



# Access to Neighbouring Land Act 1992

## 1992 CHAPTER 23

### 2 Terms and conditions of access orders

- (1) An access order shall specify—
  - (a) the works to the dominant land that may be carried out by entering upon the servient land in pursuance of the order;
  - (b) the particular area of servient land that may be entered upon by virtue of the order for the purpose of carrying out those works to the dominant land; and
  - (c) the date on which, or the period during which, the land may be so entered upon;and in the following provisions of this Act any reference to the servient land is a reference to the area specified in the order in pursuance of paragraph (b) above.
- (2) An access order may impose upon the applicant or the respondent such terms and conditions as appear to the court to be reasonably necessary for the purpose of avoiding or restricting—
  - (a) any loss, damage, or injury which might otherwise be caused to the respondent or any other person by reason of the entry authorised by the order; or
  - (b) any inconvenience or loss of privacy that might otherwise be so caused to the respondent or any other person.
- (3) Without prejudice to the generality of subsection (2) above, the terms and conditions which may be imposed under that subsection include provisions with respect to—
  - (a) the manner in which the specified works are to be carried out;
  - (b) the days on which, and the hours between which, the work involved may be executed;
  - (c) the persons who may undertake the carrying out of the specified works or enter upon the servient land under or by virtue of the order;
  - (d) the taking of any such precautions by the applicant as may be specified in the order.
- (4) An access order may also impose terms and conditions—
  - (a) requiring the applicant to pay, or to secure that such person connected with him as may be specified in the order pays, compensation for—

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*Status: This is the original version (as it was originally enacted).*

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- (i) any loss, damage or injury, or
    - (ii) any substantial loss of privacy or other substantial inconvenience, which will, or might, be caused to the respondent or any other person by reason of the entry authorised by the order;
  - (b) requiring the applicant to secure that he, or such person connected with him as may be specified in the order, is insured against any such risks as may be so specified; or
  - (c) requiring such a record to be made of the condition of the servient land, or of such part of it as may be so specified, as the court may consider expedient with a view to facilitating the determination of any question that may arise concerning damage to that land.
- (5) An access order may include provision requiring the applicant to pay the respondent such sum by way of consideration for the privilege of entering the servient land in pursuance of the order as appears to the court to be fair and reasonable having regard to all the circumstances of the case, including, in particular—
- (a) the likely financial advantage of the order to the applicant and any persons connected with him; and
  - (b) the degree of inconvenience likely to be caused to the respondent or any other person by the entry;
- but no payment shall be ordered under this subsection if and to the extent that the works which the applicant desires to carry out by means of the entry are works to residential land.
- (6) For the purposes of subsection (5)(a) above, the likely financial advantage of an access order to the applicant and any persons connected with him shall in all cases be taken to be a sum of money equal to the greater of the following amounts, that is to say—
- (a) the amount (if any) by which so much of any likely increase in the value of any land—
    - (i) which consists of or includes the dominant land, and
    - (ii) which is owned or occupied by the same person as the dominant land, as may reasonably be regarded as attributable to the carrying out of the specified works exceeds the likely cost of carrying out those works with the benefit of the access order; and
  - (b) the difference (if it would have been possible to carry out the specified works without entering upon the servient land) between—
    - (i) the likely cost of carrying out those works without entering upon the servient land; and
    - (ii) the likely cost of carrying them out with the benefit of the access order.
- (7) For the purposes of subsection (5) above, “residential land” means so much of any land as consists of—
- (a) a dwelling or part of a dwelling;
  - (b) a garden, yard, private garage or outbuilding which is used and enjoyed wholly or mainly with a dwelling; or
  - (c) in the case of a building which includes one or more dwellings, any part of the building which is used and enjoyed wholly or mainly with those dwellings or any of them.
- (8) The persons who are to be regarded for the purposes of this section as “connected with” the applicant are—

- (a) the owner of any estate or interest in, or right over, the whole or any part of the dominant land;
  - (b) the occupier of the whole or any part of the dominant land; and
  - (c) any person whom the applicant may authorise under section 3(7) below to exercise the power of entry conferred by the access order.
- (9) The court may make provision—
- (a) for the reimbursement by the applicant of any expenses reasonably incurred by the respondent in connection with the application which are not otherwise recoverable as costs;
  - (b) for the giving of security by the applicant for any sum that might become payable to the respondent or any other person by virtue of this section or section 3 below.