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## SCHEDULES

### SCHEDULE 3

Section 9(3).

#### ACQUISITION OF LAND BY PUBLIC GAS SUPPLIERS

##### Modifications etc. (not altering text)

- C1** Sch. 3 applied (11.8.2022) by [The Sizewell C \(Nuclear Generating Station\) Order 2022 \(S.I. 2022/853\)](#), art. 1, [Sch. 18 para. 8\(3\)](#) (with arts. 62, 76, 87)

#### PART I

##### POWERS OF ACQUISITION ETC.

##### Modifications etc. (not altering text)

- C2** Sch. 3 Pt. I (ss. 1-3): Functions transferred (15.10.2000) to the Scottish Ministers by [S.I. 2000/3253](#), arts. 1(1), 3, [Sch. 2](#)
- C3** Sch. 3 Pt. I (ss. 1-3) modified (14.12.2000) by [S.I. 2000/3253](#), arts. 1(2), 2, [Sch. 1 para. 6](#)

- 1 (1) The Secretary of State, after consultation with the Director, may authorise a [<sup>F1</sup>gas transporters] to purchase compulsorily any land.
- (2) In sub-paragraph (1) above “land” includes any right over land; and the power of the Secretary of State under that sub-paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.

##### Textual Amendments

- F1** Words in Sch. 3 para. 1 substituted (1.10.2001) by [2000 c. 27, s. 108](#), [Sch. 6 Pt. I para. 2\(1\)](#); [S.I. 2001/3266](#), arts. 1(2), 2, [Sch.](#) (subject to transitional provisions in arts. 3-20)

- 2 (1) This paragraph applies to land which—
- (a) for the purposes of the <sup>M1</sup>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 <sup>M2</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common or open space.
- (2) Where for any purpose a [<sup>F2</sup>gas transporters] 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 [<sup>F3</sup>the transporter] to purchase that other land compulsorily, or he may acquire it by agreement.

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#### Textual Amendments

- F2** Words in Sch. 3 para. 2 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), **Sch.** (subject to transitional provisions in arts. 3-20)
- F3** Words in Sch. 3 para. 2(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 56(c)**; S.I. 1996/218, art. 2

#### Marginal Citations

- M1** 1981 c. 67.  
**M2** 1947 c. 42.

- 3 Where a [<sup>F4</sup>gas transporters] 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 Director.

#### Textual Amendments

- F4** Words in Sch. 3 para. 3 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6, Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

## PART II

### PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

#### *Application of Acquisition of Land Act 1981 generally*

- 4 The Acquisition of Land Act 1981 shall apply to a compulsory purchase by a [<sup>F5</sup>gas transporter's] of land or rights in England and Wales, subject, in the case of a compulsory acquisition of a right by the creation of a new right, to Schedule 3 to that Act.

#### Textual Amendments

- F5** Words in Sch. 3 Pt. II substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I, para. 2(2)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### *New rights: general adaptation of Compulsory Purchase Act 1965*

- 5 The <sup>M3</sup>Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make it apply to a [<sup>F6</sup>gas transporter'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.

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#### Textual Amendments

- F6** Words in Sch. 3 para. 5 substituted (1.10.2001) by 2000 c. 27, s. 108, [Sch. 6, Pt. I para. 2\(2\)](#); [S.I. 2001/3266](#), arts. 1(2), 2, [Sch.](#) (subject to transitional provisions in arts. 3-20)

#### Marginal Citations

- M3** 1965 c. 56.

#### *New rights: specific adaptations of Act of 1965*

- 6 Without prejudice to the generality of paragraph 5 above, Part I of the said Act of 1965 shall apply in relation to a [<sup>F7</sup>gas transporter's] compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in paragraphs 7 to 12 below.

#### Textual Amendments

- F7** Words in Sch. 3 para. 6 substituted (1.10.2001) by 2000 c. 27, s. 108, [Sch. 6, Pt. I para. 2\(2\)](#); [S.I. 2001/3266](#) arts. 1(2), 2, [Sch.](#) (subject to transitional provisions in arts. 3-20)

- 7 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.”

- [<sup>F8</sup> 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.

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*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 counter-notice, 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.

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- 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.”]

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#### Textual Amendments

**F8** Sch. 3 para. 8 substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), Sch. 17 paras. 6, 7; [S.I. 2017/75](#), reg. 3(g) (with reg. 5)

- 9 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.
- 10 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 [F9 enforcement officer's or sheriff's warrant] in the event of obstruction) shall be modified correspondingly.

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#### Textual Amendments

**F9** Words in Sch. 3 para. 10 substituted (1.4.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 22 para. 4](#); [S.I. 2007/2709](#), art. 5(b)

- 11 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

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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.

- 12 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.

*New rights: compensation*

- 13 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 [<sup>F10</sup>gas transporter'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.

**Textual Amendments**

- F10** Words in Sch. 3 para. 13 substituted (1.10.2001) by [2000 c. 27, s. 108, Sch. 6, Pt. I para. 2\(2\)](#); [S.I. 2001/3266, arts. 1\(2\), 2, Sch.](#) (subject to transitional provisions in arts. 3-20)

**PART III**

PROCEDURE, COMPENSATION ETC. (SCOTLAND)

**Modifications etc. (not altering text)**

- C4** Sch. 3 Pt. III (ss. 14-29): Functions transferred (15.10.2000) to the Scottish Ministers by [S.I. 2000/3253, arts. 1\(1\), 3, Sch. 2](#)
- C5** Sch. 3 Pt. III (ss. 14-29) modified (14.12.2000) by [S.I. 2000/3253, arts. 1\(2\), 2, Sch. 1 para. 6](#)

*Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally*

- 14 The <sup>M4</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory purchase by a [<sup>F11</sup>public gas transporter] of land or rights in Scotland as if [<sup>F12</sup>the transporter] 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.

**Textual Amendments**

- F11** Words in Sch. 3 para. 14 substituted (1.3.1996) by [1995 c. 45, s. 10\(1\), Sch. 3 para. 56\(a\)](#); [S.I. 1996/218, art. 2](#)
- F12** Words in Sch. 3 para. 14 substituted (1.3.1996) by [1995 c. 45, s. 10\(1\), Sch. 3 para. 56\(c\)](#); [S.I. 1996/218, art. 2](#)

**Marginal Citations**

- M4** [1947 c. 42.](#)

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*New rights: general application of Act of 1947 and incorporated enactments*

- 15 The enactments incorporated with this Act by virtue of Part I of Schedule 2 to the said Act of 1947 and that Act shall have effect with the modifications necessary to make them apply to a [<sup>F13</sup>public gas transporter’s] compulsory acquisition of a right in Scotland by the creation of a new right 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.

**Textual Amendments**

- F13** Words in Sch. 3 para. 15 substituted (1.3.1996) by 1995 c. 45, s. 10(1), [Sch. 3 para. 56\(b\)](#); S.I. 1996/218, [art. 2](#)

*New rights: specific adaptations of Act of 1947*

- 16 Without prejudice to the generality of paragraph 15 above, Part III of Schedule 1 to the said Act of 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 [<sup>F14</sup>public gas transporter’s] compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in paragraphs 17 to 20 below.

**Textual Amendments**

- F14** Words in Sch. 3 para. 16 substituted (1.3.1996) by 1995 c. 45, s. 10(1), [Sch. 3 para. 56\(b\)](#); S.I. 1996/218, [art. 2](#)

- 17 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.

- 18 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”.

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

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“(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; or
- (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.”

<sup>F15</sup>20 .....

#### Textual Amendments

**F15** Sch. 3 para. 20 repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in [arts. 3-20](#))

21 Paragraph 10 above shall have effect in relation to the said Act of 1947 with the substitution of a reference to paragraph 3(1) of the Second Schedule to that Act for the reference to section 11 of the <sup>M5</sup>Compulsory Purchase Act 1965, and with the omission of the words from “and sections” to the end of the paragraph.

#### Marginal Citations

**M5** 1965 c. 56.

22 For paragraph 4 of the Second Schedule to the said Act of 1947 (protection for owner against severance of property) there shall be substituted the provisions substituted by paragraph 8 of this Schedule for section 8(1) of the said Act of 1965, and any reference in those provisions to the [<sup>F16</sup>Upper Tribunal] shall be construed as a reference to the Lands Tribunal for Scotland.



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### Textual Amendments

- F16** Words in Sch. 3 para. 22 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 179(b)** (with Sch. 5)

#### *Restrictions on application of paragraphs 15 to 20 above*

- 23 So much of paragraph 15 above as relates to the said Act of 1947, and paragraphs 16 to 20 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the <sup>M6</sup>Gas Act 1965, Part I of Schedule 4 to that Act applies.

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### Marginal Citations

- M6** 1965 c. 36.

#### *New Rights: specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845*

- 24 For section 61 of the <sup>M7</sup>Lands Clauses Consolidation (Scotland) Act 1845 (estimation of compensation) there shall be substituted the following section—

“**61** In estimating the purchase money or compensation to be paid by the promoters of the undertaking in 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.”

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### Marginal Citations

- M7** 1845 c. 19.

- 25 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 promoters of the undertaking.

- 26 Paragraph 11 above shall have effect in relation to that Act with the substitution of a reference to sections 114 and 115 thereof for the reference to section 20 of the <sup>M8</sup>Compulsory Purchase Act 1965.

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**Marginal Citations**

**M8** [1965 c. 56.](#)

- 27 Paragraph 12 above shall have effect in relation to that Act with the substitution of a reference to sections 117 and 118 thereof for any reference to section 22 of the said Act of 1965.

*New rights: compensation*

- 28 Paragraph 13 above shall have effect in relation to Scotland with the substitution of. “ Scotland ” for “England and Wales”.
- 29 This Part of this Schedule shall extend to Scotland only.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act power to amend conferred by [2023 c. 52 s. 155\(2\)](#)
- Act power to apply (with modifications) conferred by [2023 c. 52 s. 155\(1\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 5(e) and word inserted by [2023 c. 52 s. 185\(3\)](#)
- s. 5(1)(ca) inserted by [2023 c. 52 s. 168\(2\)\(b\)](#)
- s. 5(10A) inserted by [2023 c. 52 s. 168\(2\)\(c\)](#)
- s. 5(11A)(11B) inserted by [2023 c. 52 s. 185\(4\)](#)
- s. 7B(3A) inserted by [2023 c. 52 s. 168\(4\)\(b\)](#)
- s. 7B(5FA) inserted by [2023 c. 52 s. 185\(13\)](#)
- s. 7B(5ZA)-(5ZC) inserted by [2023 c. 52 s. 80\(1\)](#)
- s. 7AA inserted by [2023 c. 52 s. 168\(3\)](#)
- s. 7AC inserted by [2023 c. 52 s. 185\(6\)](#)
- s. 8AA(11B) inserted by [2023 c. 52 s. 185\(14\)](#)
- s. 8AA(11ZA) inserted by [2023 c. 52 s. 168\(5\)](#)
- s. 9(2A) inserted by [2023 c. 52 s. 177\(4\)](#)
- s. 15A inserted by [1992 c. 43 s. 17](#)
- s. 23D(2)(d) and word inserted by [2013 c. 32 s. 138\(4\)\(c\)\(iii\)](#)
- s. 27(1ZA)(aa) inserted by S.I. 2019/93, Sch. 1 para. 2(2)(b) (as substituted) by [S.I. 2019/1245 reg. 17](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 28(8A) inserted by [2023 c. 52 Sch. 14 para. 3\(3\)](#)
- s. 33BC(7C)-(7H) inserted by [2023 c. 52 s. 214\(1\)](#)
- s. 33BCA(3)(ca)-(cc) inserted by [2023 c. 52 s. 214\(2\)\(a\)\(ii\)](#)
- s. 33BDA(3)(da)-(dc) inserted by [2023 c. 52 s. 214\(3\)\(a\)\(ii\)](#)
- s. 41E(6)(d) and word inserted by [2013 c. 32 s. 138\(4\)\(f\)\(ii\)](#)
- Sch. 4B para. 9B and cross-heading inserted by [2023 c. 52 Sch. 14 para. 4](#)