STATUTORY INSTRUMENTS

1967 No. 853 (S.62)

ACQUISITION OF LAND

The Compulsory Purchase of Land (Scotland) Amendment Regulations 1967

Made - - -	1*st June* 1967
Coming into Operation	12*th June* 1967

In exercise of the powers conferred on me by paragraph 18 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(**a**) as read with section 7(5) of the Land Commission Act 1967(**b**), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1. These regulations may be cited as the Compulsory Purchase of Land (Scotland) Amendment Regulations 1967 and shall come into operation on 12th June 1967.

2.—(1) In these regulations the expression "the regulations of 1949" means the Compulsory Purchase of Land (Scotland) Regulations 1949(**c**) as amended (**d**).

(2) The Interpretation Act 1889(**e**) applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

3. The regulations of 1949 are hereby amended by the addition to Form No. 4 in the Schedule thereto, and to the Notes to that Form, of the paragraph and note set out in the Schedule hereto.

William Ross,

One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
1st June 1967.

(**a**) 1947 c.42. (**b**) 1967 c.1. (**c**) S.I. 1949/1888 (1949 I, p. 2394).
(**d**) The amending regulations are not relevant to the subject matter of these regulations.
(**e**) 1889 c.63

SCHEDULE

1. *Paragraph to be added to Form No. 4 prescribed by the regulations of* 1949

(*g*) [The following sub-paragraphs contain a statement of the effect of sections 9 and 10 of the Land Commission Act 1967 and an invitation to give information as mentioned in sub-paragraph (x) below:—

(i) The Land Commission may acquire any of the land described in the [first] schedule hereto by making a general vesting declaration under section 9 of the Land Commission Act 1967, which has the effect, subject as mentioned in sub-paragraph (iv) below, of vesting the land in the Commission at the end of the period mentioned in sub-paragraph (ii) below. Generally a declaration may not be made earlier than 2 months of the order becoming operative. The order may however prescribe a longer period; but, whether the period is 2 months or a longer period, the Commission may make a declaration before the end of the period with the consent of every occupier of the land affected.

(ii) If the Commission make a general vesting declaration, they must serve notice of it on every occupier of any of the land affected (except land where there is one of the short tenancies described in sub-paragraph (iii) below) and on every person who gives them information relating to the land in pursuance of the invitation contained in this or any similar form. When the service of notices of the general vesting declaration is completed, an intermediate period before vesting begins to run. This period, which must not be less than 28 days, will be specified in the declaration. At the end of this period the land described in the declaration will, subject as mentioned in sub-paragraph (iv) below, vest in the Commission, together with the right to enter on the land and take possession of it. At the same time every person on whom the Commission could have served a notice to treat in respect of his interest in the land (other than a tenant under one of the short tenancies described in sub-paragraph (iii) below), as well as any person who has actually been served with a notice to treat, will be entitled to claim compensation for the acquisition of his interest in the land together with interest on the compensation from the date of entry at a rate prescribed by the Treasury.

(iii) Where a person's interest arises under a tenancy which has only a short time to run, the position stated above is subject to modifications. For the modifications to apply the tenancy must be either a "minor tenancy", i.e. a tenancy for a year or a yearly tenancy or a tenancy for a lesser interest, or "a long tenancy which is about to expire". The latter expression means a tenancy granted for an interest greater than a minor tenancy but having at the date of the general vesting declaration a period still to run which is not more than the period specified in the declaration for this purpose. The latter period must be more than a year. In calculating how long a tenancy has to run where any option to renew or to terminate it is available to either party, it is assumed that the landlord will take every opportunity open to him to terminate the tenancy while the tenant will use every opportunity to renew his interest.

(iv) The Commission may not exercise the right of entry referred to in sub-paragraph (ii) above in respect of land subject to one of the short tenancies described in sub-paragraph (iii) above unless they first serve notice to treat in respect of the tenancy and then serve every occupier of the land in which the tenancy subsists with a notice of their intention to enter and take possession after the period (not less than 14 days) specified in the notice. The right of entry will be exercisable at the end of that period. The vesting of the land in the Commission referred to in sub-paragraph (ii) above will be subject to the tenancy until said period expires or the tenancy comes to an end, whichever is the earlier.

(v) If the effect of the general vesting declaration will be to sever a house, building or factory, or a park or garden belonging to a house, by vesting part of it in the Commission and leaving part of it with the person who is able to sell the whole, that person may serve on the Commission a notice of objection to severance. A notice of objection to severance, in order to be effective, must be served by that person within 28 days of the service on him by the Commission of the notice of the general vesting declaration referred to in sub-paragraph (ii) above (save in

the exceptional cases referred to in paragraph 13 of Schedule 3 to the Land Commission Act 1967). This (save in those exceptional cases) stops the objector's interest vesting in the Commission until his rights in the matter have been settled. The Commission have (save in those exceptional cases) 3 courses open to them. First, they may serve the objector with a notice which in effect excludes the objector's land from the scope of the declaration (and, if he receives no notice from the Commission under one of the other 2 alternatives within 3 months after he has served them with his notice of objection to severance, they will be treated as having done this); secondly, they may serve him with notice that the declaration shall have effect in relation to the whole of his land (in which case the declaration will take effect in accordance with the notice); or thirdly, they may refer the objection to an official arbiter appointed in accordance with the provisions of section 2 of the Land Compensation (Scotland) Act 1963 and give him notice that they have done so.

(vi) If the arbiter determines that the part of the objector's property comprised in the declaration can be taken without material detriment (where the objection concerns the taking of part of a house, building or factory) or (where the objection concerns the taking of part of a park or garden) can be taken without seriously affecting the amenity or convenience of the house, the notice of objection ceases to have effect, so that the land affected, i.e. the part of the property in question, will vest in the Commission. If the arbiter does not decide in that way, he must decide what part of the objector's land the Commission ought to be required to take in addition to the part comprised in the declaration. The declaration will then take effect as if both these parts had been comprised in the declaration.

(vii) At the end of the period specified in the general vesting declaration as mentioned in sub-paragraph (ii) above or, if there has been a notice of objection to severance as in sub-paragraph (v) above, when said notice has been disposed of as in sub-paragraphs (v) and (vi) above, the Commission, if they are to proceed with the declaration, must record the declaration or the declaration as altered as a result of the notice of objection to severance in the General Register of Sasines.

The declaration or the declaration as altered, as the case may be, when so recorded shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation (Scotland) Act 1845.

(viii) If any of the land described in the [first] schedule hereto forms part of land subject to a recurring payment, which is apportioned between the land so described and the remainder of the land under section 109 of the Lands Clauses Consolidation (Scotland) Act 1845, the part apportioned to the land so described will be treated as extinguished on the vesting of that land in the Commission. Compensation for the extinguishment will be payable to the person entitled to the recurring payment and may be settled by agreement between him and the Commission or determined by the arbiter. Alternatively the owner of the land and the person entitled to the recurring payment may agree that the part of the land which is comprised in the land described in the [first] schedule shall be released from the recurring payment and that the whole recurring payment shall be charged on the remainder of the land. This will operate to release the land so described from the recurring payment and to charge the whole recurring payment on the remainder of the land. In this sub-paragraph "recurring payment" means any feu-duty, ground annual or any rent or other annual or recurring payment or incumbrance.

(ix) Where any of the land described in the [first] schedule hereto forms part of land subject to a tenancy, the rent will be apportioned between the land so described and the remainder of the land on the vesting in the Commission of the tenancy of the land so described. The tenant will thenceforth only be liable for that part of the rent which is apportioned to the remainder of the land.

(x) Every person who if a general vesting declaration were made in respect of all the land comprised in the order would be entitled to claim compensation in respect of any of the land or any interest in the land is invited to give information with respect to his name and address and the land and interest in question to the Land Commission, Office for Scotland, Town Centre, Cumbernauld, Glasgow, in the following form:—

Name and Address of Claimant(s).....

.....

.....

Land in which an interest is held by Claimant(s) (describing it as concisely as possible) .....

Nature of interest (including particulars of interest in the land, of any leases and tenancies of, and any heritable securities and other real burdens and encumbrances affecting the land).....]

2. *Note to be added to the notes to Form No.* 4 *prescribed by the regulations of* 1949

(*g*) This paragraph is to be inserted only in the case of an order made by the Land Commission under section 6 of the Land Commission Act 1967.

EXPLANATORY NOTE

(This Note is not part of the regulations.)

These Regulations amend the Compulsory Purchase of Land (Scotland) Regulations 1949 to deal with the procedure in relation to compulsory purchases by the Land Commission.

Paragraph 6 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, as applied by section 7(1) of the Land Commission Act 1967, requires the Commission to publish and serve notices of the making of a compulsory purchase order by them, the notice to be in the form prescribed by regulations made under the Act of 1947. The prescribed form is Form No. 4 to the Compulsory Purchase of Land (Scotland) Regulations 1949 or a form substantially to the like effect. Section 7(5)(a) of the Land Commission Act 1967 requires any such notice to contain a prescribed statement of the effect of sections 9 and 10 of that Act, which relate to general vesting declarations.

Section 7(5)(b) of the Act of 1967 requires the notice to contain, in addition, an invitation to any person who will be entitled to compensation if a general vesting declaration is made, to inform the Commission of his name and address and his interest in any land affected by the declaration: the giving of this information then entitles the informant under section 9(3) of the Act to receive notice of any general vesting declaration so that he can make his claim to compensation.

Regulation 3 of these regulations with the Schedule thereto, prescribes the content of the statement and provides for the inclusion of the invitation and the form in which this information is to be given.