

**Changes to legislation:** Transport Act 2000, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 5

Section 37.

LICENCE HOLDERS AS STATUTORY UNDERTAKERS

Miscellaneous enactments

- 1
- (1) For the purposes of the provisions mentioned in sub-paragraph (2)—

(a) a licence holder carrying out activities authorised by its licence is to be taken to be a statutory undertaker;

(b) its undertaking as licence holder is to be taken to be a statutory undertaking.

(2) The provisions are—

(a) the <sup>M1</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

(b) section 4 of the <sup>M2</sup>Requisitioned Land and War Works Act 1948;

(c) the National Parks and Access to the <sup>M3</sup>Countryside Act 1949;

(d) the <sup>M4</sup>Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;

(e) the <sup>M5</sup>Landlord and Tenant Act 1954;

(f) section 39(6)(b) of the <sup>M6</sup>Opencast Coal Act 1958;

(g) section 11 of the <sup>M7</sup>Land Compensation Act 1961;

F1(h) .....

(i) section 18 of the <sup>M8</sup>Land Compensation (Scotland) Act 1963;

(j) Schedule 3 to the <sup>M9</sup>Harbours Act 1964;

(k) Schedule 6 to the <sup>M10</sup>Gas Act 1965;

(l) the <sup>M11</sup>New Towns (Scotland) Act 1968;

(m) paragraph 6 of Schedule 2 to the <sup>M12</sup>Countryside Act 1968;

(n) section 22 of the <sup>M13</sup>Sewerage (Scotland) Act 1968;

(o) sections <sup>F2</sup>... 296 and 611 of the <sup>M14</sup>Housing Act 1985.

Textual Amendments	
F1	Sch. 5 para. 1(2)(h) repealed (S.) (24.12.2010) by Flood Risk Management (Scotland) Act 2009 (asp 6), s. 97(1), sch. 3 para. 12 (with s. 91); S.S.I. 2010/401, art. 3(h)
F2	Word in Sch. 5 para. 1(2)(o) repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5)(f), Sch. 16; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)
Marginal Citations	
M1	1947 c. 42.
M2	1948 c. 17.
M3	1949 c. 97.
M4	1951 c. 65.
M5	1954 c. 56.

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- M6** 1958 c. 69.
- M7** 1961 c. 33.
- M8** 1963 c. 51.
- M9** 1964 c. 40.
- M10** 1965 c. 36.
- M11** 1968 c. 16.
- M12** 1968 c. 41.
- M13** 1968 c. 47.
- M14** 1985 c. 68.

### *Public health*

- 2 (1) The provisions mentioned in sub-paragraph (2) apply in relation to—
- (a) a licence holder carrying out activities authorised by its licence, and
  - (b) any property which is owned by the licence holder,
- as they apply in relation to a railway company and its railway.
- (2) The provisions are—
- (a) section 330 of the <sup>M15</sup>Public Health Act 1936 (power of certain undertakers in England and Wales to alter sewers);
  - (b) section 333 of that Act (protection of certain undertakings in England and Wales from works executed under that Act);
  - (c) section 107 of the <sup>M16</sup>Public Health (Scotland) Act 1897 (protection of certain undertakings in Scotland from works connected with sewers).

#### **Marginal Citations**

- M15** 1936 c. 49.
- M16** 1897 c. 38.

### *Civil defence*

<sup>F3</sup>3 .....

#### **Textual Amendments**

- F3** Sch. 5 para. 3 repealed (14.11.2005) by [Civil Contingencies Act 2004 \(c. 36\)](#), s. 34(1), **Sch. 3**; [S.I. 2005/2040](#), art. 3(r)

### *Pipe-lines*

- 4 (1) For the purposes of the <sup>M17</sup>Pipe-lines Act 1962—
- (a) a licence holder carrying out activities authorised by its licence is to be taken to be a statutory undertaker;
  - (b) its undertaking as licence holder is to be taken to be a statutory undertaking.
- (2) For the purposes of section 13 of the 1962 Act, in relation to a licence holder operational land is land—

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- (a) which is used by the licence holder, or by a company associated with it, for the purpose of carrying out activities authorised by the licence, or
  - (b) in which the licence holder, or a company associated with it, holds an interest for that purpose.
- (3) If for the purposes of section 13 of the 1962 Act a question arises whether land is operational land in relation to a licence holder the question must be decided by the Secretary of State.

#### Marginal Citations

M17 1962 c. 58.

#### New towns

- 5 (1) Section 79 of the <sup>M18</sup>New Towns Act 1981 (meaning of statutory undertakers and operational land) shall be amended as follows.
- (2) In subsection (1) after “the Civil Aviation Authority,” insert “or
- (ba) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services).”,
- (3) After subsection (1) insert—
- “(1A) For the purposes of this Act—
- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence;
  - (b) the person’s undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person’s undertaking as licence holder.”
- (4) In subsection (3) after paragraph (b) insert—
- “(ba) in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, means any land which is used by the licence holder (or by a company associated with it) for the purpose of carrying out activities authorised by the licence or land in which the licence holder (or a company associated with it) holds an interest for that purpose.”
- (5) After subsection (3) insert—
- “(4) If for the purposes of this Act a question arises whether land is operational land in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 the question must be decided by the Secretary of State.”

#### Marginal Citations

M18 1981 c. 64.

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### Planning

- 6 (1) Section 262 of the <sup>M19</sup>Town and Country Planning Act 1990 (meaning of statutory undertakers) shall be amended as follows.
- (2) In subsection (3) for “and the Civil Aviation Authority” substitute “, the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) ”.
- (3) In subsection (5)(b) for “and the Civil Aviation Authority” substitute “, the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) ”.
- (4) After subsection (5) insert—
- “(5A) For the purposes of this Act—
- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence;
- (b) the person’s undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person’s undertaking as licence holder.”

#### Marginal Citations

**M19** 1990 c. 8.

- 7 In section 263 of the <sup>M20</sup>Town and Country Planning Act 1990 (meaning of operational land) after subsection (2) insert—
- “(2A) Subsection (1) does not apply in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000.
- (2B) Subject to section 264, in this Act “operational land” means, in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, land—
- (a) which is used by the licence holder, or by a company associated with it, for the purpose of carrying out activities authorised by the licence, or
- (b) in which the licence holder, or a company associated with it, holds an interest for that purpose.
- (2C) If for the purposes of this Act a question arises whether land is operational land in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 the question must be decided by the Secretary of State.”

#### Marginal Citations

**M20** 1990 c. 8.

- 8 In section 91(3) of the <sup>M21</sup>Planning (Listed Buildings and Conservation Areas) Act 1990 (meaning of statutory undertakers) in paragraph (b) after “the Civil Aviation

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Authority,” there shall be inserted “ a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence), ”.

**Marginal Citations**

M21 1990 c. 9.

- 9 In section 39(6) of the <sup>M22</sup>Planning (Hazardous Substances) Act 1990 (persons deemed to be statutory undertakers) after “the Civil Aviation Authority” there shall be inserted “ , a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence) ”.

**Marginal Citations**

M22 1990 c. 10.

- 10 (1) Section 214 of the <sup>M23</sup>Town and Country Planning (Scotland) Act 1997 (meaning of statutory undertakers) shall be amended as follows.
- (2) In subsection (3) for “and the Civil Aviation Authority” substitute “ , the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) ”.
- (3) In subsection (5)(b) for “and the Civil Aviation Authority” substitute “ , the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) ”.
- (4) After subsection (5) insert—
- “(5A) For the purposes of this Act—
- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence;
- (b) the person’s undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person’s undertaking as licence holder.”

**Marginal Citations**

M23 1997 c. 8.

- 11 In section 215 of the <sup>M24</sup>Town and Country Planning (Scotland) Act 1997 (meaning of operational land) after subsection (2) insert—
- “(2A) Subsection (1) does not apply in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000.
- (2B) Subject to section 216, in this Act “operational land” means, in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, land—

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- (a) which is used by the licence holder, or by a company associated with it, for the purpose of carrying out activities authorised by the licence, or
- (b) in which the licence holder, or a company associated with it, holds an interest for that purpose.

(2C) If for the purposes of this Act a question arises whether land is operational land in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 the question must be decided by the Secretary of State.”

**Marginal Citations**

**M24** 1997 c. 8.

- 12 In section 81(3) of the <sup>M25</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (meaning of statutory undertakers) in paragraph (b) after “the Civil Aviation Authority,” there shall be inserted “ a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence), ”.

**Marginal Citations**

**M25** 1997 c. 9.

- 13 In section 38(5) of the <sup>M26</sup>Planning (Hazardous Substances) (Scotland) Act 1997 (persons deemed to be statutory undertakers) after “the Civil Aviation Authority” there shall be inserted “ , a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence) ”.

**Marginal Citations**

**M26** 1997 c. 10.

*Water and drainage*

- 14 In Schedule 13 to the <sup>M27</sup>Water Industry Act 1991 (protection of undertakings) in paragraph 1(5) after paragraph (j) there shall be inserted—
- “(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person’s undertaking as licence holder.”

**Marginal Citations**

**M27** 1991 c. 56.

- 15 In Schedule 22 to the <sup>M28</sup>Water Resources Act 1991 (protection of undertakings) in paragraph 1(4) after paragraph (j) there shall be inserted—

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“(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person’s undertaking as licence holder.”

**Marginal Citations**  
M28 1991 c. 57.

16 In Schedule 6 to the <sup>M29</sup>Land Drainage Act 1991 (protection of undertakings) in paragraph 1(1) after paragraph (j) there shall be inserted—  
“(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person’s undertaking as licence holder.”

**Marginal Citations**  
M29 1991 c. 59.

Development

<sup>F4</sup>17 .....

**Textual Amendments**  
F4 Sch. 5 para. 17 repealed (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 16; S.I. 2008/3068, art. 5, Sch. (with arts. 6-13)

18 <sup>F5</sup>...

**Textual Amendments**  
F5 Sch. 5 para. 18 repealed (1.7.2012 at 0.02 a.m.) by Public Bodies Act 2011 (c. 24), s. 38(3), Sch. 6; S.I. 2012/1662, art. 2(2)(b)

Coal mining subsidence

19 In section 52(1) of the <sup>M30</sup>Coal Mining Subsidence Act 1991 (interpretation) in paragraph (b) of the entry relating to statutory undertakers after “the Civil Aviation Authority” there shall be inserted “, any person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence) ”.

**Marginal Citations**  
M30 1991 c. 45.

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- s. 146(1)(defn.)(a)(b) by [2000 c. 38 s. 274 Sch. 31 Pt. 2](#)
- s. 19(2)(aa) inserted by [S.I. 2019/93, Sch. 1 para. 9\(1C\)\(b\)](#) (as inserted) by [S.I. 2019/1245 reg. 25](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 131A(2)(a) words omitted by [2017 c. 21 Sch. 2 para. 13\(a\)\(i\)](#)
- s. 131A(2)(b) omitted by [2017 c. 21 Sch. 2 para. 13\(a\)\(ii\)](#)
- s. 131A(4) omitted by [2017 c. 21 Sch. 2 para. 13\(b\)](#)
- s. 131A(5)(b) words omitted by [2017 c. 21 Sch. 2 para. 13\(c\)\(i\)](#)
- s. 131A(5)(c) words omitted by [2017 c. 21 Sch. 2 para. 13\(c\)\(ii\)](#)
- s. 132B(1)(a) omitted by [2017 c. 21 Sch. 2 para. 19](#)
- Sch. 16 para. 34(4)(a)para. 34(4)(b)(c) repealed by [2005 c. 14 Sch. 13 Pt. 1](#)