



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART XI

#### STATUTORY UNDERTAKERS

##### *Preliminary*

#### **262 Meaning of “statutory undertakers”.**

- (1) Subject to the following provisions of this section, in this Act “statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the <sup>M1</sup>Airports Act 1986).
- (2) Subject to the following provisions of this section, in this Act “statutory undertaking” shall be construed in accordance with subsection (1) and, in relation to a relevant airport operator (within the meaning of that Part), means an airport to which that Part of that Act applies.
- (3) Subject to [<sup>F1</sup>subsections (5) to (5B)], for the purposes of the provisions mentioned in subsection (4) any public gas transporter, water or [<sup>F2</sup>sewerage undertaker, the Environment Agency, the Natural Resources Body for Wales, any universal] postal service provider in connection with the provision of a universal postal service [<sup>F3</sup>, the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services)] shall be deemed to be statutory undertakers and their undertakings statutory undertakings.
- (4) The provisions referred to in subsection (3) are sections 55, 90, 101, 108(3), <sup>F4</sup> . . . , 139 to 141, 143, 148, 170(12)(b), 236(2)(a), 237 to 241, 245, 247(4)(b), 253, 257(2), 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9), 336(2) and (3), paragraph 18 of Schedule 1 and Schedules 8, 13 and 14.
- (5) Subsection (4) shall apply—

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- (a) as respects [<sup>F5</sup>a universal postal service provider in connection with the provision of a universal postal service], as if the reference to sections 55, 247(4)(b), 253 and 257(2) were omitted; and
- (b) as respects [<sup>F6</sup>a universal postal service provider in connection with the provision of a universal postal service][<sup>F7</sup>, the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services)] as if—
  - (i) the references to sections 245, 263(1) and (2) and 336(2) and (3) were omitted; and
  - (ii) after the words “ 266 to 283” there were inserted the words “ (except section 271 as applied by section 13 of the Opencast Coal Act 1958)”.

[<sup>F8</sup>(5A) For the purposes of this Act

- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence;
- (b) the person's undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person's undertaking as licence holder.]

[<sup>F9</sup>(5B) The undertaking of a universal postal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.]

- (6) Any holder of a licence under section 6 of the <sup>M2</sup>Electricity Act 1989 shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking—
  - (a) for the purposes of the provisions mentioned in subsection (7)(a), if he holds a licence under subsection (1) of that section;
  - (b) for the purposes of the provisions mentioned in subsection (7)(b), if he is entitled to exercise any power conferred by Schedule 3 to that Act; and
  - (c) for the purposes of the provisions mentioned in subsection (7)(c), if he is entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.
- (7) The provisions referred to in subsection (6) are—
  - (a) sections 55, 108(3), <sup>F4</sup>. . . , 139 to 141, 143, 148, 236(2)(a), 237, 245, 253, 263(1) and (2), 264, 266 to 283, 288(10)(a), 306, 325(9) and 336(2) and (3), paragraph 18 of Schedule 1 and Schedule 13;
  - (b) sections 170(12)(b) and 238 to 241; and
  - (c) sections 247(4) and 257(2) and Schedule 14.

#### Textual Amendments

- F1** Words in s. 262(3) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1**, para. 80(2)(a)
- F2** Words in s. 262(3) substituted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755)**, art. 1(2), **Sch. 2 para. 202** (with Sch. 7)
- F3** Words in s. 262(3) substituted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 6(2)**; S.I. 2001/869, **art. 2**
- F4** Word in s. 262(4)(7)(a) repealed (25.9.1991) by **Planning and Compensation Act 1991 (c. 34, SIF 123:1)**, ss. 31, 84(6), **Sch. 6 para. 22**, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
- F5** Words in s. 262(5)(a) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(3)**
- F6** Words in s. 262(5)(b) substituted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(3)**

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- F7** Words in s. 262(5)(b) substituted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 6(3)**; S.I. 2001/869, **art. 2**
- F8** S. 262(5A) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 6(4)**; S.I. 2001/869, **art. 2**
- F9** S. 262(5B) inserted (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(1), **Sch. 1 para. 80(4)**

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

- C1** S. 262 applied (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. II para. 19(2)**; S.I. 1993/2762, **art. 3**
- C2** S. 262 applied (20.2.2013) by The Kentish Flats Extension Order 2013 (S.I. 2013/343), arts. 1, **8(2)** (with arts. 13, 14)
- C3** S. 262 modified (15.6.2013) by The Galloper Wind Farm Order 2013 (S.I. 2013/1203), arts. 1, **6(2)** (with arts. 11, 12)
- C4** S. 262 modified (11.3.2015) by The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (S.I. 2015/318), arts. 1, **6(2)** (with arts. 40, 41, Sch. 12)
- C5** S. 262 modified (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **48(3)** (with arts. 51, 53)
- C6** S. 262 modified (26.8.2015) by The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 (S.I. 2015/1592), arts. 1, **6(3)** (with arts. 40, 41)
- C7** S. 262 modified (25.3.2016) by The Thorpe Marsh Gas Pipeline Order 2016 (S.I. 2016/297), arts. 1, **11(4)** (with art. 39)
- C8** S. 262 applied (with modifications) (29.3.2017) by The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330), art. 1, **Sch. 7 para. 5(3)** (with art. 31)
- C9** S. 262(1) extended (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 34** (with art. 38)  
S. 262(1) modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 18(4), 49(1) (with art. 52)  
S. 262(1) modified (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **art. 18(4)**
- C10** S. 262(1) modified (9.1.2014) by The Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013 (S.I. 2013/3244), arts. 1, **19(2)** (with arts. 57, 58, Sch. 11 para. 19)

#### **Marginal Citations**

- M1** 1986 c. 31.
- M2** 1989 c. 29.

## **263 Meaning of “operational land”.**

(1) Subject to the following provisions of this section and to section 264, in this Act “operational land” means, in relation to statutory undertakers—

- (a) land which is used for the purpose of carrying on their undertaking; and  
(b) land in which an interest is held for that purpose.

(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

<sup>F10</sup>(2A) Subsection (1) does not apply in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000.

(2B) Subject to section 264, in this Act “operational land” means, in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, land—

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- (a) which is used by the licence holder, or by a company associated with it, for the purpose of carrying out activities authorised by the licence, or
- (b) in which the licence holder, or a company associated with it, holds an interest for that purpose.

(2C) If for the purposes of this Act a question arises whether land is operational land in relation to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 the question must be decided by the Secretary of State.]

[<sup>F11</sup>(2D) Subsection (1) does not apply in relation to a universal postal service provider.

<sup>F11</sup>(2E) Subject to subsections (3) and (4) and section 264, in this Act “operational land” means, in relation to a universal postal service provider, land—

- (a) which is used by the provider, or by a company associated with him, for any purpose in connection with the provision of a universal postal service, or
- (b) in which the provider, or a company associated with him, holds an interest for any such purpose.]

(3) In sections 108(3), <sup>F12</sup> . . . , 266 to 283 and Part II of Schedule 8 “operational land”, in relation to [<sup>F13</sup>a universal postal service provider] and the Civil Aviation Authority, means land of the [<sup>F14</sup>provider’s] or, as the case may be, of the Authority’s of any such class as may be prescribed by regulations.

(4) Such regulations—

- (a) shall be made—
  - (i) in the case of [<sup>F15</sup>a universal postal service provider], by the appropriate Minister and the Secretary of State acting jointly; and
  - (ii) in the case of the Civil Aviation Authority, by the appropriate Minister;
- (b) may define a class of land by reference to any circumstances whatsoever, and
- (c) in the case of the Civil Aviation Authority, may make provision for different circumstances, including prescribing different classes of land for the purposes of different provisions.

#### Textual Amendments

- F10** S. 263(2A)(2B)(2C) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 7** (with s. 106); S.I. 2001/869, **art. 2**
- F11** S. 263(2D)(2E) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(2)**
- F12** Words in s. 263(3) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31, 84(6), **Sch. 6 para. 23, Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
- F13** Words in s. 263(3) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(3)(a)**
- F14** Words in s. 263(3) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(3)(b)**
- F15** Words in s. 263(4)(a)(i) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 81(4)**

#### 264 Cases in which land is to be treated as not being operational land.

- (1) This section applies where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—
- (a) the interest was acquired by them on or after 6th December 1968; or

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- (b) it was held by them immediately before that date but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the 1962 Act.
- (2) Where this section applies in respect of any land then, notwithstanding the provisions of section 263, the land shall not be treated as operational land for the purposes of this Act unless it falls within subsection (3) or (4).
- (3) Land falls within this subsection if—
  - (a) there is, or at some time has been, in force with respect to it a specific planning permission for its development; and
  - (b) that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking.
- (4) Land falls within this subsection if—
  - (a) the undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of the <sup>M3</sup>Transport Act 1968, the <sup>M4</sup>Transport (London) Act 1969, the <sup>M5</sup>Gas Act 1986, the <sup>M6</sup>Airports Act 1986 [<sup>F16</sup>the Water Act 1989 or the Water Industry Act 1991][<sup>F17</sup>or, in the case of land held by Canal & River Trust, the Public Bodies Act 2011] from other statutory undertakers; and
  - (b) immediately before transfer the land was operational land of those other undertakers.
- [<sup>F18</sup>(4A) For the purposes of this section an interest in land acquired by Transport for London or any of its subsidiaries (within the meaning of the Greater London Authority Act 1999) under or by virtue of that Act shall be taken to have been acquired by Transport for London or that subsidiary at the time and in the manner in which it was acquired by the relevant predecessor.
- (4B) In subsection (4A) “relevant predecessor” means London Regional Transport or such other predecessor in title of Transport for London or the subsidiary of Transport for London as last acquired the interest in question—
  - (a) as the result of such a transfer as is mentioned in paragraph (a) of subsection (4); and
  - (b) in such circumstances as are mentioned in paragraph (b) of that subsection.]
- (5) A specific planning permission for the purpose of subsection (3)(a) is a planning permission—
  - (a) granted on an application in that behalf made under Part III; or
  - (b) granted by provisions of a development order <sup>F19</sup>... granting planning permission generally for development which has received specific parliamentary approval; or
  - (c) granted by a special development order in respect of development specifically described in the order;
  - [<sup>F20</sup>(ca) granted by a local development order or a neighbourhood development order;] or
  - (d) deemed to be granted by virtue of a direction of a government department under section 90(1).
- (6) In subsection (5)—

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- (a) the reference in paragraph (a) to Part III includes a reference to Part III of the 1971 Act and the enactments in force before the commencement of that Act and replaced by Part III of it; and
  - (b) the reference in paragraph (b) to development which has received specific parliamentary approval is a reference to development authorised—
    - (i) by a local or private Act of Parliament,
    - (ii) by an order approved by both Houses of Parliament; or
    - (iii) by an order which has been brought into operation in accordance with the provisions of the <sup>M7</sup>Statutory Orders (Special Procedure) Act 1945,
 being an Act or order which designates specifically both the nature of the development authorised by it and the land upon which it may be carried out;
  - (c) the reference in paragraph (d) to section 90(1) includes a reference to section 40 of the 1971 Act, section 41 of the 1962 Act and section 35 of the 1947 Act.
- (7) This section shall not apply to land in the case of which an interest of the Postmaster General's vested in the Post Office by virtue of section 16 of the <sup>M8</sup>Post Office Act 1969.
- (8) Where an interest in land is held by [<sup>F21</sup>—
- (a) the Civil Aviation Authority, or
  - (b) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 or a company associated with that person,]
- this section shall not apply for the purpose of determining whether the land is operational land in relation to the Authority [<sup>F22</sup>or the licence holder] for the purposes of this act.

#### Textual Amendments

- F16** Words in s. 264(4)(a) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\), ss. 2\(1\), 4\(2\), Sch. 1 para. 54](#)
- F17** Words in s. 264(4)(a) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\), art. 1\(2\), Sch. 3 para. 9 \(with arts. 4-6\)](#)
- F18** S. 264(4A)(4B) inserted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\), art. 2, Sch. 1 para. 14](#)
- F19** Words in s. 264(5)(b) repealed (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(5\)\(j\), Sch. 12 para. 20\(a\), Sch. 25 Pt. 18; S.I. 2012/57, art. 4\(1\)\(h\) \(with arts. 6, 7, 9-11\); S.I. 2012/628, art. 8\(a\)\(e\) \(with arts. 9, 12, 13, 16, 18-20\) \(as amended \(3.8.2012\) by S.I. 2012/2029, arts. 2, 4\); S.I. 2013/797, arts. 1\(2\), 2](#)
- F20** S. 264(5)(ca) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(5\)\(j\), Sch. 12 para. 20\(b\); S.I. 2012/57, art. 4\(1\)\(h\) \(with arts. 6, 7, 9-11\); S.I. 2012/628, art. 8\(a\) \(with arts. 9, 12, 13, 16, 18-20\) \(as amended \(3.8.2012\) by S.I. 2012/2029, arts. 2, 4\); S.I. 2012/2029, arts. 2, 3\(a\) \(with art. 5\) \(as amended \(6.4.2013\) by S.I. 2013/797, art. 4\); S.I. 2013/797, arts. 1\(2\), 2](#)
- F21** S. 264(8)(a)(b) substituted for the words “the Civil Aviation Authority” (21.12.2001) by [S.I. 2001/4050, art. 2, Sch. Pt. III para. 13\(a\)\(i\)](#)
- F22** Words in s. 264(8) inserted (21.12.2001) by [S.I. 2001/4050, art. 2, Sch. Pt. III para. 13\(a\)\(ii\)](#)

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

- C11** S. 264(3) modified (15.8.2013) by The North Blyth Biomass Power Station Order 2013 (S.I. 2013/1873), arts. 1, **26** (with art. 30)
- C12** S. 264(3) modified (18.9.2014) by The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 (S.I. 2014/2269), arts. 1, **31**
- C13** S. 264(3) modified (2.10.2014) by The Clocaenog Forest Wind Farm Order 2014 (S.I. 2014/2441), arts. 1, **27** (with art. 33)
- C14** S. 264(3) modified (31.12.2014) by The Hornsea One Offshore Wind Farm Order 2014 (S.I. 2014/3331), arts. 1, **29** (with arts. 37, 38)
- C15** S. 264(3) modified (25.2.2015) by The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 (S.I. 2015/129), arts. 1, **35**
- C16** S. 264(3) modified (26.8.2015) by The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 (S.I. 2015/1592), arts. 1, **37** (with arts. 40, 41)
- C17** S. 264(3) modified (12.2.2016) by The Palm Paper Mill Generating Station Order 2016 (S.I. 2016/166), arts. 1, **12**
- C18** S. 264(3) modified (2.8.2016) by The Midland Metro (Wolverhampton City Centre Extension) Order 2016 (S.I. 2016/684), arts. 1, **44** (with arts. 46, 47, Sch. 9 para. 4, Sch. 10 para. 12(2))
- C19** S. 264(3) modified (29.3.2017) by The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330), arts. 1, **21** (with art. 31)
- C20** S. 264(3) modified (3.10.2018) by The A19/A184 Testos Junction Alteration Development Consent Order 2018 (S.I. 2018/994), arts. 1, **37** (with arts. 3(3), 5)
- C21** S. 264(3) modified (4.3.2020) by The Midland Metro (Birmingham Eastside Extension) Order 2020 (S.I. 2020/141), arts. 1, **45** (with arts. 47, 48, Sch. 10 para. 19)
- C22** S. 264(3) modified (30.4.2020) by The A585 Windy Harbour to Skipool Highway Development Consent Order 2020 (S.I. 2020/402), arts. 1, **38** (with arts. 5, 44)
- C23** S. 264(3) modified (11.6.2020) by The M42 Junction 6 Development Consent Order 2020 (S.I. 2020/528), arts. 1, **40** (with art. 37)
- C24** S. 264(3) modified (18.6.2020) by The A63 (Castle Street Improvement, Hull) Development Consent Order 2020 (S.I. 2020/556), arts. 1, **38** (with arts. 5, 44)
- C25** S. 264(3) modified (6.8.2020) by The A19 Downhill Lane Junction Development Consent Order 2020 (S.I. 2020/746), arts. 1, **38** (with art. 5)
- C26** S. 264(3)(a) modified (11.11.2020) by The West Burton C (Gas Fired Generating Station) Order 2020 (S.I. 2020/1148), arts. 1, **13**
- C27** S. 264(3) modified (9.2.2021) by The A1 Birtley to Coal House Development Consent Order 2021 (S.I. 2021/74), arts. 1, **41** (with art. 5, Sch. 27 para. 36)
- C28** S. 264(3) modified (2.12.2021) by The South Humber Bank Energy Centre Order 2021 (S.I. 2021/1259), arts. 1, **23** (with Sch. 8 para. 48)
- C29** S. 264(3) modified (10.3.2022) by The Thurrock Flexible Generation Plant Development Consent Order 2022 (S.I. 2022/157), arts. 1, **37** (with Sch. 8 Pt. 6 para. 19)
- C30** S. 264(3)(a) modified (18.12.1996) by 1996 c. 61, s. **9(9)**  
S. 264(3)(a) modified (22.3.2001) by S.I. 2001/1451, art. **7(1)**  
S. 264(3)(a) modified (29.3.2001) by S.I. 2001/1347, art. **20(3)**  
S. 264(3)(a) modified (24.7.2001) by S.I. 2001/3627, art. **31**  
S. 264(3)(a) modified (9.11.2001) by S.I. 2001/3682, art. **17(3)**  
S. 264(3)(a) modified (18.7.2001) by S.I. 2001/2870, art. **23(1)**  
S. 264(3)(a) modified (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. **14(3)** (with art. 38)  
S. 264(3)(a) modified (31.5.2002) by The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (S.I. 2002/1327), art. **14(3)**  
S. 264(3)(a) modified (12.8.2002) by The Channel Tunnel Rail Link (Thames Tunnel Approach) Order 2002 (S.I. 2002/1943), art. **12**



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- S. 264(3)(a) modified (28.4.2003) by The Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), **art. 36** (with art. 40)
- S. 264(3)(a) modified (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), **art. 34** (with art. 38)
- S. 264(3)(a) modified (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **art. 20(3)**
- S. 264(3)(a) modified (19.11.2004) by The Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), **art. 29** (with art. 38)
- S. 264(3)(a) modified (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), **art. 24(1)** (with arts. 65, 66)
- S. 264(3)(a) modified (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **art. 48(1)** (with art. 51)
- S. 264(3)(a) modified (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), **art. 25(1)** (with art. 30)
- S. 264(3)(a) modified (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), **art. 44(1)** (with art. 47)
- S. 264(3)(a) modified (26.8.2005) by The River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), **art. 15** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)
- S. 264(3)(a) modified (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), **art. 21(3)** (with arts. 3(5), 15(3))
- S. 264(3)(a) modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **art. 18(3)** (with art. 52)
- S. 264(3)(a) modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **art. 49(2)** (with art. 52)
- S. 264(3)(a) modified (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), **art. 17(3)** (with art. 43)
- S. 264(3)(a) modified (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), **art. 44** (with arts. 34, 35(2))
- S. 264(3)(a) modified (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **art. 18(3)**
- S. 264(3)(a) modified (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), **art. 17(3)** (with arts. 3(6), 12(3))
- S. 264(3)(a) modified (28.9.2007) by The London Gateway Logistics and Commercial Centre Order 2007 (S.I. 2007/2657), **art. 27(3)** (with art. 19, Sch. 3 para. 13(2))
- C31** S. 264(3)(a) modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 10(8)**
- C32** S. 264(3)(a) modified (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), **art. 34(3)** (with art. 36(3))
- C33** S. 264(3)(a) modified (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), **art. 15**
- C34** S. 264(3)(a) modified (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), **art. 28(3)**
- C35** S. 264(3)(a) modified (27.8.2010) by The Llangollen and Corwen Railway Order 2010 (S.I. 2010/2136), **art. 11(3)**
- C36** S. 264(3)(a) modified (1.2.2011) by The River Mersey (Mersey Gateway Bridge) Order 2011 (S.I. 2011/41), arts. 1, **47(3)** (with art. 51, Sch. 10 paras. 68, 85)
- C37** S. 264(3)(a) modified (21.4.2011) by The Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011/1072), arts. 1, **36(1)**
- C38** S. 264(3)(a) modified (26.9.2012) by The Network Rail (Ipswich Chord) Order 2012 (S.I. 2012/2284), arts. 1, **28** (with art. 26(2))
- C39** S. 264(3)(a) modified (13.11.2012) by The Chiltern Railways (Bicester to Oxford Improvements) Order 2012 (S.I. 2012/2679), arts. 1, **39** (with art. 42(2))
- C40** S. 264(3)(a) modified (13.3.2013) by The Brechfa Forest West Wind Farm Order 2013 (S.I. 2013/586), arts. 1, **14**



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- C41 S. 264(3)(a) modified (9.4.2013) by The Hinkley Point C (Nuclear Generating Station) Order 2013 (S.I. 2013/648), arts. 1, **40** (with arts. 48, 68, 79)
- C42 S. 264(3)(a) modified (15.6.2013) by The Galloper Wind Farm Order 2013 (S.I. 2013/1203), arts. 1, **29** (with arts. 11, 12)
- C43 S. 264(3)(a) modified (22.8.2013) by The Leeds Railway Station (Southern Entrance) Order 2013 (S.I. 2013/1933), arts. 1, **34**
- C44 S. 264(3)(a) modified (6.11.2013) by The Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013 (S.I. 2013/2587), arts. 1, **22** (with arts. 42, 43)
- C45 S. 264(3)(a) modified (20.11.2013) by The M1 Junction 10a (Grade Separation) Order 2013 (S.I. 2013/2808), arts. 1, **32**
- C46 S. 264(3)(a) modified (21.11.2013) by The Network Rail (Redditch Branch Enhancement) Order 2013 (S.I. 2013/2809), arts. 1, **29** (with arts. 27(2), 39, Sch. 10 para. 4)
- C47 S. 264(3)(a) modified (9.1.2014) by The National Grid (King's Lynn B Power Station Connection) Order 2013 (S.I. 2013/3200), arts. 1, **29**
- C48 S. 264(3)(a) modified (7.5.2014) by The National Grid (North London Reinforcement Project) Order 2014 (S.I. 2014/1052), arts. 1, **39**
- C49 S. 264(3)(a) modified (7.7.2014) by The East Anglia ONE Offshore Wind Farm Order 2014 (S.I. 2014/1599), arts. 1, **31** (with arts. 37, 38, Sch. 9 para. 19)
- C50 S. 264(3)(a) modified (6.8.2014) by The Rampion Offshore Wind Farm Order 2014 (S.I. 2014/1873), arts. 1, **36** (with arts. 12, 13, Sch. 12)
- C51 S. 264(3)(a) modified (2.10.2014) by The North Killingholme (Generating Station) Order 2014 (S.I. 2014/2434), arts. 1, **30** (with art. 13, para. 6, 17, Sch. 8 paras. 4(3), 6, 9)
- C52 S. 264(3)(a) modified (21.10.2014) by The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 (S.I. 2014/2637), arts. 1, **35**
- C53 S. 264(3)(a) modified (23.10.2014) by The South Hook Combined Heat and Power Plant Order 2014 (S.I. 2014/2846), arts. 1, **13**
- C54 S. 264(3)(a) modified (7.1.2015) by The Willington C Gas Pipeline Order 2014 (S.I. 2014/3328), arts. 1, **31**
- C55 S. 264(3)(a) modified (21.4.2015) by The Network Rail (Ordsall Chord) Order 2015 (S.I. 2015/780), arts. 1, **37** (with art. 36(2))
- C56 S. 264(3)(a) modified (23.6.2015) by The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015 (S.I. 2015/1347), arts. 1, **38**
- C57 S. 264(3)(a) modified (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **40** (with arts. 51, 53)
- C58 S. 264(3)(a) modified (7.8.2015) by The Preesall Underground Gas Storage Facility Order 2015 (S.I. 2015/1561), arts. 1, **36** (with art. 44)
- C59 S. 264(3)(a) modified (14.8.2015) by The Progress Power (Gas Fired Power Station) Order 2015 (S.I. 2015/1570), arts. 1, **34**
- C60 S. 264(3)(a) modified (19.11.2015) by The Ferrybridge Multifuel 2 Power Station Order 2015 (S.I. 2015/1832), arts. 1(2), **22**
- C61 S. 264(3)(a) modified (9.2.2016) by The National Grid (Hinkley Point C Connection Project) Order 2016 (S.I. 2016/49), arts. 1, **37** (with art. 32)
- C62 S. 264(3)(a) modified (18.2.2016) by The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016 (S.I. 2016/73), arts. 1, **34** (with art. 37)
- C63 S. 264(3)(a) modified (25.3.2016) by The Thorpe Marsh Gas Pipeline Order 2016 (S.I. 2016/297), arts. 1, **34** (with art. 39)
- C64 S. 264(3)(a) modified (1.6.2016) by The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 (S.I. 2016/547), arts. 1, **38** (with arts. 4, 5(3))
- C65 S. 264(3)(a) modified (14.6.2016) by The Midland Metro (Birmingham City Centre Extension, etc.) (Land Acquisition and Variation) Order 2016 (S.I. 2016/545), arts. 1, **35** (with art. 39)
- C66 S. 264(3)(a) modified (7.9.2016) by The Hornsea Two Offshore Wind Farm Order 2016 (S.I. 2016/844), arts. 1(2), **32** (with arts. 37, 38)

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- C67** S. 264(3)(a) modified (23.9.2016) by The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016 (S.I. 2016/863), arts. 1, **37**
- C68** S. 264(3)(a) modified (24.11.2016) by The Transport for Greater Manchester (Light Rapid Transit System) (Trafford Park Extension) Order 2016 (S.I. 2016/1035), arts. 1, **23** (with arts. 43, 44)
- C69** S. 264(3)(a) modified (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), arts. 1, 51(1)
- C70** S. 264(3)(a) modified (18.3.2017) by The North London Heat and Power Generating Station Order 2017 (S.I. 2017/215), arts. 1, **31**
- C71** S. 264(3)(a) modified (8.8.2017) by The Wrexham Gas Fired Generating Station Order 2017 (S.I. 2017/766), arts. 1, **33**
- C72** S. 264(3)(a) modified (24.8.2017) by The National Grid (Richborough Connection Project) Development Consent Order 2017 (S.I. 2017/817), arts. 1, **36** (with art. 22)
- C73** S. 264(3)(a) modified (29.8.2017) by The East Anglia THREE Offshore Wind Farm Order 2017 (S.I. 2017/826), arts. 1, **30** (with arts. 36, 37, Sch. 8 para. 34)
- C74** S. 264(3)(a) modified (5.9.2017) by The London Overground (Barking Riverside Extension) Order 2017 (S.I. 2017/830), arts. 1, **17** (with Sch. 8 para. 20)
- C75** S. 264(3)(a) modified (19.12.2017) by The Network Rail (Buxton Sidings Extension) Order 2017 (S.I. 2017/1150), arts. 1, **30** (with art. 32(2))
- C76** S. 264(3)(a) modified (22.12.2017) by The M20 Junction 10a Development Consent Order 2017 (S.I. 2017/1202), arts. 1, **41** (with arts. 4, 37)
- C77** S. 264(3)(a) modified (2.1.2018) by The Boston Barrier Order 2017 (S.I. 2017/1329), arts. 1, **22** (with arts. 55-57, Sch. 8 para. 13)
- C78** S. 264(3)(a) modified (4.1.2018) by The Blackpool Tramway (Blackpool North Extension) Order 2017 (S.I. 2017/1214), arts. 1, **22(1)** (with arts. 58, 59)
- C79** S. 264(3)(a) modified (18.4.2018) by The Network Rail (Hope Valley Capacity) Order 2018 (S.I. 2018/446), arts. 1, **31** (with arts. 24(8), 33(2))
- C80** S. 264(3)(a) modified (31.5.2018) by The Silvertown Tunnel Order 2018 (S.I. 2018/574), arts. 1(2), **51**
- C81** S. 264(3)(a) modified (28.6.2018) by The High Speed Rail (London West Midlands) (Greatmoor Railway Sidings Etc.) Order 2018 (S.I. 2018/693), arts. 1, **16**
- C82** S. 264(3)(a) modified (24.8.2018) by The Network Rail (Werrington Grade Separation) Order 2018 (S.I. 2018/923), arts. 1, **32** (with art. 31(2))
- C83** S. 264(3)(a) modified (26.9.2018) by The Network Rail (Felixstowe Branch Line Improvements Level Crossings Closure) Order 2018 (S.I. 2018/937), arts. 1, **19**
- C84** S. 264(3)(a) modified (12.10.2018) by The Eggborough Gas Fired Generating Station Order 2018 (S.I. 2018/1020), arts. 1, **36** (with arts. 6, 42)
- C85** S. 264(3)(a) modified (13.3.2019) by The Port of Tilbury (Expansion) Order 2019 (S.I. 2019/359), arts. 1, **47(1)** (with arts. 55, 56)
- C86** S. 264(3)(a) modified (3.4.2019) by The Millbrook Gas Fired Generating Station Order 2019 (S.I. 2019/578), arts. 1, **34**
- C87** S. 264(3)(a) modified (26.4.2019) by The Tees Combined Cycle Power Plant Order 2019 (S.I. 2019/827), arts. 1, **11**
- C88** S. 264(3)(a) modified (26.7.2019) by The Kemsley Mill K4 Combined Heat and Power Generating Station Order 2019 (S.I. 2019/1091), arts. 1, **11**
- C89** S. 264(3)(a) modified (10.10.2019) by The Abergelli Power Gas Fired Generating Station Order 2019 (S.I. 2019/1268), arts. 1, **36**
- C90** S. 264(3)(a) modified (25.10.2019) by The Drax Power (Generating Stations) Order 2019 (S.I. 2019/1315), arts. 1, **38**
- C91** S. 264(3)(a) modified (30.10.2019) by The Northampton Gateway Rail Freight Interchange Order 2019 (S.I. 2019/1358), arts. 1, **39** (with Sch. 13 Pt. 1 para. 19)
- C92** S. 264(3)(a) modified (25.2.2020) by The Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S.I. 2020/114), arts. 1, **38** (with art. 37(2))
- C93** S. 264(3)(a) modified (14.4.2020) by The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020 (S.I. 2020/325), arts. 1, **33** (with art. 7)

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- C94** S. 264(3)(a) modified (1.5.2020) by [The Riverside Energy Park Order 2020 \(S.I. 2020/419\)](#), arts. 1, **37** (with art. 7)
- C95** S. 264(3)(a) modified (25.5.2020) by [The West Midlands Rail Freight Interchange Order 2020 \(S.I. 2020/511\)](#), arts. 1, **39**
- C96** S. 264(3)(a) modified (19.6.2020) by [The Cleve Hill Solar Park Order 2020 \(S.I. 2020/547\)](#), arts. 1, **31** (with art. 37)
- C97** S. 264(3)(a) modified (22.7.2020) by [The Norfolk Vanguard Offshore Wind Farm Order 2020 \(S.I. 2020/706\)](#), arts. 1, **34** (with arts. 41, 42, Sch. 16 para. 66)
- C98** S. 264(3)(a) modified (1.9.2020) by [The Immingham Open Cycle Gas Turbine Order 2020 \(S.I. 2020/847\)](#), arts. 1, **35** (with Sch. 9 para. 144)
- C99** S. 264(3)(a) modified (15.10.2020) by [The Great Yarmouth Third River Crossing Development Consent Order 2020 \(S.I. 2020/1075\)](#), arts. 1, **58**
- C100** S. 264(3)(a) modified (29.10.2020) by [The Southampton to London Pipeline Development Consent Order 2020 \(S.I. 2020/1099\)](#), arts. 1, **39** (with art. 32, Sch. 9 para. 36)
- C101** S. 264(3)(a) modified (22.1.2021) by [The Hornsea Three Offshore Wind Farm Order 2020 \(S.I. 2020/1656\)](#), arts. 1, **33** (with arts. 40, 41, Sch. 9 Pt. 5 para. 18)
- C102** S. 264(3)(a) modified (19.2.2021) by [The A303 Sparkford to Ilchester Dualling Development Consent Order 2021 \(S.I. 2021/125\)](#), arts. 1, **40** (with arts. 4, 47)
- C103** S. 264(3)(a) modified (15.3.2021) by [The Wheelabrator Kemsley K3 Generating Station Order 2021 \(S.I. 2021/173\)](#), arts. 1, **15**
- C104** S. 264(3)(a) modified (1.1.2022) by [The Norfolk Boreas Offshore Wind Farm Order 2021 \(S.I. 2021/1414\)](#), arts. 1, **34** (with arts. 41, 42, Sch. 17 para. 66)
- C105** S. 264(3)(a) modified (22.4.2022) by [The East Anglia ONE North Offshore Wind Farm Order 2022 \(S.I. 2022/432\)](#), arts. 1(2), **33** (with arts. 40, 41)
- C106** S. 264(3)(a) modified (22.4.2022) by [The East Anglia TWO Offshore Wind Farm Order 2022 \(S.I. 2022/433\)](#), arts. 1(2), **33** (with arts. 40, 41)

#### Marginal Citations

- M3** 1968 c. 73.
- M4** 1969 c. 35.
- M5** 1986 c. 44.
- M6** 1986 c. 31.
- M7** 1945 c. 18.
- M8** 1969 c. 49.

## 265 Meaning of “the appropriate Minister”.

(1) Subject to the following provisions of this section, in this Act “the appropriate Minister” means—

- <sup>F23</sup>(a) . . . . .
- <sup>F24</sup>(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour, pier or lighthouse undertaking, the Civil Aviation Authority, a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000, or a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986), the Secretary of State for Transport;]
- (b) in relation to statutory undertakers carrying on an undertaking for the supply of hydraulic power, the <sup>F25</sup>Secretary of State for Trade and Industry];
- (c) in relation to <sup>F26</sup>a universal postal service provider], the Secretary of State for Trade and Industry; and
- <sup>F27</sup>(d) in relation to any other statutory undertakers, the Secretary of State for <sup>F28</sup>Levelling Up, Housing and Communities].]

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- (2) For the purposes of sections 170(12), 266 to 280, 325(9) and 336(2) and (3) and Part II of Schedule 8, “the appropriate Minister”, in relation to a [<sup>F29</sup>public gas transporter] or a holder of a licence under section 6 of the <sup>M9</sup>Electricity Act 1989, means the [<sup>F25</sup>Secretary of State for Trade and Industry].
- (3) For the purposes of sections 170(12), 266 to 280, 325(9) and 336(2) and (3) and Part II of Schedule 8 and Schedule 14 “the appropriate Minister”—
- (a) in relation to the National Rivers Authority, means the Secretary of State or the Minister of Agriculture, Fisheries and Food; <sup>F30</sup> ...
- [<sup>F31</sup>(aa) in relation to the Natural Resources Body for Wales, means the Secretary of State or the Secretary of State for Environment, Food and Rural Affairs; and]
- (b) in relation to a water or sewerage undertaker, means the Secretary of State.
- (4) References in this Act to the Secretary of State and the appropriate Minister—
- (a) if the appropriate Minister is not the one concerned as the Secretary of State, shall be construed as references to the Secretary of State and the appropriate Minister; and
- (b) if the one concerned as the Secretary of State is also the appropriate Minister, shall be construed as references to him alone,
- and similarly with references to a Minister and the appropriate Minister and with any provision requiring the Secretary of State to act jointly with the appropriate Minister.

#### Textual Amendments

- F23** S. 265(1)(a) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 11, **14(a)**
- F24** S. 265(1)(a) inserted (25.11.2002) by [The Transfer of Functions \(Transport, Local Government and the Regions\) Order 2002 \(S.I. 2002/2626\)](#), art. 20, **Sch. 2 para. 15(4)(a)**
- F25** Words in s. 265(1)(2) substituted (5.7.1992) by S.I. 1992/1314, art. 3(3), **Sch. para. 1(f)**
- F26** Words in s. 265(1)(c) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 82**
- F27** S. 265(1)(d) substituted (21.8.2006) by [The Secretary of State for Communities and Local Government Order 2006 \(S.I. 2006/1926\)](#), art. 9, **Sch. para. 3(4)**
- F28** Words in s. 265(1)(d) substituted (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 6(2)(c)** (with art. 12)
- F29** Words in s. 265(2) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(3)**; S.I. 1996/218, **art. 2**
- F30** Word in s. 265(3) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 203** (with Sch. 7)
- F31** S. 265(3)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 203** (with Sch. 7)

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

- C107** S. 265(1)(a): functions transferred (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **25(a)**
- C108** S. 265(1)(b)(2): functions transferred to the Secretary of State for Energy and Climate Change (5.3.2009) by [The Secretary of State for Energy and Climate Change Order 2009 \(S.I. 2009/229\)](#), art. 4, **Sch. 1(d)**
- C109** S. 265(1)(d) functions transferred to the Secretary of State for Transport (25.11.2002) by [The Transfer of Functions \(Transport, Local Government and the Regions\) Order 2002 \(S.I. 2002/2626\)](#), **art. 6** (with arts. 7, 8)

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S. 265(1)(d): functions of the First Secretary of State transferred to the Secretary of State for Communities and Local Government (21.8.2006) by [The Secretary of State for Communities and Local Government Order 2006 \(S.I. 2006/1926\)](#), **art. 4(1)(c)**

**C110** S. 265(3)(a)(4): functions transferred to the Secretary of State for Environment, Food and Rural Affairs (27.3.2002) by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\)](#), **art. 3(1)(g)(2)** (with art. 6)

**C111** S. 265(3)(aa): functions transferred (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **25(b)**

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### Marginal Citations

**M9** 1989 c. 29.

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