

Scottish Government Consultation on Compulsory Purchase Reform in Scotland

Response from Propertymark

October 2025

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, property inventory service providers, commercial agents, auctioneers and valuers, comprising over 19,000 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.¹

Overview

2.
The Scottish Government are consulting on a package of options and proposals that would provide for a comprehensive reform and modernisation of Scotland's compulsory purchase system to make it fit for the 21st century. In developing the options and proposals contained in this consultation, the Scottish Government have engaged with a wide range of groups in the public, private and third sector. They also established the [Practitioner Advisory Group](#) (PAG) of technical specialists with first-hand experience of working with the system. The consultation also asks some questions about the potential for compulsory sales orders and compulsory lease orders,

Questions

Overview: How Compulsory purchase works

Question 1: Do you agree that legislation governing compulsory purchase procedures and compensation in Scotland should be brought into a single statute?

3. Yes. Propertymark agrees that the legislation governing compulsory purchase procedures and compensation in Scotland should be brought into a single statute. Propertymark thinks the current framework is fragmented, outdated and unnecessarily complex, which creates uncertainty for property owners, agents, and acquiring authorities alike. A single, modern statute would provide much needed clarity, consistency, and transparency, making the process more accessible for those affected. At present, the law is dispersed across several different Acts, including:
 - Lands Clauses Consolidation (Scotland) Act 1845 — *The 1845 Act*
 - Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 — *The 1947 Act*
 - Land Compensation (Scotland) Act 1963 — *The 1963 Act*
 - Land Compensation (Scotland) Act 1973 — *The 1973 Act*

¹ <https://www.propertymark.co.uk/>

- Town and Country Planning (Scotland) Act 1997 (Schedule 15: General Vesting Declarations) — *The 1997 Act*
4. This patchwork approach makes the system difficult to navigate and often inaccessible to those directly impacted. Streamlining compulsory purchase legislation into a single statute would reduce administrative burden and cost, while ensuring that compensation arrangements are fair, clearly defined, and easier to understand. However, consolidation should not be a simple restatement of existing law. It presents an important opportunity to modernise procedures, strengthen safeguards for property owners and tenants, and deliver a fair balance between the public interest and individual rights.

Question 2: Do you have any specific concerns in relation to the repeal of existing legislation on CPO procedures and compensation that we should consider?

5. Propertymark's main concern in relation to the repeal of existing legislation on compulsory purchase procedures and compensation is to ensure that key protections, rights, and safeguards are not lost in the process of consolidation. While simplification is welcome, the risk is that important provisions which currently provide clarity on process, valuation, and compensation could be weakened or omitted. Accordingly, Propertymark thinks any repeal must therefore be accompanied by a robust transitional framework that reflects current provisions into one single framework. This should include clear continuity of rights so that individuals and businesses undergoing compulsory purchase during the transition are not disadvantaged. We also think a new framework should stress test against any potential unintended consequences from existing case law to provide certainty. Finally, any new combined legislation or framework should include clear guidance for all stakeholders from engagement with professional membership bodies such as Propertymark to ensure all stakeholders understand the provisions in the legislation.

Enabling powers

Question 3: With the exception of the bodies referred to at paragraph 3.6, are there any gaps in acquiring authorities' enabling powers? Please provide specific examples.

6. We do not think there are any gaps in acquiring authorities enabling powers.

Question 4: Are local authorities' compulsory purchase powers (set out below) sufficiently broad to cover the circumstances in which they may need to compulsorily acquire land in carrying out their statutory functions?

If not, please specify which powers require to be amended, clarified or supplemented.

7. Propertymark thinks local authorities already have broad compulsory purchase powers, but in practice these are often underused due to complex, slow, and costly procedures. One approach to improving the use of powers could include consideration of the UK Government's High Street Rental Auctions in England, under the Levelling Up and Regeneration Act 2023,

which allow vacant commercial properties to be leased quickly to new tenants through a competitive auction process.² Adapting a similar approach in Scotland could help local authorities bring empty commercial premises back into use, support high street regeneration, and attract investment. Propertymark strongly recommends that the Scottish Government specifically engages with Scottish local authorities to investigate if there are any additional barriers to local authorities using the existing CPO powers under the current framework.

Question 5: Should there be a general power for acquiring authorities to create new rights in land and to attach conditions to such rights?

8. Propertymark agrees and we support the idea of a general power for acquiring authorities to create new rights in land and to attach conditions to such rights, as it would provide greater flexibility in achieving public objectives without the need for full compulsory purchase. This could allow authorities to secure access, development, or conservation rights more efficiently, reduce costs, and encourage cooperation with landowners. At the same time, any such power should include safeguards to ensure that landowners' interests are protected and that conditions attached to new rights are reasonable, clear, and enforceable.

Question 6: Should there be a general power for acquiring authorities to seek temporary possession of land?

9. We agree. Propertymark supports the introduction of a general power for acquiring authorities to seek temporary possession of land, as it offers a less disruptive and more flexible alternative to permanent acquisition. Temporary possession would benefit property owners and occupiers, while also providing property agents with greater certainty when advising clients, managing tenancies, or marketing affected properties. Propertymark considers that when a local authority seeks temporary possession, they should consult with a Propertymark commercial agent to ensure the long-term use of the property is considered. Clear safeguards, including defined processes, notice requirements, limits on duration, compensation, and reinstatement obligations, would ensure that temporary possession is used fairly and proportionately, protecting the interests of all parties involved.

Question 7: Do you agree with the proposed list of matters that should be addressed in any new temporary possession power? If not, please give details.

10. Propertymark agrees with the proposed list of matters that should be addressed in any new temporary possession power, including authorisation processes, notice requirements, permitted uses, maximum duration, reinstatement obligations, compensation, and dispute resolution. However, we think consideration should be additionally given for non-domestic properties, and legislation should clarify who is responsible for meeting decarbonisation or energy efficiency requirements during the period of temporary possession. This includes compliance with proposals contained in the Draft Heat in Buildings Bill, such as the prohibition

² <https://www.gov.uk/government/publications/high-street-rental-auctions-non-statutory-guidance/high-street-rental-auctions-non-statutory-guidance>

of polluting heating systems by 2045 and the requirement for buildings to meet minimum energy efficiency standards. Clear allocation of responsibility would avoid disputes and ensure compliance with environmental standards.

Question 8: How might the use of back-to-back CPOs be further encouraged?

11. Propertymark recognises the advantages of back-to-back Compulsory Purchase Orders (CPOs) for all stakeholders including commercial landlords and property agents. This includes speeding up development opportunities especially in complex development, better coordination which will improve investor confidence and can help unlock stalled or underused land, particularly in town centres or mixed-use developments, improving economic, social, and environmental outcomes. Accordingly, we think that back to back CPOs should be encouraged. This could be achieved:

- Firstly, with meaningful and early engagement between Scottish local authorities and stakeholders including Propertymark commercial agents. Engagement with commercial agents could identify potential issues, facilitate negotiation with affected parties, and ensure that the development or regeneration outcomes are realistic and viable. We also think that back-to-back CPOs could also encourage and facilitate better opportunities for financial or procedural incentives, such as prioritisation in funding or accelerated processing for projects.
- Secondly, we think Scottish local authorities may be hesitant to use back-to-back CPOs due to the complexity, cost, and risk of delay involved in securing multiple orders. To address this, the Scottish Government must provide clearer statutory guidance on how back-to-back CPOs can be applied, including examples of good practice and step-by-step procedures. Simplifying procedural requirements, particularly around consultation, notice periods, and compensation calculations, would reduce administrative burden and risk for authorities.

Early engagement and preliminary steps

Question 9: Do you agree that early and effective engagement is best promoted through non-statutory measures (e.g. guidance) rather than legislative requirements?

12. Propertymark disagrees that early and effective engagement can be relied on solely through non-statutory measures. While guidance can provide useful principles, in practice consultation with property agents and other stakeholders is not always robust or consistent. Embedding minimum engagement requirements in legislation would help ensure that acquiring authorities consult appropriately with affected owners, occupiers, and commercial agents at the earliest stages of a project. This would provide greater accountability, reduce the risk of disputes, and help protect the interests of all parties, ensuring that engagement is meaningful rather than tokenistic.

Question 10: How might early and effective engagement between acquiring authorities and affected parties be further encouraged?

13. Propertymark thinks that early and effective engagement can be improved through more formal processes that set clear expectations for both acquiring authorities and affected parties. This could include statutory requirements or formal protocols at key stages, such as pre-application briefings, public notices, and structured meetings with landowners, occupiers, and commercial agents. Formal engagement ensures all stakeholders have a clear opportunity to give input, raise concerns, and understand the potential impacts of a compulsory purchase or temporary possession.
14. Propertymark also thinks that commercial agents, especially those with the necessary Propertymark or equivalent qualifications, should be consulted, especially for regeneration or temporary possession projects, as they can provide advice on property value, market impacts, long-term use, and project viability. More formal and transparent engagement helps build trust, reduce disputes, and achieve outcomes that are fair, efficient, and widely supported.

Question 11: Would it be helpful to introduce a general power for acquiring authorities to require specified parties to provide information about ownership, occupation and other interests in land? Please explain your views.

15. Propertymark agree that it would be helpful. We think that a general power for acquiring authorities to require information about ownership, occupation, and other interests in land could be useful, but it should be used carefully. It would help authorities identify all relevant parties and ensure that notices and engagement reach the right people. Introducing such a power would also bring Scotland into line with provisions in England and Wales, where authorities already have statutory powers to request this information. However, Propertymark is concerned that statutory notices with offence provisions could be seen as heavy-handed and may discourage early cooperation, creating mistrust between authorities and landowners or occupiers. Any such power should only be used when voluntary enquiries and non-statutory methods have been tried first. Consulting with commercial agents is also important, as they can help identify less obvious ownership or lease interests, advise on market factors, and support fair and informed engagement. Overall, a statutory power could support effective land referencing, but it must be proportionate, transparent, and used as part of a wider strategy of early engagement.

Question 12: Do you agree that acquiring authorities should have a general power of entry prior to the making of a CPO for the purposes of surveying etc?

16. Propertymark supports a general power of entry for acquiring authorities prior to the making of a CPO, as it would allow necessary surveys and inspections to be carried out efficiently and safely. However, Propertymark considers that such powers should be exercised with clear safeguards, including advance notice to landowners or occupiers, to minimise disruption and protect property interests.
17. Propertymark also emphasises that authorities should engage with Propertymark commercial agents and RICS-qualified surveyors when carrying out surveys. This ensures that accurate,

professional assessments are made, that market and valuation considerations are properly addressed, and that the long-term use and value of the property are taken into account. By combining a general power of entry with professional advice and early engagement, authorities can carry out pre-CPO investigations effectively while maintaining trust and fairness.

Question 13: Does the outline proposal at paragraph 4.23 strike a reasonable balance between the needs of acquiring authorities and rights of the owner/occupier? If not, how should it be changed?

18. Propertymark agrees that the outline proposal at paragraph 4.23 generally strikes a reasonable balance between the needs of acquiring authorities and the rights of owners and occupiers. However, Propertymark would emphasise that the balance could be strengthened by ensuring authorities are required to engage with Propertymark commercial agents and RICS-qualified surveyors before and during entry. This would help ensure accurate valuations, appropriate consideration of long-term property use, and minimisation of disruption.

Confirmation procedures – Making a CPO

Question 14: Are any changes required to the legislation which prescribes the form and content of CPOs? If so, please give details.

19. We are satisfied with the current forms and content of CPOs.

Question 15: Should any or all of the following documents be placed on a statutory footing?

20. Propertymark agrees. We think that all three documents should be placed on a statutory footing, as this would improve clarity, consistency, and transparency in the CPO process. The Statement of Reasons is vital to explain clearly why land is being acquired, and making it statutory would ensure affected parties always receive this information in a formal and consistent way. Similarly, placing the General Certificate and the Protected Assets and Special Category Land Certificate on a statutory basis would help reduce uncertainty, ensure due process is followed, and make it clear where land has special protections or restrictions. In addition to the documents having a statutory footing, we also think that it would be helpful to provide clear guidance alongside these documents to property owners, occupiers, and commercial agents have greater confidence in the process and to help reduce the likelihood of disputes.

Question 16: Do you agree that the notification requirements for CPOs should be prescribed through secondary rather than primary legislation?

21. Propertymark agrees that the notification requirements for CPOs should be set out in secondary rather than primary legislation. This would make it easier to update the rules to reflect changes in practice, technology, and communication methods, without the need for lengthy parliamentary procedures. It would also help ensure that landowners, occupiers, and

agents are notified in a clear and timely way. This approach would also mean that notification requirements can be kept in line with other changes in legislation, including planning and housing reforms, as well as the Scottish Government's work on decarbonisation and energy efficiency through proposals such as the Heat in Buildings Bill.³ Making sure CPO processes stay aligned with these wider policies would give property owners, occupiers, and agents more certainty and confidence. Propertymark would be happy to support the Scottish Government in preparing any related guidance and in sharing this with our members to ensure consistency and good practice across the sector.

Question 17: Should heritable creditors be added to the list of parties who must be individually notified of a CPO? Should they have the status of statutory objectors?

22. Propertymark agrees that heritable creditors should be individually notified of a CPO, as they have a direct financial interest in the property. However, we do not think they should have the status of statutory objectors, as this could complicate and delay the process unnecessarily.

Question 18: Are any other changes required to the list of people to be individually notified?

23. Propertymark considers the current list to be broadly appropriate, but would suggest that commercial agents acting on behalf of affected owners or occupiers should also be notified where they are formally appointed. This would help ensure clear communication, reduce the risk of delays, and support fair engagement throughout the CPO process.

Question 19: Do you agree that the CPO (and map) should be published on a suitable website, in addition to being made available for inspection at a specified physical location?

24. Propertymark agrees that CPOs and maps should be published online, as well as being available for inspection in a physical location. Publishing on a suitable website would increase accessibility, reduce costs, and reflect modern communication methods, while still ensuring those without digital access are not excluded. Suitable websites could include the acquiring authority's planning or CPO page, a dedicated project or regeneration website, or the Scottish Government could create a bespoke CPO portal. Using these official and easily accessible platforms would help ensure that all stakeholders, including landowners, occupiers, and commercial agents, can access the information efficiently.

Question 20: Should newspaper notices continue to be used to publicise the making of CPOs?

25. Propertymark considers that newspaper notices should continue to be used to publicise the making of CPOs. Newspaper publication is a recognised and established method for issuing public notices and plays an important role in supporting those who may be digitally excluded. At the same time, notices should be complemented by online publication on suitable websites, such as the acquiring authority's planning or CPO page, a dedicated project or regeneration website, or the Scottish Government's CPO portal (once established). This

³ <https://www.gov.scot/policies/energy-efficiency/the-heat-in-buildings-programme/>

combination would ensure wider and more effective publicity, helping to inform landowners, occupiers, and the wider community while reducing reliance on costly hard copy publications.

Question 21: What alternative approaches might be appropriate for publicising CPOs – either in addition to or instead of newspaper notices

26. Propertymark thinks there should be minimum statutory methods to promote CPOs, but these should not be an exhaustive list. Local authorities should be encouraged to promote CPOs as widely as possible to ensure transparency and awareness among affected parties. In addition to recognised statutory methods, authorities may wish to use approaches similar to planning applications, such as posting notices on council notice boards, displaying posters near the property or site affected by the CPO, using social media, or directly targeting potentially interested nearby parties. We are, however, mindful of local capacity, and such additional methods should be left to the discretion of the local authority. Propertymark would also be happy to support the Scottish Government by sharing notices with members and promoting awareness within the commercial property sector.

Question 22: Should Scottish Ministers have a power to prescribe (through secondary legislation) common data standards for compulsory purchase documentation? If not, please explain your reasons.

27. Propertymark supports giving Scottish Ministers the power to prescribe common data standards for compulsory purchase documentation through secondary legislation. Consistent standards would improve clarity, make documents easier to understand, and support more efficient processing of CPOs for authorities, owners, occupiers, and agents. However, Scottish Ministers should engage further with stakeholders, including property agents, on the design and standardisation of these documents to ensure they are user-friendly and practical in day-to-day use. Propertymark would be happy to support the Scottish Government in developing guidance and promoting these standards to our members.

Question 23: Should acquiring authorities be able to serve compulsory purchase notices by electronic means, if a party agrees to this in writing and provides an address for this purpose? If not, please explain your reasons.

28. Yes, we agree.

Confirmation procedures – Deciding a CPO

Question 24: Should there be a statutory time period within which an opposed CPO should be referred to a Reporter after it has been submitted for confirmation? If not, please explain your reasons.

29. We agree. Propertymark considers that introducing a statutory time period for referring an opposed CPO to a Reporter could provide valuable certainty for landowners, occupiers, and acquiring authorities, helping to encourage negotiations and potentially reduce delays. Clearly

defined deadlines would give all parties greater clarity about the process and expected timescales. However, Propertymark also recognises that larger or more complex CPOs involving multiple landowners may require additional time to resolve objections fairly. Any statutory time period should therefore be flexible enough to accommodate such cases, and consideration should be given to clearly defining the start and end points of the period. Propertymark supports the principle of a statutory timeframe but recommends that it is designed to balance efficiency with fairness, ensuring that parties have adequate opportunity to negotiate, provide input, and consider their positions. Early engagement with property agents and RICS-qualified surveyors could help facilitate quicker resolution.

Question 25: If there is to be a statutory time period, how long should it be?

30. We think that on a trial basis, the Scottish Government should consider a time period of between six nine months and that this should be reviewed to assess the impact on all parties. We think this approach is sensible as currently in England and Wales, and indeed currently in Scotland, there is no statutory time period for referring an opposed Compulsory Purchase Order (CPO) to a Reporter or inspector. The process is initiated when objections are received, and the Secretary of State or an appointed inspector determines whether a public inquiry is necessary. This can create delays and uncertainty for all parties.
31. In contrast, the Law Commission in the Republic of Ireland has recommended that acquiring authorities must decide to proceed with a compulsory purchase order (CPO) within 12 months from the date the CPO becomes operative. If they do not proceed by serving a vesting order within that period, the CPO will lapse⁴. However, we think the most careful way to assess the impact would be a trial period followed by an assessment.

Question 26: Should express provision be made in legislation for objections to be considered through written submissions

32. Propertymark supports making express provision in legislation for objections to be considered through written submissions. This would provide greater flexibility for affected parties, allowing those who cannot attend a formal hearing or inquiry to have their views formally considered.

Question 27: Should the procedural rules for hearings and written submissions for CPO cases be set out in secondary legislation?

33. Yes we agree. We have already suggested that opposition to a CPO should be considered over a time period of six to nine months and that this should be reviewed. By having the procedural rules as secondary legislation will allow Scottish Ministers to have the flexibility to make changes following any trial periods and reviews. It would also allow Scottish Ministers to respond flexibly to changes in legislation as we have previously outlined.

⁴ [The Law Reform Commission publishes Report on Compulsory Acquisition of Land](#)

Question 28: Do you agree that statutory objectors' right to be heard at either a PLI or a hearing should be retained?

34. We agree. However, we also think that written submissions should remain an option for those unable to attend in person, helping to reduce costs and improve accessibility. Maintaining both options allows the process to balance efficiency with the rights of objectors and provides flexibility to accommodate different types of CPO cases.

Question 29: Should Scottish Ministers continue to decide whether a PLI or hearing is used? If not, in what circumstances should a PLI be required?

35. We think that that Scottish Ministers should generally continue to decide whether a Public Local Inquiry (PLI) or a hearing is used, as this allows flexibility to tailor the process to the complexity and scale of each CPO. We also think that there should be guidance and best practice as to when it would be appropriate to hold a PLI. We think PLI should be required in certain circumstances, such as large or complex CPOs involving multiple landowners, significant public interest, or potentially contentious issues. In these cases, a full inquiry provides a transparent forum for thorough examination of objections and helps ensure that all parties have a fair opportunity to be heard. If guidelines were produced, this would support Scottish Ministers on when it would be appropriate to hold a PLI. Again, we think this guidance could be formulated under secondary legislation to allow flexibility and changing legislation. However, we think integral to the procedure is early engagement with commercial agents and RICS-qualified surveyors, particularly for complex cases, to support effective preparation and reduce the risk of delays or misunderstandings.

Question 30: Should provisions on awards of expenses be extended to cover cases where objections are considered through hearings and written submissions?

36. We agree. Propertymark considers that provisions on awards of expenses should be extended to cover cases where objections are considered through hearings and written submissions. This would ensure fairness for affected parties, allowing them to recover reasonable costs incurred in preparing and presenting objections, even when a full PLI is not held.
37. We think that extending expense provisions would support greater engagement in the process, as landowners, occupiers, and their professional advisers including commercial agents would have confidence that participating in hearings or submitting written objections does not create an undue financial burden. This approach would help maintain accessibility and transparency in the CPO process while encouraging constructive participation. However, to ensure expectations and transparency is met, we think that parameters around expenses could be set from guidelines written in secondary legislation by Scottish Ministers and with full engagement with stakeholders such as property agents.

Question 31: Does the public interest test, as currently set out in Circular 6/2011, strike a fair balance between private and public interests?

38. Propertymark thinks that the public interest test in Circular 6/2011⁵ strikes a fair balance between private and public interests. It recognises that compulsory purchase is an intrusive step for landowners and should not be used without significant consultation. The potential impact on landowners should be carefully considered by local authorities, while being weighed against the wider social and economic benefits to the public of the proposal. We also think that the circular clearly highlights the correct uses of a CPO and the steps to take.

Question 32: Do you agree that the public interest test should continue to be policy-based rather than statutory?

39. We agree that the public interest test should be policy based for three reasons:

- Firstly, we anticipate that local authority use of CPOs will be diverse and based on a case by case approach. By taking a policy based approach, will allow local authorities to consider each CPO on its own merits, taking account of site-specific circumstances and unique local factors. A rigid legislative test could be too inflexible for complex or unusual cases.
- Secondly, throughout our response we have demonstrated the need for flexibility. Accordingly, policies can be updated more quickly than legislation to reflect changes in planning practice, environmental requirements, or government priorities, such as decarbonisation or regeneration initiatives.
- Thirdly, we think a policy framework provides guidance without creating strict legal hurdles, helping authorities, landowners, and agents understand the considerations without being constrained by overly prescriptive rules.

Question 33: Should acquiring authorities be empowered to confirm unopposed CPOs?

40. We think that local authorities should be able to confirm unopposed CPOs providing they have followed the correct statutory procedure including consultation methods. We think this would be advantageous as it should help to speed up the process in straightforward cases where no objections have been received, reducing administrative delays and associated costs. However, even in unopposed cases, local authorities should continue to consult with landowners, occupiers, and commercial agents to ensure that all interests are properly identified and that the process remains transparent and fair. We also conclude that clear procedures and safeguards should be maintained to protect the rights of affected parties.

Question 34: If acquiring authorities are empowered to confirm unopposed CPOs, which approach outlined at paragraph 6.34 would be preferable – Option 1 or 2? Please explain your views.

41. Propertymark preferred option would be option 2. This option allows notices to be served in the usual way, but any objections would be sent to the acquiring local authority in the first instance rather than Scottish Government. We have three points to make:

⁵ [Planning Circular 6/1990: awards and expenses - gov.scot](https://www.gov.scot/publications/planning-circulars/2011/06/1990-awards-and-expenses/pages/11/index.aspx)

- Firstly, we think the advantage of option 2 is that it would allow unopposed CPOs to be managed more directly by the local authority from the start, reducing delays associated with sending cases to the Scottish Government when there are no objections. This will simplify and speed up the process while maintaining safeguards, as Scottish Ministers would still review cases if statutory objections are received or if circumstances change. However, this reinforces the importance of robust and sufficient consultation being undertaken by local authorities.
- Secondly, option 2 also aligns with the principle of proportionate local decision-making, allowing authorities to confirm straightforward cases efficiently while ensuring transparency and proper consultation with landowners, occupiers, and commercial agents. This approach balances speed, fairness, and oversight, making it the most practical for both authorities and affected parties.
- Thirdly, we recognise the consultation documents concern that option 2 may lead to lack on oversight. However, we think local authorities have sufficient local knowledge and expertise to make an informed decision and through strong consultation with expert property agents.

Question 35: Should Reporters be empowered to take CPO decisions, subject to published criteria regarding delegation by Scottish Ministers? Please explain your views.

42. Propertymark thinks that a balanced approach would be for local authorities to confirm uncontested CPOs, while Reporters handle complex or contested CPOs on behalf of Scottish Ministers. This would allow straightforward cases to be processed efficiently at a local level, reflecting local knowledge and context, while ensuring that more complex cases such as those involving sites of national significance, conservation areas, or large-scale infrastructure projects are dealt with impartially and consistently.
43. A precedent exists in England and Wales, where the Planning Inspectorate can make final decisions on planning appeals under defined delegation criteria, ensuring both efficiency and fairness. Similarly, in Scotland, Reporters could take decisions for contested or high-value CPOs, with Scottish Ministers retaining oversight and the ability to intervene where necessary. This approach would provide transparency, maintain public confidence, and allow local authorities to manage routine cases efficiently.

Question 36: Is additional scrutiny still needed for CPOs which include particular land? If yes, which of the four current special categories of land should this apply to?

44. We have already highlighted that contentious CPOs could involve greater scrutiny from the Reporters. This should apply to local authority land, land owned by the National Trust for Scotland, common land or any other contentious land types.

Question 37: If additional scrutiny of certain CPOs is needed, could there be alternative ways to achieve this other than Special Parliamentary Procedure? Please outline your suggestions.

45. As we have suggested already, this could include scrutiny from the Recorders with oversight from Scottish Ministers if necessary.

Question 38: Should the restriction on confirmation of CPOs that include statutory undertaker land apply only where a relevant objection is made by the undertaker whose land is included in the Order? If not, please explain your reasons

46. We think that any restriction on confirmation of CPOs affecting statutory undertaker land should ideally only apply when the undertaker actually objects. Automatically applying the restriction in all cases could unnecessarily delay projects, increasing costs and uncertainty for developers, landowners, and occupiers. We also believe that ensuring that the restriction is triggered only by a relevant objection would provide clarity and efficiency, while still protecting the interests of statutory undertakers such as energy providers or transport providers land. This approach would help maintain a fair and proportionate compulsory purchase process.

Question 39: Do you agree with the proposals at paragraph 6.57 regarding the interaction between CPOs and public rights of way? If not, please explain your reasons.

47. Propertymark agrees with the proposals on how CPOs interact with public rights of way. The proposal will give Scottish Ministers discretion over whether to hold a PLI when objections are made and will provide useful flexibility. The option to combine a PLI on extinguishing a public right of way with the related CPO makes the process more efficient and avoids duplication. If objections are raised, they would be fully considered by the Reporter or Scottish Ministers, ensuring affected parties have a fair chance to present their case. This approach makes the process clearer and more streamlined while still treating objections properly.

Question 40: Should there be a mechanism that would allow statutory objections to be addressed during the confirmation process, so avoiding unnecessary hearings or PLIs?

48. Propertymark considers that a mechanism to address statutory objections during the confirmation process could be beneficial, as it may reduce the need for unnecessary hearings or PLIs, saving time and costs for all parties. From a practical perspective, this would help minimise disruption for landowners, occupiers, and developers, while keeping the process more efficient.
49. However, with regards to the specific design of a mechanism, we recommend that further engagement is carried out with local authorities and legal practitioners who manage CPOs day-to-day, as they are best placed to advise on the legal and procedural implications of any such mechanism. This would ensure that any changes are workable, fair, and consistent with existing statutory processes.

Question 41: If provision for such a mechanism were made, what procedures or safeguards would need to be put in place to ensure fairness? Could either of the suggestions in paragraph 6.62 achieve this?

50. Propertymark thinks that any mechanism to deal with statutory objections during the confirmation process must be fair and transparent. This should include clear guidance and procedures, defined timescales, and robust consultation. We think this would ensure that affected landowners, occupiers, and their agents have a real opportunity to engage and raise concerns. Additionally, we think Independent oversight by the Reporter or Scottish Ministers would provide assurance that decisions are impartial and evidence-based, while rights to appeal or request a hearing would safeguard parties if objections are not fully resolved.
51. We also think that local authorities and legal practitioners should be closely involved in developing these procedures to ensure they are practical and workable. By including consultation with commercial agents, the process can take account of market considerations, long-term property use, and the impact on affected parties, helping to reduce disputes and ensure that CPOs are implemented efficiently and fairly. Ultimately, however, the design of such a mechanism must involve further engagement with relevant stakeholders.

Question 42: Would a power to confirm CPOs subject to conditions be helpful in terms of overall project delivery? Please explain your views.

52. Propertymark generally agrees providing the local authority uses these powers sensibly and proportionality. Propertymark considers that a power to confirm CPOs subject to conditions could be helpful in ensuring that projects are delivered efficiently and responsibly. Such conditions could set out requirements for land use, environmental standards, or the timing of works, helping to safeguard the interests of affected parties while allowing the the local authority to manage the project effectively. This is already common practice in lease agreements and planning consents.
53. Ultimately, however, any conditions should be reasonable, proportionate, and based on clear evidence. We think that decisions should take into account practical market and property considerations, with consultation with commercial agents and other stakeholders to minimise disruption and support the long-term viability of the development. In addition, we think there is a role for oversight by Scottish Ministers or a Reporter would help ensure that conditions are fair and enforceable.
54. Propertymark thinks that if conditional CPOs were introduced, clear procedures and safeguards would be essential to ensure they are used fairly and proportionately. It is essential to restore confidence that conditions should be reasonable, evidence-based, and directly related to the purpose of the CPO. We recommend that local authorities are offered practical guidance on their use.
55. We also think that it is essential that affected landowners, occupiers, and their agents should be fully consulted on any proposed conditions before the CPO is confirmed. This consultation should include commercial agents where relevant, particularly for non-domestic or

regeneration projects, to ensure conditions take account of market and property considerations. Local authorities should also provide guidance on how conditions are applied and monitored, helping to ensure consistency and clarity across projects.

Question 44: Do you agree that the Scottish Government should publish target timescales for the issuing of CPO decisions, rather than having binding statutory time limits? If not, please explain your reasons.

56. We disagree. For the time being, Propertymark thinks that the Scottish Government should publish target timescales for CPO decisions and, in addition, recommend a suggested period for key stages of the process. This approach would provide clarity and encourage efficiency for acquiring authorities and local authorities while retaining flexibility for more complex cases.

57. We think that by taking this approach in publishing timescales and recommending periods would give affected landowners, occupiers, and their agents a clear expectation of how long decisions are likely to take, without imposing rigid statutory limits that could publish local authorities while the reforms are in their infancy. Propertymark also recommends that these targets and suggested periods are supported by guidance and monitored to ensure they remain realistic, transparent, and proportionate.

Question 45: If targets (statutory or otherwise) are not met, what sanctions might be appropriate?

58. Firstly, we recognise that current use of CPOs is limited by local authorities. We further recognise that proposed reforms are wide ranging and should be aimed at encouraging local authorities to consider their use.

59. Accordingly, we think that sanctions for missed CPO targets should remain proportionate, but there should also be mechanisms to address persistently poor or seriously poor performance. For example, continued delays could trigger formal intervention or review by Scottish Ministers, additional oversight measures, or requirements for authorities to report and explain remedial actions. We think this strikes the right balance especially in the early stages of reform. Furthermore, such measures would provide accountability and encourage improvement while still recognising that occasional delays may be unavoidable due to complex objections or site issues. The focus should remain on ensuring timely, fair, and transparent outcomes for landowners, occupiers, and their agents while adopting a cooperative approach with local authorities.

Question 46: Should the Scottish Government be required to report on compliance with any target timescales for CPOs?

60. Yes. We agree.

Question 47: Do you agree that the grounds on which a confirmed CPO may be legally challenged should be retained? If not, please explain your reasons.

61. We agree in principle that the existing grounds on which a confirmed CPO may be legally challenged should be retained. The current provisions under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947⁶ which allow challenges on the basis of ultra vires actions or failure to follow statutory procedures, continue to provide a clear and effective framework for affected parties.

62. However, given the age of the 1947 Act, Propertymark thinks that it would be sensible for the Scottish Law Commission to review the legislation. A review could ensure that the Act remains fit for modern-day practice, taking account of contemporary project delivery, digital processes, environmental considerations, and alignment with other reforms in compulsory purchase law. Such a review would help confirm that the grounds for challenge remain proportionate, transparent, and appropriate for today's development and regeneration context. It may also ensure that any updates the Scottish Government takes following this consultation remains functionable from the 1947 Act.

Question 48: Should the 6-week period within which a confirmed CPO may be legally challenged be retained? If not, what should the period be?

63. We are content with the Scottish Law Commission's findings that the 6-week challenge period is not unreasonably short, who also noted that it is consistent with other analogous regimes.

Question 49: If a legal challenge is successful, should the court have discretion to quash just the confirmation decision, rather than its only remedy being to quash the Order itself?

64. Propertymark supports giving the court discretion to quash just the confirmation decision rather than the entire Order. This would provide a more proportionate approach, helping to address procedural errors without requiring the whole CPO process to be repeated, reducing unnecessary costs and delays for both acquiring authorities and affected parties. We suggest that the Scottish Government engages further with legal practitioners and other relevant stakeholders to ensure that any framework for such discretion is clear, fair, and workable in practice.

Implementation

Question 50: Do you agree that there should be a single procedure for implementing compulsory purchase, similar to GVD? If not, what problems do you see with this approach?

65. Propertymark agrees. We support the introduction of a single procedure for implementing compulsory purchase, similar to General Vesting Declarations (GVDs) in England and Wales. This approach would simplify and streamline the process, provide greater clarity for all parties involved, and reduce administrative burden and delays. Aligning with the GVD model could also improve consistency and standardise Scotland with procedures that have proved useful in England and Wales. We think overall this approach would help both local authorities and landowners understand their rights and obligations more clearly.

⁶ [Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947](#)

Question 51: Should there be a single test for objection to severance, or a different categorisation? If you propose different categories, please explain what they would be.

66. Yes, Propertymark agrees there should be a single test for objections to severance. In essence, we think that a single clear test for objections to severance would be the most effective approach. This would provide consistency and clarity for all parties, making it easier for property agents to advise their clients accurately and efficiently. A single test reduces complexity, minimises the risk of misinterpretation, and allows agents to focus on negotiating outcomes and supporting landowners through the CPO process. The current system of multiple categories creates confusion, increases administrative burden, and can slow down the process, which makes it harder for agents to provide timely and practical advice. Overall, a single test would streamline the process, helping both authorities and property professionals manage CPOs more effectively.

Question 52: Under the new CPVD, should a notice of objection to severance prevent the land included in the CPO from vesting in the acquiring authority?

67. Propertymark thinks that under the new CPVD, a notice of objection to severance should prevent the land included in the CPO from vesting in the local authority until the objection has been properly considered and resolved. This approach protects the rights of landowners, ensures fairness, and provides certainty for all parties involved. It also supports commercial property agents in advising clients, assessing market impacts, and assisting with negotiations, helping to manage potential disputes and maintain transparency in the process.

Question 53: Should confirmation notices be required to be published within 6 weeks of the date on which the order is confirmed? If you disagree, what timing would you prefer, and why?

68. We agree and think that confirmation notices should be published within 6 weeks of the order being confirmed. This ensures affected parties, including owners, occupiers, and commercial agents, are informed promptly and can take appropriate action, supporting transparency and efficiency in the CPO process. This would streamline the process and bring existing processes in line with practices in England and Wales. However, we also recognise that in some complex cases, for example where there are multiple owners, leases, or ongoing negotiations, a slightly longer period may be necessary to ensure accuracy and completeness of the notices. In such instances, flexibility should be allowed, but any extension should be clearly justified and kept to a minimum to maintain transparency and certainty for all parties.

Question 54: Do you agree that the standard implementation period should remain at three years?

69. Propertymark disagrees. We think the standard implementation period should in most cases remain at three years. However, more complex projects such as those involving multiple landowners, long-term leases, or significant planning and construction requirements may require an extension to allow all aspects of the CPO to be properly implemented. In such cases,

it would be appropriate for the local authority to have discretion to grant a longer period, with guidance provided in an updated circular to ensure consistency and transparency.

Question 55: Should confirming authorities be able to specify a longer or shorter implementation period?

70. Propertymark thinks that, in most cases, confirming authorities should aim for the standard three-year implementation period. However, for complex projects, as we suggested in our response to question 54, such as those involving multiple landowners, significant planning requirements, or long-term leases there should be flexibility to extend the period. Conversely, local authorities may choose to grant a shorter implementation period where appropriate, but they should engage with and consult a commercial property agent to ensure that the proposed timeframe is realistic and does not create undue risk or disruption for affected parties.

Question 56: Do you agree that the time limit should be suspended during any court challenge to the validity of the CPO?

71. We agree. We recognise that a court challenge can therefore significantly reduce the actual time available for the acquiring authority to implement the CPO. To provide additional flexibility, we support the time limit should being suspended pending the conclusion of any court action.

Question 57: Please add any comments on the time limit for implementation, if you wish to expand on your answers to questions 53 to 56.

72. We do not have any further comments.

Question 58: Do you agree that the new CPVD should take effect six weeks after notification that it has been made? If not, what should the period be, and why?

73. Propertymark agrees that the new CPVD should take effect six weeks after notification. Aligning the timescale with the period available to challenge the confirmation of a CPO creates consistency and avoids the risk of title being transferred while a challenge is still pending. This approach gives landowners and occupiers a fair window to raise objections while also providing acquiring authorities and developers with certainty over when ownership will vest. It strikes a reasonable balance between protecting rights and ensuring projects can proceed without unnecessary delay.

Question 59: Is there a need for a separate stage to notify people with an interest in the land and seek information from them?

74. Propertymark cautiously welcomes the introduction of a separate stage to notify people with an interest in the land and to use the opportunity to seek information about them. We have three points to make:

- Firstly, we think that a separate stage would offer transparency and reduce the opportunity and risk of administrative mistakes, such as missing parties with a legal or financial interest.
- Secondly, we think the additional stage would give property agents an important role in advising both landowners and occupiers to provide the right information promptly and to avoid mistakes and subsequently further delays from unnecessary errors. This may reduce disputes later on in the process and improve trust in the process, as affected parties feel properly included from the start.
- Thirdly,, we are concerned that an additional stage could lead to delays and extra bureaucracy regardless of the benefits outlined. To remedy this, we suggest that local authorities should be mandated to serve notices within a set period after confirmation, and interested parties must respond within a short window. We would also advocate standardisation of forms and preferably through a digital process to speed communication up.

Question 60: Should the new CPVD provide the acquiring authority with a valid title, removing all defects, real burdens, servitudes etc and securities? If not, please explain your reasons.

75. Propertymark strongly supports this proposal and given the complexities of property acquired through a CPO, a 'clean legal title' is essential for the property buying and selling process. In essence, we think a CPVD should provide the acquiring authority with a valid title, removing defects, real burdens, servitudes, and securities. For such transactions of this kind involving land and property can often carry legal baggage such as outdated securities, access rights, or restrictive burdens that complicate transactions long after a compulsory purchase has been completed.
76. We think that by providing a clean title, the result would bring greater certainty and remove unnecessary complications for all parties. For property professionals, this approach would be good for the property buying and selling process, as it ensures that once the CPO is concluded, the property can be valued, marketed, and transacted without the delays and risks that unresolved legal burdens often create. This would streamline the process, give confidence to buyers, and make it easier for agents to support clients through a clear and straightforward sale.

Question 61: In relation to section 107 of the Title Conditions Act, should the legislation be amended to clarify that the acquiring authority simply has to have relevant compulsory purchase powers? If not, please explain your reasons.

77. We agree. Propertymark recognises merit in amending Section 107 of the Title Conditions Act. This would enable acquiring authorities require to only possess the relevant compulsory purchase powers under the Act. Such clarification would provide greater legal certainty for all parties involved in a transaction, including landowners, occupiers, and property professionals.

For commercial agents, clear legislative parameters would facilitate accurate valuation, informed advisory services, and more efficient transaction management. Currently, there is confusion over the acquiring authority's powers, and the amendment would help streamline the property market, mitigate risks of protracted disputes, and ensure that the compulsory purchase process integrates smoothly with normal property buying and selling procedures.

Question 62: Should acquiring authorities be able to include land in a CPVD which belongs to them, or where they are unsure if it does? If not, please explain your reasons.

78. Propertymark does not think that acquiring authorities should be able to include land in a CPVD which they are unsure if it belongs to them. In most cases ownership should easily be evidenced. However, in cases such as historical records gaps, complex ownership disputes or boundary disputes, we think inclusion could cause serious problems and disputes further down the line.

79. Accordingly, we do not think that acquiring authorities should not be able to include land in a CPVD if they already own it or are unsure of ownership. Doing so could create uncertainty over title, which would complicate the property buying and selling process and make it harder for agents to provide accurate advice. Essentially, we think clear ownership and title information are essential for market confidence and legal certainty. If such powers were to be allowed, they should only be used with robust safeguards to ensure that any uncertainty or disputes are minimised, and that affected parties are fully informed.

Question 63: Should a note be added to the title sheet in the Land Register stating that the title was acquired by compulsory purchase? If not, please explain your reasons.

80. Yes, we agree. This would offer greater transparency buyers, lenders and property professionals. This would also reduce legal uncertainty when selling, leasing or developing the property.

Question 64: Would there be any difficulties in including all leases and liferents in a CPVD, extinguishing them in return for compensation?

81. We think there could be difficulties with varying lease lengths and the impact this would have on valuations and compensation calculations, leading to disputes.

Compensation

Question 65: Do you agree that compulsory purchase compensation in Scotland should continue to be based on the principle of equivalence? If not, please explain your reasons.

82. We think this question is outside the remit of Propertymark and recommend that the Scottish Government seeks views from legal practitioners specialising in commercial contract law.

Question 66: Should compensation for land acquired compulsorily continue to be based on an assessment of its market value (disregarding increases/decreases attributable to the CPO scheme)? Please note that the following questions consider potential exceptions to this approach.

83. The legal calculation for compensation is outside the remit of Propertymark.

Question 67: Should acquiring authorities have the power to request that, for a specific CPO, compensation would take no account of the prospect of planning permission being granted for alternative development? It would be for Scottish Ministers to make the decision when confirming the CPO.

84. This question is outside the remit of Propertymark.

Question 68: Should the no-scheme principle be codified in the legislation?

85. Propertymark agrees the no-scheme principle should be codified in the legislation. We think that the current status of the legislation is complex and requires modernisation. This means that agents and other key stakeholders find it difficult to advise clients on levels of compensation as the law is unclear. More than this, Propertymark thinks that codification would make it easier for property professionals to owners, buyers and landlords.

86. We also think that without codification, there is a real risk that landowners could be under-compensated if acquiring authorities adopt a strict interpretation of complex case law. By setting out the rules clearly in legislation, codification would safeguard the principle of equivalence and ensure that landowners are left neither better nor worse off as a result of compulsory purchase. This approach aligns closely with Propertymark's consistent position of advocating for strong consumer and owner protections that we have adopted with similar consultations impacting England and Wales.

87. Finally, we anticipate that by codifying the legislation the propensity will be fewer legal disputes, faster resolution and ultimately lower costs for owners, agents, and authorities. We further anticipate that this will benefit Propertymark members, and the industry as a whole, who want smoother processes when clients face CPOs.

Question 70: Should the planning assumptions be repealed and re-written?

88. Yes, we agree. Propertymark supports the repeal and re-writing of the planning assumptions to ensure that they reflect Scotland's modern planning system. The existing provisions, contained in the 1963 Act, were drafted for a planning framework that have become increasingly outdated and difficult to apply.

89. Since this original legislation there has been considerable reform including Planning (Scotland) Act 2019⁷, the introduction of National Planning Framework 4 as part of the statutory development plan⁸, and the new role of Masterplan Consent Areas⁹ and that these should be incorporated more clearly with current revised legislation.

90. Propertymark urges that any new assumptions are drafted in a way that is straightforward, transparent, and proportionate, with clear guidance to support practitioners. This will help landowners and their advisers understand how valuations are reached, avoid unnecessary complexity, and improve trust in the compulsory purchase process.

Question 71: Do you agree with the broad outline for how the planning assumptions might be reformed set out in paragraphs 8.45 to 8.46? Do you have any comments on the proposed changes to the planning assumptions?

91. Propertymark agrees with the broad outline set out in paragraphs 8.45–8.46. We welcome the approach that allows compensation to take account of any planning permission which is extant at the valuation date, any development that would have been granted on the valuation date if not for the CPO, and the prospects of planning permission being granted for other development on or after the valuation date.

92. We support the proposal to explicitly link the reformed planning assumptions to the no-scheme principle, including the assumption that the acquiring authority's proposals should not automatically be assumed to receive permission. This ensures that valuations remain fair and consistent, preventing landowners from being penalised or benefiting unduly as a result of the scheme itself.

93. Propertymark recommends that the assumptions regarding the prospects of planning permission be clearly defined, transparent, and supported by illustrative examples to aid practitioners and landowners. Guidance should also ensure that valuers can apply the assumptions consistently, reducing disputes and promoting efficiency in the compulsory purchase process. In summary, we consider the proposed reforms a positive step toward a modern, clear, and fair framework for assessing planning assumptions in Scotland.

Question 72: Should CAADs be retained as a tool to establish development value in a CPO context, or should they be abolished? Please explain your reasons.

94. Propertymark supports the retention of Certificates of Appropriate Alternative Development (CAADs) as a tool to establish development value in compulsory purchase. CAADs provide a clear, formal mechanism for identifying what development would reasonably be allowed on land, which helps ensure compensation is fair, transparent, and consistent.

⁷ [Planning \(Scotland\) Act 2019](#)

⁸ [National Planning Framework 4 - gov.scot](#)

⁹ [Masterplan Consent Areas: guidance - gov.scot](#)

Question 73: If CAADs were to be retained, how could they be made more effective, efficient and equitable?

95. We have three suggestions to improve the effectiveness and efficiency of CAADs:

- Firstly, we recommend that if CAADs were to be retained, then they should be modernised and simplified to align with the reformed planning assumptions and the no-scheme principle.
- Secondly, we also think that the Scottish Government should provide clear guidance for valuers and agents to ensure they can be applied consistently, reducing disputes and supporting professional advice to clients.
- Thirdly, we think that the Scottish Government should ensure that a mechanism is in place to ensure landowners and their advisers are consulted early in the process, and that the reasoning behind the CAAD is clearly documented as part of the consultation period to improve transparency. This will improve trust, reduce disputes, and allows agents to provide informed advice to clients. Ultimately, we envisage that by retaining CAADs in this updated form should protect landowners, supports acquiring authorities, and provides property professionals with a robust framework for valuing land in the CPO context.

Question 74: Should Part V of the 1963 Act be repealed and not re-enacted?

96. We think Part V of the 1964 Act should be repealed and not re-enacted. This provision in the legislation is rarely used, and when it is used can produce uncertainty for acquiring authorities in terms of budgeting for potential 'second bite' compensation. By repealing the provision, greater clarity is given to all parties.

Question 75: Do you agree that the method of valuation for injurious affection should be dealt with in guidance rather than set in legislation?

97. We think that the valuation method for injurious affection should remain in guidance, not legislation, to maintain flexibility, fairness, and practicality, while ensuring landowners are properly compensated and agents have a workable framework.

Question 76: Should set-off of betterment continue or be removed from the legislation? Please explain your views.

98. We think that the set-off for betterment should be retained in legislation, because it upholds the principle of equivalence, and ensures landowners are fairly compensated without receiving a windfall gain from public investment in the development. We recommend that clear guidance be provided on how betterment is calculated and applied, to ensure transparency, consistency, and confidence for landowners, agents, and acquiring authorities.

Question 77: Please provide details of any acquiring authorities which you believe would need new powers to enable them to carry out accommodation works on a discretionary basis.

99. We are not aware of any accruing authorities that would need new powers in this regard.

Question 78: Do you agree that separate statutory provision should be made for compensation for disturbance? If not please explain your reasons.

100. Propertymark agree. We think the introduction of a separate statutory provision for compensation for disturbance would make the rules clearer, more transparent, and easier to apply, providing all parties including landowners, agents, and acquiring authorities, with a definitive understanding of entitlements. This clarity is particularly important for property professionals who may advise clients and provide information. As a result, we think this would reduce uncertainty and ensures that compensation is calculated consistently and fairly.

101. In contrast, we think that in leaving disturbance provisions without statutory detail allows some flexibility and professional judgment in complex cases, it also creates the potential for inconsistency and dispute, which can delay compensation and increase costs for both landowners and acquiring authorities. A statutory provision would provide a clear legal framework while still allowing guidance to address exceptional circumstances, ensuring that all affected parties are treated equitably and that the principle of equivalence is upheld.

Question 79: Should compensation for disturbance be able to cover losses incurred from the date on which the notice of making of the CPO is published (and the claimant's duty of mitigation should apply from the same date)? If not, from what date should compensation apply? Please explain your reasons.

102. We think that compensation should apply when the notice of making the CPO is published. This would be a fair and clear timeline for all parties involved and should reduce disputes in this regard.

Question 80: Should compensation for disturbance be payable to those who have a compensable interest in land included in the CPO when it is made, even if that land is not ultimately acquired?

103. We disagree. Propertymark does not support extending compensation for disturbance to land that is ultimately not acquired. Compensation is intended to address losses directly resulting from the compulsory acquisition of land. If the land is not taken, no actual acquisition occurs, and paying disturbance could create unnecessary costs, administrative complexity, and potential for speculative claims.

104. We consider that disturbance compensation should continue to apply only to land that is actually acquired, ensuring fairness, clarity, and financial responsibility for acquiring authorities. Exceptional cases could still be addressed through guidance rather than statutory entitlement, maintaining a practical and consistent framework for agents advising clients.

Question 81: Should owners who do not occupy the property be able to claim a wider range of disturbance compensation than at present?

105. Propertymark supports allowing non-occupying owners, including landlords and other property investors, to claim a wider range of disturbance compensation. These owners can incur significant financial losses as a direct result of compulsory acquisition, such as lost rental income, borrowing costs, or delays in acquiring replacement property. Expanding entitlement ensures that all affected owners are treated fairly and that the principle of equivalence is upheld. Fundamentally, we believe landowners should be no worse off than before the CPO.

106. We recommend that any widening of compensation be accompanied by clear statutory guidance defining eligible losses and methods for assessing them. This provides certainty for landlords, other investors, agents, and acquiring authorities, reduces disputes, and ensures that compensation remains proportionate, evidence-based, and predictable.

Question 82: Would it be helpful to provide guidance on compensation in cases of complex corporate structures?

107. We think this would be helpful.

Question 83: Do you agree that the impecuniosity rule should be removed?

108. Propertymark agrees that the impecuniosity rule should be removed. The rule was originally established in 1933, at a time when financial circumstances and property markets were far simpler, and it no longer reflects modern realities. Compensation should cover reasonable costs incurred by claimants in their individual circumstances, regardless of their financial position. This ensures fairness for all affected parties, including occupying and non-occupying owners, landlords, and property investors, allowing them to achieve full compensation and uphold the principle of equivalence. In particular, landlords who may incur lost rental income or additional costs as a result of a CPO would benefit from this change. Clear guidance should define compensable costs to maintain transparency, consistency, and proportionality in the assessment of claims.

Question 84: Do you agree with the proposals on mitigation, including compensation for business relocation and extinguishment? Please add any comments on these issues.

109. We agree with the proposals on mitigation, including compensation for business relocation and extinguishment. We agree that claimants should take reasonable steps to mitigate their losses, but that personal circumstances such as age, health, or family responsibilities should be taken into account when assessing what steps are reasonable. This ensures compensation is fair, equitable, and consistent with the principle of equivalence.

110. We are also supportive around the proposals around business relocation and extinguishment for three reasons.

- Firstly, disturbance compensation for relocation should cover all reasonable costs, including searching for premises, adaptation, removal, temporary loss of profits, and loss of goodwill.
- Secondly, should be allowed even if relocation costs exceed the total value of the business, provided the costs are demonstrably reasonable.
- Finally, we also think that where relocation is not feasible, compensation should be assessed on the basis of extinguishment, ensuring that businesses uniquely tied to a location or facing a lack of suitable premises are fairly treated. Overall, these proposals provide clarity, fairness, and flexibility for claimants, business owners, and agents, while also offering guidance to acquiring authorities on assessing reasonable mitigation and disturbance costs. Clear statutory guidance or updated legislation would ensure consistency and reduce disputes.

Question 85: Should the jurisdiction of the LTS should be extended to cover discretionary as well as mandatory disturbance payments?

111. We disagree. Propertymark does not support extending the jurisdiction of the Lands Tribunal for Scotland (LTS) to cover discretionary disturbance payments. Discretionary payments are intended to allow acquiring authorities flexibility to consider the individual circumstances of occupiers who do not meet the statutory criteria for mandatory payments. Extending LTS oversight could undermine this discretion, increase administrative complexity, and encourage unnecessary disputes. Propertymark considers that existing remedies, including judicial review, provide sufficient protection for claimants while allowing authorities to exercise judgment in a fair and proportionate manner.

Question 86: Should the minimum period of residence necessary to qualify for a HLP (currently one year) be increased? If so, what should the period be, and why?

112. Propertymark disagrees with increasing the minimum period of residence required to qualify for a Home Loss Payment. While the Scottish Law Commission suggested that a longer period might discourage ‘opportunistic buyers,’ there is no clear evidence that this is a significant issue in practice. Increasing the threshold could unfairly exclude genuine homeowners who have lived in their property for the current one-year minimum, adding unnecessary complexity and potential disputes. Maintaining the existing one-year requirement is fair, simple, and practical, ensuring homeowners who are genuinely affected by compulsory purchase are properly compensated. This approach is also beneficial for property agents, as it provides clarity when advising clients, reduces the risk of disputes, and simplifies the process of assessing eligibility and compensation.

Question 87: How should the amount of HLP be calculated, among the options discussed in paragraphs 8.104 to 8.110?

113. Propertymark supports Option 2, a flat rate approach, as the preferred method for calculating Home Loss Payments. A flat rate provides clarity, simplicity, and predictability for homeowners, agents, and acquiring authorities, enabling earlier settlements and reducing the risk of disputes. It is also fairer, as it recognises that the purpose of HLP is to compensate for distress and inconvenience rather than link payments to the market value of the property or length of occupation. While other options have merits, including the graded rate approach, the subjective nature of distress makes a flat rate the most practical and equitable solution for all displaced homeowners.

Question 88: If a person is displaced from an agricultural unit as a result of compulsory purchase, should they be eligible for a loss payment regardless of whether they continue farming elsewhere?

114. This question is outside the remit of Propertymark.

Question 89: Should there continue to be a minimum area of land (currently 0.5 hectares) below which a FLP is not payable? If yes, what should the minimum area be?

115. This question is outside the remit of Propertymark.

Question 90: Do you agree that we should move away from the current profit-based approach to calculating FLP?

116. This question is outside the remit of Propertymark.

Question 91: If a new approach to calculating FLP is taken forward, which of the options outlined at paragraph 8.118 would you prefer?

117. This question is outside the remit of Propertymark.

Question 92: Should loss payments be extended to other non-residential interests displaced as a result of compulsory purchase? Please explain your views.

118. This question is outside the remit of Propertymark.

Compensation procedures

Question 93: Should acquiring authorities be required to advise owners of their rights to compensation and how to claim it?

119. We partially disagree. On the one hand, we do acknowledge that many owners will not have prior knowledge of how compensation works or what they are entitled to. We also acknowledge that in providing clear, standardised information ensures transparency, helps owners to make informed decisions, and reduces the risk of disputes or delays caused by lack of understanding. However, fundamentally, we think that acquiring authorities should remain

largely impartial. Also, we think that any parties engaging in this process should seek qualified legal advice.

120. To support property owners, the Scottish Government should produce a guidance booklet that could be housed online on the Scottish Government website or acquiring authorities website. Acquiring authorities could sign post property owners to the guidance in other formats such as a hard copy.

Question 94: Should a statutory claim form be provided to collect more information about the amount of compensation sought?

121. Propertymark supports the introduction of a statutory claim form to collect information about the amount of compensation sought. A standardised form would provide clarity and consistency for both claimants and acquiring authorities, ensuring that all relevant information is submitted in a clear and organised manner. This would improve the efficiency and transparency of the compensation process, allow for earlier settlements, and reduce the risk of disputes. It would also assist property agents in advising clients, providing a clear framework for gathering evidence and quantifying losses accurately, thereby supporting fairness and consistency across all claims.

Question 95: Should acquiring authorities be required to provide information on their assumptions relating to compensation, if this is requested by a claimant?

122. Propertymark supports requiring acquiring authorities to provide information on their assumptions relating to compensation when requested by a claimant. This ensures transparency, fairness, and consistency, and helps property agents advise clients accurately, facilitating a more efficient and equitable process.

Question 96: Should acquiring authorities be required to offer compensation, rather than requiring owners to claim it?

123. Propertymark does not support requiring acquiring authorities to proactively offer compensation, as this would go beyond current expectations and create unnecessary administrative burden. It is reasonable for owners and occupiers to submit claims, while acquiring authorities provide clear guidance on the process and respond efficiently to any claims made.

Question 97: Please provide any comments about the procedure for claiming compensation, if you wish to expand on your responses to questions 93 to 96.

124. We do not have any further comments.

Time limits

Question 98: Do you agree that an application to the LTS should be able to be made from the date of vesting? If not, when should the earliest date for application be?

125. Propertymark supports allowing applications to the Lands Tribunal from the date of vesting. This ensures timely access to dispute resolution, providing clarity and certainty for homeowners, landlords, and occupiers. It also assists property agents in advising clients promptly and reduces the risk of disputes escalating, while maintaining fairness and transparency in the compensation process.

Question 99: Should there be a final time limit for making a claim for compensation? If yes, what should the limit be?

126. Propertymark notes that under current Scottish law, the time limit for making a claim for compensation following a compulsory purchase is six years from the date the land vests in the acquiring authority. We support maintaining this six-year period, as it provides a clear and reasonable timeframe for claimants to assess and submit their compensation claims. This strikes an appropriate balance between ensuring certainty and finality for acquiring authorities and allowing sufficient time for claimants to prepare and gather evidence, supporting fairness and transparency in the process.

Question 100: Are any other changes needed in relation to the timing of compensation claims?

127. We think that there should be clear guidance provided for all parties.

Advance payments

Question 101: Are any new powers needed to enable acquiring authorities to make discretionary advance payments, if one is sought before they take possession?

128. Other than advance payments, which we highlight in our response to question 102, we cannot recommend any further powers.

Question 102: Would it be helpful to enable advance payments to be made to heritable creditors, with the landowner's agreement?

129. We agree, it would be helpful to enable advance payments to be made to heritable creditors with the landowner's agreement. Propertymark recommends that new discretionary powers be granted to acquiring authorities to make advance payments before taking possession, if requested by the claimant. Such payments could help claimants cover mortgage repayments, relocation costs, temporary accommodation, or other essential expenses. Granting these powers would protect claimants from financial hardship, support fairness and the principle of equivalence, and provide property agents with confidence when advising clients. Safeguards should be in place to ensure overpayments can be recovered and that payments are only made where appropriate, such as with agreement from any heritable creditors.

Question 103: What mechanisms do you think would help to ensure advance payments are made promptly?

130. We think in order to make advance payments a viable option, there are a number of mechanisms that could be put in place. Firstly, there should be statutory deadlines for payment. We think this would involve retaining or reinforcing the current three-month timeframe for payment. Secondly, we also think that automatic triggers could be introduced to ensure that advance payments can be processed automatically once a valid claim is submitted. We think this would reduce any delays caused by administrative checks to reduce confusion. Thirdly, it would be essential to introduce clear guidance and ensure that forms and documentation is standardised. This would ensure that acquiring authorities know exactly what information is required to calculate and release payments efficiently. The Scottish Government may also wish to consider additional safeguards to ensure payment including enforcement options including penalty interest for late payments or allowing the Lands Tribunal to issue an enforceable figure if the authority fails to act within the deadline.

Question 104: Should acquiring authorities have the power to offer advance payments even where one is not requested? If so, should interest on the amount of outstanding compensation be capped?

131. We agree providing this is provided in line with terms and conditions outlined by the Scottish Government and that all information is provided with standardised forms and procedures.

Question 105: What should be the basis for the interest rate payable on outstanding compensation?

132. Propertymark thinks that the current rate of 0.5% below the standard rate remains appropriate for interest on outstanding compensation. This rate is simple to calculate, stable, and predictable, providing certainty for both claimants and acquiring authorities. It balances fairness to claimants with practicality for authorities, ensuring that compensation accrues interest without creating excessively high costs or administrative complexity.

Question 106: Should local authorities be able to instruct the sale of a property without permission from the property owner? Please explain your reasons.

133. We think that local authorities should be able to instruct the sale of a property without permission from the property owner, but only in certain circumstances. Propertymark recognises that, in extreme and urgent circumstances, it may be necessary for local authorities to instruct the sale of a property without the owner's consent. Such cases could include public safety risks, urgent infrastructure projects, long-term derelict or blighted properties, or emergency housing needs. Even in these situations, authorities should be required to make genuine efforts to communicate with the owner and seek advice from local Propertymark-registered agents to ensure that compensation is fair, market values are considered, and the

process is managed professionally. This approach balances the needs of the community with protection of property owners' rights.

Question 107: In what circumstances might compulsory sale be justified, and what benefits or drawbacks might there be?

134. We have already highlighted that these powers should only be used in certain circumstances such as public safety risks, urgent infrastructure projects, long-term derelict or blighted properties, and emergency housing needs.

Question 108: If a CSO process was introduced, would the procedures involved in preparing a CSO need to be equivalent to those that apply to a CPO? If not, how should those procedures differ?

135. Propertymark thinks that the procedures for a Compulsory Sale Order (CSO) should be broadly equivalent to those used for a CPO. This ensures clarity, consistency, and fairness for property owners, and allows local Propertymark-registered agents to provide reliable advice. Some procedural adjustments could be acceptable if a CSO is intended for limited or urgent circumstances, but safeguards should remain in place, including consultation with owners, transparent valuation, and access to appeal mechanisms.

Question 109: What governance or regulatory frameworks would need to be introduced to ensure that any future CSO process is used fairly and effectively?

136. Propertymark considers that a future CSO (Compulsory Sale Order) process should include robust governance and regulatory frameworks to ensure fairness, transparency, and effective use. This should include five things:
- Firstly, clear guidance and statutory criteria to highlight when a CSO can be appropriately used and in what circumstances. This is essential to ensure that they are not misused.
 - Secondly, local authorities using a CSO should be mandated to consult over an agreed period with property and landowners to provide clear reasons why they are using the powers and alternatives they could adopt.
 - Thirdly, we think that decisions on CSO's should be monitored by an independent body created by the Scottish Government to assess their effectiveness and to further prevent misuse. This could ensure further independent insight and could include a body similar to the Land Tribunal.
 - Fourthly, we think there is a role for property agents and professional membership bodies such as Propertymark who should be able to advise both authorities and owners on valuation, market conditions, and compensation.
 - Fifthly, in order to ensure fair market valuation, plus disturbance or other losses where relevant, consistent with CPO principles there needs to be a transparent

compensation framework which is open to scrutiny. Equally, local authorities should report on the use of CSOs, including outcomes, challenges, and compliance with rules.

Question 110: What measures could be taken to control the use of the property by the new owner?

137. Propertymark recognises that there needs to be some control over the use of properties acquired through a CSO to ensure that the public interest, which justified the sale, is delivered. Without appropriate safeguards, there is a risk that new owners could leave properties vacant, neglect them, or use them in ways that undermine the objectives of the CSO. Effective controls help protect local communities, maintain property values, and provide clarity and certainty for all parties, including property owners, buyers, and agents involved in the process. Such controls are essential to make sure the property is used appropriately and in accordance with the intended purpose of the CSO.

138. We think that practical measures could include planning conditions or restrictions to ensure the property is used in a way that delivers the intended public benefit, and legal covenants or agreements attached to the property title to enforce appropriate use. We also think that time-limited requirements could set deadlines by which the property must be developed, occupied, or brought into use. We also recommend that in order to ensure compliance, monitoring and reporting by local authorities or an independent body would be important. Finally, there should be flexibility for exceptional circumstances, allowing alternative uses that still provide a meaningful public or community benefit.

Question 111: How long should a property subject to a CSO remain on the market?

139. We think that the length of time a property subject to a CSO should remain on the market will depend on a range of factors, including the type and location of the property, local market conditions, and the urgency of the public interest objective. While it is difficult to recommend a period of time, we think local authorities should be mandated to consult on suitable timeframes by consulting a local Propertymark-registered agent to determine an appropriate and reasonable marketing period, ensuring the property is given a fair opportunity to sell while avoiding unnecessary delays in delivering the intended public benefit.

Question 112: What should happen if the property does not sell?

140. We think that if a property subject to a CSO does not sell within the agreed marketing period, authorities should have a clear, structured approach to resolve the situation by liaising with a Propertymark registered property agents. Options could include reviewing and adjusting the marketing strategy or price, re-advertising the property, or, if appropriate, progressing to compulsory acquisition or other legal measures to secure the intended public benefit. However, we are confident that a Propertymark agent would be able to advise the authority accordingly.

Question 113: Should local authorities be able to instruct the lease of a property without permission from the property owner? Please explain your reasons.

141. Similar to our response on the use of Compulsory Sale Orders (CSOs), we recognise that there may be limited circumstances in which a local authority leasing a property without the owner's permission could help deliver a public benefit. However, this power should be used only in exceptional cases and with strict safeguards. Authorities should be required to make all reasonable efforts to contact the owner, explore alternative solutions, and seek advice from a local Propertymark-registered agent before proceeding. This approach ensures that owners' rights are respected while allowing authorities to manage properties effectively when necessary.

142. Propertymark thinks that leasing a property without the owner's permission is generally preferable to a CSO, as it allows the public benefit to be achieved while ownership remains with the original owner, making the process less disruptive and more flexible. However, this might not be viable in some circumstances such as to make way for infrastructure projects.

Question 114: In what circumstances might compulsory lease be justified, and what benefits or drawbacks might there be?

143. We think these could be used in similar circumstances outlined for a CSO.

Question 115: If a CLO process was introduced, would the procedures involved in preparing a CLO need to be more onerous than those that apply to a CPO? Please explain your views.

144. We disagree. Propertymark considers that the procedures for a Compulsory Lease Order (CLO) should not be more onerous than those for a CPO. While safeguards and clarity are essential, introducing unnecessarily complex procedures could delay the process, increase costs, and create uncertainty for owners, tenants, and property agents. Any CLO process should be proportionate, transparent, and aligned with existing CPO principles, ensuring fairness while enabling authorities to achieve the intended public benefit efficiently.

Question 116: If you think there are any other measures or issues that we should be aware of as part of our consideration of CLOs, please tell us more about these.

145. We do not have any further comments.

Question 117: Do you think that the introduction of either Compulsory Sale Orders or Compulsory Lease Orders in Scotland would add any benefits beyond a reformed CPO process, as a tool for tackling long-term vacant or derelict properties? Please provide details.

146. Propertymark thinks that the introduction of Compulsory Sale Orders (CSOs) or Compulsory Lease Orders (CLOs) could provide additional benefits beyond a reformed CPO

process, particularly in addressing long-term vacant or derelict properties. CSOs could help bring neglected properties back into productive use when owners are unwilling or untraceable, while CLOs could allow authorities to temporarily manage and activate properties without permanently transferring ownership. Both tools offer flexible, targeted interventions to improve property use and support community regeneration. Additionally, they could be used to support public infrastructure projects, enable urban regeneration or redevelopment, prevent anti-social or harmful property use, promote temporary community or business uses, and ensure compliance with planning objectives functions that a reformed CPO process alone may be slower or less suited to achieve.

Assessment of impacts

Question 118: Do you have any comments on the draft BRIA provided in the Annex?

147. We do not have any further comments.

Question 119: Do you consider that any of the options and proposals in this consultation document would impact (positively or negatively) on people with protected characteristics? Please provide details.

148. We consider little impact both negative and positive from the proposals towards people with protected characteristics.

Question 120: Do you consider that any of the options and proposals in this consultation document would affect children's rights and wellbeing? Please provide details.

149. We do not consider any of the options and proposals in this consultation document would negatively impact children's rights or well-being. We also have confidence that if any adverse impacts were identified that the Scottish Government would provide mitigations.

Question 121: Do you consider that any of the options and proposals in this consultation document would have significantly different impact on island communities from other communities? Please provide details.

150. We do not consider any of the options and proposals in this consultation document would have significantly different impact on island communities or indeed highland or other isolated hard to reach communities in Scotland. We also have confidence that if any adverse impacts were identified that the Scottish Government would provide mitigations.

Conclusion

151. In conclusion, Propertymark is generally supportive of what the Scottish Government are trying to achieve. However, this consultation is a very comprehensive and considers in depth the potential of Compulsory Orders. Given the depth of the consultation, we would be

delighted to further engage with the Scottish Government in particular with matters relating to the sales market.