STATUTORY INSTRUMENTS

1976 No. 110

COMMUNITY LAND

The Community Land (Operational Land of Water Authorities) Order 1976

Made - - -	*27th January* 1976
Laid before Parliament	*6th February* 1976
Coming into Operation	*6th April* 1976

The Secretary of State for the Environment, in relation to England, the Secretary of State for Scotland, in relation to Scotland, and the Secretary of State for Wales, in relation to Wales (being also, in each case, the appropriate Minister in relation to the statutory undertakers herein mentioned), in exercise of the powers conferred on them by sections 5(3) and 53(2) of the Community Land Act 1975(**a**) and of all other powers enabling them in that behalf, hereby order as follows:—

1. This order shall come into operation on 6th April 1976, and may be cited as the Community Land (Operational Land of Water Authorities) Order 1976.

2. The Interpretation Act 1889(**b**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

3. In England and Wales, "operational land" as respects any water authority shall mean—

(*a*) land which is used for the purpose of carrying on any of the functions of the Authority, and

(*b*) land in which an interest is held for that purpose,

not being land which in respect of its nature and situation is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

4. In Scotland, "operational land" as respects any statutory undertakers carrying on any undertaking for the supply of water (other than an authority within the meaning of section 1(1)(*b*) of the Community Land Act 1975) shall mean—

(*a*) land which is used for the purpose of carrying on any of the functions of those undertakers, and

(*b*) land in which an interest is held for that purpose,

not being land which in respect of its nature and situation is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

(a) 1975 c. 77. (b) 1889 c. 63.

John Silkin,
Minister for Planning and Local Government,
Department of the Environment.

Signed by authority of
the Secretary of State
21st January 1976.

William Ross,
Secretary of State for Scotland.

22nd January 1976.

John Morris,
Secretary of State for Wales.

27th January 1976.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The operational land of statutory undertakers is treated differently from other land for some of the purposes of the Community Land Act 1975. The duty which the Secretary of State may, under section 18 of the Act, impose on an authority—this is a duty to acquire all land needed for the relevant development designated by that order—cannot be imposed on the operational land of statutory undertakers (see section 18(4)(*d*)). Similarly, the provisions of sections 19 to 22 of the Act ("suspension" of certain planning permissions) do not apply to planning permissions granted in respect of operational land of statutory undertakers, or land which would be operational land if it were used or held by statutory undertakers for the purposes covered by the planning permission.

Water authorities in England and Wales and the Central Scotland Water Development Board in Scotland are statutory undertakers as defined in section 5(1)(*a*) of the Act, as they carry on undertakings for the supply of water. The definition of "operational land" in section 5(2) of the Act is linked to the statutory undertaking of statutory undertakers. However, those statutory undertakers have other statutory functions, e.g., sewerage and water conservation, and developing held sources of supply, and land held for the purpose of these functions does not come within the definition of "operational land" in section 5(2).

This Order accordingly defines "operational land" in relation to those statutory undertakers as land which is used for the purpose of *any* of their statutory functions, if it is land in which they hold an interest for the purpose of those functions, and is land comparable with land used or held for the purpose of statutory undertakings, rather than with land in general.

In Scotland, the functions of water authorities and sewerage functions are carried out by regional and islands councils who are authorities for the purposes of the Act, and accordingly any land held by them for the purposes of those functions does not require to be dealt with for the purposes of sections 18 and 19 to 22 of the Act.

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