



Telecommunications Act 1984

1984 CHAPTER 12

PART II

PROVISION OF TELECOMMUNICATION SERVICES

Acquisition etc. of land by public telecommunications operators

38 Entry, for exploratory purposes, on land in Scotland.

- [^{F1}(1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in Scotland, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable for use by the operator for, or in connection with, the establishment or running of the operator's system.
- (2) [^{F2}Sections 269(6) and 270(1) to (5), (8) and (9) of the Town and Country Planning (Scotland) Act 1997] (supplementary provisions as to powers of entry) shall have effect in relation to the power conferred by this section as they have effect in relation to the powers conferred by [^{F2}the said section 269], subject to the following modifications, namely—
- (a) that [^{F2}section 270(1)] (twenty-four hours' notice to be given of an intended entry upon occupied land) shall so have effect as if for the words "twenty-four hours" there were substituted the words "twenty-eight days"; and
 - (b) that [^{F2}section 269(6)] (power to search and bore for minerals etc.) shall so have effect as if the words "or the presence of minerals therein" were omitted.
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to corporeal moveables, the operator shall make good the damage or pay to every person interested in the land or corporeal moveables compensation in respect of the damage; and where, in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or corporeal moveables, the operator shall pay to that person compensation in respect of the disturbance.

Status: Point in time view as at 08/06/2005.

Changes to legislation: There are currently no known outstanding effects for the Telecommunications Act 1984, Section 38. (See end of Document for details)

- (4) Any question arising under this section as to the effect of damage or as to the amount of compensation shall, in the case of dispute, be determined by arbitration, and the reference in such an arbitration shall be to a single arbiter to be appointed by agreement between the parties or, in default of an agreement, by the Secretary of State.]

Textual Amendments

- F1** S. 38 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003](#) (c. 21), ss. 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); 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](#), [Sch. 1](#) (with [art. 11](#))
- F2** Words in s. 38(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 37\(2\)](#)

Status:

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