



New Towns (Scotland) Act 1968

1968 CHAPTER 16

Powers exercisable in relation to land acquired by development corporations or highway authorities

19 Power to override servitudes and other rights.

- (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired by a development corporation or local [^{F1}roads] authority for the purposes of this Act, whether done by the corporation or authority or by any other person, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the use of land arising by virtue of any deed or contract:
Provided that nothing in this subsection 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 right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking [^{F2}or a right conferred by or in accordance with [^{F3}the electronic communications code]on the operator [^{F4}an electronic communications code network].]
- (2) This section applies to the following interests and rights, that is to say, any servitude, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (3) In respect of any interference or breach in pursuance of subsection (1) above, compensation shall be payable under section 61 of the ^{M1}Lands Clauses Consolidation (Scotland) Act 1845 or section 6 of the ^{M2}Railways Clauses Consolidation (Scotland) Act 1845, 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 an acquisition by a development corporation or local [^{F1}roads] authority or the injury arises from the execution of works on land acquired by such a corporation or authority.
- (4) Where a person other than the development corporation or local [^{F1}roads] authority by whom the land in question was acquired is liable to pay compensation by virtue

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of subsection (3) above, and fails to discharge that liability, the liability shall be enforceable against that corporation or authority:

Provided that nothing in this subsection shall be construed as affecting any agreement between that corporation or authority and any other person for indemnifying the corporation or authority against any liability under this subsection.

- (5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than such an interference or breach as is mentioned in subsection (1) above.
- (6) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local ^[F1]roads authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.

Textual Amendments

- F1** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(6\)](#)
- F2** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 47(3), [sch. 5 para. 45](#)
- F3** Words in s. 19(1) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 6(1)(b)(2)(a)
- F4** Words in s. 19(1) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 6(1)(b)(2)(b)

Marginal Citations

- M1** [1845 c. 33\(102\)](#).
- M2** [1845 c. 19\(28:2\)](#)

20 Use and development of churches and burial grounds.

- (1) Any land consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground or part of a burial ground, which has been acquired for the purposes of this Act by a development corporation or ^[F5]roads authority], may—

- (a) in the case of land acquired by ^[F6]a development corporation or local roads authority, be used by them, or by any other person, in any manner in accordance with planning permission, and
- (b) in the case of land acquired by the Secretary of State, be used in any manner by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to churches or such other buildings as aforesaid or to burial grounds or any obligation or restriction imposed under any deed or agreement or otherwise in respect of that church or other building or burial ground or part thereof:

Provided that this subsection shall not have effect in respect of any such land as aforesaid 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.

- (2) Provision shall be made by any regulations made for the purposes of the proviso to subsection (1) above—

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- (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 any directions given in any case by the Secretary of State, after consultation with the church authorities in the case of a church or churchyard, 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) with regard to such incidental and consequential matters (including the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.
- (3) Subject to the provisions of any such regulations, no authority shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments.
- (4) Any power conferred by this section to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.
- (5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) above.
- (6) Subsection (6) of section 19 of this Act shall apply in relation to this section as it applies in relation to that section.
- (7) In this section “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 and any fixture or furnishing.

Textual Amendments

- F5** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(7\)\(a\)](#)
- F6** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(7\)\(b\)](#)

21 Use and development of open spaces.

- (1) Any land being, or forming part of, a common or open space, which has been acquired for the purposes of this Act by a development corporation or [^{F7}roads authority], may—
- (a) in the case of land acquired by [^{F8}a development corporation or local roads] authority, be used by them, or by any other person, in any manner in accordance with planning permission, and

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- (b) in the case of land acquired by the Secretary of State, be used in any manner by him or on his behalf for any purpose for which he acquired the land, notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.
- (2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) above.
- (3) Subsection (6) of section 19 and subsection (4) of section 20 of this Act shall apply in relation to this section as those subsections apply respectively in relation to those sections.

Textual Amendments

- F7** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(8\)\(a\)](#)
- F8** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(8\)\(b\)](#)

22 Displacement of persons from land acquired.

- (1) ^{F9}
- (3) If the Secretary of State certifies that possession of a house which has been acquired for the purposes of this Act by a development corporation or local [^{F10}roads] authority and is for the time being held by that corporation or authority for the purposes for which it was acquired, is immediately required for those purposes, nothing in [^{F11}Part II of the ^{M3}Rent (Scotland) Act 1971] shall prevent that corporation or authority from obtaining possession of the house.
- (4) Where any land has been acquired for the purposes of this Act by a development corporation or [^{F12}roads authority], and the acquiring authority require possession of a building on the land, or of part of such a building, for the purposes for which the land was acquired, then at any time after the tenancy of the occupier has expired or has been determined the acquiring authority may serve a notice on the occupier of the building or part of the building requiring him to remove therefrom within 21 days; and, in the event of that period having expired without the notice to remove having been complied with, a certified copy of the notice shall be sufficient warrant for ejection against the occupier or any party in his right.

Nothing in this subsection shall affect the operation of [^{F11}section [^{F13}112] of the Rent (Scotland) Act [^{F13}1984]] (which lays down the minimum length of notice to quit premises let as a dwelling) in cases to which that section applies.

- (5) ^{F9}

Textual Amendments

- F9** S. 22(1), (2), (5), (6) repealed by [Land Compensation Act 1973 \(c. 26, SIF 28:1\)](#), [Sch. 3](#)
- F10** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(9\)\(a\)](#)
- F11** Words substituted by [Rent \(Scotland\) Act 1971 \(c. 28, SIF 75:4\)](#), [Sch. 18 Pt. II](#)
- F12** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(9\)\(b\)](#)
- F13** Words substituted by [Rent \(Scotland\) Act 1984 \(c. 58, SIF 75:4\)](#), s. ;117(1), [Sch. 8 Pt II](#).

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Marginal Citations

M3 1971 c. 28(75:4).

23 Extinguishment of public rights of way over land acquired.

- (1) Where any land—
 - (a) has been acquired for the purposes of this Act by a development corporation or local ^{F14}roads authority and is for the time being held by that corporation or authority for those purposes, or
 - (b) has been acquired under this Act by the Secretary of State and is for the time being held for the purposes for which he acquired it,the Secretary of State may by order extinguish any public right of way over the land.
- (2) Where the Secretary of State proposes to make an order under this section, he shall publish in such manner as appears to him to be requisite a notice—
 - (a) stating the effect of the order, and
 - (b) 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 shall serve a like notice—
 - (i) on the . . . ^{F15}^{F16}district planning authority in whose district the land is situated ^{F17}and on any other local authority who appear to him to be concerned], and
 - ^{F18}(ii) on the local roads authority, unless they applied for the order to be made.]
- (3) Where an objection to a proposal to make an order under this section is duly made and is not withdrawn, the provisions of Schedule 8 to this Act shall have effect in relation to the proposal.
- (4) For the purposes of this section 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 section, and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (5) Where it is proposed to make an order under this section extinguishing a public right of way over a road on land acquired for the purposes of this Act by a development corporation, and compensation in respect of restrictions imposed under section 1 or section 2 of the ^{M4}Restriction of Ribbon Development Act 1935 in respect of that road has been paid by the ^{F19}road authority (or, in the case of a trunk road, by the authority who, when the compensation was paid, were the authority for the purposes of section 4 of the ^{M5}Trunk Roads Act 1936), the order may provide for the payment by the development corporation to that authority, in respect of the compensation so paid, of such sums as the Secretary of State, with the consent of the Treasury, may determine.
- (6) Where the Secretary of State is satisfied that the construction or improvement of a road is or will be needed in consequence of the extinguishment under this section of a public right of way, section 8 of this Act shall apply as it applies where the Secretary of State is satisfied that the construction or improvement of a road is needed as mentioned in subsection (1) of that section.

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Textual Amendments

- F14** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(10)(a)**
- F15** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 172(2)
- F16** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 23 para. 8**
- F17** Words inserted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 23 para. 8**
- F18** [S. 23\(2\)\(ii\)](#) substituted (for previous s. 23(2)(ii) and the words following it in s. 23(2)) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(10)(b)**
- F19** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(10)(c)**

Modifications etc. (not altering text)

- C1** [S. 23](#) amended by [Post Office Act 1969 \(c. 48, SIF 96\)](#), s. 76, **Sch. 4 para. 86(1)**

Marginal Citations

- M4** [1935 c. 47\(108\)](#).
- M5** [1936 c. 5 \(1 Edw. 8 & 1 Geo. 6\)](#).

[^{F20}24] Provisions as to telegraphic lines.

- (1) Where an order under section 23 of this Act extinguishing a public right of way is made on the application of a development corporation or local [^{F21}roads] authority, and at the time of the publication of the notice required by subsection (2) of that section any [^{F22}electronic communications apparatus] was kept installed for the purposes of [^{F23}an electronic communications code network] under, in, on, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the system 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 three 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 the system has given notice to the corporation or authority of his intention to remove the apparatus or that part of it, as the case may be;
 - (b) the operator of the system may by notice given in that behalf to the corporation or authority not later than the end of the said period of three months abandon the [^{F22}electronic communications apparatus] or any part of it;
 - (c) subject to paragraph (b) above, the operator of the system 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 the system shall be entitled to recover from the corporation or authority the expense of providing, in substitution for the apparatus and any other [^{F22}electronic communications apparatus] connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any [^{F22}electronic communications apparatus] in such other place as the operator may require;
 - (e) where under the foregoing provisions of this subsection the operator of the system has abandoned the whole or any part of any [^{F22}electronic communications apparatus], that apparatus or that part of it shall vest in the corporation or authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of [^{F23}an electronic communications code network].

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- (2) Where the Secretary of State makes an order under section 23 of this Act in relation to a right of way in circumstances in which subsection (1) of this section applies in relation to the operator of [^{F23}an electronic communications code network], the Secretary of State shall send a copy of the order to the operator.]

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Textual Amendments

- F20** S. 24 substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 47(4)(5), **Sch. 6 para. 45**
- F21** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(11)**
- F22** Words in s. 24 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 6(1)(c)(2)(e)
- F23** Words in s. 24 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 6(1)(c)(2)(b)

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Textual Amendments

- F24** S. 25 repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), **Sch. 11**

Changes to legislation:

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