



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 7

#### COMPULSORY PURCHASE ETC

##### *Right to enter and survey land*

#### **172 Right to enter and survey land**

- (1) A person authorised in writing by an acquiring authority may enter and survey or value land in connection with a proposal to acquire an interest in or a right over land.
- (2) The person—
  - (a) may only enter and survey or value land at a reasonable time, and
  - (b) may not use force unless a justice of the peace has issued a warrant under section 173(1) authorising the person to do so.
- (3) The person must, if required when exercising or seeking to exercise the power conferred by subsection (1), produce—
  - (a) evidence of the authorisation, and
  - (b) a copy of any warrant issued under section 173(1).
- (4) An authorisation under subsection (1) may relate to the land which is the subject of the proposal or to other land.
- (5) If the land is unoccupied or the occupier is absent from the land when the person enters it, the person must leave it as secure against trespassers as when the person entered it.
- (6) In this section and sections 173 to 178 “acquiring authority” and “owner” have the meanings given in section 7 of the Acquisition of Land Act 1981.

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*Status: This is the original version (as it was originally enacted).*

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### **173 Warrant authorising use of force to enter and survey land**

- (1) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by section 172(1) if satisfied—
  - (a) that another person has prevented or is likely to prevent the exercise of that power, and
  - (b) that it is reasonable to use force in the exercise of that power.
- (2) The force that may be authorised by a warrant is limited to that which is reasonably necessary.
- (3) A warrant authorising the person to use force must specify the number of occasions on which the authority can rely on the warrant when entering and surveying or valuing land.
- (4) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.
- (5) Any evidence in proceedings for a warrant under this section must be given on oath.

### **174 Notice of survey and copy of warrant**

- (1) The acquiring authority must give every owner or occupier of land at least 14 days' notice before the first day on which the authority intends to enter the land in exercise of the power conferred by section 172.
- (2) Notice given in accordance with subsection (1) must include—
  - (a) a statement of the recipient's rights under section 176, and
  - (b) a copy of the warrant, if there is one.
- (3) If the authority proposes to do any of the following, the notice must include details of what is proposed—
  - (a) searching, boring or excavating;
  - (b) leaving apparatus on the land;
  - (c) taking samples;
  - (d) an aerial survey;
  - (e) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in subsection (5).
- (4) If the authority obtains a warrant after giving notice in accordance with subsection (1) it must give a copy of the warrant to all those to whom it gave that notice.
- (5) The instruments referred to in subsection (3)(e) are—
  - (a) Council Directive [85/337/EEC](#) of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time,
  - (b) Council Directive [92/43/EC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time, or
  - (c) any EU instrument from time to time replacing all or part of those Directives.

## **175 Enhanced authorisation procedures etc. for certain surveys**

- (1) A written authorisation from the appropriate Minister is required before a person enters and surveys or values land in exercise of the power conferred by section 172 if—
  - (a) the land is held by a statutory undertaker,
  - (b) within the notice period mentioned in section 174(1), the statutory undertaker objects to the proposed entry and survey or valuation in writing to the acquiring authority, and
  - (c) the objection is that the proposed entry and survey or valuation would be seriously detrimental to the statutory undertaker carrying on its undertaking.
- (2) In subsection (1)—
  - “the appropriate Minister” means—
    - (a) in the case of land in Wales held by a water or sewerage undertaker, the Welsh Ministers, and
    - (b) in any other case, the Secretary of State;
  - “statutory undertaker” means—
    - (a) any person who is, or who is deemed to be, a statutory undertaker for the purposes of section 16 or 17 of the Acquisition of Land Act 1981 or of any provision of Part 11 of the Town and Country Planning Act 1990, and
    - (b) any person in relation to whom the electronic communications code is applied by a direction under section 106(3)(a) of the Communications Act 2003.
- (3) Where the survey or valuation is to take place in a street, the following sections of the New Roads and Street Works Act 1991 apply to the survey or valuation as if it were street works—
  - (a) section 55 (notice of starting date of works),
  - (b) section 69 (requirements to be complied with where works likely to affect another person’s apparatus in the street), and
  - (c) section 82 (liability for damage or loss caused).
- (4) In the application of those sections references to an “undertaker” are to be read as references to the acquiring authority which authorised the survey or valuation.
- (5) See section 169(4) of the Water Industry Act 1991 and section 171(4) of the Water Resources Act 1991 for additional procedures in relation to the exercise of the power in section 172 on behalf of a water undertaker, the Environment Agency or the Natural Resources Body for Wales.

## **176 Right to compensation after entry on or survey of land**

- (1) A person interested in land is entitled to compensation from the acquiring authority for damage as a result of the exercise of the power conferred by section 172.
- (2) Any disputes relating to compensation under this section are to be determined by the Upper Tribunal.
- (3) The provisions of section 4 of the Land Compensation Act 1961 apply to the determination of such disputes, with any necessary modifications.

### **177 Offences in connection with powers to enter land**

- (1) A person who without reasonable excuse obstructs another person in the exercise of the power conferred by section 172 commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person commits an offence if the person discloses confidential information, obtained in the exercise of the power conferred by section 172, for purposes other than those for which the power was exercised.
- (4) A person who commits an offence under subsection (3) is liable—
  - (a) on summary conviction to a fine,
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (5) In subsection (3) “confidential information” means information—
  - (a) which constitutes a trade secret, or
  - (b) the disclosure of which would or would be likely to prejudice the commercial interests of any person.

### **178 Right to enter and survey or value Crown land**

- (1) Sections 172 to 177 apply in relation to Crown land.
- (2) But a person may only exercise the power conferred by section 172 in relation to Crown land if the person has the permission of the appropriate authority.
- (3) In this section, “Crown land” and “the appropriate authority” have the meaning given in section 293 of the Town and Country Planning Act 1990.

### **179 Amendments to do with sections 172 to 178**

Schedule 14 amends legislation conferring rights of entry relating to the acquisition of an interest in or a right over land in England and Wales.