



Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Powers of entry

43 Power of entry for survey and valuation.

- [^{F1}(1) Any person authorised under this section may at any reasonable time enter any land in Scotland for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that or any other land under this Act or in connection with any claim for compensation under this Act in respect of any such acquisition.
- (1A) Any person authorised under this section may at any reasonable time enter any land in England and Wales or Scotland for the purpose of surveying it, or estimating its value, in connection with any claim for compensation under this Act for any damage to that or any other land.
- (1B) See section 172 of the Housing and Planning Act 2016 for a power 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.]
- (2) A person is authorised under this section if he is an officer of the Valuation Office of the Inland Revenue Department or a person duly authorised in writing by the Secretary of State [^{F2}, Historic Environment Scotland] or other authority proposing to make the acquisition which is the occasion of the survey or valuation or (as the case may be) from whom in accordance with this Act compensation in respect of the damage is recoverable.

Status: Point in time view as at 01/04/2017.

Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Cross Heading: Powers of entry is up to date with all changes known to be in force on or before 05 August 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)

- (3) Subject to section 44(9) of this Act, the power to survey land conferred by this section shall be construed as including power to search and bore for the purposes of ascertaining the nature of the subsoil or the presence of minerals therein.

Textual Amendments

- F1** S. 43(1)-(1B) substituted for s. 43(1) (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 14 para. 10](#); S.I. 2016/733, reg. 3(h) (with reg. 6)
- F2** Words in s. 43(2) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\), s. 31\(2\), sch. 2 para. 46](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

44 Supplementary provisions with respect to powers of entry.

- (1) A person may not in the exercise of any power of entry under this Act, other than that conferred by section 43, enter any building or part of a building occupied as a dwelling house without the consent of the occupier.
- (2) Subject to the following provisions of this subsection, a person may not in the exercise of any power of entry under this Act demand admission as of right to any land which is occupied unless prior notice of the intended entry has been given to the occupier—
- (a) where the purpose of the entry is to carry out any works on the land (other than excavations in exercise of the power under section 26 or 38 of this Act), not less than fourteen days before the day on which admission is demanded; or
 - (b) in any other case, not less than twenty-four hours before admission is demanded.

This subsection does not apply in relation to the power of entry under section 5 of this Act [^{F3}, or in relation to the power of entry under section 9ZJ of this Act where it is exercised for any of the purposes mentioned in paragraphs (a) to (c) of that section].

- (3) A person seeking to enter any land in exercise of any power of entry under this Act shall, if so required by or on behalf of the owner or occupier thereof, produce evidence of his authority before entering.
- (4) Any power of entry under this Act shall be construed as including power for any person entering any land in exercise of the power of entry to take with him any assistance or equipment reasonably required for the purpose to which his entry relates and to do there anything reasonably necessary for carrying out that purpose.
- (5) Without prejudice to subsection (4) above, where a person enters any land in exercise of any power of entry under this Act for the purpose of carrying out any archaeological investigation or examination of the land, he may take and remove such samples of any description as appear to him to be reasonably required for the purpose of archaeological analysis.
- (6) Subject to subsection (7) below, where any works are being carried out on any land in relation to which any power of entry under this Act is exercisable, a person acting in the exercise of that power shall comply with any reasonable requirements or conditions imposed by the person by whom the works are being carried out for the purpose of preventing interference with or delay to the works.
- (7) Any requirements or conditions imposed by a person by whom any works are being carried out shall not be regarded as reasonable for the purposes of subsection (6) above

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if compliance therewith would in effect frustrate the exercise of the power of entry or the purpose of the entry; and that subsection does not apply where the works in question are being carried out in contravention of section 2(1) or (6) or 35 of this Act.

- (8) Any person who intentionally obstructs a person acting in the exercise of any power of entry under this Act shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding [^{F4}level 3 on the standard scale]
- (9) Where under section 43 of this Act a person proposes to carry out any works authorised by virtue of subsection (3) of that section—
- (a) he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (2)(a) above; and
 - (b) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the Secretary of State.

Textual Amendments

- F3** Words in s. 44(2) inserted (E.W.) (21.5.2016) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), [ss. 13\(3\)](#), [41\(2\)](#)
- F4** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48\)](#), [s. 46](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

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