



Land Powers (Defence) Act 1958

1958 CHAPTER 30 6 and 7 Eliz 2

An Act to provide for the termination of certain emergency powers and to make certain provision in substitution therefor; and for purposes connected with the matters aforesaid. [7th July 1958]

Modifications etc. (not altering text)

- C1 Functions of Minister of Power now exercisable by Secretary of State: [S.I. 1969/1498](#), 1970/1537 and 1971/719
- C2 Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#) Act extended (23.6.1999) by [S.I. 1999/1736, art. 5\(3\)](#)

Commencement Information

- II Act wholly in force at Royal Assent.

Termination of certain powers under emergency legislation

1 Revocation of certain Defence Regulations and termination of certain other powers.

- (1) The following Regulations of the Defence (General) Regulations, 1939, namely—
 - Regulation 50 (power to do work on land);
 - Regulation 51 (taking possession of land);
 - Regulation 51A (power to work minerals);
 - Regulation 52 (use of land for purposes of H.M. forces);
 - Regulation 85 (entry upon, and inspection of, land),if and so far as they remain in force on the thirty-first day of December, nineteen hundred and fifty-eight, shall cease to have effect at the end of that day.
- (2) For the purposes of the ^{M1}Requisitioned Land and War Works Act, 1945, the war period (except for any purposes of that Act for which that period has come to an end before the passing of this Act) shall end with the said thirty-first day of December.

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(3) . . . ^{F1}

Textual Amendments

F1 S. 1(3) repealed by Statute Law (Repeals) Act 1978 (c. 45), Sch. 1 Pt. XI

Marginal Citations

M1 1945 c. 43

Facilities for manoeuvres

2 Orders in Council authorising manoeuvres.

(1) ^{F2}

(5) The said Acts of 1897 and 1911 shall cease to extend to Northern Ireland, and accordingly section nine of the said Act of 1897 is hereby repealed.

(6) ^{F2}

Textual Amendments

F2 Ss. 2(1)–(4)(6), 3–5 and Sch. 1 repealed by Manoeuvres Act 1958 (7 & 8 Eliz. 2 c. 7), s. 10(2)(c)

Modifications etc. (not altering text)

C3 Unreliable marginal note.

C4 S. 2(5) repealed (E.W.)(S.) by Manoeuvres Act 1958 (7 & 8 Eliz. 2 c. 7), s. 10(2)(c)

C5 “The said Acts of 1897 and 1911” means Military Manoeuvres Act 1897 (c. 43) and Military Manoeuvres Act 1911 (c. 44)

3—5. ^{F3}

Textual Amendments

F3 Ss. 2(1)–(4)(6), 3–5 and Sch. 1 repealed by Manoeuvres Act 1958 (7 & 8 Eliz. 2 c. 7), s. 10(2)(c)

Occasional use of land for defence training purposes

6 Power to require use of land for limited training purposes.

(1) Subject to the provisions of Part I of the Second Schedule to this Act, a Secretary of State . . . ^{F4} may by order direct that any land specified in the order shall, during such period of twelve months as may be so specified, be subject to occasional use under the authority of the Minister making the order for any one or more of the following purposes so specified, that is to say—

- (a) the encampment of persons in transit to or from a training area;
- (b) the carrying out of signalling exercises;

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- (c) in the case of land consisting of or including cliffs on the seashore, the carrying out of cliff assault exercises;
- (d) the affording of access to and from other land which by virtue of that or another order under this section is subject to occasional use for one or more of the foregoing purposes:

Provided that an order under this section shall not be made for the occasional use of the whole or any part of the same land during the whole or any part of the same period as is specified in any other such order.

- (2) Subject to the two next following subsections, where an order is in force under this section in respect of any land, any persons authorised for the purpose by the Minister by whom the order was made may—

- (a) at any time within the period specified in the order, enter upon that land, with or without equipment, for the purposes specified in the order in relation to that land and make use of the land, and carry out any work on, over or below the surface of the land, for those purposes;
- (b) at any time before or during the period specified in the order, display notices on that land with respect to the exercises or operations to be carried out thereon and make other preparations on that land for those exercises or operations, and for that purpose enter upon the land, with or without equipment.

- (3) The powers conferred by the last foregoing subsection shall not be exercisable unless, not less than fourteen days before the time at which entry is to be made on any land in pursuance thereof, the Minister by whom the order in question was made has given notice of the intended entry to any occupier of that land or any part thereof, specifying in the notice the period, not exceeding a continuous period of seventy-two hours, during which those powers are to be exercisable by virtue of the notice; and notice for the purposes of paragraph (a) of that subsection shall not be given—

- (a) more than six times during the period specified in the order; or
- (b) so as to expire less than twenty-one days after the expiration of the period specified in a previous notice given for the purposes of that paragraph;

and the powers conferred by the last foregoing subsection shall not be exercisable in respect of any period during which the use for the time being for defence training purposes of the land in question is the subject of a manoeuvres Order.

- (4) Nothing in subsection (2) of this section shall authorise any person—

- (a) to enter upon any land or premises which would be exempted from entry by virtue of paragraph (1) of the proviso to section two of the ^{M2}Military Manoeuvres Act, 1897, if the order under this section were a manoeuvres Order; or
- (b) to injure or deface any monument which is included in [^{F5}the Schedule compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979] . . . ^{F6};

but the powers conferred by the said subsection (2) shall be exercisable notwithstanding any other restriction affecting the use of the land in question.

- (5) The provisions of subsections (1), (3) and (4) of section six and section seven of the Military Manoeuvres Act, 1897 (which relate to compensation and penalties for obstruction) shall apply for the purposes of this section as if any reference in those provisions—

- (a) to a manoeuvres Order were a reference to an order under this section;

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- (b) to the said Act of 1897 were a reference to this section;
 - (c) to authorised forces were a reference to persons authorised under subsection (2) of this section;
 - (d) to the execution, or to the purposes, of the manoeuvres were a reference to the exercise, or, as the case may be, to the purposes, of any rights conferred by virtue of this section;
 - (e) to the commission or to the compensation officer were a reference to the Minister by whom the order under this section in question was made.
- (6) For the purposes of this section—
- “encampment” includes operations incidental to encampment (including the taking of water for use by persons or animals or in mechanically-propelled vehicles) and the carrying out of training exercises in the defence of the camp and operations incidental to such exercises;
 - “equipment” (without prejudice to the generality of that expression) includes weapons, vehicles, aircraft and animals;
 - “training area” means any area for the time being available for use for the training of Her Majesty’s forces;
 - “signalling exercises” includes operations incidental to such exercises, including the erection of poles and the laying of wires and cables on or over land.

Textual Amendments

- F4** Words repealed with saving by [S.I. 1964/488](#)
- F5** Words substituted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\), s. 64\(2\), Sch. 4 para. 5\(a\)](#)
- F6** Words repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\), s. 64\(3\), Sch. 5](#) (by the note at the end of Sch. 5 it is provided that nothing in that Schedule shall affect the operation of any enactment in relation to monuments to which para. 1(1) of Sch. 3 to the repealing Act applies)

Modifications etc. (not altering text)

- C6** [S. 6\(4\)\(a\)](#) amended by [Manoeuvres Act 1958 \(7 & 8 Eliz. 2. c. 7\), s. 2\(5\)](#)

Marginal Citations

- M2** [1897 c. 43.](#)

Use of sea areas for defence purposes

7 Power to make byelaws over sea areas.

Where in the case of any area of sea, tidal water or shore used or to be used for defence purposes by . . . ^{F7} a Secretary of State, . . . ^{F8} being an area lying wholly or partly within the limits of the territorial waters of the United Kingdom, it appears to that Minister to be necessary or expedient to make provision for regulating the use of that area for those purposes or for securing the public against danger arising from that use, the powers conferred by subsection (2) of section two of the ^{M3}Military Lands Act, 1900 (which enables byelaws to be made in relation to such areas where they abut on, or are subject to rifle or artillery practice from, land appropriated or used for defence

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purposes) shall be exercisable in relation to the area in question whether or not it abuts on or is subject to such practice from any such land.

Textual Amendments

- F7** Words repealed by [S.I. 1971/719](#)
- F8** Words repealed with saving by [S.I. 1964/488](#) and 1971/719

Marginal Citations

- M3** [1900 c. 56.](#)

Stopping up and diversion of highways

8 Stopping up and diversion of highways.

(1) The powers conferred on the Minister of Transport and Civil Aviation by section forty-nine of the ^{M4}Town and Country Planning Act, 1947 (which empowers that Minister to authorise by order the stopping up or diversion of a highway where he is satisfied that it is necessary to do so to enable land to be developed) shall also be exercisable where—

- (a) land is, or is to be, used by a Secretary of State, . . . ^{F9} for the purposes of an installation provided or to be provided for defence purposes, or is used by a manufacturer of aircraft as an airfield wholly or mainly in connection with the manufacture of aircraft for defence purposes; and
- (b) the Minister of Transport and Civil Aviation is satisfied that, for the land to be so used efficiently without danger to the public, it is necessary that a highway should be stopped up or diverted.

(2) Where, in the circumstances specified in paragraphs (a) and (b) of the foregoing subsection, it appears to the Minister of Transport and Civil Aviation that it is not necessary that the highway should be stopped up or diverted for more than a limited period, an order under the said section forty-nine, including an order made by virtue of subsection (7) of that section (which authorises the stopping up or diversion of a highway temporarily stopped up or diverted under any other enactment) instead of providing for the permanent stopping up or diversion of the highway may provide for its stopping up or diversion during such period as may be prescribed by or under the order and for its restoration at the expiration of that period:

Provided that, for the purposes of any subsequent order by virtue of the said subsection (7), any order made by virtue of the foregoing provisions of this subsection shall be regarded as having been made otherwise than under the said section forty-nine.

(3) Any order made by virtue of the last foregoing subsection which provides for the provision of another highway in substitution for a highway stopped up by the order may also contain such provisions as appear to the Minister of Transport and Civil Aviation to be expedient for the stopping up, at the expiration of the period prescribed by or under the order, of that other highway and for the original highway to be reconstructed at the expense of such of the Ministers referred to in paragraph (a) of subsection (1) of this section as may be specified in the order and thereafter maintained by any person who would for the time being have been liable for its maintenance if it had never been stopped up.

(4) ^{F10}

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- (5) In the application of this section to Scotland, for references to the Minister of Transport and Civil Aviation, to the ^{M5}Town and Country Planning Act, 1947, and to section forty-nine of that Act there shall be substituted respectively references to the Secretary of State, to the ^{M6}Town and Country Planning (Scotland) Act, 1947, and to section forty-six of that Act.
- (6) In the application of this Act to Northern Ireland, the provisions of the Third Schedule to this Act shall have effect in lieu of the foregoing provisions of this section.

Textual Amendments

F9 Words repealed with saving by [S.I. 1964/488](#) and 1971/719

F10 [S. 8\(4\)](#) repealed by [Town and Country Planning Act 1968 \(c. 72\)](#), [Sch. 11](#) and [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), [Sch. 11](#)

Modifications etc. (not altering text)

C7 Functions of Minister of Transport and Civil Aviation under s. 8 now exercisable by Secretary of State: [S.I. 1959/1768](#) (1959 I, p. 1793), 1965/319 and 1970/1681

Marginal Citations

M4 1947 c. 51.

M5 1947 c. 51.

M6 1947 c. 53.

9 Supplementary provisions with respect to stopping up and diversion of highways.

- (1) The powers to make orders conferred on the Minister of Transport and Civil Aviation—
- (a) by section fifteen of the ^{M7}Requisitioned Land and War Works Act, 1945, with respect to the permanent stopping up or diversion of a highway which has been stopped up or diverted in the exercise of emergency powers or as respects which a Minister has certified as mentioned in subsection (1) of section three of the ^{M8}Requisitioned Land and War Works Act, 1948; and
 - (b) by section sixteen of the said Act of 1945 with respect to the use and maintenance until other provision is made by or under any Act of certain works placed along, across, over or under a highway in the exercise of emergency powers or for war purposes,
- shall include power to vary or revoke any previous order made under the section in question; and subsection (1) of section twenty of the said Act of 1945 (which restricts the period during which orders may be made under the said section fifteen or sixteen) shall not apply to any order so far as it is made by virtue of this subsection.
- (2) Where on the thirty-first day of December, nineteen hundred and sixty—
- (a) an order under the said section fifteen provides for the permanent stopping up or diversion of a highway conditionally upon the completion of the diversion or of the provision or improvement of another highway in substitution for the original highway; and
 - (b) that condition has not been satisfied; and

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- (c) by virtue of the foregoing subsection, proposals for the variation of that order have been published in accordance with the provisions of Part III of the said Act of 1945,

the prevention of the exercise of the right to use that highway may be continued pending the coming into operation of an order made in pursuance of the said proposals or, if those proposals are abandoned, whether by reason of an adverse report of the War Works Commission or otherwise, until six months after the abandonment.

- (3) Any person authorised in that behalf by the Minister of Transport and Civil Aviation or a local authority may enter on any land for the purpose of surveying it in connection with, or with proposals for, the diversion, provision or improvement of any highway by virtue of an order under the said section fifteen, and the provisions of the Fourth Schedule to this Act shall have effect in relation to the powers conferred by this subsection.

In this subsection and in the said Fourth Schedule the expression “local authority” means the council of a county, borough or urban district or, in relation to Scotland, a county or town council.

[^{F11}(4) In the following provisions, in their application to Scotland, that is to say—

- (a) this and the last foregoing section;
- (b) sections fifteen and sixteen of the said Act of 1945;
- (c) section twenty-eight of the ^{M9}Civil Aviation Act, 1949;
- (d) section two of the ^{M10}Supplies and Services (Defence Purposes) Act, 1951; and
- (e) section thirty-two of the ^{M11}Mineral Workings Act, 1951,

and in section forty-six of the ^{M12}Town and Country Planning (Scotland) Act, 1947 (all of which provisions relate to the stopping up of highways) the expression “highway” shall be deemed to include any public right of way:]

[^{F11}(4) In section 8 of this Act and this section, in their application to Scotland, “highway” means a road within the meaning of the Roads (Scotland) Act 1984:]

Provided that nothing in this subsection shall authorise the imposition upon any person of responsibility for the provision, maintenance or management of any highway over which there is not a right of way for vehicles and for the repair and maintenance of which that person has not previously been under any liability.

- (5) In the application of this section to Scotland or to Northern Ireland, for references to the Minister of Transport and Civil Aviation there shall be substituted references to the Secretary of State.

Textual Amendments

- F11** S. 9(4) commencing “In section 8 of this Act” substituted (S.) for s. 9(4) commencing “In the following provisions” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 47**

Modifications etc. (not altering text)

- C8** Functions of Minister of Transport and Civil Aviation under s. 9 now exercisable by Secretary of State: S.I. 1959/1768 (1959 I, p. 1793) and 1970/1681
- C9** War Works Commission dissolved on 1st October 1964: S.I. 1964/1578

Marginal Citations

- M7** 1945 c. 43.

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|------------|-------------|
| M8 | 1948 c. 17. |
| M9 | 1949 c. 67. |
| M10 | 1951 c. 25. |
| M11 | 1951 c. 60. |
| M12 | 1947 c. 53. |

Prevention of interference with certain defence installations

10 Prevention of obstruction of airfields.

- (1) Where any land is, or is to be, used by [^{F12}a Secretary of State] as an airfield for defence purposes, and it appears to that Minister that any object of a description specified in the next following subsection which is situated within two miles of any part of the boundary of the airfield is in such a position, or of such a height, as to interfere or be likely to interfere with the safe and efficient use of the airfield for defence purposes, then, subject to the provisions of Part I of the Second Schedule to this Act, that Minister may by order require the occupier of the land on which that object is situated to take within such period (not being less than twenty-one days from the date when notice of the making of the order is served on that occupier) as may be specified in the order such action by way of removing, resiting or reducing the height of that object as may be so specified, or such other action as may be agreed between the Minister and the occupier, to prevent any such interference.
- (2) The said descriptions of objects are trees, hedges, fences, poles, masts, cables, wires, walls (other than a wall forming part of a roofed structure) and moveable structures.
- (3) If the person to whom an order under this section is directed fails to comply therewith within the period specified therein, the Minister who made the order may take the action specified in the order, and for that purpose any person authorised in that behalf by that Minister may enter upon any land upon which the person to whom the order is directed is entitled or permitted to enter; and paragraphs 1 and 2 of the Fourth Schedule to this Act shall apply for the purpose of the exercise of the powers conferred by this subsection.
- (4) Where notice of a Minister's proposal to make an order under this section requiring the removal of a tree is served under paragraph 2 of the Second Schedule to this Act and—
 - (a) the tree is situated on land used (otherwise than as woodlands) as agricultural land; and
 - (b) the draft order does not require the tree to be removed in such manner as not to leave any stump; and
 - (c) any person upon whom the said notice is required by the said paragraph 2 to be served duly makes an objection that, if the tree is to be removed, it should be removed in such manner as aforesaid, and that objection is not withdrawn; and
 - (d) the person conducting the inquiry into that proposal under paragraph 4 of the said Second Schedule reports to the Minister that in his opinion it is desirable in the interests of good husbandry and reasonable in all the circumstances of the case that the objection should be met,

then, if the order as made requires the removal of that tree, it shall require its removal in such manner as aforesaid; and any Minister exercising the powers conferred by the last foregoing subsection for the purpose of causing any tree or hedge to be removed, lopped or cut shall issue instructions with a view to securing that the removal, lopping

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or cutting will be carried out in a woodmanlike manner, and so as to cause as little damage as possible to other trees or hedges and to fences and growing crops.

- (5) Subject to the next following subsection, the person to whom an order under this section is directed shall be entitled to compensation from the Minister who made the order in respect of any expenses reasonably incurred by that person in complying with the order or in selling or otherwise disposing of any materials under the next following subsection; and any person who, in consequence of the taking of any action required by the order, suffers loss by reason of damage to, or is disturbed in the enjoyment of, any land or chattels, or would, but for subsection (7) of this section, have been entitled to a remedy for the breach of a covenant or agreement prohibiting or restricting the taking of that action, shall be entitled to compensation from that Minister in respect of that damage or disturbance or in respect of the loss of that remedy; and if, in consequence of the order or of the taking of any action required thereby, any interest in land which comprises, or is held with, the land on which the object to which the order relates is situated, being an interest subsisting at the time when the order was made, is depreciated in value, there shall be payable by that Minister in respect of that interest compensation of an amount equal to the amount of the depreciation; and any dispute as to a right to compensation under this subsection or as to the amount thereof shall be determined by the ^{F13}appropriate tribunal].
- (6) Where any timber or other materials require disposal in consequence of the taking of any action required by an order under this section and—
- (a) that action was taken in compliance with the order by a person who is not entitled to those materials; or
 - (b) that action was taken by a Minister under subsection (3) of this section,
- that person may, or, in a case falling within paragraph (b) of this subsection, that Minister may, and if so required by the person to whom the order is directed shall, sell or otherwise dispose of any of those materials of which the person entitled thereto does not take possession within seven days from the completion of the action, and shall pay the proceeds of any such sale or disposal to the person so entitled; and any compensation in respect of the depreciation in the value of any interest in land falling to be paid to any person under the last foregoing subsection shall be reduced by—
- (i) the amount of any sum paid to that person in pursuance of this subsection; and
 - (ii) an amount equal to the value of any such timber or other materials as aforesaid to which that person is entitled which are not sold or otherwise disposed of under this subsection.
- (7) The taking of any action required by an order under this section shall not subject any person to any liability by reason of any enactment, covenant or agreement prohibiting or restricting, the taking of that action.
- (8) . . . ^{F14}

Textual Amendments

F12 Words substituted by [S.I. 1971/719](#)

F13 Words in [s. 10\(5\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 25](#) (with [Sch. 5](#))

F14 [S. 10\(8\)](#) repealed by [S.I. 1971/719](#)

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11 Prevention of interference with operation of electrical apparatus.

- (1) Where any land is, or is to be, used by [^{F15}a Secretary of State] for the operation for defence purposes of any electrical apparatus for affording navigational aid to aircraft, or for communicating with, guiding or locating aircraft or missiles, and it appears to that Minister that any object of a description specified in the next following subsection which is situated within two miles of any part of the apparatus is in such a position, or of such a height, or is made of such materials, as to interfere with the efficient operation of the apparatus, then, subject to the provisions of Part I of the Second Schedule to this Act, that Minister may by order require the occupier of the land on which that object is situated to take within such period (not being less than twenty-one days from the date when notice of the making of the order is served on that occupier) as may be specified in the order such action by way of removing, replacing, resiting or reducing the height of that object as may be so specified, or such other action as may be agreed between that Minister and the occupier, to prevent any such interference.
- (2) The said descriptions of objects are—
- (a) objects of any of the descriptions specified in subsection (2) of the last foregoing section;
 - (b) moveable objects made wholly or mainly of metal;
 - (c) parts of buildings or structures, being parts made wholly or mainly of metal, which, without appreciably affecting the subsequent use of the building or structure in question, can be either removed or replaced by parts made of other materials.
- (3) Subsections (3) to (7) of the last foregoing section shall have effect for the purposes of this section as if any reference therein to that section were a reference to this section.

Textual Amendments

F15 Words substituted by [S.I. 1971/719](#)

Storage and transmission of oil

[^{F16}12 Extension of provisions of Requisitioned Land and War Works Acts.

- (1) In the ^{M13}Requisitioned Land and War Works Acts, 1945 ^{M14} and 1948, the expression “government war works” shall include, and be deemed always to have included, any oil pipe-line or works accessory thereto laid, installed or constructed by or under the authority of a Minister—
- (a) in pursuance of Regulation 50 of the Defence (General) Regulations, 1939; or
 - (b) in pursuance of an agreement in such circumstances that, if the agreement had not been made, the like pipe-line or works could have been laid, installed or constructed in pursuance of the said Regulation 50,
- and completed before the end of the year nineteen hundred and fifty-eight; and the expression “government oil pipe-line” in the said Act of 1948 and in any regulations made thereunder shall be construed accordingly.
- (2) In subsection (1) of section fourteen of the said Act of 1948 (which provides that, after the thirty-first day of December, nineteen hundred and forty-nine, section twelve of that Act shall not apply to any pipe-line or works accessory thereto unless the rights conferred by subsection (1) of the said section twelve have been registered in the

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[^{F17}local land charges register]), for the words “forty-nine” there shall be substituted the word “sixty”.

(3) In relation to any pipe-line or works accessory thereto with respect to which, at the date of the passing of this Act—

- (a) rights conferred as aforesaid have not been registered as aforesaid; and
- (b) no such evidence of endorsement of documents of title as is required by regulations made under subsection (2) of the said section fourteen has been produced in accordance with those regulations,

the date as from which the rights conferred by section thirteen of the said Act of 1948 (which relates to compensation) are to be substituted for the rights conferred by subsection (2) of section three of the ^{M15}Compensation (Defence) Act, 1939, shall be the date of the passing of this Act or the date of the completion of the pipe-line or works in question, whichever of those dates is the later, and accordingly, in relation to any such pipe-line or works—

- (i) subsection (2) of the said section thirteen shall apply as if the said section twelve had come into operation at the later of the dates aforesaid;
- (ii) in subsections (4) and (5) of the said section thirteen the references to the commencement of the said Act of 1948 shall be construed as references to the later of the dates aforesaid; and
- (iii) in subsection (6) of the said section thirteen, the reference to the exercise of the powers therein mentioned shall be construed as a reference to the exercise of those powers after the later of the dates aforesaid.

(4) Where under any agreement made before the passing of this Act—

- (a) payments (whether referred to as compensation, rent or otherwise) are to be made in respect of a pipe-line or works to which the last foregoing subsection applies; and
- (b) any such payments become payable in respect of a period after the passing of this Act,

the right to those payments shall be taken to be in substitution for the right to any corresponding payment of compensation in respect of that period under section thirteen of the said Act of 1948.

(5) In the application of this section to Scotland, for any reference to the registration of rights in the [^{F18}local land charges register] there shall be substituted a reference to the recording in the appropriate register of sasines of a deed granting such rights.]

Textual Amendments

- F16** S. 12 ceases to have effect (30.4.2015) by virtue of [Energy Act 2013 \(c. 32\)](#), **ss. 128(2)(e)**, 156(1) (with [s. 130](#)); [S.I. 2015/817](#), **art. 2(a)**
- F17** Words in s. 12(2) substituted (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **s. 57(5)(e)**, **Sch. 5 para. 25** (with [Sch. 5 Pt. 4](#))
- F18** Words in s. 12(5) substituted (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **s. 57(5)(e)**, **Sch. 5 para. 25** (with [Sch. 5 Pt. 4](#))

Marginal Citations

- M13** 1945 c. 53.
- M14** 1948 c. 17.
- M15** 1939 c. 75

Changes to legislation: Land Powers (Defence) Act 1958 is up to date with all changes known to be in force on or before 09 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

13 Acquisition of land for oil installations.

The Minister of Power may acquire by agreement, or, subject to the provisions of Part I of the Second Schedule to this Act, may by order provide that Part II of that Schedule shall have effect for the purpose of the acquisition by him of—

- (a) any land required for the construction of oil installations which in his opinion are essential for the defence of the realm;
- (b) any land on or under which there are oil installations which, immediately before the passing of this Act, were government war works for the purposes of Part II of the ^{M16}Requisitioned Land and War Works Act, 1945;
- (c) any easement over or right restrictive of the user of any other land, being an easement or right which in the opinion of that Minister is essential to the full enjoyment of any land on or under which such an oil installation as is mentioned in either of the two foregoing paragraphs is to be or has been constructed.

Marginal Citations

M16 1945 c. 43.

14 Wayleave orders for oil pipe-lines and accessory works.

- (1) Subject to the provisions of Part I of the Second Schedule to this Act, a Minister specified in subsection (3) of this section may, for any purpose specified in relation to him in that subsection, by order (in this Act referred to as a “wayleave order”) and without further assurance vest in himself with respect to any land specified in the order the right—
 - (a) in such positions (subject to any minor deviations found to be necessary or expedient) under or above the surface of that land, or partly under and partly above the surface thereof, as may be specified by the order, to carry out all or any of the following operations, that is to say—
 - (i) the laying of an oil pipe-line;
 - (ii) the installation or construction of such minor works accessory to an oil pipe-line, whether laid under that wayleave order or otherwise, as may be so specified,
 and from time to time maintain or remove any pipe-line or works so laid, installed or constructed;
 - (b) to use any such pipe-line or works for any purpose appearing to that Minister to be expedient and not to be inconsistent with the purposes for which the order was made.
- (2) For the purposes of the foregoing subsection, the expression “minor works accessory to an oil pipe-line” shall include works so accessory of any of the following descriptions, that is to say—
 - (a) manholes, inspection pits and similar works;
 - (b) electrical apparatus for the operation or maintenance of an oil pipe-line, and electric lines (within the meaning of the [^{F19}Electricity Act 1989]) provided mainly for the purpose of supplying electricity to such apparatus;
 - (c) markers for indicating the position of an oil pipe-line or of any such apparatus or electric line as is mentioned in the last foregoing paragraph, in so far as the pipe-line, apparatus or electric line is placed below the surface of the land;

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- (d) stiles, bridges, gates or other works for affording access to an oil pipe-line.
- (3) The Ministers and purposes referred to in subsection (1) of this section are—
- (a) a Secretary of State . . . ^{F20} for defence purposes;
 - (b) the Minister of Power, for the purpose of the provision and maintenance of facilities which in his opinion are essential for the defence of the realm;
 - (c) any of the Ministers aforesaid, for the purpose of any diversion appearing to that Minister to be necessary or expedient of an oil pipe-line which—
 - (i) is vested in or under the control of that Minister; and
 - (ii) either is a government oil pipe-line within the meaning of the ^{M17}Requisitioned Land and War Works Act, 1948, or was laid under a wayleave order made by that Minister.

Textual Amendments

F19 Words substituted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 9](#), [Sch. 17 paras. 33, 35\(1\)](#)

F20 Words repealed with saving by [S.I. 1964/488](#)

Modifications etc. (not altering text)

C10 [S. 14](#) saved by [Pipe-Lines Act 1962 \(c. 58\)](#), s. 62

C11 [S. 14](#) amended by [S.I. 1989/150](#), [art. 2\(3\)\(4\)](#)

Marginal Citations

M17 [1948 c. 17](#).

15 Supplementary provisions as to wayleave orders.

- (1) Any person authorised in that behalf by the Minister by whom a wayleave order was made may, for the purpose of—
- (a) exercising any rights under the order; or
 - (b) restoring land where a pipe-line or works laid, installed or constructed under the order are removed or abandoned; or
 - (c) inspecting any land, pipe-line or works to which the order relates,
- enter upon any land of which that Minister is not in possession: and paragraphs 2 and 3 of the Fourth Schedule to this Act shall apply in relation to the powers conferred by this subsection:
- Provided that—
- (i) except in a case of emergency or for the purpose of inspection by a person producing, if required, written evidence of his authority so to do, entry upon any land shall not be demanded as of right unless not less than seven days' notice in writing of the intended entry has been served on the occupier of the land;
 - (ii) where otherwise than for the purpose of inspection only any land has been entered upon in pursuance of this subsection without notice being served as aforesaid on the occupier of the land, that Minister shall forthwith cause notice in writing of the entry to be served on the occupier.
- (2) Sections seventy-eight to eighty-five of the ^{M18}Railways Clauses Consolidation Act, 1845, as originally enacted (which restrict the working of minerals, subject to the

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payment of compensation) shall apply to any pipe-line or works laid, installed or constructed under a wayleave order as if—

- (a) any reference to the railway were a reference to the pipe-line or works in question;
- (b) any reference to the company were a reference to the Minister by whom the wayleave order was made.

(3) The Treasury may make regulations—

- (a) for the protection of persons affected by the laying, installation construction, maintenance or use under a wayleave order of pipe-lines or accessory works, and in particular for requiring the Minister by whom the order was made to keep in good repair any pipe-line or works laid, installed or constructed under the order, to take such steps as may be prescribed by the regulations for restoring land where any such pipe-line or works are removed or abandoned, and to indemnify persons against loss or damage caused by any failure to keep any such pipe-line or works in good repair, and for relieving statutory undertakers and other persons of liabilities or obligations arising in consequence of any such failure or any exercise of the rights conferred by the wayleave order;
- (b) for requiring notice to be given where a pipe-line or works laid, installed or constructed under a wayleave order are removed or abandoned.

(4) In the application of this section to Scotland, for the reference to sections seventy-eight to eighty-five of the ^{M19}Railways Clauses Consolidation Act, 1845, there shall be substituted a reference to sections seventy-one to seventy-eight of the ^{M20}Railways Clauses Consolidation (Scotland) Act, 1845.

Modifications etc. (not altering text)

C12 Ss. 15–17 amended by S.I. 1989/150, art. 2(3)(4)

Marginal Citations

M18 1845 c. 20.

M19 1845 c. 20.

M20 1845 c. 33.

16 Protection of oil pipe-lines and accessory works.

(1) ^{M21}Subject to the next following section, where, in the case of any oil pipe-line or works accessory thereto, rights are for the time being exercisable with respect thereto by a Minister under subsection (1) of section twelve of the Requisitioned Land and War Works Act, 1948, or under a wayleave order, no person shall without the consent of that Minister—

- (a) erect or construct any building or structure, or execute any works providing passage or hard standing for vehicles, persons or animals, in such a way that any part of the building, structure or works is situated within an area falling within ten feet of, or of the portion of the surface of the land lying immediately above, any part of the pipe-line or accessory works or the proposed site thereof; or
- (b) carry out any excavation, or deposit any earth, refuse, spoil or other materials, on any land within such an area as aforesaid:

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Provided that nothing in paragraph (b) of this subsection shall require the consent of that Minister to any agricultural operations other than—

- (i) operations for the storage of crops, grass or silage; and
- (ii) ploughing for purposes of drainage.

(2) If the provisions of the foregoing subsection are contravened, the Minister concerned may remove anything erected, constructed or deposited, and fill in any excavation made, in contravention of those provisions, and carry out all such other work (if any) as may appear to him to be requisite in consequence of the contravention; and for the purposes of the exercise of the powers conferred by this subsection any person authorised in that behalf by that Minister may enter upon any land upon which the occupier of the land on which the contravention was committed is entitled or permitted to enter, and paragraphs 1 and 2 of the Fourth Schedule to this Act shall apply.

(3) Any expenses incurred by a Minister under the last foregoing subsection shall be recoverable by him from the occupier of the land on which the contravention was committed:

Provided that where the occupier occupies that land—

- (a) as tenant under a lease or as licensee under a licence to occupy that land for use as agricultural land and the contravention was committed by some other person who, at the time of its commission, was an owner or lessee of that land; or
- (b) as tenant under a lease granted to the occupier and—
 - (i) the grantor has not given the occupier notice that subsection (1) of this section has taken effect as respects the land; and
 - (ii) the occupier has not been served in connection with the land with any document such as is mentioned in sub-paragraph (i) or (ii) of paragraph (b) of subsection (2), (5) or (6) of the next following section,

the expenses aforesaid shall not be recoverable from the occupier, but, except where that other person or, as the case may be, the grantor is a person in relation to whom, by virtue of the said subsection (2), (5) or (6), the said subsection (1) has not taken effect, shall be recoverable from that other person or, as the case may be, from the grantor.

In this subsection the expression “lease” includes an agreement for a lease and the expression “grantor” shall be construed accordingly.

(4) Where anything has been done in contravention of subsection (1) of this section, the Minister concerned, instead of exercising the powers conferred by subsection (2) of this section, may, if he thinks fit, direct that, during such period and subject to such conditions as may be specified in the direction, that thing shall be deemed to have been done with his consent.

^{F21}(5)

(6) Subsection (6) of the said section twelve (which restricts the erection of buildings or structures over or near certain pipe-lines or works accessory thereto) shall cease to apply to any land as from the time when subsection (1) of this section takes effect as respects that land in accordance with the next following section.

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Textual Amendments

F21 S. 16(5) repealed (1.1.1993) by *New Roads and Street Works Act 1991* (c. 22, SIF 108), s. 168(2), **Sch.9**; (E.W.) S.I. 1992/2984, art. 2(2), **Sch.2** and (S.) S.I. 1992/2990, art. 2(2), **Sch.2**.

Modifications etc. (not altering text)

C13 Ss. 15–17 amended by S.I. 1989/150, art. 2(3)(4)

Marginal Citations

M21 1845 c. 17.

[^{F22}17 Registration of wayleave orders and restrictions under s. 16.

(1) The rights conferred by a wayleave order shall not be exercisable against a purchaser for money or money's worth of a legal estate in any of the land to which the order applies unless, before the completion of the purchase, either—

- (a) the order; or
- (b) the draft order referred to in the notice served in pursuance of paragraph 2 of the Second Schedule to this Act of the proposal to make the order,

has been registered in the prescribed manner in the register of local land charges of the council of the county borough, metropolitan borough or county district in which the land which is the subject of the purchase is situated; and such a draft order as aforesaid may be so registered at any time after such a notice as aforesaid referring to it has been served:

Provided that the registration of a draft order shall not be effective for the purposes of this subsection in relation to any land to which the draft order did not apply.]

[^{F22}(1) A wayleave order shall be local land charge.

(1A) Notwithstanding subsection (1) of this section and subject to subsection (1B) of this section, where, before the commencement of the Local Land Charges Act 1975, a draft wayleave order was registered in the appropriate local land charges register there shall be no duty to register, or to apply for the registration of, any wayleave order made pursuant to the draft order, and section 10 of the said Act shall not apply in relation to any such wayleave order.

(1B) Subsection (1A) of this section shall not apply to any wayleave order so far as the order applies to land not affected by the draft wayleave order or, where the registration of the draft order was, before the commencement of the said Act of 1975, varied in consequence of the order as made differing from the draft, so far as it applies to land not shown as affected in the registered particulars of the draft order as varied.]

(2) Except in the case of land to which a wayleave order applies, subsection (1) of the last foregoing section shall not take effect—

- (a) as respects any land until notice of the restrictions imposed on that land by that subsection is registered [^{F23}in the prescribed manner in the register of local land charges of the council of the county borough, metropolitan borough or county district in which that land is situated][^{F23}in the ^{F24}... local land charges register];
- (b) in relation to any person who is an owner, lessee or occupier of that land at the time when the application for registration is made unless either—

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- (i) notice of the application or of the registration has been served on him;
or
 - (ii) the said restrictions arise from a wayleave order of which a copy was served on him under paragraph 7 of the Second Schedule to this Act.
- [^{F25}(2A) Where an application is made for the registration of a notice in the ^{F26}... local land charges register in pursuance of subsection (2) of this section, the [^{F27}Chief Land Registrar] shall register the notice accordingly.]
- [^{F28}(3) The power conferred by subsection (6) of section fifteen of the ^{M22} Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the foregoing provisions of this section; and in the said foregoing provisions the expression “ prescribed ” means prescribed by rules made in the exercise of that power.]
- [^{F28}(3) A notice registered in [^{F29}the local land charges register] in pursuance of subsection (2) of this section shall be a local land charge, but—
 - (a) section 5(2) and section 10 of the Local Land Charges Act 1975 shall not apply in relation thereto; and
 - (b) a certificate setting out the result of an official search of the ^{F30}... local land charges register shall, as respects any land, be conclusive of the question whether, at the time of the issue of the certificate, a notice registrable in pursuance of subsection (2) of this section was registered in the register.]
- (4) Any rules made under [^{F31}the said subsection (6)] [^{F31}section 14 of the Local Land Charges Act 1975] for the purposes of this section shall include provision—
 - [^{F32}(a) for cancelling the registration under this section of a draft wayleave order in a case where it is decided not to make any order;
 - (b) for varying the registration of a draft wayleave order in a case where the order as made differs from that draft:]
 - (c) for varying or cancelling any registration [^{F33}under this section] in a case where—
 - (i) the wayleave order to which it relates is varied or revoked; or
 - (ii) any restriction imposed by subsection (1) of the last foregoing section is modified or ceases to have effect.
- (5) The foregoing provisions of this section shall not apply to Scotland, but as respects land in Scotland—
 - (a) the Minister by whom a wayleave order is made shall as soon as may be record in the appropriate register of sasines the wayleave order and any order varying or revoking that order; and the rights conferred by any such order shall not be exercisable against any person acquiring any interest in any land to which the order applies unless the order has been so recorded before the completion of the acquisition;
 - (b) except in the case of land to which a wayleave order applies, the Minister with whose consent restrictions imposed on any land by subsection (1) of the last foregoing section may be disregarded shall record as aforesaid notice of those restrictions and of any modification or cesser thereof, and the said subsection (1) shall not take effect as respects that land until the said notice has been so recorded and shall not take effect in relation to any person who is an owner, lessee or occupier of that land at the time when the notice is so recorded unless either—

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- (i) such a notice has also been served on him; or
 - (ii) the restrictions arise from a wayleave order of which a copy has been served on him under paragraph 7 of the Second Schedule to this Act.
- (6) The foregoing provisions of this section shall not apply to Northern Ireland, but as respects land in Northern Ireland—
- (a) a wayleave order and restrictions imposed by subsection (1) of the last foregoing section shall be included amongst the matters which are required to be registered in the Statutory Charges Register; and accordingly the following paragraph shall be added after paragraph (m) of subsection (1) of section two of the Statutory Charges Register Act (Northern Ireland), 1951, that is to say—
 - “(n) a wayleave order made under section fourteen of the Lands Powers (Defence) Act, 1958, and restrictions imposed by subsection (1) of section sixteen of that Act”;
 - (b) except in the case of land to which a wayleave order applies, subsection (1) of the last foregoing section shall not take effect as respects any land until the restrictions imposed on that land by that subsection have been registered as aforesaid and shall not take effect in relation to any person who is an owner, lessee or occupier of that land at the time when the application for that registration is made unless either—
 - (i) there has been served on him notice either of the application or of the registration or of the giving of a priority notice in connection therewith under section four of the said Act of 1951; or
 - (ii) the said restrictions arise from a wayleave order of which a copy was served on him under paragraph 7 of the Second Schedule to this Act.

Textual Amendments

- F22** S. 17(1)(1A)(1B) substituted (with savings) (E.W.), for s.17(1) by [Local Land Charges Act 1975](#) (c. 76, SIF 98:2), ss. 17(2), 19(2)–(4), [Sch. 1](#)
- F23** Words “in the appropriate local land charges register” substituted with savings (E.W.) for words commencing “in the prescribed manner” by [Local Land Charges Act 1975](#) (c. 76, SIF 98:2), ss. 17(2), 19(2)–(4), [Sch. 1](#)
- F24** Word in s. 17(2)(a) omitted (12.4.2015) by virtue of [Infrastructure Act 2015](#) (c. 7), s. 57(5)(e), [Sch. 5 para. 26\(a\)](#) (with [Sch. 5 Pt. 4](#))
- F25** S. 17(2A) inserted (with savings) (E.W.), by [Local Land Charges Act 1975](#) (c. 76, SIF 98:2), ss. 17(2), 19(2)–(4), [Sch. 1](#)
- F26** Word in s. 17(2A) omitted (12.4.2015) by virtue of [Infrastructure Act 2015](#) (c. 7), s. 57(5)(e), [Sch. 5 para. 26\(a\)](#) (with [Sch. 5 Pt. 4](#))
- F27** Words in s. 17(2A) substituted (12.4.2015) by [Infrastructure Act 2015](#) (c. 7), s. 57(5)(e), [Sch. 5 para. 26\(b\)](#) (with [Sch. 5 Pt. 4](#))
- F28** S. 17(3) commencing “A notice registered” substituted (with savings) (E.W.) for s. 17(3) commencing “The power conferred” by [Local Land Charges Act 1975](#) (c. 76, SIF 98:2), ss. 17(2), 19(2)–(4), [Sch. 1](#)
- F29** Words in s. 17(3) substituted (12.4.2015) by [Infrastructure Act 2015](#) (c. 7), s. 57(5)(e), [Sch. 5 para. 26\(c\)](#) (with [Sch. 5 Pt. 4](#))
- F30** Word in s. 17(3)(b) omitted (12.4.2015) by virtue of [Infrastructure Act 2015](#) (c. 7), s. 57(5)(e), [Sch. 5 para. 26\(a\)](#) (with [Sch. 5 Pt. 4](#))
- F31** Words “section 14 of the Local Land Charges Act 1975” substituted (with savings) (E.W.) for words “the said subsection (6)” by [Local Land Charges Act 1975](#) (c. 76, SIF 98:2), ss. 17(2), 19(2)–(4), [Sch. 1](#)
- F32** S. 17(4)(a)(b) repealed (with savings) (E.W.), by [Local Land Charges Act 1975](#) (c. 76, SIF 98:2), ss. 17(2), 19, [Sch. 1](#), [Sch. 2](#)

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F33 Words repealed (with saving) (E.W.), by [Local Land Charges Act 1975 \(c. 76, SIF 98:2\)](#), ss. 17(2), 19, Sch. 1, [Sch. 2](#)

Modifications etc. (not altering text)

C14 Ss. 15–17 amended by [S.I. 1989/150](#), [art. 2\(3\)\(4\)](#)

Marginal Citations

M22 [1925 c. 22](#).

18 Compensation in respect of wayleave orders and restrictions under s. 16.

- (1) If by virtue of a wayleave order the value of any interest in land which comprises, or is held with, land to which the order applies is depreciated, being an interest subsisting at the time when the order was made, there shall be payable in respect of that interest by the Minister by whom the order was made compensation of an amount equal to the amount of the depreciation.
- (2) If, in the case of any land other than land which comprises, or is held with, land to which a wayleave order applies, the value of any interest in that land is depreciated in consequence of restrictions imposed by subsection (1) of section sixteen of this Act, being an interest subsisting at the time when that subsection takes effect as respects that land, there shall be payable in respect of that interest by the Minister with whose consent those restrictions may be disregarded compensation of an amount equal to the amount of the depreciation:
Provided that compensation under this subsection shall not be payable in respect of any land if compensation in respect of that land has been paid under section thirteen of the ^{M23}Requisitioned Land and War Works Act, 1948, and it is shown that the whole or part of that compensation is attributable to the provisions of subsection (6) of section twelve of that Act.
- (3) Any person who, in consequence of the exercise of the rights conferred by a wayleave order, suffers loss by reason of damage to, or is disturbed in the enjoyment of, any land or chattels shall be entitled to compensation in respect of that damage or disturbance from the Minister by whom the order was made.
- (4) The Treasury may by regulations require, as a condition of the payment of compensation under this section, that, except in such circumstances as may be prescribed by the regulations, a claim shall be made in the form and manner so prescribed, and within such period as may be determined by or under the regulations.
- (5) Any dispute as to a right to compensation under this section, or as to the amount of any such compensation, shall be determined by the [^{F34}appropriate tribunal].

Textual Amendments

F34 Words in s. 18(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 26](#) (with Sch. 5)

Modifications etc. (not altering text)

C15 S. 18 amended by [S.I. 1989/150](#), [art. 2\(3\)\(4\)](#)

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Marginal Citations

M23 1948 c. 17.

[^{F35}18A Modification of street works or road works provisions.

- (1) In relation to works in exercise of the powers under a wayleave order, or the powers conferred by section 12 of the Requisitioned Land and War Works Act 1948, the provisions of Part III or IV of the New Roads and Street Works Act 1991 (street works in England and Wales or road works in Scotland) have effect subject to the provisions of this section.
- (2) The provisions of Schedule 4 or 6 of that Act (settlement of plan and section for works in streets or roads with special engineering difficulties) have effect subject as follows—
 - (a) an objection to a plan and section in form shall be disregarded if a Minister certifies that in his opinion it would be against the national interest to submit a plan and section on a larger scale or giving further particulars;
 - (b) no modification of a plan and section shall be made which would involve an unacceptable diversion or change; and
 - (c) a plan and section shall not be disapproved on the ground that there should be such a diversion or change.
- (3) An arbitrator or arbiter appointed in pursuance of—
 - (a) paragraph 8(3) of Schedule 4 or 6 of that Act (settlement of plan and section in case of works in street or road with special engineering difficulties), or
 - (b) section 84(3) or 143(3) of that Act (settlement of necessary measures in case of apparatus affected by certain major works),
 shall not provide for an unacceptable diversion or change.
- (4) In subsections (2) and (3) above an “unacceptable diversion or change” means—
 - (a) a lateral diversion of a government oil pipe-line to which the Minister on whose behalf the works are to be executed does not consent, or
 - (b) a change of the site of accessory works which would necessitate such a diversion.]

Textual Amendments

F35 S. 18A inserted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 108\)](#), s. 168(1), [Sch. 8 Pt. IV para.100](#); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch.2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch.2](#).

[^{F36}18B Modification of street works provisions in Northern Ireland

- (1) In relation to works in Northern Ireland in exercise of the powers under a wayleave order, the provisions of the Street Works (Northern Ireland) Order 1995 have effect subject to the provisions of this section.
- (2) The provisions of Schedule 2 to that Order (settlement of plan and section for works in streets with special engineering difficulties) have effect subject as follows—

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- (a) an objection to a plan and section in form shall be disregarded if a Minister certifies that in his opinion it would be against the national interest to submit a plan and section on a larger scale or giving further particulars;
 - (b) no modification of a plan and section shall be made which would involve an unacceptable diversion or change; and
 - (c) a plan and section shall not be disapproved on the ground that there should be such a diversion or change.
- (3) An arbitrator appointed in pursuance of—
- (a) paragraph 8(2) of Schedule 2 to that Order (settlement of plan and section in case of works in street with special engineering difficulties), or
 - (b) Article 44(3) of that Order (settlement of necessary measures in case of apparatus affected by certain major works),
- shall not provide for an unacceptable diversion or change.
- (4) In subsections (2) and (3) above an “unacceptable diversion or change” means—
- (a) a lateral diversion of a government oil pipe-line to which the Minister on whose behalf the works are to be executed does not consent, or
 - (b) a change of the site of accessory works which would necessitate such a diversion.]

Textual Amendments

F36 S. 18B inserted (18.11.2001) by S.I. 1995/3210 (N.I. 19), art. 60(1), **Sch. 3 para. 1**; S.R. 2001/388, art. 2, **Sch.**

Provisions relating to Postmaster-General

19 **F37**

Textual Amendments

F37 S. 19 repealed by **Post Office Act 1969** (c. 48), **Sch. 8 Pt. II**

20 **F38**

Textual Amendments

F38 S. 20 repealed by **Telecommunications Act 1984** (c. 12, SIF 96), s. 109(6), **Sch. 7 Pt. I**

Miscellaneous and general

21 **Power to enter and survey land.**

- (1) Where by virtue of any of the provisions of this Act any duty is to be performed, or any power exercised, by a Minister, any person duly authorised in writing by that

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Minister may, at any reasonable time, enter upon any land, other than land covered by buildings, for the purpose of surveying that land in connection with, or with proposals for, the performance or exercise of that duty or power, and the provisions of the Fourth Schedule to this Act shall have effect in relation to the powers conferred by this subsection.

[^{F39}(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).]

(2) Nothing in this section shall be construed as derogating from any right of entry under any other enactment, including any enactment contained in this Act.

Textual Amendments

F39 S. 21(1A) inserted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 14 para. 4](#); [S.I. 2016/733](#), reg. 3(h) (with reg. 6)

^{F40}22 Abolition and transfer of jurisdiction of General Claims Tribunal.

.....

Textual Amendments

F40 S. 22 omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 27](#) (with Sch. 5)

23 Provisions as to service.

(1) Any document required or authorised to be served on any person under this Act or, by virtue of this Act, under any other enactment may be served either by delivering it to that person, or by leaving it at his proper address, or by post, so, however, that the document shall not be duly served by post unless it is sent by registered letter.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this section and of the application thereto of section twenty-six of the ^{M24}Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last-known address of the person to be served:

Provided that, where the person to be served has furnished an address for service, being an address in the United Kingdom, his proper address for the purposes aforesaid shall be the address furnished.

(4) Where any such document as aforesaid is to be served by a Minister upon the owner, lessee or occupier of any land and that Minister is satisfied in relation to that land that reasonable inquiry has been made and that it is not practicable to ascertain whether or not there is, or what is the name or address of, any person who is the owner, lessee

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or occupier of that land, the document shall be deemed to have been duly served on any such person on whom it has for that reason not been served in accordance with the foregoing provisions of this section if it is addressed to all or such as may be appropriate of the following, that is to say, “the owners”, “any lessee” and “any occupier” of the land (describing it), and is delivered to some responsible person on the land or, where there is no such person on the land to whom it may be delivered, if the document or a copy thereof so addressed is affixed to some conspicuous object on the land.

Modifications etc. (not altering text)

C16 S. 23(1) amended by [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1, [Sch. para. 1](#)

Marginal Citations

M24 1889 c. 63.

24 Regulations and orders.

- (1) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power to make orders conferred by any provision of this Act shall include power to vary or revoke any previous order made under that provision.

25 Interpretation —general and in relation to Scotland and Northern Ireland.

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the following meanings respectively, that is to say:—

[^{F41}“the appropriate tribunal” means—

- (a) in the application of this Act to England and Wales, the Upper Tribunal;
- (b) in the application of this Act to Scotland, the Lands Tribunal for Scotland;
- (c) in the application of this Act to Northern Ireland, the Lands Tribunal for Northern Ireland;]

“defence purposes” includes any purpose of any of Her Majesty’s naval, military or air forces, the service of any visiting force within the meaning of Part I of the ^{M25}Visiting Forces Act, 1952, and any purpose of the Minister of Supply connected with the service of any of the forces aforesaid;

“enactment” includes an enactment of the Parliament of Northern Ireland;

“land” includes land covered by water;

“manoeuvres commission” has the meaning assigned by subsection (1) of section three of this Act;

“manoeuvres Order” means an Order in Council authorising the execution of manoeuvres made under section one of the ^{M26}Military Manoeuvres Act, 1897;

“Minister” (except where the reference is to a particular Minister) means any Minister of the Crown . . . ^{F42}

“occupier” in relation to any land which is not occupied means the person for the time being entitled to possession of that land;

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“oil installations” means any works for the storage or transmission of oil (including oil pipe-lines and works accessory to oil pipe-lines) and any works for giving access to, or otherwise required in connection with, any such works;

“oil pipe-line” means any main or pipe for the transmission of oil, or for the transmission of water or any other substance in connection with the storage or transmission of oil, or any part of such a main or pipe;

“owner” in relation to any land—

(a) in the case of land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease or agreement the unexpired term of which exceeds three years;

(b) in the case of land in Scotland, includes any person who, under the Lands Clauses Acts, would be enabled to sell and convey the land to the promoters of an undertaking and a tenant of the land under a lease the unexpired term of which exceeds three years;

“wayleave order” has the meaning assigned by subsection (1) of section fourteen of this Act.

(2) In the application of this Act to Scotland—

(a) the expression “chattels” means corporeal moveables;

(b) the expression “easement” means a servitude or similar right;

[^{F43}(bb) any reference to an “interest” in land, however expressed, shall be construed as a reference to a right in, or interest in, land and as including a reference to ownership of land;]

^{F44}(c)

(3) In the application of this Act to Northern Ireland—

^{F45}(a)

(b) references to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland;

(c) any reference to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modifications.

(4) References in this Act to the maintenance of an oil pipe-line or of works accessory thereto shall be construed as including references to the replacing thereof, and the provisions of this Act shall apply to anything laid, installed or constructed by way of replacement as they previously applied to the thing replaced.

(5) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

Textual Amendments

F41 Words in s. 25(1) inserted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 28(a)** (with Sch. 5)

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- F42** Words repealed with saving by [S.I. 1964/488](#)
- F43** S. 25(2)(bb) inserted (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 21](#) (with ss. 58, 62, 75); [S.S.I. 2003/456](#), art. 2
- F44** S. 25(2)(c) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 28\(b\)](#) (with Sch. 5)
- F45** S. 25(3)(a) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 28\(c\)](#) (with Sch. 5)

Modifications etc. (not altering text)

- C17** Definition of “defence purposes” extended by [S.I. 1965/1536](#)
- C18** Functions of official arbitrator appointed under s. 1 of [Acquisition of Land \(Assessment of Compensation\) Act 1919 \(c. 57\)](#) now exercisable by Lands Tribunal for Northern Ireland (N.I.): [Lands Tribunal and Compensation Act \(Northern Ireland\) 1964 \(c. 29\)](#), [s. 6\(1\)\(c\)](#)

Marginal Citations

- M25** [1952 c. 67](#)
- M26** [1897 c. 43](#).

26 Expenses.

- (1) There shall be defrayed out of moneys provided by Parliament—
- any expenditure attributable to the provisions of this Act incurred by any Minister of Her Majesty’s Government in the United Kingdom; . . . ^{F46} and
 - any increase so attributable in the sums payable out of moneys so provided under Part I of the ^{M27}Local Government Act, 1948, or the ^{M28}Local Government (Financial Provisions) (Scotland) Act, 1954, as amended by the ^{M29}Valuation and Rating (Scotland) Act, 1956.
- (2) Any amount recovered under this Act by any such Minister as aforesaid or by the Admiralty shall be paid into the Exchequer.

Textual Amendments

- F46** Words repealed with saving by [S.I. 1964/488](#)

Marginal Citations

- M27** [1948 c. 26](#).
- M28** [1954 c. 13](#).
- M29** [1956 c. 60](#).

27 Short title and extent.

- (1) This Act may be cited as the Land Powers (Defence) Act 1958.
- (2) Sections . . . ^{F47} six and twelve of this Act . . . ^{F47} shall not extend to Northern Ireland.

Textual Amendments

- F47** Words repealed by [Manoeuvres Act 1958 \(7 & 8 Eliz. 2 c. 7\)](#), [s. 10\(2\)\(c\)](#)

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SCHEDULES

F48F48 FIRST SCHEDULE

Textual Amendments

F48 Ss. 2(1)–(4)(6), 3–5 and Sch. 1 repealed by [Manoeuvres Act 1958 \(7 & 8 Eliz. 2 c. 7\)](#), s. 10(2)(c)

F48

SECOND SCHEDULE

Sections 6, 10, 11, 13, 14, 17.

PROVISIONS WITH RESPECT TO CERTAIN ORDERS

PART I

PROCEDURE FOR MAKING CERTAIN ORDERS

- 1 The provisions of this Part of this Schedule shall have effect for the purpose of the making by any Minister of an order under section six, ten, eleven, thirteen, fourteen . . . ^{F49} of this Act.

Textual Amendments

F49 Words repealed by [Post Office Act 1969 \(c. 48\)](#), [Sch. 8 Pt. II](#)

- 2 (1) [^{F50}Before making the order the Minister shall prepare a draft thereof, describing by reference to a map the land to which the draft order applies, and serve on every owner, lessee or occupier of any of that land (except tenants for a month or any period less than a month) notice that he proposes to make the order; and]
 [^{F50}Before making the order the Minister shall—
- (a) prepare a draft order describing, by reference to a map, the land to which the draft order applies; and
 - (b) serve on every person—
 - (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any of that land;
 - (ii) to whom the Minister would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; or
 - (iii) who the Minister thinks is likely to be entitled to make a claim for compensation under section 10 of that Act if the order is confirmed

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and the compulsory purchase takes place, so far as he is known to the Minister after making diligent inquiry, notice that he proposes to make the order.]

[^{F51}(1A)] any such notice—

- (a) except where it is accompanied by a copy of the draft order, shall state the effect thereof and name a place where a copy may be inspected during reasonable hours, being a place reasonably near to and accessible from the land in question;
- (b) except where it is accompanied by a copy of the said map, shall name a place where a copy of that map may be inspected during reasonable hours, being such a place as aforesaid;
- (c) shall specify the time (not being less than twenty-one days from the service of the notice) within which, and the manner in which, objections to the order may be made.

- (2) Where a notice is required to be served under this paragraph on the owner of any land which is ecclesiastical property, a like notice shall be served on the [^{F52}Church Commissioners [^{F52}Diocesan Board of Finance for the diocese in which the land is situated]].

In this sub-paragraph the expression “ecclesiastical property” means land [^{F53}(not being land in Scotland, Northern Ireland, Wales or Monmouthshire)] belonging to any ecclesiastical benefice [^{F54}of the Church of England], or being or forming part of a church subject to the jurisdiction of a bishop of any diocese [^{F54}of the Church of England] or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

Textual Amendments

- F50** Words in Sch. 2 para. 2(1) substituted (E.W.) (24.5.2007) by [Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 3(a)** (with art. 1(3))
- F51** Words in Sch. 2 para. 2 renumbered as para. 2(1A) (E.W.) (24.5.2007) by [Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 3(b)** (with art. 1(3))
- F52** Words in Sch. 2 para. 2(2) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), **Sch. 5 para. 5(a)**; 2006 No. 2, Instrument made by Archbishops
- F53** Words in Sch. 2 para. 2(2) omitted (E.) (1.10.2006) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), **Sch. 5 para. 5(a)**; 2006 No. 2, Instrument made by Archbishops
- F54** Words in Sch. 2 para. 2(2) inserted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), **Sch. 5 para. 5(a)**; 2006 No. 2, Instrument made by Archbishops

- 3 If no objection is duly made by [^{F55}any such owner, lessee or occupier as aforesaid][^{F55}any such person as is mentioned in paragraph 2(1)(b)] or if all objections so made are withdrawn, the Minister may make the order either in the form of the draft or, subject to paragraph 6 of this Schedule, with modifications.

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Textual Amendments

F55 Words in Sch. 2 para. 3 substituted (E.W.) (24.5.2007) by [Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 3\(c\)](#) (with art. 1(3))

- 4 (1) If any objection duly made as aforesaid is not withdrawn, the Minister shall afford to the person by whom that objection was made an opportunity to appear before, and be heard by, a person appointed [^{F56}in accordance with sub-paragraph (1A)] to hold an inquiry into the proposal to make the order:
 Provided that the Minister shall not be required to afford any person an opportunity to appear and be heard as aforesaid otherwise than in private.
- [^{F57}(1A) A person to hold an inquiry for the purposes of sub-paragraph (1) is to be appointed as follows—
- (a) if the inquiry relates to land in England and Wales, the person is to be appointed by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
 - (b) if the inquiry relates to land in Scotland, the person is to be appointed by the Lord President of the Court of Session;
 - (c) if the inquiry relates to land in Northern Ireland, the person is to be appointed by the Lord Chief Justice of Northern Ireland after consulting Lord Chancellor.]
- (2) The person holding an inquiry under the foregoing sub-paragraph shall report thereon to the Minister who, after considering the report and the objection, may make the order either in the form of the draft or, subject to paragraph 6 of this Schedule, with modifications.
- (3) [^{F58}Rules of procedure shall be made by statutory instrument in accordance with sub-paragraph (3A)] for the purposes of inquiries held under this paragraph, including rules—
- (a) as to the information with respect to the Minister's reasons for proposing to make the order, the findings and recommendations of the person holding the inquiry, the Minister's decision on those findings and recommendations, and the Minister's reasons for any departure from those recommendations, to be furnished by the Minister to persons afforded such an opportunity as aforesaid as being owners, lessees or occupiers of any land;
 - (b) as to the furnishing by the Minister to the person holding the inquiry of explanations of the Minister's reasons for proposing to make the order and of evidence in support thereof.
- [^{F59}(3A) Rules under sub-paragraph (3) are to be made as follows—
- (a) if the rules are for the purposes of inquiries held in relation to land in England and Wales, they are to be made by the Lord Chancellor;
 - (b) if the rules are for the purposes of inquiries held in relation to land in Scotland, they are to be made by the Secretary of State after consultation with the Lord President of the Court of Session;
 - (c) if the rules are for the purposes of inquiries held in relation to land in Northern Ireland, they are to be made by the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland.]

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- (4) The person appointed to hold an inquiry under this paragraph shall be paid by the Minister such remuneration and allowances [^{F60}as may be determined, with the approval of the Treasury—
- (a) by the Lord Chancellor, or
 - (b) in a case where the Lord President of the Court of Session appointed the person, by the Secretary of State.]
- [^{F61}(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

Textual Amendments

- F56** Words in Sch. 2 para. 4(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 46(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F57** Sch. 2 para. 4(1A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 46(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F58** Words in Sch. 2 para. 4(3) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 46(4); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F59** Sch. 2 para. 4(3A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 46(5); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F60** Words in Sch. 2 para. 4(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 46(6); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F61** Sch. 2 para. 4(5)-(7) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 46(7); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

- 5 The Minister may require any person who has made an objection to state in writing the grounds thereof, and any such objection which the Minister is satisfied relates exclusively to matters of compensation may be disregarded for the purposes of the two last foregoing paragraphs.
- 6 The order shall not be made with any modification from the draft unless either—
- (a) every person who is an owner, lessee or occupier of any land to which the order applies which is affected by that modification, other than a tenant for a month or any period less than a month, has been served with notice of the proposal to make the modification and either has consented thereto or has not before the expiration of fourteen days from the service of the notice notified the Minister in writing that he objects thereto; or
 - (b) the modification arises from representations made at an inquiry into the proposal to make the order held under paragraph 4 of this Schedule or from the findings or recommendations of the person holding that inquiry, and every person such as is mentioned in the foregoing sub-paragraph was

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served with such a notice of that proposal as is mentioned in paragraph 2 of this Schedule and afforded an opportunity to appear and be heard at the inquiry.

7 If the order is made, the Minister shall serve on every person who is an owner, lessee or occupier of any land to which the order applies, and on any other person upon whom such a notice of the proposal to make the order as is mentioned in paragraph 2 of this Schedule was served, a copy of the order and either a copy of the map referred to in the order or a notice naming a place where that map may be inspected during reasonable hours, being a place reasonably near to and accessible from the land to which the order applies.

8 ^[F62(1)] If, where the order is made, any person aggrieved thereby, being a person required to be served with a copy of the order under the last foregoing paragraph, desires to question the validity thereof or of any provision contained therein on the ground that the making of the order or the inclusion of that provision was not authorised by this Act or on the ground that any requirement of this Act or of any rules made under subparagraph (3) of paragraph 4 of this Schedule has not been complied with in relation to the order, he may, not later than the expiration of six weeks from the date on which he is served as aforesaid, make an application to the ^[F63]appropriate court], and on any such application the court—

- (a) may by interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant or a part of any such property, until the final determination of the proceedings;
- (b) if satisfied that the making of the order or the inclusion of any provision therein was not authorised by this Act or that the interests of the applicant have been substantially prejudiced by failure to comply with any requirement of this Act or of any such rules as aforesaid in relation to the order, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant or a part of any such property.

^[F64(2)] In this paragraph “appropriate court” means—

- (a) if the order relates to land in England and Wales, the High Court in England and Wales;
- (b) if the order relates to land in Scotland, the Court of Session;
- (c) if the order relates to land in Northern Ireland, the High Court in Northern Ireland.]

Textual Amendments

- F62** Sch. 2 para. 8(1): Sch. 2 para. 8 renumbered as Sch. 2 para. 8(1) (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 47\(2\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F63** Words in Sch. 2 para. 8(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 47\(3\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F64** Sch. 2 para. 8(2) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 47\(4\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

9 Subject to the provisions of the last foregoing paragraph, the order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative as soon as it is made.

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F65 10

Textual Amendments

F65 Sch. 2 para. 10 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), Sch. 4 para. 48, [Sch. 18 Pt. 2](#); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 11(e), 30(b)

F66 11

Textual Amendments

F66 Sch. 2 para. 11 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), Sch. 4 para. 48, [Sch. 18 Pt. 2](#); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 11(e), 30(b)

PART II

ACQUISITION OF LAND, ETC., UNDER CERTAIN ORDERS

12 The provisions of this Part of this Schedule shall apply where an order is made under section thirteen . . . ^{F67} of this Act for the purpose of the acquisition of any land, or of any easement over or right restrictive of the user of any land, by the Minister of Power . . . ^{F67}

Textual Amendments

F67 Words repealed by [Post Office Act 1969 \(c. 48\)](#), [Sch. 8 Pt. II](#)

13 The following enactments, that is to say—

- (a) the ^{M30}Defence Act, 1842, except sections five, six, ^{F68} . . . twenty-three, thirty-seven, thirty-nine and forty-one;
- (b) the ^{M31}Defence Act, 1854;
- (c) the ^{M32}Defence Act, 1859;
- (d) section seven of the ^{M33}Lands Clauses Consolidation Acts Amendment Act, 1860, with the omission from the proviso thereto of the words from “authorize” to “1842, or”;
- (e) section forty-six of the ^{M34}Defence Act, 1860, and the provisions thereby applied;
- (f) section seven of the ^{M35}Militia (Lands and Buildings) Act, 1873;
- (g) the ^{M36}Defence Acts Amendment Act, 1873;
- (h) Part VII of the ^{M37}Requisitioned Land and War Works Act, 1945,

shall have effect for the purpose of the acquisition, holding, management, use and disposal in any manner of the land, easement or right to which the order applies as if references in those enactments in whatever terms to the principal officers of Her Majesty’s Ordnance or to the Secretary of State for the War Department or to the Ordnance department included references to the Minister of Power . . . ^{F69} and to his department.

Changes to legislation: Land Powers (Defence) Act 1958 is up to date with all changes known to be in force on or before 09 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

Textual Amendments

- F68** Word in [Sch. 2 para. 13\(a\)](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.XIII](#).
F69 Words repealed by [Post Office Act 1969 \(c. 48\)](#), [Sch. 8 Pt. II](#)

Modifications etc. (not altering text)

- C19** Functions of H.M. Ordnance now exercisable by Secretary of State for Defence: [Ordnance Board Transfer Act 1855 \(c. 117\)](#) and [S.I. 1964/488](#)

Marginal Citations

- M30** [1842 c. 94](#).
M31 [1854 c. 67](#).
M32 [1859 \(22 Vict.\) c. 12](#).
M33 [1860 c. 106](#).
M34 [1860 c. 112](#).
M35 [1873 c. 68](#).
M36 [1873 c. 72](#).
M37 [1945 c. 43](#).

- 14 Notice to treat for the compulsory acquisition under the enactments aforesaid of any land, easement or right to which the order applies may be served notwithstanding that the provisions of section sixteen of the ^{M38}Defence Act, 1842, with respect to the surveying and marking out of land have not been complied with, and references in the enactments aforesaid to land surveyed and marked out under that section shall be construed as including references to land described in a notice to treat for the acquisition thereof.

Marginal Citations

- M38** [1842 c. 94](#).

- 15 At any time after serving any such notice to treat as aforesaid for the acquisition of any land, easement or right which falls to be served on any owner, lessee or occupier of any land affected and after serving on every owner, lessee or occupier of that land not less than fourteen days' notice, the Minister of Power . . . ^{F70} may enter on and take possession of, or exercise any of the rights to be acquired with respect to, the land (or such part thereof as is specified in the last-mentioned notice) without previous consent or compliance with any relevant requirements of any of the enactments aforesaid, but subject to the payment of the like compensation as would have been payable if those requirements had been complied with, and, where possession is taken of the land, subject to the payment of interest on that compensation from the date of entry at the rate for the time being in force for the purposes of the following enactment, that is to say—
- (a) in the case of land in England or Wales, subsection (2) of section fifty-seven of the ^{M39}Town and Country Planning Act, 1947;
 - (b) in the case of land in Scotland, subsection (2) of section fifty-four of the ^{M40}Town and Country Planning (Scotland) Act, 1947;
 - (c) in the case of land in Northern Ireland, subsection (1) of section fourteen of the Administrative and Financial Provisions Act (Northern Ireland), 1956.

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Textual Amendments

F70 Words repealed by [Post Office Act 1969 \(c. 48\)](#), [Sch. 8 Pt. II](#)

Marginal Citations

M39 1947 c. 51.

M40 1947 c. 53.

- 16 Where any such notice to treat or of intended entry as aforesaid is required to be served on an owner of land which is ecclesiastical property as defined in paragraph 2 of this Schedule, a like notice shall be served on the [^{F71}Church Commissioners [^{F71}Diocesan Board of Finance for the diocese in which the land is situated]]; and any compensation in respect of the acquisition which, apart from this paragraph, would have been payable to the owner of the land shall be paid to the [^{F71}Church Commissioners [^{F71}Diocesan Board of Finance for the diocese in which the land is situated]] to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale.

Textual Amendments

F71 Words in Sch. 2 para. 16 substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 5\(b\)](#); 2006 No. 2, Instrument made by Archbishops

THIRD SCHEDULE

Section 8.

STOPPING UP AND DIVERSION OF HIGHWAYS IN NORTHERN IRELAND

Modifications etc. (not altering text)

C20 Functions of Ministry of Commerce for Northern Ireland now exercisable by the Department of the Environment for Northern Ireland: SR & O 1963/77, art. 2; 1965/13, art. 3; 1973/504, art. 7; [Northern Ireland Constitution Act 1973 \(c. 36\)](#), s. 40, [Sch. 5 para. 8](#) and [S.I. 1976/424](#), (N.I. 6), art. 3

- 1 [^{F72}The powers in Article 68 of the Roads (Northern Ireland) Order 1993 (stopping-up or abandonment of roads) shall also be exercisable where—]
- (a) land is, or is to be, used by a Secretary of State, . . . ^{F73} for the purposes of an installation provided or to be provided for defence purposes, or is used by a manufacturer of aircraft as an airfield wholly or mainly in connection with the manufacture of aircraft for defence purposes; and
- (b) the Ministry of Commerce for Northern Ireland is satisfied that, for the land to be so used efficiently without danger to the public, it is necessary that a highway should be stopped up or abandoned.

Textual Amendments

F72 Words in [Sch. 3 para. 1](#) substituted (17.2.1994) by [S.I. 1993/3160](#) (NI 15), art. 134(2), Sch.10.

Changes to legislation: *Land Powers (Defence) Act 1958 is up to date with all changes known to be in force on or before 09 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*

F73 Words repealed with saving by [S.I. 1964/488](#) and 1971/719

- 2 Where, in the circumstances specified in sub-paragraphs (a) and (b) of the foregoing paragraph, it appears to the Ministry of Commerce for Northern Ireland that it is not necessary that the road should be stopped up for more than a limited period, the powers conferred by [^{F74}the said Article 68] shall be exercisable so as to provide for the stopping up of the road during such period as may be prescribed by or under an order made under [^{F74}that article] and for the restoration of the road at the end of that period.

Textual Amendments

F74 Words in [Sch. 3 para. 2](#) substituted (17.2.1994) by virtue of [S.I. 1993/3160](#) (NI 15), art. 134(2), Sch.10.

- 3 Any order made in accordance with the last foregoing paragraph which provides for the provision of another road in substitution for a road stopped up by the order may also contain such provisions as appear to the Ministry of Commerce for Northern Ireland to be expedient for the stopping up, at the expiration of the period prescribed by or under the order, of that other road and for the original road to be reconstructed at the expense of such of the Ministers referred to in sub-paragraph (a) of paragraph 1 of this Schedule as may be specified in the order and thereafter maintained by any person who would for the time being have been liable for its maintenance if it had never been stopped up.
- 4 The powers conferred on the Ministry of Commerce for Northern Ireland by virtue of this Schedule shall be exercisable for the purpose of authorising in the circumstances specified in sub-paragraphs (a) and (b) of paragraph 1 of this Schedule the stopping up or abandonment of a road which is temporarily stopped up or diverted under any enactment of the Parliament of the United Kingdom or which is temporarily stopped up under an order made by virtue of paragraph 2 of this Schedule.
- 5 Where, in the circumstances specified in the said sub-paragraphs (a) and (b), it is agreed between the Ministry of Commerce for Northern Ireland and such of the Ministers referred to in the said sub-paragraph (a) as is concerned that another road ought to be provided or improved in substitution for the road to be stopped up or abandoned, the powers conferred upon the said Ministry by [^{F75}Article 110 of the Roads (Northern Ireland) Order 1993] shall be exercisable for the purpose of acquiring any land required in connection with the provision or improvement of that other road, and any expenditure incurred by any person in acquiring such land and carrying out such works as may be agreed as aforesaid to be necessary for the provision or improvement of that other road shall be defrayed by the Minister aforesaid.

Textual Amendments

F75 Words in [Sch. 3 para. 5](#) substituted (17.2.1994) by virtue of [S.I. 1993/3160](#) (NI 15), art. 134(2), Sch.10.

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FOURTH SCHEDULE

Sections 9, 10, 15, 16, 21.

SUPPLEMENTARY PROVISIONS AS TO EXERCISE OF CERTAIN POWERS

- 1 A person entering on any land in the exercise of powers in relation to which this paragraph applies shall, if so required, produce written evidence of his authority before so entering, and shall not demand admission as of right unless not less than seven days' notice in writing of the intended entry has been given to the occupier.
- 2 Any person who wilfully obstructs a person acting in the exercise of any powers in relation to which this paragraph applies shall be liable on summary conviction to a fine not exceeding [^{F76}level 1 on the standard scale].

Textual Amendments

- F76** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [parts 5, 6](#)

- 3 Any person who, in consequence of the exercise of any power in relation to which this paragraph applies, suffers loss by reason of damage to, or is disturbed in the enjoyment of, any land or chattels shall be entitled to compensation in respect of that damage or disturbance from the Minister or local authority on whose behalf the power is exercised: and any dispute as to a right to compensation under this paragraph, or as to the amount of any such compensation, shall be determined by the [^{F77}appropriate tribunal].

Textual Amendments

- F77** Words in [Sch. 4 para. 3](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [art. 1](#), [Sch. 1 para. 29](#) (with [Sch. 5](#))

- 4 Any power to survey land included in powers in relation to which this paragraph applies shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil:
Provided that, in relation to the exercise of the power to search and bore, paragraph 1 of this Schedule shall have effect as if for the reference to seven days' notice there were substituted a reference to twenty-eight days' notice.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 6(4)(b) words inserted by [2023 asc 3 Sch. 13 para. 8](#)