



Heathrow Express Railway Act 1991

1991 CHAPTER vii

PART III

LANDS

20 Purchase of land

- (1) Subject to the provisions of this Act—
 - (a) the Company may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Company's works or for any purpose connected with, or ancillary to, their undertaking; and
 - (b) the Board may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Board's works or for any purpose connected with, or ancillary to, their undertaking.
- (2) Without prejudice to the generality of the powers conferred upon the Company by subsection (1) (a) above, the Company may enter upon, take and use for the purposes specified in column (3) of Schedule 1 to this Act so much of the land referred to in columns (1) and (2) of that Schedule as lies within the lines marked "Limit of land to be acquired or used" on the deposited plans.
- (3) The appropriate authority may enter upon, use and appropriate so much of the subsoil and under-surface of, or airspace over, any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of the Company's works or the Board's works (as the case may be) without being required to purchase the same or any easement or other right therein or thereunder or to make any payment therefor.
- (4) The appropriate authority shall not exercise the powers of this section or section 21 (Purchase of subsoil or new rights only) of this Act in relation to any land to which the following provisions of this Act apply:—
 - section 25 (Temporary use of land by Company);

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section 26 (Temporary use of land and access by Board);
section 27 (Temporary use of further land and access by Board).

21 Purchase of subsoil or new rights only

- (1) In this Part references to the purchase by the appropriate authority of new rights are references to the purchase of rights to be created in favour of the appropriate authority.
- (2) Subject to the provisions of this Act, the appropriate authority may, for the purpose of constructing, maintaining, protecting, altering, renewing and using the Company's works or the Board's works (as the case may be), or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily and use so much of the subsoil and undersurface of, or may purchase such new rights as they require in, under or over, any of the land delineated on the deposited plans and described in the deposited book of reference, other than the land referred to in Schedule 2 to this Act, without in either case being obliged or compellable to purchase any greater interest in, under or over the same respectively and may give notice to treat in respect of such purchase or using.
- (3)
 - (a) If, in any case where the appropriate authority purchase compulsorily and use the subsoil and under-surface of, or purchase a new right in, under or over, any land under subsection (2) above they also require to take, use and pull down or open any cellar, basement, vault, arch or other construction forming part of any such land, they may enter upon, take and use such cellar, basement, vault, arch or other construction for the purposes of the Company's works or the Board's works (as the case may be), and (subject to the provisions of this Act) the provisions of the Act of 1965, as applied by this Act, shall extend and apply in relation to the purchase thereof as if such cellar, basement, vault, arch or other construction were lands within the meaning of those provisions.
 - (b) Section 29 (Purchase of part of certain properties) of this Act shall apply in respect of the purchase by the appropriate authority under this subsection of any cellar, basement, vault, arch or other construction as if the same were a part of land to which that section applies.
- (4) Nothing in this section shall prejudice or affect the provisions of subsection (3) of section 20 (Purchase of land) of this Act.

22 Only subsoil or new rights to be purchased under certain lands

- (1) In this section "the specified land" means the land referred to in Schedule 2 to this Act.
- (2) Notwithstanding the provisions of subsection (1) of section 20 (Purchase of land) of this Act, the Company shall not purchase compulsorily under the powers of this Act any interest in any part of the specified land except as provided in subsection (3) below.
- (3) The Company may, within the limits of deviation, purchase compulsorily and use so much of the subsoil and under-surface of the specified land as they may require for the purpose of constructing, maintaining, protecting, altering, renewing and using the Company's works and any necessary works and conveniences connected therewith, or purchase such new rights in the subsoil and under-surface of the specified land as they may require for the said purposes, without in either case being obliged or compellable to purchase any greater interest in, under or over the said land, and may give notice to treat in respect of such purchase and use.

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- (4) For the purposes of this section the subsoil and under-surface of the specified land shall not include any such subsoil or under-surface which is within 9 metres of the level of the surface of the ground or, in the case of a building on the said land, the level of the surface of the ground adjoining the building, or, in the case of a river, watercourse or other water area, the level of the surface of the adjoining ground which is at all times above water level.

23 Purchase of specific new rights over land by Board

- (1) Section 21 (Purchase of subsoil or new rights only) of this Act shall have effect for enabling the Board to purchase such further new rights as they may require under this section.
- (2) The Board may, in addition to such new rights as they may purchase under the said section 21 of this Act, purchase compulsorily such new rights as they require over the land numbered on the deposited plans 59 to 61 in the London borough of Hillingdon within the line marked “Limit of easement to be acquired” for the provision of a means of access from and to Swallowfield Way for the purpose of constructing the Board’s works.

24 Modification of Part I of Compulsory Purchase Act 1965 for purchase of new rights

- (1) Part I of the Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of new rights under this Part as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.
- (2) Without prejudice to the generality of subsection (1) above, in relation to the purchase of new rights under this Part—
- (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 3 to this Act; and
 - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

25 Temporary use of land by Company

- (1) In this section “the designated lands” means the land numbered on the deposited plans 75a in the London borough of Hillingdon and so much of the lands numbered on the deposited plans—
- (a) 90 in the London borough of Hillingdon;
 - (b) 146 in the London borough of Hillingdon;
 - (c) 5 in the borough of Spelthorne;
 - (d) 17 in the borough of Spelthorne and 165 in the London borough of Hillingdon;
- as lies within the lines marked “Limit of temporary working site” on the deposited plans.

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- (2) The Company, in connection with the construction of their works and after giving to the owners and occupiers of the designated lands not less than 28 days' previous notice in writing, may—
- (a) enter upon and take possession temporarily of the designated lands for the purpose of temporary working sites;
 - (b) construct on the designated lands such temporary works or structures as may be required by them; and
 - (c) remove any structures and vegetation on the designated lands.

26 Temporary use of land and access by Board

- (1) In this section “the designated lands” means any part of the land numbered on the deposited plans 55 in the London borough of Hillingdon and situate within the line marked “Limit of temporary working site” on the deposited plans.
- (2) The Board, in connection with the construction of Works Nos. 6 to 9 and after giving to the owners and occupiers of the designated lands not less than 28 days' previous notice in writing, may—
- (a)
 - (i) enter upon and take possession temporarily of the designated lands for the purpose of temporary working sites;
 - (ii) construct on the designated lands such temporary works or structures as may be required by them; and
 - (iii) remove any structures and vegetation on the designated lands; and
 - (b) form and lay out means of temporary access—
 - (i) to and from Keith Road, Hayes, (at its junction with Station Road) at point “A1”; and
 - (ii) to and from the roundabout at the southern end of Dawley Road at point “A2”.

27 Temporary use of further land and access by Board

- (1) In this section—
- “the designated lands” means the Hanger Lane land or the Haven Green land, as the case may be;
- “the Hanger Lane land” means the lands numbered on the deposited plans 4 and 5 in the London borough of Ealing, situate within the lines marked “Limit of temporary working site” and required by the Board in connection with the construction of Work No. 10; and
- “the Haven Green land” means the land numbered on the deposited plans 1 in the London borough of Ealing, situate within the line marked “Limit of temporary working site” and required by the Board in connection with the reconstruction under their existing powers of the bridge carrying Haven Green and Spring Bridge Road over the railway between Paddington and Reading.
- (2) The Board, after giving to the owners and occupiers of the designated lands not less than 28 days' previous notice in writing, may—
- (a)
 - (i) enter upon and take possession temporarily of the designated lands for the purpose of temporary working sites;
 - (ii) construct on the designated lands such temporary works or structures as may be required by them; and

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- (iii) remove any structures and vegetation (other than any trees) on the designated lands; and
- (b) form and lay out means of temporary access—
 - (i) to and from Haven Green at point “A1”; and
 - (ii) to and from Hamilton Road at points “A2” and “A3”.

28 Provisions applicable to sections 25, 26 and 27

- (1) The appropriate authority shall not by reason of the exercise of the powers of section 25, 26 or 27 of this Act be required to purchase any part of the designated lands.
- (2) On the exercise of the powers conferred by section 25, 26 or 27 of this Act, the following provisions shall have effect:—
 - (a) The appropriate authority shall not, without the agreement of the owners and occupiers of the designated lands, remain in possession of any part thereof after a period of one year from the completion of the works for which such possession has been taken:
 - (b) Before giving up possession of the designated lands, the appropriate authority shall remove all temporary works or structures and restore the designated lands to the reasonable satisfaction of the owners and occupiers thereof:
 - (c) The appropriate authority shall compensate the owners and occupiers of the designated lands for any loss or damage which may result to them by reason of the exercise of the powers of section 25, 26 or 27 of this Act:
 - (d) Nothing in this section shall relieve the appropriate authority from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965, as incorporated with or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (c) above:
 - (e) Any dispute as to a person’s entitlement to compensation under paragraph (c) above or as to the amount thereof shall be determined by the tribunal.

29 Purchase of part of certain properties

- (1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) of that Act.
- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto, then, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the appropriate authority agree to take the land subject to the counter-notice, be referred to the tribunal.
- (3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden

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belonging thereto, without such detriment and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

- (4) If on such a reference to the tribunal the tribunal determine that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without such detriment and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If on such a reference to the tribunal the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority are authorised to purchase compulsorily under this Act.
- (6) If the appropriate authority agree to take the land subject to the counter-notice, or if the tribunal determine that—
- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without such detriment and without seriously affecting the amenity and convenience of the house; and
 - (b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of the land is land which the appropriate authority are authorised to purchase compulsorily under this Act.

- (7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the appropriate authority may, within six weeks after the tribunal make their determination, withdraw the notice to treat and, if they do so, shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice to be determined in case of dispute by the tribunal:

Provided that the determination of the tribunal shall not be deemed to be made so long as—

- (a) the time for requiring the tribunal to state a case with respect thereto has not expired and any proceedings on the points raised by a case so stated have not been concluded; or
 - (b) any proceedings on appeal from any decision on the points raised by a case so stated have not been concluded.
- (8) (a) Where a person is required under this section to sell part only of a house, building or factory, or land consisting of a house, together with any park or garden belonging thereto, the appropriate authority shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.
- (b) Any dispute as to a person's entitlement to compensation under this section or as to the amount of compensation shall be determined by the tribunal.

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30 Disregard of recent improvements and interests

In determining a question with respect to compensation claimed in consequence of the compulsory purchase of land under this Act, the tribunal shall not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made (whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned);

if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

31 Extinction or suspension of private rights of way

- (1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement or on the entry on the land under section 11 (1) of the Act of 1965, as applied by this Act, whichever is sooner.
- (2) All private rights of way over any land of which the appropriate authority may take temporary possession under this Act shall be suspended and unenforceable against the appropriate authority for so long as the appropriate authority shall remain in lawful possession thereof.
- (3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute by the tribunal.

32 Correction of errors in deposited plans and book of reference

- (1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the appropriate authority after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.
- (2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.
- (3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons, and with the proper officer or chairman of a local authority with whom a copy of the deposited plans has been deposited in accordance with the Standing Orders of the House of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the appropriate authority to take the land and execute the works in accordance with the certificate.

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- (4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

33 Set-off for enhancement in value of retained land

- (1) In this section “relevant land” means any land or any subsoil or undersurface of, or new rights over, any land purchased by the appropriate authority for the purposes of the Company’s works or the Board’s works (as the case may be).
- (2) In assessing the compensation payable to any person on the purchase by the appropriate authority from him of any relevant land, the tribunal shall—
- (a) have regard to the extent to which the land or the remaining contiguous lands belonging to the same person may be benefited by any of the works; and
 - (b) set off against the value of the relevant land any increase in value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

34 Time for purchase of land and rights over land

The powers of the appropriate authority for the compulsory purchase of land and rights in, under or over land under this Act shall cease on 31st December 1994.