

Compulsory Purchase

Note for property owners and occupiers

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1. Introduction

Scottish Hydro Electric Transmission plc, operating and known as Scottish and Southern Electricity Networks Transmission (“we”/“SSEN Transmission”), owns, operates and develops the high voltage electricity transmission system (operating at 132kV and above) in the north of Scotland and remote islands. We hold a transmission licence under the Electricity Act 1989 (“1989 Act”). In terms of section 9(2) of the 1989 Act, we have statutory duties to develop



and maintain an efficient, coordinated, and economical system of electrical transmission, and to facilitate competition between current and new generators of electricity. As part of those **duties**, we plan, design, acquire land for and construct new or replacement electricity infrastructure operating at 132kV and above. To achieve that in appropriate cases we may be required to exercise powers of compulsory acquisition.

This note has been prepared for landowners, tenants and occupiers who have property or businesses that are directly affected by proposed electricity infrastructure projects, and therefore might potentially be affected by compulsory purchase and compensation procedures. **Please note that receipt of this guidance does not necessarily mean that your property is being or will be compulsorily acquired. This guidance is being issued to help you understand what processes might occur if your property is affected.**

SSEN Transmission’s preference and aim is to secure the necessary land and rights in land that are required to deliver new infrastructure by way of voluntary agreement with landowners, tenants and occupiers. Where agreement cannot be reached, or where it is foreseeable that a voluntary agreement is not possible within reasonable timescales, or is impracticable, we may use compulsory acquisition powers. However, even where a compulsory purchase process has commenced, we will continue to engage with affected parties with a view to reaching a voluntary agreement where possible.

In a case where a property or a business is affected, or is needed for an infrastructure project to be built, the land procedures in relation to the compulsory acquisition process and to the eligibility for, and assessment of, compensation are complex. Of necessity, the information provided in this guidance note is a simplification of the process and cannot cover every circumstance. Guidance is also provided on the Scottish Government’s website, and we recommend you consult that guidance.

This note is not a substitute for professional advice, nor does it constitute legal advice. If any interest that you have in a property or business is affected by a compulsory purchase order being promoted by us, we strongly recommend that you seek advice from a professionally qualified person such as a solicitor or a surveyor. They can advise you on the rights that you have and represent you should you wish to be represented. SSEN Transmission will generally meet the legitimate and reasonable fees of a professionally qualified person that you appoint to negotiate your claim for compensation in relation to the exercise of

compulsory purchase powers. However, SSEN Transmission will generally not meet the fees for any objection to a compulsory purchase order, unless it is successful. If you are in any doubt as to whether your professional costs will be met, you or your adviser should contact SSEN Transmission in the first instance, using the contact details at the end of this document.

1.1. Other processes

In addition to any compulsory purchase order, other statutory applications are likely to be made by SSEN Transmission in connection with our works. These might include: applications for consent to install overhead lines under section 37 of the 1989 Act; applications for planning permission or deemed planning permission under the Town and Country Planning (Scotland) Act 1997; and applications for wayleaves to install electric lines on land (“necessary wayleaves”) under Schedule 4 of the 1989 Act. This note is not intended to cover those processes as these are separate and distinct statutory processes to compulsory acquisition. We have produced a separate note in relation to the necessary wayleave process.

2. Compulsory purchase process

Where SSEN Transmission has proposals to construct a new substation or other development we carry out design and development work, often including optioneering and environmental impact assessments, to bring the proposals to reality. When this initial design and development work has been completed to a level which enables us to determine the final alignment and/or position of the infrastructure, we are then in a position to identify the extent of the land and/or rights in land that requires to be acquired to deliver the project. We will consult on these proposals, in so far as is reasonably possible, with all stakeholders, including landowners, tenants and occupiers.

2.1. What is a Compulsory Purchase Order?

Compulsory acquisition or purchase, as the expression implies, involves the acquisition of land or rights in land by one party (in the public interest by statutory powers) without the consent of the other. Where SSEN Transmission is required to purchase land or acquire rights in land on a compulsory basis, we will use our statutory powers under Schedule 3 of the 1989 Act. This authorises SSEN Transmission to make a Compulsory Purchase Order (“CPO”). The CPO identifies the land and rights in land (referred to as “property”) required for the project's construction and operation by reference to a schedule and map identifying the property affected. Owners, tenants, occupiers and persons with an interest in that land are identified in the schedule to the CPO.

2.2. What happens when a CPO is made?

Following SSEN Transmission's execution and making of a CPO, statutory notices along with explanatory literature will be served on those parties in the schedule to the CPO, known as “affected parties”. At the same time, SSEN Transmission will advertise the making of the CPO in the press for at least two successive

weeks, place the CPO, map and other literature in local libraries and display site notices. Further information on the relevant project will be available at <https://www.ssen-transmission.co.uk/> and depending on the scale of the project, information may be provided at public exhibitions.

The statutory notices and adverts will provide details regarding how affected parties can object to the CPO and provide a timescale for doing so. At least 21 days will be given from service of the notice on affected parties or the first press advert (whichever is later) for you to object. Please note that the time limit for submitting an objection is important to adhere to, as there is no automatic provision to consider objections after the objection period has closed.

It is important to note that affected parties do not have to object to the CPO in order to be entitled to claim compensation. An objection to the CPO proposal solely on the grounds that you believe you have been offered insufficient compensation will not be considered in the determination process.

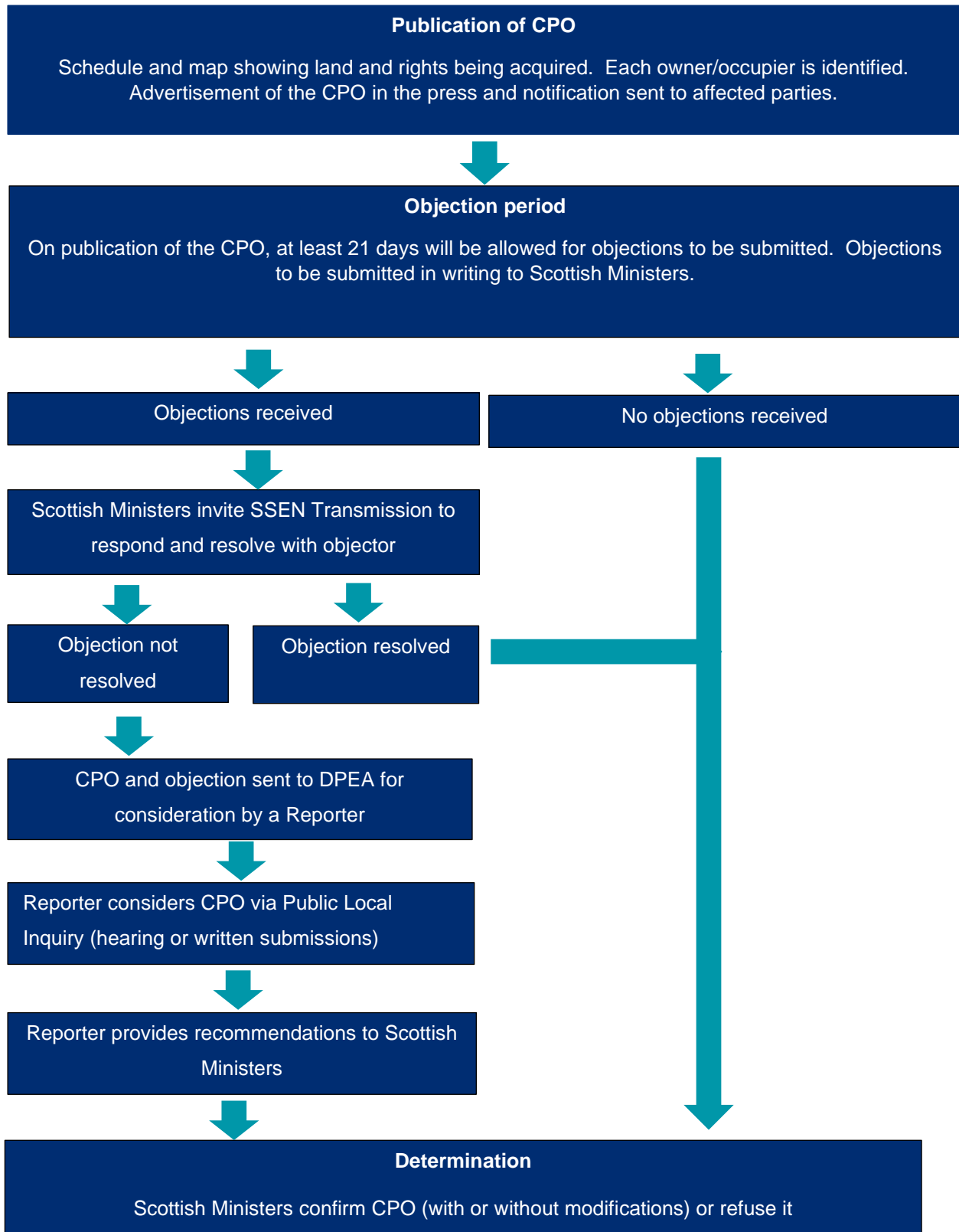
2.3. How is a CPO confirmed?

SSEN Transmission is also required to submit the CPO and accompanying paperwork to the Scottish Ministers. Even once the CPO has been made by SSEN Transmission, it does not take effect unless and until it is determined and confirmed by the Scottish Ministers. If there are no objections to the CPO, the Scottish Ministers will move to the determination of the CPO. If objections are received, SSEN Transmission will be invited by the Scottish Ministers to respond to each objection and a copy of that response will be sent to the objector asking if they wish to maintain their objection. If owners, tenants, occupiers or certain other parties whose property is being acquired object, and those objections are not withdrawn, the Scottish Ministers will order a Public Local Inquiry to be held and will appoint one or more Reporters to hear and consider objections. Following the Public Local Inquiry, the Reporter will produce a report on objections, which will also recommend to Scottish Ministers whether or not the CPO should be confirmed (with or without modifications) or whether it should be refused. The Scottish Ministers then consider the Reporter's recommendations and will decide to confirm the CPO (with or without modifications) or not to confirm it.

Please note that you will normally only be able to recover some or all of your costs of objecting if your objection is successful or the order is refused. Otherwise, you will normally be expected to bear your own costs.

2.4. Summary of CPO process

A summary of the CPO process is shown below:



2.5. Confirmation

If the CPO is confirmed by the Scottish Ministers, those parties whose property is being compulsorily acquired will be served with the notice of confirmation. At the same time, SSEN Transmission will advertise confirmation of the CPO in the press. Once confirmed by the Scottish Ministers, the CPO cannot be challenged except by raising proceedings in the Court of Session in a six-week period after notice of confirmation is given.

SSEN Transmission usually has three years from advertising confirmation of the CPO to begin to implement the CPO, otherwise the CPO will lapse.

2.6. Taking title to and possession of the property

If the CPO is confirmed, SSEN Transmission will be empowered to implement and exercise its powers under the CPO and to take title and possession of the land. Importantly, we are still required to purchase the property or existing rights over it or to create new rights. This is not automatic following confirmation of the CPO, and this will most likely involve SSEN Transmission making a General Vesting Declaration (GVD). The GVD is a formal statutory procedure that gives (or 'vests' in) SSEN Transmission title to the property together with the right to enter and take possession of the property. An initial notice will be served on affected parties indicating that SSEN Transmission intends to make a GVD, but must give at least 2 months notice before the declaration is actually made.

After that 2 month notice period has expired, SSEN Transmission may make the GVD. Once made, a further notice of the making of the GVD is served on affected parties along with a copy of the signed GVD. The notice will specify a date, no less than 28 days after service, on which the specified land will automatically vest in SSEN Transmission, who can then enter on the land and take possession of it. This is known as the "vesting date".

The vesting date is important as (in addition to being the date SSEN Transmission take title to and enter on the land) it triggers the affected parties' rights to insist on having compensation determined and awarded. Whilst there is often a period of time between title vesting in SSEN Transmission under the GVD and compensation is determined and agreed, it may be possible for an affected party to request and be paid an advance payment to relieve financial hardship. The full effects of a GVD and compensation are complex, and we would strongly recommend you seek professional advice should your property or business be affected.

3. Compensation

Compensation will be payable to those whose property is acquired (this includes the acquisition of rights over property) or used. Those entitled include owners, certain tenants under leases, and those holding servitude rights. However, questions that solely relate to compensation in respect of the grant of a CPO **will not be** determined by the Reporter at the Public Local



Inquiry or the Scottish Ministers during their consideration of the CPO. In particular, the Scottish Ministers have no powers to attach financial conditions to any CPO or to determine the levels of compensation payable by SSEN Transmission to affected parties.

Financial compensation is a matter to be agreed between the parties or, if agreement cannot be reached, by either party referring the question of disputed compensation to the Lands Tribunal for Scotland within a certain timescale. Disputed compensation claims come under separate legal proceedings only after a CPO is confirmed, and an entitlement to compensation has arisen.

3.1. How is Compensation measured?

As mentioned above, the vesting date under a GVD triggers your entitlement to a claim for compensation. The assessment and measurement of valuation for compensation is dependent on the particular circumstances of the acquisition. The valuation follows what is known as the "Compensation Code", which is a collective term used to describe the body of law (including various Acts of Parliament and case law) governing the procedures for the entitlement to compensation following compulsory purchase. The underlying principle of valuation and payment of compensation is to put you, in financial terms, in the same position as if the property had not been compulsorily acquired.

The valuation will generally ignore the effect of the project on the affected parties' loss that is being compensated, i.e. any increase or decrease in value of the property due to the suitability of the property for the project will be disregarded. The valuation will also assume the affected parties will take reasonable steps to mitigate their loss and that the compensation payable cannot exceed the affected parties' total loss in monetary terms, i.e. any buildings or other developments will not be taken into account if they are put in place for the sole reason of increasing compensation.

We will act reasonably in assessing any claim for compensation, however we would strongly recommend that you seek your own independent advice if your property or business is affected by a CPO. The legitimate and reasonable costs of obtaining valuation advice and negotiating compensation will generally be met by SSEN Transmission.

3.2. What about disputed compensation?

Where possible, SSEN Transmission aims to agree on compensation with you on a negotiated basis, even after the confirmation of a CPO. However, where it is not possible to reach an agreement and an application to the Lands Tribunal for Scotland for determination of compensation is made, the Tribunal will assess the claim and take evidence from all parties before making their decision, which is binding on both parties. The Tribunal is independent and made up of legal members and surveyor members. Please note that you must make any application to the Tribunal within a strict time limit e.g. six years from the date at which the person claiming compensation, or a person from whom they derive title, first knew, or could reasonably be expected to have known, of the vesting of the interest. We recommend you seek professional advice about this as if a claim for disputed compensation is not submitted within the time-limit no compensation may be payable. Generally, if you win in the Tribunal, your expenses are payable by us, but you should note that the amount awarded in expenses may be significantly less than you have actually spent. If you do not win each party normally meets their own costs, although in certain circumstances we may ask the Tribunal to make an award of expenses against you (for example if we consider you have unreasonably refused an unconditional offer).

4. Voluntary negotiations continue where possible

Notwithstanding the fact that SSEN Transmission is exercising compulsory powers of purchase for a project, nothing prevents us from purchasing property for a project on a voluntary basis where possible. We will continue to attempt voluntary purchases for as long as reasonably possible.

5. Contact

If you require further information on the compulsory purchase process or wish to discuss any aspect in more detail, please get in touch using the contact details noted below. In any correspondence, please ensure that you quote the project to which your enquiry relates and provide as much detail as you can. We cannot, however, provide you with specific advice on your claim.

Write to:

SSEN Transmission
Grampian House
200 Dunkeld Road
Perth
PH1 3AQ

Website:

Contact details for the relevant project, including the SSEN Transmission representative's email and telephone number, can be found at <https://www.ssen-transmission.co.uk/>

If you think you will require special assistance in receiving information and communications, please contact us as soon as possible to discuss how we can help.