
STATUTORY INSTRUMENTS

1994 No. 426

The Airports (Northern Ireland) Order 1994

PART II

**POWERS IN RELATION TO LAND EXERCISABLE
IN CONNECTION WITH AIRPORTS**

Supplementary

Provisions as to [F1electronic communications apparatus]

12.—(1) [F2Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (undertaker's works) shall apply for the purposes—

- (a) of any work in pursuance of an order or direction under Article 7 or 8;
- (b) of anything done with respect to a road in pursuance of an order under Article 10 to which paragraph (2) applies,

to the person doing that work or, as the case may be, the Department; and, in the case of any such order as is mentioned in sub-paragraph (b), any person having an estate in land over which the road passes shall be entitled to require the alteration of the [F1 electronic communications apparatus] in question.

(2) This paragraph applies to an order under Article 10 where the order provides—

- (a) for the stopping up or diversion of the road; or
- (b) unless the road is a trunk road [F3or special road], for the improvement of the road,

and immediately before the order comes into operation any [F1electronic communications apparatus] is kept installed for the purposes of [F1 an electronic communications code network] under, in, on, over, along or across the road.

(3) Subject to the preceding provisions of this Article, the operator of [F1 an electronic communications code network] shall, in a case falling within paragraph (2)(a), have the same rights in respect of any apparatus kept installed for the purposes of [F1 that network] as if the order had not come into operation.

[F3(3A) [F4Part 10] of [F1the electronic communications code] shall not apply by virtue of paragraph (2)(b) in relation to the alteration of any[F1 electronic communications apparatus] where the alteration is for the purpose of major work works, major bridge works or major transport works within the meaning of the Street Works (Northern Ireland) Order 1995.]

(4) [F5Paragraph 68] of [F1 the electronic communications code] (offence) shall be deemed to be omitted for the purposes of the application by this Article of [F6Part 10 of the code] to the Department.

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(5) Paragraph [F7108(2)] of [F1 the electronic communications code] (alteration of apparatus to include moving, removal or replacement or apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purposes of the code.

(6) [F8Part 6 of the electronic communications code (rights to require removal of apparatus)] shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any [F1 electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.

F9(7)

F1	2003 c. 21
F2	Words in art. 12(1) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(2) ; S.I. 2017/1286, reg. 2(d)
F3	1995 NI 19
F4	Words in art. 12(3A) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(3) ; S.I. 2017/1286, reg. 2(d)
F5	Words in art. 12(4) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(4)(a) ; S.I. 2017/1286, reg. 2(d)
F6	Words in art. 12(4) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(4)(b) ; S.I. 2017/1286, reg. 2(d)
F7	Word in art. 12(5) substituted (28.12.2017 immediately after Digital Economy Act 2017 (c. 30) , Sch. 3 comes into force) by The Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Primary Legislation) Regulations 2017 (S.I. 2017/1285), reg. 1(1), Sch. 1 para. 30(2)
F8	Words in art. 12(6) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(6) ; S.I. 2017/1286, reg. 2(d)
F9	Art. 12(7) repealed (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by The Communications Act 2003 c. 21, Sch. 19(2) ; S.I. 2003/1990; S.I. 2003/3142; and art. 12(7) omitted (28.12.2017) in so far as it is still in force by virtue of Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(7) ; S.I. 2017/1286, reg. 2(d)

Compensation payable by airport operators

13. Schedule 3 shall have effect in relation to the payment by airport operators of compensation to persons affected by the operation of certain provisions of this Part.

Compensation in respect of planning decisions relating to safety of airports

14.—(1) This Article applies to any licensed airport.

(2) The Department shall be entitled to recover from the airport operator of an airport to which this Article applies a sum equal to any compensation which the Department has become liable to pay, if—

- (a) it has become so liable under Part II or III of the Land Development Values (Compensation) Act (Northern Ireland) 1965^{F10} or under [F11Part 6 of the Planning Act (Northern Ireland) 2011]; and
- (b) the liability is attributable to a planning decision which would not have been taken, or to an order which would not have been made, but for the need—
 - (i) to secure the safe and efficient operation of the airport; or
 - (ii) to prevent persons, buildings, structures or erections from being struck by aircraft using the airport; or

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(iii) to secure the safe and efficient operation of apparatus owned by the airport operator and provided for the purpose of assisting air traffic control or as an aid to air navigation.

(3) Where a sum equal to any compensation is paid to the Department by an airport operator under paragraph (2), the Department shall pay to that operator any amount received by the Department in respect of the compensation under section 24 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (which relates to the recovery of compensation on subsequent development).

(4) In paragraph (2) “planning decision” means a decision made on an application under [F12Part 3 of the Planning Act (Northern Ireland) 2011].

F10 1965 c.23 (NI)

F11 Words in art. 14(2)(a) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 69\(a\)](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F12 Words in art. 14(4) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 69\(b\)](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Concurrent proceedings

15.—(1) Where an airport operator—

- (a) applies to the Department for a vesting order under Article 3; or
- (b) makes representations to the Department under Article 7(2),

the proceedings which—

- (i) are required under this Part to be taken in connection with the making of a vesting order or (as the case may be) an order under Article 7; and
- (ii) if applicable, are required by [F13sections 40 to 42 of the Planning Act (Northern Ireland) 2011] to be taken for the purpose of planning permission,

may, where the Department so directs, be taken concurrently, so far as is practicable.

(2) Where—

- (a) a public local inquiry is to be held under this Part in connection with any matter; and
- (b) in the case of some other matter required or authorised (whether by this Part or by any other statutory provision) to be the subject of a public local inquiry, it appears to the Department that the matters are so far cognate that they should be considered together,

the Department may direct that the two inquiries be held concurrently or combined as one inquiry.

F13 Words in art. 15(1)(b)(ii) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 70](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Application to Crown land

16.—(1) Subject to paragraphs (2) and (3), the provisions of this Part shall have effect in relation to Crown land as they have effect in relation to land which is not Crown land.

(2) The powers conferred by Article 3(2) shall not be exercisable in relation to Crown land, to the extent of the estate therein held by or on behalf of the Crown.

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(3) The powers conferred by or under Article 3(2), 7, 8 or 9 shall not, except with the consent of the appropriate authority, be exercisable in relation to Crown land.

(4) In this Article any reference to the Crown includes a reference to the Crown in right of Her Majesty's Government in Northern Ireland.

(5) In this Article—

“the appropriate authority”, in relation to any land, means—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
- (b) in the case of any other land belonging to Her Majesty in right of the Crown, the government department having the management of that land;
- (c) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that government department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Department of Finance and Personnel or, as the case may be, the Treasury, whose decision shall be final;

“Crown estate” means an estate—

- (a) belonging to Her Majesty in right of the Crown; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown land” means land in which there is a Crown estate;

“government department” means a department of the Government of the United Kingdom or a Northern Ireland department.

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Changes and effects yet to be applied to :

- Instrument am. (prosp.) by [1998 c. 41 s.74\(1\)Sch.12 para.20\(1\)](#)
- Instrument rev. in pt. by [1998 c. 41 s.74\(3\)Sch.14 Pt. II](#)