



# Transport and Works Act 1992

## 1992 CHAPTER 42

### PART I

#### ORDERS AUTHORISING WORKS ETC

##### *Miscellaneous*

#### **22 Validity of orders under section 1 or 3.**

- (1) If a person aggrieved by an order under section 1 or 3 above desires to question the validity of it, or of any provision contained in it, on the ground—
- that it is not within the powers of this Act, or
  - that any requirement imposed by or under this Act or the <sup>M1</sup>Tribunals and Inquiries Act [<sup>F1</sup>1992] has not been complied with,
- he may, within the period of 42 days beginning with the day on which the notice required by section 14(1)(b) above is published, make an application for the purpose to the High Court.
- (2) On any such application, the court—
- may by interim order suspend the operation of the order, or of any provision contained in it, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings, and
  - if satisfied that the order or any provision contained in it is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement imposed by or under this Act or the <sup>M2</sup>Tribunals and Inquiries Act [<sup>F2</sup>1992], may quash the order or any provision contained in it, either generally or in so far as it affects any property of the applicant.
- (3) Subject to subsections (1) and (2) above, an order under section 1 or 3 above shall not, either before or after it has been made, be questioned in any legal proceedings whatever.

*Status: Point in time view as at 09/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, Cross Heading: Miscellaneous. (See end of Document for details)*

#### Textual Amendments

- F1** Word in s. 22(1)(b) substituted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 21](#); S.I. 2007/2709, art. 3(b)(i)
- F2** Word in s. 22(2)(b) substituted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 21](#); S.I. 2007/2709, art. 3(b)(i)

#### Commencement Information

- I1** Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, [Sch. 1](#).

#### Marginal Citations

- M1** 1971 c. 62.  
**M2** 1971 c. 62.

### 23 Exercise of Secretary of State's functions by appointed person.

- (1) The Secretary of State may by regulations prescribe classes of application which are to be dealt with by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.
- (2) The Secretary of State may if he thinks fit direct that an application which would otherwise fall to be determined by an appointed person shall be determined by the Secretary of State.
- (3) Subject to subsection (4) below, a person appointed under this section shall have in relation to the application—
  - (a) the same powers and duties as the Secretary of State has under sections 1 and 3 above, and
  - (b) such other powers and duties conferred on the Secretary of State under or by virtue of this Part of this Act as may be specified in the regulations;

and for that purpose any reference in any Act or instrument (including this Act and any instrument made under it) to the Secretary of State, or to anything done or authorised or required to be done by or to the Secretary of State, shall be construed, so far as the context permits and subject to regulations under this section, as a reference to that person.
- (4) An order made on an application dealt with by a person appointed under this section shall not authorise the compulsory acquisition of land, or the compulsory creation or extinguishment of rights over land (including rights of navigation over water).
- (5) Where an application has been dealt with by a person appointed under this section, any order made by him under section 1 or 3 shall be treated as made by the Secretary of State.
- (6) At any time before the appointed person has determined the application the Secretary of State may—
  - (a) revoke his appointment, and
  - (b) appoint another person under subsection (1) above to deal with the application instead;

and where such a new appointment is made the consideration of the application shall begin afresh, except to the extent that regulations under this section provide otherwise.

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- (7) If the Secretary of State exercises the power conferred on him by subsection (6)(a) above, he shall give reasons to the appointed person for revoking his appointment.
- (8) Regulations under this section may provide for the giving of publicity to any directions given by the Secretary of State under subsection (2) above and to any appointment made by virtue of subsection (6) above.
- (9) The <sup>M3</sup>Tribunals and Inquiries Act [<sup>F3</sup>1992] shall apply to a local inquiry or other hearing by a person appointed under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in [<sup>F4</sup>section 10(1)] of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by an appointed person.
- <sup>F5</sup>(9A) . . . . .
- (10) Where a person appointed under this section is an officer of the [<sup>F6</sup>[<sup>F7</sup>the Department for Communities and Local Government] , the Department for Transport], [<sup>F8</sup>the Department for Business, Energy and Industrial Strategy] or the Welsh Office, his functions shall be treated for the purposes of the <sup>M4</sup>Parliamentary Commissioner Act 1967—
- [<sup>F9</sup>(a) if he was appointed by the Secretary of State for the time being having general responsibility in transport matters in relation to England, as functions of the Department for Transport;
- (b) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to England, as functions of [<sup>F7</sup>the Department for Communities and Local Government] ;]
- (c) if he was appointed by the Secretary of State for the time being having general responsibility in energy matters, as functions of [<sup>F8</sup>the Department for Business, Energy and Industrial Strategy] ;
- (d) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to Wales, as functions of the Welsh Office.
- (11) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F3** Word in s. 23(9) substituted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 22\(2\)\(a\)](#); S.I. 2007/2709, art. 3(b)(i)
- F4** Words in s. 23(9) substituted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 22\(2\)\(b\)](#); S.I. 2007/2709, art. 3(b)(i)
- F5** S. 23(9A) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 9](#)
- F6** Words in s. 23(10) substituted (25.11.2002) by [The Transfer of Functions \(Transport, Local Government and the Regions\) Order 2002 \(S.I. 2002/2626\)](#), art. 20, [Sch. 2 para. 20\(a\)](#)
- F7** Words in s. 23(10) substituted (21.8.2006) by [The Secretary of State for Communities and Local Government Order 2006 \(S.I. 2006/1926\)](#), art. 1(2), [Sch. para. 6](#)
- F8** Words in s. 23(10) substituted (9.11.2016) by [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), [Sch. para. 6](#) (with art. 13)

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**F9** S. 23(10)(a)(b) substituted (25.11.2002) for s. 23(10)(a) by [The Transfer of Functions \(Transport, Local Government and the Regions\) Order 2002 \(S.I. 2002/2626\)](#), art. 20, **Sch. 2 para. 20(b)**

**Commencement Information**

**I2** Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and [S.I. 1992/2784](#), art. 2, **Sch. 1**.

**Marginal Citations**

**M3** 1971 c. 62.

**M4** 1967 c. 13.

**24 Private legislation procedure in Scotland.**

In section 1 of the <sup>M5</sup>Private Legislation Procedure (Scotland) Act 1936 (which requires the promotion of Provisional Orders rather than Private Bills in connection with powers relating to Scotland), in subsection (4) (which provides an exception from the requirement in certain cases relating to Scotland and elsewhere if the promotion of a Private Bill would be more appropriate than the promotion of a Private Bill and a Provisional Order) after the words “Provisional Order” there shall be inserted the words “ (or a Provisional Order and an order under section 1 or 3 of the Transport and Works Act 1992) ”.

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

**C1** S. 24 excluded (14.6.2016) by [The Midland Metro \(Birmingham City Centre Extension, etc.\) \(Land Acquisition and Variation\) Order 2016 \(S.I. 2016/545\)](#), arts. 1, **5(1)(b)(ii)** (with art. 39)

**Commencement Information**

**I3** Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and [S.I. 1992/2784](#), art. 2, **Sch. 1**.

**Marginal Citations**

**M5** 1936 c. 52.

**25 Crown land.**

- (1) If the appropriate authority agrees—
  - (a) an interest which—
    - (i) subsists in land in which there is a Crown or Duchy interest, but
    - (ii) is not itself a Crown or Duchy interest,
 may be acquired compulsorily by virtue of an order under section 1 or 3 above, and
  - (b) any provision of this Act or of such an order (other than a provision by virtue of which an interest in land is compulsorily acquired) may apply in relation to land in which there is a Crown or Duchy interest.
- (2) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.
- (3) In this section “the appropriate authority” means—

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- (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 other land belonging to Her Majesty in right of the Crown, the government department having the management of the land;
  - (c) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (d) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (e) 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 department.
- (4) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

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**Commencement Information**

**14** Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and [S.I. 1992/2784](#), [art. 2](#), [Sch. 1](#).

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