



# Refuse Disposal (Amenity) Act 1978

## 1978 CHAPTER 3

### *Miscellaneous and supplemental*

#### 7 Acquisition of land.

A local authority and in England the council of a county <sup>F1</sup> . . . may be authorised by the Secretary of State to acquire land compulsorily for any of the purposes of this Act, and the [<sup>F2</sup>Acquisition of Land Act 1981], in Scotland, the <sup>M1</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section [<sup>F3</sup>as if this section had been in force immediately before the commencement of that Act].

#### Textual Amendments

- F1** Words in s. 7 repealed (1.4.1986) by [Local Government Act 1985](#) (c. 51, SIF 81:1), ss. 1(2), 102, [Sch. 17](#)
- F2** Words substituted by [Acquisition of Land Act 1981](#) (c. 67, SIF 28:1), s. 34, [Sch. 4 para. 1](#) Table
- F3** The words repealed (E.W.) by [Acquisition of Land Act 1981](#) (c. 67, SIF 28:1), s. 34, [Sch. 6 Pt. I](#)

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

- C1** [S. 7](#) extended (E.W.) by [Norfolk and Suffolk Broads Act 1988](#) (c. 4, SIF 81:1), ss. 2(6), 23(2), 27(2), [Sch. 3 para. 45\(b\)](#)

#### Marginal Citations

- M1** [1947 c. 42.](#)

#### 8 Powers of entry etc.

- (1) Any person duly authorised in writing by [<sup>F4</sup>the Secretary of State or] a local authority may at any reasonable time enter upon any land for the purpose of ascertaining whether any of the functions conferred by section 3 or section 6 above should or may be exercised in connection with the land, or for the purpose of exercising any of those functions in connection with the land.

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- (2) <sup>F5</sup>Section 325(1) to (7) of the Town and Country Planning Act 1990] (which contains supplementary provisions as to rights of entry under <sup>F5</sup>section 324] of that Act) shall have effect with the necessary modifications as if references to <sup>F5</sup>section 324] included references to subsection (1) above.
- (3) <sup>F6</sup>Sections 320, 322, 323, 329 and 330 of the said Act of 1990] (which relate to local inquiries, the service of notices and the furnishing of information) shall have effect as if any reference to that Act or specified provisions of that Act included a reference to this Act.
- (4) In the application of this section to Scotland, for subsections (2) and (3) there shall be substituted the following subsections—
- “(2) <sup>F7</sup>Section 270(1) to (7) of the Town and County Planning (Scotland) Act 1997] (which contains supplementary provisions as to rights of entry under <sup>F8</sup>section 269] of that Act) shall have effect with the necessary modifications as if references to <sup>F8</sup>section 269] included references to subsection (1) above.
- (3) <sup>F9</sup>Sections 265 to 268, 271 and 272 of the said Act of 1997] (which relate to local inquiries, the service of notices and the furnishing of information) shall have effect as if any reference to that Act or specified provisions of that Act included a reference to this Act.”

#### Textual Amendments

- F4** Words repealed (S.) by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 66(2), **Sch. 4 Pt. II**
- F5** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1), s. 4, **Sch. 2 para. 41(a)**
- F6** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1), s. 4, **Sch. 2 para. 41(b)**
- F7** Words in s. 8(2) (as substituted by subsection (4)) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 27(a)(i)**
- F8** Words in s. 8(2) (as substituted by subsection (4)) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 27(a)(ii)**
- F9** Words in s. 8(3) (as substituted by subsection (4)) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 27(b)**

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

- C2** S. 8 power to apply conferred by Airports Act 1986 (c. 31, SIF 9), s. **66(1)(a)**
- C3** S. 8 extended (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(6), 23(2), 27(2), **Sch. 3 para. 45(b)**  
Ss. 4, 5, 8, 10, 11 extended (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 6(1)**; S.S.I. 2000/312, **art. 2**
- C4** S. 8 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)(xxiv)** (with art. 35)
- C5** S. 8 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)(xxiv)** (with art. 35)

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## 9 Application to Isles of Scilly.

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide that any provision of this Act specified in the order shall apply to the Isles, subject to such modifications as may be so specified, as if the Isles were a county or a district.

## 10 Orders and regulations.

- (1) Any power to make regulations conferred by this Act includes power to make provision in respect of such cases only as may be specified in the regulations and to make different provision for different circumstances.
- (2) An order under any provision of this Act, except section 13 below, may be revoked or varied by a subsequent order under that provision.
- (3) An order under section 13 below appointing a day in respect of section 1(8) or 6(8) above may be revoked or varied by an order made by the Secretary of State which comes into force before that day.
- (4) Any power to make regulations or an order under any provision of this Act, except sections 1(5) and 5(3) and the said section 1(5) as applied by section 3(9), shall be exercisable by statutory instrument.
- (5) Any statutory instrument made by virtue of any provision of this Act except—
  - (a) an order under section 9 above; or
  - (b) an order under section 13 below relating to section 1(8) or 6(8) above,shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Modifications etc. (not altering text)

C6 Ss. 4, 5, 8, 10, 11 extended (S.) (8.9.2000) by 2000 asp 10, s. 36, Sch. 5 para. 6(1); S.S.I. 2000/312, art. 2

## 11 Interpretation.

- (1) In this Act, unless the contrary intention appears, the following expressions have the following meanings, that is to say—
  - “the Common Council” means the Common Council of the City of London;
  - [<sup>F10</sup> “highway”, in the application of this Act to Scotland, shall be deemed to include any public right of way; ]
  - [<sup>F10</sup> “carriageway” has the same meaning as in the Roads (Scotland) Act 1984; ]
  - “licence” means, in relation to a vehicle, a licence issued for the vehicle under [<sup>F11</sup>the Vehicle Excise and Registration Act 1994];
  - “local authority” means—
    - (a) in relation to England, a district council, London borough council or the Common Council;
    - (b) in relation to Scotland, [<sup>F12</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and

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(c) in relation to Wales, a [<sup>F13</sup>county council or county borough council];

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer;

[<sup>F14</sup> “ owner ”, in relation to a motor vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement; ]

“prescribed” means prescribed by regulations made by the Secretary of State;

“the relevant date” has the meaning given to it by section 13(3) below.

[<sup>F15</sup> “ road ” has the same meaning as in the Roads (Scotland) Act 1984. ]

(2) Any reference in this Act to an enactment is a reference to it as amended or applied by or under any other enactment, including this Act.

#### Subordinate Legislation Made

- P1** S. 11: for exercise of this power, see Index to Government Orders.  
**P2** S. 4(5)(6) (with ss. 5(1)(a)(b) and 11(1)) power exercised by [S.I.1991/336](#).

#### Textual Amendments

- F10** Definition of “carriageway” substituted (S.) for definition of “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 78(5)(a)**  
**F11** S. 11(1): words in the definition of “licence” substituted (1.9.1994) by [1994 c. 22, ss. 63, 66\(1\)](#), **Sch. 3 para. 12** (with s. 57(4))  
**F12** S. 11(1): words in paragraph (b) of the definition of “local authority” substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), **Sch. 13 para. 109**; [S.I. 1996/323](#), **art. 4(1)(b)(c)**  
**F13** S. 11(1): words in paragraph (c) of the definition of “local authority” substituted (1.4.1996) by [1994 c. 19, s. 22\(3\)](#), **Sch. 9 para. 11** (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396](#), **art. 3**, **Sch. 1**  
**F14** Words in s. 11 (1) ceased to have effect (13.7.2004) by virtue of [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), **5(2)** (with s. 8)  
**F15** Definition of “road” inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 78(5)(b)**

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

- C7** Ss. 4, 5, 8, 10, 11 extended (S.) (8.9.2000) by [2000 asp 10, s. 36](#), **Sch. 5 para. 6(1)**; [S.S.I. 2000/312](#), **art. 2**  
**C8** S. 11 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), **5(1)** (with s. 8)  
**C9** S. 11(1) modified (E.W.) by [S.I. 1985/1884, art. 5](#), **Sch. 2 para. 18**

## 12 Consequential amendments, repeals and savings.

<sup>F16</sup>(1) .....

<sup>X1</sup>(2) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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- (3) In so far as any instrument made, or any thing done, under or by virtue of any enactment repealed by this Act could have been made or done under or by virtue of a corresponding enactment in this Act, it shall not be invalidated by the repeal effected by this section but shall have effect as if it had been made or done under or by virtue of that corresponding enactment.
- (4) Without prejudice to subsection (1) above, any enactment or other document whatever referring to any enactment repealed by this Act shall, as far as may be necessary for preserving its effect, be construed as referring (or including a reference) to the corresponding enactment in this Act.
- (5) For the purposes of section 2 of this Act a person shall be treated as having been previously convicted of an offence under that section if he had been previously convicted of an offence under section 19 of the <sup>M2</sup>Civic Amenities Act 1967.
- (6) Section 254(2)(c) of the <sup>M3</sup>Local Government Act 1972 (power of Secretary of State to amend, etc. enactments by order) shall apply to this Act as if it had been passed before 1st April 1974.
- (7) Nothing in the preceding provisions of this section shall prejudice the general application of [<sup>F17</sup>sections 16(1) and 17(2)(a) of the <sup>M4</sup>Interpretation Act 1978] (which relates to repeals).

#### **Editorial Information**

- X1** The text of s. 12(2), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### **Textual Amendments**

- F16** S. 12(1) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)
- F17** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. 25(2)

#### **Marginal Citations**

- M2** 1967 c. 69.
- M3** 1972 c. 70.
- M4** 1978 c. 30.

### **13 Citation, commencement and extent.**

- (1) This Act may be cited as the Refuse Disposal (Amenity) Act 1978.
- (2) This Act shall come into force at the end of the period of one month beginning with the date on which it is passed.
- (3) Subsection (2) above shall not apply to sections 1(8), 4(2) and 6(8) above, which shall come into force on the relevant date; and in this Act “the relevant date” means such day as the Secretary of State may by order appoint.
- (4) Different days may be appointed in pursuance of subsection (3) above for each of the said provisions, and different days may be appointed for such different purposes of the same provision as may be specified in the order.
- (5) This Act does not extend to Northern Ireland.

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**Subordinate Legislation Made**

**P3** Power of appointment conferred by s. 13(3) not fully exercised

**Status:**

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**Changes to legislation:**

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