



# Space Industry Act 2018

## 2018 CHAPTER 5

### *Powers in relation to land*

#### **39 Powers to obtain rights over land**

- (1) The Secretary of State may make an order under this section if satisfied that it is appropriate to do so—
  - (a) to secure the safe and efficient use for the carrying out of spaceflight activities of any land which is vested in a qualifying person or which a qualifying person proposes to acquire,
  - (b) to secure the provision of any services required in relation to any such land, or
  - (c) to secure that spacecraft and carrier aircraft may be navigated safely.
- (2) An order under this section may create any rights over, in or in relation to land in favour of a qualifying person.
- (3) In this section “qualifying person” means—
  - (a) the Secretary of State;
  - (b) the holder of a range control licence;
  - (c) the holder of a spaceport licence.
- (4) The rights created under subsection (2) may include—
  - (a) easements (in the case of land in England and Wales or Northern Ireland) or servitudes (in the case of land in Scotland);
  - (b) rights to carry out and maintain works on any land;
  - (c) rights to install and maintain structures and apparatus on, under or over any land.
- (5) An order under this section may—
  - (a) include provision authorising persons to enter any land for the purpose of carrying out, maintaining, installing or removing any works, structures or apparatus;
  - (b) make consequential, incidental and supplemental provisions.

- (6) A person must not, in exercise of a power conferred by an order under this section, enter any land that is occupied unless a notice has been served on the occupier of the land not less than seven days before the proposed day of entry.
- (7) The notice under subsection (6) must—
- (a) state the proposed date of entry;
  - (b) specify the purposes for which entry will be made.
- (8) Subsection (6) does not restrict any right of any person to enter land—
- (a) in a case of emergency, or
  - (b) for the purpose of performing any functions that are required to be performed in connection with the maintenance or use of any works, structures or apparatus.
- (9) The ownership of anything is not affected by reason only that it is placed on or under, or affixed, to any land in pursuance of an order under this section.
- (10) For the purposes of this section, a reference to carrying out works on land includes a reference to excavating the land or carrying out levelling operations on the land.
- A reference to maintaining works is to be read accordingly.
- (11) Part 1 of Schedule 6 makes further provision in relation to orders under this section.
- (12) An order under this section is subject to special parliamentary procedure if—
- (a) the order provides for the creation of any right over, in or in relation to land held by a statutory undertaker for the purposes of the carrying on of the undertaker's undertaking, and
  - (b) the Secretary of State certifies, in response to a representation made by the statutory undertaker before the relevant day, that he or she is satisfied that the right could not be enjoyed without serious detriment to the carrying on of the undertaker's undertaking.

“The relevant day” means the day specified in the notice served on the statutory undertaker under paragraph 1(1)(b) of Schedule 6 or (as the case may be) paragraph 2(1)(b) of that Schedule.

#### **40 Orders under section 39: offences**

- (1) Whilst an order under section 39 is in force, a person must not, without the consent of the person in whose favour the order is made, interfere with—
- (a) any works carried out on any land under the order, or
  - (b) anything installed on, under, over or across any land under the order.
- (2) A person who contravenes subsection (1) commits an offence.
- (3) A person who obstructs any person in the exercise of a power of entry conferred by an order under section 39 commits an offence.
- (4) Proceedings for an offence under this section may be instituted—
- (a) in England and Wales, only by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, only by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

- (5) For the purposes of this section, a reference to the carrying out of works on land includes a reference to excavating the land or the carrying out of levelling operations on the land.

A reference to interfering with works is to be read accordingly.

#### **41 Power to restrict use of land temporarily**

- (1) The Secretary of State may by order temporarily restrict or prohibit the use of a specified area of land or water as a place for the arrival and departure of aircraft or spacecraft if satisfied that it is appropriate to do—
- (a) to secure that a specified launch or landing may be safely carried out at a specified spaceport, or
  - (b) to prevent a specified launch or landing at a specified spaceport from endangering persons or property.

- (2) An order under subsection (1) may not restrict or prohibit the use of an area of tidal waters that is beyond those of the territorial sea adjacent to the United Kingdom.

- (3) An order under subsection (1) must specify the period, or periods, during which the use of the specified area of land or water is restricted or prohibited.

- (4) Schedule 6 makes further provision in relation to orders under subsection (1).

In that Schedule—

- (a) Part 1 applies to orders under this section that do not prohibit or restrict the use of water (“land orders”);
- (b) Part 2 applies to orders under this section that are not land orders.

- (5) It is an offence to contravene a provision of an order under subsection (1).

- (6) An offence under subsection (5) committed on tidal waters outside the ordinary jurisdiction of a court of summary jurisdiction may be tried and punished by such a court as if it had been committed in the nearest part of the United Kingdom that is within the jurisdiction of such a court.

- (7) Subsection (6), as it applies in relation to Scotland, does not confer jurisdiction on any court of summary jurisdiction other than the sheriff court.

- (8) Proceedings for an offence under subsection (5) may be instituted—

- (a) in England and Wales, only by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) in Northern Ireland, only by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

- (9) In this section—

“launch or landing” means a launch or landing of a spacecraft or carrier aircraft;

“specified” means specified in an order under subsection (1).

## **42 Power of entry for purposes of survey**

- (1) Where the Secretary of State has made, or is considering the making of, an order under section 39 the Secretary of State may authorise a person to enter any of the relevant land—
  - (a) to carry out any survey that the Secretary of State requires to be carried out for the purpose of determining whether the order should be made, or
  - (b) to carry out any survey that the person in whose favour the order was made, or is to be made, requires to be carried out for the purpose of any steps to be taken in consequence of the order.
- (2) An authorisation under subsection (1) must be in writing.
- (3) A person authorised under subsection (1)—
  - (a) may enter the relevant land at any reasonable time for the purpose of carrying out the survey;
  - (b) must, if asked, produce evidence of the person's authority to enter the land.
- (4) A person authorised under subsection (1) may demand admission as of right to any land that is occupied only if eight days' notice of the intended entry has been served on the occupier.
- (5) A person who obstructs a person authorised under subsection (1) in the exercise of a power under this section commits an offence.
- (6) Proceedings for an offence under this section may be instituted—
  - (a) in England and Wales, only by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, only by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

## **43 Challenges to and commencement of orders**

- (1) A proposal to make an order under section 39 or 41 may be challenged under paragraph 3 of Schedule 6 but may not otherwise be challenged in any legal proceedings.
- (2) An order under section 39 or 41 may be challenged under Schedule 7 but may not otherwise be challenged in any legal proceedings.
- (3) Subject to Schedule 7 and section 49(5), an order under section 39 or 41 becomes operative at the end of the period of six weeks beginning with the day on which the notice that the order has been made is published under paragraph 6(1)(a) or 8(1)(a) (as the case may be) of Schedule 6.

## **44 Powers in relation to land: compensation**

Schedule 8, which makes provision about compensation in connection with orders under sections 39 and 41 and powers of entry conferred under section 42, has effect.

## **45 Registration of orders**

- (1) Orders under section 39 are, when operative, local land charges in England and Wales.

- (2) In Scotland, where an order under section 39 becomes operative—
  - (a) it must be registered in the Land Register of Scotland or (as the case may be) recorded in the Register of Sasines;
  - (b) on being registered or recorded it is enforceable against any person having or subsequently acquiring any right in the land to which the order relates.
- (3) Where an order under section 39 affects land in Northern Ireland, it is to be included among the matters that are required to be registered in the Statutory Charges Register.