

Status: Point in time view as at 01/12/2008.

Changes to legislation: Regional Development Agencies Act 1998 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1.

REGIONS

Commencement Information

- II** Sch. 1 wholly in force at 3.7.2000; Sch. 1 in force at 25.11.1998 (except insofar as it relates to the establishment of a regional development agency for London) by S.I. 1998/2952, **art. 2(1)**; Sch. 1 in force at 3.7.2000 as far as not already in force by S.I. 2000/1173, **art. 2(2)(c)**

<i>Name of region</i>	<i>Extent</i>
East Midlands	The counties of Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire The non-metropolitan districts of Derby, Leicester, Nottingham and Rutland
Eastern	The counties of Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Norfolk and Suffolk The non-metropolitan districts of Luton, Peterborough, Southend-on-Sea and Thurrock
London	Greater London
North East	The counties of Durham and Northumberland The metropolitan districts of Gateshead, Newcastle upon Tyne, North Tyneside, South Tyneside and Sunderland The non-metropolitan districts of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees
North West	The counties of Cheshire, Cumbria and Lancashire The metropolitan districts of Bolton, Bury, Knowsley, Liverpool, Manchester, Oldham, Rochdale, St. Helens, Salford, Sefton, Stockport, Tameside, Trafford, Wigan and Wirral The non-metropolitan districts of Blackburn with Darwen, Blackpool, Halton and Warrington
South East	The counties of Buckinghamshire, East Sussex, Hampshire, Isle of Wight, Kent, Oxfordshire, Surrey and West Sussex The non-metropolitan districts of Bracknell Forest, Brighton and Hove, the Medway

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	Towns, Milton Keynes, Portsmouth, Reading, Slough, Southampton, West Berkshire, Windsor and Maidenhead and Wokingham
South West	The counties of Cornwall, Devon, Dorset, Gloucestershire, Somerset and Wiltshire The non-metropolitan districts of Bath and North East Somerset, Bournemouth, Bristol, North Somerset, Plymouth, Poole, South Gloucestershire, Swindon and Torbay The Isles of Scilly
West Midlands	The counties of Shropshire, Staffordshire, Warwickshire and Worcestershire The metropolitan districts of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton The non-metropolitan districts of Herefordshire, Stoke-on-Trent and Telford and Wrekin
Yorkshire and the Humber	The county of North Yorkshire The metropolitan districts of Barnsley, Bradford, Calderdale, Doncaster, Kirklees, Leeds, Rotherham, Sheffield and Wakefield The non-metropolitan districts of the East Riding of Yorkshire, Kingston upon Hull, North East Lincolnshire, North Lincolnshire and York

SCHEDULE 2

Section 2.

CONSTITUTION OF AGENCIES

Commencement Information

- I2** Sch. 2 wholly in force; Sch. 2 not in force at Royal Assent, see s. 43; Sch. 2 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2); Sch. 2 in force at 3.7.2000 as far as not already in force by S.I. 2000/1173, art. 2(2)(c)

Membership

- 1 (1) Subject to the following provisions of this paragraph, a member of a regional development agency shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A member of a regional development agency may at any time resign his office by giving notice to the Secretary of State.
- (3) The Secretary of State may remove a member of a regional development agency from that office if he is satisfied—
- (a) that the member has been absent from meetings of the agency for a period of more than 3 months without the permission of the agency,

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- (b) that the member has been adjudged bankrupt, that his estate has been sequestrated or that he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
 - (c) that the member is unable or unfit to carry out the functions of a member.
- [^{F1}(4) Sub-paragraphs (2) and (3) have effect in relation to the London Development Agency as if the references to the Secretary of State were references to the Mayor of London.
- (5) Where the Mayor of London makes an appointment under section 2(1) by virtue of section 2(7), he shall not make it a term of appointment of the person so appointed that he is to be required to resign his office if he ceases to be an elected member of the London Assembly, a London borough council or the Common Council of the City of London.]

Textual Amendments

- F1** Sch. 2 para. 1(4)(5) inserted (3.7.2000) by 1999 c. 29, s. 309, **Sch. 25 para. 20(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**

Chairman and deputy chairman

- 2 [^{F2}(1)] A person designated as chairman or deputy chairman of a regional development agency shall hold office as such in accordance with the terms of his appointment unless and until—
- (a) he resigns that office by giving notice to the Secretary of State, or
 - (b) he ceases to be a member,
- and shall, on ceasing to be chairman or deputy chairman, be eligible for further designation as such in accordance with paragraph (a) or, as the case may be, paragraph (b) of section 2(4) at any time when he is a member.
- [^{F3}(2) Sub-paragraph (1) has effect in relation to the London Development Agency as if the reference to the Secretary of State were a reference to the Mayor of London.
- (3) Where the Mayor of London designates a person under section 2(4) by virtue of section 2(7), he shall not make it a term of appointment of the person so designated that he is to be required to resign his office if he ceases to be an elected member of the London Assembly, a London borough council or the Common Council of the City of London.]

Textual Amendments

- F2** Figure “(1)” in Sch. 2 para. 2 inserted (3.7.2000) by 1999 c. 29, s. 309, **Sch. 25 para. 20(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F3** Sch. 2 para. 2(2)(3) inserted (3.7.2000) by 1999 c. 29, s. 309, **Sch. 25 para. 20(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**

Remuneration, pensions, etc.

- 3 (1) A regional development agency shall pay to its members such remuneration, and such travelling and other allowances, as may be determined by the Secretary of State.

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- (2) A regional development agency shall, if so required by the Secretary of State—
- (a) pay such pension, allowances or gratuities as may be determined by the Secretary of State to or in respect of a person who is or has been a member,
 - (b) make such payments as may be determined by the Secretary of State towards provision for the payment of a pension, allowances or gratuities to or in respect of a person who is or has been a member, or
 - (c) provide and maintain such schemes (whether contributory or not) as may be determined by the Secretary of State for the payment of pensions, allowances or gratuities to or in respect of persons who are or have been members.
- (3) If, when a person ceases to hold office as a member of a regional development agency, the Secretary of State determines that there are special circumstances which make it right that the person should receive compensation, the agency shall pay to him by way of compensation a sum of such amount as may be determined by the Secretary of State.

[^{F4} Application of paragraph 3 in relation to the London Development Agency

Textual Amendments

F4 Sch. 2 para. 3A and cross-heading inserted (3.7.2000) by 1999 c. 29, s. 309, **Sch. 25 para. 20(5)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**

- 3A (1) Payments by way of remuneration or allowances, other than allowances in respect of expenses incurred in the exercise of their functions, shall not be made under paragraph 3(1) to members of the London Development Agency who are also members of the London Assembly.

[Sub-paragraph (1) above does not prevent the payment of an allowance under ^{F5}(1A) paragraph 3(1) above to the chairman or deputy chairman of the London Development Agency in respect of that office.]

- (2) The payments that may be made to or in respect of a person—
- (a) under paragraph 3(2)(a) or (b), or
 - (b) under a scheme provided or maintained under paragraph 3(2)(c),
- do not include payments referable to periods when the person is or was a member of both the London Development Agency and the London Assembly.
- (3) In the application of paragraph 3 in relation to the London Development Agency, the references to the Secretary of State shall be taken as references to the Mayor of London.]

Textual Amendments

F5 Sch. 2 para. 3A(1A) inserted (21.1.2008) by Greater London Authority Act 2007 (c. 24), ss. 20(2), 59(7); S.I. 2008/113, art. 2(c)

Staff

- 4 (1) A regional development agency may appoint such officers and employees as it may determine, subject to sub-paragraph (2).

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- (2) Appointments to the position of chief executive of a regional development agency shall be made as follows—
- (a) the first appointment shall be made by the Secretary of State after consultation with the chairman (or chairman designate) of the agency, and
 - (b) subsequent appointments shall be made by the agency with the consent of the Secretary of State.
- (3) A regional development agency may—
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who are or have been its officers or employees as it may, with the approval of the Secretary of State, determine,
 - (b) make such payments as it may so determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons, and
 - (c) provide and maintain such schemes as it may so determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any such persons.
- (4) Any reference in sub-paragraph (3) to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the agency's officers or employees who suffer loss of office or employment or loss or diminution of emoluments.
- [^{F6}(5) This paragraph has effect in relation to the London Development Agency as if the references to the Secretary of State were references to the Mayor of London.]

Textual Amendments

F6 Sch. 2 para. 4(5) inserted (3.7.2000) by 1999 c.29, s. 309, **Sch. 25 para. 20(6)** (with Sch. 12 para. 9(1))

- 5 (1) The persons to whom section 1 of the ^{M1}Superannuation Act 1972 applies (persons to or in respect of whom benefits may be provided by schemes under that section) shall include employees of a regional development agency [^{F7}other than the London Development Agency (for whose employees corresponding provision is made by section 389(1) of the Greater London Authority Act 1999)].
- (2) Accordingly, in Schedule 1 to that Act, at the appropriate point in the list of “Other Bodies”, there is inserted “ A development agency established under section 1 of the Regional Development Agencies Act 1998 ”.

Textual Amendments

F7 Words in Sch. 2 para. 5(1) inserted (3.7.2000) by 1999 c. 29, s. 309, **Sch. 25 para. 20(7)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**

Marginal Citations

M1 1972 c. 11.

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Proceedings

- 6 Subject to the following provisions of this Schedule, a regional development agency may regulate its own procedure (including quorum).

Delegation of functions

- 7 (1) Anything authorised or required by or under any enactment to be done by a regional development agency may be done—
- (a) by any member, officer or employee of the agency who has been authorised for the purpose, whether generally or specially, by the agency, or
 - (b) by any committee or sub-committee of the agency which has been so authorised.
- (2) A member may not act in relation to any matter delegated to him under sub-paragraph (1)(a) if he is in any way directly or indirectly interested in that matter.

Modifications etc. (not altering text)

- C1** Sch. 2 para. 7 excluded (8.5.2000 so far as it applies to the Greater London Authority, otherwise 3.7.2000) by 1988 c. 41, s. 115(4A) as inserted by 1999 c. 29, s. 131 (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4

Members' interests

- 8 (1) A member of a regional development agency who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the agency, or any committee or sub-committee of the agency, shall disclose the nature of his interest to the meeting; and, where such a disclosure is made—
- (a) the disclosure shall be recorded in the minutes of the meeting, and
 - (b) the member shall not take any part in any deliberation or decision of the agency, or any committee or sub-committee of the agency, with respect to that matter.
- (2) If a member is not present at a meeting at which a matter in which he is interested is brought up for consideration, sub-paragraph (1) shall only apply to him if he was aware of the fact that the matter would be brought up for consideration at the meeting.
- (3) For the purposes of sub-paragraph (1), a general notification given at a meeting of the agency by a member to the effect that he—
- (a) has an interest in a specified company, firm or other organisation, and
 - (b) is to be regarded as interested in any matter involving that company, firm or other organisation,
- shall be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (4) A member need not attend in person at a meeting in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting.
- (5) The Secretary of State may remove a disability under this paragraph subject to such conditions as he considers appropriate.

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- (6) The power of the Secretary of State under sub-paragraph (5) includes power to remove, either indefinitely or for any period, a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Secretary of State.
- (7) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the power conferred by sub-paragraph (5).

Vacancies and defective appointments

- 9 The validity of any proceedings of a regional development agency shall not be affected by a vacancy amongst the members or by a defect in the appointment of a member.

Minutes

- 10 (1) Minutes shall be kept of proceedings of a regional development agency and of the committees and sub-committees of such an agency.
- (2) Minutes of any such proceedings shall be evidence of those proceedings if they are signed by a person purporting to have acted as chairman of the proceedings to which the minutes relate or of any subsequent proceedings in the course of which the minutes were approved as a correct record.
- (3) Where minutes of any such proceedings have been signed as mentioned in sub-paragraph (2), those proceedings shall, unless the contrary is shown, be deemed to have been validly convened and constituted.

Execution and proof of instruments

- 11 (1) The application of the seal of a regional development agency shall be authenticated by the signature of any member, officer or employee of the agency who has been authorised for the purpose, whether generally or specially, by the agency.
- (2) Any document which a regional development agency is authorised or required by or under any enactment to serve, make or issue may be signed on behalf of the agency by any member, officer or employee of the agency who has been authorised for the purpose, whether generally or specially, by the agency.
- (3) Every document purporting to be an instrument made or issued by or on behalf of a regional development agency and to be duly executed under the seal of the agency, or to be signed or executed by a person authorised by the agency for the purpose, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.
- (4) In sub-paragraph (1), the reference to the signature of a person includes a reference to a facsimile of a signature by whatever process reproduced, and “signed” in sub-paragraphs (2) and (3) shall be construed accordingly.

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SCHEDULE 3

Section 6.

DELEGATION OF MINISTERIAL FUNCTIONS: TRANSFER SCHEMES

Commencement Information

I3 Sch. 3 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2)

Power to make scheme

- 1 (1) A Minister of the Crown may make a scheme for the transfer from the Crown to one or more regional development agencies of such property, rights and liabilities as appear to him appropriate to be transferred in consequence of the delegation under section 6 of a function of his.
- (2) A Minister of the Crown may make a scheme for the transfer from one or more regional development agencies to the Crown of such property, rights and liabilities as appear to him appropriate to be transferred in consequence of the revocation of the delegation under section 6 of a function of his.

Contents of scheme

- 2 (1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.
- (2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
- 3 A transfer scheme may define the property, rights and liabilities to be transferred by the scheme by specifying or describing them or by referring to all the property, rights and liabilities comprised in a specified part of the undertaking of the transferor (or partly in one way and partly in the other).
- 4 A transfer scheme may also contain provision—
- (a) for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the transferor;
 - (b) for the creation of any rights or liabilities as between two or more of the regional development agencies, or as between one or more of them and the Crown;
 - (c) for any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against two or more of the regional development agencies, or by or against one or more of them and the Crown;
 - (d) for imposing on any two or more of the regional development agencies, or on one or more of them and the Crown, an obligation to enter into written agreements with, or execute other instruments in favour of, each other.
- 5 A scheme under paragraph 1(1) may also contain provision—

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- (a) for the creation in favour of a regional development agency of an interest in or right over property retained by the Crown;
 - (b) for the creation in favour of one regional development agency of an interest in or right over property which the scheme transfers to another regional development agency.
- 6 A scheme under paragraph 1(2) may also contain provision for the creation in favour of the Crown of an interest in or right over property retained by a regional development agency.
- 7 A transfer scheme may make such supplemental, incidental and consequential provision as the Minister making it considers appropriate.

Effect of scheme

- 8 On the day appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this sub-paragraph, be transferred in accordance with the provisions of the scheme.

Effect of transfer by scheme of contracts of employment

- 9 (1) This paragraph applies where rights and liabilities under a contract of employment are transferred by a transfer scheme.
- (2) Anything done by or in relation to the transferor in respect of the employee before the day of the transfer shall be treated on and after that day as done by or in relation to the transferee.
- (3) For the purposes of the ^{M2}Employment Rights Act 1996, the employee's period of employment with the transferor shall count as a period of employment with the transferee, and the change of employment shall not break the continuity of the period of employment.

Marginal Citations

M2 1996 c. 18.

- 10 Where rights and liabilities under a contract of employment are transferred by a scheme under paragraph 1(2), the employee shall not be regarded for the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc.) as having been dismissed by virtue of the transfer.

Modification of scheme

- 11 (1) If at any time after a transfer scheme has come into force, the Minister who made the scheme considers it appropriate to do so, having consulted any regional development agency which may be affected, he may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications, other than modifications relating to the transfer of rights and liabilities under a contract of employment, as may be specified in the order.
- (2) An order under sub-paragraph (1) may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme, and in connection with giving effect to that provision from that time may contain such

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supplemental, consequential and transitional provision as the Minister making the order considers appropriate.

- (3) The power to make an order under sub-paragraph (1) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Provision of information

- 12 A regional development agency shall provide a Minister of the Crown with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any of the powers conferred on him by this Schedule.

Interpretation

- 13 In the application of this Schedule to a person employed in the civil service of the State—
- (a) any reference to employment is to employment in that service,
 - (b) any reference to a contract of employment is to the terms of that employment, and
 - (c) any reference to dismissal is to the termination of his employment in that service.

SCHEDULE 4

Section 19.

VESTING OF LAND: MODIFICATIONS OF ENACTMENTS

Commencement Information

I4 Sch. 4 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2)

Land Compensation Act 1961 (c. 33)

- 1 The Land Compensation Act 1961 shall have effect in relation to orders under section 19(1) above with the modifications in paragraphs 2 to 5 below.
- 2 References to the date of service of a notice to treat shall be treated as references to the date on which an order under section 19(1) above comes into force.
- 3 In section 17(2) (certification of appropriate alternative development), for “the authority proposing to acquire the interest have served a notice to treat in respect thereof, or an agreement has been made for the sale thereof to that authority” there is substituted “an order under section 19(1) of the Regional Development Agencies Act 1998 vesting the land in which the interest subsists in a regional development agency has come into force, or an agreement has been made for the sale of the interest to such an agency”.
- 4 In section 22(2) (interpretation of Part III), at the end of paragraph (c) there is added “or

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- (d) where an order has been made under section 19(1) of the Regional Development Agencies Act 1998 vesting the land in which the interest subsists in a regional development agency”.
- 5 Any reference to a notice to treat in section 39(2) (interpretation) shall be treated as a reference to an order under section 19(1) above.

Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)

- 6 The Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect in relation to orders under section 19(1) above with the modifications in paragraphs 7 to 9 below.
- 7 (1) Any reference in Part III or IV to a general vesting declaration shall be treated as a reference to the order.
- (2) Any reference in Part III or IV to the vesting date shall be treated as a reference to the date on which the order comes into force, and the reference in section 11(1) to the execution of a general vesting declaration shall be treated as a reference to the order having come into force.
- 8 In section 7(1)—
- (a) the reference to every person on whom, under section 5 of the ^{M3}Compulsory Purchase Act 1965, the acquiring authority could have served a notice to treat shall be treated as a reference to every person whose interest in the land to which the order relates is vested by the order in the regional development agency, and
- (b) paragraph (i) is omitted.

Marginal Citations

M3 1965 c. 56.

- 9 (1) In Schedule 1, in paragraph 2(2), the reference to the date on which notice under section 6 is served on any person shall be treated as a reference to the date on which the order comes into force.
- (2) In that Schedule, in paragraph 10—
- (a) sub-paragraph (1)(a) is omitted, and
- (b) the reference in sub-paragraph (1)(b) to the date on which a person first had knowledge of the execution of the general vesting declaration shall be treated as a reference to the date on which the order came into force.

SCHEDULE 5

Section 20.

ACQUISITION OF LAND

Commencement Information

I5 Sch. 5 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2)

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PART I

MODIFICATIONS OF THE ACQUISITION OF LAND ACT 1981

F8 1

Textual Amendments

F8 Sch. 5 para. 1 repealed (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121, Sch. 7 para. 21(1), [Sch. 9](#) (with s. 111, Sch. 7 para. 21(2)); S.I. 2004/2593, [art. 2\(d\)\(e\)](#)

2 The reference in section 17(3) of the ^{M4}Acquisition of Land Act 1981 (local authority and statutory undertakers' land) to statutory undertakers includes a reference to a regional development agency.

Marginal Citations

M4 1981 c. 67.

PART II

ACQUISITION OF RIGHTS

- 3 (1) The Compulsory Purchase Act 1965 (“the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory acquisition of rights by virtue of section 20(2) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the 1965 Act to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.
- (2) Without prejudice to the generality of sub-paragraph (1), in relation to the acquisition of rights by virtue of section 20(2) above—
- Part I of the 1965 Act (which relates to compulsory purchases under the ^{M5}Acquisition of Land Act 1981) shall have effect with the modifications specified in paragraphs 4 and 5, and
 - the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

Marginal Citations

M5 1981 c. 67.

4 For sections 7 and 8 of the 1965 Act there is substituted—

“7 Measure of compensation in case of acquisition of new right.

- (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by

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reason of injurious affection of other land of the owner by the exercise of the right.

- (2) The modifications subject to which subsection (1) of section 44 of the^{M6}Land Compensation Act 1973 (compensation for injurious affection) is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that—
- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is acquired”, and
 - (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

8 Other provisions relating to acquisition of new right.

- (1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—
- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the Tribunal”); and
 - (b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,
- the compulsory purchase order to which the notice to treat relates shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.
- (2) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.
- (3) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section a compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.

Status: Point in time view as at 01/12/2008.

Changes to legislation: Regional Development Agencies Act 1998 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The modifications subject to which subsection (1) of section 58 of the ^{M7}Land Compensation Act 1973 (determination of material detriment) is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that—
- (a) at the beginning of paragraphs (a) and (b) there shall be inserted the words “a right over”;
 - (b) for the word “severance” there shall be substituted the words “right on the whole of the house, building or manufactory or of the house and the park or garden”; and
 - (c) for the words “part proposed” and “part is” there shall be substituted respectively the words “right proposed” and “right is”.

Marginal Citations

M6 1973 c. 26.

M7 1973 c. 26.

- 5 (1) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely—
- (a) section 9(4) (failure of owners to convey),
 - (b) paragraph 10(3) of Schedule 1 (owners under incapacity),
 - (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
 - (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily is vested absolutely in the acquiring authority.
- (2) Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on [^{F9}enforcement officer's or sheriff's warrant] in the event of obstruction) of the 1965 Act shall be modified correspondingly.
- (3) Section 20 of the 1965 Act (compensation for short-term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory purchase of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.
- (4) Section 22 of the 1965 Act (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

Status: Point in time view as at 01/12/2008.

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Textual Amendments

- F9** Words in Sch. 5 para. 5(2) substituted (1.4.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 22 para. 10; S.I. 2007/2709, art. 5(b)

SCHEDULE 6

Section 23.

VESTING AND ACQUISITION OF LAND: SUPPLEMENTARY PROVISIONS

Commencement Information

- I6** Sch. 6 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2)

Extinguishment of rights over land

- 1 (1) On an order under section 19(1) coming into force or the completion by a regional development agency of a compulsory acquisition of land under this Act—
- (a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land which is the subject of the order or the compulsory acquisition shall be extinguished, and
 - (b) any such apparatus shall vest in the agency in which the land is vested or by which it is acquired.
- (2) Sub-paragraph (1) does not apply—
- (a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of carrying on their undertaking; or
 - (b) to any right conferred by or in accordance with [^{F10}the electronic communications code] on the operator of [^{F11}an electronic communications code network] or to any [^{F12}electronic communications apparatus] kept installed for the purposes of any [^{F13}such network] .
- (3) In respect of any right or apparatus not falling within sub-paragraph (2), sub-paragraph (1) shall have effect subject to—
- (a) any direction given by the Secretary of State before the coming into force of the order, or, as the case may be, by the agency before the completion of the acquisition, that sub-paragraph (1) shall not apply to any right or apparatus specified in the direction, and
 - (b) any agreement which may be made (whether before or after the coming into force of the order or completion of the acquisition) between the Secretary of State, or agency, and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this paragraph shall be entitled to compensation from the regional development agency concerned.
- (5) Any compensation payable under this paragraph shall be determined in accordance with the ^{M8}Land Compensation Act 1961.

Status: Point in time view as at 01/12/2008.

Changes to legislation: Regional Development Agencies Act 1998 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F10** Words in Sch. 6 para. 1 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 155\(2\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))
- F11** Words in Sch. 6 para. 1 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 155\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))
- F12** Words in Sch. 6 para. 1 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 155\(2\)\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))
- F13** Words in Sch. 6 para. 1 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 155\(2\)\(d\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))

Marginal Citations

- M8** 1961 c. 33.

Power to override easements

- 2 (1) The erection, construction, carrying out, or maintenance of any building or work on land which has been vested in or acquired by a regional development agency under this Act, whether done by the agency or by any other person, is authorised by virtue of this paragraph if it is done in accordance with planning permission, notwithstanding that it involves—
- (a) interference with an interest or right to which this paragraph applies, or
 - (b) a breach of a restriction as to the user of land arising by virtue of a contract.
- (2) Nothing in sub-paragraph (1) shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land, being—
- (a) a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or
 - (b) a right conferred by or in accordance with [^{F14}the electronic communications code] on the operator of [^{F15}an electronic communications code network] .
- (3) This paragraph applies to the following interests and rights, that is to say, any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (4) In respect of any interference or breach in pursuance of sub-paragraph (1), compensation shall be payable under section 7 or 10 of the ^{M9}Compulsory Purchase Act 1965, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase by a regional development agency or the injury arises from the execution of works on land acquired by such an agency.

Status: Point in time view as at 01/12/2008.

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- (5) Where a person other than the regional development agency by or in which the land in question was acquired or vested is liable to pay compensation by virtue of sub-paragraph (4), and fails to discharge that liability, the liability shall (subject to sub-paragraph (6)) be enforceable against the agency.
- (6) Nothing in sub-paragraph (5) shall be construed as affecting any agreement between that agency and any other person for indemnifying the agency against any liability under that sub-paragraph.
- (7) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in sub-paragraph (1).
- (8) Nothing in this paragraph shall be construed as authorising any act or omission on the part of a body corporate in contravention of any limitation imposed by law on its capacity by virtue of its constitution.

Textual Amendments

- F14** Words in Sch. 6 para. 2 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 155\(2\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))
- F15** Words in Sch. 6 para. 2 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 155\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with [art. 11](#))

Marginal Citations

- M9** 1965 c. 56.

Consecrated land and burial grounds

- 3 (1) Any consecrated land, whether including a building or not, which has been vested in or acquired by a regional development agency under this Act may (subject to the following provisions of this paragraph) be used by the agency, or by any other person, in any manner in accordance with planning permission, notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land.
- (2) Sub-paragraph (1) does not apply to land which consists or forms part of a burial ground.
- (3) Any use of consecrated land authorised by sub-paragraph (1), and the use of any land, not being consecrated land, vested or acquired as mentioned in that sub-paragraph which at the time of vesting or acquisition included a church or other building used or formerly used for religious worship or the site thereof, shall be subject to compliance with the prescribed requirements with respect to—
- (a) the removal and reinterment of any human remains, and
 - (b) the disposal of monuments,
- and, in the case of consecrated land, shall be subject to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until

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the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on the land.

- (4) Any regulations made for the purposes of sub-paragraph (3)—
- (a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the like control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;
 - (b) shall contain requirements relating to the disposal of any such land as is mentioned in sub-paragraph (3) such as appear to the Secretary of State requisite for securing that the provisions of that sub-paragraph shall be complied with in relation to the use of the land; and
 - (c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.
- (5) Any land consisting of a burial ground or part of a burial ground which has been vested in or acquired by a regional development agency under this Act may be used by the agency in any manner in accordance with planning permission, notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.
- (6) Sub-paragraph (5) shall not have effect in respect of any land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains and the disposal of monuments in or upon the land have been complied with.
- (7) Provision shall be made by any regulations made for the purposes of sub-paragraphs (3) and (6)—
- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;
 - (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed;
 - (c) for requiring compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal and the place and manner of reinterment of any human remains and the disposal of any monuments; and
 - (d) for requiring compliance with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.
- (8) Subject to the provisions of any such regulations as are referred to in sub-paragraph (7), no faculty shall be required—

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- (a) for the removal and reinterment in accordance with the regulations of any human remains, or
 - (b) for the removal or disposal of any monuments;
- and the provisions of section 25 of the ^{M10}Burial Act 1857 (which prohibits the removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations.
- (9) Any power conferred by this paragraph to use land in a manner therein mentioned shall be construed as a power so to use the land, whether or not it involves—
 - (a) the erection, construction or carrying out of any building or work, or
 - (b) the maintenance of any building or work.
 - (10) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in sub-paragraph (1) or (5).
 - (11) Sub-paragraph (8) of paragraph 2 shall apply in relation to this paragraph as it applies in relation to that.
 - (12) In this paragraph—
 - “burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment; and
 - “monument” includes a tombstone or other memorial.
 - (13) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State.
 - (14) The power to make regulations under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M10 1857 c. 81.

Open spaces

- 4 (1) Any land being, or forming part of, a common, open space or fuel or field garden allotment, which has been vested in or acquired by a regional development agency under this Act may be used by the agency, or by any other person, in any manner in accordance with planning permission, notwithstanding anything in any enactment—
 - (a) relating to land of that kind, or
 - (b) by which the land is specially regulated.
- (2) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in sub-paragraph (1).
- (3) Sub-paragraph (8) of paragraph 2 shall apply in relation to this paragraph as it applies in relation to that.

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Displacement of persons

- 5 If the Secretary of State certifies that possession of a house which—
- (a) has been vested in or acquired by a regional development agency under this Act, and
 - (b) is for the time being held by the agency for its purposes,
- is immediately required for those purposes, nothing in the ^{M11}Rent (Agriculture) Act 1976, the ^{M12}Rent Act 1977 or the ^{M13}Housing Act 1988 shall prevent the agency from obtaining possession of the house.

Marginal Citations

- M11** 1976 c. 80.
M12 1977 c. 42.
M13 1988 c. 50.

Extinguishment of public rights of way

- 6 (1) Where any land has been vested in or acquired by a regional development agency under this Act, and is for the time being held by the agency for the purposes of its objects, the Secretary of State may by order extinguish any public right of way over the land, if he is satisfied—
- (a) that an alternative right of way has been or will be provided, or
 - (b) that the provision of an alternative right of way is not required.
- (2) Where the Secretary of State proposes to make an order under this paragraph, he shall—
- (a) publish in such manner as appears to him to be requisite a notice—
 - (i) stating the effect of the order, and
 - (ii) specifying the time (not being less than 28 days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, and
 - (b) serve a like notice—
 - (i) on the local planning authority in whose area the land is situated, and
 - (ii) on the relevant highway authority.
- (3) In sub-paragraph (2) “the relevant highway authority” means any authority which is a highway authority in relation to the right of way proposed to be extinguished by the order under this paragraph.
- (4) Where an objection to a proposal to make an order under this paragraph is duly made and is not withdrawn, the provisions of paragraph 7 shall have effect in relation to the proposal.
- (5) For the purposes of this paragraph an objection to such a proposal shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by this paragraph, and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

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- 7 (1) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.
- (2) Unless the Secretary of State decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State—
- (a) shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection, and
- (b) may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, he may treat the objection as irrelevant for the purpose of making a final decision.
- (4) In any case where—
- (a) after considering the grounds of the objection as set out in the original statement and in any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or
- (b) a further statement has been required but is not submitted within the specified period,
- the Secretary of State may make a final decision without further investigation as to the matters to which the objection relates.
- (5) Subject to sub-paragraphs (3) and (4), the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion—
- (a) to the person on whose representation the order is proposed to be made, and
- (b) to any other persons to whom it appears to the Secretary of State to be expedient to afford such an opportunity.
- (6) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

Telegraphic lines

- 8 (1) Where an order under paragraph 6 extinguishing a public right of way is made and at the time of the publication of the notice required by sub-paragraph (2) of that paragraph any [^{F16}electronic communications apparatus] was kept installed for the purposes of [^{F17}an electronic communications code network] under, in, on, over, along or across the land over which the right of way subsisted—

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- (a) the power of the operator of [^{F18}the network] to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of 3 months from the date on which the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of [^{F18}the network] has given notice to the regional development agency concerned of his intention to remove the apparatus or that part of it, as the case may be;
 - (b) the operator of [^{F18}the network] may by notice given in that behalf to the regional development agency concerned not later than the end of the said period of 3 months abandon the [^{F16}electronic communications apparatus] or any part of it;
 - (c) subject to paragraph (b), the operator of [^{F18}the network] shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
 - (d) the operator of [^{F18}the network] shall be entitled to recover from the regional development agency concerned the expense of providing, in substitution for the apparatus and any other [^{F16}electronic communications apparatus] connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any [^{F16}electronic communications apparatus] in such other place as the operator may require; and
 - (e) where under the preceding provisions of this sub-paragraph the operator of [^{F18}the network] has abandoned the whole or any part of any [^{F16}electronic communications apparatus], that apparatus or that part of it shall vest in the regional development agency concerned and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of [^{F17}an electronic communications code network].
- (2) As soon as practicable after the making of an order under paragraph 6 extinguishing a public right of way in circumstances in which sub-paragraph (1) applies in relation to the operator of [^{F17}an electronic communications code network], the Secretary of State shall give notice to the operator of the making of the order.

Textual Amendments

- F16** Words in Sch. 6 para. 8 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F17** Words in Sch. 6 para. 8 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F18** Words in Sch. 6 para. 8 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(d\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

Status: Point in time view as at 01/12/2008.

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Statutory undertakers

- 9 (1) Where any land has been vested in or acquired by a regional development agency under this Act and—
- (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over that land, or
 - (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, the agency may serve on the statutory undertakers a notice stating that, at the end of the period of 28 days from the date of service of the notice or such longer period as may be specified therein, the right will be extinguished or requiring that, before the end of that period, the apparatus shall be removed.
- (2) The statutory undertakers on whom a notice is served under sub-paragraph (1) may, before the end of the period of 28 days from the service of the notice, serve a counter-notice on the agency stating that they object to all or any provisions of the notice and specifying the grounds of their objection.
- (3) If no counter-notice is served under sub-paragraph (2)—
- (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and
 - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the agency may remove the apparatus and dispose of it in any way it may think fit.
- (4) If a counter-notice is served under sub-paragraph (2) on the agency, it may either withdraw the notice (without prejudice to the service of a further notice) or apply to the Secretary of State and the appropriate Minister for an order under this paragraph embodying the provisions of the notice with or without modification.
- (5) Where by virtue of this paragraph any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the regional development agency concerned.
- (6) Sections 280 and 282 of the ^{M14}Town and Country Planning Act 1990 (measure of compensation to statutory undertakers) shall apply to compensation under sub-paragraph (5) as they apply to compensation under section 279(4) of that Act.
- (7) Except in a case where paragraph 8 applies—
- (a) the reference in paragraph (a) of sub-paragraph (1) to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with [^{F19}the electronic communications code] on the operator of [^{F20}an electronic communications code network] ; and
 - (b) the reference in paragraph (b) of that sub-paragraph to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to [^{F21}electronic communications apparatus] kept installed for the purposes of any [^{F22}such network] .

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- (8) Where paragraph (a) or (b) of sub-paragraph (1) has effect as mentioned in sub-paragraph (7), in the rest of this paragraph and in paragraph 10—
- (a) any reference to statutory undertakers shall have effect as a reference to the operator of any ^{F22}such network] as is referred to in sub-paragraph (7); and
 - (b) any reference to the appropriate Minister shall have effect as a reference to ^{F23}the Secretary of State for Business, Enterprise and Regulatory Reform] .

Textual Amendments

- F19** Words in Sch. 6 para. 9 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(a\)](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F20** Words in Sch. 6 para. 9 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(b\)](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F21** Words in Sch. 6 para. 9 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(c\)](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F22** Words in Sch. 6 para. 9 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(d\)](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F23** Words in Sch. 6 para. 9(8)(b) substituted (12.12.2007) by [The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 \(S.I. 2007/3224\), art. 1\(2\), Sch. para. 8](#)

Marginal Citations

- M14** 1990 c. 8.

- 10 (1) Before making an order under paragraph 9 the Secretary of State and the appropriate Minister—
- (a) shall afford to the statutory undertakers on whom notice was served under paragraph 9(1) an opportunity of objecting to the application for the order, and
 - (b) if any objection is made, shall consider the objection and afford to those statutory undertakers and to the agency on which the counter-notice was served an opportunity of appearing before and being heard by a person appointed by the Secretary of State and the appropriate Minister for the purpose,
- and the Secretary of State and the appropriate Minister may then, if they think fit, make the order in accordance with the application either with or without modification.
- (2) Where an order is made under paragraph 9—
- (a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order, and
 - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been

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complied with, the regional development agency concerned may remove the apparatus and dispose of it in any way it may think fit.

- 11 (1) Where any land has been vested in or acquired by a regional development agency under this Act and—
- (a) there is on, under or over the land apparatus vested in or belonging to statutory undertakers, and
 - (b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,
- the undertakers may serve on the agency a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.
- (2) Where, after the land has been vested or acquired as mentioned in sub-paragraph (1), development of the land is begun to be carried out, no notice under this paragraph shall be served later than 21 days after the beginning of the development.
 - (3) Where a notice is served under this paragraph the agency on which it is served may, before the end of the period of 28 days from the date of service, serve on the statutory undertakers a counter-notice stating that it objects to all or any of the provisions of the notice and specifying the grounds of its objection.
 - (4) If no counter-notice is served under sub-paragraph (3), the statutory undertakers shall, after the end of the said period of 28 days, have the rights claimed in their notice.
 - (5) If a counter-notice is served under sub-paragraph (3), the statutory undertakers who served the notice under this paragraph may either withdraw it or apply to the Secretary of State and the appropriate Minister for an order under this paragraph conferring on the undertakers—
 - (a) the rights claimed in the notice, or
 - (b) such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.
 - (6) Where by virtue of this paragraph or an order made by the Secretary of State and the appropriate Minister under it, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the regional development agency concerned for the works to be carried out by the agency, under the superintendence of the undertakers, instead of by the undertakers themselves.
 - (7) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of this paragraph or an order made by the Secretary of State and the appropriate Minister under it, the undertakers shall be entitled to compensation from the regional development agency concerned.
 - (8) Sections 280 and 282 of the ^{M15}Town and Country Planning Act 1990 (measure of compensation to statutory undertakers) shall apply to compensation under sub-paragraph (7) as they apply to compensation under section 279(4) of that Act.
 - (9) In sub-paragraph (1)(a), the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to [^{F24}electronic communications apparatus] kept installed for the purposes of [^{F25}an electronic communications code network] .

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- (10) Where sub-paragraph (1)(a) has effect as mentioned in sub-paragraph (9), in the rest of this paragraph—
- (a) any reference to statutory undertakers shall have effect as a reference to the operator of any ^{F26}such network] as is referred to in sub-paragraph (9); and
 - (b) any reference to the appropriate Minister shall have effect as a reference to ^{F27}the Secretary of State for Business, Enterprise and Regulatory Reform] .

Textual Amendments

- F24** Words in Sch. 6 para. 11 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F25** Words in Sch. 6 para. 11 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F26** Words in Sch. 6 para. 11 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 155\(2\)\(d\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F27** Words in [Sch. 6 para. 11\(10\)\(b\)](#) substituted (12.12.2007) by [The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 \(S.I. 2007/3224\), art. 1\(2\), Sch. para. 8](#)

Marginal Citations

M15 [1990 c. 8.](#)

- 12 (1) The powers conferred by this paragraph shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—
- (a) to secure the provision in the area of a regional development agency of services which would not otherwise be provided, or which would not otherwise be satisfactorily provided, or
 - (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in sub-paragraph (2).
- (2) The said acts and events are—
- (a) the vesting in or acquisition by a regional development agency under this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question, and
 - (b) the extinguishment of a right or the imposition of any requirement by virtue of paragraph 9.
- (3) The powers conferred by this paragraph shall also be exercisable where, on a representation made by a regional development agency, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified in order to secure the provision of new services, or the extension of existing services, in the agency's area.

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- (4) Where the powers conferred by this paragraph are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure—
- (a) the provision of the services in question, as mentioned in sub-paragraph (1) (a) or sub-paragraph (3); or
 - (b) the adjustment in question, as mentioned in sub-paragraph (1)(b), as the case may be.
- (5) Without prejudice to the generality of sub-paragraph (4), an order under this paragraph may make provision—
- (a) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any buildings or works so specified,
 - (b) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works,
 - (c) where it has been represented that the making of the order is expedient for the purposes mentioned in sub-paragraph (1)(a) or (3), for giving effect to such financial arrangements between the regional development agency concerned and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order, and
 - (d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.
- 13 (1) As soon as may be after making such a representation as is mentioned in sub-paragraph (1) or (3) of paragraph 12—
- (a) the statutory undertakers, in a case falling within sub-paragraph (1), or
 - (b) the regional development agency, in a case falling within sub-paragraph (3),
- shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if so directed by the Secretary of State and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.
- (2) Orders under paragraph 12 shall be subject to special parliamentary procedure.
- 14 (1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligations incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this sub-paragraph applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.
- (2) Sub-paragraph (1) applies to the following acts and events—

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- (a) the vesting in or acquisition by a regional development agency under this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers, and
 - (b) the extinguishment of a right or the imposition of any requirement by virtue of paragraph 9.
- (3) As soon as may be after making a representation to the appropriate Minister under sub-paragraph (1), the statutory undertakers shall, as may be directed by the appropriate Minister, do either or both of the following, that is to say—
- (a) publish (in such form and manner as may be so directed) a notice—
 - (i) giving such particulars as may be so directed of the matters to which the representation relates, and
 - (ii) specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and
 - (b) serve a like notice on such persons, or persons of such classes, as may be so directed.
- (4) If any objection to the making of an order under this paragraph is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.
- (5) Immediately after an order is made under this paragraph by the appropriate Minister, he shall publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours, and shall serve a like notice—
- (a) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this sub-paragraph, specifying an address for service, and
 - (b) on such other persons (if any) as the appropriate Minister thinks fit.
- (6) Subject to the following provisions of this paragraph, an order under this paragraph shall become operative on the date on which the notice required by sub-paragraph (5) is first published.
- (7) Where in accordance with sub-paragraph (4) the order is subject to special parliamentary procedure, sub-paragraph (6) shall not apply.
- (8) If any person aggrieved by an order under this paragraph wishes to question the validity of the order on the ground—
- (a) that it is not within the powers conferred by this paragraph, or
 - (b) that any requirement of this paragraph has not been complied with in relation to the order,
- he may, within 6 weeks from the date on which the notice required by sub-paragraph (5) is first published, make an application to the High Court under this paragraph.
- (9) On any application under sub-paragraph (8) the High Court—
- (a) may by interim order wholly or in part suspend the operation of the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings, and
 - (b) if satisfied—
 - (i) that the order is wholly or to any extent outside the powers conferred by this paragraph, or

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- (ii) that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of this paragraph, may wholly or in part quash the order, either generally or in so far as it affects any property of the applicant.
- (10) Subject to sub-paragraph (8), the validity of an order under this paragraph shall not be questioned in any legal proceedings whatsoever, either before or after the order has been made.
- 15 (1) For the purposes of paragraphs 12 and 14, an objection to the making of an order thereunder shall not be treated as duly made unless—
- (a) the objection is made within the time and in the manner specified in the notice required by paragraph 13 or 14 (as the case may be), and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Where an objection to the making of such an order is duly made in accordance with sub-paragraph (1) and is not withdrawn, the following provisions of this paragraph shall have effect in relation thereto; but, in the application of those provisions to an order under paragraph 12, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.
- (3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision—
- (a) shall consider the grounds of the objection as set out in the statement, and
 - (b) may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (4) In so far as the appropriate Minister after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.
- (5) In any case where—
- (a) after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or
 - (b) a further statement has been required but is not submitted within the specified period,
- the appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates.
- (6) Subject to sub-paragraphs (4) and (5), the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion—
- (a) to the person on whose representation the order is proposed to be made, and

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- (b) to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.
- (7) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.
- (8) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Interpretation

16 ^{F28}(1)

- (2) In this Schedule “statutory undertakers” means persons who are or are deemed to be statutory undertakers for the purposes of any provision of Part XI of the ^{M16}Town and Country Planning Act 1990; and “statutory undertaking” shall be construed in accordance with section 262 of that Act (meaning of “statutory undertaker”).
- (3) In this Schedule “the appropriate Minister” shall be construed as if contained in Part XI of the Town and Country Planning Act 1990; and any reference to the Secretary of State and the appropriate Minister shall be similarly construed.

Textual Amendments

F28 Sch. 6 para. 16(1) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

Marginal Citations

M16 1990 c. 8.

PROSPECTIVE

^{F29}SCHEDULE 6A

PROMOTION OF BILLS IN PARLIAMENT BY THE LONDON DEVELOPMENT AGENCY

Textual Amendments

F29 Sch. 6A repealed (31.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 25 Pt. 32](#); [S.I. 2012/628](#), art. 4(d)

Status: Point in time view as at 01/12/2008.

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F29 Preliminary requirements

F29 1

F29 Consultation on draft Bill

F29 2

F29 (2)

F29 (a)

F29 (b)

F29 (c)

F29 (d)

F29 (3)

F29 (2)

F29 (a)

F29 (b)

F29 (c)

F29 (d)

F29 (3)

F29 Publicity for, and exposure of, the draft Bill

F29 3

F29 (3)

F29 (4)

F29 (3)

F29 (4)

F29 Deposition of the Bill in Parliament

F29 4

F29 Bills affecting statutory functions of London local authorities

F29 5

F29 (a)

F29 (b)

F29 (2)

F29 (a)

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F29 (b)

F29 (2)

F29 Publicity for the deposited Bill

F29 6

SCHEDULE 7

Section 32.

MINOR AMENDMENTS

Commencement Information

I7 [Sch. 7](#) in force for certain purposes at 25.11.1998 by [S.I. 1998/2952](#), [art. 2\(2\)](#)

Public Records Act 1958 (c. 51)

- 1 In Schedule 1 to the Public Records Act 1958, in Part II of the Table in paragraph 3 there is inserted at the appropriate place “ A development agency established under section 1 of the Regional Development Agencies Act 1998. ”

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967, there is inserted at the appropriate place “ Regional development agencies ”.

Local Authorities (Goods and Services) Act 1970 (c. 39)

- 3 The Local Authorities (Goods and Services) Act 1970 shall have effect as if regional development agencies were both local authorities and public bodies for the purposes of that Act, other than section 2(2).

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975, there is inserted at the appropriate place “ A development agency established under section 1 of the Regional Development Agencies Act 1998 ”.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 5 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, there is inserted at the appropriate place “ A development agency established under section 1 of the Regional Development Agencies Act 1998 ”.

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SCHEDULE 8

Section 34.

THE DEVELOPMENT COMMISSION: TRANSFER SCHEMES

Commencement Information

I8 Sch. 8 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2)

Definitions

- 1 In this Schedule—
- “the Commission” means the Development Commission, and
“transfer scheme” means a scheme under section 34(1).

Making and approval of transfer scheme

- 2 (1) Where the Commission is required to make a transfer scheme, it shall submit the scheme to the Secretary of State for his approval before such date as he may direct.
- (2) A transfer scheme shall not take effect unless approved by the Secretary of State.
- (3) The Secretary of State may, after consultation with the regional development agencies, approve a transfer scheme submitted to him by the Commission either with or without modifications.
- 3 (1) The Secretary of State may, after consultation with the regional development agencies, make a transfer scheme himself if—
- (a) he decides not to approve (with or without modifications) a scheme submitted to him before the date specified in relation to it under paragraph 2(1), or
- (b) no scheme is submitted to him for approval before that date.
- (2) Nothing in sub-paragraph (1) shall prevent the Secretary of State from approving a scheme submitted to him after the date specified in relation to it under paragraph 2(1).
- (3) A scheme made by the Secretary of State under sub-paragraph (1) shall be treated for all purposes as having been made by the Commission and approved by him.

Contents of scheme

- 4 (1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.
- (2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
- 5 A transfer scheme may define the property, rights and liabilities to be allocated to a regional development agency by specifying or describing them or by referring to all

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the property, rights and liabilities comprised in a specified part of the undertaking of the Commission (or partly in one way and partly in the other).

- 6 A transfer scheme may also contain provision—
- (a) for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the Commission;
 - (b) for the creation in favour of a regional development agency of—
 - (i) an interest in or right over property retained by the Commission, or
 - (ii) an interest in or right over property which the scheme transfers to another regional development agency;
 - (c) for the creation of any rights or liabilities as between two or more of the regional development agencies, or as between one or more of them and the Commission;
 - (d) for any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against two or more of the regional development agencies, or by or against one or more of them and the Commission;
 - (e) for imposing on any two or more of the regional development agencies, or on one or more of them and the Commission, an obligation to enter into written agreements with, or execute other instruments in favour of, each other.
- 7 A transfer scheme may make such supplemental, incidental and consequential provision as the Commission considers appropriate.

Effect of scheme

- 8 On the date appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this paragraph, be transferred in accordance with the provisions of the scheme.

Effect of transfer by scheme of contracts of employment

- 9 (1) This paragraph applies where rights and liabilities under a contract of employment are transferred by a transfer scheme.
- (2) Anything done by or in relation to the Commission in respect of the employee before the day of the transfer shall be treated on and after that day as done by or in relation to the transferee.
- (3) For the purposes of Part XI of the ^{M17}Employment Rights Act 1996 (redundancy payments etc.), the employee shall not be regarded as having been dismissed by virtue of the transfer.
- (4) For the purposes of that Act, the employee's period of employment with the transferor shall count as a period of employment with the transferee, and the change of employment shall not break the continuity of the period of employment.

Marginal Citations

M17 1996 c. 18.

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Modification of scheme

- 10 (1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, having consulted any regional development agency which may be affected, he may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications, other than modifications relating to the transfer of rights and liabilities under a contract of employment, as may be specified in the order.
- (2) An order under sub-paragraph (1) may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme, and in connection with giving effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (3) The power to make an order under sub-paragraph (1) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Provision of information to Secretary of State

- 11 The Commission and the regional development agencies shall provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any of the powers conferred on him by this Schedule.

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Textual Amendments

F30 Sch. 9 repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), Sch. 8 para. 71, [Sch. 16](#); S.I. 2008/3068, arts. 2(1)(w)(3), 5, Sch. (with arts. 6-13)

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