



Transport Act 1962

1962 CHAPTER 46 10 and 11 Eliz 2

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous provisions

86 Application of Town and Country Planning Acts.

- (1) It is hereby declared that for the purposes of the Town and Country Planning Acts anything done by any of the Boards—
 - (a) in the exercise of the powers conferred by section eleven of this Act so far as that section relates to development of land for use otherwise than for the purposes of the business of the Board; or
 - (b) in the exercise of the powers conferred by section twelve of this Act so far as that section relates to pipe-lines which are not required for the purposes of the business of the Board other than the operation of pipe-lines,does not constitute the carrying on by the Board of their statutory undertaking and, in particular, that land which is used, or in which an interest is held, by a Board exclusively for the purpose of exercising those powers does not constitute operational land.
- (2) Without prejudice to the foregoing subsection and subject to the next following subsection, any development of operational land by a Board in the exercise of the said powers shall not for the purposes of the said Acts constitute development of operational land.
- (3) The last foregoing subsection shall not apply to development if—
 - (a) the development comprises development by the Board for the purpose of carrying on their statutory undertaking or is development for a purpose which includes that purpose; and

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- (b) the development is such that so much of it as is exclusively referable to the exercise by the Board of the said powers cannot fairly be treated for the purposes of the said Acts as separate development.
- (4) Any question under the last foregoing subsection whether part of any development can fairly be treated as separate development shall be determined by the local planning authority to whom application is made for permission for the development in question, or, where an application for permission for the development in question is referred to the Minister [^{F1}or, in the case of the British Waterways Board ^{F2}..., the Scottish Ministers], by the Minister [^{F3}or, as the case may be, by the Scottish Ministers] . . . ^{F4}; and where part of any development is so treated this section and the said Acts shall apply to the parts of the development in all respects as if they were separate development.
- (5) If an applicant is aggrieved by a determination of a local planning authority under the last foregoing subsection, he may appeal to the Minister [^{F5}or, in the case of the British Waterways Board ^{F2}..., to the Scottish Ministers], . . . ^{F4}

The provisions of the said Acts and of any development order as to the time and manner for appealing to the Minister [^{F5}or, in the case of the British Waterways Board ^{F2}..., to the Scottish Ministers] against planning decisions of local planning authorities shall apply, subject to any necessary modifications, to an appeal under this subsection.

- (6) The provisions of the said Acts as to the validity, and proceedings for challenging the validity, of decisions of the Minister [or, in the case of the British Waterways Board in respect of any development in Scotland, to the Scottish Ministers] on applications for planning permission referred to him under those Acts or on appeals to him under those Acts against planning decisions of local planning authorities shall apply to any determination of the Minister [or, in the case of the British Waterways Board in respect of any development in Scotland, to the Scottish Ministers] . . . ^{F4} under this section as if a reference to this section were included in those provisions.

[^{F6}(6A) In Scotland any question to be determined by the Minister under subsection (4) above and any appeal under subsection (5) shall be determined by [^{F7}the Secretary of State for Scotland acting jointly with [^{F8}the Secretary of State for [^{F9}Housing, Communities and Local Government]]]]

[^{F10}(6B) Subsection (6A) above does not apply to the British Waterways Board.]

^{F11}(7)

- (8) In this section . . . ^{F4}“the Town and Country Planning Acts” mean . . . ^{F4} the Town and Country Planning Acts, 1947 to 1959, or, in relation to Scotland, . . . ^{F4} the Town and Country Planning (Scotland) Acts, 1947 to 1959; and, subject to this section, any other expression in this section which is used in those Acts has the same meaning as in those Acts.

Textual Amendments

- F1** Words in s. 86(4) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 para. 2(22)(a)** (with transitional provisions and savings in art. 4)
- F2** Words in s. 86(4)(5) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 26** (with arts. 4-6)
- F3** Words in s. 86(4) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 para. 2(22)(b)** (with transitional provisions and savings in art. 4)

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- F4** Words repealed by [S.I. 1970/1681, Sch. 4](#)
- F5** Words in s. 86(5) inserted (1.4.2001) by [S.I. 2000/3251, art. 1\(2\)\(b\), 2, Sch. 2 para. 2\(23\)](#) (with transitional provisions and savings in art. 4)
- F6** S. 86(6A) inserted by [S.I. 1970/1681, Sch. 3 para. 20\(2\)](#)
- F7** Words in s. 86(6A) substituted by [S.I. 1976/1775, art. 6\(1\), Sch. 3 para. 6\(1\)](#)
- F8** Words in s. 86(6A) substituted (21.8.2006) by Secretary of State for Communities and Local Government Order 2006 ([S.I. 2006/1926](#)), art. 1(2), **Sch. para. 1**
- F9** Words in s. 86(6A) substituted (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 ([S.I. 2018/378](#)), art. 1(2), **Sch. para. 1** (with art. 14)
- F10** S. 86(6B) inserted (1.4.2001) by [S.I. 2000/3251, arts. 1\(2\)\(b\), 2, Sch. 2 para. 2\(24\)](#) (with transitional provisions and savings in art. 4)
- F11** S. 86(7) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Modifications etc. (not altering text)

- C1** S. 86 extended by [Transport Act 1968 \(c. 73\), s. 141](#)
- C2** “The Minister” means The Secretary of State: [S.I. 1970/1681, art. 2\(1\)](#)
- C3** References to Town and Country Planning Acts to be construed as references to (E.W.) [Town and Country Planning Act 1971 \(c. 78\)](#): *ibid.*, Sch. 24, para. 2 and (S.) [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#): *ibid.*, Sch. 22 para. 2
- C4** S. 86 amended (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\), s. 67\(2\), Sch. 4 para. 7\(1\)](#)
- C5** S. 86 modified (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\), s. 67\(2\), Sch. 4 para. 7\(2\)](#)
- C6** Functions of Secretary of State for the Environment under s. 86(6A), except so far as relates to functions exercisable in relation to British Waterways Board, now exercisable by Secretary of State for Transport: [S.I. 1976/1775, art. 2\(1\), Sch. 1, 1979/571 art. 2](#) and [1981/238, art. 2\(1\)\(a\)](#)
- C7** S. 86(6A) transfer of functions (21.8.2006) by Secretary of State for Communities and Local Government Order 2006 ([S.I. 2006/1926](#)), arts. 1(2), **4(1)(a)**

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