



# Ancient Monuments and Archaeological Areas Act 1979

## 1979 CHAPTER 46

### PART I

#### ANCIENT MONUMENTS

*Acquisition and guardianship of land in the vicinity of an ancient monument, etc.*

#### **16 Acquisition of easements and other similar rights over land in the vicinity of an ancient monument.**

- (1) The Secretary of State may acquire, by agreement or compulsorily, over land adjoining or in the vicinity of any monument which is under his ownership by virtue of this Act, any easement which appears to him to be necessary—
  - (a) for any of the purposes relating to that monument mentioned in section 15(1) of this Act; or
  - (b) for the use of any land associated with that monument for any of those purposes.

[<sup>F1</sup>Where the land in question is situated in England, the Secretary of State shall consult with the Commission before entering into the agreement or making the compulsory purchase order (as the case may be).]

[<sup>F2</sup>(1A) The Commission may by agreement acquire over land adjoining or in the vicinity of any monument which is under their ownership by virtue of this Act, any such easement as the Secretary of State may acquire by virtue of subsection (1) above.]

- (2) A local authority may by agreement acquire over land adjoining or in the vicinity of any monument which is under their ownership by virtue of this Act any such easement as the Secretary of State may acquire by virtue of subsection (1) above.
- (3) The power of acquiring an easement under subsection (1) [<sup>F3</sup>or (1A)] or (2) above shall include power to acquire any such easement by the grant of a new right.

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*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Section 16 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) The Secretary of State [<sup>F4</sup>or the Commission] or any local authority may acquire, for the benefit of any monument or land under his or their guardianship by virtue of this Act, a right of any description which he or they would be authorised to acquire under any of the preceding provisions of this section if the monument or land was under his or their ownership by virtue of this Act, and those provisions shall apply accordingly in any such case.
- (5) Any right to which subsection (4) above applies—
- (a) shall be treated for the purposes of its acquisition under this section and in all other respects as if it were a legal easement; and
  - (b) may be enforced by the guardians for the time being of the monument or land for whose benefit it was acquired as if they were the absolute owner in possession of that monument or land.
- (6) Any right to which subsection (4) above applies which is acquired by agreement under this section for a purpose relating to any monument under guardianship, or for the use of any land associated with any such monument for any purpose relating to that monument—
- (a) subject to any provision to the contrary in the agreement under which it was acquired, may be revoked by the grantor; and
  - (b) may be revoked by any successor in title of the grantor as respects any of the land over which it is exercisable in which he has an interest;
- if the monument ceases to be under guardianship otherwise than by virtue of being acquired by its guardians or ceases to exist.
- (7) References above in this section to an easement or (as the case may be) to a legal easement shall be construed in relation to land in Scotland as references to a servitude.
- (8) Any right to which subsection (4) above applies—
- (a) shall be a local land charge, if it relates to land in England and Wales; and
  - (b) may be recorded in the Register of Sasines, if it relates to land in Scotland.
- (9) The <sup>M1</sup>[<sup>F5</sup>Acquisition of Land Act 1981] shall apply to any compulsory acquisition by the Secretary of State under this section of any easement over land in England and Wales . . . <sup>F6</sup>
- (10) The <sup>M2</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to any compulsory acquisition by the Secretary of State under this section of any servitude over land in Scotland as it applies to a compulsory acquisition by another Minister or by the Secretary of State under section 58 of the <sup>M3</sup>National Health Service (Scotland) Act 1972 in a case falling within section 1(1) of the said Act of 1947.
- (11) The provisions of Part I of the <sup>M4</sup>Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31, shall apply in relation to any acquisition by agreement under this section of any easement over land in England and Wales.
- (12) For the purposes of any acquisition by agreement under this section of any servitude over land in Scotland—
- (a) the Lands Clauses Acts (with the exception of the provisions excluded by subsection (13) below) and sections 6 and 70 to 78 of the <sup>M5</sup>Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended

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by section 15 of the <sup>M6</sup>Mines (Working Facilities and Support) Act 1923) shall be incorporated with this section; and

- (b) in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State or the local authority acquiring the servitude shall be deemed to be the promoter of the undertaking or company (as the case may require).

(13) The provisions of the Lands Clauses Acts excluded from being incorporated with this section are—

- (a) those which relate to the acquisition of land otherwise than by agreement;  
 (b) those which relate to access to the special Act; and  
 (c) sections 120 to 125 of the <sup>M7</sup>Lands Clauses Consolidation (Scotland) Act 1845.

#### Textual Amendments

- F1** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(2\)](#)  
**F2** S. 16(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(3\)](#)  
**F3** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(4\)](#)  
**F4** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(5\)](#)  
**F5** Words substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 4 para. 1](#) Table  
**F6** Words repealed by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 6 Pt. I](#)

#### Modifications etc. (not altering text)

- C1** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvi\)](#) (with art. 35)  
**C2** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 2, [25\(1\)](#), [25\(1\)](#), [25\(2\)\(xxvi\)](#) (with art. 35)

#### Marginal Citations

- M1** 1981 c. 67.  
**M2** 1947 c. 42.  
**M3** 1972 c. 58.  
**M4** 1965 c. 56.  
**M5** 1845 c. 33.  
**M6** 1923 c. 20.  
**M7** 1845 c. 19.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)