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## STATUTORY INSTRUMENTS

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# 1994 No. 426

## The Airports (Northern Ireland) Order 1994

### PART II

#### POWERS IN RELATION TO LAND EXERCISABLE IN CONNECTION WITH AIRPORTS

##### *Compulsory acquisition*

##### **Power to acquire land compulsorily**

**3.—**(1) This Article applies to any regulated airport, other than a regulated airport managed by a district council under Article 17.

(2) The airport operator of an airport to which this Article applies may for any purpose connected with the safe and efficient performance of his functions as such acquire land compulsorily.

(3) The power of an airport operator to acquire land compulsorily under this Article may be exercised for the purpose of providing or improving any road which is to be provided or improved in pursuance of an order under Article 10 or for any other purpose for which land is required in connection with such an order.

(4) The power of an airport operator to acquire land compulsorily under this Article includes power to acquire, by the creation of a new right, an easement or other right over land.

(5) Where an airport operator proposes to acquire land compulsorily under this Article, the operator may apply to the Department for an order (“a vesting order”) vesting that land in the operator and the Department shall have power to make a vesting order.

(6) Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F1</sup> shall apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the airport operator;
  - (b) for any reference to the Department concerned there shall be substituted a reference to the Department;
  - (c) for any reference to that Act there shall be substituted a reference to this Order;
  - (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted “funds of the airport operator (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by the airport operator”; and
  - (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “such person as may be designated for the purposes of this Schedule by the airport operator”.
- (7) The power to make a vesting order under this Article in respect of land—
- (a) which is the property of any public body which has power under any statutory provision to acquire land compulsorily; or

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(b) which is declared by or under any statutory provision to be inalienable, shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

(8) In paragraph (7) “public body” means a body established by or under any statutory provision.

**F1** 1972 c.9 (NI)

### **Power of entry in connection with compulsory acquisition of land**

4.—(1) Where an airport operator proposes to make an application to the Department for a vesting order under Article 3 in respect of any land, a person authorised in writing by the operator may, at any reasonable time, enter the land in order to make a survey for the purpose of determining whether the application should be made.

(2) A person authorised to enter any land under this Article shall not demand to do so as of right unless—

- (a) 14 days notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(3) Any person who intentionally obstructs a person acting in the exercise of a power conferred by this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Disposal of compulsorily acquired land**

5.—(1) This Article applies to the disposal of any land—

- (a) which was acquired compulsorily by the airport operator of any airport to which Article 3 applies or any predecessor in title of his under Article 3 or any other statutory provision; and
- (b) which, at the time of the disposal, forms part of an airport or is attached to an airport and administered with it as a single unit or has, at any time since the date of its acquisition, formed part of an airport or been so attached and administered.

(2) An airport operator shall not dispose of any land to which this Article applies, or any estate in such land, within the period of 25 years beginning with the date of its acquisition as mentioned in paragraph (1), unless—

- (a) the disposal is for the purposes of the provision of any of the services and facilities associated with the operation of an airport; or
- (b) the disposal is of a leasehold interest in the land for a term of less than 7 years; or
- (c) the Department consents to the disposal.

(3) Any consent of the Department under this Article may be given subject to such conditions as it thinks fit.

### **Protection of land from compulsory acquisition**

6. Where—

- (a) an application for a vesting order is made by a person with power to acquire land compulsorily (other than an airport operator) in respect of land which includes land belonging to the airport operator of an airport to which Article 3 applies and used for any purpose connected with the performance of his functions as such; and

- (b) that airport operator has made a representation to the Department concerned before the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F2</sup>, the Department concerned shall not make the vesting order unless the Department has certified—
- (i) that the land can be purchased and not replaced without serious detriment to the performance of those functions; or
  - (ii) that, if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the airport operator without serious detriment to the performance of those functions.

**F2** 1972 c.9 (NI)

### *Other powers*

#### **Power to obtain rights over land**

7.—(1) This Article applies to—

- (a) any regulated airport;
- (b) any airport (other than a regulated airport) which is managed by a district council under Article 17; and
- (c) any airport managed by the CAA or a subsidiary of the CAA.

(2) The Department may make an order under this Article if, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that it is reasonably necessary to do so in order to secure the safe and efficient operation of the airport or to secure the provision of any services required in relation to the airport.

(3) An order under this Article may provide for the creation in favour of the airport operator of easements over land or of other rights in or in relation to land, including rights to carry out and maintain works on any land and to install and maintain structures and apparatus on, under, over or across any land.

(4) Any such order may contain such provisions as appear to the Department to be necessary or expedient for the purposes of the order, including, in particular, provisions for authorising persons to enter any land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.

(5) Subject to paragraph (6), a person authorised to enter any land by an order under this Article shall not demand to do so as of right unless—

- (a) 14 days notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(6) Nothing in paragraph (5) shall restrict the right of an airport operator to enter any land in a case of an emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works, structures or apparatus.

(7) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed to, any land in pursuance of an order under this Article.

(8) Schedule 1 shall have effect with respect to an order under this Article.

(9) An order under this Article shall be included among the matters which are required to be registered in the Statutory Charges Register.

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(10) Any person who, at any time when an order under this Article is in force in respect of an airport, intentionally and without the consent of the airport operator interferes with—

- (a) any works carried out on any land in pursuance of the order; or
- (b) anything installed on, under, over or across any land in pursuance of the order,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

(11) Any person who intentionally obstructs a person in the exercise of any power of entry conferred by an order under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Power to exercise control over land**

8.—(1) This Article applies to any licensed airport.

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that it is reasonably necessary to do so in order to secure the safe and efficient operation of the airport, the Department may by order declare that any area of land specified in the order shall be subject to control by directions given in accordance with the provisions of this Article.

(3) Where an order under this Article is in force in relation to any area of land, the Department may, in pursuance of any general or special authority given by the order, give directions—

- (a) for prohibiting the erection within the area, except with the consent of the Department given either generally or subject to conditions, of any buildings or structures or of buildings or structures of such descriptions as may be specified in the directions;
- (b) for requiring the total or partial demolition of any building or structure within the area;
- (c) for restricting the height of trees on any land within the area, or for requiring any tree on any such land to be cut down or reduced in height;
- (d) for extinguishing any private right of way over land within the area;
- (e) for restricting the installation of cables, mains, sewers, pipes, wires or other apparatus on, under, over or across any land within the area;
- (f) for extinguishing, at the expiration of such period as may be determined by the directions, any subsisting right of installing or maintaining any such apparatus on, under, over or across any land within the area;
- (g) for requiring that, before the expiration of such period as may be determined by the directions, any such apparatus shall be removed from any land within the area.

(4) An order under this Article may contain such provisions as appear to the Department to be necessary or expedient for the purposes of the order, including, in particular—

- (a) provisions for appeal by any person aggrieved by a decision of the Department to refuse its consent under paragraph (3)(a) or to grant its consent subject to conditions;
- (b) provisions for empowering any person authorised in that behalf by the Department to remove, pull down, cut down, or alter so as to bring into conformity with the requirements of any directions given under the order, any building, structure, tree or apparatus which contravenes those requirements.

(5) Schedule 1 shall have effect with respect to an order under this Article.

(6) Schedule 2 shall have effect with respect to any direction given under an order made under this Article.

(7) An order under this Article shall be included among the matters which are required to be registered in the Statutory Charges Register.

## **Power to indicate presence of obstructions near airports**

**9.—(1)** This Article applies to any licensed airport.

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied, with respect to any building, structure or erection in the vicinity of the airport, that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, the Department may by order authorise the airport operator—

- (a) to execute, install, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and
- (b) so far as may be necessary for exercising any of the powers conferred by the order to enter and pass over (with or without vehicles) any such land as may be specified in the order.

(3) Subject to paragraph (4), a person authorised to enter any land by an order under this Article shall not demand to do so as of right unless—

- (a) 14 days notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(4) Nothing in paragraph (3) shall restrict the right of an airport operator to enter any land in a case of an emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works or apparatus.

(5) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed to, any land in pursuance of an order under this Article.

(6) Schedule 1 shall have effect with respect to an order under this Article.

(7) Subject to paragraph (8), any person who, at any time when an order under this Article is in force in respect of an airport, intentionally and without the consent of the airport operator, interferes with any works or things executed, placed on or affixed on, under or over any land in pursuance of the order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

(8) Nothing in paragraph (7) applies to the doing of any work for the purpose of repairing, altering, demolishing or removing a building, structure or erection where—

- (a) notice of the doing of that work is given as soon as may be to the airport operator; and
- (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this Article in force in relation thereto is not interrupted.

(9) Any person who intentionally obstructs a person in the exercise of any of the powers conferred by an order under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **Power to stop up and divert roads**

**10.—(1)** This Article applies to—

- (a) any regulated airport;
- (b) any airport (other than a regulated airport) which is managed by a district council under Article 17; and
- (c) any airport managed by the CAA or a subsidiary of the CAA.

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(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that it is reasonably necessary to do so in order to secure the safe and efficient operation of the airport, the Department may by order stop up or divert any road.

(3) An order under this Article may provide for all or any of the following matters, that is to say—

- (a) the provision or improvement of any road so far as the Department thinks such provision or improvement necessary or desirable in consequence of the stopping up or diversion of a road under the order;
- (b) for directing that any road to be provided or improved in consequence of the stopping up or diversion of a trunk road under the order shall itself be a trunk road for all or any of the purposes of the statutory provisions relating to trunk roads;
- (c) for the retention or removal of any cables, mains, sewers, pipes, wires or other apparatus placed under, in, on, over, along or across any road stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;
- (d) if any road is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as is mentioned in sub-paragraph (c) under, in, on, over, along or across that road, in lieu of any apparatus removed from a road in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;
- (e) for requiring the Department, the airport operator or any other specified authority or person—
  - (i) to carry out any work provided for by the order; or
  - (ii) to pay, or to make contributions in respect of, the cost of doing any such work or any increased expenditure to be incurred which is attributable to the doing of any such work.

(4) Schedule 1 shall have effect with respect to an order under this Article.

(5) The powers of the Department under this Article shall include power to make an order to stop up or divert any road which is temporarily stopped up or diverted under any other statutory provision, and the provisions of this Article shall not prejudice any power conferred on the Department by any other statutory provision to stop up or divert a road.

(6) In this Article “road” has the meaning assigned to it by Article 2(2) of the Roads (Northern Ireland) Order 1993<sup>F3</sup>.

**F3** 1993 NI 15

### **Power to control traffic in interests of safety of aircraft**

**11.—**(1) This Article applies to any licensed airport.

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that in the interests of the safety of aircraft using the airport the traffic on a road should be regulated or restricted, the Department may by order—

- (a) provide for the regulation, whether by means of signals, barriers or otherwise, of traffic on that road; or
- (b) restrict the use of that road by vehicles of such classes or descriptions as may be specified in the order.

(3) An order under this Article may provide that a constable appointed under Article 19 shall have the like powers, privileges and duties in relation to the road specified in the order as he has in relation to the airport for which he was appointed.

(4) Schedule 1 shall have effect with respect to an order under this Article.

(5) Any person who contravenes, or uses a vehicle or causes or permits a vehicle to be used in contravention of, an order made under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) In this Article “road” has the meaning assigned to it by Article 2(2) of the Road Traffic (Northern Ireland) Order 1981<sup>F4</sup>.

F4 1981 NI 1

### Supplementary

#### Provisions as to<sup>F5</sup> electronic communications apparatus]

12.—(1) Paragraph 23 of<sup>F5</sup> the electronic communications code] (undertaker's works) shall apply for the purposes—

- (a) of any work in pursuance of an order or direction under Article 7 or 8;
- (b) of anything done with respect to a road in pursuance of an order under Article 10 to which paragraph (2) applies,

to the person doing that work or, as the case may be, the Department; and, in the case of any such order as is mentioned in sub-paragraph (b), any person having an estate in land over which the road passes shall be entitled to require the alteration of the<sup>F5</sup> electronic communications apparatus] in question.

(2) This paragraph applies to an order under Article 10 where the order provides—

- (a) for the stopping up or diversion of the road; or
- (b) unless the road is a trunk road<sup>F6</sup> or special road], for the improvement of the road,

and immediately before the order comes into operation any<sup>F5</sup> electronic communications apparatus] is kept installed for the purposes of<sup>F5</sup> an electronic communications code network] under, in, on, over, along or across the road.

(3) Subject to the preceding provisions of this Article, the operator of<sup>F5</sup> an electronic communications code network] shall, in a case falling within paragraph (2)(a), have the same rights in respect of any apparatus kept installed for the purposes of<sup>F5</sup> that network] as if the order had not come into operation.

<sup>F6</sup>(3A) Paragraph 23 of<sup>F5</sup> the electronic communications code] shall not apply by virtue of paragraph (2)(b) in relation to the alteration of any<sup>F5</sup> electronic communications apparatus] where the alteration is for the purpose of major work works, major bridge works or major transport works within the meaning of the Street Works (Northern Ireland) Order 1995.]

(4) Sub-paragraph (8) of paragraph 23 of<sup>F5</sup> the electronic communications code] (offence) shall be deemed to be omitted for the purposes of the application by this Article of that paragraph to the Department.

(5) Paragraph 1(2) of<sup>F5</sup> the electronic communications code] (alteration of apparatus to include moving, removal or replacement or apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purposes of the code.

(6) Paragraph 21 of<sup>F5</sup> the electronic communications code] (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or

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replacement of any<sup>F5</sup> electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.

*Para. (7) rep. by 2003 c. 21*

**F5** 2003 c. 21  
**F6** 1995 NI 19

### Compensation payable by airport operators

**13.** Schedule 3 shall have effect in relation to the payment by airport operators of compensation to persons affected by the operation of certain provisions of this Part.

### Compensation in respect of planning decisions relating to safety of airports

**14.—(1)** This Article applies to any licensed airport.

(2) The Department shall be entitled to recover from the airport operator of an airport to which this Article applies a sum equal to any compensation which the Department has become liable to pay, if—

- (a) it has become so liable under Part II or III of the Land Development Values (Compensation) Act (Northern Ireland) 1965<sup>F7</sup> or under Part VIII of the Planning (Northern Ireland) Order 1972<sup>F8</sup>; and
- (b) the liability is attributable to a planning decision which would not have been taken, or to an order which would not have been made, but for the need—
  - (i) to secure the safe and efficient operation of the airport; or
  - (ii) to prevent persons, buildings, structures or erections from being struck by aircraft using the airport; or
  - (iii) to secure the safe and efficient operation of apparatus owned by the airport operator and provided for the purpose of assisting air traffic control or as an aid to air navigation.

(3) Where a sum equal to any compensation is paid to the Department by an airport operator under paragraph (2), the Department shall pay to that operator any amount received by the Department in respect of the compensation under section 24 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (which relates to the recovery of compensation on subsequent development).

(4) In paragraph (2) “planning decision” means a decision made on an application under Part IV of the Planning (Northern Ireland) Order 1991<sup>F9</sup>.

**F7** 1965 c.23 (NI)  
**F8** 1972 NI 17  
**F9** 1991 NI 11

### Concurrent proceedings

**15.—(1)** Where an airport operator—

- (a) applies to the Department for a vesting order under Article 3; or
- (b) makes representations to the Department under Article 7(2),

the proceedings which—



- (i) are required under this Part to be taken in connection with the making of a vesting order or (as the case may be) an order under Article 7; and
  - (ii) if applicable, are required by Articles 20 to 22 of the Planning (Northern Ireland) Order 1991 to be taken for the purpose of planning permission,
- may, where the Department so directs, be taken concurrently, so far as is practicable.

(2) Where—

- (a) a public local inquiry is to be held under this Part in connection with any matter; and
- (b) in the case of some other matter required or authorised (whether by this Part or by any other statutory provision) to be the subject of a public local inquiry, it appears to the Department that the matters are so far cognate that they should be considered together,

the Department may direct that the two inquiries be held concurrently or combined as one inquiry.

### **Application to Crown land**

**16.**—(1) Subject to paragraphs (2) and (3), the provisions of this Part shall have effect in relation to Crown land as they have effect in relation to land which is not Crown land.

(2) The powers conferred by Article 3(2) shall not be exercisable in relation to Crown land, to the extent of the estate therein held by or on behalf of the Crown.

(3) The powers conferred by or under Article 3(2), 7, 8 or 9 shall not, except with the consent of the appropriate authority, be exercisable in relation to Crown land.

(4) In this Article any reference to the Crown includes a reference to the Crown in right of Her Majesty's Government in Northern Ireland.

(5) In this Article—

“the appropriate authority”, in relation to any land, means—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
- (b) in the case of any other land belonging to Her Majesty in right of the Crown, the government department having the management of that land;
- (c) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that government department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Department of Finance and Personnel or, as the case may be, the Treasury, whose decision shall be final;

“Crown estate” means an estate—

- (a) belonging to Her Majesty in right of the Crown; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown land” means land in which there is a Crown estate;

“government department” means a department of the Government of the United Kingdom or a Northern Ireland department.

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