



# Civil Aviation Act 1949

1949 CHAPTER 67 12 13 and 14 Geo 6

## PART III

### AERODROMES AND OTHER LAND

#### *Ministers' power over land in connection with civil aviation*

#### **23 Power to acquire and manage land**

- (1) The Minister shall for purposes of civil aviation and any purpose connected with the discharge of his functions have the like power to acquire land or any right in or over land by agreement under the Military Lands Acts, 1892 to 1903, as has a Secretary of State, and those Acts shall have effect accordingly with the necessary modifications, and in particular as though references to a military purpose included references to any such purposes as aforesaid.
- (2) The Minister may also acquire by agreement otherwise than under the said Acts any land, any estate or other interest in land, or any right in or in relation to land.
- (3) The Minister may be authorised to acquire land compulsorily for any purpose connected with the discharge of his functions, and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect with respect to the compulsory purchase of land in England or Wales by the Minister under this section as if in subsection (1) of section one of that Act, after paragraph (b) thereof, there were inserted the following paragraph:—
  - “(c) by the Minister of Civil Aviation under section twenty-three of the Civil Aviation Act, 1949:”;

Provided that section three of that Act shall not have effect in relation to land acquired or proposed to be acquired by the Minister.

In this subsection the expression "land" includes any estate or other interest in land and any easement.

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(4) For the purpose of the compulsory purchase by the Minister, under the last foregoing subsection, of land in Northern Ireland, His Majesty may by Order in Council provide for extending the Acquisition of Land (Authorisation Procedure) Act, 1946, to Northern Ireland, subject to any adaptations, modifications and exceptions which may be provided for by the Order.

(5) The Minister shall have power to manage, sell, let or exchange any land vested in him and to pay or receive money in respect of equality of exchange :

Provided that nothing in this subsection shall be taken to affect the operation of section five of the Defence of the Realm (Acquisition of Land) Act, 1916 (which confers on a person from whom land was acquired under that Act a right of pre-emption in the case of the subsequent sale of that land) as respects any land acquired under that Act.

(6) The Minister shall have power to manage and (subject to the terms of the lease) to sublet any land taken on lease by him or assign the lease.

(7) Where any person having an interest in land (hereinafter referred to as " the grantor ") grants or agrees to grant to the Minister any right (whether in perpetuity or for any other period and whether capable of subsisting as a legal estate or not) in or in relation to that land (including a right to enter upon that land, a right to carry out and maintain works on that land, a right to instal or maintain structures or apparatus on, under, over or across that land, and a right restrictive of the user of that land), the grant or agreement shall be binding upon any person deriving title or otherwise claiming under the grantor to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon that person apart from the provisions of this subsection.

This subsection shall, in its application to Scotland, have effect as if after the words " the grant or agreement shall" there were inserted the words " on being recorded in the appropriate register of sasines

(8) His Majesty may by Order in Council apply in relation to the Minister, with any necessary modifications or adaptations, the enactments specified in subsection (9) of this section so as to confer on the Minister all such powers, rights and privileges—

- (a) in relation to the acquisition and holding of land for the purpose of discharging any of his functions, and
- (b) in relation to the management, use and disposal in any manner of land acquired for that purpose,

as under the said enactments are, by virtue of any Order in Council made under section thirteen of the Air Force (Constitution) Act, 1917, for the time being vested in the Secretary of State for Air in relation to the acquisition and holding of land for the use of the Air Force or for air force services or purposes and, in relation to the management, use and disposal of land acquired for use of the Air Force or for air force services or purposes.

(9) The said enactments are—

- (a) section six of the Defence Act, 1842 ;
- (b) sections two and five of the Ordnance Board Transfer Act, 1855;
- (c) the Defence Acts Amendment Act, 1873 ;
- (d) section two hundred and fifty-four of the Municipal Corporations Act, 1882;
- (e) Part II of the Military Lands Act, 1892.

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- (10) An Order in Council made under subsection (8) of this section may provide that any enactment applied by the Order shall be deemed always to have been so applied.
- (11) Part VI of this Act applies to this section.

## **24 Power to obtain rights over land**

- (1) The Minister may, if he is satisfied that it is expedient so to do in order to secure the safe and efficient use for civil aviation purposes of any land which is vested in him or which he proposes to acquire, or in order to secure the provision of any services required in relation to any such land, or in order to secure that civil aircraft may be navigated with safety and efficiency, by order provide for the creation in his favour of easements over land, or of other rights in or in relation to land, including rights to carry out and maintain works on any land and to instal and maintain structures and apparatus on, under, over or across any land.
- (2) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order, including, in particular, provisions for authorising persons to enter upon land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.
- (3) No person shall, in the exercise of a power conferred by any such order, enter upon land which is occupied, unless, not less than seven days before the day upon which the entry is made, there has been served upon the occupier of the land a notice stating that an entry will be made upon the land upon that day in the exercise of powers conferred by the order, and specifying the purposes for which the entry will be made:

Provided that nothing in this subsection shall restrict the right of any person to enter upon land in a case of emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works, structures or apparatus.

- (4) Where any land is damaged in the exercise of any power of entry conferred by any such order, the Minister shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.
- (5) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed to, any land in pursuance of any such order; and, so long as any such order is in force, no person shall, except with the consent of the Minister, wilfully interfere with any works carried out on any land in pursuance of the order, or with anything installed on, under, over or across any land in pursuance of the order.
- (6) Subject to the special provisions of this Part of this Act relating to statutory undertakers, the provisions of the First Schedule to this Act shall have effect with respect to orders under this section.
- (7) Where an order under this section provides for the creation of an easement over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any other right in or in relation to such land, then, if on a representation made to the appropriate Minister before the expiration of the time within which objections to the order may be made the appropriate Minister is satisfied that the easement or right

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could not be enjoyed without serious detriment to the carrying on of the undertaking, and certifies accordingly, the order shall be subject to special parliamentary procedure.

This subsection shall not extend to Northern Ireland.

- (8) If any person contravenes the provisions of subsection (5) of this section he shall be liable on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding five hundred pounds or to both ; and every person who wilfully obstructs any person in the exercise of any power of entry conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding one hundred pounds.
- (9) Proceedings under this section for an offence shall not, in England or Wales, be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland, be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.
- (10) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression " director" includes any person occupying the position of director, by whatever name called.

## **25 Power to prohibit or restrict use of civil aerodromes**

- (1) The Minister may by order impose such prohibitions or restrictions on the use of any area of land or water as a place for the arrival and departure of civil aircraft as he thinks expedient for the purpose of securing that aircraft may arrive and depart with safety at any aerodrome vested in him or under his control:

Provided that nothing in this subsection shall authorise the imposition of any such prohibition or restriction in relation to tidal waters beyond those of the territorial waters of His Majesty's dominions which are adjacent to the United Kingdom.

- (2) The provisions of Part I of the First Schedule to this Act shall have effect in relation to any order made under this section other than an order for the imposition of prohibitions or restrictions on the use of water; and in the case of an order for the imposition of prohibitions or restrictions on the use of water—
- (a) the Minister shall, before making the order, publish notice of his intention to make the order in such manner as he thinks best calculated to bring his intention to the notice of persons who will be affected thereby; and
  - (b) the Minister shall, immediately after the order has been made, publish in one or more newspapers circulating in the district to which the order relates a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours, and shall serve a like notice upon any person who in his opinion will be affected thereby.

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- (3) The provisions of Part II of the First Schedule to this Act and the provisions of the Second Schedule to this Act shall have effect with respect to orders under this section :

Provided that where any aerodrome was first established as such after the passing of the Civil Aviation Act, 1946 (that is to say, the first day of August, nineteen hundred and forty-six), no compensation shall be payable by reason of the imposition under this section of prohibitions or restrictions upon the use of that aerodrome unless it was so established with the consent of the Minister.

- (4) Any person who contravenes the provisions of any order under this section shall be liable in respect of each offence—
- (a) on summary conviction thereof to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both; and
  - (b) on conviction thereof on indictment, to a fine not exceeding one thousand pounds or to imprisonment for a period not exceeding two years or to both.

- (5) Any offence against any order under this section committed on tidal waters outside the ordinary jurisdiction of a court of summary jurisdiction may be tried and punished by such a court as if it had been committed in the nearest part of the United Kingdom which is within the ordinary jurisdiction of such a court:

Provided that nothing in this subsection shall in its application to Scotland be construed as conferring jurisdiction on any court of summary jurisdiction other than the sheriff court.

- (6) Proceedings for an offence against any order under this section shall not, in England or Wales be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.

- (7) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression " director" includes any person occupying the position of director, by whatever name called.

- (8) In this section the expression " aerodrome " includes part of an aerodrome.

## **26 Power to exercise control over land in the interests of civil aviation**

- (1) The Minister may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for civil aviation purposes of any land, structures, works or apparatus vested in him, or which he proposes to acquire or instal, by order declare that any area of land specified in the order shall be subject to control by directions given in accordance with the provisions of this section.

- (2) Where any such order is in force, the Minister may, in pursuance of any general or special authority given by the order, give directions—

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- (a) for requiring the total or partial demolition of any building or structure within the area to which the order relates ;
  - (b) for restricting the height of trees upon any land within the area, or for requiring any tree upon any such land to be cut down or reduced in height;
  - (c) for extinguishing any private right of way over land within the area;
  - (d) for restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, under or over any land within the area ;
  - (e) for extinguishing, at the expiration of such period as may be determined by the directions, any subsisting right of installing or maintaining any such apparatus as aforesaid upon, across, under or over any land within the area;
  - (f) for requiring that, before the expiration of such period as may be determined by the directions, any such apparatus shall be removed from any land within the area.
- (3) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order, including, in particular, provisions for empowering any person authorised in that behalf by the Minister, to remove, pull down, cut down, or alter so as to bring into conformity with the requirements of any directions given under the order, any building, structure, tree or apparatus which contravenes those requirements.
- (4) Any such order, other than an order relating to land in Northern Ireland, shall be subject to special parliamentary procedure.
- (5) Before making any order under this section, the Minister shall consult, every local authority within the area of which the whole or any part of the area of land to which the proposed order will relate is situated.

Notwithstanding anything in subsection (1) of section two of the Statutory Orders (Special Procedure) Act, 1945, the duty of the Minister to comply with the requirements of this subsection in relation to England or Wales shall not excuse him from the duty of complying with the requirements of the First Schedule to that Act.

- (6) Subject to the special provisions of this Part of this Act relating to statutory undertakers, the provisions of the Third Schedule to this Act shall have effect with respect to directions given under an order made under this section.
- (7) The powers of the Minister under this section shall not prejudice his power to acquire land for the purpose of securing the observance of any requirement or restriction which might have been imposed in relation to the land under this section.

## **27 Indication of presence of obstructions near licensed aerodromes**

- (1) If the Minister is satisfied, with respect to any building, structure or erection in the vicinity of an aerodrome to which this section applies that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may by order authorise (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions,—
- (a) to execute, instal, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order, and

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- (b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order:

Provided that no such order shall be made in relation to any building, structure or erection if it appears to the Minister that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

- (2) The Minister shall, before making any such order as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order; and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Minister thinks proper.
- (3) Every such order as aforesaid shall provide—
  - (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner prescribed by the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the order; and
  - (b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Minister;and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the Lord Chief Justice ; and, for the purposes of this subsection, any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.
- (4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid; and (subject to the provisions of the next following subsection) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the

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knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.

If any person contravenes the foregoing provisions of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both ; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

- (5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building; structure or erection:

Provided that—

- (a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and
  - (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.
- (6) The following provisions shall have effect for the protection of statutory undertakers:
- (a) any order made under this section affecting any property held by such undertakers for the purposes of their undertaking shall be so framed as to avoid interference with the proper carrying on of the undertaking ;
  - (b) no person shall, except in a case of emergency, enter, in pursuance of such an order, upon any land held by such undertakers for the purposes of their undertaking, unless he has given to the undertakers at least three clear days' notice of his intention so to do, and any person so entering on any such land shall comply with any reasonable directions given to him by or on behalf of the undertakers for preventing interference with the proper carrying on of the undertaking;
  - (c) if any such undertakers show that, by reason of the operation of such an order, they have been obliged to take special measures for the purpose of ensuring the safety of persons so entering on any such land or otherwise acting under the order in relation to any property of the undertakers, the amount of any expenses reasonably incurred by the undertakers in taking such measures shall be paid to them by the proprietor of the aerodrome to which the order relates, and any dispute as to whether any sum is payable under this paragraph, or as to the amount of any sum so payable, shall, unless the parties otherwise agree, be referred for determination to a single arbitrator appointed by the Lord Chief Justice.

Nothing in this subsection shall be taken to affect the general application of subsection (3) of this section.

- (7) In this section—

- (a) the expression " aerodrome to which this section applies " means any premises which, by virtue of an Order in Council made under section eight of this Act, are for the time being licensed as an aerodrome for public use, but does not include any premises belonging to the Secretary of State or the Minister; and
- (b) the expression " proprietor of the aerodrome " means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises.



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(8) Part VI of this Act applies to this section.

## **28 Power of Minister of Transport to stop up and divert highways, etc., in the interests of civil aviation**

- (1) The Minister of Transport may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for civil aviation purposes, including the testing of aircraft designed for civil aviation, of any land vested in the Minister of Civil Aviation or the Minister of Supply, or of any land which the Minister of Civil Aviation or the Minister of Supply proposes to acquire, by order authorise the stopping up or diversion of any highway.
- (2) An order under subsection (1) of this section may provide for all or any of the following matters, that is to say—
- (a) for securing the provision or improvement of any highway so far as the Minister of Transport thinks such provision or improvement necessary or desirable in consequence of any such stopping up or diversion as aforesaid ;
  - (b) for directing that any highway to be provided or improved in pursuance of the order shall be repairable by the inhabitants at large, and for specifying the authority which is to be the highway authority therefor;
  - (c) for directing that any highway to be provided or improved in consequence of the stopping up or diversion of a trunk road under the order shall itself be a trunk road for all or any of the purposes of the enactments relating to trunk roads ;
  - (d) for the retention or removal of any cables, mains, pipes, wires or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;
  - (e) if any highway is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;
  - (f) for requiring the Minister of Transport or any other specified authority or person—
    - (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work ; or
    - (ii) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act, 1935, as respects any highway stopped up or diverted under the order.
- (3) An order under subsection (1) of this section may contain such consequential, incidental and supplemental provisions as appear to the Minister of Transport to be necessary or expedient for the purposes of the order.
- (4) Any such order shall be subject to special parliamentary procedure.

The First Schedule to the Statutory Orders (Special Procedure) Act, 1945 (which sets out the notices to be given and the other requirements to be complied with before an

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order is made) shall apply in relation to orders made under this section, but shall, as it applies in relation to those orders, have effect as if paragraph 1 of the said Schedule included provisions:—

- (a) requiring notice of the order as proposed to be made to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order ;
- (b) requiring notice of the order as proposed to be made to be sent to every local authority in whose area any highway to be stopped up or diverted under the order, or any highway to be provided or improved under the order, is or will be situated ; and
- (c) requiring notice of the order as proposed to be made to be served upon any water, gas or electricity undertakers having any cables, mains, pipes or wires laid along, across, under-or over any highway to be stopped up or diverted under the order.

In this subsection the expression " local authority " includes a parish council and the parish meeting of a rural parish not having a separate parish council.

- (5) The powers of the Minister of Transport under subsection (1) of this section shall include power to make an order authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Minister of Transport by any other enactment to authorise the stopping up or diversion of a highway.
- (6) The Minister of Transport may be authorised to purchase land compulsorily for the purpose of providing or improving any highway which, is to be provided or improved in pursuance of an order under subsection (1) of this section, or for any other purpose for which land is required in connection with such an order; and, in relation to land in England or Wales, the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, except section two thereof, shall have effect as if, at the end of paragraph (b) of subsection (1) of section one thereof, there were inserted the words " or under section twenty-eight of the Civil Aviation Act, 1949 ".
- (7) In the application of this section to Scotland—
  - (a) for paragraph (b) of subsection (2) there shall be substituted the following paragraph—
    - “(b) for directing that any highway to be provided or improved in pursuance of the order shall be maintained and managed by a county or town council and for specifying the council which is to be responsible for such maintenance and management;”
  - (b) in subsection (4) for the references to the First Schedule to the Statutory Orders (Special Procedure) Act, 1945, and paragraph 1 thereof there shall be substituted respectively references to section two of that Act as it applies to Scotland and to subsection (1) of that section, and the words from " In this subsection " to the end of the subsection shall be omitted.
- (8) The powers exercisable by the Minister of Transport under this section shall, as regards land in Northern Ireland, be exercisable by the Ministry of Commerce for Northern Ireland; and accordingly the references to the Minister of Transport in this section, shall, in relation to land in Northern Ireland, be construed as references to the Ministry of Commerce for Northern Ireland:

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Provided that this section shall, in its application to Northern Ireland as aforesaid, have effect as if—

- (a) for the words "repairable by the inhabitants at large" in paragraph (b) of subsection (2) there were substituted, the words "maintainable at the cost of a county or county district as the case may be";
- (b) sub-paragraph (ii) of paragraph (f) of subsection (2) were omitted;
- (c) subsection (4) were omitted;
- (d) the following subsection were substituted for subsection (6)—

“(6) The powers of compulsory acquisition of land exercisable by the Ministry of Commerce for Northern Ireland under subsection (3) of section thirty-four of the Roads Act (Northern Ireland), 1948, shall include the power to acquire lands compulsorily in accordance with the provisions of the said subsection, for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under subsection (1) of this section or for any other purpose for which land is required in connection with such an order, and the said Act shall have effect accordingly.

The powers conferred on the said Ministry by this subsection shall be exercisable in relation to any land notwithstanding that such land is the property of a statutory undertaker or is declared by any other enactment to be inalienable”.

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

- (1) Where a Minister has, under or in pursuance of this Part of this Act, made an order—
  - (a) authorising the compulsory purchase of land;
  - (b) providing for the creation in his favour of easements over land or of other rights in or in relation to land; or
  - (c) declaring that any area of land shall be subject to control by directions;

or has under consideration the making of any such order, any person authorised in writing by that Minister may at all reasonable times, on producing, if so required, evidence of his authority in that behalf, enter upon any of that land in order to make any survey which the Minister requires to be made for the purpose of any steps to be taken in consequence of the order or, as the case may be, for the purpose of determining whether the order should be made:

Provided that admission shall not, by virtue of this subsection, be demanded as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been served on the occupier.

- (2) If any person obstructs a person so authorised as aforesaid in the exercise of any power conferred by this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (3) Proceedings under this section for an offence shall not, in England or Wales, be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland, be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.

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- (4) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director" includes any person occupying the position of director, by whatever name called.

- (5) Where any land is damaged in the exercise of a power of entry conferred in pursuance of an authority given under this section, or in the making of any survey for the purpose of which any such power of entry has been so conferred, the Minister by whom the authority was given shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

### **30 Special provisions relating to statutory undertakers**

- (1) Subject to the provisions of this section, the compensation to be paid to a statutory undertaker—
- (a) in respect of the compulsory purchase, in pursuance of this Part of this Act, otherwise than under section nineteen, of any land held by the undertaker for the purposes of the carrying on of his undertaking;
  - (b) in respect of the creation, by virtue of an order made under this Part of this Act, otherwise than under section nineteen, of any easement over any such land or of any other right in or in relation to such land;
  - (c) in respect of any direction under section twenty-six of this Act which affects any building, structure or apparatus held or used by him for the purposes of his undertaking, or which affects any of his rights to instal or maintain apparatus for those purposes, or which affects any right of way enjoyed by him for those purposes;

shall in default of agreement be assessed by the arbitration of the tribunal constituted in accordance with the provisions of Part II of the Fourth Schedule to the Town and Country Planning Act, 1944, and the amount of the compensation shall be an amount calculated in accordance with the provisions of paragraph 2 of that Schedule:

Provided that, as respects compensation in respect of a compulsory purchase, if, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried on, that person gives notice in writing to the Minister by whom the order was made that he elects that, as respects all or any of the land comprised in the purchase, the compensation shall be ascertained in accordance with the enactments, other than Rule (5) of the Rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, which would be applicable apart from the provisions of this subsection, the compensation shall be so ascertained.

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- (2) The said paragraph 2 shall have effect for the purposes of this section as if, in sub-paragraph (1) thereof, the words " under section twenty-five of this Act" were omitted, as if, at the end of the said sub-paragraph, there were inserted the following words—
- “(e) in the case of compensation in respect of the imposition of a requirement to demolish a building or structure either wholly or in part, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirement, reduced by the value to that person of any materials derived from the demolished building or structure, or from the demolished part of the building or structure, as the case may be;”
- and as if, in sub-paragraph (4) thereof, any reference to the imposition of a requirement included a reference to anything which may be done by virtue of an order made under this Part of this Act.
- (3) The foregoing provisions of this section as to the assessment of compensation shall not have effect—
- (a) in the case of the compulsory purchase of land, unless the appropriate Minister has, upon a representation made to him before the expiration of the time within which objections may be made to the compulsory purchase order, certified that the land is in respect of its nature or situation of such a kind that it is comparable less with the generality of land than with land held for the purpose of the carrying on of statutory undertakings;
- (b) in the case of the creation of any easement over land or any other right in or in relation to land, unless the appropriate Minister has, upon a representation made to him before the expiration of the time within which objections may be made to the order providing for the creation of that easement or right, certified that the land in question is of such a kind as aforesaid ; and
- (c) in the case of any direction which affects a building or structure, unless the appropriate Minister has, upon a representation made to him before the expiration of the time within which an application may be made to the court with respect to the direction in accordance with the provisions of Part II of the First Schedule to this Act, certified that the building or structure is in respect of its nature or situation comparable less with the generality of buildings or structures than with buildings or structures held for the purpose of the carrying on of statutory undertakings.
- (4) The provisions of the Fourth Schedule to this Act (being provisions substantially corresponding to sections twenty-six and twenty-seven of the Town and Country Planning Act, 1944 and to sections twenty-five and twenty-six of the Town and Country Planning (Scotland) Act, 1945) shall have effect for the purpose of making any adjustments of the functions of statutory undertakers which may be necessary in consequence Of the provisions of this Part of this Act:
- Provided that the references in that Schedule to an order made in pursuance of this Part of this Act shall not include a reference to any order made in pursuance of subsection (2) of section nineteen.
- (5) In the application of this section to Scotland references to the Town and Country Planning (Scotland) Act, shall be substituted for references to the Town and Country Planning Act, 1945, but the references to enactments therein shall be the same except that in subsection (2) of this section for the words " section twenty-five " there shall be substituted the words " section twenty-four ".

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(6) This section shall not extend to Northern Ireland.

### **31 Displacements from land**

(1) Where the Minister has acquired land for purposes connected with the discharge of his functions, or gives a direction in relation to any land under section twenty-six of this Act, and the use of the land by the Minister for those purposes, or, as the case may be, the execution of the direction, will involve the displacement of persons residing in premises on the land, it shall be the duty of the Minister, in so far as there is not other residential accommodation available on reasonable terms to the persons who require it in consequence of the displacement, being residential accommodation suitable to the reasonable requirements of those persons, to secure the provision of such accommodation in advance of the displacement:

Provided that the Minister shall not be required by virtue of this subsection to secure the provision of accommodation in advance of a displacement if he is satisfied that for reasons of exceptional public importance it is essential that the displacement should be effected before such accommodation as aforesaid can be found.

(2) Where upon the determination of any tenancy the Minister is entitled to possession of any building, or any part of a building, then, whatever may be the value or rent of the building or part of a building, the Minister may obtain possession thereof under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, at any time after the tenancy has expired or has been determined.

(3) The Minister may pay:—

- (a) to any person who is displaced in order that land may be used by the Minister for purposes connected with the discharge of his functions, such reasonable allowance as the Minister thinks fit towards the expenses of that person in removing;
- (b) to a person carrying on any business in a building from which he is so displaced, such reasonable allowance (in addition to any allowance paid under the foregoing paragraph) as the Minister thinks fit towards the loss which, in the opinion of the Minister, that person will sustain by reason of the disturbance to his business consequent upon his having to quit the building.

In estimating any such loss as aforesaid the Minister shall have regard to the period for which the premises occupied by the person displaced might reasonably have been expected to be available for the purpose of his business, and to the availability of other premises suitable for that purpose.

(4) Where the Minister of Transport or the Ministry of Commerce for Northern Ireland acquires land in pursuance of this Part of this Act, the provisions of this section shall have effect in relation to that land as if the references therein to the Minister were references to the Minister of Transport or the said Ministry, as the case may be, and as if the references therein to purposes connected with the discharge of the functions of the Minister were references to the purposes for which the land is so acquired by the Minister of Transport or the said Ministry, as the case may be.

(5) In the application of subsection (2) of this section to Scotland, for the words from " whatever ", to the end of the subsection there shall be substituted the words " at any time after the tenancy has expired or has been determined, the Minister may serve notice on the occupier of the building or part of the building requiring him to remove therefrom within a period of twenty-one days ; and on the expiry of that period a

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certified copy of the notice to remove shall be sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with the notice ".

- (6) In the application of subsection (2) of this section to Northern Ireland, the reference to the Small Tenements Recovery Act, 1838, shall be construed as a reference to Part IV of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935.

### **32 Consecrated land and burial grounds**

- (1) Section twenty-eight of the Town and Country Planning Act, 1944, and section twenty-seven of the Town and Country Planning (Scotland) Act, 1945 (which relate to consecrated land and burial grounds) shall, as respectively amended by the Town and Country Planning Act, 1947, and the Town and Country Planning (Scotland) Act, 1947, have effect in relation to any land acquired by the Minister as if the Minister had acquired that land under Part IV or Part III of the said Acts of 1947, as the case may be:

Provided that the power of making regulations for the purposes of the said sections as applied by this section shall be exercisable by the Minister, and accordingly the references in subsection (3) of the said section twenty-eight to " the Minister " and the references in subsection (2) of the said section twenty-seven to the Secretary of State shall be construed as including references to the Minister of Civil Aviation.

- (2) Any statutory instrument containing regulations made by the Minister by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) When land has been acquired by the Minister of Transport in pursuance of this Part of this Act, the foregoing provisions of this section shall have effect as if the land had been acquired by the Minister of Civil Aviation, but with the substitution of references to the Minister of Transport for references to the Minister of Civil Aviation.
- (4) This section shall not extend to Northern Ireland.

### **33 Registration of certain orders in the register of local land charges**

- (1) As soon as may be after any of the following instruments, that is to say—
- (a) an order under section twenty-four of this Act;
  - (b) an order under section twenty-five of this Act, other than an order for the imposition of prohibitions or restrictions on the use of water; or
  - (c) an order under section twenty-six of this Act or any direction given under such an order ;

becomes operative, it shall be registered in the prescribed manner in the register of local land charges by the proper officer of any local authority in whose area the land to which the instrument relates, or any part of that land, is situated.

In this subsection the expression " local authority " means the council of a county and the council of a county borough.

- (2) As soon as may be after such an instrument has become operative it shall be the duty of the Minister to notify that fact to the proper officer of the local authority by whom the instrument is required to be registered as aforesaid, and to furnish to him all necessary information relating to the instrument.

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- (3) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this section, and in this section the expression "prescribed" means prescribed by rules made in the exercise of that power.
- (4) The foregoing provisions of this section shall not apply in Scotland, but where any such instrument as is mentioned in subsection (1) becomes operative, it shall be recorded in the appropriate register of sasines, and on being so recorded shall be enforceable against any person having or subsequently acquiring any estate or interest in the land to which the order or direction relates.
- (5) The foregoing provisions of this section shall not apply to Northern Ireland but where any such instrument as is mentioned in subsection (1) adversely affects land in Northern Ireland, then—
  - (a) if the land is registered land to which the Local Registration of Title (Ireland) Act, 1891, applies, the instrument on the lodgment by the Minister of a copy thereof with the Registrar of Titles shall, notwithstanding anything in the said Act or rules made thereunder be registered as a burden affecting the land and created after the first registration of the land, and may be so registered without the concurrence of the registered owner of the land or the production of the land certificate, without prejudice, however, to the power of the registering authority to order the production of the land certificate under subsection (2) of section eighty-one of the said Act; and
  - (b) if the land is not registered land to which the said Act applies, the instrument shall, on lodgment by the Minister of a copy thereof with the Registrar of Deeds for Northern Ireland, be registered in the Registry of Deeds, Northern Ireland, as an instrument affecting the lands to which the instrument relates.

### 34 Notices

- (1) Any notice required to be served on any person for the purposes of this Part of this Act may be served on him either by delivering it to him, or by leaving it at his proper address, or by post, so however that the notice shall not be duly served by post unless it is sent by registered letter.
- (2) Any such notice required to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body.
- (3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such notice as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served :

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

- (4) If it is not practicable after reasonable inquiry to ascertain the name or address of any owner, lessee or occupier of land on whom any such notice as aforesaid is to be served, the notice may be served by addressing it to him by the description of "owner," "lessee" or "occupier" of the land (describing it) to which the notice relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.



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- (5) In the application of this Part of this Act to Scotland, any provision therein requiring notice to be served on the owners, lessees, or occupiers of any land shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll to have an interest in the land, and any reference in this Part of this Act to owners, lessees, or occupiers shall be construed accordingly.

Service of a notice on a person so appearing to have an interest may be effected by sending the notice in a registered letter addressed to him at his address as entered in the valuation roll.

### **35 Exemptions from stamp duty**

- (1) Stamp duty shall not be payable on any conveyance of land, or on any instrument creating or disposing of any right in or in relation to land, being a conveyance or instrument to which the Minister of Civil Aviation is a party, if the Minister of Civil Aviation certifies that the duty would fall to be defrayed as part of his expenses.
- (2) Stamp duty shall not be payable on any conveyance of land to which the Minister of Transport or the Ministry of Commerce for Northern Ireland is a party, if the Minister of Transport or that Ministry, as the case may be, certifies that the conveyance is made for the purpose of this Part of this Act, and that the duty would fall to be defrayed as part of his expenses.
- (3) For the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of the Parliament of Northern Ireland to make laws) the foregoing provisions of this section shall be deemed to be provisions of an Act passed before the appointed day.

### **36 Compensation of officers**

- (1) The Minister shall by regulations provide for securing that where after the passing of the Civil Aviation Act, 1946, he acquires an aerodrome the following persons that is to say—
- (a) any person who immediately before the acquisition was employed by the aerodrome undertaking in full-time service wholly or mainly connected with the maintenance or use of the aerodrome; and
  - (b) any person who, having been employed by the aerodrome undertaking before the acquisition in such service as is mentioned in the preceding paragraph, would have been within that paragraph but for any war service in which he has been engaged ;

shall, in such cases, to such extent and subject to such conditions as the Minister thinks proper, be entitled to receive compensation from the Minister for damage sustained by them in respect of their employment or their opportunities of re-employment, being damage attributable to the acquisition of the aerodrome.

- (2) Regulations made under this section may include such incidental, consequential and supplemental provisions, including provisions with respect to the procedure for determining questions, as the Minister thinks expedient for the purposes of the regulations.
- (3) No regulations shall be made under this section unless a draft of the instrument containing the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.

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- (4) In this section the expression " war service " means service in any of His Majesty's forces and such other employment as may be prescribed by regulations made under this section.