



New Towns Act (Northern Ireland) 1965

1965 CHAPTER 13

DEVELOPMENT FUNCTIONS OF NEW TOWN COMMISSIONS

25 Extinguishment by new town commissions of public rights of way.

- (1) Subject to the provisions of this section, a new town commission may, by an order made with the approval of the Ministry, extinguish any public right of way which exists over—
 - (a) any land which the new town commission have acquired or have resolved to acquire; or
 - (b) any land in the area designated under section 1 as the site of the new town, where the new town commission are satisfied that the extinguishing of the right of way is necessary for the proper development of the land.
- (2) An order under this section shall be published in the prescribed manner, and objections to it may be made to the Ministry before the expiration of a period of six weeks from its publication.
- (3) The Ministry may, at any time after the expiration of the said period of six weeks, approve the order with or without modification or refuse to approve the order, but shall not, until a local inquiry is held into the matter, approve an order to which any objection is made in accordance with subsection (2) and is not withdrawn.
- (4) An order under this section shall take effect—
 - (a) in the case of an order under subsection (1)(*a*), on the date on which the land is acquired or on such date subsequent thereto as the Ministry in approving the order may direct; or
 - (b) in the case of an order under subsection (1)(*b*), on such date as the Ministry in approving the order may direct.
- (5) An order made under this section may contain any such provision as, by virtue of section 17(3)(*c*) of the Roads Act (Northern Ireland) 1948 (retention or removal of cables, etc.), may be contained in an order made under that section on the stopping up or abandonment of a road; and subsection (5) of the said section 17, and section 41 of the said Act of 1948 (Crown rights), shall apply to an order made under this section as

Status: Point in time view as at 01/01/2006.

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they apply to an order made under the said section 17, as if for the references therein to the [^{F1} Ministry] there were substituted references to the new town commission.

- (6) Where, by virtue of subsection (5), by an order made under this section—
- (a) any person is required to carry out any works; or
 - (b) any right such as is described in section 17(3)(c) of the said Act of 1948 is extinguished or modified,

the new town commission shall pay compensation to that person or, as the case may be, in respect of the extinction or modification of that right; and if any question of disputed compensation arises that question shall be referred to and determined by the Lands Tribunal for Northern Ireland.

- (7) If any person who is required by an order made under this section to carry out any works refuses or, within any reasonable period of time specified in a notice served upon him by the new town commission for the purposes of this subsection, fails to do so, the new town commission may carry out those works and the expenses incurred by them in so doing shall, without prejudice to any other remedy, but subject always to subsection (6), be recoverable by them from that person summarily as a debt.

- (8) When a new town commission propose to make an order under subsection (1)(b) with respect to any land, they may enter into an agreement with any person who has an estate in the land as to the conditions subject to which the order is to be made, and the agreement may, in particular, make provision for—

- (a) the dedication by any such person of any land as a public right of way in place of the right of way proposed to be extinguished by the order; and
- (b) the payment to the new town commission by any such person of sums equivalent to—
 - (i) any sum payable by the new town commission in relation to the land by way of compensation under subsection (6); and
 - (ii) the amount of any costs and expenses reasonably incurred by the new town commission either in making the order or by reason of the reference to the Lands Tribunal for Northern Ireland, under subsection (6), of any question as to compensation such as is referred to in sub-paragraph (i).

- (9) The powers conferred by this section shall be in addition to and not in derogation of any powers for the stopping up or abandonment of roads under section 17 of the said Act of 1948.

[^{F2}(9A) Where in pursuance of an order under this section a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation there is under, in, on, over, along or across the land any [^{F3} electronic communications apparatus] kept installed for the purposes of a [^{F3} an electronic communications code network], the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way existed shall be entitled to require the alteration of the apparatus.

- (9B) Where the Department has approved an order under this section in respect of any right of way in circumstances in which subsection (9A) applies in relation to the operator of [^{F3} any electronic communications code network], the Department shall send a copy of the order to the operator.

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- (9C) Paragraph 1(2) of^{F3} the electronic communications code] (alteration of apparatus to include moving, removal, or replacement of apparatus) shall apply for the purposes of subsection (9A) as it applies for the purposes of that code.
- (9D) Paragraph 21 of^{F3} the electronic communications code] (restriction on removal of^{F3} electronic communications apparatus]) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any^{F3} electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.]
- (10) For the purposes of this section a customary right of way shall be deemed to be a public right of way.

F1	SRO (NI) 1973/285
F2	1984 c. 12
F3	2003 c. 21

Status:

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