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STATUTORY INSTRUMENTS

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1983 No. 1895 (N.I. 18)

NORTHERN IRELAND

**The Access to the Countryside (Northern Ireland) Order 1983**

*Laid before Parliament in draft*

*Made*

*21st December 1983*

*Coming into Operation*

*22nd March 1984*

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At the Court at Buckingham Palace, the 21st day of December 1983

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

*Title and commencement*

1.—(1) This Order may be cited as the Access to the Countryside (Northern Ireland) Order 1983.

(2) This Order shall come into operation on the expiration of the period of three months from the day on which it is made.

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“aerodrome” has the meaning assigned to it by section 19 (1) of the Aerodromes Act (Northern Ireland) 1971 (c);

“agriculture” shall be construed in accordance with section 43 (1) of the Agriculture Act (Northern Ireland) 1949 (d);

“the Department” means the Department of the Environment;

“development” has the meaning assigned to it by the Planning (Northern Ireland) Order 1972 (e);

“district valuer” has the meaning assigned to it by Article 2 (2) of the Rates (Northern Ireland) Order 1977 (f);

“excepted land” has the meaning assigned to it by Article 26 (5);

“government department” includes a department of the Government of the United Kingdom;

“interest”, in relation to land, includes any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting and fishing rights;

“motor vehicle” includes motor bicycle;

“open country” has the meaning assigned to it by Article 25 (2);

“owner” means a person who is for the time being receiving a rent of not less than two-thirds of the net annual value of any land whether on his own account or as agent or trustee of any other person or who, if the land were let at such a rent, would receive it;

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(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) 1971 c. 15 (N.I.). (d) 1949 c. 2 (N.I.).  
(e) S.I. 1972/1634 (N.I. 17). (f) S.I. 1977/2157 (N.I. 28).

- “pedal cycle” means a bicycle or tricycle which is designed and constructed for propulsion solely by the physical exertions of a person or persons seated thereon;
- “planning permission” has the meaning assigned to it by Article 2 (2) of the Planning (Northern Ireland) Order 1972;
- “prescribed” means prescribed by regulations made by the Department;
- “public path” means a way over which the public have by virtue of Article 11, 12, 15 or 16 (but subject to any conditions, limitations, orders or bye-laws) a right of way on foot, on horseback and (by virtue of Article 20) on a pedal cycle, but not using a motor vehicle;
- “public path creation agreement” means an agreement made under Article 11;
- “public path creation order” means an order made under Article 12;
- “public path diversion order” means an order made under Article 15 or 16;
- “public path extinguishment order” means an order made under Article 14 or 16;
- “public right of way” does not include a road or any other way which is maintainable by a government department;
- “refreshments” includes intoxicating liquor within the meaning of section 84 (1) of the Licensing Act (Northern Ireland) 1971 (a);
- “statutory undertakers” means any persons authorised by any statutory provision to carry on any railway, canal, inland navigation, dock, harbour, gas, electricity, or other public undertaking and includes the Post Office and British Telecommunications;
- “telegraphic line” has the same meaning as in the Telegraph Act 1878 (b);
- “waterway” means any lough, river, reservoir, canal or tidal or coastal waters, being (in any case) water suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing, fishing or other water sport or recreation.
- (3) Where a public right of way passes over a bridge or through a tunnel, that bridge or tunnel is to be taken for the purposes of this Order to be part of the way.

## PART II

### PUBLIC RIGHTS OF WAY AND PUBLIC PATHS, ETC.

#### *Public rights of way*

##### *Protection and maintenance*

3.—(1) A district council shall assert, protect and keep open and free from obstruction or encroachment any public right of way; and for this purpose a district council may institute proceedings in its own name.

(2) A district council may, after consultation with the owner of the land concerned, maintain any public right of way; but this paragraph shall not relieve any person from any liability to maintain a public right of way.

(3) A district council shall compile and preserve maps and other records of public rights of way in its district.

##### *Signposting*

4.—(1) A district council may, after consultation with the owner or occupier of the land concerned, erect and maintain signposts or other similar works on any public right of way.

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(a) 1971 c. 13 (N.I.). (b) 1878 c. 76.

(2) A district council shall, in the exercise of its powers under paragraph (1), erect such signposts or other similar works as may in the opinion of the district council be required to assist persons unfamiliar with the locality to follow the course of the public right of way.

*Duty to maintain stiles, etc.*

5.—(1) Any stile, gate or other similar structure across a public right of way shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of persons using the public right of way.

(2) The district council may, if it appears that the duty imposed by paragraph (1) is not being complied with, take all necessary steps for repairing and making good the stile, gate or other similar structure after giving the owner and occupier not less than fourteen days' notice.

(3) The district council may recover from the owner of the land all or part of any expenses reasonably incurred by it in and in connection with the exercise of the powers conferred by paragraph (2).

(4) The district council shall contribute not less than a quarter of any expenses which it is satisfied have been reasonably incurred in compliance with paragraph (1), and may make further contributions of such amount in each case as, having regard to all the circumstances, it considers reasonable.

(5) Paragraph (1) does not apply to any structure—

(a) if any conditions for the maintenance of the structure are in force under Article 6 (power to authorise erection of stiles, etc.), or

(b) if and so long as, under an agreement in writing with any other person, there is a liability to maintain the structure on the part of the district council.

*Power to authorise erection of stiles, etc., in interests of agriculture or forestry*

6.—(1) This Article applies where the owner, lessee or occupier of land which is used or being brought into use for agriculture or forestry represents to the district council that, for securing that the use, or any particular use, of the land for agriculture or forestry shall be efficiently carried on, it is expedient that stiles, gates or other similar structures for preventing the ingress or egress of animals should be erected on a public right of way which crosses the land.

(2) Where a representation is made under paragraph (1), the district council may—

(a) authorise the erection of the stiles, gates or other similar structures, and

(b) impose such conditions relating to maintenance and for enabling the right of way to be exercised without undue inconvenience to the public.

(3) Where an authorisation is granted under paragraph (2) (a) the right of way shall be deemed to be subject to a condition that the stiles, gates or other similar structures may be erected and maintained in accordance with the authorisation and so long as the conditions attached to the authorisation are complied with.

*Right to plough*

7.—(1) Where a public right of way crosses land which is used or being brought into use for agriculture or forestry, then, if—

(a) it is proposed in accordance with the rules of good farming or forestry to plough the land, and

(b) it is convenient, in so ploughing the land, to plough the way together with the rest of the land,

the right of way shall be subject to the condition that the occupier shall have the right to plough the way as well as the rest of the land.

(2) Paragraph (1) does not confer any right to plough so much of a way as follows what are for the time being the headlands or sides of a field or enclosure.

(3) Where the public right of way is a public path, an agreement or order relating to that path may exclude the right to plough the path or any part of it and may impose restrictions or conditions on the exercise of that right.

(4) Within seven days after ploughing a public right of way the occupier shall give the district council notice of that fact.

(5) Where a public right of way is ploughed the occupier shall as soon as may be after the ploughing is completed reinstate the surface of the way, and in any case, subject to Article 8 (temporary diversion of public right of way on account of ploughing), not later than fourteen days from the date on which the way is ploughed or, if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter.

(6) Any person who—

(a) ploughs a public right of way which he has no right to plough, or

(b) fails to comply with paragraph (4) or (5),

shall be liable on summary conviction to a fine not exceeding £200.

(7) If—

(a) an occupier fails to comply with paragraph (5), or

(b) a public right of way is ploughed and the occupier has no right to plough it,

the district council may, after giving the occupier not less than fourteen days' notice, take all necessary steps for reinstating the surface of the way and may recover from the occupier any expenses reasonably incurred under this paragraph.

(8) References in this Article and Article 8 to ploughing include references to the breaking up of the surface by any mechanical means for the purposes of agriculture or forestry.

#### *Temporary diversion on account of ploughing*

8.—(1) If, on the application of the occupier, the district council is satisfied that it is expedient in the interests of good farming or forestry that the period of fourteen days mentioned in Article 7 (5) should be extended, the district council may—

(a) order the temporary diversion of the way until such date as may be specified in the order, being a date not more than three months after the time when the occupier began to plough the way, and

(b) by the order extend the period of fourteen days so as to expire on that date.

(2) In deciding whether to make an order under paragraph (1) the district council shall take into account the interests of the users of the path.

(3) Before refusing to make an order under paragraph (1) the district council shall consult the Department of Agriculture.

(4) On the making of an order under paragraph (1) the district council shall forthwith cause a copy of the order to be placed in a prominent position at the ends of the diversion and maintained there throughout the period of the diversion.

(5) An order under paragraph (1)—

(a) shall not affect the line of the way on land not occupied by the applicant;

(b) shall not divert any part of the way on to land not occupied by the applicant, unless written consent to the making of the order has been given by the occupier of that land, and by any other person whose consent is needed to obtain access to the land;

(c) may require as a condition of the taking effect of the order the provision of any necessary facilities for the convenient use of the diversion, and the district council may enter into an agreement with the applicant for the provision of any such facilities by the district council at the expense of the applicant.

#### *Pasturing of bulls*

9.—(1) Any person who is the occupier of a field or enclosure through which there is a public right of way shall be guilty of an offence if, except as provided by paragraph (2), he permits a bull to be at large in that field or enclosure.

(2) Paragraph (1) does not apply to a bull which—

(a) does not exceed the age of ten months; or

(b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding £200.

#### *Notices deterring use of public right of way*

10. Any person who places or maintains on or near any public right of way a notice containing any false or misleading statement likely to deter the public from using the way, shall be liable on summary conviction to a fine not exceeding £50.

#### *Public paths*

##### *Creation by agreement*

11.—(1) A district council may enter into an agreement (a “public path creation agreement”) with any person having the necessary power in that behalf for the creation by that person of a public path.

(2) A public path creation agreement shall be on such terms as to payment or otherwise as may be specified in the agreement and may, if it is so agreed, provide for the creation of the public path subject to conditions or limitations affecting the public right of way over it.

##### *Compulsory powers for creation*

12.—(1) Where—

(a) it appears to a district council that there is need for a public path; and

(b) the district council is satisfied that, having regard—

(i) to the extent to which the path would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons residing in the district, and

(ii) to the effect which the creation of the path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in Article 17,

it is expedient that the path should be created; and

(c) it appears to the district council impracticable to create the path by means of a public path creation agreement,

the district council may by order (a “public path creation order”) made by the council and submitted to and confirmed by the Department, or confirmed by the council as an unopposed order, create a public path.

(2) A right of way created by a public path creation order may be either unconditional or subject to such conditions or limitations as may be specified in the order.

(3) A public path creation order shall be in such form as may be prescribed.

(4) Schedule 1 shall apply to a public path creation order.

#### *Making up and maintenance*

13. On the creation of a public path in pursuance of a public path creation agreement, or on the coming into operation of a public path creation order or public path diversion order, the district council shall carry out such work as appears to the council to be necessary to bring the path into a fit state for use by the public in conformity with the terms and conditions or limitations of the agreement or order, and shall maintain the path in that state.

#### *Closure*

14.—(1) Where it appears to a district council that it is expedient that a public path should be closed on the ground that the path is not needed for public use, the district council may by order (a “public path extinguishment order”) made by the district council and submitted to and confirmed by the Department, or confirmed by the district council as an unopposed order, extinguish the right of way over the path.

(2) The Department shall not confirm a public path extinguishment order, and a district council shall not confirm such an order as an unopposed order, unless the Department or the district council, as the case may be, is satisfied that it is expedient to do so, having regard—

(a) to the extent to which the path would, apart from the order, be likely to be used by the public, and

(b) to the effect which the extinguishment of the right of way would have as respects land served by the path,

account being taken of the provisions as to compensation contained in Article 17.

(3) A public path extinguishment order shall be in such form as may be prescribed.

(4) Schedule 1 shall apply to a public path extinguishment order.

(5) Proceedings preliminary to the confirmation of the public path extinguishment order may be taken concurrently with proceedings preliminary to the confirmation of a public path creation order or of a public path diversion order, but, in considering—

(a) under paragraph (1) whether the path to which the public path extinguishment order relates is needed for public use, or

(b) under paragraph (2) to what extent that path would, apart from the order, be likely to be used by the public,

the district council or the Department, as the case may be, may have regard to the extent to which the public path creation order or the public path diversion order would provide an alternative path.

(6) For the purposes of paragraphs (1) and (2), any temporary circumstances preventing or diminishing the use of a path by the public shall be disregarded.

#### *Diversion*

15.—(1) Where it appears to a district council as respects a public path, that, in the interests of the owner, lessee or occupier of land crossed by the



path or otherwise, it is expedient that the line of the path, or part of that line, should be diverted (whether on to land of the same or on to land of another person) the district council may by order (a "public path diversion order") made by the district council and submitted to and confirmed by the Department, or confirmed by the district council as an unopposed order,—

(a) create, as from such date as may be specified in the order, any such new public path as appears to the district council to be requisite for effecting the diversion, and

(b) extinguish, as from such date as may be so specified in accordance with paragraph (2), the right of way over so much of the path as appears to the district council to be requisite for effecting the diversion.

(2) Where it appears to the district council that work requires to be done to provide necessary facilities for the convenient use of any such new public path as is mentioned in paragraph (1) (a), the date specified under paragraph (1) (b) may be later than the date specified under paragraph (1) (a) in order to enable the district council to carry out that work.

(3) A right of way created by a public path diversion order may be either unconditional or (whether or not the right of way extinguished by the order was subject to conditions or limitations of any description) be subject to such conditions or limitations as may be specified in the order.

(4) Before determining to make a public path diversion order on the representation of an owner, lessee or occupier, the district council may require him to enter into an agreement with the district council to defray, or to make such contribution as may be specified in the agreement towards,—

(a) any compensation which may become payable under Article 17; or

(b) any expenses which the district council may incur in bringing the new site of the path into a fit condition for use by the public.

(5) The Department shall not confirm a public path diversion order, and a district council shall not confirm such an order as an unopposed order, unless the Department or the district council, as the case may be, is satisfied that the diversion to be effected by it is expedient as mentioned in paragraph (1), and further that the path will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

(a) the diversion would have on public enjoyment of the path as a whole or of any other public path,

(b) the coming into operation of the order would have as respects other land served by the existing right of way, and

(c) any new right of way created by the order would have as respects the land over which the right is so created and any land held with that land, so, however, that for the purposes of sub-paragraphs (b) and (c), the Department or, as the case may be, the district council shall take into account the provisions as to compensation of Article 17.

(6) A public path diversion order shall be in such form as may be prescribed.

(7) Schedule 1 shall apply to a public path diversion order.

#### *Closure or diversion by Department*

16.—(1) The Department may make a public path extinguishment order or a public path diversion order where the Department is satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission or to be carried out by a government department.

(2) Articles 14 (3) to (5) and 15 (2) to (4), (6) and (7) apply respectively in relation to public path extinguishment orders and public path diversion orders

under this Article; Article 15 (4) shall also apply (with the omission of subparagraph (b)) in relation to public path extinguishment orders under this Article; and for the purposes of this Article references in Article 15 (2) and (4) to the district council include references to the Department.

### *Compensation*

17.—(1) Subject to paragraph (3), if on a claim made in writing in accordance with paragraph (2), it is shown that, in consequence of the coming into operation of a public path creation order, a public path diversion order or a public path extinguishment order,—

- (a) the value of an interest of any person in land is depreciated, or
- (b) any person has suffered damage by being disturbed in his enjoyment of land,

the district council or, if the order is made by the Department, the Department shall pay that person compensation equal to the amount of the depreciation or damage.

(2) A claim for compensation under paragraph (1) shall—

- (a) state the amount of compensation claimed;
- (b) be served on the district council or, as the case may be, the Department within six months after the date when the relevant order comes into operation;
- (c) be accompanied by particulars of the interest in land in respect of which the claim is made, being particulars sufficient to identify approximately the boundaries of the land, and of the nature of the claimant's title thereto.

(3) Nothing in this Article confers on any person, in respect of a right of way created by a public path creation order or a public path diversion order, a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, not being in either case land over which the right of way was created or land held therewith, unless the creation of the right of way would have been actionable at his suit if it had been effected otherwise than in the exercise of statutory powers.

### *Supplementary provisions as to creation, closure and diversion*

18.—(1) Before making a public path creation agreement, a public path creation order, a public path extinguishment order or a public path diversion order, the district council shall consult the Department and any body appearing to the district council to be representative of persons likely to be affected by the agreement or order.

(2) The district council shall have the like power under Articles 11 and 12 to enter into a public path creation agreement or to make a public path creation order for the purpose of securing the widening of an existing public right of way as it has for the purpose of securing the creation of a public path, and references in those Articles to the creation of a public path shall be construed accordingly.

(3) Articles 14 to 16 and 19 shall apply in relation to all public rights of way whether created before or after the commencement of this Order as they apply to public paths.

(4) Articles 14 to 16 and 19 shall not prejudice any power conferred by any other statutory provision to close or divert a road and shall not otherwise affect the operation of any statutory provision relating to the extinguishment, suspension, diversion or variation of rights of way.

(5) A public path creation order, a public path extinguishment order or a public path diversion order affecting in any way the district of more than one

district council may contain provisions requiring one of the councils to defray, or contribute towards, expenses incurred in consequence of the order by another district council.

(6) A public path diversion order diverting part of the line of a path from the district of one district council to another may provide that the first district council shall continue to be responsible for the maintenance of that part of the path after the diversion.

(7) A district council and the Department shall not make or confirm a public path creation order, a public path extinguishment order or a public path diversion order relating to a right of way over land under, in, upon, over, along or across which there is any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking unless the statutory undertakers have consented to the making or confirmation of the order, as the case may be; and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the statutory undertakers as they may reasonably require.

(8) The consent of statutory undertakers required by paragraph (7) shall not be unreasonably withheld, and any question arising under that paragraph—

(a) whether the withholding of a consent is unreasonable, or

(b) whether any requirement is reasonable,

shall be determined by arbitration.

(9) Where in pursuance of a public path extinguishment order or a public path diversion order a public path is closed or diverted and, immediately before that order comes into force, there is under, in, upon, over, along or across the path any telegraphic line belonging to or used by British Telecommunications, British Telecommunications shall have the same powers in respect of that land as if the order had not come into force; but if any person entitled to land over which the path subsisted requires that the telegraphic line shall be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references in those paragraphs to undertakers included references to the person so requiring the line to be altered.

#### *Temporary closure or diversion*

19.—(1) If, on the application of the occupier of land over which there is a public path or any other person, the district council is satisfied that it is expedient in the interests of good farming or forestry or otherwise temporarily to close or divert the path, the district council may order the closure or diversion of the path for such period, not exceeding three months, as may be specified in the order.

(2) In deciding whether to make an order under paragraph (1) the district council shall take into account the interests of users of the path.

(3) Before refusing to make an order under paragraph (1) the district council shall consult the Department.

(4) On the making of an order under paragraph (1) the district council shall forthwith cause a copy of the order to be placed in a prominent position at the ends of the path closed or diverted and maintained there throughout the period of closure or diversion.

(5) An order under paragraph (1) diverting a public path shall not be made unless written consent to the making of the order has been given by the occupier of the land on to which the path is diverted and by any person whose consent is needed to obtain access to the land.

(6) An order under paragraph (1) diverting a public path may, if the applicant is the occupier of land over which the public path passes, require as a condition of the taking effect of the order the provision of any necessary facilities for the convenient use of the diversion and the district council may enter into an agreement with the applicant for the provision of any such facilities by the district council at the expense of the applicant.

#### *Cycling*

20.—(1) Any member of the public shall have, as a right of way, the right to ride a pedal cycle on any public path, but in exercising that right cyclists shall give way to pedestrians and persons on horseback.

(2) Paragraph (1) has effect subject to any orders made by a district council and to any bye-laws.

(3) Paragraph (1) shall not create any obligation to do anything to facilitate the use of the public path by cyclists.

#### *Long distance routes*

##### *Proposals for long distance routes*

21.—(1) Where it appears to a district council that the public should be enabled to make extensive journeys on foot, on pedal cycles or on horseback along a particular route, being a route which for the whole or the greater part of its length does not pass along roads mainly used by vehicles, the district council may prepare and submit to the Department a report under this Article.

(2) A report under this Article shall contain—

(a) a map showing the route, defining those parts of the route over which there exists a public right of way and indicating in each case the nature of that right;

(b) the proposals of the district council with regard to the provision, maintenance and enjoyment of the route;

(c) an estimate of the capital outlay and annual expenditure likely to be incurred by the district council or any other body or person in carrying out any such proposals;

(d) any representations made to the district council as a result of consultation under paragraph (4).

(3) A report under this Article may include proposals—

(a) for the maintenance or improvement of any public path or road along which the route passes;

(b) for the provision and maintenance of such new public paths as may be required for enabling the public to journey along the route;

(c) for the provision and operation of ferries where they are needed for completing the route;

(d) for the provision of accommodation, toilet facilities, meals and refreshments along the route;

and such recommendations as the district council thinks fit for the restriction of traffic on existing roads along which the route passes.

(4) Before submitting a report under this Article the district council shall consult the Department and such bodies or persons as appear to the district council to be likely to be affected by, or to have a particular interest or expertise in relation to, its proposals.

##### *Approval, implementation and variation of proposals*

22.—(1) The Department shall consider any report submitted to it under Article 21 and may either approve the report with or without modifications or reject the report, in either case notifying the district council.

(2) If the report is approved under paragraph (1), the district council shall secure the implementation of the report as approved by the Department.

(3) If it appears to the Department, whether after representations from the district council or otherwise, that a report which has been approved under paragraph (1) should be amended, the Department may amend the report and notify the district council; and paragraph (2) shall apply to the report as amended by the Department.

*Ferries for purposes of long distance routes*

**23.**—(1) Where a report approved under Article 22 includes proposals for the provision and operation of a ferry, the district council may—

(a) provide and operate the ferry and carry out such work and do all such things as appear to the district council expedient for the purpose of operating the ferry;

(b) make arrangements with any person or body of persons for the provision and operation of the ferry by him or them and for the making by the district council of such contributions as may be provided for in the arrangements.

(2) Before carrying out any work in the exercise of powers conferred by paragraph (1) (a), being work on the bank or bed of any waterway, the district council shall consult every authority which under any statutory provision has functions relating to the waterway.

(3) The district council may acquire land compulsorily for the purpose of paragraph (1)(a) .

(4) Nothing in paragraph (1) shall—

(a) be construed as conferring on the district council any exclusive right to operate a ferry;

(b) authorise the doing of anything which apart from paragraph (1) would be actionable by any person by virtue of his having an exclusive right to operate a ferry, without his consent;

(c) authorise the doing, in relation to land in which any person has an interest, of anything without his consent which apart from paragraph (1) would be actionable at his suit by virtue of that interest.

*Accommodation, meals and refreshments*

**24.**—(1) Where a report approved under Article 22 includes proposals for the provision of accommodation, toilet facilities, meals and refreshments, the district council may, to the extent that the existing provision appears to the district council to be inadequate or unsatisfactory, make such arrangements under this Article as are requisite for giving effect to the proposals.

(2) The arrangements which may be made under this Article are arrangements for securing the provision, whether by the district council or otherwise, of accommodation, toilet facilities, meals and refreshments at places convenient for persons using the long distance route.

(3) For the purposes of arrangements under this Article the district council may erect such buildings and carry out such work as may appear to the district council to be necessary or expedient.

(4) Nothing in paragraphs (1) to (3) shall authorise the doing, in relation to land in which any person has an interest, of anything without his consent which apart from those paragraphs would be actionable at his suit by virtue of that interest.

(5) The district council may acquire land compulsorily for the purpose of any of its functions under this Article.

PART III

ACCESS TO OPEN COUNTRY

*Provision for public access to open country*

25.—(1) For the purpose of enabling the public to have access for open-air recreation to open country, this Part applies to land which is, or which gives or forms part of access to, open country, being land to which Article 26 is applied by an access agreement or an access order or acquired under Article 39 or 40.

(2) In this Order “open country” means any land appearing to the district council or the Department to consist wholly or predominantly of mountain, moor, heath, hill, woodland, cliff, foreshore, marsh, bog or waterway.

*Rights of public where access agreement or order is in force*

26.—(1) Subject to the following provisions of this Part, a person who—

(a) enters upon land comprised in an access agreement or order for the purpose of open-air recreation without causing damage, or

(b) is on such land having so entered thereon,

shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land.

(2) Paragraph (1) shall not—

(a) apply to land which is excepted land, unless an access agreement provides that it shall so apply;

(b) entitle a person to enter or be on any land, or to do anything on any land, in contravention of any prohibition contained in or having effect under any statutory provision.

(3) An access agreement or order may specify or provide for imposing restrictions subject to which persons may enter or be upon land by virtue of paragraph (1), including restrictions excluding the land or any part of the land at particular times from the operation of paragraph (1); and that paragraph shall not apply to any person entering or being on the land in contravention of any such restriction or failing to comply with any such restriction while he is on the land.

(4) Without prejudice to paragraph (3), paragraph (1) shall have effect subject to the provisions of Schedule 2 as to the general restrictions to be observed by persons having rights of access by virtue of paragraph (1).

(5) In this Order “excepted land” means land which for the time being is of any of the descriptions contained in Schedule 3, but land which is for the time being comprised in an access agreement or order shall not become excepted land by reason of any development carried out on the land if the development is one for which planning permission is required and either that permission has not been granted or any condition subject to which it was granted has been contravened or has not been complied with.

*Consultation by district councils on access requirements*

27.—(1) A district council shall consult the Department and such bodies as appear to the district council to be representative of owners and occupiers of land for the purpose of ascertaining what land there is of the descriptions specified in Article 25 (2) (definition of “open country”) and considering what action should be taken, whether by the making of access agreements or orders or by the acquisition of land, for securing public access to open country for the purpose of open-air recreation.

(2) In considering what action should be taken, the district council shall have regard to all relevant circumstances, including—

- (a) in the case of particular land, the extent to which public access to open country for the purpose of open-air recreation is likely to be available without such action being taken, and
- (b) generally, the extent to which there is a need for greater facilities in the district for such access, whether for persons living in the district or for other persons.

#### *Access agreements*

28.—(1) A district council may make an access agreement with any person having an interest in land by means of which the provisions of this Part shall apply to the land.

(2) An access agreement may provide for the making of payments by the district council of either or both of the following descriptions—

- (a) in consideration of the making of the agreement;
- (b) by way of defraying or contributing towards expenditure incurred in consequence of the agreement by the person making the agreement,

and payments under sub-paragraph (a) shall be made on the basis of an assessment of the capital value of the land arrived at in accordance with the provisions of Schedule 4.

(3) An access agreement may be made subject to such provisions for revocation or variation as may be specified in the agreement.

(4) Any person having the powers of a tenant for life may enter into an access agreement relating to the settled land or any part of it either for consideration or gratuitously.

(5) Where an access agreement is made with one or some, but not all, of the persons having interests in the land to which the agreement relates, the provisions of this Part shall not, as against any person entitled to an interest in the land who is not a party to the agreement, operate so as to prejudice his rights in relation to that interest, or impose any restriction on him or confer any right against him, and the district council shall, as soon as may be after the agreement is made, serve a copy of the agreement on every such person who is not a party to the agreement.

#### *Access orders*

29.—(1) A district council may make an access order.

(2) An access order shall be submitted to the Department and shall not have effect unless the Department confirms it.

(3) The district council shall not make an access order as respects any land—

- (a) if an access agreement is in force which in the opinion of the district council adequately secures the public access to the open country in question for open-air recreation;
- (b) where such an agreement is not in force, unless it appears to the district council impracticable to secure the making of such an agreement.

(4) An access order shall be in such form as may be prescribed.

(5) Schedule 1 shall apply to an access order.

(6) The Department shall not confirm an access order before bye-laws have been made and confirmed under Article 46 (bye-laws) or made under Article 47 (default powers of Department as to bye-laws).

*Provisions as to land used for agricultural purposes, etc.*

30.—(1) If, on the submission of an access order to the Department for confirmation, a representation is duly made as respects any land—

- (a) that the land is used or being brought into use for agriculture or forestry and that the application of the provisions of Article 26 (rights of public where access agreement or order is in force) would prejudice that use or proposed use of the land; or
- (b) that the land is used for the growing of trees so as to be of value for the amenity of the neighbourhood and that the application of the provisions of Article 26 would prejudice the growth or regeneration of the trees,

then, subject to paragraph (6), if the Department is satisfied that the conditions specified in sub-paragraph (a) or (b) are fulfilled and outweigh the benefit arising from the increased facilities for public access, the Department shall not confirm the order so as to apply the provisions of Article 26 to the land.

(2) Where, as respects land comprised in an access agreement, it is represented to the Department that the conditions specified in paragraph (1) (a) or (b) are fulfilled, and the Department is satisfied as stated in that paragraph, then, subject to paragraphs (5) and (6), the Department shall notify the district council and the district council shall vary the agreement so as to exclude the land.

(3) For the purposes of paragraph (2)—

- (a) the fact that an access agreement is expressed to be irrevocable shall not prevent its variation so as to exclude the land; and
- (b) if the concurrence of any party to the agreement other than the district council, or his successor in title, cannot be obtained to the variation of the agreement, the district council may by order made with the approval of the Department vary the agreement.

(4) Where, as respects land comprised in an access order, it is represented to the Department that the conditions specified in paragraph (1) (a) or (b) are fulfilled, and the Department is satisfied as stated in that paragraph, then, subject to paragraphs (5) and (6), the Department shall make an order varying the access order so as to exclude the land.

(5) Before coming to a conclusion on any such representation as is mentioned in paragraph (2) or (4), the Department shall either—

- (a) cause a local inquiry to be held, or
- (b) afford to the person by whom the representation was made and to the district council an opportunity of being heard by a person appointed by the Department for the purpose,

and shall consider the report of the person by whom the inquiry was held or the person appointed as mentioned in sub-paragraph (b) .

(6) In determining whether the conditions specified in paragraph (1) (a) or (b) are fulfilled in the case of any proposed access order, the Department shall have regard to Article 26 (3) (restrictions on right of access); and references in this Article to varying an agreement or order so as to exclude land include references to varying an agreement or order by the imposition of such restrictions under Article 26 (3) as may be specified by the Department as requisite for the purposes of this Article.

*Effect of access agreement or order on rights and liabilities of persons interested in land*

31.—(1) A person interested in any land comprised in an access agreement or order shall not carry out any work on the land whereby the area to which



the public are able to have access by virtue of the agreement or order is substantially reduced; but this paragraph shall not affect the doing of anything whereby any land becomes excepted land.

(2) Any restriction arising under a covenant or otherwise as to the use of any land comprised in an access agreement or order shall have effect subject to the provisions of this Part; and any liability of a person interested in such land in respect of such a restriction shall be limited accordingly.

(3) For the purposes of any statutory provision or rule of law as to the circumstances in which a right of way or the grant of an easement may be presumed, or may be established by prescription, use of land by the public or by any person at any time while it is comprised in an access agreement or order shall be disregarded.

*Provisions for securing safe and sufficient access*

32.—(1) An access agreement or order may make such provision as appears expedient for the purposes of the agreement or order for securing that safe and sufficient access will be available for the public on the land comprised in the agreement or order.

(2) An access agreement or order may by virtue of paragraph (1) include provision for—

- (a) the improvement or repair of any means of access to the land in existence at the time when the agreement or order is made;
- (b) the construction of new means of access to the land;
- (c) the carrying out of work to protect persons who are on land comprised in the agreement or order from injury or damage due to the state of the land or anything done or omitted to be done on it;
- (d) the imposition of restrictions on the destruction, removal, alteration or closure of any means of access to the land or of any works provided under sub-paragraph (c), or the doing of anything whereby the use of any such means of access by the public would be impeded or the safety of the public would be endangered; and
- (e) the maintenance of any such means of access to the land as are mentioned in sub-paragraphs (a) and (b) or of any works carried out in accordance with sub-paragraph (c).

(3) No provision made by an access order by virtue of this Article shall—

- (a) apply to land which is for the time being excepted land, or authorise or require anything to be done in relation to such land or any means of access thereto;
- (b) affect the doing of anything whereby any land becomes excepted land; or
- (c) require, or authorise any person to require, any work to be carried out at the expense of any person interested in the land except as provided by paragraph (4) or (5).

(4) A district council may agree with the owner and occupier of the land as to the carrying out of any work required to give effect to any provision by virtue of paragraph (1) and where it is agreed that the work shall be carried out otherwise than by the district council, the district council may defray the cost of the work or may contribute such part of the cost as may be specified in the agreement.

(5) If—

- (a) the district council is unable to make an agreement under paragraph (4), or
- (b) the owner or occupier fails to carry out within a reasonable period any work which he has agreed to carry out,

the district council may, after giving the owner and the occupier not less than fourteen days' notice, take all necessary steps for carrying out the work; and where, in a case to which sub-paragraph (b) applies, the agreement provided that the district council should contribute part of the cost of carrying out the work, the district council may recover the amount of any expenses reasonably incurred by it in carrying out the work, reduced by the district council's contribution under the agreement, from the person by whom under the agreement the cost (apart from the district council's contribution) of carrying out the work would fall to be borne.

(6) In paragraph (2) "means of access", in relation to land, means any opening in a wall, fence or hedge bounding the land, with or without a stile, gate or other similar structure for regulating passage through the opening, any stairs or steps for enabling persons to enter on the land, or any bridge, stepping stone or other works for crossing a water-course, sheugh or bog, on, or adjoining the boundary of, the land.

*Power of district councils to enforce access*

33.—(1) If any person contravenes—

- (a) Article 31 (1) (work substantially reducing area to which public have access), or
- (b) any restriction imposed under Article 32 (1) on the doing of any thing to the detriment of any means of access,

the district council may serve on that person a notice requiring him, within such period as is specified in the notice, to carry out such work so specified as appears to the district council to be requisite for remedying the contravention.

(2) If the person on whom the notice is served under paragraph (1) fails to comply with it within the specified period, the district council may take all necessary steps for carrying out the work specified in the notice and may recover from that person any expenses reasonably incurred by it in carrying out the work.

(3) Any person on whom a notice is served under paragraph (1) may appeal by notice under Part VII of the Magistrates' Courts (Northern Ireland) Order 1981 (a) at any time within the period specified in the notice served under paragraph (1) for carrying out the work on the ground—

- (a) that the period specified in the notice served under paragraph (1) is too short;
  - (b) that the work so specified, or some of that work, is not requisite for remedying the contravention;
  - (c) that he has not contravened Article 31 (1) or any restriction mentioned in paragraph (1) (b) of this Article; or
  - (d) that the work specified in the notice served under paragraph (1), or so much of the work as is requisite for remedying the contravention, has been carried out.
- (4) On an appeal under paragraph (3) the court may—
- (a) extend the period within which the work was required to be carried out,
  - (b) quash the notice as respects the whole or any part of the work, or
  - (c) dismiss the appeal.

(5) On an appeal under paragraph (3), the time between the initiation of the appeal and its final determination shall be disregarded in determining the period within which, in accordance with the notice served under paragraph (1), the work there specified is to be carried out.

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(a) S.I. 1981/1675 (N.I. 26).

*Suspension of public access to avoid risk of fire*

34. If the district council is satisfied that, by reason of any conditions of weather for the time being prevailing, public access to land comprised in an access agreement or order is likely to result in fires occurring on any part of that land, it may direct that Article 26 (1) (rights of public where access agreement or order is in force) shall not have effect in relation to such parts of the land and during such period as may be specified in the direction.

*Compensation for access orders*

35.—(1) Where, in consequence of the coming into operation of an access order,—

- (a) the value of the interest of any person in land is depreciated, or
- (b) any person has suffered damage by being disturbed in his enjoyment of land,

the district council shall pay to that person compensation equal to the amount of the depreciation or damage.

(2) Nothing in paragraph (1) 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, being land which in either case is not comprised in the order or if so comprised is excepted land, except if and in so far as either—

- (a) it is held with land comprised in the order which is not excepted land, or
- (b) the omission of any other person to exclude the public from the land comprised in the order or any part of that land would have been actionable at the instance of the first-mentioned person if the access order had not come into operation.

*Compensation to be assessed with regard to effect of first five years of access*

36.—(1) For the purpose of enabling compensation under Article 35 to be assessed in the light of experience gained of the actual effect on the land of the coming into operation of access orders, no such compensation shall be claimed or payable before the expiration of a period of five years from the coming into operation of the access order giving rise to the compensation (“the five-year period” and “the relevant order”).

(2) Nothing in paragraph (1) shall be construed as requiring such compensation to be assessed as at a date later than the date of the coming into operation of the relevant order; but in calculating the compensation it shall be assumed that, on a sale at that date of the interest in respect of which the compensation is claimed, the purchaser would have had knowledge—

- (a) of the actual effect during the five-year period on the land in which the interest subsists and the use of that land, of the coming into operation of the relevant order;
- (b) of the fact and date of any revocation or variation during that period of the relevant order;
- (c) of the fact and date of any changes during that period, as respects land comprised in the relevant order, from or to excepted land.

(3) If during the five-year period the relevant order is revoked or varied so as to exclude any land not being excepted land, paragraphs (1) and (2) shall thereupon have effect, so far as concerns any claim for compensation in respect of the operation of the relevant order on the excluded land as if for any reference to the five-year period there were substituted a reference to the period beginning with the coming into operation of the relevant order and ending with the revocation or variation excluding that land.

(4) Where at different times within a period of five years two or more areas of land which are contiguous or adjacent to one another become comprised in access orders, and any person has an interest in each of those areas, then, with the consent of every person having an interest in each of the areas other than the one first so comprised, paragraphs (1) to (3) shall apply in relation to each of the last-mentioned areas with the substitution for any reference to the period of five years from the coming into operation of the order by virtue of which that land became so comprised as aforesaid of a reference to a period of five years from the coming into operation of the order by virtue of which the first of the areas became so comprised.

*Claims for compensation and interest*

37.—(1) Any person claiming to be entitled to an interest in land in respect of the depreciation or the disturbance in the enjoyment of which compensation will become payable under Article 35 may apply in writing to the district council in accordance with paragraph (3) to record his claim.

(2) Any person who has applied under paragraph (1) for the recording of a claim to compensation, or any person claiming under him, may, within six months after the end of the period after which under Article 36 compensation may be claimed, apply in writing to the district council in accordance with paragraph (5) for payment of the compensation.

(3) An application under paragraph (1) shall be served within six months after the date when the relevant order comes into operation and shall be accompanied by particulars of the interest in land in respect of which the claim is made, being particulars sufficient to identify approximately the boundaries of the land, and of the nature of the claimant's title thereto, but it shall not be necessary to state in an application under paragraph (1) the amount of the compensation claimed.

(4) Where an application is duly made under paragraph (1) the district council shall, within seven days of the serving of the application, record in a register of claims which shall be available for inspection by the public at all reasonable hours—

- (a) the name and address of the claimant;
- (b) the date on which the application is served;
- (c) particulars of—

- (i) the interest in land in respect of which the claim is made,
- (ii) the nature of the claimant's title thereto,
- (iii) the order in respect of which the claim is made;

and the district council shall as soon as practicable after the claim has been recorded notify the claimant in writing of that fact.

(5) An application under paragraph (2) shall state the amount of the compensation claimed and the applicant's title to receive the compensation claimed and shall be accompanied by documentary evidence of the applicant's title to the interest in land in respect of which compensation is claimed.

(6) Any compensation payable under Article 35 shall become due when, on an application duly made under paragraph (2), the amount of the compensation has been agreed or, in default of agreement, has been determined by the Lands Tribunal under Article 49; and any such compensation shall be payable with interest, at such rate as is determined by order made by the Department of Finance and Personnel for the purposes of paragraph 18 (2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 (a).

*Payments on account in special circumstances*

38.—(1) At any time during the period after which, under Article 36, compensation may be claimed in respect of the coming into operation of an order, a person claiming to be entitled to such compensation may apply to the district council for a payment on account of the compensation on the ground of special circumstances.

(2) On an application under paragraph (1), the district council, if it is satisfied that such circumstances exist, shall make that person a payment on account of the compensation of such amount as the district council may determine.

(3) Any person aggrieved—

- (a) by the refusal of a district council to make a payment on account, or
- (b) by the amount of a payment which the district council has determined to be made to him,

may appeal to the Department.

(4) On an appeal under paragraph (3), the Department, after affording to the person aggrieved and to the district council an opportunity of being heard by a person appointed by the Department for the purpose, may—

- (a) confirm the decision of the district council, or
- (b) direct that the district council shall make a payment on account of such amount as appears to the Department to be just.

*Acquisition by district councils of land for public access*

39.—(1) Where it appears to a district council as respects any land which is or which gives or forms part of access to open country—

- (a) that it is requisite that the public should have access to that open country for open-air recreation; and
- (b) that in the circumstances it is expedient that for that purpose the land should be acquired by the district council,

then the district council may acquire the land compulsorily, if it appears to the district council impracticable to obtain such access by an access agreement or access order or by acquiring the land by agreement.

(2) A district council may carry out on land acquired (whether by agreement or compulsorily) for the purposes of this Article and for the time being held by the district council for those purposes such work as the district council considers requisite for providing convenient means of access to the land or otherwise for those purposes.

(3) While any land so acquired is held by the district council for the purposes of this Article, the district council shall so manage the land as to give to the public access for open-air recreation to so much of the land as appears to the district council to be practicable, having regard—

- (a) to the nature of the different parts of the land;
- (b) to anything done on the land which may result in danger to the public or to persons employed on the land unless public access to that, or adjoining, land is restricted; and
- (c) to all other relevant circumstances.

*Acquisition by Department of land for public access*

40. Where it appears to the Department as respects any land which is or which gives or forms part of access to open country—

- (a) that it is requisite that the public should have access to that open country for open-air recreation; and

(b) that in the circumstances it is expedient that for that purpose the land should be acquired by the Department, the Department may, with the approval of the Department of Finance and Personnel, acquire the land by agreement, whether by way of purchase, lease or exchange, or compulsorily, in accordance with section 1 of the Amenity Lands Act (Northern Ireland) 1965 (a) (acquisition and disposal of amenity lands) and the provisions of that section and section 3 of that Act shall apply to any land so acquired.

*Maps of land subject to public access*

41.—(1) A district council whose district comprises any land—  
(a) which is subject to an access agreement or order, or  
(b) which has been acquired under Article 39 or 40 and is for the time being held for the purpose for which it was acquired, shall prepare and keep up to date a map, on such scale as may be prescribed, defining in such manner as may be prescribed—

- (i) the land to which sub-paragraph (a) or (b) applies,
- (ii) in the case of land to which sub-paragraph (a) applies, any land comprised therein which is excepted land,
- (iii) in the case of land to which sub-paragraph (b) applies, any such land from which, for the purpose of avoiding danger to the public or to persons employed there or for any other reason, the public are excluded.

(2) A district council to which paragraph (1) applies shall make copies of the map and of the notices referred to in sub-paragraph (b) available for inspection by the public at such places as the district council may determine; and the district council shall display, at such places as it thinks fit, including places where the public obtain access to the land to which the map relates—

- (a) reproductions of the map on an appropriate scale,
- (b) notices specifying any restrictions on access to the land or any part of the land whether the restrictions have effect by virtue of any of the provisions of this Part or otherwise.

*Provision as to danger areas*

42.—(1) A district council, where it makes an access agreement or order, shall, after consulting the owner and occupier of any land concerned, so delimit the land to which the agreement or order applies as to exclude all land which, by reason of anything done on that or contiguous or adjacent land, it appears to the district council expedient to exclude for the purpose of avoiding danger to the public or to persons employed on any part of that land.

(2) For the purpose of avoiding danger to the public or to any persons employed on any land, the district council may vary any access agreement or order so as to exclude any land.

- (3) For the purposes of paragraph (2)—
  - (a) the fact that an access agreement is expressed to be irrevocable shall not prevent its variation in pursuance of that paragraph;
  - (b) where the concurrence of any party to an access agreement other than the district council, or the successor in title to his interest, cannot be obtained to the variation of the agreement in pursuance of paragraph (2), the district council may by order vary the agreement.

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(a) 1965 c. 9 (N.I.).

(4) As respects any land—

(a) which is subject to an access agreement or order, or

(b) held by the district council and to which Article 41 (1) (b) applies, a district council may take such steps and carry out such works (including the erection and maintenance of fences or notices) as appear to the district council to be requisite for protecting the public from any source of danger on the land or on adjoining land.

(5) Paragraph (4) shall apply to the Department as respects land held by the Department under Article 40 as it applies to a district council as respects land held by the district council.

(6) The application of Article 26 to any land—

(a) in relation to any factory, magazine, store or premises established before the commencement of this Article, shall not constitute the land an open place of resort for the public, or a public place, for the purposes of the Explosives Acts (Northern Ireland) 1875 to 1970 (a), or any order made or licence granted under those Acts;

(b) in relation to any factory, magazine, store or premises established after the commencement of this Article, shall so constitute the land.

#### *Boundary notices*

43. A district council may erect and maintain notices or other means of indicating the boundaries of land comprised in an access agreement or order and of excepted land.

### PART IV

#### SUPPLEMENTARY

#### *Protection for interests in the countryside*

44. In the exercise of its functions under this Order a district council shall have regard—

(a) to the needs of agriculture and forestry; and

(b) to the need to conserve the natural beauty and amenity of the countryside (including its flora, fauna and geological and physiographical features).

#### *Parking places*

45.—(1) A district council may provide parking places for the purpose of facilitating the use of public paths and other public rights of way and access to open country by members of the public.

(2) A district council may acquire land compulsorily for that purpose.

#### *Bye-laws*

46.—(1) A district council may, as respects land—

(a) over which there is a public path, a long-distance route or any other public right of way;

(b) in relation to which an access agreement or order has been made;

(c) to which the public is given access in consequence of acquisition under Part III;

make bye-laws for the prevention of damage to such land and for securing that persons resorting there will so behave themselves as to avoid undue interference with the enjoyment of the land by other persons.

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(a) 1875 c. 17; 1924 c. 5 (N.I.); 1970 c. 10 (N.I.).

(2) Without prejudice to the generality of paragraph (1), bye-laws under this Article may prohibit, restrict or regulate—

- (a) the use of the land, either generally or in a manner specified in the bye-laws, by traffic of any description, or for any recreational purpose, so specified;
- (b) the depositing of rubbish or the leaving of litter;
- (c) the lighting of fires.

(3) Bye-laws under this Article or Article 47 shall not interfere with the exercise of any public right of way or of any functions of statutory undertakers in relation to any such land.

(4) Where a person is convicted of a contravention of bye-laws under this Article or Article 47, a district council may recover from him any expenses reasonably incurred by it under Article 3(2) (power to maintain public rights of way) or 13 (duty to maintain public paths) in consequence of the contravention.

#### *Default powers of Department as to bye-laws*

47.—(1) If a district council, when required by the Department to make bye-laws as respects any land to which Article 46 (1) applies, does not within three months after being so required comply with the requirement to the satisfaction of the Department, the Department may itself make bye-laws as respects that land.

(2) Before making any bye-laws under this Article the Department shall—

- (a) cause the proposed bye-laws to be made known in the locality to which they relate; and
- (b) give an opportunity for objections to be made to the proposed bye-laws; and
- (c) receive and consider all objections made, and may cause a local inquiry to be held.

(3) Any bye-laws made by the Department under this Article shall have effect as if they had been made by the district council and confirmed by the Department, and the provisions of this Order and of Part VI of the Local Government Act (Northern Ireland) 1972 shall have effect in relation to the bye-laws accordingly.

#### *Rangers*

48.—(1) A district council may appoint rangers as respects any land to which Article 46 (1) applies.

(2) The purposes for which rangers may be appointed under paragraph (1) as respects any land are—

- (a) to advise and assist the public as to any matter relating to the use of the land;
- (b) to secure compliance with bye-laws made under Article 46 or 47;
- (c) to perform such other duties in relation to the land as the district council may determine.

(3) For the purpose of exercising any function conferred on him by this Article, a ranger may enter upon any land comprised in an access agreement or order in force under this Order.

#### *Supplementary provisions as to compensation*

49.—(1) Any dispute arising on a claim for compensation under Article 17 (compensation relating to public paths) or 35 (compensation relating to access orders) shall be determined by the Lands Tribunal.



(2) For the purposes of paragraph (1), Article 5 of the Land Compensation (Northern Ireland) Order 1982 (a) shall have effect as if for references to the acquiring authority there were substituted references to the district council from whom the compensation in question is claimed or, if the compensation in question is claimed from the Department, to the Department.

(3) Rules 2 to 4 of the rules contained in Article 6(1) of that Order (rules for assessing compensation) shall apply to the calculation of compensation under Article 17 or 35 in so far as it is calculated by reference to the depreciation of the value of an interest in land.

(4) Where an interest in land is subject to a mortgage—

- (a) any compensation payable under Article 17 or 35 in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;
- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation;
- (c) a mortgagee is not entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

#### *Financial assistance by Department*

50. The Department may, in accordance with arrangements approved by the Department of Finance and Personnel, defray or contribute towards expenditure incurred—

- (a) by district councils, in connection with the exercise of their powers under this Order;
- (b) by any other body or person, in implementing a report approved under Article 22 (long distance routes).

#### *Financial assistance by district councils*

51. A district council may defray or contribute towards expenses incurred by any person or body of persons in assisting the council in carrying out its functions under—

- Article 3 (protection and maintenance of public rights of way);
- Article 4 (signposting of public rights of way);
- Article 13 (making up and maintenance of public paths);
- Article 41 (2) (displaying of notices of restrictions on public access);
- Article 42 (4) (taking steps and carrying out works to protect the public from dangers);
- Article 43 (erecting and maintaining boundary notices, etc.).

#### *Amendment of Occupiers' Liability Act (Northern Ireland) 1957*

52. At the end of section 1 of the Occupiers' Liability Act (Northern Ireland) 1957 (b) there shall be added the following subsection—

- “(4) A person entering any premises in exercise of rights conferred by virtue of an access agreement or order under the Access to the Countryside (Northern Ireland) Order 1983 is not, for the purposes of this Act, a visitor of the occupier of those premises”.

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(a) S.I. 1982/712 (N.I.9). (b) 1957 c. 25 (N.I.).

*Crown land*

53.—(1) The power to carry out work or provide services or facilities conferred by this Order may, if the appropriate authority consents, be exercised on Crown land.

(2) This Order shall apply to Crown land subject to the following modifications—

- (a) no public path creation order, public path extinguishment order, public path diversion order or access order shall be made as respects such land except with the consent of the appropriate authority;
- (b) no such land shall be acquired under this Order except with the consent of the appropriate authority;
- (c) if any land comprised in an access agreement or order, not being excepted land, becomes Crown land while it is so comprised, the access agreement or order shall cease to apply to the land unless the appropriate authority consents to the continued application to the land of the agreement or order.

(3) Bye-laws made under this Order shall apply to Crown land if the appropriate authority consents to their application to that land.

(4) In this Article “Crown land” means land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, and “appropriate authority” means that department.

*Local inquiries*

54.—(1) The Department may cause a public local inquiry to be held for the purpose of the exercise of any of its functions under this Order.

(2) Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954, the Department may make rules regulating the procedure to be followed in connection with inquiries held by or on behalf of the Department under this Order.

*Regulations and orders*

55.—(1) Regulations made by the Department under this Order shall be subject to negative resolution.

(2) Orders made by the Department under this Order shall not be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (a).

*Registration of matters in Statutory Charges Register*

56. Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (b) (which sets out matters which require to be registered in the Statutory Charges Register) shall be amended in accordance with Schedule 5.

*N. E. Leigh,*  
Clerk of the Privy Council.

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(a) S.I. 1979/1573 (N.I. 12).

(b) 1970 c. 18 (N.I.).

## SCHEDULES

Articles 12 (4), 14 (4),  
15 (7), 16 (2), 29 (5).

### SCHEDULE 1

#### ACCESS ORDERS AND PUBLIC PATH ORDERS

##### *Making and confirmation*

1.—(1) Before an order to which this Schedule applies is submitted to the Department for confirmation or (except in the case of an access order) is confirmed as an unopposed order, the district council shall give notice in the prescribed form—

- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order,
- (b) naming a place in the district in which the land to which the order relates is situated where a copy of the order may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and
- (c) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Before the Department makes a public path extinguishment order or a public path diversion order, the Department shall prepare a draft of the order and shall give notice—

- (a) stating that the Department proposes to make the order and the general effect of it,
- (b) naming a place in the district in which the land to which the order relates is situated where a copy of the draft order may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and
- (c) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the draft order may be made.

(3) The notices to be given under sub-paragraph (1) or (2) shall be given—

- (a) by publication in at least one local newspaper circulating in the locality in which the land to which the order relates is situated;
- (b) by serving a like notice on—
  - (i) every owner, lessee and occupier of any of that land (subject to the provisions of sub-paragraph (4));
  - (ii) every district council whose district includes any of that land;
  - (iii) such other bodies as may be prescribed or as the district council or, as the case may be, the Department may consider appropriate; and
- (c) by causing a copy of the notice to be displayed in a prominent position—
  - (i) at the ends of so much of the public path as is created, extinguished or diverted by the order;
  - (ii) at the council offices in the locality in which the land to which the order relates is situated; and
  - (iii) at such other places as the district council or, as the case may be, the Department may consider appropriate.

(4) If, after reasonable inquiry has been made, it appears that it is not practicable to ascertain the name or address of an owner, lessee or occupier of any land to which an order relates, the notice required to be served on him by sub-paragraph (3) (b) (i) may be served by addressing the notice to "The owners and any occupiers" of the land (describing it) and affixing a copy or copies of the notice to some conspicuous object or objects on the land.

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2.—(1) If no representations or objections are duly made, or if any so made are withdrawn, then—

- (a) the Department may, if it thinks fit, confirm or make the order, as the case may be, with or without modifications;
- (b) the district council may, except in the case of an access order, instead of submitting the order to the Department, confirm the order without any modification.

(2) If any representation or objection duly made is not withdrawn, the Department shall, before confirming or making the order,—

- (a) cause a local inquiry to be held; or
- (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Department for that purpose,

and after considering the report of the person appointed to hold the inquiry or to hear representations or objections, the Department may confirm or make the order, as the case may be, with or without modifications.

(3) Notwithstanding anything in sub-paragraph (1) or (2), the Department shall not confirm or make an order so as to affect land not affected by the order as submitted or the draft order except after—

- (a) giving such notice as appears to the Department to be requisite of its proposal to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made,
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Department for the purpose, and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be.

3. The Department may, subject to paragraphs 1 and 2, by regulations make such provision as to the procedure on the making, submission and confirmation of orders to which this Schedule applies as appears to the Department expedient.

*Validity and date of operation*

4.—(1) As soon as may be after an order to which this Schedule applies has been confirmed or made by the Department, or confirmed by the district council as an unopposed order, the Department or the district council, as the case may be, shall publish, in the manner required in relation to the class of order in question by paragraph 1, a notice in the prescribed form describing the general effect of the order, stating that it has been confirmed or made, and naming a place where a copy of the order as confirmed or made may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and—

- (a) shall serve a like notice on any persons on whom notices were required to be served under paragraph 1 (3) (b) or (4); and
- (b) shall cause like notices to be displayed in the like manner as the notices required to be displayed under paragraph 1 (3) (c);

but no such notice need be served on a person unless he has sent to the district council or the Department (according as the notice would require to be served by the district council or by the Department) a request in that behalf specifying an address for service.

(2) A notice required to be served by sub-paragraph (1) (a), other than one required to be served by paragraph 1 (3) (b) (iii), shall be accompanied by a copy of the order as confirmed or made.

(3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the district council shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served by paragraph 1 (3) (b) or (4).

5.—(1) If a person aggrieved by an order to which this Schedule applies desires to question the validity of the order, or of any provision contained in the order, on the ground that it is not within the powers of this Order or on the ground that any requirement of this Order or of regulations made under this Order has not been complied with in relation to the order, he may, within six weeks from the date on which the notice required by paragraph 4 is first published, make an application for the purpose to the county court.

(2) On any such application the court—

(a) may by interim order suspend the operation of the order, or of any provision contained in the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(b) if satisfied—

(i) that the order or any provision contained in the order is not within the powers of this Order, or

(ii) that the interests of the applicant have been substantially prejudiced by failure to comply with any requirement of this Order or of regulations made under this Order,

may quash the order or any provision contained in the order, either generally or in so far as it affects any property of the applicant.

6. Subject to paragraph 5, an order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever and shall become operative on the date on which the notice required by paragraph 4 is first published, or on such later date as may be specified in the order.

#### *Variation and revocation*

7.—(1) In relation to an order to which this Schedule applies, section 17 (2) of the Interpretation Act (Northern Ireland) 1954 shall have effect subject to sub-paragraphs (2) and (3).

(2) Except in the case of an access order, an order to which this Schedule applies confirmed by the Department or confirmed as an unopposed order by the district council may, in either case, be revoked or varied by a subsequent order confirmed the other way.

(3) Without prejudice to the making of a new access order, an access order shall not be varied so as to comprise land not comprised in the original order.

## SCHEDULE 2

## Article 26 (4).

### GENERAL RESTRICTIONS ON ACCESS TO OPEN COUNTRY UNDER PART III

Article 26 (1) shall not apply to a person who, upon the land in question without lawful authority—

(a) drives or rides any vehicle;

(b) lights any fire or does any act which is likely to cause a fire;

(c) takes, or allows to enter or remain, any dog not under proper control;

(d) wilfully kills, takes or molests any animal, bird or fish or takes or injures any eggs or nests;

(e) engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for any such purpose;

(f) wilfully damages or interferes with the land or anything in or on the land;

(g) breaks through any hedge, fence or wall or neglects to shut any gate or to fasten it if any means of so doing is provided;

(h) affixes or writes any advertisement, bill, placard or notice;

(i) deposits any rubbish or leaves any litter;

(j) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation.

Article 26 (5).

SCHEDULE 3

EXCEPTED LAND

1. Land used for agriculture (other than land used for open hill and unenclosed rough grazing for livestock) being land which was so used at the date when the relevant access agreement or order was made.
2. Land comprised in a declaration under section 13 of the Amenity Lands Act (Northern Ireland) 1965 (declaration of land as nature reserve) in so far as that land is subject to bye-laws prohibiting the entry of persons.
3. Land covered by buildings or the curtilage of such land.
4. Land used for the purposes of a park, garden or pleasure ground, being land which was so used at the date when the relevant access agreement or order was made.
5. Land used for the getting of minerals by surface working (including quarrying), land used for the purposes of a railway (including a light railway), or land used for the purposes of a golf course, sports ground, playing field or aerodrome.
6. Land (not falling within paragraphs 1 to 5) covered by works used for the purposes of a statutory undertaking or the curtilage of such land.
7. Land excepted from the application of Article 26 in accordance with Article 30 (provisions as to land used for agricultural purposes, etc.).
8. Land as respects which development is in course of being carried out which will result in the land becoming such land as is specified in paragraphs 3, 5 and 6.

Article 28 (2).

SCHEDULE 4

PROVISIONS AS TO THE CALCULATION FOR FIXING CONSIDERATION IN RESPECT OF THE  
MAKING OF ACCESS AGREEMENTS

1. The district valuer shall value the land covered by the access agreement, as at the first day of the twelve month period to which the consideration will relate, assuming—
  - (a) a sale on the open market by a willing seller; and
  - (b) that the use of the land is unfettered by the access agreement.
2. The district council shall, before or as soon as possible after the coming into operation of the access agreement, agree with the owner of the interest in the land what proportion of the figure set by the district valuer should be paid by the district council in respect of each twelve month period.
3. The first twelve month period shall begin on the day on which the public is first given access to the land under the agreement.

Article 56.

SCHEDULE 5

MATTERS REQUIRED TO BE REGISTERED IN STATUTORY CHARGES REGISTER

In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (matters required to be registered in the Statutory Charges Register), after paragraph 37A add the following paragraph—

- “38. Any of the following matters under the Access to the Countryside (Northern Ireland) Order 1983—
- (a) a public path creation agreement, a public path creation order, a public path extinguishment order, or a public path diversion order;
  - (b) an access agreement, an access order, or an instrument or order varying or revoking an access agreement or order.”

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order requires district councils to undertake the assertion and protection of public rights of way, and enables them to create new public paths and long distance routes and to secure public access to areas of open country for recreational purposes. It also contains provisions for the diversion and closure of public paths and for appropriate payments or compensation to persons having an interest in land affected by the provisions of the Order. The Order enables the Department of the Environment to provide financial assistance towards expenditure incurred by district councils and other bodies or persons for the purposes of the Order.

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STATUTORY INSTRUMENTS

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