



# Telecommunications Act 1984

## 1984 CHAPTER 12

### PART II

#### PROVISION OF TELECOMMUNICATION SERVICES

##### *Acquisition etc. of land by public telecommunications operators*

#### **34 Compulsory purchase of land in England and Wales**

- (1) Subject to subsection (2) below, the Secretary of State may authorise a public telecommunications operator to purchase compulsorily any land in England and Wales which is required by the operator for, or in connection with, the establishment or running of the operator's system or as to which it can reasonably be foreseen that it will be so required; and the Acquisition of Land Act 1981 shall apply to any compulsory purchase under this section as if the operator were a local authority within the meaning of that Act.
- (2) No order shall be made authorising a compulsory purchase under this section except with the consent of the Director.
- (3) The power of purchasing land compulsorily under this section includes power to acquire an easement or other right over land by the creation of a new right.
- (4) The following provisions of the Town and Country Planning Act 1971 shall have effect in relation to land acquired compulsorily by a public telecommunications operator under this section as they have effect in relation to land acquired compulsorily by statutory undertakers under any other enactment, namely—
  - (a) section 128 (use and development of consecrated land and burial grounds);
  - (b) section 129 (use and development of land for open spaces); and
  - (c) sections 230 to 232 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where a public telecommunications operator has acquired any land under this section, he shall not dispose of that land or of any interest or right in or over it except with the consent of the Director.

### **35 Compulsory purchase of land in Scotland**

- (1) Subject to subsection (2) below, the Secretary of State may authorise a public telecommunications operator to purchase compulsorily any land in Scotland which is required by the operator for, or in connection with, the establishment or running of the operator's system or as to which it can reasonably be foreseen that it will be so required; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to any compulsory purchase under this section as if the operator were a local authority within the meaning of that Act and as if this section had been in force immediately before the commencement of that Act.
- (2) No order shall be made authorising a compulsory purchase under this section except with the consent of the Director.
- (3) The power of purchasing land compulsorily under this section includes power to acquire a servitude or other right over land by the creation of a new right.
- (4) The following provisions of the Town and Country Planning (Scotland) Act 1972 shall have effect in relation to land acquired compulsorily by a public telecommunications operator under this section as they have effect in relation to land acquired compulsorily by statutory undertakers under any other enactment, namely—
- (a) section 118 (provisions as to churches and burial grounds);
  - (b) section 119 (use and development of land for open spaces); and
  - (c) sections 219 to 221 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).
- (5) Where a public telecommunications operator has acquired land under this section, he shall not dispose of that land or of any interest or right in or over it except with the consent of the Director.

### **36 Compulsory purchase of land in Northern Ireland**

- (1) Where a public telecommunications operator proposes to acquire, otherwise than by agreement, any land in Northern Ireland required by him for, or in connection with, the establishment or running of his system or as to which it can reasonably be foreseen that it will be so required, he may, with the consent of the Director, apply to the Secretary of State for an order vesting that land in him and the Secretary of State shall have power to make such an order.
- (2) The power of acquiring land compulsorily under this section shall include power to acquire, by the creation of a new right, an easement or other right over land.
- (3) Where a public telecommunications operator has acquired any land under this section, he shall not dispose of it except with the consent of the Director.
- (4) For the purposes of the acquisition of land by means of a vesting order under this section, Schedule 6 to the Local Government Act (Northern Ireland) 1972 and Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972 are hereby incorporated in this Act subject to the modifications specified in subsection (5) below.

- (5) The said modifications are as follows—
- (a) for any reference in the said Schedule 6 to a council there shall be substituted a reference to the operator;
  - (b) for any reference in either Schedule to the Department there shall be substituted a reference to the Secretary of State;
  - (c) for any reference in either Schedule to the Act or Order in question there shall be substituted a reference to this Act;
  - (d) in paragraph 6(2) of the said Schedule 6, for the words from " the fund " onwards there shall be substituted the words " funds of the operator (in this Schedule referred to as ' the compensation fund') and shall be discharged by payments made by the operator "; and
  - (e) in paragraph 12(2) of that Schedule for the words " the clerk of the council " there shall be substituted the words " such person as may be designated for the purposes of this Schedule by the operator ".
- (6) The enactments for the time being in force relating to the assessment of compensation in respect of land vested in a district council by an order made under Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to any necessary modifications, apply in relation to any land vested in a public telecommunications operator by an order made under this section.
- (7) In this section " land " has the meaning assigned to it by section 45(1)(a) of the Interpretation Act (Northern Ireland) 1954.

### **37 Entry, for exploratory purposes, on land in England and Wales**

- (1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in England and Wales, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable for use by the operator for, or in connection with, the establishment or running of the operator's system.
- (2) Sections 280(9) and 281(1) to (3) and (6) of the Town and Country Planning Act 1971 (which contain supplementary provisions relating to the powers of entry conferred by section 280(1) to (8) thereof) shall have effect in relation to the power conferred by this section as they have effect in relation to the powers conferred by the said section 280, subject however to the following modifications, namely—
- (a) that section 280(9) (which relates to power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein) shall so have effect as if the words "or the presence of minerals therein " were omitted ; and
  - (b) that section 281(1) (which requires twenty-four hours' notice to be given of an intended entry upon occupied land) shall so have effect as if for the words " twenty-four hours " there were substituted the words " twenty-eight days ".
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to chattels, the operator shall make good the damage or pay to every person interested in the land or chattels compensation in respect of the damage; and where, in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or chattels, the operator shall pay to that person compensation in respect of the disturbance.

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- (4) Section 179 of the said Act of 1971 (which provides for the determination of disputes as to compensation under Part VIII of that Act) shall apply to any question of disputed compensation under this section.

### **38 Entry, for exploratory purposes, on land in Scotland**

- (1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in Scotland, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable for use by the operator for, or in connection with, the establishment or running of the operator's system.
- (2) Sections 265(8) and 266(1) to (3) and (6) of the Town and Country Planning (Scotland) Act 1972 (supplementary provisions as to powers of entry) shall have effect in relation to the power conferred by this section as they have effect in relation to the powers conferred by the said section 265, subject to the following modifications, namely—
- (a) that section 266(1) (twenty-four hours' notice to be given of an intended entry upon occupied land) shall so have effect as if for the words " twenty-four hours " there were substituted the words " twenty-eight days "; and
  - (b) that section 265(8) (power to search and bore for minerals etc.) shall so have effect as if the words " or the presence of minerals therein " were omitted.
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to corporeal moveables, the operator shall make good the damage or pay to every person interested in the land or corporeal moveables compensation in respect of the damage ; and where, in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or corporeal moveables, the operator shall pay to that person compensation in respect of the disturbance.
- (4) Any question arising under this section as to the effect of damage or as to the amount of compensation shall, in the case of dispute, be determined by arbitration, and the reference in such an arbitration shall be to a single arbiter to be appointed by agreement between the parties or, in default of an agreement, by the Secretary of State.

### **39 Entry, for exploratory purposes, on land in Northern Ireland**

- (1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in Northern Ireland, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable for use by the operator for, or in connection with, the establishment or running of the operator's system.
- (2) Section 40(2) to (5) and (8) of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (which contains supplementary provisions relating to the power of entry conferred by subsection (1) of that section) shall have effect in relation to the power conferred by this section as it has effect in relation to the power conferred by the said subsection (1), subject however to the following modifications, namely—
- (a) that section 40(2) (which relates to power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein) shall so have effect as if the words " or the presence of minerals therein " were omitted ; and

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- (b) that section 40(3)(b) (which requires three days' notice to be given of an intended entry upon occupied land) shall so have effect as if for the word "three" there were substituted the word "twenty-eight".
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to chattels, the operator shall make good the damage or pay to every person interested in the land or chattels, compensation in respect of the damage; and where in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or chattels, the operator shall pay to that person compensation in respect of the disturbance.
- (4) Section 31 of the said Act of 1965 (which provides for the determination of disputes as to compensation under Part III of that Act) shall apply to any question of disputed compensation under this section.

#### **40 Acquisition of land by agreement**

- (1) For the purpose of the acquisition by agreement by a public telecommunications operator of land in England and Wales the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 27 and section 31 shall apply.
- (2) For the purpose of the acquisition by agreement by a public telecommunications operator of land in Scotland, section 109(2) of the Town and Country Planning (Scotland) Act 1972 (incorporation of Lands Clauses Acts) shall, with any necessary modifications, apply for the purposes of this Act as it applies for the purposes of that Act.
- (3) For the purpose of the acquisition by agreement by a public telecommunications operator of land in Northern Ireland, the Lands Clauses Acts shall be incorporated with this Act except for sections 127 to 133 (sale of superfluous land) and sections 150 and 151 (access to the special Act) of the Lands Clauses Consolidation Act 1845.

#### **41 Purchase of Duchy of Lancaster land**

The Chancellor and Council of the Duchy of Lancaster may, if they think fit, agree with a public telecommunications operator for the sale, and absolutely make sale, for such sum of money as appears to them to be sufficient consideration for the same, of any land belonging to Her Majesty in right of the Duchy of Lancaster which the operator seeks to acquire for, or in connection with, the establishment or running of his system.