compensation; Compulsory purchase; Electricity licences; Licence holders; Proprietary rights

14.

The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part II
PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES) > New rights: compensation > para. 14*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 15



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland

15.—

(1) Subject to sub-paragraph (2) below, the [Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947](#) shall apply to the compulsory purchase by a licence holder of land or rights in Scotland as if the licence holder were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

(2) [Paragraph 10 of the First Schedule](#) to that Act (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS
> Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > Application of
Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally > para. 15*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 16



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland; Transitional provisions

16.

The [Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947](#), and the enactments incorporated with this Act by virtue of paragraph 15 above and [paragraph 1 of the Second Schedule](#) to that Act shall have effect with the modifications necessary to make them apply to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right (other than a right to abstract, divert and use water) as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those enactments and that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE
HOLDERS > Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New
rights: general application of Act of 1947 and incorporated enactments > para. 16*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 17



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland

17.

Without prejudice to the generality of paragraph 16 above, [Part III of the First Schedule to the Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947](#) (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in [paragraphs 18 to 23](#) below.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights: specific adaptations of Act of 1947 > para. 17

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 18



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Acquisitions; Compulsory purchase; Easements; Electricity licences; Licence holders; National Trust for Scotland; Proprietary rights; Scotland

18.

In [paragraph 9](#) of that Schedule (compulsory purchase affecting land of the National Trust for Scotland) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights: specific adaptations of Act of 1947 > para. 18

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 19



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Utilities

19.

In [paragraph 10](#) of that Schedule (land of statutory undertakers)—

- (a) for the words “land comprised in the order” there shall be substituted the words “land over which a right is to be acquired by virtue of the order”;
- (b) for the words “purchase of” there shall be substituted the words “acquisition of a right over”;
- (c) for the words “it can be purchased and not replaced” there shall be substituted the words “the right can be acquired”; and
- (d) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

“

(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them

”.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights: specific adaptations of Act of 1947 > para. 19

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 20



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Utilities

20.

In [paragraph 11](#) of that Schedule (common or open space), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“

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

(a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before;

(b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or

(c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right 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.

”

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 21



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1 October 2001 - Present

Subjects

Energy; Utilities

[...] ¹

Notes

- 1 Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 [Sch.8 para.1](#) (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 22



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Powers of entry; Proprietary rights; Scotland

22.

Paragraph 3(1) of the [Second Schedule](#) to the [Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947](#) shall be so modified as to secure that, as from the date on which the licence holder has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice).

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 23



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Utilities

23.

For [paragraph 4](#) of that Schedule (protection for owner against severance of property) there shall be substituted the following paragraphs—

“

4.

No person shall be required to grant any right over part only—

- (a) of any house, building or manufactory; or
- (b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal for Scotland determines that—

- (i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or
- (ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and if it so determines, it shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

4A.

In considering, for the purposes of paragraph 4 above, the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal for Scotland shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.

”

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights: specific adaptations of Act of 1947 > para. 23

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 24



Law In Force

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31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland

24.

Without prejudice to the generality of [paragraph 16](#) above, the [Lands Clauses Consolidation \(Scotland\) Act 1845](#) shall apply in relation to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in [paragraphs 25 to 28](#) below.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS
> Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights:
specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845 > para. 24*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 25



Law In Force

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31 March 1990 - Present

Subjects

Energy; Utilities

25.

For [section 61](#) of that Act (estimation of compensation) there shall be substituted the following section—

“

61.

In estimating the purchase money or compensation to be paid by the licence holder under the special Act, in any of the cases aforesaid, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.

”

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS
> Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights:
specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845 > para. 25*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 26



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland; Vesting

26.

The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land)—

[section 74](#) (failure by owner to convey);

[section 76](#) (refusal to convey or show title or owner cannot be found);

[section 98](#) (vesting of common land),

shall be so modified as to secure that, as against persons with interests in the land over which the right is to be compulsorily acquired, such right is vested absolutely in the licence holder.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS
> Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights:
specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845 > para. 26*

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS para. 27



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compensation; Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland; Tenants' rights

27.

Sections 114 (compensation to be made to tenants for a year etc.) and 115 (compensation where greater interest than tenant for a year) of that Act shall apply with the modifications necessary to secure that persons with such interests as are mentioned in those sections are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

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> Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights:
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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 28



Law In Force

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31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland

28.

[Sections 117](#) (protection of promoter of undertaking where by inadvertence an interest in land has not been purchased etc.) and [118](#) (provisions supplementary to section 117) of that Act shall be so modified as to enable the licence holder, in circumstances corresponding to those referred to in those sections, to continue entitled to exercise the right acquired, subject to compliance with those sections as respects compensation.

Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS
> Part III PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights:
specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845 > para. 28

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Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

para. 29



Law In Force

Version 1 of 1

31 March 1990 - Present

Subjects

Energy; Real property; Utilities

Keywords

Compensation; Compulsory purchase; Electricity licences; Licence holders; Proprietary rights; Scotland

29.

The enactments in force in Scotland with respect to compensation for the compulsory purchase of land shall apply as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right (other than a right to abstract, divert and use water) as they apply to compensation on the compulsory purchase of land and interests in land.

*Schedule 3 COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS > Part III
PROCEDURE, COMPENSATION ETC. (SCOTLAND) > New rights: compensation > para. 29*

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