



# Land Powers (Defence) Act 1958

1958 CHAPTER 30 6 and 7 Eliz 2

*Prevention of interference with certain defence installations*

## **10 Prevention of obstruction of airfields.**

- (1) Where any land is, or is to be, used by [<sup>F1</sup>a Secretary of State] as an airfield for defence purposes, and it appears to that Minister that any object of a description specified in the next following subsection which is situated within two miles of any part of the boundary of the airfield is in such a position, or of such a height, as to interfere or be likely to interfere with the safe and efficient use of the airfield for defence purposes, then, subject to the provisions of Part I of the Second Schedule to this Act, that Minister may by order require the occupier of the land on which that object is situated to take within such period (not being less than twenty-one days from the date when notice of the making of the order is served on that occupier) as may be specified in the order such action by way of removing, resiting or reducing the height of that object as may be so specified, or such other action as may be agreed between the Minister and the occupier, to prevent any such interference.
- (2) The said descriptions of objects are trees, hedges, fences, poles, masts, cables, wires, walls (other than a wall forming part of a roofed structure) and moveable structures.
- (3) If the person to whom an order under this section is directed fails to comply therewith within the period specified therein, the Minister who made the order may take the action specified in the order, and for that purpose any person authorised in that behalf by that Minister may enter upon any land upon which the person to whom the order is directed is entitled or permitted to enter; and paragraphs 1 and 2 of the Fourth Schedule to this Act shall apply for the purpose of the exercise of the powers conferred by this subsection.
- (4) Where notice of a Minister's proposal to make an order under this section requiring the removal of a tree is served under paragraph 2 of the Second Schedule to this Act and—
  - (a) the tree is situated on land used (otherwise than as woodlands) as agricultural land; and
  - (b) the draft order does not require the tree to be removed in such manner as not to leave any stump; and

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**Changes to legislation:** There are currently no known outstanding effects for the Land Powers (Defence) Act 1958,  
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- (c) any person upon whom the said notice is required by the said paragraph 2 to be served duly makes an objection that, if the tree is to be removed, it should be removed in such manner as aforesaid, and that objection is not withdrawn; and
- (d) the person conducting the inquiry into that proposal under paragraph 4 of the said Second Schedule reports to the Minister that in his opinion it is desirable in the interests of good husbandry and reasonable in all the circumstances of the case that the objection should be met,

then, if the order as made requires the removal of that tree, it shall require its removal in such manner as aforesaid; and any Minister exercising the powers conferred by the last foregoing subsection for the purpose of causing any tree or hedge to be removed, lopped or cut shall issue instructions with a view to securing that the removal, lopping or cutting will be carried out in a woodmanlike manner, and so as to cause as little damage as possible to other trees or hedges and to fences and growing crops.

- (5) Subject to the next following subsection, the person to whom an order under this section is directed shall be entitled to compensation from the Minister who made the order in respect of any expenses reasonably incurred by that person in complying with the order or in selling or otherwise disposing of any materials under the next following subsection; and any person who, in consequence of the taking of any action required by the order, suffers loss by reason of damage to, or is disturbed in the enjoyment of, any land or chattels, or would, but for subsection (7) of this section, have been entitled to a remedy for the breach of a covenant or agreement prohibiting or restricting the taking of that action, shall be entitled to compensation from that Minister in respect of that damage or disturbance or in respect of the loss of that remedy; and if, in consequence of the order or of the taking of any action required thereby, any interest in land which comprises, or is held with, the land on which the object to which the order relates is situated, being an interest subsisting at the time when the order was made, is depreciated in value, there shall be payable by that Minister in respect of that interest compensation of an amount equal to the amount of the depreciation; and any dispute as to a right to compensation under this subsection or as to the amount thereof shall be determined by the [F<sup>2</sup>appropriate tribunal].
- (6) Where any timber or other materials require disposal in consequence of the taking of any action required by an order under this section and—
  - (a) that action was taken in compliance with the order by a person who is not entitled to those materials; or
  - (b) that action was taken by a Minister under subsection (3) of this section, that person may, or, in a case falling within paragraph (b) of this subsection, that Minister may, and if so required by the person to whom the order is directed shall, sell or otherwise dispose of any of those materials of which the person entitled thereto does not take possession within seven days from the completion of the action, and shall pay the proceeds of any such sale or disposal to the person so entitled; and any compensation in respect of the depreciation in the value of any interest in land falling to be paid to any person under the last foregoing subsection shall be reduced by—
    - (i) the amount of any sum paid to that person in pursuance of this subsection; and
    - (ii) an amount equal to the value of any such timber or other materials as aforesaid to which that person is entitled which are not sold or otherwise disposed of under this subsection.
- (7) The taking of any action required by an order under this section shall not subject any person to any liability by reason of any enactment, covenant or agreement prohibiting or restricting, the taking of that action.

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(8). . . . <sup>F3</sup>

#### Textual Amendments

- F1** Words substituted by [S.I. 1971/719](#)
- F2** Words in [s. 10\(5\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 25](#) (with [Sch. 5](#))
- F3** [S. 10\(8\)](#) repealed by [S.I. 1971/719](#)

## 11 Prevention of interference with operation of electrical apparatus.

- (1) Where any land is, or is to be, used by [<sup>F4</sup>a Secretary of State] for the operation for defence purposes of any electrical apparatus for affording navigational aid to aircraft, or for communicating with, guiding or locating aircraft or missiles, and it appears to that Minister that any object of a description specified in the next following subsection which is situated within two miles of any part of the apparatus is in such a position, or of such a height, or is made of such materials, as to interfere with the efficient operation of the apparatus, then, subject to the provisions of Part I of the Second Schedule to this Act, that Minister may by order require the occupier of the land on which that object is situated to take within such period (not being less than twenty-one days from the date when notice of the making of the order is served on that occupier) as may be specified in the order such action by way of removing, replacing, resiting or reducing the height of that object as may be so specified, or such other action as may be agreed between that Minister and the occupier, to prevent any such interference.
- (2) The said descriptions of objects are—
  - (a) objects of any of the descriptions specified in subsection (2) of the last foregoing section;
  - (b) moveable objects made wholly or mainly of metal;
  - (c) parts of buildings or structures, being parts made wholly or mainly of metal, which, without appreciably affecting the subsequent use of the building or structure in question, can be either removed or replaced by parts made of other materials.
- (3) Subsections (3) to (7) of the last foregoing section shall have effect for the purposes of this section as if any reference therein to that section were a reference to this section.

#### Textual Amendments

- F4** Words substituted by [S.I. 1971/719](#)

**Changes to legislation:**

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