



# National Parks and Access to the Countryside Act 1949

1949 CHAPTER 97 12 13 and 14 Geo 6

## PART V

### ACCESS TO OPEN COUNTRY

#### Modifications etc. (not altering text)

- C1** Pt. V restricted and (in respect of ss. 64-82) amended by [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [s. 60\(5\)](#); restricted by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [s. 16\(7\)](#), amended *ibid.*, s. 16(4) Pt. V restricted (*prosp.*) by [2000 c. 37, ss. 46\(2\), 103\(3\)](#) (with s. 43)

#### 59 Provision for public access to open country.

- (1) The provisions of this Part of this Act shall have effect for enabling the public to have access for open-air recreation to open country—
- (a) to which the provisions of the next following section are applied by an agreement under this Part of this Act (hereinafter referred to as an “access agreement”) or by an order under this Part of this Act (hereinafter referred to as an “access order”),
  - (b) acquired under this Part of this Act for the purpose of giving to the public access thereto.
- (2) In this Part of this Act the expression “open country” means any area appearing to the authority with whom an access agreement is made or to the authority by whom an access order is made or by whom the area is acquired, as the case may be, to consist wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore).

*Status: Point in time view as at 01/04/2013.*

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**Modifications etc. (not altering text)**

C2 Definition of “open country” extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [s. 16\(1\)\(2\)\(6\)](#)

**60 Rights of public where access agreement, order in force.**

- (1) Subject to the following provisions of this Part of this Act, where an access agreement or order is in force as respects any land a person who enters upon land comprised in the agreement or order for the purpose of open-air recreation without breaking or damaging any wall, fence, hedge or gate, or who is on such land for that purpose after having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land:

Provided that this subsection shall not apply to land which for the time being is excepted land as hereinafter defined.

- (2) Nothing in the provisions of the last foregoing subsection shall entitle a person to enter or be on any land, or to do anything thereon, in contravention of any prohibition contained in or having effect under any enactment.
- (3) An access agreement or order may specify or provide for imposing restrictions subject to which persons may enter or be upon land by virtue of subsection (1) of this section, including in particular, but without prejudice to the generality of this subsection, restrictions excluding the land or any part thereof at particular times from the operation of the said subsection (1); and that subsection shall not apply to any person entering or being on the land in contravention of any such restriction or failing to comply therewith while he is on the land.
- (4) Without prejudice to the provisions of the last foregoing subsection, subsection (1) of this section shall have effect subject to the provisions of the Second Schedule to this Act as to the general restrictions to be observed by persons having access to land by virtue of the said subsection (1).
- (5) For the purposes of this Part of this Act, the expression “excepted land” means land which for the time being is of any of the following descriptions, that is to say—
- (a) agricultural land, other than such land which is agricultural land by reason only that it affords rough grazing for livestock;
  - (b) land comprised in a declaration for the time being in force under subsection (2) of section nineteen of this Act or that subsection as applied by section twenty-one of this Act;
  - (c) land covered by buildings or the curtilage of such land;
  - (d) land used for the purpose of a park, garden or pleasure ground, being land which was so used at the date when the relevant access agreement or order was made;
  - (e) land used for the getting of minerals by surface working (including quarrying), land used for the purposes of a railway (including a light railway) or tramway, or land used for the purposes of a golf course, racecourse or aerodrome;
  - (f) land (not falling within the foregoing paragraphs of this subsection) covered by works used for the purposes of a statutory undertaking [<sup>F1</sup>or a telecommunications code system] or the curtilage of such land;

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- (g) land as respects which development is in course of being carried out which will result in the land becoming such land as is specified in paragraph (c), (e) or (f) of this subsection;
- (h) land to which section one hundred and ninety-three of the <sup>M1</sup>Law of Property Act 1925, for the time being applies:

Provided that land which is for the time being comprised in an access agreement or order shall not become excepted land by reason of any development carried out thereon, or any change of use made thereof, if the development or change of use is one for which under [<sup>F2</sup>the <sup>M2</sup>Town and Country Planning Act 1971] planning permission is required and either that permission has not been granted or any condition subject to which it was granted has been contravened or has not been complied with.

**Textual Amendments**

- F1** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [Sch. 4 para. 28\(2\)](#)
- F2** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78, SIF 123:1\)](#), [Sch. 24 para. 2](#)

**Modifications etc. (not altering text)**

- C3** [S. 60\(5\)\(a\)](#) excluded by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [ss. 16\(5\)](#), [17\(2\)](#)

**Marginal Citations**

- M1** [1925 c. 20](#).
- M2** [1971 c. 78.\(123:1\)](#)

<sup>F3</sup>**61** .....

**Textual Amendments**

- F3** [S. 61](#) repealed (1.4.2001 for E. and 1.5.2001 for W.) by [2000 c. 37, ss. 46\(1\)\(b\), 102, Sch. 16 Pt. I](#); [S.I. 2001/114, art. 2\(2\)\(a\)\(k\)](#); [S.I. 2001/1410, art. 2\(a\)\(m\)](#)

<sup>F4</sup>**62** .....

**Textual Amendments**

- F4** [S. 62](#) repealed (1.4.2001 for E. and 1.5.2001 for W.) by [2000 c. 37, ss. 46\(1\)\(b\), 102, Sch. 16 Pt. I](#); [S.I. 2001/114, art. 2\(2\)\(a\)\(k\)](#); [S.I. 2001/1410, art. 2\(a\)\(m\)](#)

<sup>F5</sup>**63** .....

**Textual Amendments**

- F5** [S. 63](#) repealed (1.4.2001 for E. and 1.5.2001 for W.) by [2000 c. 37, ss. 46\(1\)\(b\), 102, 103\(3\), Sch. 16 Pt. I](#); [S.I. 2001/114, art. 2\(2\)\(a\)\(k\)](#); [S.I. 2001/1410, art. 2\(a\)\(m\)](#)

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**64 Access agreements.**

- (1) A local planning authority may . . . <sup>F6</sup> make an access agreement with any person having an interest in land, being open country, in the area of the authority whereby the provisions in that behalf of this Part of this Act shall apply to the land.
- (2) An access agreement may provide for the making of payments by the local planning authority of either or both of the following descriptions, that is to say in consideration of the making of the agreement and by way of contribution towards expenditure incurred by the person making the agreement in consequence thereof.
- (3) An access agreement may be made either irrevocably or subject to such provisions for revocation or variation as may be specified in the agreement.
- (4) Section two of the <sup>M3</sup>Forestry Act 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to an access agreement as it applies to such a covenant.
- <sup>F7</sup>(5) . . . . .
- (6) Where an access agreement is made with one or some, but not all, of the persons having interests in the land to which the agreement relates, the provisions of this Part of this Act shall apply as respects the interests of the persons with whom the agreement is made, and shall continue so to apply notwithstanding any change in the persons entitled thereto, but shall not, as against the person for the time being entitled to any other interest in the land, operate so as to prejudice his rights as owner of that interest, or impose any restriction on him or confer any right against him.

**Textual Amendments**

**F6** Words repealed by [Local Government Act 1974 \(c. 7, SIF 81:1\)](#), **Sch. 8**

**F7** [S. 64\(5\)](#) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, **Sch. 11 para. 21**, **Sch. 12**; S.I. 2006/2541, art. 2 (with Sch.)

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**Modifications etc. (not altering text)**

**C4** [S. 64](#) amended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), **s. 18**.

**C5** [S. 64\(5\)](#) applied (1.4.2001 for E. and 1.5.2001 for W.) by [2000 c. 37, s. 84\(1\)\(c\)](#) (with [s. 84\(4\)-\(6\)](#)); [S.I. 2001/114](#), **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

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**Marginal Citations**

**M3** [1947 c. 21](#).

**65 Access orders.**

- (1) Subject to the provisions of this section, the authority by whom an access order may be made shall be the local planning authority in whose area the land in question is situated; and an order made by such an authority shall be submitted to the Minister and shall not have effect unless confirmed by him.
- (2) An access order shall not be made as respects any land—
  - (a) if an access agreement or access agreements are in force with respect thereto which in the opinion of the authority having power to make such an order adequately secure to the public access to the land for open-air recreation;

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- (b) where such an agreement or agreements are not in force with respect to the land, unless it appears to the said authority impracticable to secure the making of such an agreement or agreements.
- (3) An access order shall contain a map, on such scale as may be prescribed by regulations made by the Minister, defining in such manner as may be so prescribed—
- (a) the land comprised in the order, and
- (b) so far as appears practicable to the authority making the order, any of the said land which, in the opinion of that authority, is at that time excepted land otherwise than by reason of being agricultural land;
- and the order shall also include such descriptive matter, if any, as may be so prescribed or as may appear to the said authority to be requisite for the purposes of the order.
- (4) The provisions in that behalf of the First Schedule to this Act shall apply to the making, confirmation, coming into operation and validity of access orders.
- (5) Before making an access order in respect of land in a National Park [<sup>F8</sup>in England], the local planning authority shall consult with [<sup>F9</sup>Natural England]; and where it appears to [<sup>F9</sup>Natural England] desirable that such an order should be made in respect of land in a National Park [<sup>F8</sup>in England], and the local planning authority have not made an order in respect thereof, [<sup>F9</sup>Natural England] may request the authority to make an order accordingly.
- [<sup>F10</sup>( 5A ) The preceding subsection shall apply in relation to National Parks in Wales, and the [<sup>F11</sup>Natural Resources Body for Wales], as it applies in relation to National Parks in England, and [<sup>F12</sup>Natural England]]
- (6) . . . . . <sup>F13</sup>

**Subordinate Legislation Made**

**P1** S. 65 : power exercised by [S.I. 1950/1066](#)

**Textual Amendments**

- F8** Words in s. 65(5) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#) , s. 130(1) , [Sch. 8 para. 1\(9\)](#) ; [S.I. 1991/685](#) , [art. 3](#)
- F9** Words in s. 65(5) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#) , s. 107 , [Sch. 11 para. 10\(h\)](#) ; [S.I. 2006/2541](#) , [art. 2 \(with Sch. \)](#)
- F10** S. 65(5A) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#) , s. 130(1) , [Sch. 8 para. 1\(9\)](#) ; [S.I. 1991/685](#) , [art. 3](#)
- F11** Words in s. 65(5A) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#) , [art. 1\(2\)](#) , [Sch. 2 para. 20](#) (with [Sch. 7](#) )
- F12** Words in s. 65(5A) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#) , s. 107 , [Sch. 11 para. 10\(h\)](#) ; [S.I. 2006/2541](#) , [art. 2 \(with Sch. \)](#)
- F13** S. 65(6) repealed by [Local Government Act 1974 \(c. 7, SIF 81:1\)](#) , [Sch. 8](#)

**Modifications etc. (not altering text)**

- C6** S. 65(3) extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#) , [s. 17\(6\)](#)
- C7** S. 65(5)(5A) applied (1.4.2001 for E. and 1.5.2001 for W.) by [2000 c. 37](#) , [s. 84\(1\)\(d\)](#) (with [s. 84\(4\)-\(6\)](#) ); [S.I. 2001/114](#) , [art. 2\(2\)\(e\)](#) ; [S.I. 2001/1410](#) , [art. 2\(g\)](#)

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## **66 Effect of access agreement or order on rights and liabilities of owners.**

- (1) A person interested in any land comprised in an access agreement or order, not being excepted land, shall not carry out any work thereon whereby the area to which the public are able to have access by virtue of the agreement or order is substantially reduced:

Provided that nothing in this subsection shall affect the doing of anything whereby any land becomes excepted land.

- (2) The operation of subsection (1) of section sixty of this Act in relation to any land shall not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in that land or adjoining land in respect of the state thereof or of things done or omitted thereon.
- (3) Any restriction arising under a covenant or otherwise as to the use of any land comprised in an access agreement or order shall have effect subject to the provisions of this Part of this Act, and any liability of a person interested in such land in respect of such a restriction shall be limited accordingly.
- (4) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across land at any time while it is comprised in an access agreement or order shall be disregarded.

## **67 Provision of means of access.**

- (1) An access agreement or order may make such provision as appears expedient for the purposes of the agreement or order for securing that sufficient means of access to the land comprised in the agreement or order will be available for the public while the land is so comprised.
- (2) Provision made by an access agreement or order by virtue of this section may be provision for any one or more of the following matters, that is to say—
- (a) the improvement or repair of any means of access to the land in existence at the time when the agreement or order is made;
  - (b) the construction of new means of access to the land;
  - (c) the imposition of restrictions on the destruction, removal, alteration or stopping-up of any means of access to the land, or the doing of any thing whereby the use of any such means of access by the public would be impeded; and
  - (d) the maintenance of any such means of access to the land as are mentioned in paragraphs (a) and (b) of this subsection.
- (3) No provision made by an access order by virtue of this section shall—
- (a) apply to land which is for the time being excepted land, or authorise or require any thing to be done in relation to such land or any means of access thereto;
  - (b) affect the doing of any thing whereby any land becomes excepted land; or
  - (c) require, or authorise any person to require, any work to be carried out at the expense of any person interested in the land except as hereafter in this section expressly provided.
- (4) Where it appears to the local planning authority in whose area the land is situated that any work is required for giving effect to any such provision of an access agreement

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or order as is specified in paragraphs (a), (b) and (d) of subsection (2) of this section, the authority may agree with the owner and occupier of the land as to the carrying out of the work, and where it is agreed that it shall be carried out otherwise than by the authority may defray the cost of the carrying out thereof, or may contribute such part of that cost as may be specified in the agreement.

- (5) If, in a case falling within the last foregoing subsection—
- (a) the local planning authority are unable to make an agreement, or
  - (b) the owner or occupier fails to carry out within a reasonable period any work which he has agreed to carry out,

the local planning authority, after giving to the owner and the occupier not less than fourteen days' notice of their intention so to do, may take all necessary steps for carrying out the work; and where, in a case to which paragraph (b) of this subsection applies, the agreement provided that the authority should contribute part of the cost of carrying out the work, the authority may recover the amount of any expenses reasonably incurred by them in carrying out the work, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the work would fall to be borne.

- (6) In this section the expression “means of access,” in relation to land, means any opening in a wall, fence or hedge bounding the land or any part thereof, with or without a gate, stile or other works for regulating passage through the opening, any stairs or steps for enabling persons to enter on the land or any part thereof, or any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary thereof.

**Modifications etc. (not altering text)**

C8 S. 67 amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

**68 Power of local planning authority to enforce access.**

- (1) If any person contravenes the provisions of subsection (1) of the last but one foregoing section, or any such restriction as is specified in paragraph (c) of subsection (2) of the last foregoing section, the local planning authority whose area comprises the land in respect of which the contravention occurred may serve on that person a notice requiring him, within such period as may be specified in the notice, to carry out such work so specified as may appear to the authority to be requisite for remedying the contravention, being work for restoring or re-opening any means of access to the land or for providing new means of access thereto.
- (2) If within the period specified in a notice under the last foregoing subsection the person on whom the notice is served fails to comply therewith, the local planning authority may take all necessary steps for carrying out the work specified in the notice and may recover from that person any expenses reasonably incurred by them in carrying it out.
- (3) Any person on whom a notice is served under subsection (1) of this section may, at any time within the period specified in the notice for carrying out the work so specified, complain to a court of summary jurisdiction for the <sup>F14</sup>petty sessions area] or place within which the land to which the notice relates is situated—
  - (a) that the period specified as aforesaid is too short;

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- (b) that the work specified in the notice, or some of that work, is not requisite for remedying the contravention;
  - (c) that he has not contravened the provisions or restriction in question; or
  - (d) that the work specified in the notice, or so much of the work as is requisite for remedying the contravention, has been carried out.
- (4) Any summons issued on a complaint under the last foregoing subsection shall be served on the local planning authority.
- (5) On any such complaint the court, if satisfied of the grounds of the complaint, may—
- (a) extend the period within which the work was required to be carried out by the notice, or
  - (b) quash the notice as respects the whole or any part of the work specified therein, as the nature of the complaint may require; but if not so satisfied shall dismiss the complaint.
- (6) The Summary Jurisdiction Acts shall apply to the proceedings on any complaint under this section; and any person aggrieved by the decision of the court on any such complaint may appeal to <sup>F15</sup>the Crown Court].
- (7) Where a complaint is made to the court under this section, the time between the making of the complaint and the determination thereof, and of any appeal from that determination, shall be disregarded in determining the period within which, in accordance with the notice, the work specified therein is to be carried out.

#### Textual Amendments

**F14** Words in s. 68(3) substituted (27.9.1999) by 1999 c. 22, ss. 76(2), 108(3)(c), **Sch. 10 para. 19** (with **Sch. 14 para. 7(2)**)

**F15** Words substituted by virtue of **Courts Act 1971 (c. 23, SIF 37)**, s. 56(2) **Sch. 9 Pt. I**

#### Modifications etc. (not altering text)

**C9** S. 68 amended by **Local Government Act 1972 (c. 70, SIF 81:1)**, **Sch. 17 para. 37**

### <sup>F16</sup>69 Suspension of public access to avoid exceptional risk of fire.

[ If, upon application made to the county planning authority by any person interested <sup>F17</sup>(1) in land comprised in an access agreement or order, or by any other person appearing to that authority to have a sufficient interest in the matter, the authority are satisfied that, by reason of any exceptional conditions of weather for the time being prevailing, access by the public to the land or any part of it is likely to result in fires occurring on it, the authority may direct that subsection (1) of section 60 of this Act shall not have effect in relation to the land during such period as may be specified in the direction.]

<sup>F18</sup>(2) The reference in subsection (1) of this section to the county planning authority is to be read, in relation to Wales, as a reference to the local planning authority.]

#### Textual Amendments

**F16** S. 69 substituted by **Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1,2)** s. 1(3) Sch. 3 para. 7



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**F17** S. 69(1) renumbered (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 15(2)** (with ss. 54(5)(7), 55(5) Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

**F18** S. 69(2) added (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 15(2)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 22(2)); S.I. 1996/396, art. 3, **Sch. 1**

**Modifications etc. (not altering text)**

**C10** S. 69: functions transferred (19.9.1995) by 1995 c. 25, **ss. 68(2)(a)(8)**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

## 70 Compensation for access orders.

Where the value of the interest of any person in land is depreciated in consequence of the coming into operation of an access order, then subject to the following provisions of this Part of this Act the local planning authority in whose area the land comprised in the order is situated shall pay to that person compensation equal to the amount of the depreciation:

Provided that nothing in this section shall confer on a person a right to compensation for depreciation of an interest in land, being land which is not comprised in the order or if so comprised is excepted land, except if and in so far as either—

- (a) it is held with land comprised in the order which is not excepted land, or
- (b) the omission of any other person to exclude the public from the land comprised in the order or any part thereof would have been actionable at the suit of the first-mentioned person if the access order had not come into operation.

**Modifications etc. (not altering text)**

**C11** S. 70 amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **Sch. 17 para. 37**.

## 71 Compensation to be assessed with regard to effect of first five years of access.

- (1) For the purpose of enabling compensation under the last foregoing section to be assessed in the light of experience gained of the actual effect on land of the coming into operation of access orders, any such compensation shall not, save as hereinafter provided, be claimed or payable before the expiration of a period of five years from the coming into operation of the order giving rise to the compensation (in this and the next following section referred to as “the relevant order”).
- (2) Nothing in the last foregoing subsection shall be construed as requiring such compensation to be assessed as at a date later than the date of the coming into operation of the relevant order; but in calculating the compensation it shall be assumed that, on a sale at that date of the interest in respect of which the compensation is claimed, the purchaser would have had knowledge—
  - (a) of the actual effect during the said period, on the land in which the said interest subsists and the use of that land, of the coming into operation of the relevant order;
  - (b) of the fact and date of any revocation or variation during that period of the relevant order;
  - (c) of the fact and date of any changes during that period, as respects land comprised in the relevant order, from or to excepted land.

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- (3) If during the said period of five years the relevant order is revoked, or varied so as to exclude from the operation thereof any land not being excepted land, the foregoing provisions of this section shall thereupon have effect, so far as concerns any claim for compensation in respect of the operation of the relevant order as respects the said land, as if for any reference to the said period of five years there were substituted a reference to the period beginning with the coming into operation of the relevant order and ending with the said revocation or variation.
- (4) Where at different times within a period of five years two or more parcels of land become comprised in access orders, and any person has an interest in each of those parcels, then, with the consent of every person having an interest in each of the parcels other than the one first so comprised, the foregoing provisions of this section shall apply in relation to each of the last mentioned parcels with the substitution for any reference to the period of five years from the coming into operation of the order by virtue of which that parcel became so comprised as aforesaid of a reference to a period of five years from the coming into operation of the order by virtue of which the first of the parcels became so comprised.

## **72 Claims for compensation and interest.**

- (1) Any person claiming to be entitled to an interest in land in respect of the depreciation of which compensation will become payable under the last but one foregoing section may apply to the local planning authority by whom the compensation will be payable to record his claim; and where an application is duly made under this subsection the authority shall record the claim accordingly in such manner as may be prescribed by regulations made by the Minister.
- (2) An application under the last foregoing subsection shall be made in such manner and within such period (not being less than three months) after the date when the relevant order came into operation as may be prescribed by regulations made by the Minister, and shall be accompanied by such particulars of the interest in land in respect of which it is made as may be so prescribed:

Provided that nothing in this subsection shall authorise the imposition of any requirement that an applicant under subsection (1) of this section shall state the amount of the compensation.

- (3) Within such period as may be prescribed by regulations made by the Minister (not being less than three months) after the end of the period after which under the last foregoing section compensation may be claimed, any person who has applied under subsection (1) of this section for the recording of a claim to compensation, or any person claiming under him in respect of that compensation, may apply to the local planning authority, in such manner as may be so prescribed, for the payment of the compensation.
- (4) An application under the last foregoing subsection shall state the amount of compensation claimed by the applicant; and regulations of the Minister made for the purposes of this subsection may require the application to be accompanied by such evidence of the title of the applicant to the compensation as may be prescribed by the regulations.
- (5) Any compensation payable under the last but one foregoing section shall become due when, on an application for the payment thereof duly made under subsection (3) of this section, the amount of the compensation has been agreed or, in default of agreement,

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has been determined in manner hereinafter provided; and any such compensation shall be payable with interest, at such rate as may be so prescribed as aforesaid, from the date on which the relevant order came into operation to the date at which the compensation is paid.

### **73 Payments on account in cases of special hardship.**

- (1) At any time during the period after which, under the last but one foregoing section, compensation may be claimed in respect of the coming into operation of an order, a person claiming to be entitled to such compensation may apply to the local planning authority for a payment on account of the compensation on the ground of special circumstances . . . <sup>F19</sup>; and if the authority are satisfied that such circumstances exist they shall make to him a payment on account of the compensation of such amount as they may determine.
- (2) Any person aggrieved by the refusal of a local planning authority to make a payment on account under the last foregoing subsection, or by their determination thereunder of the amount of the payment to be made to him, may appeal to the Minister; and the Minister, after affording to the said person and to the authority an opportunity of being heard by a person appointed by the Minister for the purpose, may either confirm the decision of the authority or direct that they shall make a payment on account of such amount as appears to the Minister to be just.

#### **Textual Amendments**

**F19** Words repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

### **74 Application to waterways in National Parks.**

The foregoing provisions of this Part of this Act shall apply to waterways in a National Park as those provisions apply to open country.

### **75 Exercise of powers under s. 13 as respects open country and waterways comprised in access orders.**

- (1) An access order, whether made in respect of open country or in respect of a waterway, may specify work to be carried out (either at one time or from time to time) on land comprised in the order in the exercise of the powers conferred by section thirteen of this Act.
- (2) An authority proposing, in the exercise of the said powers, to carry out any work on land comprised in an access order, whether the work is specified in the order or not, shall give to the owner and occupier of the land not less than fourteen days' notice of their intention so to do, specifying the work to be carried out.
- (3) Where the work specified in a notice given under the last foregoing subsection is not work specified in the access order, then if before the expiration of the notice the owner or occupier of the land serves notice of objection on the authority, the authority shall not carry out the work except in accordance with the provisions of the two next following subsections.

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- (4) An authority on whom notice of objection has been served under the last foregoing subsection shall afford to the objector an opportunity of being heard by a person appointed by them for the purpose and shall then determine either—
- (a) not to carry out the work to which the objection relates, or
  - (b) to carry out the work, either as originally proposed or with such modifications as the authority may determine,

and shall serve notice of their determination on the objector; and where the authority determine as mentioned in paragraph (b) of this subsection, they may proceed with the work in accordance with the determination at any time after the expiration of fourteen days from the date on which notice of the determination is served on the objector:

Provided that if the objector serves notice of appeal under the next following subsection the authority shall not proceed with the work except in accordance with the provisions of that subsection.

- (5) Any person aggrieved by a determination of an authority under the last foregoing subsection may within the period of fourteen days therein mentioned serve notice of appeal against the determination on the Minister and on the authority; and where notice of appeal is served under this subsection the Minister, after affording to the appellant and to the authority an opportunity of being heard by a person appointed by him for the purpose, shall either direct that the authority shall be at liberty to carry out the work (whether as specified in the notice given under subsection (2) of this section or subject to such modifications or conditions as the Minister may think fit) or shall direct the authority not to carry out the work.
- (6) Any power conferred by paragraph (b) of subsection (4) of this section or by the last foregoing subsection to modify the work specified in a notice given under subsection (2) of this section shall not be exercised so as to affect land not affected by the notice.

**Modifications etc. (not altering text)**

**C12** S. 75 amended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), s. 12(6)

**76 Acquisition by local authorities of land for public access.**

- (1) Where it appears to a local planning authority, as respects any open country in their area, other than excepted land,—
- (a) that it is requisite that the public should have access thereto for open-air recreation; and
  - (b) that in the circumstances it is expedient that such access thereto should be secured by the acquisition of the land by the local planning authority,
- the authority may acquire the land compulsorily.

In this subsection the expression “excepted land” includes, in relation to any compulsory purchase, land such that if an access agreement or order had been made at the time when the compulsory purchase order was confirmed the land would by virtue of paragraph (d) of subsection (5) of section sixty of this Act have been excepted land for the purposes of the access agreement or order.

- (2) Where, in connection with the acquisition of any land under the last foregoing subsection it appears to the local planning authority that the proper exercise of

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their functions under this section will be substantially prejudiced unless other land surrounded by the first-mentioned land, or contiguous or adjacent thereto, is acquired therewith, the powers conferred by the last foregoing subsection shall extend to the acquisition of that other land.

- (3) A local planning authority may carry out on land acquired by them for the purposes of this section, and for the time being held by them for those purposes, such work as they may consider requisite for providing convenient means of access to the land or otherwise for the said purposes.
- (4) While land acquired by a local planning authority under this section is held by them for the purposes thereof, it shall be the duty of the authority so to manage the land as to give to the public access for open-air recreation to so much thereof as appears to the authority to be practicable, having regard to the nature of the different parts of the land, to anything done thereon which may result in danger to the public or to persons employed thereon unless public access to the land or to adjoining land is restricted, and to all other relevant circumstances.

## 77 Acquisition by Ministers of land for public access.

- (1) Where it appears to the Minister, as respects any open country in a National Park, not being excepted Land,—
  - (a) that it is requisite that the public should have access thereto for open-air recreation; and
  - (b) that in the circumstances it is expedient that such access thereto should be secured by the acquisition of the land by him,

the Minister may, with the consent of the Treasury, acquire the land by agreement, whether by way of purchase, lease or exchange, or acquire the land compulsorily.

In this subsection the expression “excepted land” includes, in relation to any compulsory purchase, land such that if an access agreement or order had been made at the time when the compulsory purchase order was confirmed the land would by virtue of paragraph (d) of subsection (5) of section sixty of this Act have been excepted land for the purposes of the access agreement or order.

- (2) Subsection (2) of the last foregoing section shall apply, in relation to the acquisition of land under the last foregoing subsection, but with the substitution for references to the local planning authority of references to the Minister.
- (3) The provisions of subsections (2) to (4) of section fourteen of this Act shall apply to land acquired by the Minister under this section, with the substitution, for the reference in the said subsection (2) to the accomplishment of the purposes therein mentioned, of a reference to the securing of public access for open-air recreation to so much of the land as appears to the Minister to be practicable, having regard to the matters mentioned in subsection (4) of the last foregoing section.
- (4) .....<sup>F20</sup>
- (5) [<sup>F21</sup>The Secretary of State], may carry out on land acquired by him for the purposes of this section, and for the time being held by him for those purposes, such work as he may consider requisite for providing convenient means of access to the land or otherwise for the said purposes, or may arrange for any such work to be carried out by persons to whom the land is transferred.

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**Textual Amendments**

- F20** S. 77(4) repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#), **Sch. 34 Pt. XIII**
- F21** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#), **Sch. 23 para. 2(2)**

**78 Maps of land subject to public access.**

- (1) A local planning authority whose area comprises any land—
  - (a) which is subject to an access agreement or order, or
  - (b) has been acquired under either of the two last foregoing sections and is for the time being held for the purpose for which it was acquired,
 shall prepare and keep up to date a map, on such scale as may be prescribed by regulations made by the Minister, defining in such manner as may be so prescribed—
  - (i) the land subject to the agreement or order or the land acquired and held as aforesaid, as the case may be;
  - (ii) in the case of land subject to such an agreement or order, any land comprised therein which, in the opinion of the authority, is for the time being excepted land, otherwise than by reason of being agricultural land, and which in their opinion it is practicable to define on the map;
  - (iii) in the case of land acquired and held as aforesaid, any land comprised therein from which, for the purpose of avoiding danger to the public or to persons employed thereon, or because it is excepted land, or for any other reason, the public are excluded, and which in their opinion it is practicable so to define.
- (2) An authority who are required by the last foregoing subsection to prepare and keep up to date any map shall, so long as they are required so to do, have copies of the map available for inspection by the public at such places as the authority may determine; and the authority may, if they think fit, display, at places where the public obtain access to the land to which the map relates—
  - (a) reproductions of the map on an appropriate scale,
  - (b) notices specifying any restrictions on access to the land or any part thereof, whether the restrictions have effect by virtue of any of the provisions of this Part of this Act or otherwise.

**Modifications etc. (not altering text)**

- C13** S. 78 extended by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), **s. 17(6)**

**79** ..... **F22**

**Textual Amendments**

- F22** S. 79 repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1,2\)](#), **Sch. 34 Pt. III**

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## 80 Provisions as to danger areas.

- (1) The authority making an access agreement or order shall so delimit the land to which the agreement or order applies as to exclude all land which, by reason of anything done on other land contiguous or adjacent thereto, it appears to the authority expedient to exclude for the purpose of avoiding danger to the public or to persons employed on any of the said land.
- (2) Where, while an access agreement or order is in force, the authority by whom the agreement or order was made are satisfied, as respects any land to which the agreement or order applies, that by reason of anything done or proposed to be done on that land or on other land contiguous or adjacent thereto it is expedient for the purpose aforesaid that the first-mentioned land should be excluded from the operation of the agreement or order, the authority shall vary the agreement or order so as to exclude that land.
- (3) The fact that an access agreement is expressed to be irrevocable shall not prevent its variation in pursuance of the last foregoing subsection; and where the concurrence of any party to an access agreement other than the said authority, or of the successor in title to his interest, cannot be obtained to the variation of the agreement in pursuance of that subsection, the said authority may by order . . . <sup>F23</sup> vary the agreement.
- (4) A local planning authority shall have power, as respects any land to which paragraph (a) of subsection (1) of section seventy-eight of this Act applies, or as respects land held by the authority to which paragraph (b) of that subsection applies, to take such steps and carry out such work (including the erection and maintenance of fences or notices) as appear to them requisite for protecting the public from any source of danger on the land or on adjoining land.
- (5) Without prejudice to the generality of the provisions of subsection (2) of section sixty-six of this Act, the application of section sixty thereof to any land shall not, in relation to any factory, magazine, store or premises already established, constitute the land an open place of resort for the public, or a public place, for the purposes of the <sup>M4</sup>Explosives Acts 1875 <sup>M5</sup> and 1923, or any order made or licence granted thereunder.
- (6) Notwithstanding anything in the said subsection (2) of section sixty-six of this Act, the application of the said section sixty to any land shall, in relation to any factory, magazine, store or premises subsequently established, constitute the land such a place as aforesaid for the purposes of the said Acts or any such order or licence.

### Textual Amendments

**F23** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF, 81:1, 2\)](#), [Sch. 34 Pt. III](#)

### Marginal Citations

**M4** 1875 c. 17.

**M5** 1923 c. 17.

## 81 Boundary notices.

A local planning authority shall have power to erect and maintain notices indicating the boundaries of land comprised in an access agreement or order and of excepted land.

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**Modifications etc. (not altering text)**

**C14** S. 81 amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

**82 Power of local planning authority to contribute to work carried out by other persons.**

A local planning authority shall have power, as respects any land in their area which is subject to an access agreement or order, to defray or contribute towards, or to undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person interested therein in taking such steps or carrying out such work as is mentioned in subsection (4) of the last but one foregoing section, or in erecting and maintaining such notices as are mentioned in the last foregoing section.

**Modifications etc. (not altering text)**

**C15** S. 82 amended by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 37](#)

**83 Repeal of 2 & 3 Geo. 6. c. 30.**

The Access to Mountains Act, 1939, is hereby repealed.

**Modifications etc. (not altering text)**

**C16** The text of s. 83 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.



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