



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART II

#### AERODROMES AND OTHER LAND

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

**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>F1</sup>, the CAA or a licence holder], or of any land which the Secretary of State [<sup>F1</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>M1</sup>Supply Powers Act 1975; and
  - (b) the related functions which by virtue of the <sup>M2</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

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**Changes to legislation:** There are currently no known outstanding effects for the Civil Aviation Act 1982, Section 48. (See end of Document for details)

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- 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>M3</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>M4</sup>Roads (Northern Ireland) Order [<sup>F2</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>F3</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>M5</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>M6</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

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- (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>F3</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>F4</sup> . . . ; and
  - (b) the reference in paragraph (c) to electricity undertakers shall be deemed to include references to <sup>F5</sup> . . . [<sup>F6</sup>the operator of [<sup>F7</sup>an electronic communications code network]] [<sup>F8</sup> and]
  - <sup>F8</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>F9</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>F10</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>M7</sup>Town and Country Planning (Scotland) Act 1972; and
  - (c) in Northern Ireland, [<sup>F11</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>F10</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>F11</sup>that paragraph] to an order under Article 40 of the said Order of 1980 included

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references to an order made under subsection (1) above in relation to land which is vested in the CAA [<sup>F12</sup>or a licence holder] or which the CAA [<sup>F12</sup>or a licence holder] proposes to acquire.

#### Extent Information

- E1** 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

- F1** 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**
- F2** 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
- F3** 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)
- F4** Words in s. 48(7)(a) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. V**
- F5** Words in s. 48(7)(b) repealed (26.3.2001) by S.I. 2001/1149, **art. 3(2)**, **Sch. 2** (with **art. 4(11)**)
- F6** Words substituted by virtue of **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, **Sch. 4 para. 84**, **Sch. 5 para. 45**
- F7** 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**)
- F8** 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**)
- F9** 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**)
- F10** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(1)**
- F11** 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
- F12** 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)

- C1** S. 48(1)–(8) extended with modifications by **Airports Act 1986** (c. 31, SIF 9), **s. 59(3)(4)**
- C2** S. 47, 48 extended by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**
- C3** S. 48(6) extended by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(3)(9)**
- C4** 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)**
- C5** 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

- M1** 1975 c. 9.
- M2** 1939 S.R. & O. No. 877.

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- M3 1980 c. 66.
- M4 S.I. 1980/1085 (N.I. 11).
- M5 1935 c. 47.
- M6 1945 c. 18 (9 & 10 Geo. 6.)
- M7 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>F13</sup>, the CAA or a licence holder], or of any land which the Secretary of State [<sup>F13</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>M8</sup>Supply Powers Act 1975; and
  - (b) the related functions which by virtue of the <sup>M9</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>M10</sup>Highways Act 1980 is maintainable at public expense;
    - (ii) in Scotland, be maintained and managed by a [<sup>F14</sup>local authority]; and
    - (iii) in Northern Ireland be a public road within the meaning of the <sup>M11</sup>Roads (Northern Ireland) Order [<sup>F15</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 [<sup>F16</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

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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>F17</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>M12</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>M13</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>F17</sup>sewers,] pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.

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- (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>F18</sup> . . . ; and
  - (b) the reference in paragraph (c) to electricity undertakers shall be deemed to include references to<sup>F19</sup> . . . [<sup>F20</sup>the operator of [<sup>F7</sup>an electronic communications code network]]<sup>F21</sup> and]
  - <sup>F21</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>F22</sup>subsections (1) to (4) of section 256 of the Town and Country Planning Act 1990];
  - (b) in Scotland, [<sup>F23</sup>subsections (1) to (4) of section 212 of the Town and Country Planning (Scotland) Act 1997]; and
  - (c) in Northern Ireland, [<sup>F24</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>F22</sup>section 247 of the said Act of 1990] and to an order under [<sup>F23</sup>section 202 of the said Act of 1997] and in [<sup>F24</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>F25</sup>or a licence holder] or which the CAA [<sup>F25</sup>or a licence holder] proposes to acquire.

#### Extent Information

- E2** 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

- F7** 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)
- F13** 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**
- F14** 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)**
- F15** 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
- F16** 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)**

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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Section 48. (See end of Document for details)*

- F17** 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)
- F18** Words in s. 48(7)(a) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. V**
- F19** Words in s. 48(7)(b) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))
- F20** Words substituted by virtue of [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 84, **Sch. 5 para. 45**
- F21** 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)
- F22** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(1)**
- F23** Words in s. 48(9) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(1)**
- F24** 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
- F25** 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)

- C6** S. 48(1)–(8) extended with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 59(3)(4)
- 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. 48(6) extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 2(3)(9)**
- C9** 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)**
- C10** 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

- M8** 1975 c. 9.
- M9** 1939 S.R. & O. No. 877.
- M10** 1980 c. 66.
- M11** S.I. 1980/1085 (N.I. 11).
- M12** 1935 c. 47.
- M13** 1945 c. 18 (9 & 10 Geo. 6.)



**Status:**

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