



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART II

#### AERODROMES AND OTHER LAND

##### *Secretary of State's aerodromes*

#### **25 Secretary of State's power to provide aerodromes.**

- (1) The Secretary of State may for the purposes of civil aviation establish and maintain aerodromes and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.
- (2) The Secretary of State shall appoint for each aerodrome vested in him an officer who shall be responsible to the Secretary of State for all services (including signalling services, flying control services and services connected with the execution of works) provided on the aerodrome on the Secretary of State's behalf.

#### **26 Consultation with local bodies.**

In the management and administration of any aerodrome vested in him the Secretary of State shall make such provision as he thinks necessary to ensure that adequate facilities for consultation are provided for—

- (a) the local authorities in whose areas the aerodrome or any part thereof is situated;
- (b) other local authorities whose areas are in the neighbourhood of the aerodrome; and
- (c) other organisations representing the interests of persons concerned with the locality in which the aerodrome is situated.

*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

**Textual Amendments**

**F1** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. II**

*CAA's aerodromes*

**28 Management, etc. of aerodromes by CAA.**

- (1) The CAA shall not establish any aerodrome and shall not acquire any aerodrome in addition to those owned by it by virtue of paragraph 1 of Schedule 2 to the <sup>M1</sup>Civil Aviation Act 1971; but the CAA may with the consent in writing of the Secretary of State undertake the management of any aerodrome (whether in the United Kingdom or elsewhere) which it does not own and to which the consent extends.
- (2) The CAA shall not discontinue the use of any aerodrome owned or managed by it except with the consent in writing of the Secretary of State.
- (3) It shall be the duty of the CAA to provide at the aerodromes in the United Kingdom which are owned or managed by it such services and facilities as it considers are necessary or desirable for their operation; and in carrying out that duty the CAA shall have regard to the development of air transport and to efficiency, economy and safety of operation.
- (4) Subject to section 78 below, it shall also be the duty of the CAA to secure that, at all times when an aerodrome in the United Kingdom which is owned or managed by it is available for the landing or departure of aircraft, it is so available to all persons on equal terms.
- (5) Notwithstanding anything in section 7 above, the CAA may, with the consent in writing of the Secretary of State, appoint another person to manage on its behalf any aerodrome which is owned or is being managed by it; and any reference in this Act to an aerodrome managed by the CAA includes a reference to an aerodrome managed by a person appointed in pursuance of this subsection.

**Marginal Citations**

**M1** 1971 c. 75.

**29** .....

**Textual Amendments**

**F2** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. II**

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*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

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*Aerodromes and facilities at aerodromes provided by local authorities*

**30 Provision of aerodromes and facilities at aerodromes by local authorities.**

- (1) A local authority [<sup>F3</sup>, other than a district council in Scotland,] may do one or both of the following things, namely—
- (a) with the consent of the Secretary of State and subject to such conditions as he may impose, establish and maintain aerodromes;
  - (b) make arrangements with the person owning or managing an aerodrome in Great Britain whereby the local authority provide and maintain facilities for civil aviation at that aerodrome;
- [<sup>F3</sup> and a district council in Scotland may do as mentioned in paragraph (b) above].
- (2) A local authority [<sup>F4</sup>, other than a district council in Scotland,] may in connection with—
- (a) the establishment and maintenance by them of aerodromes in pursuance of subsection (1)(a) above, or
  - (b) any aerodrome in respect of which the local authority have made such an arrangement as is mentioned in subsection (1)(b) above,
- provide and maintain roads, approaches, apparatus, equipment and buildings and other accommodation.
- (3) Nothing in subsection (1)(a) or (2) above shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with plans and sections previously approved in writing by the Secretary of State and subject to such conditions as he may impose.
- (4) Without prejudice to any power conferred otherwise than by this Act, a local authority may, for the purpose of exercising any of the powers conferred on them by subsections (1)(a) and (2) above, acquire land by agreement or be authorised by the Secretary of State to purchase land compulsorily.
- (5) In relation to the compulsory purchase of land under this section—
- (a) if the land is in England and Wales, the <sup>M2</sup>Acquisition of Land Act 1981, and
  - (b) if the land is in Scotland, the <sup>M3</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- shall apply and, in the latter case, shall apply as if this Act had been in force immediately before the commencement of that Act.
- (6) For the avoidance of doubt, it is hereby declared that one of the purposes for which a local authority may acquire land under this section is the purpose of securing that the land adjacent to the site of an aerodrome which the local authority have established, or are about to establish, shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching or leaving the aerodrome.
- (7) Without prejudice to any power conferred otherwise than by virtue of this Act, the powers conferred on a local authority by subsections (1)(a), (2) and (4) above shall be exercisable by that authority outside, as well as within, their area.
- (8) For the purpose of the purchase of land by agreement under this section—
- (a) if the land is in England and Wales, the provisions of Part I of the <sup>M4</sup>Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31 shall apply; and

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- (b) if the land is in Scotland, the Lands Clauses Acts, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, shall be incorporated with this Act.

**Textual Amendments**

- F3** Words in s. 30(1) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 126(2)(a)(i)(ii), Sch. 14; S.I. 1996/323, art. 4(1), Sch. 2
- F4** Words in s. 30(2) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 126(2)(b), Sch. 14; S.I. 1996/323, art. 4(1), Sch. 2

**Marginal Citations**

- M2** 1981 c. 67.
- M3** 1947 c. 42.
- M4** 1965 c. 65.

**31 Power to carry on ancillary business.**

- (1) If the Secretary of State is satisfied with respect to any local authority aerodrome that it is necessary or expedient that the local authority maintaining the aerodrome should be empowered to carry on in connection with the aerodrome any ancillary business which the authority would not otherwise have power to carry on, he may make an order authorising that local authority, subject to such conditions (if any) as may be specified in the order, to carry on that business in connection with the aerodrome.
- (2) In this section—
  - “ancillary business” means any business which appears to the Secretary of State to be ancillary to the maintaining of an aerodrome; and
  - “local authority aerodrome” means—
    - (a) any aerodrome maintained by a local authority under section 30 above; or
    - (b) so much of any other aerodrome as consists of buildings or other works maintained by a local authority by virtue of that section.

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

- C1** S. 31, 35 extended by Local Government Act 1985 (c. 51, SIF 81:1), s. 40(3)

**32** ..... F5

**Textual Amendments**

- F5** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

*Other aerodromes*

**33** ..... F6

*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

**Textual Amendments**

**F6** Ss. 27, 29, 32, 33, 37, 40 repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. II](#)

*Miscellaneous provisions as to aerodromes*

**34 Financial assistance for certain aerodromes.**

- (1) Subject to subsection (2) below, the Secretary of State may, with the approval of the Treasury, make grants or loans—
  - (a) in respect of any expenses incurred or to be incurred by any person—
    - (i) in investigating the need for, or for the expansion of, an aerodrome in any part of Great Britain;
    - (ii) in establishing or expanding any such aerodrome;
    - (iii) in maintaining any such aerodrome or in providing or maintaining, in connection therewith, roads, approaches, apparatus, equipment, buildings or other accommodation;
  - (b) for making good any losses incurred by any person in the operation of, or in the provision of any services at, any such aerodrome.
- (2) . . . . . <sup>F7</sup>
- (3) Any loan made under this section shall be repaid to the Secretary of State at such times and by such methods, and (except in the case of a loan made free of interest) interest thereon shall be paid to the Secretary of State at such rates and at such times, as he may with the approval of the Treasury from time to time direct.

**Textual Amendments**

**F7** S. 34(2) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)

**35 Facilities for consultation at certain aerodromes.**

- (1) This section applies to any aerodrome which . . . <sup>F8</sup> is designated for the purposes of this section by an order made by the Secretary of State.
- (2) The person having the management of any aerodrome to which this section applies shall provide—
  - (a) for users of the aerodrome,
  - (b) for any local authority (or, if the person having the management of the aerodrome is a local authority, for any other local authority) in whose area the aerodrome or any part thereof is situated or whose area is in the neighbourhood of the aerodrome, and—
  - (c) for any other organisation representing the interests of persons concerned with the locality in which the aerodrome is situated,adequate facilities for consultation with respect to any matter concerning the management or administration of the aerodrome which affects their interests.

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[<sup>F9</sup>(3) The reference in subsection (2)(b) above to any local authority includes in relation to the area of Greater London a reference to the Mayor of London acting on behalf of the Greater London Authority.]

#### Textual Amendments

**F8** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)

**F9** S. 35(3) inserted (3.7.2000) by [1999 c. 29, s. 372\(2\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(c\)](#), [Sch. Pt. 3](#)

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

**C2** S. 31, 35 extended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 40(3)

### 36 **Health control at Secretary of State's aerodromes and aerodromes of CAA.** E +W

- (1) Without prejudice to his general duties under any Act of Parliament or otherwise, it shall be the duty of the Secretary of State to make such arrangements as appear to him to be necessary—
- (a) for preventing danger to public health from aircraft arriving at any aerodrome which is vested in or under the control of the Secretary of State or at any aerodrome in the United Kingdom which is owned or managed by the CAA; and
  - (b) for preventing the spread of infection by means of any aircraft leaving any aerodrome mentioned in paragraph (a) above, so far as may be expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country;
- and in relation to aerodromes in the United Kingdom owned or managed by the CAA it shall also, to such extent as the Secretary of State may direct, be the CAA's duty to make such arrangements as appear to him to be so necessary.
- (2) A relevant authority may, and shall if the Secretary of State so requires, undertake duties in connection with the execution of any such arrangements as are mentioned in subsection (1) above, and the Secretary of State shall make to the relevant authority such payments as the relevant authority may reasonably require in respect of expenses incurred by the relevant authority in the performance of those duties.
- (3) In the application of subsections (1) and (2) above to Northern Ireland, for references to the Secretary of State (except the reference in paragraph (a) of subsection (1) above) there shall be substituted references to the Department of Health and Social Services for Northern Ireland.
- (4) In subsection (2) above “relevant authority” means—
- (a) in relation to England and Wales any local authority for the purposes of the <sup>M5</sup>Public Health Act 1936, any county council and any port health authority and any joint board of which all the constituent authorities are authorities or councils as aforesaid;
  - (b) in relation to Scotland, any islands or district council and any port local authority as defined in section 172 of the <sup>M6</sup>Public Health (Scotland) Act 1897; and

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- (c) in relation to Northern Ireland, such authority as the Department of Health and Social Services for Northern Ireland may designate for the purposes of that subsection.

[<sup>F10</sup>(5) Section 143 of the <sup>M7</sup>Public Health Act 1936 (which authorises the making of health regulations) shall have effect in relation to relevant aerodromes and in relation to persons and aircraft [<sup>F11</sup>arriving at or] departing from such aerodromes subject to the following modifications, that is to say—

- (a) in subsection (1), the proviso shall be omitted;
- (b) in subsection (3), for the words from “shall specify” to “executed” there shall be substituted the words “may provide for their enforcement and execution by officers designated for that purpose by the Secretary of State”, and paragraphs (i) and (ii) of the proviso shall be omitted;
- (c) in subsection (4), for the words “Authorised officers of any such authority” there shall be substituted the words “Officers designated as aforesaid”.]

[<sup>F10</sup>(6) In subsection (5) above “relevant aerodromes” means aerodromes for the time being vested in or under the control of the Secretary of State and aerodromes in Great Britain which are owned or managed by the CAA. ]

<sup>F12</sup>[<sup>F10</sup>(7) Without prejudice to the generality of the power conferred by the said section 143, regulations made thereunder may provide for requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection.]

- (8) In the application of subsections (5) to (7) above to Scotland any reference to section 143 of the <sup>M8</sup>Public Health Act 1936 shall have effect as if it were a reference to section 1 of the <sup>M9</sup>Public Health (Scotland) Act 1945, and in subsection (5), paragraph (a) and in paragraph (b) the words from “and paragraphs” onwards shall be omitted.

[<sup>F10</sup>(9) Her Majesty may by Order in Council direct that any regulations made under the said section 143, as that section has effect by virtue of subsections (5) and (7) above in relation to aerodromes vested in or under the control of the Secretary of State, shall extend with such modifications, if any, as may be specified in the Order, to any of the Channel Islands or to the Isle of Man; and for the purposes of this subsection, subsections (4) and (5) of that section shall be deemed to form part of those regulations.]

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F10** S. 36(5)–(7)(9) repealed (E.W.) by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), s. 78, [Sch. 3](#)
- F11** Words repealed (for N.I.) by [S.I. 1986/2229 \(N.I. 24\)](#), art. 19, [Sch.](#)
- F12** S. 36(7) repealed (for N.I.) by [S.I. 1986/2229 \(N.I. 24\)](#), art. 19, [Sch.](#)

#### Marginal Citations

- M5** [1936 c. 49.](#)
- M6** [1897 c. 38.](#)
- M7** [1936 c. 49.](#)

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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

**M8** 1936 c. 49.

**M9** 1945 c. 15 (9 & 10 Geo. 6).

### 36 Health control at Secretary of State's aerodromes and aerodromes of CAA. **S**

- (1) Without prejudice to his general duties under any Act of Parliament or otherwise, it shall be the duty of the Secretary of State to make such arrangements as appear to him to be necessary—
- (a) for preventing danger to public health from aircraft arriving at any aerodrome which is vested in or under the control of the Secretary of State or at any aerodrome in the United Kingdom which is owned or managed by the CAA; and
  - (b) for preventing the spread of infection by means of any aircraft leaving any aerodrome mentioned in paragraph (a) above, so far as may be expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country;
- and in relation to aerodromes in the United Kingdom owned or managed by the CAA it shall also, to such extent as the Secretary of State may direct, be the CAA's duty to make such arrangements as appear to him to be so necessary.
- (2) A relevant authority may, and shall if the Secretary of State so requires, undertake duties in connection with the execution of any such arrangements as are mentioned in subsection (1) above, and the Secretary of State shall make to the relevant authority such payments as the relevant authority may reasonably require in respect of expenses incurred by the relevant authority in the performance of those duties.
- (3) In the application of subsections (1) and (2) above to Northern Ireland, for references to the Secretary of State (except the reference in paragraph (a) of subsection (1) above) there shall be substituted references to the Department of Health and Social Services for Northern Ireland.
- (4) In subsection (2) above “relevant authority” means—
- (a) in relation to England and Wales any local authority for the purposes of the <sup>M36</sup>Public Health Act 1936, any county council and any port health authority and any joint board of which all the constituent authorities are authorities or councils as aforesaid;
  - (b) in relation to Scotland, any [<sup>F100</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]<sup>F101</sup>...; and
  - (c) in relation to Northern Ireland, such authority as the Department of Health and Social Services for Northern Ireland may designate for the purposes of that subsection.
- <sup>F102</sup>(5) Section 143 of the <sup>M37</sup>Public Health Act 1936 (which authorises the making of health regulations) shall have effect in relation to relevant aerodromes and in relation to persons and aircraft [<sup>F103</sup>arriving at or] departing from such aerodromes subject to the following modifications, that is to say—
- (a) in subsection (1), the proviso shall be omitted;
  - (b) in subsection (3), for the words from “shall specify” to “executed” there shall be substituted the words “may provide for their enforcement and execution by officers designated for that purpose by the Secretary of State”, and paragraphs (i) and (ii) of the proviso shall be omitted;



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(c) in subsection (4), for the words “Authorised officers of any such authority” there shall be substituted the words “Officers designated as aforesaid”.]

[<sup>F102</sup>(6) In subsection (5) above “relevant aerodromes” means aerodromes for the time being vested in or under the control of the Secretary of State and aerodromes in Great Britain which are owned or managed by the CAA. ]

<sup>F104</sup>[<sup>F102</sup>(7) Without prejudice to the generality of the power conferred by the said section 143, regulations made thereunder may provide for requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection.]

(8) In the application of subsections (5) to (7) above to Scotland any reference to section 143 of the <sup>M38</sup>Public Health Act 1936 shall have effect as if it were a reference to section 1 of the <sup>M39</sup>Public Health (Scotland) Act 1945, and in subsection (5), paragraph (a) and in paragraph (b) the words from “and paragraphs” onwards shall be omitted.

[<sup>F102</sup>(9) Her Majesty may by Order in Council direct that any regulations made under the said section 143, as that section has effect by virtue of subsections (5) and (7) above in relation to aerodromes vested in or under the control of the Secretary of State, shall extend with such modifications, if any, as may be specified in the Order, to any of the Channel Islands or to the Isle of Man; and for the purposes of this subsection, subsections (4) and (5) of that section shall be deemed to form part of those regulations.]

#### Extent Information

**E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F100** Words in s. 36(4)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 126(3)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F101** Words in s. 36(4)(b) repealed (S.) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (Commencement No. 2, Savings and Consequential Provisions) Order 2009 (S.S.I. 2009/319), art. 2, **Sch. 3 Pt. 1**

**F102** S. 36(5)–(7)(9) repealed (E.W.) by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, **Sch. 3**

**F103** Words repealed (for N.I.) by S.I. 1986/2229 (N.I. 24), art. 19, **Sch.**

**F104** S. 36(7) repealed (for N.I.) by S.I. 1986/2229 (N.I. 24), art. 19, **Sch.**

#### Marginal Citations

**M36** 1936 c. 49.

**M37** 1936 c. 49.

**M38** 1936 c. 49.

**M39** 1945 c. 15 (9 & 10 Geo. 6).

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### Textual Amendments

**F13** Ss. 27, 29, 32, 33, 37, 40 repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. II](#)

## [<sup>F14</sup>38 Aerodrome charges: noise and emissions

- (1) Without prejudice to any power of any aerodrome authority to enter into an agreement on such terms as it thinks fit, an aerodrome authority may, for the purposes mentioned in subsection (2) below, fix its charges in respect of an aircraft or a class of aircraft by reference (among other things) to—
  - (a) any fact or matter relevant to the amount of noise caused by the aircraft or the extent or nature of any inconvenience resulting from such noise;
  - (b) any fact or matter relevant to the amount or nature of emissions produced by the aircraft or the extent or nature of any atmospheric pollution resulting from such emissions;
  - (c) any fact or matter relevant to the effect of the aircraft on the level of noise or atmospheric pollution at any place in or in the vicinity of the aerodrome;
  - (d) any failure by the operator of the aircraft to secure that any noise or emissions requirements applying to the aircraft are complied with.
- (2) The purposes mentioned in this subsection are—
  - (a) in relation to paragraph (a) of subsection (1) above, encouraging the use of quieter aircraft and reducing inconvenience from aircraft noise;
  - (b) in relation to paragraph (b) of that subsection, encouraging the use of aircraft which produce lower emissions of any substance which contributes to atmospheric pollution;
  - (c) in relation to paragraph (c) of that subsection, controlling the level of noise or atmospheric pollution in or in the vicinity of the aerodrome so far as attributable to aircraft taking off or landing at the aerodrome;
  - (d) in relation to paragraph (d) of that subsection, promoting compliance with noise or emissions requirements.

In paragraph (b) above “ substance ” includes a substance in solid or liquid form or in the form of a gas or vapour.
- (3) In subsections (1)(d) and (2)(d) above “ noise or emissions requirements ” means requirements imposed in relation to aircraft taking off or landing at the aerodrome, which are either—
  - (a) requirements imposed under section 78 below for the purpose of limiting, or mitigating the effect of, noise caused by such aircraft, or
  - (b) requirements imposed by the aerodrome authority (otherwise than under that section) for the purpose of limiting, or mitigating the effect of, noise caused by, or emissions produced by, such aircraft.
- (4) The Secretary of State may by order direct specified aerodrome authorities to fix their charges in exercise of any power conferred by subsection (1) above; and any such order may contain directions as to the manner in which those charges are to be so fixed.
- (5) In determining whether, and if so how, to exercise his power under subsection (4) above in relation to an aerodrome authority, the Secretary of State shall have regard

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(among other things) to the interests of persons who live in the area in which the aerodrome is situated.

(6) This section has effect subject to any provision relating to the use of, or charges for the use of, aerodromes which is made by or under any other enactment.

(7) In this section—

“ aerodrome authority ” means a person owning or managing an aerodrome licensed under an Air Navigation Order; and

“ charges ”, in relation to an aerodrome authority, means the charges the authority makes for the use of an aerodrome so licensed which is owned or managed by the authority. ]

#### Textual Amendments

**F14** S. 38 substituted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 1, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

### [<sup>F15</sup>38A Noise control schemes

(1) An aerodrome operator may establish and maintain a scheme (referred to in this section and sections 38B and 38C below as a “noise control scheme”) for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.

(2) A noise control scheme may—

- (a) require operators of aircraft which are to take off or land at the aerodrome to secure that specified requirements are complied with in relation to the aircraft after they take off, or before they land, at the aerodrome;
- (b) prohibit aircraft of specified descriptions from taking off or landing at the aerodrome during specified periods;
- (c) specify the maximum number of occasions on which aircraft of specified descriptions may take off or land at the aerodrome during specified periods;
- (d) impose other restrictions for limiting the cumulative amount of noise caused by aircraft of specified descriptions taking off or landing at the aerodrome during specified periods.

In this subsection “ specified ” means specified in the scheme.

(3) A noise control scheme which contains—

- (a) provision under paragraph (c) of subsection (2) above, or
- (b) provision under paragraph (d) of that subsection which has the effect of limiting the number of occasions on which aircraft may take off or land at the aerodrome during the periods specified under that paragraph,

shall make provision for determining the matters mentioned in subsection (4).

(4) The matters mentioned in this subsection are—

- (a) the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods in question, and
- (b) as respects each of those persons, the number of occasions (whether determined by reference to a maximum number or otherwise) on which

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aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods.

- (5) Before making, amending or revoking any provision in a noise control scheme by virtue of subsection (3) above the aerodrome operator shall consult any body appearing to it to be representative of operators of aircraft using the aerodrome.
- (6) A noise control scheme may make provision as respects any period even if that period is included in, or there is included in that period, any other period as respects which provision relating to the aerodrome is made by the scheme.
- (7) A noise control scheme may—
  - (a) provide for circumstances in which the scheme (or any provision of the scheme) is not to apply,
  - (b) contain such incidental or supplementary provisions as the aerodrome operator considers appropriate, and
  - (c) be amended or revoked by the aerodrome operator.
- (8) A noise control scheme shall not be established in relation to an aerodrome which is designated for the purposes of section 78 of this Act; and on such a designation coming into force in relation to an aerodrome any noise control scheme which has effect in relation to the aerodrome shall cease to have effect.
- (9) The amendment or revocation of a noise control scheme, or its ceasing to have effect by virtue of subsection (8) above, shall not affect the validity of anything previously done under the scheme.
- (10) The powers conferred on an aerodrome operator by this section and sections 38B and 38C below are in addition to, and do not prejudice, any other power of the aerodrome operator to take steps for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.
- (11) In this section and sections 38B and 38C below “ aerodrome operator ” means a person owning or managing an aerodrome.

#### Textual Amendments

**F15** Ss. 38A-38C inserted (E.W.S.) (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 4, 14**; [S.I. 2007/598](#), **art. 2, Sch. 1**

### **38B Noise control schemes: supplementary**

- (1) This section applies where a noise control scheme imposes requirements under section 38A(2)(a) above in relation to aircraft taking off or landing at an aerodrome.
- (2) The requirements so imposed shall have effect in relation to such an aircraft only—
  - (a) while it is within such area as may be specified in relation to the aerodrome by order made by the Secretary of State, or
  - (b) if no area has been so specified, while it is within the area represented by a circle with a radius of 40 kilometres from the centre of the longest runway at the aerodrome.
- (3) An area may be specified for the purposes of subsection (2)(a) above by description, by reference to a map or in any other way.

*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

- (4) No point in the area so specified may be more than 60 kilometres in a straight line from the centre of the longest runway at the aerodrome.
- (5) Before making an order under this section the Secretary of State shall consult—
  - (a) the CAA,
  - (b) the aerodrome operator,
  - (c) any body appearing to the Secretary of State to be representative of operators of aircraft using the aerodrome,
  - (d) the local authorities in whose areas the aerodrome (or any part of it) is situated,
  - (e) other local authorities whose areas are in the neighbourhood of the aerodrome, and
  - (f) any other body appearing to the Secretary of State to be representative of persons concerned with the locality in which the aerodrome is situated.

#### Textual Amendments

**F15** Ss. 38A-38C inserted (E.W.S.) (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 4, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

### **38C Breaches of noise control schemes**

- (1) This section also applies where a noise control scheme imposes requirements under section 38A(2)(a) above in relation to aircraft taking off or landing at an aerodrome.
- (2) The scheme may provide for the aerodrome operator to require the payment of a penalty if any such requirement is not complied with in relation to an aircraft taking off or landing at the aerodrome.
- (3) Any such penalty shall be—
  - (a) of an amount specified in the scheme, and
  - (b) paid to the aerodrome operator by the operator of the aircraft in question.
- (4) The scheme shall afford the operator of the aircraft an opportunity to make representations to the aerodrome operator with respect to the matter either before or after the penalty is imposed.
- (5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the aerodrome operator to cancel the penalty if it considers it appropriate to do so having considered those representations.
- (6) An aerodrome operator which receives penalties under a noise control scheme shall make payments equal to the amount of those penalties for purposes which appear to it to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.]

#### Textual Amendments

**F15** Ss. 38A-38C inserted (E.W.S.) (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 4, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

### 39 Trespassing on licensed aerodromes.

- (1) Subject to subsection (2) below, if any person trespasses on any land forming part of an aerodrome licensed in pursuance of an Air Navigation Order, he shall be liable on summary conviction to a fine not exceeding [<sup>F16</sup>level 3 on the standard scale].
- (2) No person shall be liable under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the aerodrome as appear to the court to be proper.

#### Textual Amendments

**F16** Words in s. 39(1) substituted (14.12.2001 with effect as mentioned in s. 83(2) of the amending Act) by 2001 c. 24, ss. 83(1), 127(2)

### 40 ..... <sup>F17</sup>

#### Textual Amendments

**F17** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

*Powers in relation to land exercisable in connection with civil aviation*

### 41 Power of Secretary of State to acquire and manage land.

- (1) The Secretary of State may, for any purpose connected with the exercise of his functions relating to civil aviation, acquire land by agreement or be authorised to acquire land compulsorily.
- (2) The <sup>M10</sup>Acquisition of Land Act 1981—
  - (a) shall have effect, without Part VI, with respect to the compulsory purchase of land in England and Wales by the Secretary of State under this section; and
  - (b) may, for the purpose of the compulsory purchase under subsection (1) above by the Secretary of State of land in Northern Ireland, be extended by Order in Council to Northern Ireland subject to any modifications which may be provided for by the Order.
- (3) The Secretary of State shall have power to manage, sell, let or exchange any land vested in him and to pay or receive money in respect of equality of exchange; but nothing in this subsection shall be taken to affect the operation of section 5 of the Defence of the <sup>M11</sup>Realm (Acquisition of Land) Act 1916 (which confers on a person from whom land was acquired under that Act a right of pre-emption in the case of the subsequent sale of the land) as respects any land acquired under that Act.
- (4) The Secretary of State shall have power to manage and (subject to the terms of the lease) to sublet any land taken on lease by him or assign the lease.

*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

#### Marginal Citations

M10 1981 c. 67.

M11 1916 c. 63.

## 42 Acquisition of land by CAA.

- (1) The CAA may be authorised by the Secretary of State to acquire land in Great Britain compulsorily for any purpose connected with the performance of the CAA's functions and the following enactments, that is to say—
- if the land is in England and Wales, the <sup>M12</sup>Acquisition of Land Act 1981, other than Part VI, and
  - if the land is in Scotland, the <sup>M13</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, except section 3 of that Act,
- shall apply in relation to the compulsory purchase of land by the CAA and, in the case of the latter Act, shall so apply as if the CAA were a local authority and as if this subsection were contained in an Act in force immediately before the commencement of that Act.
- (2) Where the CAA proposes to acquire, otherwise than by agreement, any land in Northern Ireland required by it for any purpose connected with the performance of its functions, or as to which it can reasonably be foreseen that it will be so required, it may apply to the Secretary of State for an order vesting that land in it, and the Secretary of State shall have power to make such an order.
- (3) Schedule 6 to the <sup>M14</sup>Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 6 to this Act, apply for the purposes of the acquisition of land by means of an order under subsection (2) above as it applies to the acquisition of land by means of a vesting order under that Act.
- (4) For the purpose of the acquisition by the CAA of land in Great Britain by agreement the following provisions shall apply, that is to say—
- if the land is in England and Wales, the provisions of Part I of the <sup>M15</sup>Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 27 and 31; and
  - if the land is in Scotland, the provision of the <sup>M16</sup>Lands Clauses Consolidation (Scotland) Act 1845 (so far as applicable), other than sections 120 to 125, 127, 142 and 143.
- (5) Any land vested in the CAA by virtue of this section shall be deemed for all purposes to have been acquired by the CAA for the purposes of its undertaking.
- (6) In subsections (2) and (3) above, “land” has the meaning assigned to it by section 45(1) (a) of the <sup>M17</sup>Interpretation Act (Northern Ireland) 1954.

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

C3 S. 42(1): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, Sch. 1

#### Marginal Citations

M12 1981 c. 67.

M13 1947 c. 42.



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- M14** 1972 c. 9 (N.I.).
- M15** 1965 c. 56.
- M16** 1845 c. 19.
- M17** 1954 c. 33 (N.I.).

[<sup>F18</sup>**42A Acquisition of land: air traffic services licence holders.**

- (1) A licence holder may be authorised by the Secretary of State to acquire land in Great Britain compulsorily for any purpose connected with the carrying out of the activities authorised by the licence.
- (2) Where a licence holder proposes to acquire, otherwise than by agreement, any land in Northern Ireland—
  - (a) which is required by the licence holder for any purpose connected with the carrying out of the activities authorised by the licence, or
  - (b) as to which it can reasonably be foreseen that it will be so required,
 the licence holder may apply to the Secretary of State for an order vesting the land in it, and the Secretary of State shall have power to make such an order.
- (3) The Secretary of State shall not grant an authorisation under subsection (1) or an order under subsection (2) to a licence holder in respect of land which is owned by another licence holder who—
  - (a) is using it, or
  - (b) will, in the opinion of the Secretary of State, use it at some time in the period of five years beginning with the date on which he receives the request for the authorisation or order.
- (4) A reference in subsection (3) to use of land by a licence holder is a reference to use for a purpose connected with the carrying out of the activities authorised by the licence.
- (5) The following provisions of section 42 shall apply for the purposes of this section in relation to a licence holder as they apply for the purposes of that section in relation to the CAA—
  - (a) in subsection (1), the words from “and the following enactments” to the end,
  - (b) subsection (3),
  - (c) subsection (5) (with the reference to acquisition for the purposes of the CAA’s undertaking being construed as a reference to acquisition in connection with the carrying out of the activities authorised by the licence), and
  - (d) subsection (6).]

**Textual Amendments**

**F18** S. 42A inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 2** (with s. 106); S.I. 2001/869, **art. 2**

**43 Rights granted over land to Secretary of State or CAA to bind grantor’s successors.**

- (1) Subject to section 55 below, where any person having an interest in land (in this section referred to as “the grantor”) grants or agrees to grant any relevant right in or in relation to that land—



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- (a) for any purpose connected with the exercise by the Secretary of State of his functions relating to civil aviation, to the Secretary of State,<sup>F19</sup> . . .
  - (b) to the CAA,  
[<sup>F20</sup>or,  
(c) for any purpose connected with the carrying out of the activities authorised by the licence, to a licence holder,]  
the grant or agreement shall, to the same extent that it is binding upon the grantor, be binding upon any person deriving title or otherwise claiming under the grantor, notwithstanding that it would not have been binding upon that person apart from the provisions of this subsection.
- (2) In this section “relevant right” means any right, whether in perpetuity or for any other period and whether or not capable of subsisting as a legal estate (or, in Scotland, as an estate), in or in relation to land, including the following rights, that is to say—
- (a) right to enter upon that land;
  - (b) a right to carry out and maintain works on that land;
  - (c) a right to install or maintain structures or apparatus on, under, over or across that land; and
  - (d) a right restrictive of the user of that land.

#### Textual Amendments

**F19** Word in s. 43(1)(a) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. I(4)**; S.I. 2001/869, **art. 2**

**F20** S. 43(1)(c) and the preceding word “or” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 3** (with s. 106); S.I. 2001/869, **art. 2**

#### 44 Power to obtain rights over land.

- (1) The Secretary of State may make an order under this section if he is satisfied that it is expedient to do so in order—
- (a) to secure the safe and efficient use for civil aviation purposes of any land which is vested in a relevant authority or which such an authority proposes to acquire; or
  - (b) to secure the provision of any services required in relation to any such land; or
  - (c) to secure that civil aircraft may be navigated with safety and efficiency.
- (2) Such an order may provide for the creation—
- (a) if it is made by virtue of paragraph (a) or (b) of subsection (1) above, in favour of the relevant authority in question or, where that authority is Eurocontrol, either of Eurocontrol or of the Secretary of State, or
  - (b) if it is made by virtue of paragraph (c) of that subsection, in favour of the Secretary of State,
- of easements or servitudes 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.
- (3) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the order, including, in particular, provisions for authorising persons to

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enter upon land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.

- (4) Subject to subsection (5) below, no person shall, in the exercise of a power conferred by any such order, enter upon land which is occupied, unless, not less than seven days before the day upon which the entry is made, there has been served upon the occupier of the land a notice—
- (a) stating that an entry will be made upon the land upon that day in the exercise of powers conferred by the order; and
  - (b) specifying the purposes for which the entry will be made.
- (5) Nothing in subsection (4) above shall restrict the right of any person to enter upon land in a case of 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.
- (6) Where any land is damaged in the exercise of any power of entry conferred by any such order, then—
- (a) if the relevant authority in whose favour the order was made is the Secretary of State or Eurocontrol, the Secretary of State, <sup>F21</sup> . . .
  - (b) if the relevant authority in whose favour the order was made is the CAA, the CAA, <sup>F22</sup> and
  - (c) if the relevant authority in whose favour the order was made is a licence holder, the licence holder,]

shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the [<sup>F23</sup>appropriate tribunal].

<sup>F24</sup>(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 any such order.

<sup>F24</sup>(7A) So long as any such order is in force, no person shall, except with the necessary consent, wilfully interfere—

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

<sup>F24</sup>(7B) The necessary consent is—

- (a) if the relevant authority in whose favour the order is made is the Secretary of State or Eurocontrol, the consent of the Secretary of State,
- (b) if that relevant authority is the CAA, the consent of the Secretary of State or the CAA, and
- (c) if that relevant authority is a licence holder, the consent of the licence holder.]

(8) Subject to the special provisions of this Part of this Act relating to statutory undertakers, Schedule 7 to this Act shall have effect with respect to orders under this section.

(9) Where an order under this section provides for the creation of an easement or servitude over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any other right in or in relation to such land, then, if on a representation made to the Secretary of State before the expiration of the time within

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which objections to the order may be made the Secretary of State is satisfied that the easement, servitude or right could not be enjoyed without serious detriment to the carrying on of the undertaking, and certifies accordingly, the order shall be subject to special parliamentary procedure.

(10) If any person contravenes the provisions of subsection [<sup>F25</sup>(7A)] above he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £500 or to both; and every person who wilfully obstructs any person in the exercise of any power of entry conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding £100.

(11) Proceedings for an offence under this section shall not be instituted—

- (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
- (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland;

except that in England and Wales and in Northern Ireland such proceedings may be instituted by the CAA without such consent if the relevant authority in whose favour the order in question was made is the CAA.

(12) The following are relevant authorities for the purposes of this section, that is to say—

- (a) the Secretary of State;
- (b) Eurocontrol;<sup>F21</sup> . . .
- (c) the CAA;<sup>F26</sup> and
- (d) a licence holder;]

and in this section and in Schedule 7 to this Act as it has effect with respect to orders under this section, references to land vested in or proposed to be acquired by a relevant authority shall include references to land occupied or, as the case may be, proposed to be occupied by Eurocontrol.

#### Textual Amendments

- F21** Words in s. 44(6)(a)(12)(b) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. 1(4)**; S.I. 2001/869, **art. 2**
- F22** S. 44(6)(c) and the preceding word “and” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 4(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F23** Words in s. 44(6) 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. 153** (with Sch. 5)
- F24** S. 44(7)(7A)(7B) substituted (1.4.2001) for s. 44(7) by 2000 c. 38, s. 36, **Sch. 4 para. 4(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F25** Word in s. 44(10) substituted (8.7.2004) by **The Transport Act 2000 (Consequential Amendment) Order 2004** (S.I. 2004/1755), **art. 2**
- F26** S. 44(12)(d) and the preceding word “and” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 4(4)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C4** Ss. 44–46 extended with modifications by **Airports Act 1986** (c. 31, SIF 9), s. 59(3)(4)

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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

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#### **45 Power to restrict use of land for purpose of securing safety at aerodromes.**

- (1) Subject to subsection (2) below, the Secretary of State may by order impose such prohibitions or restrictions on the use of any area of land or water as a place for the arrival and departure of civil aircraft as he thinks expedient for the purpose of securing that aircraft may arrive and depart with safety at any aerodrome vested in him or under his control or at any aerodrome in the United Kingdom owned or managed by the CAA.
- (2) Nothing in subsection (1) above shall authorise the imposition of any such prohibition or restriction in relation to tidal waters beyond those of the territorial waters adjacent to the United Kingdom.
- (3) Part I of Schedule 7 to this Act shall have effect in relation to any order made under this section other than an order for the imposition of prohibitions or restrictions on the use of water; and in the case of an order for the imposition of prohibitions or restrictions on the use of water the Secretary of State—
  - (a) shall, before making the order, publish notice of his intention to make the order in such manner as he thinks best calculated to bring his intention to the notice of persons who will be affected thereby; and
  - (b) shall, immediately after the order has been made, publish in one or more newspapers circulating in the locality to which the order relates a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours, and shall serve a like notice upon any person who in his opinion will be affected thereby.
- (4) Part II of Schedule 7 to this Act and Schedule 8 to this Act shall have effect with respect to orders under this section; but where any aerodrome was first established as such after 31st July 1946 no compensation shall be payable by reason of the imposition under this section of prohibitions or restrictions upon the use of that aerodrome unless it was so established with the consent of the Secretary of State.
- (5) Any person who contravenes the provisions of any order under this section shall be liable in respect of each offence—
  - (a) on summary conviction to a fine which shall not exceed the statutory maximum or to imprisonment for a term not exceeding three months or to both; and
  - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.
- (6) Any offence against any order under this section committed on tidal waters outside the ordinary jurisdiction of a court of summary jurisdiction may be tried and punished by such a court as if it had been committed in the nearest part of the United Kingdom which is within the ordinary jurisdiction of such a court; but nothing in this subsection shall in its application to Scotland be construed as conferring jurisdiction on any court of summary jurisdiction other than the sheriff court.
- (7) Proceedings for an offence against any order under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland;

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except that in England and Wales and in Northern Ireland such proceedings may be instituted by the CAA without such consent if the order in question is made in respect of an aerodrome owned or managed by the CAA.

- (8) In this section “aerodrome” includes part of an aerodrome; and, without prejudice to section 105(3) below, the reference in subsection (4) above to the Secretary of State shall, in relation to any time before the passing of this Act, have effect as a reference to whoever at that time was charged with exercising the functions which by virtue of this section are vested in the Secretary of State.

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

**C5** Ss. 44–46 extended with modifications by Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)

**46 Power to exercise control over land in interests of civil aviation.**

- (1) The Secretary of State may, if he is satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes (including the testing of aircraft designed for civil aviation) of any land, structures, works or apparatus vested in a relevant authority or which such an authority proposes to acquire or install, 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 section; and in this Part of this Act that authority, in relation to the making of such an order, is referred to as the person in respect of whom the order is or, as the case may be, is to be made.
- (2) Where an order under subsection (1) above is in force, the Secretary of State may, in pursuance of any general or special authority given by the order, give directions—
- (a) for requiring the total or partial demolition of any building or structure within the area to which the order relates;
  - (b) for restricting the height of trees upon any land within the area, or for requiring any tree upon any such land to be cut down or reduced in height;
  - (c) for extinguishing any private right of way over land within the area;
  - (d) for restricting the installation of cables, mains, [<sup>F27</sup>sewers,] pipes, wires or other apparatus upon, across, under or over any land within the area;
  - (e) 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 as aforesaid upon, across, under or over any land within the area;
  - (f) 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.
- (3) An order under subsection (1) above may contain such consequential, incidental and supplemental provisions, as appear to the Secretary of State to be necessary or expedient for the purposes of the order, including, in particular, provisions for empowering any person authorised for the purpose by the Secretary of State, 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.
- (4) An order under subsection (1) above, other than an order relating to land in Northern Ireland, shall be subject to special parliamentary procedure.

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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

- (5) Before making any order under this section, the Secretary of State shall consult every local authority within the area of which the whole or any part of the area of land to which the proposed order will relate is situated.
- (6) Notwithstanding anything in section 2(1) of the <sup>M18</sup>Statutory Orders (Special Procedure) Act 1945, the duty of the Secretary of State to comply with the requirements of subsection (5) above in relation to England and Wales shall not excuse him from the duty of complying with the requirements of Schedule 1 to that Act.
- (7) Subject to the special provisions of this Part of this Act relating to statutory undertakers, Schedule 9 to this Act shall have effect with respect to directions given under an order made under this section.
- (8) The powers of the Secretary of State under this section shall not prejudice his power to acquire land for the purpose of securing the observance of any requirement or restriction which might have been imposed in relation to the land under this section.
- (9) The Secretary of State may, after consultation with any local authority which appears to him to be concerned, by order repeal or amend any enactment in a local Act which appears to him to be unnecessary having regard to, or to be inconsistent with, the provisions of this Part of this Act relating to orders made or to be made under subsection (1) above in respect of a relevant authority falling with paragraph (d) of subsection (10) below.
- (10) The following are relevant authorities for the purposes of this section, that is to say—
- (a) the Secretary of State;
  - (b) Eurocontrol;
  - (c) the CAA; <sup>F28</sup> . . .
  - (d) the licensee of any aerodrome licensed under an Air Navigation Order; <sup>F29</sup>and
  - (e) a licence holder (within the meaning of section 105(1) below);]
- and in this section and in Schedule 9 to this Act, references to land, structures, works or apparatus vested in or proposed to be acquired or installed by a relevant authority shall include references to land, structures, works or apparatus occupied or, as the case may be, proposed to be occupied by Eurocontrol.

#### Textual Amendments

**F27** Word inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), **ss. 58(7), 101(1)**. 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 67(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58

**F28** Word in [s. 46\(10\)\(c\)](#) repealed (1.4.2001) by [2000 c. 38, s. 274, Sch. 31 Pt. I\(4\)](#); [S.I. 2001/869, art. 2](#)

**F29** [S. 46\(10\)\(e\)](#) and the preceding word “and” inserted (1.4.2001) by [2000 c. 38, s. 36, Sch. 4 para. 5](#) (with [s. 106](#)); [S.I. 2001/869, art. 2](#)

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

**C6** [Ss. 44–46](#) extended with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), **s. 59(3)(4)**

#### Marginal Citations

**M18** [1945 c. 18](#). (9 & 10 Geo. 6).

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*Status: Point in time view as at 22/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part II. (See end of Document for details)*

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#### **47 Warning of presence of obstructions near licensed aerodromes.**

- (1) Subject to the provisions of this section, if the Secretary of State is satisfied with respect to any building, structure or erection in the vicinity of a licensed aerodrome 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, he may by order authorise (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions—
  - (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 upon and pass over (with or without vehicles) any such land as may be specified in the order.
- (2) An order shall not be made under this section in relation to any building, structure or erection if it appears to the Secretary of State that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.
- (3) The Secretary of State shall, before making an order under this section—
  - (a) cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge; and
  - (b) take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order;and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Secretary of State thinks proper.
- (4) Every order under this section shall provide—
  - (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner specified in the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be specified in or in accordance with the order; and
  - (b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Secretary of State;

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a

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single arbitrator appointed by the Lord Chief Justice or, in Scotland, by a single arbiter appointed by the Lord President of the Court of Session.

- (5) For the purposes of subsection (4) above, any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of an order under this section, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.
- (6) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of an order under this section; and (subject to the provisions of subsection (8) below) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.
- (7) If any person contravenes the provisions of subsection (6) above, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [<sup>F30</sup>level 4 on the standard scale] or to both; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding [<sup>F31</sup>level 3 on the standard scale].
- (8) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection if—
  - (a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and
  - (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.
- (9) The following provisions shall have effect, without prejudice to the general application of subsections (4) and (5) above, for the protection of statutory undertakers—
  - (a) any order made under this section affecting any property held by such undertakers for the purposes of their undertaking shall be so framed as to avoid interference with the proper carrying on of the undertaking;
  - (b) no person shall, except in a case of emergency, enter, in pursuance of such an order, upon any land held by such undertakers for the purposes of their undertaking, unless he has given to the undertakers at least three clear days' notice of his intention so to do, and any person so entering on any such land shall comply with any reasonable directions given to him by or on behalf of the undertakers for preventing interference with the proper carrying on of the undertaking;
  - (c) if any such undertakers show that, by reason of the operation of such an order, they have been obliged to take special measures for the purpose of ensuring the safety of persons so entering on any such land or otherwise acting under the order in relation to any property of the undertakers, the amount of any expenses reasonably incurred by the undertakers in taking such measures shall be paid to them by the proprietor of the aerodrome to which the order relates, and any dispute as to whether any sum is payable under this paragraph, or as to the amount of any sum so payable, shall unless the parties otherwise agree, be



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referred for determination to a single arbitrator appointed by the Lord Chief Justice or, in Scotland, to a single arbiter appointed by the Lord President of the Court of Session.

(10) In this section—

“licensed aerodrome” means any premises which, by virtue of an Air Navigation Order, are for the time being licensed as an aerodrome for public use, but does not include any premises belonging to the Secretary of State;

“proprietor of the aerodrome” means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises;

and nothing in section 104(1) below shall affect the construction of the reference in the definition in this subsection of “licensed aerodrome” to premises belonging to the Secretary of State.

#### Textual Amendments

**F30** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6

**F31** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6

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

**C7** S. 47, 48 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 2(2)(h)(9)

**C8** S. 47 modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), Sch. 12 para. 3(a); S.R. 1992/117, art. 3(1).

## 48 Power of Secretary of State to stop up and divert highways etc. in interests of civil aviation. **E+W+N.I.**

(1) Subject to subsection (2) below, the Secretary of State may if he is satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes (including the testing of aircraft designed for civil aviation) of any land vested in the Secretary of State [<sup>F32</sup>, the CAA or a licence holder], or of any land which the Secretary of State [<sup>F32</sup>, the CAA or a licence holder] proposes to acquire, by order authorise the stopping-up or diversion of any highway.

(2) The power conferred by subsection (1) above shall, in Northern Ireland, be exercisable by the Department of the Environment for Northern Ireland (in this section referred to as “the Department”) instead of by the Secretary of State, and notwithstanding anything in section 104(1) below, the reference in subsection (1) above to land which is vested in the Secretary of State or which the Secretary of State proposes to acquire shall include a reference to land which is vested in him, or which he proposes to acquire, as the case may be, in connection with the exercise of the following functions, that is to say—

- (a) his functions under the <sup>M19</sup>Supply Powers Act 1975; and
- (b) the related functions which by virtue of the <sup>M20</sup>Ministry of Supply (Transfer of Powers) (No. 1) Order 1939 became exercisable by the Minister of Supply and which have subsequently become vested in the Secretary of State.

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- (3) An order under subsection (1) above may provide for all or any of the following matters, that is to say—
- (a) for securing the provision or improvement of any highway so far as the Secretary of State or, as the case may be, the Department thinks such provision or improvement necessary or desirable in consequence of any such stopping-up or diversion as aforesaid;
  - (b) for directing that any highway to be provided or improved in pursuance of the order shall—
    - (i) in England and Wales, be a highway which for the purposes of the <sup>M21</sup>Highways Act 1980 is maintainable at public expense;
    - (ii) in Scotland, be maintained and managed by a regional, islands or district council; and
    - (iii) in Northern Ireland be a public road within the meaning of the <sup>M22</sup>Roads (Northern Ireland) Order [<sup>F33</sup>1993];
  - (c) for specifying—
    - (i) in England and Wales or Northern Ireland, the highway authority which is to be the highway authority for any highway to be provided or improved in pursuance of the order; and
    - (ii) in Scotland, the council which is to be responsible for the maintenance and management referred to in paragraph (b)(ii) above;
  - (d) for directing that any highway 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 enactments relating to trunk roads;
  - (e) for the retention or removal of any cables, mains, [<sup>F34</sup>sewers,] pipes, wires or similar apparatus placed along, across, over or under any highway 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;
  - (f) if any highway is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;
  - (g) for requiring the Secretary of State or the department or any other specified authority or person—
    - (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work; or
    - (ii) to repay, or to make contributions in respect of, any compensation paid by a highway authority in England and Wales or Scotland in respect of restrictions imposed under section 1 or 2 of the <sup>M23</sup>Restriction of Ribbon Department Act 1935 as respects any highway stopped up or diverted under the order.
- (4) An order under subsection (1) above may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State or, as the case may be, the Department to be necessary or expedient for the purposes of the order.
- (5) An order under subsection (1) above shall, if made in respect of land in England and Wales or Scotland, be subject to special parliamentary procedure; and—

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- (a) if the order was made in respect of land in England and Wales, Schedule 1 to the <sup>M24</sup>Statutory Orders (Special Procedure) Act 1945 (which sets out the notices to be given and the other requirements to be complied with before an order is made), and
- (b) if the order was made in respect of land in Scotland, section 2 of that Act (which contains comparable provision for Scotland), as that section applies by virtue of section 10 of that Act to Scotland,

shall apply in relation to the order, but in their application in relation thereto, shall have effect as if paragraph 1 of the said Schedule 1 or subsection (1) of the said section 2, as the case may be, included the provisions set out in subsection (6) below.

- (6) The said provisions are provisions—
  - (a) requiring notice of the order as proposed to be made to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;
  - (b) requiring notice of the order as proposed to be made to be sent to every local authority in whose area any highway to be stopped up or diverted under the order, or any highway to be provided or improved under the order, is or will be situated; and
  - (c) requiring notice of the order as proposed to be made to be served upon any water, gas electricity undertakers having any cables, mains, [<sup>F34</sup>sewers,] pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.
- (7) In subsection (6) above—
  - (a) the reference in paragraph (b) to a local authority shall include a reference to a parish council in England, to a parish meeting of a parish in England not having a separate parish council, to a council of a community in Wales <sup>F35</sup> . . . ; and
  - (b) the reference in paragraph (c) to electricity undertakers shall be deemed to include references to <sup>F36</sup> . . . [<sup>F37</sup>the operator of [<sup>F38</sup>an electronic communications code network]] [<sup>F39</sup>and]
  - <sup>F39</sup>(c) the reference in paragraph (c) to water undertakers is a reference to the National Rivers Authority, a water undertaker or a sewerage undertaker [<sup>F40</sup>or, in Northern Ireland, a water or sewerage undertaker (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006)] . ]
- (8) The powers of the Secretary of State and of the Department under subsection (1) above shall include power to make an order authorising the stopping-up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Secretary of State or the Department by any other enactment to authorise the stopping-up or diversion of a highway.
- (9) The following provisions (which relate to telegraphic lines of British Telecommunications affected by the stopping-up, diversion or improvement of a highway), that is to say—
  - (a) in England and Wales, [<sup>F41</sup>subsections (1) to (4) of section 256 of the Town and Country Planning Act 1990];
  - (b) in Scotland, subsections (1) and (2) of section 209 of the <sup>M25</sup>Town and Country Planning (Scotland) Act 1972; and

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(c) in Northern Ireland, [<sup>F42</sup>paragraph 2 of Schedule 9 to the Roads (Northern Ireland) Order 1993].

shall have effect as if references in those subsections to an order under [<sup>F41</sup>section 247 of the said Act of 1990] and to an order under section 198 of the said Act of 1972 and in [<sup>F42</sup>that paragraph] to an order under Article 40 of the said Order of 1980 included references to an order made under subsection (1) above in relation to land which is vested in the CAA [<sup>F43</sup>or a licence holder]or which the CAA [<sup>F43</sup>or a licence holder] proposes to acquire.

### Extent Information

**E2** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

### Textual Amendments

- F32** Words in s. 48(1) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 6(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F33** Words in s. 48(3)(b) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1
- F34** Word inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 67(2)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F35** Words in s. 48(7)(a) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. V**
- F36** Words in s. 48(7)(b) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))
- F37** Words substituted by virtue of Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 84, **Sch. 5 para. 45**
- F38** Words in s. 48(7)(b) substituted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 60** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, art. 3(2) (with art. 11)
- F39** S. 48(7)(c) and the word “and” immediately preceding it inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 67(2)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)
- F40** Words in s. 48(7)(c) inserted (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336(N.I. 21)), arts. 1(2)(3), 308, {Sch. 12 para. 18(2)} (with arts. 8(9), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with Sch. 2)
- F41** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(1)**
- F42** Words in s. 48(9) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1
- F43** Words in s. 48(9) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**

### Modifications etc. (not altering text)

- C9** S. 48(1)–(8) extended with modifications by Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)
- C10** S. 47, 48 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**
- C11** S. 48(6) extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(3)(9)**
- C12** S. 48(6) modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(b)**; S.R. 1992/117, **art. 3(1)**
- C13** S. 48(6)(c) amended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)(f)**, Sch. 8 para. 33

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S. 48(6)(c) extended (E.W.S.) (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(g)**; S.I. 1996/218, **art. 2**

#### Marginal Citations

- M19** 1975 c. 9.  
**M20** 1939 S.R. & O. No. 877.  
**M21** 1980 c. 66.  
**M22** S.I. 1980/1085 (N.I. 11).  
**M23** 1935 c. 47.  
**M24** 1945 c. 18 (9 & 10 Geo. 6.)  
**M25** 1972 c. 52.

## 48 Power of Secretary of State to stop up and divert highways etc. in interests of civil aviation. **S**

- (1) Subject to subsection (2) below, the Secretary of State may if he is satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes (including the testing of aircraft designed for civil aviation) of any land vested in the Secretary of State [<sup>F105</sup>, the CAA or a licence holder], or of any land which the Secretary of State [<sup>F105</sup>, the CAA or a licence holder] proposes to acquire, by order authorise the stopping-up or diversion of any highway.
- (2) The power conferred by subsection (1) above shall, in Northern Ireland, be exercisable by the Department of the Environment for Northern Ireland (in this section referred to as “the Department”) instead of by the Secretary of State, and notwithstanding anything in section 104(1) below, the reference in subsection (1) above to land which is vested in the Secretary of State or which the Secretary of State proposes to acquire shall include a reference to land which is vested in him, or which he proposes to acquire, as the case may be, in connection with the exercise of the following functions, that is to say—
- (a) his functions under the <sup>M40</sup>Supply Powers Act 1975; and
- (b) the related functions which by virtue of the <sup>M41</sup>Ministry of Supply (Transfer of Powers) (No. 1) Order 1939 became exercisable by the Minister of Supply and which have subsequently become vested in the Secretary of State.
- (3) An order under subsection (1) above may provide for all or any of the following matters, that is to say—
- (a) for securing the provision or improvement of any highway so far as the Secretary of State or, as the case may be, the Department thinks such provision or improvement necessary or desirable in consequence of any such stopping-up or diversion as aforesaid;
- (b) for directing that any highway to be provided or improved in pursuance of the order shall—
- (i) in England and Wales, be a highway which for the purposes of the <sup>M42</sup>Highways Act 1980 is maintainable at public expense;
- (ii) in Scotland, be maintained and managed by a [<sup>F106</sup>local authority]; and
- (iii) in Northern Ireland be a public road within the meaning of the <sup>M43</sup>Roads (Northern Ireland) Order [<sup>F107</sup>1993];
- (c) for specifying—

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- (i) in England and Wales or Northern Ireland, the highway authority which is to be the highway authority for any highway to be provided or improved in pursuance of the order; and
  - (ii) in Scotland, the [<sup>F108</sup>local authority] which is to be responsible for the maintenance and management referred to in paragraph (b)(ii) above;
  - (d) for directing that any highway 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 enactments relating to trunk roads;
  - (e) for the retention or removal of any cables, mains, [<sup>F109</sup>sewers,] pipes, wires or similar apparatus placed along, across, over or under any highway 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;
  - (f) if any highway is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;
  - (g) for requiring the Secretary of State or the department or any other specified authority or person—
    - (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work; or
    - (ii) to repay, or to make contributions in respect of, any compensation paid by a highway authority in England and Wales or Scotland in respect of restrictions imposed under section 1 or 2 of the <sup>M44</sup>Restriction of Ribbon Department Act 1935 as respects any highway stopped up or diverted under the order.
- (4) An order under subsection (1) above may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State or, as the case may be, the Department to be necessary or expedient for the purposes of the order.
- (5) An order under subsection (1) above shall, if made in respect of land in England and Wales or Scotland, be subject to special parliamentary procedure; and—
- (a) if the order was made in respect of land in England and Wales, Schedule 1 to the <sup>M45</sup>Statutory Orders (Special Procedure) Act 1945 (which sets out the notices to be given and the other requirements to be complied with before an order is made), and
  - (b) if the order was made in respect of land in Scotland, section 2 of that Act (which contains comparable provision for Scotland), as that section applies by virtue of section 10 of that Act to Scotland,
- shall apply in relation to the order, but in their application in relation thereto, shall have effect as if paragraph 1 of the said Schedule 1 or subsection (1) of the said section 2, as the case may be, included the provisions set out in subsection (6) below.
- (6) The said provisions are provisions—
- (a) requiring notice of the order as proposed to be made to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;
  - (b) requiring notice of the order as proposed to be made to be sent to every local authority in whose area any highway to be stopped up or diverted under the

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order, or any highway to be provided or improved under the order, is or will be situated; and

- (c) requiring notice of the order as proposed to be made to be served upon any water, gas electricity undertakers having any cables, mains, <sup>F109</sup>sewers, pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.

(7) In subsection (6) above—

- (a) the reference in paragraph (b) to a local authority shall include a reference to a parish council in England, to a parish meeting of a parish in England not having a separate parish council, to a council of a community in Wales <sup>F110</sup> . . . ; and

- (b) the reference in paragraph (c) to electricity undertakers shall be deemed to include references to <sup>F111</sup> . . . <sup>F112</sup>the operator of [<sup>F38</sup>an electronic communications code network]]<sup>F113</sup>and]

- <sup>F113</sup>(c) the reference in paragraph (c) to water undertakers is a reference to the National Rivers Authority, a water undertaker or a sewerage undertaker.]

(8) The powers of the Secretary of State and of the Department under subsection (1) above shall include power to make an order authorising the stopping-up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Secretary of State or the Department by any other enactment to authorise the stopping-up or diversion of a highway.

(9) The following provisions (which relate to telegraphic lines of British Telecommunications affected by the stopping-up, diversion or improvement of a highway), that is to say—

- (a) in England and Wales, <sup>F114</sup>subsections (1) to (4) of section 256 of the Town and Country Planning Act 1990];

- (b) in Scotland, <sup>F115</sup>subsections (1) to (4) of section 212 of the Town and Country Planning (Scotland) Act 1997]; and

- (c) in Northern Ireland, <sup>F116</sup>paragraph 2 of Schedule 9 to the Roads (Northern Ireland) Order 1993].

shall have effect as if references in those subsections to an order under <sup>F114</sup>section 247 of the said Act of 1990] and to an order under <sup>F115</sup>section 202 of the said Act of 1997] and in <sup>F116</sup>that paragraph] to an order under Article 40 of the said Order of 1980 included references to an order made under subsection (1) above in relation to land which is vested in the CAA [<sup>F117</sup>or a licence holder]or which the CAA [<sup>F117</sup>or a licence holder]proposes to acquire.

#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Textual Amendments

- F38** Words in s. 48(7)(b) substituted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 60** (with **Sch. 18**); S.I. 2003/1900, arts. 1(2), 2(1), 3(1), **Sch. 1** (with **art. 3(2)** (as amended (8.12.2003) by S.I. 2003/3142, **art. 1(3)**)); S.I. 2003/3142, **art. 3(2)** (with **art. 11**)



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- F105** Words in s. 48(1) substituted (1.4.2001) by 2000 c. 38, s. 36 **Sch. 4 para. 6(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F106** Words in s. 48(3)(b)(ii) substituted (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 6(a)**
- F107** Words in s. 48(3)(b) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1
- F108** Words in s. 48(3)(c)(ii) substituted (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 6(b)**
- F109** Word inserted by **Water Act 1989** (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 67(2)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F110** Words in s. 48(7)(a) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. V**
- F111** Words in s. 48(7)(b) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))
- F112** Words substituted by virtue of **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, Sch. 4 para. 84, **Sch. 5 para. 45**
- F113** S. 48(7)(c) and the word “and” immediately preceding it inserted by **Water Act 1989** (c. 15, SIF 130), s. 190(1), Sch. 25 para. 67(2)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)
- F114** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(1)**
- F115** Words in s. 48(9) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(1)**
- F116** Words in s. 48(9) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1
- F117** Words in s. 48(9) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C21** S. 48(1)–(8) extended with modifications by **Airports Act 1986** (c. 31, SIF 9), s. 59(3)(4)
- C22** S. 47, 48 extended by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**
- C23** S. 48(6) extended by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(3)(9)**
- C24** S. 48(6) modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(b)**; S.R. 1992/117, **art. 3(1)**
- C25** S. 48(6)(c) amended by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)(f)**, Sch. 8 para. 33  
S. 48(6)(c) extended (E.W.S.) (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(g)**; S.I. 1996/218, **art. 2**

#### Marginal Citations

- M40** 1975 c. 9.
- M41** 1939 S.R. & O. No. 877.
- M42** 1980 c. 66.
- M43** S.I. 1980/1085 (N.I. 11).
- M44** 1935 c. 47.
- M45** 1945 c. 18 (9 & 10 Geo. 6.)

#### 49 Power to acquire land in connection with order under s. 48.

- (1) The Secretary of State may be authorised to purchase land in Great Britain compulsorily for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 48(1) above or for any other purpose for which land is required in connection with such an order.
- (2) The <sup>M26</sup>Acquisition of Land Act 1981 shall apply, in relation to land in England and Wales, to a compulsory purchase under subsection (1) above.



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- (3) The CAA's power of acquiring land compulsorily under this Act may be exercised for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order made under section 48(1) above in relation to land which is vested in the CAA or which the CAA proposes to acquire or for any other purpose for which land is required in connection with such an order.
- [<sup>F44</sup>(3A) A licence holder's power of acquiring land compulsorily under this Act may be exercised for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order made under section 48(1) above in relation to land which is vested in the licence holder or which the licence holder proposes to acquire or for any other purpose for which land is required in connection with such an order.]
- (4) The powers of compulsory acquisition of land exercisable by the Department of the Environment for Northern Ireland under [<sup>F45</sup>Articles 110 and 113 of the Roads (Northern Ireland) Order 1993] shall include the power to acquire lands compulsorily in accordance with the provisions of that Article for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 48(1) above or for any other purpose for which land is required in connection with such an order; and the said Order of [<sup>F45</sup>1993] shall have effect accordingly.
- (5) The powers conferred on the Department of the Environment for Northern Ireland by subsection (4) above shall be exercisable in relation to any land notwithstanding that the land is the property of a statutory undertaker or is declared by any other enactment to be inalienable

#### Textual Amendments

**F44** S. 49(3A) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 7** (with s. 106); S.I. 2001/869, **art. 2**

**F45** Words in s. 49(4) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10** (with Sch. 9 para. 1)

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

**C14** Ss. 49, 51 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**

**C15** S. 49 modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(a)**; S.R. 1992/117, **art. 3(1)**.

#### Marginal Citations

**M26** 1981 c. 67.

## 50 Power of entry for purposes of survey.

- (1) This section applies—
- where the Secretary of State has confirmed or is considering the confirmation of an order authorising the CAA [<sup>F46</sup>or a licence holder] to acquire land in Great Britain compulsorily;
  - where the CAA [<sup>F46</sup>or a licence holder] proposes to acquire land in Northern Ireland compulsorily;
  - where the Secretary of State has made or has under consideration the making of an order under section 44 above providing for the creation in favour of the

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- CAA [<sup>F46</sup> or a licence holder] of easements or servitudes over land or of other rights in or in relation to land;
- (d) where the Secretary of State has made, or has under consideration the making of, an order under section 46(1) above in respect of the CAA [<sup>F47</sup>, a licence holder (within the meaning of section 105(1) below)] or the licensee of an aerodrome licensed under an Air Navigation Order, being an order declaring that an area of land shall be subject to control by directions; and
- (e) in any case not falling within paragraphs (a) to (d) above where the Secretary of State has made, or has under consideration the making of, an order under or in pursuance of this Part of this Act, being—
- (i) an order authorising the compulsory purchase of land; or
  - (ii) an order providing for the creation in favour of a particular person of easements or servitudes over land or of other rights in or in relation to land; or
  - (iii) an order declaring that an area of land shall be subject to control by directions.
- (2) Where this section applies any person authorised in writing by the Secretary of State may at all reasonable times on producing if so required evidence of his authority for the purpose enter upon any of the land in question in order to make a relevant survey.
- (3) In subsection (2) above “a relevant survey” means—
- (a) in a case falling within subsection (1)(a) above, any survey which the Secretary of State [<sup>F48</sup>, the CAA or a licence holder] requires to be made for the purpose of any steps to be taken in consequence of the order, or, as the case may be, for the purpose of determining whether the order should be confirmed;
  - (b) in a case falling within subsection (1)(b) above, any survey which the Secretary of State [<sup>F48</sup>, the CAA or a licence holder] requires to be made for the purpose of ascertaining whether the land would be suitable for the purposes for which it is proposed to acquire it;
  - (c) in a case falling within subsection (1)(c) above, any survey which the Secretary of State [<sup>F48</sup>, the CAA or a licence holder] requires to be made for the purpose of any steps to be taken in consequence of the order or, as the case may be, for the purpose of determining whether the order should be made;
  - (d) In a case falling within subsection (1)(d) above, any survey which the Secretary of State or the person in respect of whom the order under the said section 46(1) has been, or is to be, made requires to be made for the purpose of any steps to be taken in consequence of that order or, as the case may be, for the purpose of determining whether the order should be made;
  - (e) in a case falling within subsection (1)(e) above, any survey which the Secretary of State requires to be made for the purpose of any steps to be taken in consequence of the order in question or, as the case may be, for the purpose of determining whether the order should be made.
- (4) Admission shall not, by virtue of subsection (2) above, be demanded as of right to any land which is occupied unless the following notice of the intended entry has been served on the occupier, that is to say—
- (a) in a case falling within subsection (1) (a) to (d) above, eight days’ notice; and
  - (b) in a case falling within subsection (1)(e) above, twenty-four hours’ notice.

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- (5) If any person obstructs a person authorised as mentioned in subsection (2) above in the exercise of any power conferred by this section he shall be liable on summary conviction to a fine not exceeding [<sup>F49</sup>level 2 on the standard scale].
- (6) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland,
- except that in England and Wales and in Northern Ireland such proceedings may be instituted without such consent, in a case falling within subsection (1)(a) to (c) above, by the CAA and, in a case falling within subsection (1)(d) above, by the person in respect of whom the order in question has been, or is to be, made.
- (7) Where any land is damaged in the exercise of a power of entry conferred in pursuance of an authority given under this section, or in the making of any survey for the purpose of which any such power of entry has been conferred—
- [<sup>F50</sup>(a) in a case falling within subsection (1)(a) to (c) above in respect of the CAA, the CAA,
  - <sup>F50</sup>(aa) in a case falling within subsection (1)(a) to (c) above in respect of a licence holder, the licence holder,]
  - (b) in a case falling within subsection (1)(d) above, the person in respect of whom the order in question has been, or is to be, made,
  - (c) in a case falling within subsection (1)(e) above, the Secretary of State,
- shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation or as to the persons to whom it is payable, the dispute shall be referred to and determined by the [<sup>F51</sup>appropriate tribunal].

#### Textual Amendments

- F46** Words in s. 50(1)(a)(b)(c) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 8(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F47** Words in s. 50(1)(d) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 8(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F48** Words in s. 50(3)(a)(b)(c) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 8(4)** (with s. 106); S.I. 2001/869, **art. 2**
- F49** Words substituted by virtue of (E. W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**
- F50** S. 50(7)(a)(aa) substituted (1.4.2001) for s. 50(7)(a) by 2000 c. 38, s. 36, **Sch. 4 para. 8(5)** (with s. 106); S.I. 2001/869, **art. 2**
- F51** Words in s. 50(7) 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. 154** (with Sch. 5)

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

- C16** S. 50 extended with modifications by Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)
- C17** S. 50(2): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

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### *Supplemental*

## **51 Special provisions relating to statutory undertakers.**

- (1) Subject to the provisions of this section, the compensation to be paid to a statutory undertaker—
  - (a) in respect of the compulsory purchase in pursuance of this Part of this Act, otherwise than under section 30, of any land held by the undertaker for the purposes of the carrying on of his undertaking,
  - (b) in respect of the creation, by virtue of an order made under this Part of this Act, otherwise than under section 30 above, of any easement or servitude over any such land or of any other right in or in relation to any such land,
  - (c) in respect of any direction under section 46 above which affects any building, structure or apparatus held or used by him for the purposes of his undertaking, or which affects any of his rights to install or maintain apparatus for those purposes or which affects any right of way enjoyed by him for those purposes,
 shall, in default of agreement, be assessed by the [<sup>F52</sup>appropriate tribunal]; but this subsection shall not apply to any compensation payable by virtue of section 42 above.
- (2) Subject to those provisions, the amount of any compensation payable as mentioned in subsection (1) above shall be an amount calculated in accordance with the following enactments, that is to say—
  - (a) if the land is in England and Wales, [<sup>F53</sup>section 280(2) to (5), (7) and (8) of the Town and Country Planning Act 1990]; and
  - (b) if the land is in Scotland, [<sup>F54</sup>section 233(2) to (5), (7) and (8) of the Town and Country Planning (Scotland) Act 1997].
- (3) Subsection (4) below applies in relation to compensation payable as so mentioned in respect of a compulsory purchase.
- (4) If, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried on, that person gives notice in writing to the Secretary of State that he elects that as respects all or any of the land comprised in the purchase the compensation shall be ascertained in accordance with the enactments, other than Rule (5) of the Rules set out in section 5 of the <sup>M27</sup>Land Compensation Act 1961 and section 12(1) of the <sup>M28</sup>Land Compensation (Scotland) Act 1963, which would be applicable apart from subsection (2) above, the compensation shall be so ascertained.
- (5) [<sup>F55</sup>Subsections (2) to (5), (7) and (8) of the said section 280 and][<sup>F56</sup>subsections (2) to (5), (7) and (8) of the said section 233] shall have effect for the purposes of this section with the following modifications, that is to say—
  - (a) in subsection (2)(c) of the said [<sup>F57</sup>section 280] the words “is under [<sup>F57</sup>section 279(2) or (3)] of this Act and” and in subsection (2)(c) of the said [<sup>F58</sup>section 233] the words “is under [<sup>F58</sup>section 232(2) or (3)] of this Act and” shall be omitted;
  - (b) after subsection (2)(c) of each of the said sections there shall be inserted the following paragraph:—
    - “(d) in respect of the imposition of a requirement to demolish a building or structure either wholly or in part, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirement, reduced by

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- the value to that person of any materials derived from the demolished building or structure, or from the demolished part of the building or structure, as the case may be;”;
- (c) in <sup>F59</sup>subsection (8) of the said section 280 and <sup>F60</sup>subsection (8) of the said section 233]] any reference to the imposition of a requirement shall include a reference to anything which may be done by virtue of an order made, otherwise than by virtue of section 42 above, under this Part of this Act.
- (6) The preceding provisions of this section as to the assessment of compensation shall not have effect—
- (a) in the case of the compulsory purchase of land, unless the Secretary of State has, upon a representation made to him before the expiration of the time within which objections may be made to the compulsory purchase order, certified that the land is in respect of its nature or situation of such a kind that it is comparable less with the generality of land than with land held for the purpose of the carrying on of statutory undertakings;
- (b) in the case of the creation of any easement or servitude over land or any other right in or in relation to land, unless the Secretary of State has, upon a representation made to him before the expiration of the time within which objections may be made to the order providing for the creation of that easement, servitude or right, certified that the land in question is of such a kind as aforesaid; and
- (c) in the case of any direction which affects a building or structure, unless the Secretary of State has, upon a representation made to him before the expiration of the time within which an application may be made to the court with respect to the direction in accordance with the provisions of Part II of Schedule 7 to this Act, certified that the building or structure is in respect of its nature or situation comparable less with the generality of buildings or structures than with buildings or structures held for the purpose of the carrying on of statutory undertakings.
- (7) Schedule 10 to this Act (which broadly corresponds to <sup>F61</sup>sections 275 to 277 of the Town and Country Planning Act 1990] and <sup>F62</sup>sections 228 to 230 of the Town and Country Planning (Scotland) Act 1997]) shall have effect for the purpose of making any adjustments of the functions of statutory undertakers which may be necessary in consequence of the provisions of this Part of this Act; but in that Schedule references to an order made or proposed to be made in pursuance of this Part of the Act—
- (a) shall, in relation to an order for the compulsory purchase of land by the CAA <sup>F63</sup>[or a licence holder], have effect as references to an order confirmed or, as the case may be, proposed to be confirmed by the Secretary of State; but
- (b) shall be deemed not to include a reference to an order made or, as the case may be, proposed to be made in pursuance of section 30 above or under any enactment conferring a power exercisable by statutory instrument.

#### Textual Amendments

- F52** Words in s. 51(1) 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. 155** (with Sch. 5)
- F53** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(2)(a)**
- F54** Words in s. 51(2)(b) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 35(2)(a)**

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- F55** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(2)(b)(i)**
- F56** Words in s. 51(5) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para.35(2)(b)(i)**
- F57** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(2)(b)(ii)**
- F58** Words in s. 51(5)(a) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(2)(b)(ii)**
- F59** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(2)(b)(iii)**
- F60** Words in s. 51(5)(c) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(2)(b)(iii)**
- F61** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(2)(c)**
- F62** The words “sections 222 and 224 of the Town and Country Planning (Scotland) Act 1972” in s. 51(7) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(2)(c)**
- F63** Words in s. 51(7)(a) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 9** (with s. 106); S.I. 2001/869, **art. 2**

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

- C18** Ss. 49, 51 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**

#### **Marginal Citations**

- M27** 1961 c. 33.  
**M28** 1963 c. 51.

## **52 Displacements from land.**

(1) This section applies where—

- (a) the Secretary of State has acquired land for purposes connected with the exercise of his functions relating to civil aviation;
- (b) the Secretary of State (in a case not falling within paragraph (a) above) or the Department of the Environment for Northern Ireland has acquired land in pursuance of this Part of this Act;
- (c) the CAA has acquired land for purposes connected with the discharge of its functions; or
- <sup>F64</sup>(ca) a licence holder has acquired land for purposes connected with the carrying out of the activities authorised by the licence;]
- (d) the Secretary of State gives a direction in relation to any land in pursuance of an order made under section 46(1) above;

and the use of the land by the person who has acquired it for the purpose for which he acquired it or, as the case may be, the execution of the direction will involve the displacement of persons residing in premises on the land.

(2) Where this section applies, the following, that is to say—

- (a) in a case falling within paragraph (a), (b) <sup>F65</sup>, (c) or (ca)] of subsection (1) above, the person who has acquired the land,
- (b) in a case falling within paragraph (d) of that subsection where the person in respect of whom the order was made is the Secretary of State or Eurocontrol, the Secretary of State, and
- (c) in any other case falling within the said paragraph (d), the person in respect of whom the order was made,

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shall be under a duty, in so far as there is no other residential accommodation available on reasonable terms to the persons who require it in consequence of the displacement, being residential accommodation suitable to the reasonable requirements of those persons, to secure the provision of such accommodation.

- (3) A person required under subsection (2) above to secure the provision of accommodation shall secure its provision in advance of the displacement unless—
- (a) in a case falling within paragraph (a), (c) [<sup>F66</sup>, (ca)] or (d) of subsection (1) above, the Secretary of State is satisfied that for reasons of exceptional public importance it is essential that the displacement should be effected before such accommodation as aforesaid can be found; or
  - (b) in a case falling within paragraph (b) of that subsection, the Secretary of State or, as the case may be, the Department of the Environment for Northern Ireland is so satisfied.

#### Textual Amendments

- F64** S. 52(1)(ca) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 10(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F65** Words in s. 52(2)(a) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 10(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F66** Words in s. 52(3)(a) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 10(4)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C19** S. 52 extended with modifications by **Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)**

### 53 Compensation in respect of planning decisions relating to safety of aerodromes, etc.

- (1) A local planning authority (in this section referred to as “a planning authority”) shall be [<sup>F67</sup>entitled to recover from the relevant person] a sum equal to any compensation which the planning authority has become liable to pay, if—
- (a) it has become so liable under [<sup>F68</sup>section 107, 108, <sup>F69</sup>. . . 144(2) or 279(1) of the Town and Country Planning Act 1990] or [<sup>F70</sup>section 76, 77, 95(2) or 232(1) of the Town and Country Planning (Scotland) Act 1997] (which relate to compensation for certain planning restrictions, for purchase notices which do not take effect and in respect of undertakers’ operational land); and
  - (b) the liability is attributable to a planning decision which would not have been taken, or, in the case of compensation under [<sup>F71</sup>the said section 107] or [<sup>F72</sup>the said section 76] to an order under [<sup>F71</sup>section 97 of the said Act of 1990] or [<sup>F72</sup>section 65 of the said Act of 1997] which would not have been made, but for the need—
    - (i) to secure the safe and efficient operation of an aerodrome owned by the CAA; or
    - (ii) to prevent persons or buildings from being struck by aircraft using such an aerodrome; or
    - [<sup>F73</sup>(iii) to secure the safe and efficient operation of apparatus which is in the possession of a licence holder and is provided for the purpose of the activities authorised by the licence.]



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- (2) Where a sum equal to any compensation is payable or paid to a planning authority in pursuance of subsection (1) above, the planning authority [<sup>F74</sup>shall refund to the person who paid that sum] any amount received by the planning authority in respect of the compensation under [<sup>F75</sup>sections 111 and 112 of the said Act of 1990] or [<sup>F76</sup>section 82 of the said Act of 1997] (which relate to the recovery of compensation on subsequent development).
- (3) Where a purchase notice is served under [<sup>F77</sup>section 137 of the said Act of 1990] or [<sup>F78</sup>section 88 of the said Act of 1997] in respect of a planning decision which would not have been taken but for [<sup>F79</sup>a need referred to in subsection (1)(b)(i) to (iii),] any local authority who are deemed under [<sup>F77</sup>section 139(3) or 143(1) of the said Act of 1990] or [<sup>F78</sup>section 90(3) or 94(1) of the said Act of 1997] to have served a notice to treat in respect of the interest to which the purchase notice relates may, by notice in writing [<sup>F80</sup>given to the relevant person] not later than one month from the time when the amount of compensation payable by the local authority for the interest is agreed or determined, [<sup>F80</sup>require the relevant person] to purchase the interest from the local authority for a sum equal to the amount of compensation so agreed or determined.
- (4) Where a notice in writing is given to [<sup>F81</sup>the relevant person] under subsection (3) above, [<sup>F81</sup>the relevant person] shall, subject to any agreement between it and the local authority, be deemed to have contracted with the local authority to purchase the interest at that price.
- (5) Any dispute as to whether a planning decision would not have been taken or an order under [<sup>F82</sup>the said section 97] or [<sup>F83</sup>the said section 65] would not have been made but for such a need as is mentioned in subsection (1) above shall be referred to and determined by the Secretary of State.
- (6) In the preceding provisions of this section “planning decision” means a decision made on an application under Part III of [<sup>F84</sup>the said Act of 1990] or Part III of [<sup>F85</sup>the said Act of 1997]; and references in those provisions to a local planning authority include, in relation to England and Wales, references to any authority to whom functions of a local planning authority are delegated.
- (7) Where by reason of a planning decision taken under the Planning Acts (Northern Ireland) 1931 and 1944 by a planning authority in Northern Ireland or under the <sup>M29</sup>Planning (Northern Ireland) Order [<sup>F86</sup>1991] by the Department of the Environment for Northern Ireland or the Planning Appeals Commission—
- (a) the Department of the Environment for Northern Ireland becomes liable to pay compensation to any person; and
  - [<sup>F87</sup>(b) the decision would not have been taken but for the need to secure the safe and efficient operation of apparatus which is in the possession of a licence holder and is provided for the purpose of the activities authorised by the licence,
- the Department shall be entitled to recover from the licence holder a sum equal to that compensation.]
- (8) Where a sum equal to any compensation is payable or paid to the said Department in pursuance of subsection (7) above, the Department shall pay [<sup>F88</sup>the licence holder] any amount received by the Department in respect of the compensation under section 24 of the <sup>M30</sup>Land Development Values (Compensation) Act (Northern Ireland) 1965 (which relates to the recovery of compensation on subsequent development).



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(9) In subsection (7) above, “planning decision” includes a revocation or modification of planning permission under section 3 of the <sup>M31</sup>Planning (Interim Development) Act (Northern Ireland) 1944.

[<sup>F89</sup>(10) The relevant person for the purposes of this section is—

- (a) in a case to which subsection (1)(b)(i) or (ii) applies, the CAA, and
- (b) in a case to which subsection (1)(b)(iii) applies, the licence holder.]

#### Textual Amendments

- F67 Words in s. 53(1) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(2)(a)** (with s. 106); S.I. 2001/869, **art. 2**
- F68 Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(a)(i)**
- F69 Figure "114," in s. 53(1)(a) repealed (E.W.) (25.9.1991) by **Planning and Compensation Act 1991** (c. 34, SIF 28:1, 23:1), ss. 31(4), 84(6), Sch. 6 para. 6, **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art. 3**
- F70 Words in s. 53(1)(a) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(a)(i)**
- F71 Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(a)(ii)**
- F72 Words in s. 53(1)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(a)(ii)**
- F73 S. 53(1)(b)(iii) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(2)(b)** (with s. 106); S.I. 2001/869, **art. 2**
- F74 Words in s. 53(2) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F75 Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(b)**
- F76 Words in s. 53(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(b)**
- F77 Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(c)**
- F78 Words in s. 53(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(c)**
- F79 Words in s. 53(3) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(4)(a)** (with s. 106); S.I. 2001/869, **art. 2**
- F80 Words in s. 53(3) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(4)(b)(c)** (with s. 106); S.I. 2001/869, **art. 2**
- F81 Words in s. 53(4) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(5)** (with s. 106); S.I. 2001/869, **art. 2**
- F82 Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(d)**
- F83 Words in s. 53(5) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(d)**
- F84 Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(e)**
- F85 Words in s. 53(6) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(e)**
- F86 Words in s. 53(7) substituted (21.8.1991) by S.I. 1991/1220 (N.I. 11), art. 133(1), **Sch. 5**
- F87 S. 53(7)(b) and the words following it substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(6)** (with s. 106); S.I. 2001/869, **art. 2**
- F88 Words in s. 53(8) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(7)** (with s. 106); S.I. 2001/869, **art. 2**
- F89 S. 53(10) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(8)** (with s. 106); S.I. 2001/869, **art. 2**

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

**C20** S. 53 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 1\(1\)\(xxxv\)](#)

#### Marginal Citations

**M29** [S.I. 1972/1634 \(N.I.17\)](#).

**M30** [1965 c. 23 \(N.I.\)](#).

**M31** [1944 c. 3 \(N.I.\)](#).

### 54 Consecrated land and burial grounds.

- (1) Subject to subsection (2) below, [<sup>F90</sup>sections 238 to 240 of the Town and Country Planning Act 1990] and [<sup>F91</sup>section 197 of the Town and Country Planning (Scotland) Act 1997] (consecrated land and burial grounds) shall have effect in relation—
- (a) to land acquired by the Secretary of State for purposes connected with the exercise of his functions relating to civil aviation, and
  - (b) to land acquired by the Secretary of State in pursuance of this Part of this Act and otherwise than as mentioned in paragraph (a) above,
- as if the Secretary of State had acquired that land under [<sup>F90</sup>Part IX of the said Act of 1990] or, as the case may be, [<sup>F91</sup>Part VIII of the said Act of 1997].
- (2) [<sup>F92</sup>The said sections 238 to 240][<sup>F93</sup>and 197] shall have effect [<sup>F94</sup>in relation] to any land—
- (a) acquired by the CAA, or
  - (b) acquired by a licence holder for purposes connected with the carrying out of the activities authorised by the licence,]
- as they have effect in relation to land acquired by statutory undertakers under [<sup>F92</sup>Part IX of the said Act of 1990] or, as the case may be, [<sup>F93</sup>Part VIII of the said Act of 1997].

#### Textual Amendments

**F90** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 55\(4\)\(a\)](#)

**F91** Words in s. 54(1) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2 para. 35\(4\)\(a\)](#)

**F92** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 55\(4\)\(b\)](#)

**F93** Words in s. 54(2) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2 para. 35\(4\)\(b\)](#)

**F94** Words in s. 54(2) and s. 54(2)(a)(b) substituted (1.4.2001) for words in s. 54(2) by [2000 c. 38, s. 36](#), [Sch. 4 para. 12](#) (with s. 106); [S.I. 2001/869, art. 2](#)

### 55 Registration of orders, etc. under Part II.

- (1) The following shall be local land charges in England and Wales:—
- (a) a right in or in relation to land granted or agreed to be granted on or after 25th October 1968 and enforceable by virtue of section 43 above;
  - (b) the following instruments when operative that is to say
    - (i) an order under section 44 above;
    - (ii) an order under section 45 above, other than an order for the imposition of prohibitions or restrictions on the use of water; and

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- (iii) an order under section 46(1) above or any direction given under such an order.
- (2) A grant or agreement made as respects land in Scotland shall not be enforceable by virtue of section 43 above against a third party who shall have in good faith and for value acquired a right (whether completed by infestment or not) to the land prior to the grant or agreement being registered in the Land Register of Scotland or against any person deriving title from such third party.
- (3) In Scotland where any such instrument as is mentioned in subsection (1)(b) above becomes operative it shall be registered as a deed in the said Land Register, and on being so registered shall be enforceable against any person having or subsequently acquiring any estate or interest in the land to which the order or direction relates.
- (4) For the purposes of the recording of a deed in the Register of Sasines under section 8 of the <sup>M32</sup>Land Registration (Scotland) Act 1979 or of the application of subsection (2) or (3) above in relation to any area in respect of which section 29(2) of that Act (modification of references to Register of Sasines) is not yet in force, any reference in subsections (2) and (3) above to the registration of any grant, agreement or instrument in the Land Register of Scotland shall have effect as a reference to the recording of the grant, agreement or instrument in the Register of Sasines.
- (5) A right in or in relation to land in Northern Ireland granted or agreed to be granted to the CAA [<sup>F95</sup>or a licence holder] shall not be enforceable by virtue of section 43 above against a purchaser for money or money's worth of any estate or interest in the land to which the grant or agreement in question relates unless before the completion of the purchase the grant or agreement is registered in the Statutory Charges Register pursuant to Part X of the <sup>M33</sup>Land Registration Act (Northern Ireland) 1970; and accordingly such a grant or agreement shall be included among the matters which are required to be registered in that Register.
- (6) Where any such instrument as is mentioned in subsection (1)(b) above adversely affects land in Northern Ireland, then—
- (a) if the land is registered land to which the Land Registration Act (Northern Ireland) 1970 applies, the instrument on the lodgment by the relevant authority of a copy thereof with the Registrar of Titles shall, notwithstanding anything in the said Act or rules made thereunder, be registered as a burden affecting the land and created after the first registration of the land, and may be so registered without the concurrence of the registered owner of the land or the production of the land certificate, without prejudice, however, to the power of the registering authority to order the production of the land certificate; and
- (b) if the land is not registered land to which that Act applies, the instrument shall, on lodgment by the relevant authority of a copy thereof with the Registrar of Deeds for Northern Ireland, be registered in the Registry of Deeds, Northern Ireland, as an instrument affecting the lands to which the instrument relates.
- (7) In subsection (6) above “the relevant authority” means—
- (a) in the case of an order under section 44 above—
- (i) if the order is made in favour of the Secretary of State or Eurocontrol, the Secretary of State; <sup>F96</sup> . . .
- (ii) if the order is made in favour of the CAA, the CAA; and
- <sup>F97</sup>(iii) if the order is made in favour of a licence holder, the licence holder; and]

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- (b) in the case of an order under section 45 above—
  - (i) if the order is made in respect of an aerodrome owned or managed by the CAA, the CAA; and
  - (ii) in any other case, the Secretary of State; and
- (c) in the case of an order under section 46(1) above or of a direction given under such an order—
  - (i) if the order is made in respect of the CAA, the CAA;
  - [<sup>F98</sup>(ia) if the order is made in respect of a licence holder, the licence holder;]
  - and
  - (ii) in any other case, the Secretary of State.

#### Textual Amendments

- F95** Words in s. 55(5) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 13(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F96** Word in s. 55(7)(a)(i) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. I(4)**; S.I. 2001/869, **art. 2**
- F97** S. 55(7)(a)(iii) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 13(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F98** S. 55(7)(c)(ia) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 13(4)** (with s. 106); S.I. 2001/869, **art. 2**

#### Marginal Citations

- M32** 1979 c. 33.
- M33** 1970 c. 18 (N.I.).

## 56 Notices.

- (1) Any notice required to be served on any person for the purposes of any provision to which this section applies may be served on him either by delivering it to him or by leaving it at his proper address, or by post, so however that the notice shall not be duly served by post unless it is sent by registered letter or by the recorded delivery service.
- (2) Any such notice required to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body.
- (3) For the purposes of this section and of section 7 of the <sup>M34</sup>Interpretation Act 1978, the proper address of any person upon whom any such notice 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, except that, where the person to be served has furnished an address for service, that address shall be his proper address for those purposes.
- (4) If it is not practicable after reasonable inquiry to ascertain the name or address of any owner, lessee or occupier of land on whom any such notice is to be served, the notice may be served by addressing it to him by the description of “owner”, “lessee” or “occupier” of the land (describing it) to which the notice relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.
- (5) In the application to Scotland of any provision to which this section applies and which requires notice to be served on the owners, lessees or occupiers of any land, that

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requirement shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll to have an interest in the land, and any reference in this Part of this Act to “owners”, “lessees” or “occupiers” shall be construed accordingly.

- (6) Service of a notice under subsection (5) above on any person appearing from the valuation roll to have an interest in land may be effected by sending the notice either—
  - (a) in a registered letter addressed to him at his address as entered in that roll; or
  - (b) by the recorded delivery service to him at that address.
- (7) This section applies to any provision of this Part of this Act except section 42 above and so much of section 50 above as relates to the service of a notice under the said section 50 otherwise than by the Secretary of State.
- (8) In this section “owner”—
  - (a) in relation to any land in England and Wales, 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 under a lease or agreement, the unexpired term whereof exceeds three years;
  - (b) in relation to any land in Scotland or Northern Ireland, 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 includes also a lessee under a lease the unexpired period of which exceeds three years.

**Marginal Citations**

M34 1978 c. 30.

**57 Power to appoint special constables.**

- (1) Any two justices of the peace may appoint such persons as may be nominated for the purpose by the Secretary of State to be special constables on any premises for the time being vested in or under the control of the Secretary of State.
- (2) Every person so appointed shall be sworn in by the justices duly to execute the office of a constable on those premises and when so sworn in shall, on those premises, have the powers and privileges and be liable to the duties and responsibilities of a constable.
- (3) Special constables appointed under this section shall be under the exclusive control of the Secretary of State, and the Secretary of State shall have power to suspend or terminate the appointment of any such special constable.
- (4) In the application of this section to Scotland references to two justices of the peace shall be construed as references to a single justice of the peace, and references to swearing in shall be construed as references to making a declaration in the terms prescribed under section 16 of the <sup>M35</sup>Police (Scotland) Act 1967.

**Marginal Citations**

M35 1967 c. 77.

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58 ..... F99

**Textual Amendments**

**F99** Ss. 58, 60(3)(o), 61(6) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), **Sch. 6 Pt. II**

**59 Expenses and stamp duty.**

- (1) Any expenses incurred by the Department of the Environment for Northern Ireland under this Part of this Act shall, to such extent as the Treasury may direct, be defrayed by the Secretary of State.
- (2) Stamp duty shall not be payable on any conveyance of land, or on any instrument creating or disposing of any right in or in relation to land being a conveyance or instrument to which the Secretary of State is a party if he certifies that the duty would fall to be defrayed as part of his expenses and either—
  - (a) that the expenses as part of which the duty would fall to be defrayed are his expenses in connection with the performance of his functions relating to civil aviation; or
  - (b) in a case not falling within paragraph (a) above of a conveyance of land, that the conveyance is made for the purpose of this Part of this Act.
- (3) Stamp duty shall not be payable on any conveyance of land to which the Department of the Environment for Northern Ireland is a party if that Department certifies that the conveyance is made for the purpose of this Part of this Act and that the duty would fall to be defrayed as part of that Department's expenses.

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