



Countryside (Scotland) Act 1967

1967 CHAPTER 86

PART IV

FURTHER POWERS OF CERTAIN AUTHORITIES

62 Exercise of powers under section 61.

- (1) The provisions of the last foregoing section shall not authorise a body to do anything in relation to land in which any other person has an interest, if apart from that section the doing thereof would be actionable at his instance by virtue of that interest and he does not consent to the doing thereof:
Provided that this subsection shall not apply in the case of land to or over which the public have access by virtue of an access order, but the exercise of any power under the last foregoing section as respects such land shall be subject to the provisions of Part II of this Act and of this section relating to such orders.
- (2) Any body proposing, in the exercise of the powers conferred by the last foregoing section, to carry out any work on land comprised in an access order, whether the work is specified in the order or not, shall give to the owner and occupier of the land not less than twenty-eight days' notice of their intention so to do, specifying the work to be carried out.
- (3) Where the work specified in a notice given under the foregoing subsection has not been specified in an access order as mentioned in section 14(8) above, then if before the expiration of the said notice the owner or occupier of the land serves notice of objection on the body they shall not carry out the work except in accordance with the provisions of the next following subsections.
- (4) A body on whom notice of objection has been served under the last foregoing subsection shall afford to the objector an opportunity of being heard by a person appointed by them for the purpose and shall then determine either—
 - (a) not to carry out the work to which the objection relates, or
 - (b) to carry out the work, either as originally proposed or with such modifications as the body may determine,

*Changes to legislation: There are currently no known outstanding effects for the
 Countryside (Scotland) Act 1967, Section 62. (See end of Document for details)*

and shall serve notice of their determination on the objector; and where the body determine as mentioned in paragraph (b) above, they may proceed with the work in accordance with the determination at any time after the expiration of fourteen days from the date on which notice of the determination is served on the objector:

Provided that if the objector serves notice of appeal under the next following subsection the body shall not proceed with the work except in accordance with the provisions of that subsection.

- (5) Any person aggrieved by a determination of any body under the last foregoing subsection may within the period of fourteen days therein mentioned serve notice of appeal against the determination on the Secretary of State and on that body; and where notice of appeal is served under this subsection the Secretary of State, after affording to the appellant and to the body an opportunity of being heard by a person appointed by him for the purpose, and after considering that person's report, shall either direct that the body may carry out the work (whether as specified in the notice given under subsection (2) above or subject to such modifications or conditions as the Secretary of State may think fit) or shall direct the body not to carry out the work.
- (6) Any power conferred by subsection (4)(b) above or by the last foregoing subsection to modify the work specified in a notice given under subsection (2) above shall not be exercised so as to affect land not affected by the notice.
- (7) Where the value of the interest of any person in land is depreciated, or any person has suffered damage by being disturbed in his enjoyment of land, in consequence of any work done under the powers conferred by the last foregoing section, on land comprised in an access order, the body who carried out the work shall pay to that person compensation equal to the amount of the depreciation or damage:

Provided that nothing in this subsection shall confer on a person a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, of which account has already been taken or will be taken in fixing compensation under section 20 above:

Provided also that nothing in this subsection shall confer on a person a right to such compensation in respect of land or the enjoyment thereof, not being in either case land on which the work was carried out or land held therewith, unless the carrying out of the work would have been actionable at his instance if it had been carried out otherwise than in the exercise of statutory powers.
- (8) A claim for compensation under the last foregoing subsection shall be made within such time and in such manner as may be prescribed and shall be made to the body by whom the work was carried out.
- (9) In this section "work" includes such other things as are referred to in section 61(1) above.

Modifications etc. (not altering text)

C1 S. 62 modified (8.9.2000) by 2000 asp 10, s. 9, **Sch. 3 para. 8** (with s. 32); S.S.I. 2000/312, **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Countryside (Scotland) Act 1967, Section 62.