

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, SCHEDULE 9. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 9

Section 46.

#### PROVISIONS RELATING TO DIRECTIONS UNDER SECTION 46

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

- C1** Schs. 7–10 extended with modifications by Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)  
**C2** Sch. 9 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 2(2)(h)(9)

#### PART I

- 1 (1) Immediately after the Secretary of State has given the direction, the appropriate person shall publish in one or more newspapers circulating in the locality a notice stating that the direction has been given, and shall also serve notice of the direction upon the persons mentioned in sub-paragraph (2) below.
- (2) The said persons are—
- (a) in the case of a direction given for the purpose specified in paragraph (c) of subsection (2) of section 46 of this Act, every owner, lessee and occupier of any land to which the right of way is appurtenant or, in Scotland, if the dominant tenement and every local authority in whose area any of that land is situated;
  - (b) in the case of a direction given for any other purpose specified in that subsection, every owner, lessee and occupier of the land to which the direction relates and every local authority in whose area any of that land is situated;
  - (c) in the case of a direction restricting the installation of apparatus or extinguishing rights to install or maintain apparatus, every person whose rights to install or maintain apparatus are affected by the direction; and
  - (d) in the case of a direction requiring the removal of any apparatus, the person entitled to maintain the apparatus required to be removed under the direction.
- (3) Any notice given with respect to any direction for the purpose of complying with the requirements of this paragraph shall state the effect of the direction.
- 2 The provisions of Part II of Schedule 7 to this Act shall, with the necessary modifications, have effect in relation to the direction as they have effect in relation to orders made under section 44 of this Act.

#### PART II

- 3 Any person having an interest in land the value of which is diminished in consequence of the coming into operation of the direction shall be entitled to recover compensation for the diminution from the appropriate person.

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- 4 Paragraph 11 of Schedule 7 to this Act shall have effect in relation to any compensation payable under paragraph 3 of this Schedule as it has effect in relation to any such compensation as is mentioned in the said paragraph 11.
- 5 Any person who sustains damage by being disturbed in the enjoyment of any right in or over land in consequence of the coming into operation of the direction (not being damage which consists of the diminution in the value of an interest in land) shall be intitled to recover compensation from the appropriate person in respect of that damage.
- 6 The appropriate person shall pay compensation in respect of any expenditure reasonably incurred by any person for the purpose of carrying out work which is required to be carried out by the direction.
- 7 The compensation payable to any person by virtue of the preceding provisions of this Schedule shall be reduced by the value to him of any timber, apparatus or other materials removed for the purposes of complying with the direction.
- 8 For the purpose of assessing compensation under this Schedule, in so far as it is payable in respect of the diminution in the value of an interest in land, section 5 of the <sup>M1</sup>Land Compensation Act 1961, section 12 of the <sup>M2</sup>Land Compensation (Scotland) Act 1963 or section 2 of the <sup>M3</sup>Acquisition of Land (Assessment of Compensation) Act 1919 (which contain rules for assessing compensation) shall (according as the land is in England and Wales, Scotland or Northern Ireland), so far as applicable and subject to any necessary modifications, have effect as it has effect for the purpose of assessing compensation for the compulsory acquisition of land.

#### Marginal Citations

- M1** 1961 c. 33.  
**M2** 1963 c. 51.  
**M3** 1919 c. 57.

- 9 Where any dispute arises as to whether compensation is payable under this Schedule, 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 [F1appropriate tribunal].

#### Textual Amendments

- F1** Words in Sch. 9 para. 9 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. 158** (with Sch. 5)

- 10 Where the direction affects any building, structure, or apparatus held or used by a statutory undertaker for the purposes of his undertaking, or affects any of the rights of a statutory undertaker to install or maintain apparatus for those purposes, or effects any right of way enjoyed by a statutory undertaker for those purposes, the undertaker shall be entitled to recover compensation from the appropriate person in accordance with the special provisions of Part II of this Act relating to statutory undertakers in any case in which those provisions apply, and shall not, in any such case, be entitled to recover compensation under the preceding paragraphs of this Schedule.

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### PART III

11 In this Schedule—

“the appropriate person” means—

- (a) except where the order was made in respect of Eurocontrol, the person in respect of whom the order was made; and
  - (b) where the order was made in respect of Eurocontrol, the Secretary of State; “the order”, in relation to a direction, means the order in pursuance of which the direction is given;
- “owner” has the same meaning as in section 56 of this Act.

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